

## **Disadvantaged Business Enterprise (DBE) PROGRAM**

Adopted: 7/12/2010

Revised: 1/8/2020

Revised: 9/12/2023

## **POLICY STATEMENT**

### **Objectives/Policy Statement (§26.1, §26.23):**

MONTEREY-SALINAS TRANSIT (MST) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. MST has received Federal financial assistance from the Department of Transportation and, as a condition of receiving this assistance, MST has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of MST to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also MST's policy to:

1. Ensure non-discrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. Ensure the DBE Program is narrowly tailored in accordance with applicable law, including the Ninth Circuit Ruling in *Western States vs. Washington State DOT*;
4. Ensure that only firms fully meeting the eligibility standards set forth in 49 CFR Part 26 are permitted to participate as DBEs;
5. Identify and help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. Assist with the development of firms that can compete successfully in the marketplace outside of the DBE Program.

The General Manager/CEO has designated the Civil Rights Officer as the DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by MST in its financial assistance agreements with the Department of Transportation.

MST has disseminated this Policy Statement to its Board of Directors and all components of the organization. This Policy Statement has been distributed via direct mail to DBE and non-DBE business communities that perform work for MST on DOT-assisted contracts. MST's DBE Program is posted on its website.



**Carl Sedoryk**  
**General Manager/CEO**

1/8/2020

**Date**

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

The objectives are found in the Policy Statement on the first page of this Disadvantaged Business Enterprise Program (Program).

### **Section 26.3 Applicability**

MONTEREY-SALINAS TRANSIT is the recipient of Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178; Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and Fixing America's Surface Transportation Act (FAST Act), Pub. L. No. 114-94, 129 Stat. 1312.

### **Section 26.5 Definitions**

MONTEREY-SALINAS TRANSIT will adopt the definitions contained in 49 CFR §26.5 for this Disadvantaged Business Enterprise Program.

### **Section 26.7 Non-discrimination Requirements**

MONTEREY-SALINAS TRANSIT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE Program, MST will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing its accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT: §26.11(a,b)**

MONTEREY-SALINAS TRANSIT will report DBE participation to the relevant operating administration, FTA, on a semi-annual basis, using the Uniform Report of DBE Awards or Commitments and Payments, or as required by 49 CFR Part 26. The reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List: §26.11(c)

MONTEREY-SALINAS TRANSIT will develop and maintain a Bidders List (**Attachment A**) consisting of all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the Bidders List approach to calculating overall goals.

MST will collect this information through the use of California's Uniform Certification Program (CUCP) certification information and by requiring all prime contractors bidding on DOT-assisted contracts to submit, at the time of bid opening, the following information pertaining to the prime contractor and subcontractors who provided a bid or were contacted by the prime contractor:

1. The firm's name;
2. The firm's address;
3. The age of firm or years in business;
4. The firm's DBE or non-DBE status;
5. The type of work performed by the firm; and
6. The firm's annual gross receipts.

**Section 26.13      Federal Financial Assistance Agreement**

MONTEREY-SALINAS TRANSIT has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance: §26.13(a)

MONTEREY-SALINAS TRANSIT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to MONTEREY-SALINAS TRANSIT of its failure to carry out its approved Program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

**The above language will appear verbatim in all DOT-assisted contracts and in all financial assistance agreements with subrecipients.**

Contract Assurance: §26.13(b)

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments; and/or
2. Assessing sanctions, liquidated damages; and/or
3. Disqualifying the contractor from future bidding as non-responsible.

**MONTEREY-SALINAS TRANSIT will ensure that the above language appears verbatim in every DOT-assisted contract and subcontract.**

## **SUBPART B – ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since MONTEREY-SALINAS TRANSIT has received a grant of \$250,000 or more in FTA planning capital and/or operating assistance in a Federal fiscal year, we will continue to carry out this Program until all funds from DOT financial assistance have been expended. MST will provide to DOT updates representing significant changes in the Program as they occur and will not implement such updates without prior approval.

### **Section 26.23 Policy Statement**

The Policy Statement is elaborated on the first page of this Program.

### **Section 26.25 DBE Liaison Officer**

MONTEREY-SALINAS TRANSIT has designated the following individual as its DBE Liaison Officer:

**Deanna Smith**  
Civil Rights Officer /DBELO  
Monterey-Salinas Transit  
19 Upper Ragsdale Dr., Suite 200  
Monterey, CA 93940  
**Phone:** (831) 264-5878  
**Email:** dsmith@mst.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that MST complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the General Manager/CEO concerning DBE Program matters. An organization chart displaying the DBELO's position in the organization is found in **Attachment B** of this Program.

The DBELO is responsible for developing, implementing, and monitoring the DBE Program in coordination with other appropriate officials. The DBELO has no (0) staff to assist in the administration of the Program, but works in collaboration with other MST staff members, including the Procurement Manager, Grants Analyst, and Accountant. Duties and responsibilities of the DBELO include the following:

1. Gathers and reports statistical data and other information as required by DOT;
2. Reviews third party contracts and purchase requisitions for compliance with this Program;
3. Works with all departments to set overall annual goals;
4. Works with the Procurement Manager to ensure that bid notices and requests for proposals are made available to DBEs in a timely manner;

5. Analyzes DBE participation and identifies ways to improve progress through race-neutral means;
6. Participates in pre-bid meetings;
7. Advises the General Manager/CEO and Board of Directors on DBE matters;
8. Provides DBEs with information and recommends sources to assist in preparing bids and obtaining bonding and insurance;
9. Plans and participates in DBE training seminars; and
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

## **Section 26.27 DBE Financial Institutions**

It is the policy of MONTEREY-SALINAS TRANSIT to investigate services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

A list of financial institutions was obtained from the website for The Federal Reserve Board <http://www.federalreserve.gov/releases/mob/> to identify minority-owned banks derived from the Consolidated Reports of Condition and income filed quarterly by banks (FFIEC 031 through 034). To date, the DBELO has identified the following minority-owned financial institutions, which offer services in California:

BORREGO SPRINGS Bank NA  
EASTERN INTL Bank

COMMUNITY CMRC Bank  
OMNI Bank NA

## **Section 26.29**

## **Prompt Payment Mechanisms**

**MONTEREY-SALINAS TRANSIT will include the following clause(s) in each DOT-assisted prime contract:**

### Prompt Payment to Subcontractors §26.29(a)

The prime contractor agrees to pay to each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from receipt of each progress payment the prime contractor receives from MONTEREY-SALINAS TRANSIT. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause and with prior written approval from MONTEREY-SALINAS TRANSIT. This clause applies to both DBE and non-DBE subcontracts.

### Prompt and Full Payment of Retainage to Subcontractors §26.29(b)(2)

No retainage will be held by MONTEREY-SALINAS TRANSIT from progress payments due the prime contractor.

Any retainage kept by the prime contractor must be paid in full to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of this retainage payment may take place only for good cause and with the agency's prior written approval.

### Work Deemed Satisfactorily Completed §26.29(c)

A subcontractor's work shall be deemed satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by MONTEREY-SALINAS TRANSIT. When MONTEREY-SALINAS TRANSIT has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

### Prompt Payment Enforcement Mechanisms and Penalties §26.29(d)

Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.



### **Section 26.31 DBE Directory**

MONTEREY-SALINAS TRANSIT is not a certifying agency; therefore, per §26:81(g), MST references the California Department of Transportation DBE Directory (Directory) which identifies all firms eligible to participate as DBEs. The Directory lists the firms name, address, phone number, date of the most recent certification, and the type(s) of work the firm has been certified to perform as a DBE. Caltrans makes the directory available to the public electronically on the internet and in print. Caltrans updates the electronic version of the directory as soon as changes are made and revises the print version of the Directory at least once a year. The Directory can be found at <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>.

