

**YUMA COUNTY INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY
FEDERAL TRANSIT ADMINISTRATION (FTA) DBE PROGRAM
FFY 2017-19 TRIENNIAL DBE UTILIZATION GOAL PROPOSAL**

STATEMENT OF ANNUAL GOAL

The Yuma County Intergovernmental Public Transportation Authority (YCIPTA) proposes a triennial DBE goal of **0.35 percent** for fiscal years 2017-19. The goal is stated as a percentage of all Federal Transit Administration (FTA) funds that the YCIPTA will expend in the forthcoming fiscal years. The proposed **0.35 percent** goal will be achieved entirely through race- and gender-neutral measures.

PROJECTED ACTIVITY

The YCIPTA anticipates awarding contracts for 16 projects totaling \$19,370,644 during 2017-19. Of this amount, \$10,975,322 or 56.6% percent of the total, will be FTA funds. The projects scheduled for award will be for transit operating and maintenance purposes, vehicle purchase and transit center. The **0.35 percent** goal represents \$67,797 of the total FTA funding of \$19,370,644 anticipated for award during FFY 2017-19.

The YCIPTA has established the triennial goal pursuant to the regulatory requirements of 49 CFR Part 26.45 and guidance provided by FTA staff. The proposed overall aspirational goal is based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses recognized in the Relevant Market Area.

PUBLIC NOTICE AND COMMENT

In establishing its annual goal, the YCIPTA considers input and recommendations received throughout the year from minority, woman, and general contractor groups, community organizations, and other officials or organizations. The YCIPTA routinely meets with representatives of stakeholder and business advocacy organizations to obtain information and recommendations related to the participation of small and disadvantaged businesses in YCIPTA procurement and contracting. In July and September of 2016, the YCIPTA held two public forums to discuss DBE and small business participation in YCIPTA business opportunities. These forums were held as part of the YCIPTA Executive Board meetings on July 25, 2016 and September 26, 2016. Posting for these meetings were placed at various locations such as Yuma County Administration, libraries, YCIPTA lobby as well as posted on our website.

The goal document was also posted to the YCIPTA website http://www.ycipta.org/documents/YCIPTA_2017-2019_Triennial_DBE_Goal.pdf.

On July 12, 2016, a media advisory was released to inform the public of the proposed overall DBE Goal. Additionally, a public notice (**Exhibit A**) was published to inform the public of the proposed goal and to inform interested parties that all documentation and rationale are available for public review and inspection during normal business hours of YCIPTA. The information was available for thirty (30) days following the date of the notice. The notice also informed the public that the YCIPTA and USDOT will accept comments on the goal for forty-five (45) days from the date of notice. The public notice was also advertised in major newspaper as well as publications representing minority groups and business advocacy organizations.

A public hearing was held on July 25, 2016 to collect comments regarding the goal proposal before finalization. No comments were received refuting the methodology proposed by the YCIPTA to establish availability or to adjust the base availability. The YCIPTA did not received any commitments from stakeholders to assist in efforts to generate additional interests in certification to boost the overall DBE availability.

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METHODOLOGY

The YCIPTA's 2017-19 annual goal setting methodology is consistent with the requirements of 49 CFR Part 26 and goal setting methodology.

- Step One: Determine the *Relative Availability* of DBEs to perform the types of contracts (both prime contractors and subcontractors) that will be awarded during FFY 2017-19.
- Step Two: Adjust the *Relative Base Availability* in Step One to make the availability percentage as precise as possible, considering all relevant data available.
- Step Three: Calculate the race- and gender-neutral and race- and gender-conscious portions of the overall goal pursuant to 49 CFR Part 26.51.

METHODOLOGY APPLICATION

Step One: Calculate the Relative Base Availability

A. Relevant Market Area – The YCIPTA has determined that the relevant market area for establishing the triennial 2017-19 DBE goal on FTA-assisted contracting is the State of Arizona. The determination of relevant market area is based on an analysis of the geographical location of prime contractors, by county, that have participated in FTA-assisted contracts during the period of July 2015 through June 2016. The analysis demonstrates that 12 contracts were awarded with 3, or 25 percent, of these being awarded to local Yuma County prime contractors. This analysis demonstrates that the relevant market area is greater than Yuma County.

$$\frac{\text{\# of Contracts awarded to firms with significant presence in Yuma County}}{\text{Total \# of Contracts awarded July 2015 – June 2016}} = \frac{3}{12} = 25\%$$

B. Relative Availability – The YCIPTA's availability analyses have determined the Relative Availability of DBE to be .35 percent. The availability percentage is predicated on the degree to which ready, willing, and able DBEs exist in the relevant market area relative to all firms that could potentially perform on FTA-assisted contracts projected for award in FFY 2017-19.

