



**TURLOCK**  
TRANSIT

**City of Turlock**  
**DBE Program Goal Setting for**  
**Federal Transit Administration (FTA) Assisted Contracts**

**Analysis and Methodology for**  
**Federal Fiscal Years 2024 through Fiscal Year 2026**

## **Introduction**

The City of Turlock has prepared this FFY2024 – FFY2026 triennial overall Disadvantaged Business Enterprise (DBE) goal for projects assisted by the U.S. Department of Transportation (USDOT), Federal Transit Administration (FTA), in compliance with Code of Federal Regulations (CFR) Title 49--Transportation, Subtitle A--Office of the Secretary of Transportation, Part 26--Participation by Disadvantaged Business Enterprises in the Department of Transportation Financial Assistance Programs, Subpart C--Goals, Good Faith Efforts, and Counting, Section 26.45.

Turlock is a recipient of Federal Transit Administration (FTA) funding from the United States Department of Transportation (USDOT). As a condition of receiving this assistance, the City of Turlock agreed to comply with FTA DBE requirements. The City of Turlock is required to develop and submit an overall triennial DBE goal for its FTA-assisted projects in accordance with Title 49 CFR Part 26 provisions on DBE participation in USDOT programs.

## **Compliance with California Proposition 209**

The triennial overall DBE goal complies with the California Civil Rights Initiative, Proposition 209, in that any continuing race-conscious measures for new contracts, or contracts in progress, apply only to U.S. DOT-assisted contracts.

The race-neutral elements of City of Turlock's DBE program are applicable to all third-party contracts, regardless of funding source, in a manner that is consistent with Proposition 209. By this means, the administration of City contracts to include the participation of DBEs on a nondiscriminatory basis is preserved.

## **Additional background on compliance standards**

In May 2005, the Ninth Circuit Court of Appeals decided a case (Western States Paving Co. Inc. v. Washington State Department of Transportation) that has an impact on the goal-setting methodology of the City's DBE program. The Court ruled that the Washington State Department of Transportation (WSDOT) was applying its DBE program unconstitutionally because it did not have sufficient evidence of discrimination in its marketplace to justify its annual overall DBE goal.

The court concluded that the U.S. DOT DBE program was constitutional as written because it was a "narrowly tailored" means of remedying the effects of race and sex-based discrimination within the transportation contracting industry. However, the Court held that WSDOT, in order to justify an annual DBE goal, needed to go beyond the requirements of the federal regulations and independently establish the existence of a racial/gender discrimination in the state's transportation contracting industry for each group included in its

DBE program. The Court reviewed WSDOT's annual goal setting process, determined it was flawed and concluded that the WSDOT DBE program was unconstitutional.

In this court case, the majority opinion concluded that a disparity study or other documentation of discrimination in the contracting industry in the relevant geographical area for the groups covered by the DBE program should be the basis for an annual DBE goal rather than statistics based only on U.S. Census data. In response to this court ruling and further guidance from the U.S. DOT, Caltrans and some of the transit agencies in the San Francisco Bay Area awarded consultant contracts for availability/ utilization studies.

In January 1989, the U.S. Supreme Court in *City of Richmond v. J. A. Croson Co.* set constitutional limits on the use of race-conscious programs by nonfederal entities. The court found that race-based preferences would be constitutionally valid only if there is evidence that discrimination in the marketplace has caused the underutilization of minority-owned firms and that race-based preferences are necessary to remedy that discrimination. In addition, the court held that race-conscious remedies must be narrowly tailored to remedy such discrimination.

A joint DBE Disparity Study was conducted by National Economic Research Associates, Inc. (NERA) in 1994 on behalf of the RTCC MAC agencies. It found disparities for each major race and gender group in each of the major industries examined in the RTCC member agency's geographical market. It also found that no minority and woman owned business enterprise group received its expected share of private-sector procurement dollars although these disparities vary greatly for each group across each agency.

