



# INSPECTOR GENERAL

California Department of Transportation

## Review of Caltrans' Small and Disadvantaged Business Enterprise Outreach Plan, Activities, and Related Reporting Requirements



**Independent Office of Audits and Investigations**

**Bryan Beyer**, Inspector General  
**Diana Antony**, Chief Deputy

April 2023  
22S.SPEC09



For questions concerning the contents of this report, please contact (916) 323-7111 or email [ioai.reports@dot.ca.gov](mailto:ioai.reports@dot.ca.gov).



## Inspector General

California Department of Transportation

Bryan Beyer, Inspector General

Diana Antony, Chief Deputy

April 26, 2023

Tony Tavares, Director  
California Department of Transportation  
1120 N Street  
Sacramento, CA 95814

### **Review of Caltrans' Small and Disadvantaged Business Enterprise Outreach Plan, Activities, and Related Reporting Requirements**

Dear Director Tavares:

Pursuant to Government Code, Section 14110.1, the Independent Office of Audits and Investigations (IOAI) has completed its review of the California Department of Transportation's (Caltrans) small and disadvantaged business enterprise outreach plan, activities, and related reporting requirements. Government Code, Section 14110.1, directs the Inspector General to review, audit, and report on Caltrans' outreach efforts required by this section.

Enclosed is the final report, which includes Caltrans' response to the draft report. The final report is a matter of public record and will be posted on IOAI's website.

A Corrective Action Plan (CAP) addressing the recommendations is due from Caltrans 60 days from receipt of this letter. Thereafter, CAP updates will be required every 6 months and 1 year from the report issuance date, until all findings have been addressed. The CAP should be sent to [ioai.reports@dot.ca.gov](mailto:ioai.reports@dot.ca.gov).

We appreciate the assistance and cooperation of Caltrans. If you have any questions, please contact Fabiola Torres, Audit Chief, at (916) 323-7111.

Sincerely,

Bryan Beyer, CIG  
Inspector General

Gavin Newsom, Governor

Tony Tavares  
April 26, 2023  
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cc: Mike Keever, Chief Deputy Director, Caltrans  
David DeLuz, Deputy Director, Office of Civil Rights, Caltrans  
Ben Shelton, Audit Chief, Internal Audits Office, Caltrans

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## Terms Used in Report

Term/Acronym	Definition
Caltrans	California Department of Transportation
CAR	Contracting Activity Report
CFR	Code of Federal Regulations
DBE	Disadvantaged Business Enterprise
DVBE	Disabled Veteran Business Enterprise
FHWA	Federal Highway Administration
GC	Government Code
IOAI	Independent Office of Audits and Investigations
PCC	Public Contract Code
SB	Small Business
SBA	Small Business Administration
SBAC	Small Business Annual Contracting [Report]
US DOT	United States Department of Transportation





## SUMMARY

The California Department of Transportation (Caltrans) administers three business enterprise programs – Small Business (SB), Disabled Veteran Business Enterprise (DVBE), and Disadvantaged Business Enterprise (DBE) – intended to increase procurement opportunities among small and disadvantaged businesses. In 2017, the Road Repair and Accountability Act (Senate Bill 1, Chapter 5) established an investment of over \$52 billion over 10 years to improve and maintain California's transportation infrastructure. Additionally, Senate Bill 103 (Chapter 95, Statutes of 2017) was approved and required Caltrans to develop an outreach plan by 2019 and undertake additional outreach activities to further increase procurement opportunities for new and limited small business enterprises.

In this report, we conclude that Caltrans has reported sponsoring and/or funding hundreds of outreach activities annually, including over 300 outreach activities in fiscal year 2021-22. Outreach activities included workshops and training classes focused on contracting opportunities with Caltrans and partnering with other professional organizations. However, we note that Caltrans did not sponsor, fund, or partner with an apprenticeship (on-the-job) program as required by law during fiscal years 2019-20 through 2021-22. Additionally, we found that Caltrans could benefit from tracking and analyzing which outreach activities are more effective at increasing contract awards and bid submissions among the small and disadvantaged businesses.

Moreover, we found that Caltrans has complied with only four of the seven reporting requirements in this area. While Caltrans has consistently submitted state and federal annual reports for the SB, DVBE and DBE programs, it has not submitted to the Legislature three reports required by statute. Lastly, while Caltrans has reported exceeding its overall SB and DVBE annual performance goals for the past five fiscal years, it has not met its annual DBE performance goal for the past three fiscal years.

## BACKGROUND

Senate Bill 1 (Chapter 5, Statutes of 2017), also known as the Road Repair and Accountability Act, invests \$52.47 billion over 10 years to improve and maintain California's transportation infrastructure. Following the passage of Senate Bill 1, Senate Bill 103 (Chapter 95, Statutes of 2017) was approved in July 2017 and codified under Government Code, Section 14110.1, and requires Caltrans to undertake several activities to increase procurement opportunities for new and limited small business enterprises. This includes small, disabled veteran, and disadvantaged business enterprises.

Specifically, Government Code, Section 14110.1, requires Caltrans to:

- Develop a detailed outreach plan and submit to the Legislature, by January 1, 2019.
- Update the outreach plan based on the outcome of a disparity study undertaken every three years.
- Undertake certain outreach activities.
- Annually report to the Legislature the percentages of entities receiving public contracts from the department disaggregated by classifications and contract size categories.

In addition, Government Code, Section 14110.1, directs the Inspector General to review, audit, and report on Caltrans' outreach efforts required by this section. The Inspector General is also required to audit businesses as appropriate to ensure that persons associated with entities that do not meet the definition of a new or limited contracting small business enterprise do not create a new associated entity that would meet the definition of new or limited contracting small business enterprise and thus subvert the purposes of this section.

Caltrans is also required under Government Code Section 14110, to "develop a plan by January 1, 2020, to increase by up to 100 percent the dollar value of contracts and procurements awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises. The plan shall include the use of targeted media, including minority and women business enterprises, to outreach to these businesses and shall be provided to the Legislature pursuant to Section 9795."