The first step in conducting an availability analysis is to examine the contracts projected for award and to determine the trade or industry-specific work that will be available to be performed on those contracts. The YCIPTA identified 12 projects anticipated for award by the FTA in FFY 2017-19 that include contracting and subcontracting opportunities in the areas of non-residential building construction, petroleum products, office supplies, automobiles, auto parts, lease, transportation equipment, other business support, transit/ground transportation, legal, audit and advertising. *Table 1* below identifies the applicable North American Industrial Classification System (NAICS) codes considered in making the determination of relative availability.

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| TABLE 1 | | |
|--|-------------------------------------|--------------------|
| FTA-ASSISTED PROJECTS ANTICIPATED FOR AWARD FFY 2017-19 | | |
| Project Description | Estimated Cost | NAICS CODES |
| Hotel Del Sol Transit Center predesign | \$1,900,000 | 23800 |
| Fuel supplier | \$1,410,000 | 42471 |
| Office Supplies | \$18,000 | 42412 |
| Bus Purchase contracts | \$2,400,000 | 44110 |
| Auto Parts | \$1,967,582 | 44131 |
| Maintenance Facility Lease | \$151,200 | 431120 |
| Transportation Equipment | \$648,000 | 423860 |
| Other business support | \$568,657 | 561439 |
| Fixed and paratransit contract | \$10,054,995 | 485113 |
| Legal services | \$30,000 | 541110 |
| Audit services | \$72,210 | 541211 |
| Shelter and bus advertising | \$150,000 | 54185 |
| TOTALS | \$19,370,644 | |
| | <i>(FTA Funds - \$10,975,322)</i> | |

In making its assessment of DBE availability, the YCIPTA compared DBE firms available to perform on the contracts projected for award relative to all firms that are “ready, willing, and able” to perform.

The YCIPTA makes this analysis based on data from a variety of sources to ensure that the YCIPTA's identification of availability is narrowly tailored and is an accurate reflection of the local market place. Data sources used in this process included:

- Historical plan holder and bidder lists
- Firms listed on the Arizona Board of Technical Registration
- Firms licensed by the Arizona Registrar of Contractors to perform commercial work in the scopes of work identified
- AZUCP Directory of DBE firms certified by members of the AZUCP in the applicable NAICS

Using information from the data sources listed above, the YCIPTA found that the *Relative Availability* is **2.26** percent of all available firms that could potentially perform on contracts projected for award. The following formula was used to calculate the base relative availability:

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$$\frac{\text{Number of DBE firms in relevant NAICS Codes}}{\text{Number of DBE + Non-DBE firms in relevant NAICS Codes}} = \text{Relative Availability}$$

$$\frac{9}{399} = 0.0226 = 2.26\%$$

| Table 2 | | | | | | | |
|---|--------------------------------------|------------|--------|--------|-------------------|----------------|--------------|
| NAICS | Description | # of Firms | # DBEs | %DBE | Est.FY 2017-2019 | % of All | Step One |
| | | | | | Funding | Funding | Base Figure |
| 23800 | Nonresidential Building Construction | 205 | 3 | 1.46% | \$1,900,000 | 9.81% | 0.1% |
| 42471 | Petroleum Products | 62 | 0 | 0.00% | \$1,410,000 | 7.28% | 0.0% |
| 42412 | Office Supplies | 1 | 0 | 0.00% | \$18,000 | 0.09% | 0.00% |
| 44110 | Automobiles | 12 | 0 | 0.00% | \$2,400,000 | 12.39% | 0.00% |
| 44131 | Auto Parts | 27 | 0 | 0.00% | \$1,967,582 | 10.16% | 0.00% |
| 531120 | Lease | 14 | 2 | 14.29% | \$151,200 | 0.78% | 0.11% |
| 423860 | Transportation Equip | 1 | 0 | 0.00% | \$648,000 | 3.35% | 0.00% |
| 561439 | Other Business Support | 1 | 0 | 0.00% | \$568,657 | 2.94% | 0.00% |
| 485113 | Transit/Ground Transportation | 11 | 0 | 0.00% | \$10,054,995 | 51.91% | 0.00% |
| 541110 | Legal | 51 | 1 | 1.96% | \$30,000 | 0.15% | 0.00% |
| 541211 | Audit | 12 | 3 | 25.00% | \$72,210 | 0.37% | 0.09% |
| 54185 | Advertising | 2 | 0 | 0.00% | \$150,000 | 0.77% | 0.00% |
| STEP 1 BASE FIGURE TOTALS AND PERCENTAGE | | | | | 19,370,644 | 100.00% | 0.35% |

