

**County of Riverside  
Transportation Department**

**Disadvantaged Enterprise Program  
Federal Fiscal Year 2003/2004 Goal Methodology and Calculations**

**I. DOT-Assisted Contracting Program for Federal Fiscal Year 2003/2004**

Work Category	NAICS <sup>(1)</sup>	Est. Contracts FY 2003/2004	% of Federal Funding by Work Category
Construction (incl. Materials and Trucking)	23	\$8,574,000	100.00%
Consulting Services	54	\$0.00	0.00%
Totals:		\$8,574,000	100.00%

**II. Goal-Methodology**

**A. Construction:**

Numerator: Caltrans DBE directory of firms, with the following modifications made:

1. Filtered for construction work codes
2. Filtered for contractors that operate within the four-County market area that generally serves Riverside County's contracting needs<sup>(2)</sup>.

Which results in 1,032 identified available DBE firms.

Denominator: The total number of construction companies within Riverside County's four County market area<sup>(2)</sup> based on the U.S. Census Bureau "County Business Patterns" statistics for 2001 (NAICS<sup>(1)</sup> Code 23), which is the most recent available year of data:

Caltrans DBE County Code	NAICS <sup>(1)</sup> County Code	County Name	Number of firms
19	037	Los Angeles	12,078
30	059	Orange	6,081
33	065	Riverside	3,452
36	071	San Bernardino	2,885
Total Construction firms:			24,496

Ratio (Construction):  $\frac{1,032}{24,496} = 4.21\%$

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**B. Consulting Services:**

Numerator: Caltrans DBE directory of firms, with the following modifications made:

1. Filtered for consulting services work codes
2. Filtered for consultants that operate within the four-County market area that generally serves Riverside County's consulting needs<sup>(2)</sup>.

Which results in 1,043 identified available DBE firms.

Denominator: The total number of consulting companies within Riverside County's four County market area<sup>(2)</sup> based on the U.S. Census Bureau "County Business Patterns" statistics for 2001 (NAICS<sup>(1)</sup> Code 54), which is the most recent available year of data:

Caltrans DBE County Code	NAICS <sup>(1)</sup> County Code	County Name	Number of firms
19	037	Los Angeles	26,046
30	059	Orange	11,271
33	065	Riverside	2,201
36	071	San Bernardino	1,819
Total Consulting firms:			41,337

Ratio (Consulting):  $\frac{1,043}{41,337} = 2.52\%$

**C. Base figure calculations:**

Base figure =  $1.00 \left( \frac{1,032}{24,496} \right) + 0.00 \left( \frac{1,043}{41,337} \right) = 0.0421$

Base figure = 4.21%

**D. Adjustments to the base figure:**

**1. Current Capacity of DBE's measured by actual attainments**

Recent DBE statistics for the Riverside County Transportation Department are as follows:

	1/1/2001 Through 6/30/2003 (Cumulative)
Cumulative Project Goal:	<b>5.024%</b>
Cumulative DBE Participation:	<b>7.145%</b>
Difference:	<b>2.121%</b>
No. of FHWA Contracts:	<b>16</b>

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It is the opinion of the Transportation Department that the current DBE program data is representative of the local market capacity.

The County of Riverside bidder's list provides no additional data that appears to be relevant to the establishment of the base goal. However, the difference between the attainment ratio and the cumulative project goals is indicative of race and gender neutral effects on the bidding process in achieving DBE participation, and is proposed as the race/gender-neutral component.

It has been observed that DBE utilization by prime contractors tends to be primarily in certain types of construction, such as paving, minor concrete construction, reinforcing steel fabrication, traffic control, trucking and furnishing certain types construction materials, and appears to be absent and difficult to attain in some types of subcontract work, such as storm water pollution prevention (SWPP), rip rap, clearing and grubbing, pipe installation and materials, fencing, major concrete paving, pile driving and drilling, and cold planing.

The Transportation Department does not have any data that would provide a more accurate measurement of the "current capacity of DBE's" for the Riverside County market area than that which is described in Section II "Goal-Methodology". Therefore, no adjustment to the base figure is proposed.

**2. Disparity Study Results**

No disparity studies have been found or are known to exist which reflect the Riverside County market. Therefore, no adjustment to the base figure is proposed.

**3. Public Comment Period**

During the summer of 2003, the County of Riverside will publish its DBE program, goals and methodology for Fiscal Year 2003/2004, and will accept comments from the public for a period of 45 days. Consideration will be given to modification of the annual goal based on substantive comments or information received from the public.