### **Section 26.33 Overconcentration**

MONTEREY-SALINAS TRANSIT has not identified that overconcentration exists in the types of work that DBEs perform. If the DBELO determines that DBE participation is so overconcentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBELO will develop appropriate measures to address the overconcentration. The DBELO will seek approval of such measures from FTA and, at that time, the measures will become a part of this Program.

### **Section 26.35 Business Development Programs**

MONTEREY-SALINAS TRANSIT has not established a Business Development Program. If MST implements such a program in the future, then MST will describe the rationale for having the program and the specific provisions of the program (e.g., who is eligible to participate, how the program works, and how interested persons can obtain information about the program). Upon deciding to implement a Business Development Program, the DBELO will seek approval of such program from FTA and, at that time, the program will become a part of the overall DBE Program.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

MONTEREY-SALINAS TRANSIT will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. MST will bring to the attention of the Department of Transportation any false, fictitious, or fraudulent conduct, claim, statement, submission, or certification in connection with the program, so that DOT can take the steps to impose penalties under the Fraud Civil Remedies Act of 1986, as amended (31 U.S.C. 3801 *et seq.*) and implementing Department of Transportation Regulations set forth in 49 CFR Part 31.
2. MST will consider similar action under its own legal authorities, including responsibility determinations in future contracts, in accordance with regulations, provisions, and

contract remedies available to us in the event of non-compliance with the DBE regulations by a participant in our procurement activities.

3. MST will implement the following monitoring and enforcement mechanisms to verify that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed. This process is detailed in **Attachment C** of this Program.
  - a. The DBELO shall monitor actual DBE participation by:
    - i. Certifying DBEs are performing work per contract terms;
    - ii. Reviewing contractor/subcontractor reports of payments; and
    - iii. Obtaining certification from DBEs of contractor payments.

### **Section 26.39      Fostering Small Business Participation**

Under the definition of a small business concern this means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, an existing small business, as defined by Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121), that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

To foster small business participation, MONTEREY-SALINAS TRANSIT shall take proactive steps to facilitate competition by small businesses.

MST's Small Business Element includes the following strategies:

1. Posting all procurement opportunities on MST's website.
2. Posting a statement on MST's website encouraging DBEs and small businesses to pursue our procurement opportunities.
3. Posting contact information on MST's website of small business associations, small business development centers, and other organizations that provide small business assistance.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

MONTEREY-SALINAS TRANSIT does not use quotas or set-asides in any way in the administration of this Program.

### **Section 26.45 Overall Goals**

A description of the methodology used to calculate the overall goal and the goal calculations can be found in **Attachment D** to this Program. This section of the Program will be updated triennially upon submission to FTA, or upon any required goal adjustment as described in §26.45(f)(1)(ii) and §26.47(c).

In accordance with Section 26.45(f)(1)(i), MONTEREY-SALINAS TRANSIT shall establish and submit its overall goals to DOT by August 1 preceding its assigned federal fiscal year triennial goal period.

Before establishing its overall triennial goal, MONTEREY-SALINAS TRANSIT shall consult with persons or groups to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MST's efforts to establish a level playing field for the participation of DBEs.

Following this consultative process, MONTEREY-SALINAS TRANSIT shall publish a notice announcing its overall goal before submission to FTA on August 1. Normally, MST will issue this notice by June 1 of each year. The notice shall be published on the MST website at [www.mst.org](http://www.mst.org) and will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. If the proposed goal changes following review by FTA, the revised goal shall be posted on MST's website.

MONTEREY-SALINAS TRANSIT shall begin using its overall goal on October 1 of the calendar year following the August 1 submission to FTA, unless we have received other instructions from DOT. MST implements a race-neutral DBE Program and does not set contract goals.

### **Section 26.49 Transit Vehicle Manufacturers**

MONTEREY-SALINAS TRANSIT shall require each Transit Vehicle Manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section.

MST shall submit within 30 days of making an award the name of the successful bidder and the total dollar value of the contract in the manner prescribed in the grant agreement.

### **Section 26.51(a-c) Estimated Race-Neutral & Race-Conscious Participation**

MONTEREY-SALINAS TRANSIT will meet its overall goal using race-neutral means of facilitating DBE participation. MST will use one or more of the following race-neutral means to increase DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses.
2. Encouraging prime contractors to subcontract to DBEs portions of work that they might otherwise perform with their own forces.
3. Posting contact information on MST's website of small business associations, small business development centers, and other organizations that provide technical assistance to DBEs and small businesses.
4. Providing information in languages other than English, where appropriate.
5. Referring prime contractors to the California Department of Transportation DBE Directory which identifies all firms eligible to participate as DBEs.

### **Section 26.51(d-g) Contract Goals**

MONTEREY-SALINAS TRANSIT will not use contract goals to meet any portion of its overall goal in accordance with its commitment to use race-neutral means of facilitating DBE participation.

MONTEREY-SALINAS TRANSIT will track race-neutral participation (per §26.51(f)). For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

1. DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures;
2. DBE participation through a subcontract on a prime contract that does not carry a DBE goal; and
3. DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

### **Section 26.53 Good Faith Efforts Procedures**

#### Demonstration of Good Faith Efforts: §26.53(a) & (c)

MONTEREY-SALINAS TRANSIT will not use contract goals to meet any portion of its overall goal in accordance with its commitment to use race-neutral means of facilitating DBE participation.

To ensure MST's DBE Program is narrowly tailored in accordance with applicable law, including the Ninth Circuit Ruling in *Western States vs. Washington State DOT*, MST will state its own DBE goal and encourage prime contractors to use DBEs through the following contract clause:

MONTEREY-SALINAS TRANSIT has established a race-neutral goal of 1.5% for DBE participation in its DOT-assisted contracts. MONTEREY-SALINAS TRANSIT encourages its prime contractors to use DBE firms to the extent possible in all sub-contracting opportunities.

### **Section 26.55      Counting DBE Participation**

MONTEREY-SALINAS TRANSIT will count DBE participation toward overall goals as provided in 49 CFR §26.55.

## **SUBPART D – CERTIFICATION STANDARDS**

### **Section 26.61-26.73 Certification Standards**

MONTEREY-SALINAS TRANSIT is not a certifying agency; however, MST will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

For information about the certification process or to apply for certification, firms should contact:

Caltrans  
Attn: Olivia Fonseca, Deputy Director  
1823 14 Street  
Sacramento, CA 95811  
(916) 324-1700  
Toll-Free (866) 810-6346  
[smallbusinessadvocate@dot.ca.gov](mailto:smallbusinessadvocate@dot.ca.gov)

Certification application forms and documentation requirements are found at:  
<http://www.dot.ca.gov/hq/bep/>

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

MONTEREY-SALINAS TRANSIT is a member of a Unified Certification Program (UCP) administered by the California Department of Transportation. The UCP will meet all of the requirements of this section. The following is a description of the UCP:

The California Unified Certification Program (CUCP) provides “one-stop shopping” certification to small, minority, and women businesses seeking participation in the United States Department of Transportation (USDOT) Disadvantaged Business Enterprise Program. Certification services are offered to businesses seeking to obtain either DBE or airport concessionaire disadvantaged business enterprise (ACDBE) status.

As mandated by USDOT in the DBE Program, Final Rule 49 Code of Federal Regulations (CFR) Part 26, all public agencies that receive USDOT federal financial assistance must participate in a statewide unified certification program. These public agencies, commonly referred to as “recipients” of USDOT funds, include municipalities, counties, special districts, airports, transit agencies, and the State Department of Transportation (Caltrans).

The CUCP went into effect on January 1, 2002. It is a “one-stop shopping” certification program that eliminates the need for a DBE firm to obtain certifications from multiple agencies within the state. A business certified as a DBE through the CUCP is automatically accepted by all USDOT recipients in California.

The CUCP is charged with the responsibility of overseeing the certification activities performed by various certifying agencies and compiling and maintaining a single statewide database of certified DBEs. The database is intended to expand the use of DBE firms by maintaining complete and current information on those businesses and the projects and services they can provide to all USDOT recipients in California.