Anecdotal evidence in the study provided additional support that marketplace discrimination in the greater San Francisco Bay Area limits the opportunities for minority and women owned businesses to obtain work. Evidence of discrimination was presented in various areas, including education, housing, banking, bonding, employment, and union apprenticeship programs, which have a negative effect on individuals who want to establish and expand their businesses. The DBE Disparity Study concluded that statistical and anecdotal findings strongly support the view that discrimination would lead to the underutilization of minority and women owned businesses by the RTCC agencies in the absence of their goal programs. Therefore, these goal-based programs are a reasonable remedy for ensuring that procurement spending is not used to help perpetuate discriminatory practices.

### **FTA-Assisted Contracting Program for (FTA) FFY 2024-26**

The City of Turlock anticipates one (1) federally funded project being allocated through the FTA during the 2024-26 federal fiscal years. Turlock Transit is the recipient of the Federal

Transit Administration’s (FTA) Section 5307 annual allocations to the Turlock Urbanized Area. The funds are generally used for operational assistance.

The following project will be assisted with FTA funds through existing and/or anticipated federal grant awards. The source of funding for the following contract: FTA Section 5307 annual apportionment to the Stanislaus Council of Governments (StanCOG). Turlock Transit receives an annual apportionment from StanCOG based on performance data submitted to the National Transit Database annual reports.

Table 1 represents the FTA-assisted contracting opportunities considered in the preparation of this goal methodology.

**Table 1**

Transit Project	Total Est. Project Cost	Est. Federal Funds	Federal Fund Source	Est. FTA % Share
Transit Management and Operations	\$13,386,725	\$13,386,725	FTA – Section 5307	100%
<b>Total</b>	\$13,386,725	\$13,386,725	FTA – Section 5307	

Table 2 below provides a summary of the categories of work with estimated cost breakdown. Categories of work are groups utilizing comparable NAICS codes for purposes of weighting the categories of work.

**Table 2**

Category of Work	NAICS Code	Est. FTA \$ by NAICS	NAICS %
Bus and Other Motor Vehicle Transit Systems	485113	\$13,386,725	100.0
<b>Total</b>		<b>\$13,386,725</b>	<b>100%</b>

**Goal Setting Methodology**  
**OVERALL GOAL**

**Base Line**

In accordance with 49 Code of Federal Regulations (CFR) part 26.45 the following goal was established. The process used to determine this goal as stated in 49 CFR 26 is as follows:

**Step One: Base Figure - Determine the weight of each type of work by NAICS Code**

The City of Turlock does not have any subrecipients. To establish the Base Figure of the relative availability of DBE firms in relation to all comparable firms available for Turlock FFY 2024-26 FTA funded program, the City has elected to use the California Unified Certification Program (CUCP) of certified firms within our market area for calculating the numerator and the Census Bureau’s Business Pattern Database (CBP) that perform work within the same North American industry Classification System (NAICS) Codes within the same geographical market area to calculate the denominator. Turlock will use the Stanislaus County as its market area for DBE goal determination. Stanislaus County has nine incorporated cities: Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford.

**Initial Base Figure**

Work Category	DBEs	All Firms	Initial Base Figure
Bus and Other Motor Vehicle Transit Systems	0	304	0.000%
<b>Weighted Base Figure</b>			<b>0.000%</b>

Following the USDOT DBE formula below, the Base Figure is derived by dividing the number of ready, willing, and able DBE firms identified for each work category by the number of all firms identified for each corresponding work category (relative availability), weighting the relative availability for each work category by the corresponding work category weight from Table 2 (weighted ratio), and adding the weighted ratio figures together.

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

- For the numerator: CUCP DBE Database of Certified Firms
- For the denominator: 2021 U.S. Census Bureau’s Business Patterns Database

The result of the Weighted Base Figure calculation is shown in Table 3 as follows:

**Table 3**

Work Category	Category Weight	DBEs	All Firms	Weighted Ratio
Operating Assistance	1.00	0	304	0.000
Base Figure (Sum of Weighted Ratios all Work Categories)				0.00%

This Base Figure of 0.00 percent represents all available DBE firms in the City’s market area as certified by the CUCP.