**E. Goal Adjustment and Final Race/Gender-Conscious Goal:**

As described in sub-section D "Adjustments to the base figure", no adjustments are proposed to the base goal that was calculated in Section II "Goal-Methodology". Therefore, the final race/gender-conscious goal is established at 4.21%.

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**III. Utilization of Race/Gender-Neutral and Race/Gender-Conscious Methods**

The County of Riverside Transportation Department's DBE attainment to-date for the current Federal Fiscal year is as follows:

<b>Cumulative Goals and Attainment</b> FY 2000 / 2001 through FY 2002/2003 (New DBE Program - Effective as of 1/1/01)	
Number of FHWA Projects:	16
Cumulative Project Goal to-date:	5.024%
Cumulative Attainment to-date:	7.145%
<b>Cumulative Race/Gender-Neutral Attainment:</b>	<b>2.121%</b>

The difference between the cumulative DBE project goal to date and the cumulative attainment to date is 1.97%, which we attribute to the race/gender-neutral methods that the County and its bidding contractors employ in their normal respective bidding practices.

The County has established a 1.97% Race/Gender-Neutral component of the annual goal.

**IV. Establishment of Goals**

The County of Riverside Transportation Department hereby establishes an annual overall DBE goal of 6.18% for Federal Fiscal Year 2003 / 2004. This annual goal is intended to be met through:

Race/Gender-Conscious Methods:	4.21%
Race/Gender-Neutral Methods:	2.12%
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<b>Total Annual DBE Goal:</b>	<b>6.33%</b>

**Notes:**

- (1) NAICS means the "North American Industry Classification System", as used by the United States Census Bureau.
- (2) Riverside, Los Angeles, Orange and San Bernardino Counties (Very few contractors bid on County contracts from outside of this four-County area).

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**County of Riverside  
Transportation Department  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM  
(DOT-Assisted Contracts)**

**I Definitions of Terms**

The terms used in this program have the meanings defined in 49 CFR §26.5.

**II Objectives /Policy Statement (§§26.1, 26.23)**

The County of Riverside Transportation Department has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The County of Riverside Transportation Department has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the County of Riverside Transportation Department will sign an assurance that it will comply with 49 CFR Part 26.

It is the policy of the County of Riverside Transportation Department to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program, for DOT-Assisted Contracts only.

Stan Dery, Principal Engineering Technician, or his successor, has been delegated as the DBE Liaison Officer. In that capacity, Stan Dery, Principal Engineering Technician, or his successor is responsible for implementing and coordinating the DBE program as described in Section VI, below.

Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the County of Riverside Transportation Department in its financial assistance agreements with the California Department of Transportation (Caltrans).

County of Riverside Transportation Department has submitted this policy statement to the County of Riverside Board of Supervisors for approval and all appropriate components and staff of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by publishing this statement in general circulation, minority-focused and trade association publications, and maintain this policy posted on the County of Riverside Transportation Department's Internet site .

### **III Nondiscrimination (§26.7)**

County of Riverside Transportation Department 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 DOT-assisted contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the County of Riverside Transportation Department will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program for DOT-assisted contracts with respect to individuals of a particular race, color, sex, or national origin.

### **IV DBE Program Updates (§26.21)**

County of Riverside Transportation Department will continue to carry out this program until the County of Riverside Transportation Department has established a new goal setting methodology or until significant changes to this DBE Program are adopted for DOT-Assisted Contracts. County of Riverside Transportation Department will provide to Caltrans a proposed overall goal and goal setting methodology and other program updates by June 1 of every year.

### **V Quotas (§26.43)**

County of Riverside Transportation Department will not use quotas or set asides in any way in the administration of this DBE program for DOT-assisted contracts.