### **Caltrans' Roles and Responsibilities**

Caltrans' Office of Civil Rights manages and administers the department's Small Business (SB), Disabled Veteran Business Enterprise (DVBE), and Disadvantaged Business Enterprise (DBE) programs. This includes, but is not limited to, providing training and technical assistance to small businesses, organizing and/or participating in outreach events and activities, applying or enforcing program requirements, and tracking and

reporting program performance outcomes.

Caltrans' 2019 outreach plan outlines the Office of Civil Rights' primary roles and responsibilities as follows:

- Develop Caltrans' Small Business Outreach Plan to increase procurement opportunities for new and limited contracting small business enterprises, including underrepresented groups.
- Update Caltrans' Small Business Outreach Plan, as required.
- Determine baselines for new and limited contracting small business enterprises.
- Track and monitor awards to new and limited contracting small business enterprises.
- Submit annual reports to the Legislature for new and limited contracting small business enterprises and other underrepresented groups receiving Caltrans contracts.
- Sponsor apprenticeship programs.
- Sponsor meetings to introduce prime contractors to new and limited contracting small business enterprises.
- Partner with organizations to increase contracting opportunities for all underrepresented groups.
- Develop new outreach methods to engage new and limited contracting small business enterprises.
- Place notices regarding upcoming Caltrans contracting opportunities in publications whose primary audience includes underrepresented individuals.
- Chair Caltrans' Small Business Outreach Workgroup.

According to Caltrans, its Division of Procurement and Contracts and district offices also have an integral part in its SB, DVBE, and DBE programs. The Division of Procurement and Contracts' role includes assisting with outreach to new and limited contracting small business enterprises to increase procurement opportunities. The district offices' roles and responsibilities include sponsoring apprenticeship programs, partnering with organizations to increase contracting opportunities for all underrepresented groups, and hosting training workshops.

## Caltrans' Business Enterprise Programs

Caltrans administers three business enterprise programs: SB, DVBE, and DBE programs. The SB and DVBE programs are funded by the state, whereas the DBE program is funded by the federal government.

### State Funded Programs

- Small Business (SB)
- Disabled Veteran Business Enterprise (DVBE)

### Federal Funded Program

- Disadvantaged Business Enterprise (DBE)

## State Programs

The California Department of General Services, and Disabled Veteran Business Enterprise Services, administers and oversees the State's SB and DVBE certification programs and assists businesses pursuing contract opportunities with the State through outreach, certification, and education. The Office of Small Business and Disabled Veteran Business Enterprise Services' mission includes ensuring each state department and agency meets the goal of spending 25 percent of contract dollars with certified small businesses and 3 percent with disabled veteran business enterprises. Pursuant to Public Contracting Code, Section 10111, state departments are required to report their SB and DVBE participation goal achievements on an annual basis using the Contracting Activity Report<sup>1</sup>. The California Department of General Services includes this information in its annual report on state contracting activity.

## Small Business Program

The Small Business Procurement and Contract Act (Government Code Sections 14835 through 14844) establishes the small business program and requires state departments and agencies to offer procurement and contracting opportunities to small businesses. Pursuant to Government Code, Section 14110.3, Caltrans is required to achieve a minimum overall rate of 25 percent certified small business participation in state-funded contracts and procurements. For compliance, Caltrans has set its annual participation goal at 25 percent.

SB certification eligibility criteria required by Government Code, Section 14837, includes:

### Small Business:

- Independently owned and operated business that is not dominant in its field of operation.
- Principal office located in California.
- Officers live in California.
- 100 or fewer employees.
- Average annual gross receipt of \$15 million or less over the previous 3 years.

<sup>1</sup> According to the Department of General Services' website, to ensure participation goals are met, Public Contract Code 10111 requires state departments to report annually, the SB/DVBE participation on all of its state contracts, purchase orders, and Cal-Card purchases. This report is known as the Contracting Activity Report (CAR) or Form 810.

Microbusiness:

- Average annual gross receipts of \$5 million or less over the previous 3 years, or
- Manufacturer with 25 or fewer employees.

**Disabled Veteran Business Enterprise Program**

State law also established the DVBE program. Specifically, Military and Veterans Code, Section 999, states:

The California Disabled Veteran Business Enterprise Program is established to address the special needs of disabled veterans seeking rehabilitation and training through entrepreneurship and to recognize the sacrifices of Californians disabled during military service. It is the intent of the Legislature that every state procurement authority honor California's disabled veterans by taking all practical actions necessary to meet or exceed the disabled veteran business enterprise participation goal of a minimum of 3 percent of total contract value.

Furthermore, the Military and Veterans Code, Section 999.1(a)(1) states:

Notwithstanding any other provision of law, each awarding department shall have **annual** statewide participation goals of not less than 3 percent for disabled veteran business enterprises for contracts entered into by the awarding department during the year for professional bond services.

Although the annual statutory minimum is set at 3 percent of contracting dollars to certified DVBEs, Caltrans has established a goal of 5 percent.

DVBE certification eligibility criteria required by Military and Veterans Code, Section 999, includes:

DVBE:

- Sole proprietorship that is at least 51 percent owned by one or more disabled veterans.
- Management and control of the daily business operations are by one or more disabled veterans.
- Sole proprietorship, corporation, or partnership with its home office located in the United States.

A disabled veteran means:

- A veteran of the military, naval, or air service of the United States who has at least 10 percent service-connected disability and who is domiciled in the state.

## Federal Program

### Disadvantaged Business Enterprise Program

The United States Department of Transportation (US DOT) distributes federal funds to finance construction projects initiated by state and local governments, and public transit and airport agencies. It is also responsible for ensuring that all business enterprises have a fair opportunity to compete for federally funded transportation contracts. The US DOT considers the DBE program its strongest tool for creating a level playing field. As a recipient of federal financial assistance from the US DOT, Caltrans must develop and implement a DBE program that conforms to US DOT standards set forth in Title 49 of the Code of Federal Regulations, Part 26 (49 CFR Part 26). As stated in 49 CFR Part 26, the DBE program objectives include, but are not limited to:

- Ensuring nondiscrimination in the award and administration of US DOT-assisted contracts for highway, transit, and airport financial assistance programs,
- Creating a level playing field on which DBEs can compete fairly for US DOT-assisted contracts,
- Ensuring that the DBE program is narrowly tailored in accordance with applicable law, and
- Ensuring that only firms that fully meet the eligibility standards are permitted to participate as DBEs.

