

# DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PROPOSED THREE-YEAR OVERALL GOAL & METHODOLOGY FOR FEDERAL FISCAL YEARS 2017 THROUGH 2019

16.1%

Sound Transit last developed an overall Disadvantaged Business Enterprise (DBE) goal in 2013, which the agency used for federal fiscal years (FFYs) 2014 through 2016 (a goal of 12.4%). Sound Transit is pleased to propose a revised three-year overall DBE goal for FFYs 2017 through 2019. In accordance with 49 Code of Federal Regulations (CFR) Part 26, the United States Department of Transportation's (USDOT's) Tips for Goal-Setting, and other USDOT official guidance, Sound Transit based its goal and goal methodology on an availability study that BBC Research & Consulting (BBC) completed in September 2013 (referred to herein as the 2013 Disparity Study) as well as on other relevant information. (The disparity study is included in its entirety as Appendix A.) To determine its revised overall DBE goal, Sound Transit followed the two-step goal-setting methodology set forth in 49 CFR Section 26.45.

## **Step 1. Determining a Base Figure – 49 CFR Section 26.45(c)**

Sound Transit began the process of determining its revised overall DBE goal by first establishing a base figure. Consistent with USDOT guidance, Sound Transit established a base figure based on the availability of DBEs for Federal Transit Administration (FTA)-assisted contracts—both prime contracts and subcontracts—that the agency anticipates awarding or making payments towards in FFYs 2017 through 2019.<sup>1, 2</sup> Sound Transit projects that it will award or make payments towards more than \$2.8 billion worth of FTA-assisted construction and professional services projects in FFYs 2017 through 2019. Sound Transit evaluated each anticipated project and assigned it a North American Industry Classification System (NAICS) code. Figure 1 presents projected FTA dollars by each assigned NAICS code. Details about each project that was included as part of the base figure calculation is included in Appendix B.

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<sup>1</sup> Consistent with USDOT guidance, Sound Transit considers any contract with at least \$1 of FTA funding as an "FTA-assisted contract" and includes the total value of the contract in its pool of total FTA-assisted contracting dollars.

<sup>2</sup> For the base figure calculation, Sound Transit included construction and professional services contracts that the agency recently awarded but for which work will be performed in FFYs 2017-2019 as well as contracts that it anticipates awarding in FFYs 2017-2019 but for which work will be performed after 2019.

**Figure 1.**  
**FTA-assisted contracting dollars for FFYs 2017, 2018, and 2019 for relevant NAICS codes**

NAICS Code	Total Dollars
237990 - Other Heavy and Civil Engineering Construction	\$791,217,334
237310 - Construction management, highway, road, street and bridge	\$542,607,958
237310 - Highway, street, and bridge construction	\$222,930,000
237110 - Utility line (i.e., sewer, water), construction	\$166,772,736
238210 - Electrical Contractors and Other Wiring Installation Contractors	\$164,169,937
238110 - Footing and foundation concrete contractors	\$147,562,531
238990 - All Other Specialty Trade Contractors	\$132,161,750
541330 - Engineering services	\$104,938,099
238910 - Site Preparation Contractors	\$103,428,767
238120 - Structural Steel and Precast Concrete Contractors	\$90,136,139
236220 - Parking garage construction	\$68,520,000
238130 - Framing Contractors	\$30,878,560
238350 - Finish Carpentry Contractors	\$29,358,817
541330 - Environmental engineering services	\$26,913,486
541330 - Electrical engineering services	\$24,260,354
238220 - Plumbing, Heating, and Air-Conditioning Contractors	\$15,660,000
238220 - Fire sprinkler system installation	\$12,267,120
484110 - General Freight Trucking, Local	\$11,480,000
541350 - Building Inspection Services	\$11,360,432
238320 - Painting and Wall Covering Contractors	\$10,341,596
541330 - Mechanical engineering services	\$8,986,034
238910 - Drainage system (e.g., cesspool, septic tank) installation	\$8,811,538
541380 - Testing Laboratories	\$8,121,251
423390 - Other Construction Material Merchant Wholesalers	\$7,084,985
541310 - Architectural Services	\$6,907,697
238310 - Drywall and Insulation Contractors	\$6,139,860
238150 - Glass and Glazing Contractors	\$6,070,248
561730 - Arborist services	\$6,017,136
541620 - Environmental Consulting Services	\$5,886,816
562112 - Hazardous Waste Collection	\$5,370,000
541370 - Surveying and Mapping	\$5,361,120
332311 - Prefabricated Metal Building and Component Manufacturing	\$4,122,610
238160 - Roofing Contractors	\$4,032,461
238190 - Other Foundation, Structure, and Building Exterior Contractors	\$3,800,000
238340 - Flooring Contractors	\$3,305,040
541330 - Acoustical engineering consulting services	\$2,561,797
541320 - Architectural services, landscape	\$1,519,077
238910 - Core drilling and test boring for construction	\$1,500,000
541614 - Transportation management consulting services	\$1,415,494
561730 - Landscaping Services	\$996,000