The CUCP certifying agencies are responsible for certifying DBE firms. You only need to apply for DBE certification at one agency. If your firm meets the General Criteria for DBE certification as provided on the application package, submit your completed application along with the requested documentation to one of the certifying agencies serving the geographical area where your firm has its principal place of business.

**Section 26.83(a) (c) Procedures for Certification Decisions**

Any firm or complainant may appeal a Caltrans UCP's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation  
Office of Civil Rights Certification Appeals Branch  
1200 New Jersey Ave. SE  
West Building, 7<sup>th</sup> Floor  
Washington, DC 20590-0001

MONTEREY-SALINAS TRANSIT will promptly implement any DOT certification appeal decision affecting the eligibility of DBEs for our DOT-assisted contracts. Those wishing to file an appeal must send a letter to DOT within 90 days of the date of the recipient's final decision, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact that the recipient failed to consider, or what provisions of this Part the recipient did not properly apply. DOT may accept an appeal filed later than 90 days after the date of the decision if DOT determines that there was good cause for the late filing of the appeal or in the interest of justice.



## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

#### **Availability of Records §26.109(a)**

MONTEREY-SALINAS TRANSIT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law as applicable in the State of California.

Notwithstanding any contrary provisions of state or local law, MST will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

#### **Confidentiality of Information on Complainants §26.109(b)**

Notwithstanding the provisions of Section 26.109(a), the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant shall be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding hearing.

#### **The statement below shall be included in all Requests for Proposals (RFPs):**

The proposals received become the exclusive property of MONTEREY-SALINAS TRANSIT. At such time as a contract award is made by MST, all proposals submitted in response to this RFP shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each proposal which are trade secrets as the term is defined in California Government Code 6254.7 and which are so marked as "TRADE SECRET," "CONFIDENTIAL," OR "PROPRIETARY." MONTEREY-SALINAS TRANSIT shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, without limitation, those so marked if disclosure is deemed required by law or by an order of a court. Proposals that indiscriminately identify all or most of the proposal as exempt from disclosure without justification may be found technically unacceptable.

#### **The statement below shall be included in all Invitation for Bids (IFBs):**

The bids received become the exclusive property of MONTEREY-SALINAS TRANSIT. At such time MONTEREY-SALINAS TRANSIT publishes its board agenda containing a recommended action concerning a contract award, all bids submitted in response to this IFB shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each bid which are trade secrets as that term is defined in California Government Code 6254.7 and which are so marked as "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY." MONTEREY-SALINAS TRANSIT shall not in any way be

liable or responsible for the disclosure of any such records or portions thereof, including, without limitation, those so marked if disclosure is deemed required by law or by an order of a court. Bids that indiscriminately identify all or most of the bid as exempt from disclosure without justification may be found technically unacceptable.

#### Monitoring Payments to DBEs


MONTEREY-SALINAS TRANSIT will require prime contractors to maintain records and documents of payments to DBEs for (3) three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of MONTEREY-SALINAS TRANSIT or DOT. This reporting requirement also extends to any certified DBE subcontractor.

MONTEREY-SALINAS TRANSIT will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## **LIST OF ATTACHMENTS**

Attachment A	DBE Monitoring Forms
Attachment B	Organization Chart
Attachment C	Monitoring and Enforcement Mechanisms
Attachment D	Overall Goal and Goal Methodology FFY2024-2026

**A: DBE Monitoring Forms**

<b>MONTEREY-SALINAS TRANSIT BIDDERS FORM</b>			
<p><b>All bidders/proposers are required to provide the following information for all DBE and non-DBE firms:</b></p> <p>MST requires <b>all</b> prime contractors bidding on DOT-assisted contracts to submit, at the time of bid opening, the following information pertaining to the prime contractor <b>and</b> subcontractors who provided a bid or who were contacted by the prime contractor. Monterey-Salinas Transit will use this information to maintain and update a "Bidders List" to assist in MST's overall annual DBE goal-setting process as required by the Federal Transit Administration. To the extent permitted by law, all information submitted will be held in strict confidence.</p>			
<b>Firm Name:</b>		<b>Firm Owner or Primary Contact:</b>	
<b>Phone:</b>	<b>Fax:</b>	<b>Email:</b>	
<b>Firm Address:</b>		<b>City:</b>	<b>State:      Zip:</b>
<p><b>Is the firm currently certified as a DBE by the California Unified Certification Program?</b></p> <p><b>Yes or No (Circle one)                      NAICS Code:</b></p>			
<p><b>List the type(s) of work/services/materials provided by the firm:</b></p>			
<p><b>Firm's Gross Annual Receipts for the previous year:</b></p> <p><input type="checkbox"/> Less than \$1 million</p> <p><input type="checkbox"/> Less than \$5 million</p> <p><input type="checkbox"/> Less than \$10 million</p> <p><input type="checkbox"/> Less than \$15 million</p> <p><input type="checkbox"/> More than \$15 million</p>		<p><b>How many years has your firm been in business?</b></p>	
<p><i>This form can be duplicated if necessary to report all bidders' (DBE and non-DBE) information. Please use a separate form for all bidders.</i></p>			
<p><b>Monterey-Salinas Transit</b>  <b>Attn: DBE Liaison Officer</b>  <b>19 Upper Ragsdale Dr., Suite 200</b>  <b>Monterey, CA 93940</b></p>			

MST REPORT OF DBE PARTICIPATION	
Contractor:	Contract Start Date:
Contract Number:	Contract Completion:
Service(s) Provided by Contractor:	
Subcontractor (DBE) Business Name: DBE Firm ID:	
Subcontractor (DBE) Business Address:	
Primary Contact:	Phone #:
Service(s) Provided by DBE Subcontractor:	
WORKSITE OBSERVATION	
Worksite Location:	
Notes:	
Project Manager Signature: Date:	
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Project Manager Signature: Date:	

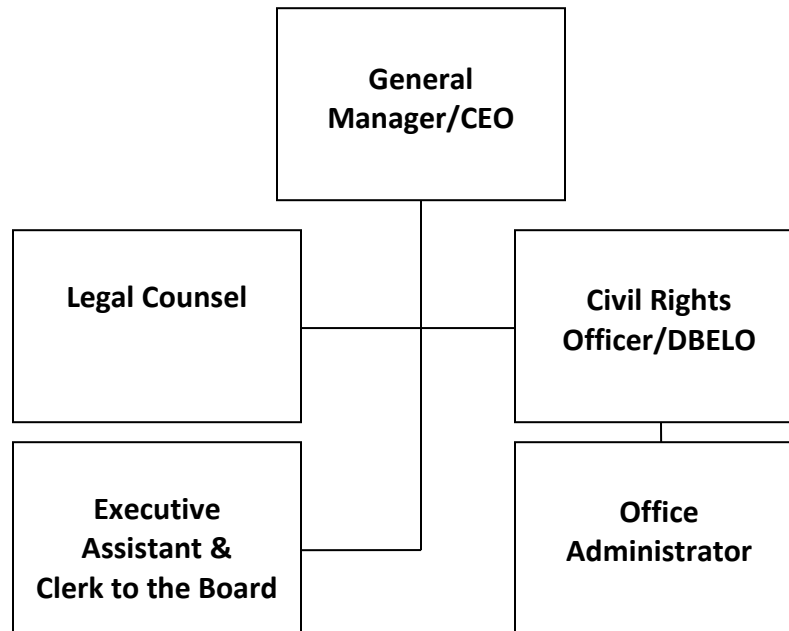
<b>CONFIRMATION OF DBE PARTICIPATION</b>	
<b>THIS SECTION TO BE COMPLETED BY MONTEREY-SALINAS TRANSIT:</b>	
<b>Contractor:</b>	<b>Contract Start Date:</b>
<b>Contract Number:</b>	<b>Contract Completion:</b>
<b>Project Name or Service(s) Provided by Contractor:</b>	
<b>Subcontractor (DBE) Business Name:</b>	<b>DBE Firm ID:</b>
<b>Subcontractor (DBE) Business Address:</b>	
<b>Primary Contact:</b>	<b>Phone #:</b>
<b>Service(s) Provided by Subcontractor (DBE):</b>	
<b>THIS SECTION TO BE COMPLETED BY PRIME CONTRACTOR:</b>	
I certify that the DBE Subcontractor listed above is performing the stated services on the project above, per contract agreement with Monterey-Salinas Transit, and that no other contractor, subcontractor, or other entity is performing this work.	
<b>Contractor Signature:</b>	<b>Date:</b>
<b>THIS SECTION TO BE COMPLETED BY DBE SUBCONTRACTOR:</b>	
I certify that my business, as listed above, is performing the stated services for the Prime Contractor, and that no other contractor, subcontractor, or other entity is performing this work.	
<b>Subcontractor (DBE) Signature:</b>	<b>Date:</b>
<b>THIS SECTION TO BE COMPLETED BY MONTEREY-SALINAS TRANSIT:</b>	
I certify that I spoke directly to the Subcontractor (DBE) and received confirmation that the business was performing all stated services for the Prime Contractor.	
<b>DBELO Signature:</b>	<b>Date:</b>