To participate in the DBE program, firms must be certified as an eligible disadvantaged business enterprise. Each state is required to have a unified certification program to ensure certification decisions are honored by all recipients<sup>2</sup> in that state. As stated in 49 CFR Part 26, the unified certification program provides one-stop shopping to applicants for certification that eliminates the need for firms to obtain certification from multiple certifying agencies within a state. Additionally, the unified certification program is responsible for certifying firms and maintaining a directory of certified DBEs, pursuant to eligibility standards found in 49 CFR Part 26. Caltrans is one of ten members in the California Unified Certification Program that performs certification functions. As stated on US DOT's website, certifiers make determinations based upon on-site visits, personal interviews, reviews of licenses, stock ownership, equipment, bonding capacity, work completed, resume of principal owners and financial capacity. Based on our review of the California Unified Certification Program's directory of certified DBEs as of February 28, 2023, there were 5,346 DBE firms listed; 2,826 of these firms were certified by Caltrans. Table 1 is a listing of key DBE certification eligibility criteria required by 49 CFR Part 26.

<sup>2</sup> US DOT defines a recipient as any entity, public or private, to which US DOT financial assistance is extended, whether directly or through another recipient, through the programs of the Federal Aviation Administration, Federal Highway Administration, or Federal Transit Administration, or who has applied for such assistance (49 CFR Part 26.5).

**Table 1. Summary of Key DBE Certification Criteria Requirements**

<p>A DBE firm owner must:</p>	<ul style="list-style-type: none"> <li>• Be a socially and economically disadvantaged individual as defined by 49 CFR Part 26.5.<sup>3</sup></li> <li>• Have a personal net worth that does not exceed \$1.32 million.</li> <li>• Possess the power to direct the management and policies of the firm (day-to-day and long-term).</li> </ul>
<p>A DBE firm must be:</p>	<ul style="list-style-type: none"> <li>• An existing small business, as defined by Small Business Administration (SBA) standards and a for-profit firm.</li> <li>• At least 51 percent owned by socially and economically disadvantaged individuals.</li> <li>• Have average annual gross receipts over the firm's previous three fiscal years that do not exceed \$26.29 million.</li> <li>• An independent business and does not depend on its relationship with another firm(s).</li> </ul>

Source: Table created using information from 49 CFR Part 26.

The US DOT also requires states to set an annual overall DBE goal to approximate how much participation is expected from DBEs. Information posted on US DOT, Federal Highway Administration's (FHWA) website<sup>4</sup> states that every three years, state transportation agencies are required to set an overall DBE goal that they must either meet or show that they used good faith efforts to meet, annually. Further, this goal is in the form of a percentage of federal funds apportioned annually to each state transportation agency and is calculated based upon the relative availability of DBE firms as compared to all firms in the relevant geographic market area. State transportation agencies must submit a Uniform Report of their DBE awards, commitments, and payments semi-annually to determine if they achieved their DBE goal.

According to FHWA, state transportation agencies that do not meet their goal in any given year must submit a document to FHWA, identifying and analyzing the reasons why the goal was not met and creating specific steps to correct the problems going forward. US DOT provides guidance on setting an overall goal for DBE participation in US DOT-assisted contracts. This guidance is set forth in 49 CFR Part 26 and in US DOT's Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program published on its website. The goal setting guidance describes a two-step process as shown in the text box on the following page (step 1 describes computing the base figure while step 2 is about adjusting the base figure). Caltrans uses data from a disparity study to set its overall annual DBE goal.

<sup>3</sup> See definition in Appendix B.

<sup>4</sup> Information obtained at [Disadvantaged Business Enterprise \(DBE\) Program - Civil Rights | Federal Highway Administration \(dot.gov\)](https://www.fhwa.dot.gov/odiv/civilrights/dbeprogram/)



## US DOT's Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program

Step 1: Determine what percentage DBEs (or firms that could be certified as DBEs) represent of all firms that are ready, willing, and able to compete for US DOT-assisted contracting. This percentage is calculated by dividing the number of DBEs ready, willing, and able to bid for the types of work recipients will fund this year, by the number of all firms (DBEs and non-DBEs) ready, willing, and able to bid for the types of work you will fund this year. That is, the number of DBEs will be in the numerator, and the number of all firms (DBEs and non-DBEs) will be in the denominator.

Step 2: This step is intended to adjust the Step One Base Figure to make it as precise as possible. Recipients must consider all evidence available in their jurisdiction to determine whether such an adjustment is necessary. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made. There are many types of evidence that must be considered when adjusting the base figure. These include:

- The current capacity of DBEs to perform work in your US DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years.
- Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure.
- If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

Source: US DOT's website URL: <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise> (accessed November 9, 2022).

### Disparity Study

The US DOT requires that the DBE goal-setting process begin with determining a base figure for the relative availability of DBEs. As stated in 49 CFR Part 26.45, the overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on US DOT-assisted contracts (relative availability). In computing the base figure, a disparity study can be used to determine relative availability.

In July 2020, Caltrans hired a consultant to conduct an availability and disparity study (disparity study) to set its overall annual DBE goal and to help evaluate the effectiveness of its DBE program implementation.<sup>5</sup> The study was completed in August of 2021. According to the consultant, a disparity study examines whether there are any disparities between the percentage of prime contract and subcontract dollars an agency awarded to minority and woman-owned businesses during a particular time period (i.e., utilization), and the percentage of prime contract and subcontract dollars minority- and woman-owned businesses might be expected to receive based on their availability to perform specific types and sizes of contracts that the agency awards (i.e., availability). The disparity study focused on transportation-related construction and professional services

<sup>5</sup>Excerpt obtained from <https://dot.ca.gov/-/media/dot-media/programs/civil-rights/documents/disparity-study/caltrans-disparity-study-2021-final-report.pdf>



contracts that Caltrans and subrecipient local agencies awarded during the study period of January 1, 2015, through December 31, 2019. Additionally, the study provided guidance on Caltrans' overall annual DBE goal for federal fiscal years 2022 through 2024 and included specific recommendations to help ensure Caltrans' implementation of the federal DBE program is narrowly tailored in remedying any identified discrimination.