### **VI DBE Liaison Officer (DBELO) (§26.45)**

County of Riverside Transportation Department has designated the following individual as the DBE Liaison Officer (DBELO):

Stan Dery, Principal Engineering Technician, or successor  
P.O. Box 1090  
Riverside, Ca. 92502-1090  
(909) 955-6785  
[sdery@co.riverside.ca.us](mailto:sdery@co.riverside.ca.us)

In that capacity, Stan Dery is responsible for implementing or coordinating all aspects of the DBE program for DOT-assisted contracts and ensuring that the County of Riverside Transportation Department complies with all provisions of 49 CFR Part 26. This is available on the Internet at [osdbuweb.dot.gov/main.cfm](http://osdbuweb.dot.gov/main.cfm). Stan Dery has direct, independent access to the Director of Transportation concerning DBE program matters. The DBELO has a staff of 2 professional employees that are available to assist in matters related to the DBE program, and 1 support personnel who devotes a portion of their time to the program as needed. An organization chart displaying the DBELO's position in the organization is found in Attachment "A" to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program for DOT-assisted contracts, in coordination other appropriate officials. Duties and responsibilities for DOT-assisted contracts include the following:

1. Being the primary contact person for the Department with regard to the DBE Program
2. Gathers and reports statistical data and other information as required.
3. Prepares communication to the County of Riverside Board of Supervisors on DBE matters and achievement.
4. Establishment and publication of annual program and goals, including coordination with other staff to set overall annual goals and gain agency approvals.
5. Ensuring that the contract specifications for DOT funded projects include required language, and:
  - a. Identifies contracts and procurements that will have DBE goals.
  - b. Establishment of contract goals.
  - c. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
6. Chairs project pre-bid meetings.
7. Verification of DBE goal attainment by apparent low bidders and participates with legal counsel and Project Manager to determine contractor compliance with good faith efforts.
8. Reviews, or ensures reviews by Construction Inspector, third party contracts and purchase requisitions for compliance with this program.
9. Coordination with the Department's Construction Engineer and other Department staff regarding all matters of implementation, verification, enforcement and record keeping.
10. Analyzes County of Riverside Transportation Department's progress toward goal attainment and identifies ways to improve progress.
11. Chairs the DBE Advisory Committee, if that committee is required or needed.
12. Participates in any training seminars that may be provided by County for the benefit of DBE's through the outreach program.
13. Coordinates with the Purchasing Department's Contract Compliance Officer to provide outreach assistance to DBEs and community organizations to advise them of opportunities, and to provide assistance as feasible and appropriate. Assistance that will be provided as feasible includes providing DBEs with information and assistance in preparing bids, obtaining bonding and insurance, or referral of DBE's to other resources as appropriate.

## **VII Federal Financial Assistance Agreement Assurance (§26.13)**

County of Riverside Transportation Department will sign the following assurance, applicable to all FHWA-assisted contracts and their administration as part of the program supplement agreement for each project:

The recipient 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 the recipient 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.).

## **VIII DBE Financial Institutions**

It is the policy of the County of Riverside Transportation Department to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community for DOT-assisted contracts, to make reasonable efforts to use these institutions for DOT-assisted contracts, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBE Liaison Officer.

## **IX Directory (§26.31)**

County of Riverside Transportation Department will refer interested persons for DOT-assisted contracts to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at [www.dot.ca.gov/hq/bep](http://www.dot.ca.gov/hq/bep).

## **X Overconcentration (§26.33)**

County of Riverside Transportation Department has not identified any types of work in DOT-assisted contracts that have a overconcentration of DBE participation. If in the future County of Riverside Transportation Department identifies the need to address overconcentration for DOT-assisted contracts, measures for addressing overconcentration will be submitted to the DLAE for approval.

## **XI Business Development Programs (§26.35)**

County of Riverside Transportation Department does not have a business development or mentor-protégé program for DOT-assisted contracts. If the County of Riverside Transportation Department identifies the need for such a program in the future for DOT-assisted contracts, the rationale for adopting such a program and a comprehensive description of it will be submitted to the DLAE for approval.

## **XII Required Contract Clauses (§§26.13, 26.29)**

### Contract Assurance

County of Riverside Transportation Department ensures that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor 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 recipient deems appropriate.

### Prompt Payment

County of Riverside Transportation Department ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

Satisfactory Performance

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from County of Riverside. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the County or Riverside's Engineer. This clause applies to both DBE and non-DBE subcontractors

Release of Retainage

The prime contractor agrees further to release retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the County or Riverside's Engineer. This clause applies to both DBE and non-DBE subcontractors.