Source: Sound Transit data.

**Figure 1.**  
**FTA-assisted contracting dollars for FFYs 2017, 2018, and 2019 for relevant NAICS codes (continued)**

NAICS Code	Total Dollars
238140 - Masonry contractors	\$822,818
561990 - Other Support Services	\$702,898
238210 - Fire sprinkler system installation	\$600,000
238330 - Flooring Contractors	\$490,000
238210 - Railroad signalling equipment installation	\$432,000
541330 - Architectural services, landscape	\$393,216
541620 - Site remediation consulting services	\$373,124
327320 - Ready-Mix Concrete Manufacturing	\$355,000
532490 - Commercial and Industrial Machinery and Equipment Rental	\$350,000
541512 - CAD (computer-aided design) systems integration design services	\$348,012
562910 - Soil remediation services	\$245,000
324121 - Asphalt Paving Mixture and Block Manufacturing	\$245,000
488490 - Street cleaning service	\$217,600
488510 - Freight Transportation Arrangement	\$107,000
<b>Total</b>	<b>\$2,810,656,448</b>

Source: Sound Transit data.

After assigning NAICS codes, Sound Transit used data from a *custom census* availability analysis that BBC conducted as part of the 2013 Disparity Study to determine the availability of minority- and woman-owned businesses working in each relevant work area (for details, see Chapter 5 and Appendix D of the 2013 Disparity Study report).<sup>3</sup> For the purposes of establishing a base figure, the availability analysis was limited to the availability of *potential DBEs*—minority- and woman-owned businesses that are DBE-certified or appear that they could be DBE-certified based on revenue requirements described in 49 CFR Section 26.65.

**Methodology for the availability analysis.** The availability analysis focused on specific work areas (i.e., subindustries) related to the types of FTA-assisted contracts that Sound Transit anticipates awarding or making payments towards in FFY 2017 through 2019. Sound Transit used a database of potentially available businesses that BBC developed through surveys with business establishments that are located in Sound Transit’s relevant geographic market area and that work in relevant subindustries.

**Overview of availability surveys.** As part of the 2013 Disparity Study, BBC conducted telephone surveys with business owners and managers to identify businesses that are potentially available for Sound Transit’s FTA-assisted prime contracts and subcontracts.<sup>4</sup> BBC began the survey

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<sup>3</sup> BBC defined woman-owned businesses specifically as *non-Hispanic white woman-owned businesses*. BBC grouped minority woman-owned businesses with their corresponding minority groups (e.g., grouping Black American woman-owned businesses with all other Black American-owned businesses). For details about BBC’s definition of woman-owned businesses, see Chapter 5 of the 2013 Disparity Study report.

<sup>4</sup> BBC offered business representatives the option of completing surveys via fax or e-mail if they preferred not to complete surveys via telephone.

process by collecting information about business establishments from Dun & Bradstreet (D&B) Marketplace listings. BBC collected information about business establishments listed under 8-digit work specialization codes (as developed by D&B) that were most relevant to Sound Transit contracting.