The scope of the 2021 disparity study included:

- Analyzing regulations, case law, and other information to guide methodology for the disparity study.
- Conducting quantitative analyses of the success of minorities, women, and minority- and woman-owned businesses in the California transportation industry.
- Estimating the percentage of Caltrans' transportation-related contract and procurement dollars minority- and woman-owned businesses are available to perform.
- Analyzing prime contract and subcontract dollars Caltrans and subrecipient local agencies awarded to minority- and woman-owned businesses on transportation-related construction and professional services contracts and procurements during the study period.
- Examining whether there were any disparities between the participation and availability of minority- and woman-owned businesses in transportation-related construction and professional services contracts Caltrans and subrecipient local agencies awarded during the study period.
- Providing guidance related to Caltrans' next overall goal for the participation of DBEs in its FHWA-funded contracts and procurements as well as additional program options and potential refinements to current contracting practices.

According to the 2021 disparity study, the availability analysis indicated that potential DBEs might be expected to receive 22.2 percent of relevant contract and procurement dollars, which Caltrans could consider as the base figure of its new overall DBE goal. In addition, the disparity study provided additional information for Caltrans' consideration in determining whether an adjustment to its base figure was warranted. According to the consultant:

The Federal DBE Program outlines several factors an agency must consider when assessing whether to make a step-2 adjustment to its base figure, particularly:

1. Current capacity of DBEs to perform work;
2. Information related to employment, self-employment, education, training, and unions;
3. Any disparities in the ability of DBEs to get financing, bonding, and insurance; and
4. Other relevant data (as noted in 49 CFR Section 26.45).

The consultant completed an analysis of each of the above step-2 factors. According to the consultant, much of the information the consultant examined was not easily quantifiable but was still relevant information for Caltrans to consider as it determined whether to make a step-2 adjustment.

Caltrans considered an upward adjustment up to 29.4 percent and a downward adjustment to 18.1 percent to the baseline goal figure of 22.2 percent. According to Caltrans, the two possible adjustment figures cancelled or offset each other. As a result, Caltrans did not make any adjustments to the base figure and therefore, established an overall DBE goal of 22.2 percent for federal fiscal years 2022 through 2024.

## SCOPE AND METHODOLOGY

Our review offers a high-level assessment of Caltrans' compliance with reporting requirements established under Government Code, Sections 14110 and 14110.1. Unlike an audit conducted in accordance with generally accepted auditing standards where testing and extensive examination of records are normal procedures, this review consisted of verifying if Caltrans developed and submitted the required state and federal reports, and is following compliance requirements as they relate to Caltrans' Small Business Outreach Plan and related outreach efforts. Specifically, we assessed Caltrans' compliance with outreach and reporting requirements. Our assessment to verify compliance with requirements solely consisted of inspecting reports developed by Caltrans. We did not perform testing or analysis of Caltrans' data included in these reports to verify completeness and accuracy of the data presented. We also evaluated Caltrans' contracting activity with small, disabled veteran, and disadvantaged business enterprises, as reported by Caltrans for fiscal years 2017-18 through 2021-22 and compared it to annual performance goals as specified in its detailed outreach plan.

To gain an understanding of Caltrans' statutory requirements, we reviewed Government Code, Sections 14110, and 14110.1, and examined existing reports published by Caltrans. To assess Caltrans' compliance with statutory requirements, we interviewed personnel from Caltrans' Office of Civil Rights responsible for developing and updating Caltrans' 2019 Small Business Outreach Plan, submitting annual reports to the Legislature, and sponsoring outreach activities and events. We also interviewed personnel from Caltrans' Division of Procurement and Contracts responsible for sending quarterly SB and DVBE participation data on state-funded contracts and purchases to the Office of Civil Rights and assisting with outreach efforts to increase small business procurement and contracting opportunities. To gain an understanding of how the disparity study was conducted, we interviewed personnel from the consulting firm who performed it. We also reviewed the following relevant documents:

### **Caltrans' Draft Documents**

- Draft Small Business Annual Contracting Report for fiscal years 2019-20 through 2021-22<sup>6</sup>
- Draft 2022 Small Business Outreach Plan & Implementation Report

### **Caltrans' Documents**

- 2019 Small Business Outreach Plan & Implementation Report
- Overall Outreach Event Summary with Counts for state fiscal years 2019-20 through 2021-22

<sup>6</sup> Caltrans has publicly shared information included in these draft annual reports with the public (e.g., during the Statewide Small Business Council Meetings and published monthly reports on Caltrans' website).

- FHWA Overall Disadvantaged Business Enterprise Goal and Methodology Proposal for Federal Fiscal Years 2022-2024
- FHWA Uniform Report of DBE Awards/ Commitments and Payments for federal fiscal years 2017-18 through 2021-22
- Shortfall Analyses submitted to FHWA for fiscal years 2019-20 through 2021-22
- SB and DVBE Contracts and Procurements Activity Report for fiscal years 2017-18 through 2020-21
- Contracting Activity Report for fiscal years 2020-21 and 2021-22
- California Unified Certification Program DBE Directory (received on February 28, 2023)
- Commitment at Award and Monthly Contract Award Reports

**Other Sources**

- Availability and Disparity Study Report for 2012, 2016, and 2021 conducted by BBC Research & Consulting
- Department of General Services' California Consolidated Annual Report for fiscal years 2017-18 through 2020-21

## RESULTS

### Outreach Requirements

State law requires Caltrans to perform five types of outreach activities, which it must include in its detailed outreach plan (refer to Appendix A for specific descriptions). Accordingly, Caltrans' 2019 detailed outreach plan included all five required outreach activities; however, we found that Caltrans has performed outreach in only four of the five outreach activities over the past three fiscal years (as depicted in Table 2 on the following page). Specifically, it has hosted workshops and training classes focused on opportunities to contract with the department; sponsored meetings to introduce prime contractors to new and limited contracting small business enterprises; sponsored opportunities, including prebid meetings and the department's Calmentor program, to increase contacts between prime contractors and new and limited contracting small business enterprises; and partnered with organizations representing persons and business enterprises from underrepresented groups to inform them on opportunities to participate in transportation contracts. However, Caltrans did not sponsor, fund, or partner with apprenticeship programs as required by law during fiscal years 2019-20 through 2021-22. Moreover, we found that it would benefit from establishing a process to measure the effectiveness of the various outreach activities that it conducts so that it knows which ones provide the most benefit.