**XIII Monitoring and Enforcement Mechanisms (§26.37)**

The County of Riverside Transportation Department will assign a Resident Engineer (RE) or Contract Manager to monitor and track actual DBE participation for DOT-assisted contracts through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award for DOT-assisted contracts the County of Riverside Transportation Department will review the award documents for the portion of items each DBE and first tier subcontractor will be performing and the dollar value of that work. With these documents the RE/Contract Manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

Preconstruction Conference

A preconstruction conference for DOT-assisted contracts will be scheduled between the RE and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can begin on a subcontract for a DOT-assisted contract, the local agency will require the contractor to submit a completed "Subcontracting Request," Exhibit 16-B of the LAPM or equivalent. When the RE receives the completed form it will be checked for agreement of the first tier subcontractors and DBEs. The RE will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed "Local Agency Bidder DBE Information," Exhibit 15-G. The "Subcontracting Request" will not be approved until any discrepancies are resolved. Notwithstanding the requirements of Section 4104 of the Public Contract Code, if an issue cannot be resolved at that time, or there is some other concern, the RE will require the contractor to eliminate any proposed DBE subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the "Local Agency Bidder DBE Information" will be compared to those listed in the completed Exhibit 16-I of the LAPM or equivalent. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor's total bid or \$10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.

The RE will give the contractor a blank Exhibit 17-F, "Final Report Utilization of Disadvantaged Business Enterprises, First Tier Subcontractors" and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

### Construction Contract Monitoring

The RE will ensure that the RE's staff (inspectors) know what items of work each DBE is responsible for performing for DOT-assisted contracts. Inspectors will notify the RE immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the RE will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor's response, the RE will take appropriate action: The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to the Caltrans Disadvantaged Business Enterprise Program. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

If the contract requires the submittal of a monthly truck document, the contractor will be required to submit documentation to the RE showing the owner's name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers are checked by inspectors regularly to confirm compliance.

Providing evidence of DBE payment is the responsibility of the contractor.

### Substitution

When a DBE substitution is requested, the RE/Contract Manager will request a letter from the contractor explaining why substitution is needed. The RE/Contract Manager must review the letter to be sure names and addresses are shown, dollar values are included, and reason for the request is explained. If the RE/Contract Manager agrees to the substitution, the RE/Contract Manager will notify, in writing, the DBE subcontractor regarding the proposed substitution and procedure for written objection from the DBE subcontractor in accordance with the Subletting and Subcontracting Fair Practices Act. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the RE/Contract Manager for local agency consideration.

If there is any doubt in the RE/Contract Manager's mind regarding the requested substitution, the RE/Contract Manager may contact the DLAE for assistance and direction.

### Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor for DOT-assisted contracts. The records shall also show:

1. The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on Exhibit 17-F and will be submitted to the DLAE attached to the Report of Expenditures. The RE will compare the completed Exhibit 17-F to the contractor's completed Exhibit 15-G and, if applicable, to the completed Exhibit 16-B. The DBEs shown on the completed Exhibit 17-F should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed Exhibit 15-G when:

- There have been no changes made by the RE.
- The contractor has not provided a sufficient explanation in the comments section of the completed Exhibit 17-F.

The explanation will be attached to the completed Exhibit 17-F for submittal. The RE will file this in the project records.

The local agency's Liaison Officer will keep track of the DBE certification status on the Internet at [www.dot.ca.gov/hq/bep](http://www.dot.ca.gov/hq/bep) and keep the RE informed of changes that affect the contract. The RE will require the contractor to act in accordance with existing contractual commitments regardless of decertification.

The DLAE will use the PS&E checklist to monitor the County of Riverside Transportation Department's commitment to require bidders list information to be submitted to the County of Riverside Transportation Department from the awarded prime and subcontractors as a means to develop a bidders list for DOT-assisted contracts. This monitoring will only take place if the bidders list information is required to be submitted as stipulated in the special provisions.

County of Riverside Transportation Department will bring to the attention of the DOT through the DLAE any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. County of Riverside Transportation Department also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

#### **XIV Overall Goals (§26.45)**

##### Amount of Goal

The County of Riverside Transportation Department's overall goal for DOT-assisted contracts for the Federal fiscal year FY 2000/2001 is the following: 4.45% of the Federal financial assistance in FHWA-assisted contracts. This overall goal is broken down into 3.70% race-conscious and 0.75% race-neutral components for DOT-assisted contracts.

### Methodology

#### Race-conscious goal component

To establish a base annual race-conscious DBE goal for DOT-assisted contracts, the County of Riverside Transportation Department has used the first alternative suggested by Caltrans and the Federal DOT, which utilizes the Caltrans DBE directory of available Disadvantaged Business Enterprise firms and the United States Census Bureau's Business Pattern Database to establish a ratio of available DBE firms to total number of comparable firms in the County of Riverside's four-County market area.