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**B: MST ORGANIZATION CHART**

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**MONTEREY-SALINAS TRANSIT  
EXECUTIVE DEPARTMENT ORGANIZATION CHART**



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## C: MONITORING AND ENFORCEMENT MECHANISMS

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MONTEREY-SALINAS TRANSIT will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

### False or Fraudulent Statement and Claims

MST will bring to the attention of the Department of Transportation any false, fictitious, or fraudulent conduct, claim, statement, submission, or certification in connection with the program, so that DOT can take the steps to impose penalties under the Fraud Civil Remedies Act of 1986, as amended (31 U.S.C. 3801 *et seq.*) and implementing Department of Transportation Regulations set forth in 49 CFR Part 31.

MST will consider similar action under its own legal authorities, including responsibility determinations in future contracts, in accordance with regulations, provisions, and contract remedies available to us in the event of non-compliance with the DBE regulations by a participant in our procurement activities.

### Observation of Contractor and Subcontractor Work Sites

MST will implement the following monitoring and enforcement mechanisms to verify that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed.

1. **On a semi-annual basis**, the DBELO (or other staff as assigned by the DBELO) will, if the firm provides architectural & engineering, consulting, legal, or other similar professional services; or if the firm is located out of state or out of MST's service area, consider the firm appropriately monitored by:
  - requiring the contractor and subcontractor to certify that DBEs are performing work as stated per contract, using MST's **Confirmation of DBE Participation Form**; or
  - maintaining a record of meetings and/or emails with the contractor and subcontractor during which the work product is discussed; or
  - observing delivery of the work product or speaking directly with the DBE.
2. **On a quarterly basis**, the Project Manager ( or DBELO ) will, if the firm provides major construction work for MST:
  - visit the location at which the contractor or subcontractor of record is performing its job, and, using MST's **Report of DBE Participation Form**, document that DBEs are performing work as stated per contract.

Backup documentation for all worksite monitoring may include contractor/subcontractor signatures, DBELO visitation notes, email correspondence, photos, and/or meeting notes.



### Running Tally of DBE Attainments

The DBELO will perform **semi-annual** reviews of prompt payment to subcontractors through the following mechanisms:

- MST shall require the prime contractor to submit invoices and cancelled checks for payments made to subcontractors in response to each progress payment received from MST.
  - The DBELO will review actual contractor payments to subcontractors by comparing the contractor's invoices and cancelled checks to the subcontractor with MST's progress payments to the prime contractor.
- MST shall require the prime contractor to submit invoices and cancelled checks for payments of retainage held by the prime contractor to subcontractors after work has been deemed satisfactorily completed.
  - The DBELO will review actual contractor payments of retainage held by the prime contractor to subcontractors by comparing invoices and cancelled checks to MST's incremental acceptance of each portion of the prime contract as stated in the schedule of DBE participation.
- Back-up documentation of this review will be included with MST's **Report of DBE Participation**.

Upon contract close-out review, the DBELO will review, finalize, and sign the **Report of DBE Participation**, including all back-up documentation. This report will be maintained in the DBELO's records and the Procurement file.

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## D: GOAL METHODOLOGY

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### Section 26.45 Overall Goal and Goal Methodology

The following is a description of the methodology used to calculate MONTEREY-SALINAS TRANSIT'S overall goal. MST's overall goal will be updated triennially upon submission to FTA, or upon any required goal adjustment as described in §26.45(f)(1)(ii) and §26.47(c).

In accordance with Section 26.45(f)(1)(i), MST shall establish overall goals by August 1 preceding its assigned Federal Fiscal Year triennial goal period.

#### Overall Goal Setting: (§26.45)

In accordance with Section 26.45(b), MONTEREY-SALINAS TRANSIT's overall goal shall be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal shall reflect MST's determination of the level of DBE participation we would expect absent the effects of discrimination. MST will not simply rely on either the 10 percent national goal, MST's previous overall goal, or past DBE participation rates in our Program without reference to the relative availability of DBEs in our market.

MONTEREY-SALINAS TRANSIT will calculate its DBE goal using the Two-Step Process as specified in 49 CFR Part 26.45(c)(d).

#### Step 1 – Developing a Base Figure: (§26.45c)

MONTEREY-SALINAS TRANSIT will begin its goal setting process by determining a base figure for the relative availability of DBEs. MST will use one or more of the following approaches to develop this base figure:

1. MST may use its DBE Directory to determine the number of all ready, willing, and able businesses available in its market. Using the Census Bureau's County Business Pattern (CBP) database, MST will then determine the number of all ready, willing, and able businesses available in its market that perform work in these same NAICS codes.
2. MST may determine the number of DBEs that have bid or quoted (successfully or unsuccessfully) on its DOT-assisted prime contracts or subcontracts in the past three years. MST will determine the number of all businesses that have bid or quoted (successfully or unsuccessfully) on prime or subcontracts in the same period. MST will then divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in its market.
  - a. As required, MST will document within its goal submission the mechanism used to capture data on DBE and non-DBE prime and subcontractors that submitted bids when using this approach.
3. MST may use a percentage figure derived from data in a valid, applicable disparity study.

4. MST may use the goal of another DOT recipient, provided the DOT recipient is in the same or substantially similar market as MST, and provided the recipient has set its goal in compliance with this rule.

#### Step 2 – Adjusting the Base Figure: (§26.45d)

Once MONTEREY-SALINAS TRANSIT has calculated its base figure, it will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at its overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

The following evidence must be considered when adjusting the base figure:

1. The current capacity of DBEs to perform work in MST's DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;
2. Evidence from disparity studies conducted anywhere within MST's jurisdiction, to the extent it is not already accounted for in its base figure;
3. If MST's base figure is the goal of another recipient, MST shall adjust for differences in its own local market and its contracting program.

If available, MST shall consider evidence from related fields that affect the opportunities for DBEs to form, grow, and compete. These include, but are not limited to:

1. Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in MST's program;
2. Data on employment, self-employment, education, training, and union apprenticeship programs, to the extent MST can relate it to the opportunities for DBEs to perform in its program.

#### Establishing the Overall Goal (§26.45e)

Once MONTEREY-SALINAS TRANSIT has determined a percentage figure using the two-step process, we will express our overall goal as a percentage of all FTA funds (exclusive of funds to be used for the purchase of transit vehicles) that MST will expend in FTA-assisted contracts in the forthcoming fiscal years.

In appropriate cases, the FTA Administrator may permit or require MST to express its overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration.