**Information collected in availability surveys.** BBC conducted telephone surveys with the owners or managers of the identified business establishments. Survey questions covered many topics about each organization including:

- Status as a private business (as opposed to a public agency or nonprofit organization);
- Status as a subsidiary or branch of another company;
- Primary lines of work;
- Qualifications and interest in performing work for Sound Transit or other local government agencies;
- Qualifications and interest in performing work as a prime contractor or as a subcontractor;
- Largest prime contract or subcontract bid on or performed in the previous five years (to account for *relative capacity*);
- Year of establishment; and
- Race/ethnicity and gender of ownership.

Information about businesses that completed surveys was entered into an availability database that served as a basis for the availability analysis.

**Considering businesses as potentially available.** BBC considered all businesses—regardless of the race/ethnicity or gender of the businesses' owners—to be potentially available for the FTA-assisted prime contracts and subcontracts that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019 if they reported possessing *all* of the following characteristics:

- a. Being a private business (as opposed to a nonprofit organization);
- b. Having performed work relevant to Sound Transit FTA-assisted contracting;
- c. Having bid on or performed public or private sector prime contracts or subcontracts in Washington during the past five years;
- d. Being qualified for and interested in work for Sound Transit and other local government agencies;<sup>5</sup> and
- e. Having the ability to work in the relevant geographic market area.

BBC also considered the largest contract that each business bid on or performed in the past (to inform an assessment of *relative capacity*) to determine if the business is potentially available

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<sup>5</sup> That information was gathered separately for prime contract and subcontract work.

for specific contracts that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019.

**Steps to calculating availability.** As part of the availability analysis, BBC collected and analyzed relevant information to develop dollar-weighted availability estimates to help Sound Transit set its overall DBE goal. Dollar-weighted availability estimates represent the percentage of contracting dollars that potential DBEs would be expected to receive based on their availability for specific types and sizes of the FTA-assisted prime contracts and subcontracts that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019. BBC's approach to calculating availability was a bottom up, contract-by-contract matching approach.

Only a subset of businesses in the availability database was considered potentially available for any given Sound Transit prime contract or subcontract (referred to collectively as *contract elements*). BBC identified the specific characteristics of each FTA-assisted prime contract and subcontract that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019, and then, for the purposes of helping Sound Transit establish a base figure, took the following steps to calculate the availability of potential DBEs for each contract element:

1. For each contract element, BBC identified all businesses in the availability database that reported that they:
  - Are qualified and interested in performing transportation-related work in that particular role for that specific type of work for Sound Transit or other local government agencies;
  - Are able to serve customers in the relevant geographic market area; and
  - Have bid on or performed work of that size.
2. BBC then counted the number of potential DBEs (by race/ethnicity and gender) in the availability database that met the criteria specified in step 1. BBC considered businesses to be potential DBEs if they are DBE-certified or appear that they could be DBE-certified based on revenue requirements described in 49 CFR Section 26.65.
3. BBC translated the numeric availability of potential DBEs for the contract element into percentage availability.

BBC repeated those steps for each FTA-assisted contract element that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019. BBC multiplied percentage availability for each contract element by the dollars associated with the contract element, added results across all contract elements, and divided by the total dollars for all contract elements. The result was a dollar-weighted estimate of the overall availability of potential DBEs as well as an availability estimate for each relevant racial/ethnic and gender group. Figure 2 presents detailed information about the base figure for Sound Transit's overall DBE goal:

- Column (a) presents the groups of potential DBEs that BBC considered as part of the base figure analysis;
- Column (b) presents the availability percentage for each group for FTA-assisted *construction* contract elements;

- Column (c) presents the availability percentage for each group for FTA-assisted *professional services* contract elements; and
- Column (d) presents the availability percentage for each group for *all* FTA-assisted contract elements (i.e., construction and professional services considered together).