On September 16, 2022, we attended the Caltrans' Statewide Small Business Council meeting which, according to Caltrans, complied with the requirement to partner with organizations representing persons and business enterprises from underrepresented groups to inform them of opportunities to participate in transportation contracts (outreach activity #5 in Table 2 on the following page). We observed interactive discussions between small business trade associations, Caltrans, and Caltrans' state and federal partners (e.g., Department of General Services and Federal Highway Administration). Topics included upcoming contracting opportunities for women and minority-owned firms, challenges and marketplace barriers that small businesses face, and strategies for small businesses to engage timely to compete for Caltrans' transportation-related contracts. Upcoming outreach events were announced on multiple occasions during this meeting, including the Caltrans' North Region Virtual Procurement Fair that took place in November 2022 (refer to Figure 1 on page 15 for a partial image of the event's promotional flyer).

We also reviewed other promotional flyers for Caltrans' hosted outreach efforts (see Figure 2 on page 16 for an example of a flyer associated with disadvantage business enterprise certification workshop in June 2022). Based on our observation at the Statewide Small Business Council meeting and our review of promotional flyers, these meetings are intended to create awareness, communicate resources, and develop connections for small businesses to help them grow and increase their opportunities to participate in Caltrans' contracts and projects.

**Table 2: Comparison of Caltrans' 2019 Outreach Plan with Statutorily Required Outreach Activities and Activities Performed during Fiscal Years 2019-20 through 2021-22**

Outreach Activities Required Per Government Code Section 14110.1(B)	Activity Included in Caltrans' 2019 Outreach Plan	Caltrans Outreach Activity Achieved
<b>(1) Sponsor, fund, or partner with apprenticeship programs</b> , including those engaged in specific efforts to increase participation in the transportation construction industry of all groups, including, but not limited to, women, minorities, LGBT, disabled veterans, disadvantaged youth, and formerly incarcerated individuals.	✓	✗
<b>(2) Host, fund, or partner with organizations that host workshops, training classes, and other activities around the state focused on opportunities to contract with the department.</b> Contracting opportunities discussed may include, but shall not be limited to, construction, communication, and consulting services in the areas of engineering, environmental, and surveying services.	✓	✓
<b>(3) Sponsor meetings to introduce prime contractors to new and limited contracting small business enterprises</b> , including, but not limited to, those owned by women, minority, disabled veterans, LGBT, and other disadvantaged groups.	✓	✓
<b>(4) Sponsor opportunities, including, but not limited to, prebid meetings and the department's Calmentor program</b> , to increase contacts between prime contractors and new and limited contracting small business enterprises, including, but not limited to, those owned by women, minority, disabled veterans, LGBT, and other disadvantaged groups.	✓	✓
<b>(5) Partner with organizations representing persons and business enterprises from underrepresented groups</b> , including, but not limited to, women, minority, disabled veterans, LGBT, and other disadvantaged groups, in a manner that will inform members of these organizations on opportunities to participate in transportation contracts.	✓	✓

Source: Table created using data provided by Caltrans.

**Figure 1: Promotional Flyer for Caltrans' North Region Virtual Procurement Fair Held in November 2022**

**Caltrans North Region [D1, D2, D3]**  
**Virtual Procurement Fair**  
 5 Sessions | Tuesday, November 8 - Thursday, November 10

*Caltrans North Region Virtual Procurement Fair*

**When**  
 Tuesday, November 8, 2022 at 10:00 AM PST  
 -to-  
 Thursday, November 10, 2022 at 12:00 PM PST  
[Add to Calendar](#)

**Where**  
 This is an online event.

**Contact**  
 Robynn Spence  
 Caltrans D3  
 d3.small\_business@dot.ca.gov

Caltrans Districts 1, 2, and 3 invite you to attend the North Region Virtual Procurement Fair. At this three-day event, learn about how Caltrans sources and purchases goods and services, find upcoming bid opportunities, and network with purchasers and advocates from Caltrans and other state agencies.

**A 90-day priority purchasing preference will be given to vendors who attend the fair!**

**Day 1 11/8/2022**

**Morning Session – 10:00AM – 12:00PM - Doing Business with Caltrans Selling Goods and Services under \$10,000 and Getting the Most Out of your Procurement Fair Experience**

This session will educate businesses on:

- How they can do business with Caltrans under 10,000 dollars when Caltrans uses the fair & reasonable procurement method and a Visa card (CAL-Card) as a payment method for procuring goods and/or services.
- Learn tips on how to make the most of their time meeting with departmental buyers, advice on how best to present themselves and share info that purchasers really care about and set themselves apart from the competition.

**Afternoon Session - 1:00PM - 3:00PM - How to do Business with the State of California Featuring the Office of Small Business and Disabled Veteran Business Enterprise (OSDS)**

In this session, OSDS staff will discuss how small businesses and businesses owned by disabled veterans can apply for certification to become preferred sellers in contracting with departments and agencies of the State of California.

Topics will include:

- Requirements and benefits of state certifications
- Registering and listing your business on Cal eProcure to get contacted and solicited for work by the state's buyers
- Using keywords and UNSPSC codes to list what products and services your business offers
- Finding competitive solicitations to bid on at [caleprocure.ca.gov](http://caleprocure.ca.gov)
- How to conduct research on what departments buy your business's products and services

Source: Caltrans' events website URL <http://events.r20.constantcontact.com/register/event?llr=uaj7ek7ab&oeidk=a07ejbvy8dn72466d29> (accessed September 16, 2022).