### The Consultive Process: Section 26.45(g)(1,2)

Before establishing its overall triennial goal, MONTEREY-SALINAS TRANSIT shall consult (scheduled, direct, interactive exchange, i.e. face-to-face meeting or teleconference) with persons or groups (which may include but is not limited to, minority, women's, general contractors, trade associations, and community organizations) to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MST's efforts to establish a level playing field for the participation of DBEs. MST shall document in its goal submission the consultation process and shall not implement its proposed goal until completing this process.

Following this consultive process, MST shall publish a notice announcing its overall goal before submission to FTA on August 1. Normally, MST will issue this notice by June 1 of each year. The notice shall be published on the MONTEREY-SALINAS TRANSIT website at [www.mst.org](http://www.mst.org) and will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed. If the proposed goal changes following review by FTA, the revised goal shall be posted on MST's website.

MST's overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral participation); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during the consultive process and our responses; and proof of posting of the goal on MST's website.

MST will begin using its overall goal on October 1 of the calendar year following the August 1 submission to FTA, unless we have received other instructions from DOT. MST implements a race-neutral DBE Program; therefore, we do not set contract goals.

### Goal Adjustments: (§26.45(f)(1)(ii))

MONTEREY-SALINAS TRANSIT may adjust its overall goal during the three-year period to which it applies in order to reflect changed circumstances. This adjustment, if made, will be submitted to FTA for review and approval.

### Annual Goal Shortfall: §26.47(c)

If MONTEREY-SALINAS TRANSIT'S awards and commitments, as shown on its Uniform Report of Awards or Commitments and Payments at the end of any fiscal year, are less than the overall goal applicable to that fiscal year, MST shall:

1. Analyze in detail the reasons for the difference between the overall goal and MST's awards and commitments in that fiscal year (Section 26.47(c)(1));
2. Establish specific steps and milestones to correct the problems MST has identified in its analysis and enable MST to meet full our goal for the new fiscal year (Section 26.47(c)(2);

3. As a transit authority not meeting the criteria of Section 26.47(c)(3)(i), MST shall, as required, retain the analysis and corrective action in its records for three (3) years and make it available to FTA upon request (Section 26.47(c)(3)(ii)).



**DISADVANTAGED BUSINESS ENTERPRISE**  
**OVERALL TRIENNIAL GOAL AND METHODOLOGY**  
**Federal Fiscal Years 2024 – 2026**

Monterey-Salinas Transit (MST)  
DBE Overall Triennial Goal  
Submitted: 9/12/2023

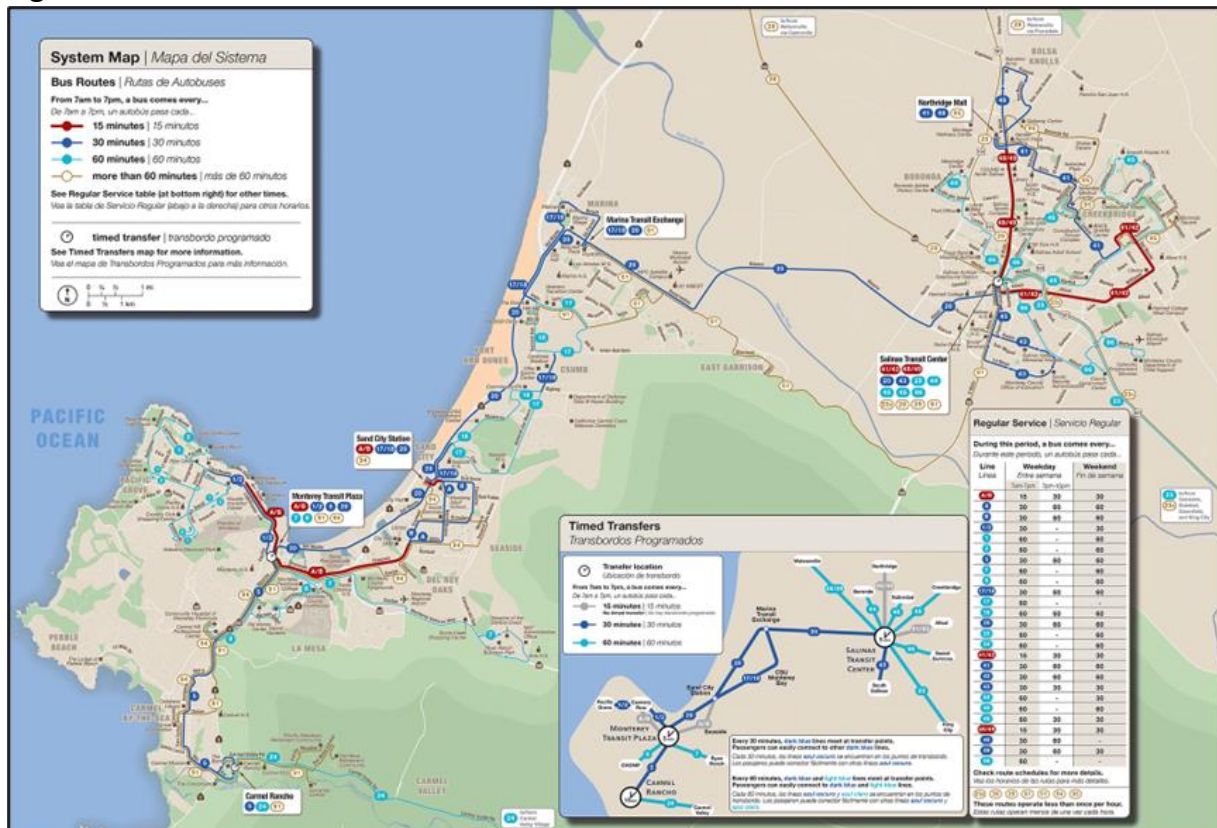
## INTRODUCTION

Monterey-Salinas Transit (MST) hereby submits its Disadvantaged Business Enterprise (DBE) Race Neutral Overall Triennial Goal of 13% for federal fiscal years (FFY) 2024 through 2026.

MST was created by California law AB 644 and formed on July 1, 2010. The District succeeded the MST Joint Powers Agency (formed in 1981) when the City of Salinas joined the Monterey Peninsula Transit Joint Powers Agency (formed in 1972). Current members of the District include the cities of Carmel-by-the-Sea; Del Rey Oaks; Gonzales; Greenfield; King City; Marina; Monterey; Pacific Grove; Salinas; Sand City; Seaside; Soledad; and the County of Monterey. The MST Board of Directors appoints the District's General Manager/CEO.

MST provides fixed-route, demand response, and special seasonal transit service to a 154-square mile area of Monterey County, Santa Cruz County, and San Luis Obispo County. MST's jurisdictional service area boundary is confined to the 12 cities and unincorporated areas of Monterey County and is represented below in **Figure 1**.

**Figure 1: MST Service Area**



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## BACKGROUND

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As a recipient of Federal Transit Administration (FTA) funding, MST is required to submit an overall goal for DBE participation over the three upcoming federal fiscal years pursuant to Title 49 Code of Federal Regulations (CFR) Part 26.45 “Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation (US DOT) Programs.” DBE regulations require US DOT recipients to set an overall goal based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on federally assisted contracts. The goal must reflect MST’s determination of the level of DBE participation expected absent the effects of discrimination. These regulations define the components that are addressed and incorporated in this DBE Program.

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### FTA-ASSISTED CONTRACTING FFY 2024 - FFY 2026

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MST receives formula funding directly from FTA and indirectly from the California Department of Transportation (Caltrans) and other FTA transit grantees. These programs include 5310 Enhanced Mobility of Seniors & Individuals with Disabilities; 5311(f) Formula Grants; 5339 Bus and Bus Facilities Program; 5307 Urbanized Area Formula Grants; 5311 Rural and Intercity Bus, and 5309 Capital Investment Grants. MST has signed an MOU with Caltrans allowing MST to report all federal funds directly to FTA semi-annually (**Attachment 1**). MST does not have sub-recipients and does not pass through funds to other agencies.