As presented at the bottom of column (d), the availability analysis shows that potential DBEs could be considered available for 12.0% of the FTA-assisted prime contracts and subcontracts that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019. Thus, Sound Transit considers **12.0% as its base figure**. As presented in the last row of Figure 1, the overall base figure reflects a weight of 0.72 for construction contracts and 0.28 for professional services contracts, based on the volume of dollars of FTA-assisted contracts that Sound Transit anticipates awarding or making payments towards in FFYs 2017 through 2019 in each industry.

**Figure 2.**  
**Availability components of the base figure (based on availability of potential DBEs for FTA-assisted contracts anticipated for FFYs 2017, 2018, and 2019)**

a. Potential DBEs	Availability Percentage		
	b. Construction	c. Professional services	d. Total
Black American-owned	5.2 %	0.1 %	3.7 %
Asian Pacific American-owned	0.9	0.2	0.7
Subcontinent Asian American-owned	0.1	1.0	0.4
Hispanic American-owned	1.5	0.5	1.2
Native American-owned	2.5	0.2	1.9
White woman-owned	0.9	12.3	4.1
<b>Total potential DBEs</b>	<b>11.1 %</b>	<b>14.3 %</b>	<b>12.0 %</b>
<b>Industry weight</b>	<b>72 %</b>	<b>28 %</b>	

Note: Numbers rounded to nearest tenth of 1 percent. Numbers may not add to totals due to rounding.

Source: BBC Research & Consulting availability analysis and Sound Transit data.

## Step 2. Determining if an Adjustment is Needed – 49 CFR Section 26.45(d)

After establishing the base figure, Sound Transit considered available information to determine whether any adjustment was needed to the base figure to determine its new overall DBE goal and to make it as precise as possible. In considering an adjustment to the base figure, Sound Transit evaluated information about:

- Current capacity of DBEs to perform work on FTA-assisted contracting;
- Any disparities in the ability of DBEs to get financing, bonding, and insurance;
- Employment, self-employment, education, training, and unions; and
- Other relevant data.

Sound Transit considered all of the above information in considering whether to make an adjustment to the base figure. All of the above evidence suggested that an upward adjustment to the base figure would be appropriate.

**Current capacity of DBEs to perform work on FTA-assisted contracting.** USDOT’s “Tips for Goal-Setting” suggests that agencies should examine data on past DBE participation in their USDOT-funded contracts in recent years. USDOT further suggests that agencies should choose the median level of annual DBE participation for those years as the measure of past participation. According to Sound Transit’s internal reports, median DBE participation in the agency’s FTA-assisted contracts from January 1, 2014 through March 16, 2017 was 16.8%. Figure 3 presents past DBE participation based on internal Sound Transit reports. Information about past DBE participation supports an upward adjustment to Sound Transit’s base figure. If Sound Transit were to use the approach that USDOT outlined in “Tips for Goal-Setting,” the overall goal would be the average of the 12.0% base figure and the 16.8% median past DBE participation, yielding an overall DBE goal of 14.4%.

**Figure 3.**  
**Past DBE participation in FTA-**  
**assisted contracts, January 1, 2014**  
**through March 16, 2017.**

Note:  
 \*Information about past DBE participation was only available for the first half of calendar year 2017.

Source:  
 Sound Transit internal reports.

FFY	DBE Attainment	Annual DBE Goal	Difference
2014	18.0%	12.4%	5.6%
2015	13.7%	12.4%	1.3%
2016	15.7%	12.4%	3.3%
2017*	17.9%	12.2%	5.7%
<b>Median past DBE participation</b>	<b>16.8%</b>		

**Any disparities in the ability of DBEs to get financing, bonding, and insurance.** BBC’s analysis of access to financing, bonding, and insurance revealed quantitative and qualitative evidence that minorities; women; and minority- and woman-owned businesses do not have the same access to those business inputs as non-Hispanic white men and businesses owned by non-Hispanic white men in the relevant geographic market area. Any barriers to obtaining financing, bonding, and insurance might affect opportunities for minorities and women to successfully form and operate construction and professional services businesses in the local marketplace. Any barriers that minorities; women; or minority- and woman-owned businesses face in obtaining financing, bonding, and insurance would also place those businesses at a disadvantage in obtaining Sound Transit and local agency prime contracts and subcontracts (see Chapter of 4 of the 2013 Disparity Study report). Thus, information from the disparity study about financing, bonding, and insurance also supports an upward adjustment to Sound Transit’s base figure.