Figure 2: Promotional Flyer for the DBE Summit Held in June 2022



Source: Caltrans' website URL: <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/dbe/2022-dbe-summit-flyer-a11y.pdf> (accessed September 16, 2022).

**Caltrans did not sponsor, fund, or partner with apprenticeship programs.**

We found that Caltrans did not perform outreach in one of the five required outreach activities over the past three fiscal years, ending in June 2022. Specifically, Caltrans did not sponsor, fund, or partner with apprenticeship programs, including those engaged in specific efforts to increase participation in the transportation construction industry among certain groups, including women, minorities, disabled veterans, and disadvantaged youth as required by Government Code, Section 14110.1,(b)(1). Apprenticeships provide participants with on-the-job



learning and introduces them to the transportation construction industry.

Caltrans included in its detailed outreach plan objectives and implementation strategies to comply with this outreach activity required by statute. Specifically, Caltrans' staff indicated in its 2019 outreach plan that it had implemented an on-the-job training supportive services program. However, Caltrans' staff confirmed that they have not performed outreach in relation to its apprenticeship program (Government Code, Section 14110.1,(b)(1)).

The 2021 disparity study, which was conducted by an outside consulting firm, also addressed Caltrans' pre-apprenticeship program and found that the program is "not well-advertised or understood by the contracting community" and that Caltrans "should consider ways to increase outreach and engagement around the program." We think it would be prudent for Caltrans to execute its plan to increase outreach and engagement around its on-the-job training supportive services program and develop a formal tracking mechanism to self-assess whether it is complying with all required outreach activities.

**Table 3: Caltrans' Outreach Events Summary and Counts for Fiscal Years 2019-20 through 2021-22**

Caltrans' Hosted Events & Counts	Applicable to Government Code	2019-20 Count	2020-21 Count	2021-22 Count
	14110.1(b) Subsection:			
1:1 Meetings with Businesses	(2)	-	180	133
SB/DVBE/DBE Presentation	(2), (3), & (5)	77	37	20
DBE Certification Workshop	(2) & (5)	2	1	3
Meet the Primes – Construction	(3)	1	1	2
Meet the Primes – A&E	(3)	1	2	3
Construction Outreach (Inc. Pre-Bid Meetings)	(3) & (4)	29	37	12

Table continued on next page.

Caltrans' Hosted Events & Counts	Applicable to Government Code			
	14110.1(b) Subsection:	2019-20 Count	2020-21 Count	2021-22 Count
A&E Contract Outreach	(2) & (3)	20	21	18
Procurement Fairs/ Meet the Buyers	(3) & (5)	2	4	5
Small Business Council (Statewide and District)	(5)	17	0	18
Calmentor	(4)	5	8	6
Other	-	0	9	11
Total:		154	300	231

Caltrans' Partnered Events & Counts	Applicable to Government code			
	14110.1(b) Subsection:	2019-20 Count	2020-21 Count	2021-22 Count
Minority Business Assistance Organization	(2), (3), (4), & (5)	17	28	22
Business Assistance Organization	(2), (3), (4), & (5)	35	34	26
Government Agency	(2) & (5)	31	23	22
Construction Industry	(2), (3), & (5)	5	8	2
A&E Industry	(2), (3), & (4)	0	0	2
Total:		88	93	74
Cumulative Total:		242	393	305

Source: Unaudited data as reported by the Caltrans' Office of Civil Rights in September and December 2022.

**Caltrans could benefit by developing a formal tracking process to analyze the effectiveness of its outreach activities.**

Caltrans could benefit by developing a method to analyze the effectiveness of its outreach activities so that it better leverages those that provide the most value. Caltrans has not formally analyzed the effectiveness of its outreach efforts to determine which activities resulted in increased procurement opportunities for new and limited small business enterprises (i.e., increase in bid submittals and contract awards). Caltrans' 2019 detailed outreach plan indicated that its Office of Civil Rights "will track outreach efforts ... and attempt to correlate outreach efforts with bid submittals and potential awards." Consequently, we expected to see that Caltrans had evaluated the effectiveness of its outreach activities through attendee surveys, for example, to assess whether the events were successful at encouraging firms to submit bids or becoming certified as small, disabled veteran, and/or disadvantaged business enterprise.

When we asked Caltrans for information on the effectiveness of outreach efforts, Caltrans' staff stated that it does not have data to determine effectiveness. They also told us they recognize the benefit of evaluating outreach activities to identify the effectiveness of its outreach in increasing small and disadvantaged business enterprise participation and plan on performing this type of analysis going forward. This analysis could also help Caltrans identify which outreach efforts could be improved to increase procurement and contracting opportunities for new and limited contracting small business enterprises. Without a formal analysis, Caltrans may be missing opportunities to better target outreach efforts to small, disabled veteran, and disadvantaged business enterprises.

### Reporting Requirements

State law and federal regulations require Caltrans to prepare and submit various reports to the Legislature and federal government concerning its contracting activities with small, disabled veteran, and disadvantaged business enterprises. However, we found that Caltrans has complied with only four of the seven reporting requirements over the past five fiscal years. The requirements Caltrans complied with (as depicted in Table 4) include: developing and submitting to the State a detailed outreach plan intended to increase procurement opportunities for new and limited small business enterprises, reporting to the State annually on its contracting activities with small and disabled veteran businesses, reporting to the federal government semi-annually on its contracting activities with disadvantaged business enterprises, and submitting to the federal government a shortfall analysis when it did not reach its annual contracting participation goals. However, Caltrans did not comply with three other requirements: it did not develop and submit to the Legislature a plan to increase by up to 100 percent the dollar value of contracts and procurements awarded to small, disabled veteran, and disadvantaged business enterprises; it did not submit to the Legislature an updated outreach plan for its disadvantaged business enterprise program; and it did not submit to the Legislature annual reports showing the breakdown of entities receiving public contracts.