Step Two: Adjust the Relative Base Availability

In accordance with regulatory requirements and USDOT guidance, the YCIPTA considered multiple factors to determine if a need exists to adjust the *Relative Base Availability* to reflect other known factors in the relevant local market area. The factors considered by the YCIPTA included:

- Historical utilization based on actual dollars paid to DBEs versus non-DBEs
- De-certification of DBEs participating on FTA contracts during the past three years
- Types of contracts available for DBE participation to ensure that historical utilization is consistent with current availability
- Contracts to be awarded where no availability exists and no participation can be expected
- Availability of expansion capital and bonding to DBEs in the local market area
- YCIPTA issues/challenges for DBEs in the local market as indicated by anecdotal evidence and historical bidding trends

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Step A – Consider the historic participation of DBE primes and subcontractors on FTA projects. The YCIPTA reviewed payments made on FTA-assisted contracts completed during the period of July 2015 through June 2016. As reflected in *Table 3* below, the median past participation was calculated by comparing the total contract dollars paid to prime contractors in comparison to the dollars paid to DBE prime contractors and subcontractors. The calculation includes contracts with and without subcontracting activity. The median historical DBE utilization resulting from combining DBE prime and subcontracting dollars is .24 percent.

| TABLE 3 | | | | | | |
|--|----------------|----------|----------------|----------|----------------|----------|
| HISTORICAL ANNUAL DBE PARTICIPATION | | | | | | |
| CONTRACTS SUBSTANTIALLY COMPLETED July 2015 THROUGH JUNE 2016 | | | | | | |
| PERIOD | DBE | | NON-DBE | | TOTAL | |
| | Dollars | % | Dollars | % | Dollars | % |
| 2014-15 | \$ 11,538 | .24 | \$ 4,628,947 | 99.76 | \$ 4,640,485 | 100 |
| 2015-16 | \$ 0 | 0 | \$ 4,114,725 | 100 | \$ 4,114,725 | 100 |

Step B – Compare historical past participation to current availability. Adjustments to the base figure goal may be necessary and justified for a variety of reasons including: lower or higher than expected past participation by DBE firms or additional evidence from disparity studies. Unfortunately, very little data of this sort is currently available to YCIPTA . In past years, FTA funds were spent solely on turnkey operations contracts where there was very limited DBE availability. In addition, no comprehensive disparity study has been or is likely to be conducted in Yuma County.

Consequently, given all of the historic and current data available to YCIPTA and consideration of alternative methodologies for assessing the relative availability of DBE firms, YCIPTA have concluded that there is no reasonable basis upon which to adjust the Step 1 Base Goal of .35 percent.

Further Adjustments

Regulations require that recipients must consider all evidence available in the area to determine if the goal should be adjusted. The YCIPTA does not wish to adjust the goal further based on five compelling factors:

1. Recognition and local knowledge that as a small urban turnkey transit system, the majority of the FTA 5307 funds have been used over the years for direct operating costs in turn key contracts for which limited opportunities exist for DBE participation.
2. Recognition and local knowledge that there is limited DBE participation in the immediate geographic area, According to the ADOT DBE Database, there are only 8 registered DBE firms in all NAICS categories within Yuma County, which presents a significant limitation on YCIPTA opportunities to contract with DBE firms. Consequently, the relevant market area, for the purposes of this analysis, includes all of the State of Arizona to cast the broadest net possible for inclusion of DBE firms in YCIPTA contracting opportunities. The vast majority of DBE firms in the State of Arizona are in Maricopa County, which includes the Phoenix urbanized area, and Pima County, which includes the Tucson urbanized area.

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3. The DBE firms certified by the Arizona Unified Certification Program with the most appropriate NAICS classification code (485113 - Bus and motor vehicle transit systems) are generally charter services who are not ready, willing, or able to bid on public fixed route contracts of this size and complexity.
4. There may exist opportunities for the prime contractor (currently National Express Transit) to utilize outside firms to provide necessary materials, supplies, and services under the prime transit operations and maintenance contract. As a prime contractor, the agreement with National Express Transit requires that good faith efforts be made to sub-contract for materials and supplies for vehicle maintenance.

Step Three: Calculate Race- and Gender-Neutral and Race- and Gender-Conscious Split

Beginning in October 2013, the YCIPTA has been administering a race- and gender-neutral DBE Program for all FTA-assisted construction-related contracts. The YCIPTA's administration of the federal DBE Program with race- and gender-neutral measures, in addition to the YCIPTA's local SBE Program, provided the factual predicates that DBE firms continue to be competitive in the local market place and justified the discontinuation of goal-based measures.