**Employment, self-employment, education, and training.** BBC used regression analyses to investigate whether race/ethnicity or gender affects rates of self-employment among workers in the local construction and professional services industries. The regression analyses allowed BBC to examine those effects while statistically controlling for various race- and gender-neutral personal characteristics including education and age (for details, see Chapter 4 and Appendix F of the 2013 Disparity Study report). The analyses revealed that Hispanic Americans and women were significantly less likely than non-Hispanic whites and men to own construction businesses after accounting for various race- and gender-neutral personal characteristics. In contrast, there

were no statistically significant differences in self-employment rates for minorities and women working in the local professional services industry after accounting for race- and gender-neutral factors.

BBC then analyzed the impact that barriers to self-employment would have on the base figure. BBC estimated the availability of potential DBEs if minorities and women owned businesses at the same rate as non-Hispanic white men who shared similar race- and gender-neutral personal characteristics (for details, see Chapter 9 of the 2013 Disparity Study report). BBC took the following steps to complete the analysis:

1. BBC made adjustments to availability percentages for construction contracts based on observed disparities in self-employment rates for minorities and women. BBC only made adjustments for those groups that exhibited statistically significant disparities in self-employment rates compared to non-Hispanic whites and men.
2. BBC then combined adjusted availability percentages for construction contracts with availability percentages for professional services contracts in a dollar-weighted fashion. BBC did not make any adjustments to the availability percentages for professional services contracts due to the lack of statistically significant disparities in self-employment rates for minorities and women.

Figure 4 presents the results of the analysis, which is sometimes referred to as a “but for” analysis, because it estimates the availability of potential DBEs *but for* the continuing effects of past race- and gender-based discrimination. The rows and columns of Figure 4 present the following information from the “but for” analysis:

- a. **Current availability.** Column (a) presents the current availability of potential DBEs by group and by industry. Each row presents the availability for each group. Before any adjustment, the availability of potential DBEs for Sound Transit’s FTA-assisted construction and professional services contracts that the agency anticipates awarding or making payments towards in FFYs 2017, 2018, and 2019 is 12.0%, as shown in row (19) of column (a).
- b. **Disparity indices for self-employment.** For each group that is significantly less likely than non-Hispanic white men to own construction or professional services businesses, BBC estimated business ownership rates if those groups owned businesses at the same rate as non-Hispanic white men who share the same race- and gender-neutral personal characteristics. BBC then calculated a self-employment disparity index for each group by dividing the observed self-employment rate by the estimated self-employment rate and then multiplying the result by 100. Values of less than 100 indicate that, in reality, the group is less likely to own businesses than what would be expected for non-Hispanic white men who share the same personal characteristics.

To simulate business ownership rates if minorities and women owned businesses at the same rate as non-Hispanic white men in a particular industry, BBC took the following steps: 1) BBC performed a probit regression analysis predicting business ownership including only workers who were non-Hispanic white men in the dataset; and 2) BBC then used the coefficients from that model and the mean personal characteristics of individual minority groups (or non-Hispanic white women) working in the industry (i.e., personal



characteristics, indicators of educational attainment, and indicators of personal financial resources and constraints) to simulate business ownership for each group that was significantly less likely than non-Hispanic white men to own construction or professional services businesses.