#### Race-neutral goal component

The County of Riverside Transportation Department has determined that a certain amount of DBE attainment for DOT-assisted contracts during Federal Fiscal Year 1999/2000 can be attributed to the normal fair bidding processes of the County of Riverside and its bidding contractors. The specific attainment that is attributed to race-neutral measures is the difference between the cumulative DBE contract goals that were established and the cumulative DBE attainment reached for DOT-assisted contracts during Federal Fiscal Year 1999/2000

Attachment "B" contains the specific data that has been compiled to develop the County of Riverside Transportation Department's annual goals for DOT-assisted contracts.

### Process

Starting with the Federal fiscal year 2002, the amount of overall goal, the method to calculate the goal, and the breakout of estimated race-neutral and race-conscious participation will be required annually by June 1 in advance of the Federal fiscal year beginning October 1 for FHWA-assisted contracts. Submittals will be to the Caltrans' DLAE.

Once the DLAE has responded with preliminary comments and the comments have been incorporated into the draft overall goal information for DOT-assisted contracts, the County of Riverside Transportation Department will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the County of Riverside Transportation Department's principal office for 30 days following the date of the notice, and informing the public that County of Riverside Transportation Department comments will be accepted on the goals for 45 days following the date of the notice. Advertisements in newspapers, minority focus media, trade publications, and websites will be the normal media to accomplish this effort. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The overall goal resubmission to the Caltrans DLAE, will include a summary of information and comments received during this public participation process and County of Riverside Transportation Department's responses. This will be due by September 1 to the Caltrans DLAE. The DLAE will have a month to make a final review so the County of Riverside Transportation Department may begin using the overall goal for DOT-assisted contracts on October 1 of each year.

#### **XV Contract Goals (§26.51)**

County of Riverside Transportation Department will use contract goals to meet any portion of the overall goal County of Riverside Transportation Department does not project being able to meet by the use of race-neutral means for DOT-assisted contracts. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means for DOT-assisted contracts.

Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The contract work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractor and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

#### **XVI Transit Vehicle Manufacturers (§26.49)**

If DOT-assisted contracts will include transit vehicle procurements, County of Riverside Transportation Department will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49. County of Riverside Transportation Department will direct the transit vehicle manufacturer to the subject requirements located on the Internet at <http://osdbuweb.dot.gov/programs/dbe/dbe.htm>.

#### **XVII Good Faith Efforts (§26.53)**

##### Information to be Submitted

County of Riverside Transportation Department treats bidders'/offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for DOT-assisted contracts, for which a contract goal has been established will require the apparent low bidders'/offerors to submit the following information to the County of Riverside Transportation Department no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

1. The names and addresses of known DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participation

4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

#### Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are on file in with the County of Riverside Transportation Department, and available from Caltrans through their DBE Internet Site.

The Transportation Department's DBE Liaison Officer is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. Other staff may be trained in this matter to assist the DBELO, and consultation with County Counsel will be made as necessary.

County of Riverside Transportation Department will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before a commitment to the performance of the contract by the bidder/offeror is made.

#### Administrative Reconsideration

Within 10 days of being informed by County of Riverside Transportation Department that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Scott Staley, Division Engineer  
P.O. Box 1090  
Riverside, Ca. 92502-1090  
(909) 955-2092  
cstaley@co.riverside.ca.us

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The County of Riverside Transportation Department will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to Caltrans, FHWA or the DOT.

#### Good Faith Efforts when a DBE is Replaced on a Contract

County of Riverside Transportation Department will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal for DOT-assisted contracts. The prime contractor is required to notify the RE immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain County of Riverside Transportation Department prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the contractor fails or refuses to comply in the time specified, County of Riverside Transportation Department contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

### **XVIII Counting DBE Participation (§26.55)**

County of Riverside Transportation Department will count DBE participation toward overall and contract goals for DOT-assisted contracts as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of material or supplies.

### **XIX Certification (§26.83(a))**

County of Riverside Transportation Department ensures that only DBE firms currently certified on the Caltrans' directory will participate as DBEs in our program for DOT-assisted contracts.

### **XX Information Collection and Reporting**

#### Bidders List

The County of Riverside Transportation Department will create and maintain a bidders list, consisting of information about DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms that submit bids to the County of Riverside, or which provides quotes to the successful contractors for DOT-assisted contracts.