The YCIPTA also utilized information available regarding the degree to which prime contractors proposed and utilized DBE firms on projects where no DBE goals were established or required. The review of race- and gender-neutral attainment included DBE prime contractor participation as well as DBE subcontractor participation that occurred on the projects.

In *Western States Paving*, the Ninth Circuit Court noted, "while Washington DOT was not required to produce a separate factual predicate for a DBE program, it was still required to produce a factual predicate to justify race-conscious elements in the local implementation of its DBE program." In 2015, the Arizona Department of Transportation (ADOT) completed a Disadvantaged Business Enterprise Disparity Study to determine whether there was a compelling interest to justify a race- and gender-conscious disadvantaged business enterprise (DBE) program for ADOT. The consultant, Keen Independent Research, found that the State is near parity. Thus, ADOT is currently imposing RGN measures for its FTA- and FTA-assisted contracts.

Without a factual predicate to justify the application of race- and gender-conscious goals, and DBE participation near parity in the region, the YCIPTA is proposing that the **.35 percent** triennial goal be achieved through race- and gender-neutral measures.

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EXHIBIT A

**PUBLIC NOTICE OF YCIPTA-PROPOSED FEDERAL TRANSIT ADMINISTRATION (FTA)
TRIENNIAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION GOAL**

The YCIPTA, pursuant to 49 Code of Federal Regulations Part 26, hereby announces its Triennial Disadvantaged Business Enterprise (DBE) Goal for Federal Fiscal Years (FFY) 2017-19 for DBE participation in USDOT-funded construction projects and procurements as follows:

**FEDERAL TRANSIT ADMINISTRATION
DISADVANTAGED BUSINESS ENTERPRISE DBE GOAL FOR FFY 2017-19
.35% (to be achieved through Race- & Gender-Neutral measures)**

The goal and rationale for the YCIPTA's DBE Program Triennial Goal proposal are available for public review and inspection at the following contact point during normal business hours for 30 days following the date of this notice. Public comments will be accepted for a period of 45 days from the date of this notice.

CONTACT:

Shelly Kreger, Transit Director
Yuma County Intergovernmental Public Transportation Authority
2715 E. 14th St.
Yuma, AZ 85365
Phone: (928)539-7076 ext 101
Fax: (928)783-0309
Email: skreger@ycipta.az.gov

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Yuma County Intergovernmental Public Transportation Authority

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PRESS RELEASE

Contact: Shelly Kreger
Transit Director
(928) 539 7076 ext 101
Cell: (928) 304-2297

(July 12, 2016)

**YUMA COUNTY INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY
PROPOSES .35 PERCENT OF FTA-ASSISTED CONTRACTS TO GO TO DBE FIRMS**

The YCIPTA solicits feedback from community stakeholders on the triennial Disadvantaged Business Enterprise (DBE) goal it plans to propose to the Federal Transit Administration (FTA) on Aug. 1, 2016. A goal of .35% for DBE participation will be proposed for time period July 1, 2016 through June 30, 2019; the goal must be achieved on an annual basis for all construction-related contracts.

The triennial goal, which will be achieved through race- and gender-neutral measures, is established pursuant to 49 Code of Federal Regulations (CFR) Part 26.45 and FTA guidance. Due to the lack of a disparity study, rather than employing contract-specific DBE goals, the YCIPTA imposes small business outreach requirements on its contracts to foster small business and DBE participation.

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During 2017-19, the YCIPTA anticipates awarding FTA-assisted contracts with multiple contracting opportunities totaling \$ 19,370,644. FTA funding will constitute \$10,975,322 (63.18%) of the projected contracts. The proposed DBE goal represents \$67,798 (.35%) of this FTA funding.

The proposed DBE goal and rationale for the goal are available for public review and inspection at the office of the YCIPTA , 2715 E. 14th St., Yuma, AZ 85365) during normal business hours for 30 days following the date of this notice. Public comments will be received for a period of 45 days from the date of this notice. Based upon a review of comments received, the YCIPTA reserves the right to adjust the proposed goal.

A public forum for finalization of the proposed DBE goal will be held on MONDAY, July 25, 2016 – 1:30 PM Yuma County Department of Development Services – Aldrich Hall , 2351 West 26th Street -- Yuma, AZ, 85364

For more information about the goal proposal or the public forum, call 928-539-7076 Ext 101. Or email skreger@ycipta.az.gov