BBC then calculated a business ownership disparity index for each group by dividing the observed business ownership rate by the simulated business ownership rate and then multiplying the result by 100. Values of less than 100 indicate that, in reality, the group is less likely to own businesses than what would be expected for non-Hispanic white men who share similar personal characteristics. Column (b) presents disparity indices related to self-employment for the different racial/ethnic and gender groups. For example, as shown in row (4) of column (b), Hispanic Americans own construction businesses at 23% of the rate that one might expect based on the estimated self-employment rates of non-Hispanic white men who share similar personal characteristics.

- c. Availability after initial adjustment.** Column (c) presents availability estimates by group and by industry after initially adjusting for statistically significant disparities in self-employment rates. BBC calculated those estimates by dividing the current availability in column (a) by the disparity index for self-employment in column (b) and then multiplying by 100. Note that BBC only made adjustments for those groups that are significantly less likely than similarly-situated non-Hispanic white men to own businesses. (For that reason, BBC did not make any adjustments to availability percentages for professional services businesses.)
- d. Availability after scaling to 100%.** Column (d) shows adjusted availability estimates that BBC rescaled so that the sum of the availability estimates equaled 100% for each industry. BBC rescaled the adjusted availability estimates by taking each group's adjusted availability estimate in column (c) and dividing it by the sum of availability estimates shown under "Total businesses" in column (c)—in row (9) for construction and in row (18) for professional services—and multiplying by 100. For example, the rescaled adjusted availability estimate for Hispanic American-owned construction businesses shown in row (4) of column (d) was calculated in the following way:  $(6.6\% \div 105.7\%) \times 100 = 6.2\%$ .
- e. Components of goal.** Column (e) shows the component of the total base figure attributed to the adjusted minority- and woman-owned availability for each industry. BBC calculated each component by taking the total availability estimate shown under "Potential DBEs" in column (d)—in row (7) for construction and in row (16) for professional services—and multiplying it by the proportion of total FTA-assisted contract dollars for which each industry is anticipated to account in FFYs 2017, 2018, and 2019 (i.e., 0.72 for construction and 0.28 for professional services). For example, BBC used the 15.9% shown in row (7) of column (d) for construction and multiplied it by 0.72 for a result of 11.4% (see row (7) of column (e)). The values in column (e) were then summed to equal the base figure adjusted for barriers in business ownership—15.4%, as shown in the bottom row of column (e).

**Figure 4.**  
**Adjustment to base figure to account for disparities in self-employment rates**

Industry and group	a. Current availability	b. Disparity index for business ownership	c. Availability after initial adjustment*	d. Availability after scaling to 100%	e. Components of base figure**
<b>Construction</b>					
(1) Black American	5.2 %	n/a	5.2 %	4.9 %	
(2) Asian Pacific American	0.9	n/a	0.9	0.8	
(3) Subcontinent Asian American	0.1	n/a	0.1	0.1	
(4) Hispanic American	1.5	23	6.6	6.2	
(5) Native American	2.5	n/a	2.5	2.4	
(6) Woman-owned	<u>0.9</u>	<u>59</u>	<u>1.5</u>	<u>1.4</u>	
(7) Potential DBEs	11.1 %	n/a	16.8 %	15.9 %	11.4 %
(8) All other businesses ***	<u>88.9 %</u>	<u>n/a</u>	<u>88.9 %</u>	<u>84.1 %</u>	
(9) <b>Total businesses</b>	<b>100.0 %</b>	n/a	<b>105.7 %</b>	<b>100.0 %</b>	
<b>Professional Services</b>					
(10) Black American	0.1 %	n/a	0.1 %	0.1 %	
(11) Asian Pacific American	0.2	n/a	0.2	0.2	
(12) Subcontinent Asian American	1.0	n/a	1.0	1.0	
(13) Hispanic American	0.5	n/a	0.5	0.5	
(14) Native American	0.2	n/a	0.2	0.2	
(15) Woman-owned	<u>12.3</u>	<u>n/a</u>	<u>12.3</u>	<u>12.3</u>	
(16) Potential DBEs	14.3 %	n/a	14.3 %	14.3 %	4.0 %
(17) All other businesses	<u>85.7 %</u>	<u>n/a</u>	<u>85.7 %</u>	<u>85.7 %</u>	
(18) <b>Total businesses</b>	<b>100.0 %</b>	n/a	<b>100.0 %</b>	<b>100.0 %</b>	
(19) <b>Total</b>	<b>12.0 %</b>	n/a	n/a		<b>15.4 %</b>

Note: Numbers rounded to nearest tenth of 1%. Numbers may not add to totals due to rounding.