Monitoring Payments to DBEs

Prime contractors are required to maintain records and documents of payments to DBEs for three years following the performance of the contract for DOT-assisted contracts. These records will be made available for inspection upon request by any authorized representative of the County of Riverside Transportation Department, Caltrans or FHWA. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by the County of Riverside Transportation Department to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation for DOT-assisted contracts.

Reporting to Caltrans

Final utilization of DBE participation for DOT-assisted contracts will be reported to the DLAE by the County of Riverside Transportation Department using Exhibit 17-F of the Caltrans' LAPM.

Confidentiality

To the extent allowed by applicable law, the County of Riverside Transportation Department will make best efforts to safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, when such information is identified as such to the County of Riverside Transportation Department prior to its receipt by the County of Riverside Transportation Department for DOT-assisted contracts.

Recommended:

\_\_\_\_\_  
David E. Barnhart, Director of Transportation

Date: \_\_\_\_\_

Approved:

\_\_\_\_\_  
Chairman, Board of Supervisors  
County of Riverside

Date: \_\_\_\_\_

This Disadvantaged Business Enterprises Program is accepted by:

\_\_\_\_\_  
[Signature of DLAE]

Date: \_\_\_\_\_

Attachments:

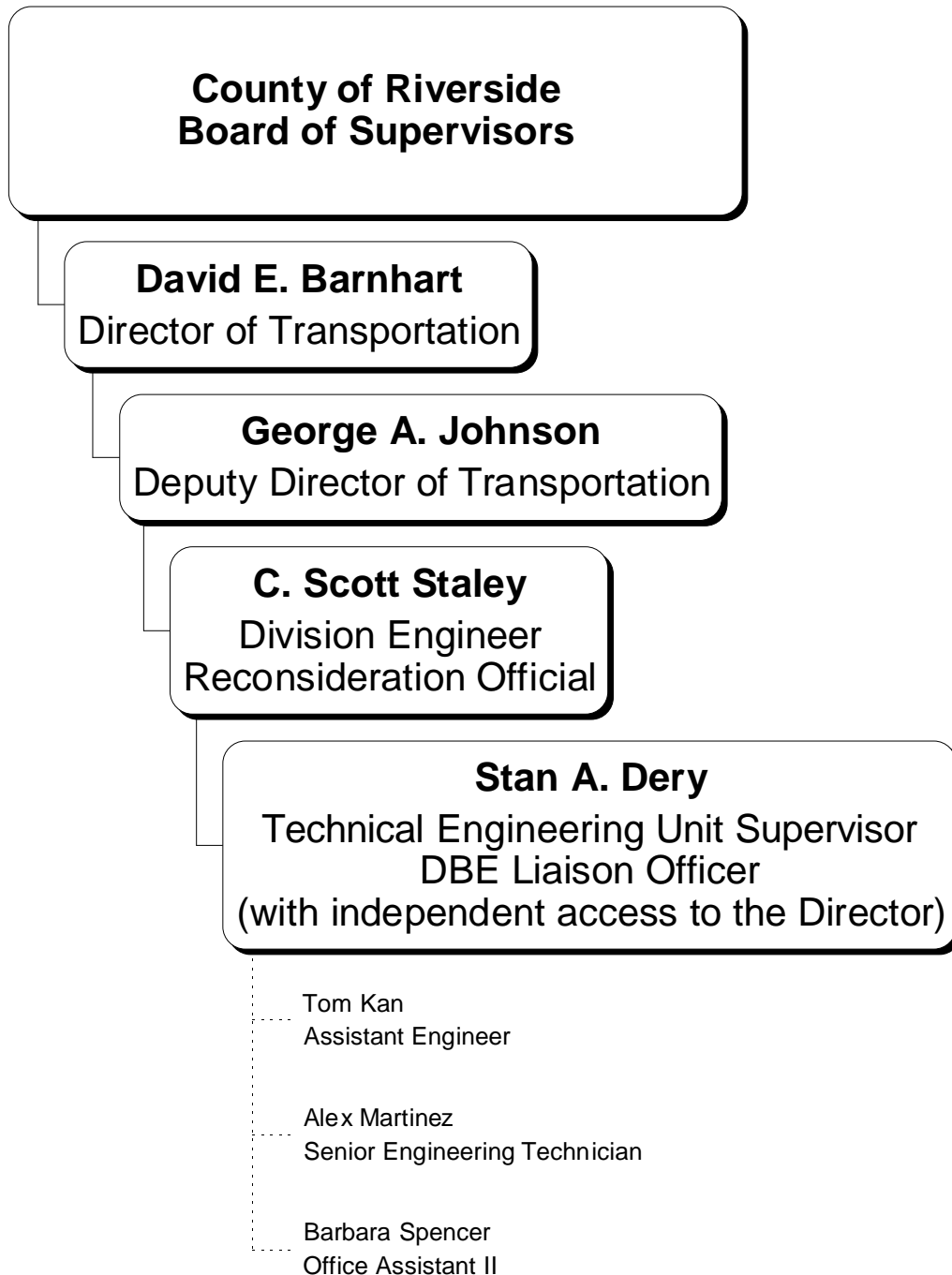
- 1. Attachment "A" - Organizational Chart
- 2. Attachment "B" - Goal Methodology and Calculations