From the estimated \$78,512,220 of identified federal funding over this three-year overall goal period, MST has isolated \$22,489,133 that provide contracting opportunities with potential for DBE participation.

MST has programmed federal funds during FFY 2024 for the construction phase of its SURF! Bus Rapid Transit project (\$22,170,621) and a Security contract (\$318,512) during FFY 2026. MST continues, as documented in its previous DBE goal, to program the remainder of its federal funds for TVM purchases, fuels, salaries, and benefits which have no potential for DBE participation.

As in previous goal periods, MST has programmed a portion of its federal 5307 funds (\$12,685,145) to reimburse its contract transportation provider, MVT, for salaries, wages, overtime, and benefits. The contractor’s FY2024-FY2026 budget for these expenses (\$57,778,152), without escalation estimates, are more than MST’s allocated federal dollars; therefore, these funds are not included in the calculations.

DBE regulations state that the overall goal should be expressed as a percentage of all FTA funds, minus exclusions, that MST will expend in FTA-assisted contracts over the next three federal fiscal years. **Tables 1-3** provide a detail of anticipated federal funding during this goal period. Highlighted cells denote funds that have been included in MST’s overall triennial goal.

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**Table 1: FFY2024 Federal Funds and Allocations**

	FFY 2024					TOTAL
	MST Direct Operations-Salaries, Fringes	Contract Transportation-Salaries, Fringes	Security	SURF! BRT Construction	Rolling Stock/TVM	
5310						\$ -
5311f	\$ 300,000					\$ 300,000
5339						\$ -
5307	\$ 11,216,896	\$ 4,105,000			\$ 1,455,637	\$ 16,777,533
5311	\$ 904,568					\$ 904,568
5311f CARES Act	\$ 316,183					\$ 316,183
5309 Capital Investment Grant (Very Small Starts)				\$ 22,170,621		\$ 22,170,621
<b>Total FYs</b>	<b>\$ 12,737,647</b>	<b>\$ 4,105,000</b>	<b>\$ -</b>	<b>\$ 22,170,621</b>	<b>\$ 1,455,637</b>	<b>\$ 40,468,905</b>
<b>Total Toward Goal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$ 22,170,621</b>	<b>\$0</b>	<b>\$ 22,170,621</b>

**Table 2: FFY2025 Federal Funds and Allocations**

	FFY 2025					TOTAL
	MST Direct Operations-Salaries, Fringes	Contract Transportation-Salaries, Fringes	SURF! BRT Construction	Security	TVM	
5310					\$ 405,182	\$ 405,182
5311f	\$ 300,000					\$ 300,000
5339						
5307	\$ 11,563,810	\$ 4,228,150			\$ 675,305	\$ 16,467,265
5311	\$ 932,544					\$ 932,544
5311f CARES Act	\$ 325,962					\$ 325,962
5309 Capital Investment Grant (Very Small Starts)			\$ -			\$ -
<b>Total FYs</b>	<b>\$ 13,122,316</b>	<b>\$ 4,228,150</b>		<b>\$ -</b>	<b>\$ 1,080,487</b>	<b>\$ 18,430,953</b>
<b>Total Toward Goal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Table 3: FFY2026 Federal Funds and Allocations**

	FFY 2026				TOTAL
	Direct Operations-Salaries, Fringes	Contract Transportation-Salaries, Fringes	Security	TVM	
					\$ -
	\$ 300,000				\$ 300,000
					\$ -
5307	\$ 11,910,724	\$ 4,354,995	\$ 318,512	\$ 1,455,637	\$ 18,039,868
	\$ 946,532				\$ 946,532
CARES Act	\$ 325,962				\$ 325,962
5309 Capital Investment Grant (Very Small Starts)					\$ -
<b>FYs</b>	<b>\$ 13,483,218</b>	<b>\$ 4,354,995</b>	<b>\$ 318,512</b>	<b>\$ 1,455,637</b>	<b>\$ 19,612,362</b>
<b>Toward Goal</b>			<b>\$ 318,512</b>		<b>\$ 318,512</b>

MST's federally assisted contracting opportunities include projects that have been awarded and projects anticipated to be awarded based on current and planned grant applications (**Table 4**).

**Table 4: FFY 21-FFY23 Projects and Federal Contract Dollars**

Grant	Project	FFY 24	FFY 25	FFY 26	FFY 24-26
5309 CIG (VSS)	Surf! BRT	\$22,170,621	\$0	\$0	\$22,170,621
5307	Security Patrol	\$0	\$0	\$318,512	\$318,512
<b>TOTAL \$</b>		<b>\$22,170,621</b>	<b>\$0</b>	<b>\$318,512</b>	<b>\$22,489,133</b>

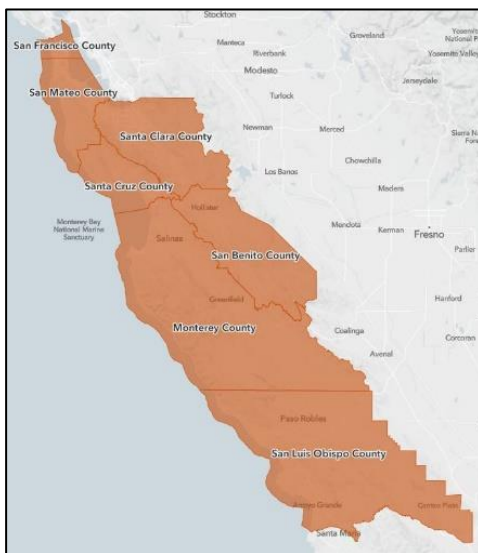
## GOAL METHODOLOGY

### Establishment of Local Market Area

*US DOT Tips for Goal Setting* recommends explaining how the local market area was determined. The local market area is the location wherein the substantial majority of contractors and subcontractors MST does business with reside, and the area wherein MST spends the substantial majority of its contracting dollars.

After reviewing where the majority of DBE and non-DBE contractors and subcontractors who have bid on previous contracting opportunities reside and the areas in which MST has spent the majority of its federal contracting dollars, the local market area was determined to be the counties of Monterey, San Benito, San Francisco, San Luis Obispo, San Mateo, Santa Clara, and Santa Cruz located within Caltrans Districts 4 and 5. **Figure 2** presents an illustration the seven (7) counties in MST's local market area.

**Figure 2: MST's Local Market Area**



The two-step goal setting process required by 49 CFR 26.45 was used to determine the recommended overall goal for FFY24 – FFY26. This two-step process includes:

**(1)** Establishing a base figure for the relative availability of DBEs; and **(2)** Determining the base figure adjustment, if necessary.

This section outlines the process MST used to establish the Step 1 base figure and any consideration given to determine if a two-step adjustment of the base figure is warranted.

### **Step 1: Determining a Base Figure**

MST examined sources identified in the *US DOT Tips for Goal Setting* to measure the relative availability data and accessed the *US Census North American Industry Classification System (NAICS)* and the *California Uniform Certification Program (CUCP)* to estimate the relative availability of all firms and certified DBEs in its market area. Weighting each project activity with the applicable NAICS code, as encouraged by US DOT, was conducted to ensure an accurate base figure.

An examination of MST's past participation for similar contracting opportunities revealed that DBEs have rarely submitted proposals as prime contractors; however, DBE subcontractors have performed portions of prior major construction projects. **Table 5** displays NAICS codes and project work types, weighted as a percentage of allocated funds, for both projects.