\* Initial adjustment is calculated as current availability divided by the disparity index.

\*\* Components of the base figure were calculated as the value after adjustment and scaling to 100%, multiplied by the percentage of total FTA-assisted contract dollars in each industry (construction = 72%, professional services = 28%).

\*\*\* All other businesses included majority-owned businesses and minority- and woman-owned businesses that were not potential DBEs.

Source: BBC Research & Consulting and Sound Transit data.

**Other relevant data.** The Federal DBE Program suggests that federal aid recipients also examine “other factors” when determining whether to make any step-2 adjustments to their base figures.<sup>6</sup>

**Success of businesses.** There is quantitative evidence that certain groups of minority- and woman-owned businesses are less successful than majority-owned businesses and face greater barriers in the marketplace, even after considering race- and gender-neutral factors. Chapter 4 and Appendix H of the 2013 Disparity Study report summarize that evidence. There is also qualitative evidence of barriers to the success of minority- and woman-owned businesses, as

<sup>6</sup> 49 CFR Section 26.45.

presented in Appendix J of the report. Some of that information suggests that discrimination on the basis of race/ethnicity and gender affects minority- and woman-owned businesses in the Washington contracting industry. Thus, information from the disparity study about success of businesses also supports an upward adjustment to Sound Transit's base figure.

**Initiative 200.** Initiative 200 amended state law to prohibit the use of race- and gender-based preferences in public contracting, public employment, and public education, unless such preferences are required "to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the state."<sup>7</sup> Thus, Initiative 200 prohibited government agencies in Washington from applying race- and gender-conscious programs (e.g., DBE contract goals) to locally-funded contracts but not to USDOT-funded contracts.

Many business owners and others knowledgeable about the local transportation contracting industry report that many minority- and woman-owned businesses closed as a result of Initiative 200 and the prohibition of race- and gender-conscious programs on locally-funded contracts (see Appendix J of the 2013 Disparity Study report). Consistent with those claims, some academic research that has examined business ownership before and after the passing of Initiative 200 has suggested adverse effects for minorities, women, and minority- and woman-owned businesses as a result of Initiative 200.<sup>8</sup> The effects of Initiative 200 further support an upward adjustment to Sound Transit's base figure.

**Step 2 adjustment.** Sound Transit has considered information relevant to a potential step 2 adjustment and has decided to make two upward adjustments to the base figure. Sound Transit made an initial upward adjustment based on the *but for* analysis to account for the continuing effects of past race- and gender-based discrimination. Based on results from the *but for* analysis, Sound Transit adjusted the 12.0% base figure upward to 15.4%. Sound Transit then decided to make an additional upward adjustment to the overall DBE goal to account for the current capacity of DBEs to perform work on the agency's FTA-assisted contracts. Sound Transit has achieved DBE participation as high as 18 percent in recent years and believes it is important to set its overall DBE goal to be reflective of that level of participation. According to Sound Transit's internal reports, median DBE participation in the agency's FTA-assisted contracts from calendar year 2014 through 2017 was 16.8%. Consistent with USDOT guidance, Sound Transit has decided to take the average of the 15.4% adjusted base figure and the 16.8% median past DBE participation, yielding an **overall DBE goal of 16.1%**.