9/15/2000  
sd



County of Riverside  
Transportation Department  
**Disadvantaged Business Enterprise (DBE) Program**  
Organization Chart

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**County of Riverside  
Transportation Department**

**Disadvantaged Enterprise Program  
Federal Fiscal Year 2000/2001 Goal Methodology and Calculations**

**I. DOT-Assisted Contracting Program for Federal Fiscal Year  
2000/2001**

Work Category	NAICS <sup>(1)</sup>	Est. Contracts FY 2000/2001	% of Federal Funding by Work Category
Construction (incl. Materials and Trucking)	23	\$15,481,000	94.15%
Consulting Services	54	\$962,212	5.85%
Totals:		\$16,443,212	100.00%

**II. Goal-Methodology**

**A. Construction:**

Numerator: Caltrans DBE directory of firms, with the following modifications made:

1. Filtered for construction work codes
2. Filtered for contractors that operate within the four County market area that generally serves Riverside County’s contracting needs<sup>(2)</sup>.

Which results in 884 identified available DBE firms.

Denominator: The total number of construction companies within Riverside County’s four County market area<sup>(2)</sup> based on the U.S. Census Bureau statistics for 1998, which is the most recent available year of data:

<u>County Code</u>	<u>County Name</u>	<u>Number of firms</u>
037	Los Angeles	12,057
059	Orange	5,838
065	Riverside	3,033
071	San Bernardino	<u>2,661</u>
Total Construction firms:		23,589

Ratio (Construction):  $\frac{884}{23,589} = 3.7\%$

**Disadvantaged Enterprise Program  
Federal Fiscal Year 2000/2001 Goal Methodology and Calculations  
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**B. Consulting Services:**

Numerator: Caltrans DBE directory of firms, with the following modifications made:

1. Filtered for consulting services work codes
2. Filtered for consultants that operate within the four-County market area that generally serves Riverside County's consulting needs<sup>(2)</sup>.

Which results in 859 identified available DBE firms.

Denominator: The total number of consulting companies within Riverside County's four County market area<sup>(2)</sup> based on the U.S. Census Bureau statistics for 1998, which is the most recent available year of data:

<u>County Code</u>	<u>County Name</u>	<u>Number of firms</u>
037	Los Angeles	23,850
059	Orange	9,730
065	Riverside	1,901
071	San Bernardino	<u>1,715</u>
Total Consulting firms:		37,196

Ratio (Consulting):  $\frac{859}{37,196} = 2.3\%$

**C. Base figure calculations:**

$$\text{Base figure} = 0.9415 \left( \frac{884}{23,589} \right) + 0.0585 \left( \frac{859}{37,196} \right) = 0.03663$$

Base figure = 3.7%

**D. Adjustments to the base figure:**

**1. Current Capacity of DBE's measured by actual attainments**

DBE statistics for Riverside County during Federal Fiscal year 1999/2000 are as follows:

Annual Goal:	10.00%
Cumulative DBE Project Goal:	11.71%
Cumulative DBE Attainment:	12.45%

**Disadvantaged Enterprise Program**  
**Federal Fiscal Year 2000/2001 Goal Methodology and Calculations**  
**Page 3 of 5**

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It is the opinion of the Transportation Department that these County of Riverside DBE statistics do not accurately reflect the current capacity of DBE's within the Riverside County market area. The Difference between the attainment ratio and the cumulative project goals is, however, indicative of race-neutral effects on the bidding process in achieving DBE participation, and is proposed as the race-neutral component elsewhere herein.