**Step Two: Adjusting the Base Figure**

Following the establishment of the Base Figure, the City reviewed and assessed other evidence that could potentially affect the relative availability of DBEs within the market area. An adjustment of the base figure considered DBE participation in the prior triennial term in accordance with the provisions set forth under 49 CFR Part 26.45.

Past DBE Goal Attainment

While historical DBE participation attainments demonstrate DBE availability (see table 4 below), DBE participation in FFY 2020, 2021, and 2022 was primarily due to contracted services that the City of Turlock no longer requires. During the previously mentioned Fiscal Years, a DBE firm was hired to help with grant writing and reporting requirements associated with the grant funds received. The City has since added two full-time analysts to help with these activities.

**Table 4**

FEDERAL FISCAL YEAR	FTA DBE PARTICIPATION %
2020	4.53%
2021	4.58%
2022	4.72%

Based on DBE availability for the City's future transit-related projects and the additional staff brought onboard to assist with grant-related activities, the City believes that bringing in DBE firms to assist with transit-related activities will be extremely difficult during FFY 2024 – 2026. As a result, while DBE participation will continue to be encouraged, the City does not believe that an adjustment to the base figure of 0% is required.

**The proposed overall DBE goal for the City of Turlock's Transit Division for FFY 2024 - 2026 is 0.0%.**

### Step Three: Race-Conscious & Race-Neutral Projections

The City intends to continue to apply race-neutral methods to encourage DBE participation in transit-related projects that will help meet and surpass the overall DBE goal of 0.00% for FFY 2024–2026 in accordance with Title 49 CFR Part 26.51.

RACE-CONSCIOUS & RACE-NEUTRAL PROJECTIONS	
DBE Adjusted Base Figure	0.00%
Race-Conscious Component	0.00%
Race-Neutral Component	0.00%

### Overall Resultant Goal Adjustment

The Base Figure reflects the absence of certified DBEs in the trades in our market area. Considering all information available specific to FTA projects, **the City of Turlock concludes the DBE neutral goal of 0.00% and race conscious goal of 0.00% for a proposed Overall DBE Goal 0.00% for federally funded projects. The City of Turlock shall provide this goal on all federally funded contracts or agreements with other consultants/contractors for its Annual Anticipated DBE Participation Level (AADPL) for Federal fiscal years 2024-26.**

### Public Participation efforts and DBE Goal Notices

The advertised DBE Goal notice informed the public that the proposed goal and rationale were available for inspection at City hall during normal business hours and

also available through the Turlock Transit website for 45 days following the date of the Public Notice. Turlock Transit encourages DBE participation in all procurements. This is stated on our website along with notices of DBE Goal methodology and advertisement for contracting opportunities. Our website also offers an opportunity for the public to submit comments at any time to Turlock Transit regarding transit services and programs.

Solicitation notifications for all procurements are emailed to vendors listed on the City's contractor and pre-bid attendance file, Turlock Transit's bidders list and procurement master list. Turlock Transit has also sought public participation from community organizations through public meetings and public planning documents comment periods on up-coming projects.

Turlock Transit organized a transit-related, public outreach event that included English, Spanish, and online presentations that covered DBE information. In addition, DBE procurement materials are commonly translated into Spanish to actively engage and involve residents who often do not participate in formal public comment meetings and city government events.

### **Fostering Small Business Participation**

The City of Turlock has implemented several strategies to foster small business participation in its contracting process. These include the following:

- In multi-year design-build contracts or other large contracts (e.g., for "megaprojects") requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.
- On larger prime contracts encouraging the prime contractor to consider subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
- Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- Ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
- Provide outreach to current City contractors or past regional area contractors who may qualify for DBE-certification by encouraging them to seek and obtain DBE certification.