**Table 5: Contracting Opportunities by NAICS Code and Projects Weights**

NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
541330	Final Design & Engineering	\$1,674,963	0.0745
541620	Environmental Consulting Services	\$846,352	0.0376
238910	Site Preparation Contractors	\$1,262,750	0.0561
324121	Asphalt Paving Mixture and Block Manufacturing	\$1,192,743	0.0530
541820	Public Relations Agencies	\$440,862	0.0196
237310	Highway Street Bridge Construction	\$6,559,261	0.2917
561730	Exterior Imp - Landscape & Irrigation	\$669,664	0.0298
339950	Ext Imp - Signage Striping	\$476,123	0.0212
238990	Exterior Imp - Site Furnishing	\$3,578,085	0.1591
237110	Water & Sewer Line Structures	\$1,476,195	0.0656
238140	Exterior Improvements - Structures	\$1,572,904	0.0699
334290	Other Communication Equipment	\$767,341	0.0341
335129	Other Lighting Eqmt	\$924,904	0.0411
561621	Security Systems Services	\$728,474	0.0324
561612	Security Patrol Services	\$318,512	0.0142
<b>Total FTA-Assisted Contract Funds</b>		<b>\$22,489,133.25</b>	<b>1</b>

Past participation was not used to establish the base figure, and six-digit NAICS codes were applied consistently in both the numerator and denominator for each type of contracting opportunity. The relationship between the relative availability of all firms and DBE firms was examined according to the type of work performed by each potential contractor within the seven (7) counties identified as MST's local market area.

MST refined the data to ensure that all firms were licensed to conduct work in the state of California, had not been suspended, and were able to perform the type of work required. **Table 6** displays the relative availability of DBEs by NAICS codes.

**Table 6: Relative Availability (DBEs) / (All Firms) = Relative Availability**

NAICS Code	Project	DBEs RWA	All firms RWA (inc. DBEs)	Relative Availability
541330	Final Design & Engineering	43	1508	0.0285
541620	Environmental Consulting Services	32	204	0.1569
238910	Site Preparation Contractors	21	255	0.0824
324121	Asphalt Paving Mixture and Block Manufacturing	0	7	0.0000
541820	Public Relations Agencies	17	208	0.0817
237310	Highway Street Bridge Construction	32	75	0.4267
561730	Exterior Imp - Landscape & Irrigation	7	1296	0.0054
339950	Ext Imp - Signage Striping	1	57	0.0175
238990	Exterior Imp - Site Furnishing	23	327	0.0703
237110	Water & Sewer Line Structures	17	75	0.2267
238140	Exterior Improvements - Structures	2	152	0.0132
334290	Other Communication Equipment	0	10	0.0000
335129	Other Lighting Eqmt	0	538	0.0000
561621	Security Systems Services	0	82	0.0000
561612	Security Patrol Services	6	200	0.0300
<b>Combined Totals</b>		<b>201</b>	<b>4994</b>	<b>0.0402</b>
				<b>Overall availability of DBEs</b>

The Step 1 weighted base figure is derived by multiplying the category weight by the relative availability as shown in the equation below:

$$\text{Base Figure} = \sum \frac{(\text{Number of DBEs Ready, Willing, and Able})}{(\text{Number of All Firms Ready, Willing, and Able})} \times \text{weight} \times 100$$

Table 7: Step 1 – Weighted Base Figure

NAICS Code	Project	Weight	Availability	Weighted Base Figure
541330	Final Design & Engineering	0.0745	0.0285	0.0021
541620	Environmental Consulting Services	0.0376	0.1569	0.0059
238910	Site Preparation Contractors	0.0561	0.0824	0.0046
324121	Asphalt Paving Mixture and Block Manufacturing	0.0530	0.0000	0.0000
541820	Public Relations Agencies	0.0196	0.0817	0.0016
237310	Highway Street Bridge Construction	0.2917	0.4267	0.1244
561730	Exterior Imp - Landscape & Irrigation	0.0298	0.0054	0.0002
339950	Ext Imp - Signage Striping	0.0212	0.0175	0.0004
238990	Exterior Imp - Site Furnishing	0.1591	0.0703	0.0112
237110	Water & Sewer Line Structures	0.0656	0.2267	0.0149
238140	Exterior Improvements - Structures	0.0699	0.0132	0.0009
334290	Other Communication Equipment	0.0341	0.0000	0.0000
335129	Other Lighting Eqmt	0.0411	0.0000	0.0000
561621	Security Systems Services	0.0324	0.0000	0.0000
561612	Security Patrol Services	0.0142	0.0300	0.0004
			<b>Total</b>	<b>0.167</b>
			Expressed as a % (*100)	16.7%
			<b>Rounded, Weighted Base Figure:</b>	<b>17%</b>

**Step 2: Adjusting the Base Figure**

After the base figure was calculated, MST examined available evidence to determine what adjustment, if any, should be made to the base figure to arrive at the overall goal. MST considered the following factors to determine the need for a Step 2 adjustment:

1. Evidence from disparity studies conducted in the market area (including relevant studies commissioned by other contracting agencies in the market area); and
2. Past participation (the volume of work DBEs have performed in recent years) or other measures of demonstrated capacity.

**Past Participation**

During prior DBE goal periods, MST completed construction on a maintenance and operations facility and a JAZZ Bus Rapid Transit line. Past participation of firms for both projects helped determine the types of work that DBE firms can be expected to bid on for the SURF! project.

MST also reviewed past DBE goal attainment, the possible use of Caltrans 2022 Disparity Study<sup>1</sup>, and considered other evidence or information that would have an impact on whether to adjust MST's DBE goal.

The study supported MST's history of DBE firms competing for subcontracts more frequently than prime contracts, with the majority of MST DBE subcontracts awarded to transit-related planning, consulting, public relations, and architecture/engineering opportunities. Current contracting opportunities are expected to remain consistent, and MST does not expect to experience difficulty obtaining DBEs for portions of its construction projects. DBEs have not historically bid for MST's security patrol contracts.

After considering MST's current contracting opportunities, MST chose to adjust its Step 1 Base Figure using median past participation per guidelines provided on the [USDOT DBE website page](#).

**Table 8: Median Past Participation**

FFY	Period 1	Period 2	Annual Avg	Median Past Participation
2021	2.5%	7%	5%	9.8%
2020	0%	11%	6%	
2019	4%	24%	14%	
2022	61%	0%	31%	

**Table 9: Final Overall Triennial Goal**

Step Two Adjusted Base Figure	
Step 1 Base Figure	16.7%
Median Past Participation	9.80%
Adjusted Base Figure	13.3%
<b>Final DBE Goal</b>	<b>13%</b>

As stated in Section 26.39 of MST's DBE Program, Monterey-Salinas Transit will continue to foster small business participation:

1. Posting all procurement opportunities on MST's website.
2. Posting a statement on MST's website encouraging DBEs and small businesses to pursue our procurement opportunities.
3. Posting contact information on MST's website of small business associations, small business development centers, and other organizations that provide small business assistance.

<sup>1</sup> [Caltrans 2022 Disparity Study](#)

## PROPOSED OVERALL DBE GOAL

**The final Proposed Overall DBE Goal for FFY 2024 - FFY 2026 for Monterey Salinas Transit's FTA-assisted contracts is 13%.** As part of the prescribed goal-setting methodology, MST must project the percentage of its proposed overall goal that can be met utilizing race-neutral and race-conscious measures.

### **Race-Conscious & Race-Neutral Projection**

MST has been successful in achieving its DBE goals through race-neutral means and believes past performance is a reliable indicator for achieving its goal through race-neutral subcontracting opportunities during FFY 2024-FFY 2026 (**Table 10**). If MST is unable to achieve this goal within a federal fiscal year (MST does not currently have federal contract awards programmed for FFY2025), a short-fall analysis will be completed.