It has been observed that DBE utilization by prime contractors tends to be primarily in certain types of construction, such as paving, minor concrete construction, reinforcing steel fabrication, traffic control, trucking and furnishing certain types construction materials, and appears to be absent and difficult to attain in some types of subcontract work, such as storm water pollution prevention (SWPP), rip rap, clearing and grubbing, pipe installation and materials, fencing, major concrete paving, pile driving and drilling, and cold planing.

The calculated base figure is lower than the previous annual DBE participation goal of the Department. This seems reasonable, since there are fewer available certified DBE firms than in previous years as a result of the recently imposed net worth limit that has resulted in formerly certified DBE firms not meeting the current DBE eligibility requirements. Additionally, contractors can be expected to have more difficulty in meeting their DBE contract goals utilizing DBE trucking firms, due to the more stringent DBE trucking requirements that are now in effect.

The data that is currently available does not provide a more accurate measurement of the "current capacity of DBE's" for the Riverside County market area than that which is described in Section II "Goal-Methodology". Therefore, no adjustment to the base figure is proposed.

## **2. Disparity Study Results**

No disparity studies have been found or are known to exist which reflect the Riverside County market. Therefore, no adjustment to the base figure is proposed. The County of Riverside Transportation Department will consult with the County's Purchasing Department, which operates the outreach program for Riverside County, for methods that may be employed to gather statistics for development of goals in future years.

## **3. Public Comment Period**

During the fall of 2000, the County of Riverside will publish its DBE program, goals and methodology and will accept comments from the public for a period of 45 days. Consideration will be given to modification of the annual goal based on substantive comments or information received from the public.

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Federal Fiscal Year 2000/2001 Goal Methodology and Calculations  
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**E. Goal Adjustment and Final Race-Conscious Goal:**

As described in sub-section D “Adjustments to the base figure”, no adjustments are proposed to the base goal that was calculated in Section II “Goal-Methodology”. Therefore, the final race-conscious goal is established at 3.7%.

**III. Utilization of Race-Neutral and Race-Conscious Methods**

The County of Riverside Transportation Department DBE attainment for the two previous Federal Fiscal years has been as follows:

FY 1999/2000

Annual Goal:	10.00%
Cumulative Project Goal to-date:	11.71%
Cumulative Attainment to-date:	12.45%

FY 1998/1999

Annual Goal:	10.00%
Cumulative Project Goal to-date:	11.55%
Cumulative Attainment to-date:	15.05%

The difference between the cumulative DBE project goals to date in FY 1999/2000 and the cumulative attainment to date is 0.74, which we attribute to the race-neutral methods that the County and its bidding contractors employ in their normal respective bidding practices.

Based on the data from FY 1999/2000, rounded the difference between cumulative project goals and attainment to the nearest .01%, the County has established a 0.75 % Race-Neutral component of the annual goal.

**IV. Establishment of Goals**

The County of Riverside Transportation Department hereby establishes a n annual overall DBE goal of 4.45% for Federal Fiscal Year 2000 / 2001. This annual goal is intended to be met through:

Race-Conscious Methods:	3.70%
Race-Neutral Methods:	<u>0.75%</u>

**Total Annual DBE Goal: 4.45%**

# Disadvantaged Enterprise Program

## Federal Fiscal Year 2000/2001 Goal Methodology and Calculations

### Page 5 of 5

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#### Additional Information:

- a. A comparison was made using information pertaining to the entire State of California, using the same resources as the above calculations:

Numerator: All California DBE firms: 3,279  
Denominator: All California Businesses: 773,925 With a resulting ratio of 0.4%

- b. A comparison was made using information pertaining to the entire State of California, using the same resources as the above calculations:

Numerator: All California DBE Construction firms: 1,207  
Denominator: All California Construction Businesses: 64,108 With a resulting ratio of 1.9%

- c. These comparisons are provided for reference only, and no adjustment to the base goal is proposed.

#### Notes:

- (1) NAICS means the "North American Industry Classification System"
- (2) Riverside, Los Angeles, Orange and San Bernardino Counties (Very few contractors bid on County contracts from outside of this four-County area).



**Attachment "A"**

County of Riverside  
Transportation Department  
**Disadvantaged Business Enterprise (DBE) Program  
Organization Chart**

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