### **Race-/Gender-Neutral and Race/Gender-Conscious Split – 49 CFR Section 26.51 (c)**

In accordance with federal regulations and USDOT guidance, Sound Transit will attempt to meet the maximum feasible portion of its proposed 16.1% overall DBE goal through the use of race- and gender-neutral measures. Sound Transit attained DBE participation of 19.0% from October 1, 2015 through March 16, 2016 and attained 13.1% of that DBE participation (68.9%) through

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<sup>7</sup> RCW 49.60.400(1).

<sup>8</sup> Fairlie, R. & Marion, J. 2007. "Affirmative Action Programs and Business Ownership among Minorities and Women." Ford Foundation and National Economic Development and Law Center.

race-and gender-neutral measures. To account for the fact that the agency has exceeded its overall DBE goal in recent years, Sound Transit projects that it will meet 69% of its 16.1% overall DBE goal—or, 11.1%—through race- and gender-neutral means. Sound Transit projects that it will meet the remainder of its proposed 16.1% overall DBE goal—5.0%—through race- and gender-conscious means (i.e., DBE contract goals).

Sound Transit uses myriad race- and gender-neutral measures to encourage DBE participation in its contracts (for details, see Chapter 10 of the 2013 Disparity Study report). The agency still uses most of those measures and will continue using them through the time period that the revised overall DBE goal will cover. Figure 5 presents a description of those measures.

**Figure 5.**  
**Current Sound Transit race- and gender-neutral measures**

Current measures	
Advertises all contracts worth more than \$100,000 on its website and in the Daily Journal of Commerce	Encourages firms that could potentially qualify for DBE certification to apply
Maintains an active diversity oversight committee	Uses the E-bid system to notify bidders of solicitations, bid results, and solicitation award information
Initiated and continues the Business After Hours program to provide networking opportunities for small businesses	Maintains a Small Works Roster
Conducts networking sessions to provide small businesses an opportunity to meet and initially market themselves to prime contractors and Sound Transit	Sponsors outreach at the annual Regional Contracting Forum and other networking events
Has prompt payment mechanisms that require prime contractors to pay subcontractors no later than 10 working days after receipt of each progress payment	Co-sponsors business technical assistance, supportive services, and training programs
Operates a DBE fraud and abuse hotline	Hold quarterly "Best Practices" workshops
Provides weekly snapshots of procurements (solicitation, pre-bid meetings, due dates, and execution) occurring during the week	Participates in the Linked Deposit program
Partners with the Washington State Department of Transportation to help businesses overcome limitations related to bonding, financing, and other areas	Allows any bidder to request a debriefing following the award of a contract
Provides quarterly notice of future procurements on its webpage	Participates in the King County Supplier Program, which uses set asides for qualified small businesses (50% of the SBA size)
Offers one-on-one mentoring to businesses struggling with aspects of fulfilling their contract or with business management skills	Hosts pre-bid meetings on most contracts
	Offers DBE training and one-on-one consulting sessions on business management and contracting issues
	Maintains a bidder's list

Source: Sound Transit, 2016.

## Public Participation – 49 CFR Section 26.45(g)

Public participation is a key component of Sound Transit’s process for establishing a new overall DBE goal. Sound Transit will make efforts to engage the public as part of the goal-setting process and will make additional public engagement efforts in finalizing its Goal and Methodology.

## Summary

Sound Transit proposes a revised three-year overall DBE goal for FFYs 2017 through 2019 of 16.1%. Based on analyses of the FTA-assisted projects that the agency anticipates awarding or making payments towards in FFYs 2017, 2018, and 2019, Sound Transit determined that the base figure for its revised overall DBE goal is 12.0%. Sound Transit decided to adjust the base figure to 15.4% to account for the continuing effects of past race- and gender-based discrimination in business ownership. Sound Transit then made a second upward adjustment from 15.4% to 16.1% to account for the current capacity of DBEs to perform work on the agency's FTA-assisted contracts. Sound Transit projects that it will be able to meet 11.1% of its new overall DBE goal through race- and gender neutral program measures. Sound Transit projects that it will meet the remainder of the goal—5.0%—through the use of race- and gender-conscious measures.