**Table 4: Caltrans' Compliance with Statutory Reporting Requirements for fiscal years 2017-18 through 2021-22**

Number	Reporting Requirements	2017-18	2018-19	2019-20	2020-21	2021-22
1	<p><b>100 Percent Increase Plan</b></p> <p>Caltrans shall develop a <b>plan</b> by January 1, 2020, <b>to increase by up to 100 percent</b> the dollar value of contracts and procurements awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises. The plan shall include the use of targeted media, including minority and women business enterprises, to outreach to these businesses and shall be provided to the Legislature pursuant to Section 9795. (GC 14110)</p>	N/A	N/A	<b>X</b>	N/A	N/A

Table continued on next page.

Number	Reporting Requirements	2017-18	2018-19	2019-20	2020-21	2021-22
2	<p><b>Detailed Outreach Plan</b></p> <p>Caltrans shall develop and submit to the Legislature, by January 1, 2019, a <b>detailed outreach plan</b> intended to increase procurement opportunities for new and limited contracting small business enterprises, including, but not limited to, those owned by women, minority, disabled veterans, LGBT, and other disadvantaged groups, in all the department's transportation programs, including, but not limited to, state road repairs, bridge repair and maintenance, trade corridors, congestion commute corridors, and local partnerships. (GC 14110.1, (a)(1))</p> <p>Caltrans shall submit the outreach plan and each update thereafter, to specified Legislative caucuses. (GC 14110.1,(c))</p>	N/A	✓	N/A	N/A	N/A
3	<p><b>Updated Outreach Plan</b></p> <p>Caltrans shall <b>update the outreach plan</b> based on the outcome of any disparity study undertaken every three years as part of the federal Disadvantaged Business Enterprise Program. (GC 14110.1, (a)(2))</p> <p>Caltrans shall submit the updated outreach plan, to specified Legislative caucuses. (GC 14110.1,(c))</p>	N/A	N/A	N/A	N/A	X
4	<p><b>Annual SBAC Report</b></p> <p>Caltrans shall <b>annually report</b> to the Legislature, pursuant to Section 14110.2, the percentages of entities receiving public contracts from the department, disaggregated by classifications, including, but not limited to, new and limited contracting enterprises, and women, minority, disabled veteran, and LGBT business enterprises, and further disaggregated within each of these classifications by contract size categories, as determined by the department. (GC 14110.1,(d))</p>	N/A	N/A	X	X	X

Table continued on next page.

Number	Reporting Requirements	2017-18	2018-19	2019-20	2020-21	2021-22	
5	<b>CAR Report</b>						
	Caltrans is required to report annually on its contracting activity with SBs and DVBEs. Caltrans reports contracting activity to the California Department of General Services on its Contracting Activity Report. (PCC 10111)	✓	✓	✓	✓	✓	
6	<b>DBE Uniform Report</b>						
	Caltrans is required to report semi-annually on its contracting activities with DBEs. Caltrans reports contracting activity to FHWA on its Uniform Report of DBE Awards/ Commitments and Payments. (49 CFR Part 26)	✓	✓	✓	✓	✓	
7	<b>Shortfall Analysis</b>						
	If in any fiscal year Caltrans does not meet the required SB, DVBE, and DBE annual participation goal(s), Caltrans must analyze reasons why the goal was not met and prepare a plan of action to correct the issues and meet the participation goal for the new fiscal year. (GC 14838.1(f) and 49 CFR Part 26.47)	SB:	*	*	*	*	*
		DVBE:	*	*	*	*	*
DBE:		*	*	✓	✓	✓	

Source: Analysis by the Independent Office of Audits and Investigations

NA = Not applicable; report not required in that fiscal year.

\* = Based on award data reported by Caltrans, the annual participation goal was met or exceeded. As a result, a shortfall analysis was not required.

**Caltrans has not submitted to the Legislature a required plan to increase by up to 100 percent the dollar value of contracts and procurements awarded to small, disabled veteran, and disadvantaged business enterprises.**

Caltrans did not submit to the Legislature by January 1, 2020, its plan to increase by up to 100 percent the dollar value of contracts and procurements awarded to SBs, DVBEs, and DBEs. Internally, Caltrans developed a document that might have partially satisfied this requirement, called the Small Business Annual Contracting (SBAC) report which it produces on an annual basis. Staff told us that “the SBAC report was developed to show progress towards the requirement of increasing contracts by up to 100 percent the dollar value of contracts and procurements awarded to SB’s, DVBE’s, and DBE’s.” However, these reports were never finalized, and as such, remain in draft form. In addition, we noted that the reports did not include a plan of action, such

as a list of the steps Caltrans would take to reach the goal, as well as a timeframe by which Caltrans would achieve its goal. In fact, when we asked Caltrans when it anticipated to achieve its goal, it stated that it had no target date.

Caltrans' draft SBAC reports described how Caltrans established "a baseline to measure the objective of increasing the dollar value of contracts and procurements to small businesses, disadvantaged business enterprises and disabled veteran business enterprises by up to 100 percent." Starting in 2020-21, the draft SBAC reports indicate that Caltrans established a baseline to measure this objective by using a three-year average of contract awards to the business categories, specifically from the 2014-15, 2015-16, and 2016-17 fiscal years. Table 5 presents the baseline calculation.

Based on our review of three draft SBAC reports, which included fiscal years 2019-20, 2020-21, and 2021-22, we found that none of them included a detailed plan describing **how** Caltrans would increase by up to 100 percent the dollar value of contracts and procurements awarded to small, disabled veteran, and disadvantaged business enterprises. For example, Caltrans is required to include in this plan the use of targeted media, including minority and women business enterprises, to outreach to these businesses. The 2019-20, 2020-21, and 2021-22 draft SBAC reports do not include this type of information. Regardless, Caltrans has yet to submit a detailed plan, including any of its SBAC reports, to the Legislature.