**Table 10: Race-conscious and Race-neutral Measures**

<b>RACE-CONSCIOUS &amp; RACE-NEUTRAL PROJECTIONS</b>	
DBE Goal	13%
Race-Conscious Component	0.0%
<b>RACE-NEUTRAL COMPONENT</b>	<b>13%</b>

### **Race-Neutral Implementation Measures**

Per Section 26.51(a-c) of MST's DBE Program, MST will continue to meet its overall goal using race-neutral means of facilitating DBE participation. MST will use one or more of the following race-neutral means to increase DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses.
2. Encouraging prime contractors to subcontract to DBEs portions of work that they might otherwise perform with their own forces.
3. Posting contact information on MST's website of small business associations, small business development centers, and other organizations that provide technical assistance to DBEs and small businesses.
4. Providing information in languages other than English, where appropriate.
5. Referring prime contractors to the California Department of Transportation DBE Directory which identifies all firms eligible to participate as DBEs.

Pre-bid and pre-proposal conferences are held for formal procurements, which include a networking component to promote teaming opportunities between prospective prime contractors and the DBE and Small Business contracting community.

Procurement opportunities are posted on MST's website at <https://mst.org/about-mst/procurement/>. Information on its DBE program, including contact information for local small business support is maintained on a dedicated page on its website <https://mst.org/about-mst/procurement/disadvantaged-business-enterprise/>.

MST will monitor its progress each year and consider whether adjustments to its DBE goal are needed. All prime contractors will be encouraged to utilize DBE subcontractors to the degree possible.

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## PUBLIC PARTICIPATION AND FACILITATION

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In establishing an overall goal, MST must provide for consultation and publication. This includes:

1. Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and MST's efforts to establish a level playing field for the participation of DBEs; and
2. A published notice announcing MST's proposed overall goal before submission to FTA. The notice was posted on MST's official website. If the proposed goal changes following review by FTA, the revised goal will be posted on MST's official website.

### Consultation

MST's DBELO presented its DBE methodology during two informative and consultive meetings. To assist DBEs who may not be able to attend in-person meetings, Zoom meetings were held on September 6, 2023, and September 8, 2023. **Attachment 2** includes documentation of the groups invited, meeting agendas and minutes, and comments received during the consultive process.

For those entities or individuals who could not access Zoom due to technical or other limitations, MST allowed for telephone, email, or written requests and correspondence, including in accessible formats, as an alternative to these meetings. Alternative correspondence was offered from the date Zoom meetings were advertised to 5:00pm the day of the final Zoom meeting.

### Publication

DBE regulations grant recipients the discretion to post the overall goal to other media sources and to provide for a 30-day comment period. MST posted its FFY2024-FFY2026 proposed overall DBE goal and methodology on its website prior to submission to FTA and posted changes to its overall goal on its website after submission to FTA, as required. MST will not



exercise its discretionary option to post its overall goal to other media sources nor will it conduct a 30-day comment period.

## **Attachment 1**

## Attachment 2

### Consultive Meeting Public Notice

#### DISADVANTAGED BUSINESS ENTERPRISE PROPOSED OVERALL TRIENNIAL GOAL AND METHODOLOGY

##### Federal Fiscal Years 2024 – 2026

Notice is hereby given that Monterey-Salinas Transit (MST) is proposing a Disadvantaged Business Enterprise (DBE) Overall Triennial Goal of 13% for its federally assisted contracts during Federal Fiscal Years 2024 through 2026. The proposed goal has been established according to the Code of Federal Regulations 49 CFR Part 26.45. To view the proposed goal, [click here](#). It is the policy of MST to ensure nondiscrimination in the award and administrative of the United States Department of Transportation's (US DOT) federally assisted contracts and to create a level playing field on which DBEs can compete fairly.

**MST will hold two meetings to seek input on its proposed FFY2024–FFY 2026 DBE Overall Triennial Goal:**

##### Wednesday, September 6, 2023

**Time:** Sep 6, 2023, 10:00am-11:00am Pacific Time (US and Canada)

Join from PC, Mac, Linux, iOS or Android:

**Zoom link:** <https://us06web.zoom.us/j/83863917753?pwd=TzVxQ2QxbnhPdDJGaFBRNXIyNHRNUT09>

**Password:** 974189

**Or Telephone:** USA 213-787-0529 / USA 888-808-6929 (US Toll Free)

**Conference code:** 338257

##### Friday, September 8, 2023

**Time:** Sep 8, 2023, 3:00pm-4:00pm Pacific Time (US and Canada)

Join from PC, Mac, Linux, iOS or Android:

**Zoom link:** <https://us06web.zoom.us/j/85125600138?pwd=dmNHbGx0bFpYeS92TDRveFFVeWlxUT09>

**Password:** 660324

**Or Telephone:** USA 213 787 0529 / USA 8888086929 (US Toll Free)

**Conference code:** 338257

##### Comments may also be sent to the attention of:

Monterey-Salinas Transit, Attn: Deanna Smith, Civil Rights Officer

19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940

**Email:** [dsmith@mst.org](mailto:dsmith@mst.org) **Office:** 831-264-5878

Agendas and materials related to an item on this agenda submitted to the Board after distribution of the agenda packet are available for public inspection at the Monterey-Salinas Transit Administration Building at 19 Upper Ragsdale Dr., Suite 200, Monterey, CA, 93940 during normal business hours. Agendas and other informational materials related to this meeting may be requested within 72 hours of the meeting date. Upon request, Monterey-Salinas Transit will provide written materials in appropriate alternative formats, including disability-related modifications or accommodations, auxiliary aids, or services to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number, description of the requested materials, and preferred alternative format or auxiliary aid or service at least three working days prior to the meeting at the address below.

Public comments may be submitted for any item on the agenda by contacting MST:

**Mail:** MST, Attn: Civil Rights Officer, 19 Upper Ragsdale Dr., Suite 200, Monterey, CA 93940

**Email:** [dsmith@mst.org](mailto:dsmith@mst.org) • **Phone:** (831) 264-5878

**TTY/TDD:** 831-393-8111 • 711 Relay



Interpreter

888-678-2871 / Free language assistance / Asistencia de Lenguaje Gratuito / Libreng tulong para sa wika

## **Consultive Meeting Agendas, Minutes, Comments**

### **Agenda and Minutes**

**Wednesday, September 6, 2023**

- 1. Introductions/Background** – Deanna Smith, Civil Rights Officer/DBELO
  - a. Attendees: None
- 2. Presentation:** DBE Goal-setting Methodology
- 3. Public Comments and Q&A**
  - a. No comments/No attendees
- 4. Adjournment**
  - a. 11:00am

### **Agenda and Minutes**

**Friday, September 8, 2023**

- 1. Introductions/Background** – Deanna Smith, Civil Rights Officer/DBELO
  - a. Attendees: None
- 2. Presentation:** DBE Goal-setting Methodology
- 3. Public Comments and Q&A**
  - a. No comments/No attendees
- 4. Adjournment**
  - a. 4:00pm

### **Public Comments**

No public comments were received.

### Consultive Meeting Invite List

- Chair Anna Velazquez, City of Soledad
- Vice Chair, Mary Ann Carbone, City of Sand City
- Jeff Baron, Board Member, City of Carmel-by-the-Sea
- Kim Shirley, Board Member, City of Del Rey Oaks
- Lorraine Worthy, Board Member, City of Gonzales
- Ariana Rodriguez, Board Member, City of Greenfield
- Mike LeBarre, Board Member, City of Kiing City
- Liesbeth Visscher, Board Member City of Marina
- Ed Smith, Board Member, City of Monterey
- Joe Amelio, Board Member, City of Pacific Grove
- Tony Barrera, Board Member, City of Salinas
- David Pacheco. Board Member, City of Seaside
- Luis Alejo, Board Member, County of Monterey
- Diede Construction
- Air-and Lube
- Stantec
- Kimley-Horne
- DDA Planning
- Whitson Engineers
- Jarret Walker and Associates
- Granite Rock
- Convey, Inc.
- JYI Estimates
- Earth Systems
- Eagle Project Management
- Granite Rock Myers
- CirclePoint
- Fehr and Peers
- LTK
- Nelson Nygaard