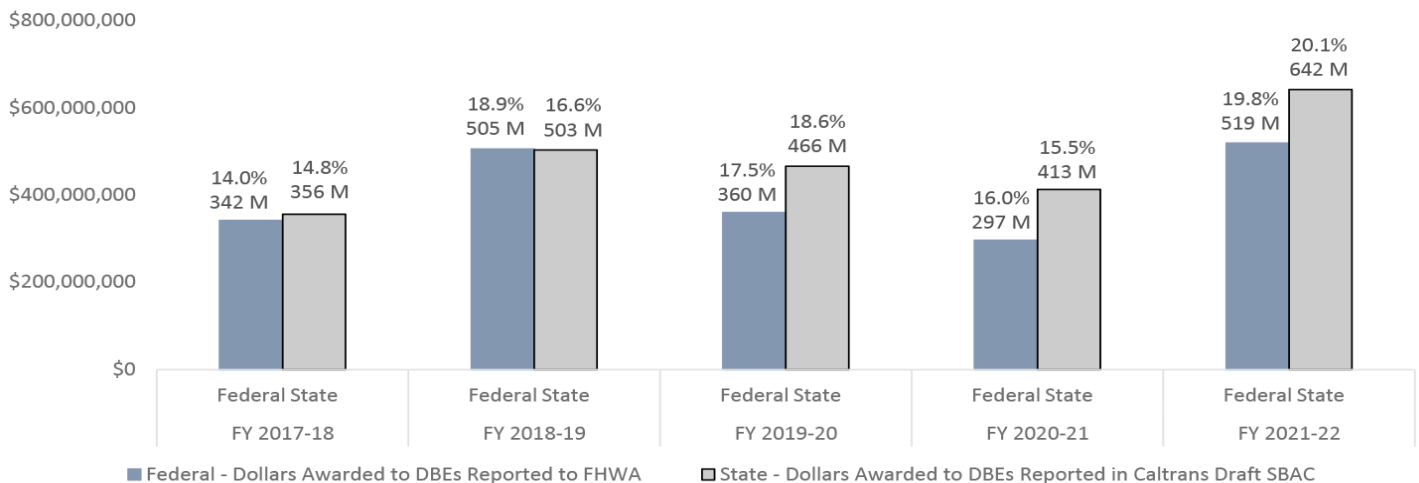
Moreover, we noted material discrepancies in the dollar amounts Caltrans claimed that it awarded to DBEs between the draft SBAC reports and the reports Caltrans did submit to the Federal Highway Administration for the same periods of time. As illustrated in Figure 3 on the following page, the dollar value of awards Caltrans claimed to have awarded DBEs over the last five fiscal years is different in each type of report. For example, in its latest report for fiscal year 2021-22, Caltrans included in its draft SBAC report that it awarded about \$642 million to DBEs; however, for the same period, Caltrans reported to the federal government that it awarded about \$519 million to DBEs, a difference of \$123 million.

**Table 5: Caltrans' Baseline Amounts for its Small, Disabled Veteran, and Disadvantaged Business Enterprises Programs**

Component	Small Business Enterprises	Disabled Veteran Business Enterprises	Disadvantaged Business Enterprises
Total Caltrans Contracts & Procurements Awarded in FYs 2014-15 through 2016-17	\$1,278,177,866	\$150,839,921	\$845,213,267
Baseline (3-year average of contract awards)	\$426,059,289	\$50,279,974	\$281,737,756 <sup>7</sup>
100% Value (Baseline x 2)	\$852,118,578	\$100,559,948	\$563,475,512
Total Caltrans Contracts & Procurements Awarded in Fiscal Year 2021-22 <sup>8</sup>	\$828,660,836	\$93,830,020	\$519,391,636
Percentage Change	94.49%	86.62%	84.35%

Source: Unaudited data from Caltrans' draft Small Business Contracting Annual (SBAC) Report for fiscal year 2019-20. Small and Disabled Veteran Enterprise Data from Caltrans Contracting Activity Report (Form 810) for fiscal year 2021-22. Disadvantaged Business Enterprise Data from Caltrans' Uniform Report of DBE Awards/ Commitments and Payments for fiscal year 2021-22.

**Figure 3: Contract Amounts Caltrans Awarded to DBEs as Reported in Draft SBAC Reports and Reports to FHWA**



Source: Unaudited data from Caltrans' draft Small Business Contracting Annual (SBAC) Report for fiscal year 2021-22 and Uniform Report of DBE Awards/ Commitments and Payments reported to FHWA for fiscal years 2017-18 through 2021-22. Percentage numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

<sup>7</sup> Corrected amount (original amount reported by Caltrans as \$413,353,684 in its 2020-21 draft SBAC report and \$285,091,246 in its 2021-22 draft SBAC report).

<sup>8</sup> Source: Small and Disabled Veteran Enterprise Data from Caltrans Contracting Activity Report (Form 810) for fiscal year 2021-22. Disadvantaged Business Enterprise Data from Caltrans' Uniform Report of DBE Awards/ Commitments and Payments for fiscal year 2021-22.



Caltrans' staff told us these differences are due to its decision to include state dollars in its DBE calculations for the SBAC reports; however, Caltrans did not separate the dollar amounts for federal and state awards. To comply with federal requirements, including the percentage of awards to DBEs, the federal funding portion must be kept separate from other funding sources. Although Caltrans has not published any of its SBAC reports, its process of blending its funding sources is potentially problematic from a transparency perspective. Having different dollar values for federal and state reporting purposes is confusing and potentially misleading.

**Caltrans has not submitted to the Legislature a required update to its 2019 outreach plan.**

Caltrans updated its 2019 detailed outreach plan in May 2022 based on the outcome of the 2021 disparity study. However, we found that Caltrans has not submitted the updated outreach plan to the Legislature, as required. When we asked about the delay in submitting the updated outreach plan to the Legislature, Caltrans stated this report was still under internal review.

**Caltrans has not submitted to the Legislature any of its required annual reports that identify the percentages of entities receiving public contracts, by various classifications.**

Although Caltrans has prepared draft annual SBAC reports for fiscal years 2019-20 through 2021-22 that include data on its contracting activities with SBs, DVBEs, and DBEs, the reports have not been finalized nor sent to the Legislature, as required. When we asked Caltrans for a status update on these reports, it stated that they were still under internal review.

We found, however, that Caltrans has reported annually on its contracting activity with SBs and DVBEs to the California Department of General Services. The Department of General Services includes this information in its public annual report on state contracting activity. We also found that Caltrans has reported semi-annually on its contracting activities with DBEs to the FHWA and has reported some of this information to the public. Specifically, Caltrans posted on its website monthly contract and commitment at award reports that provide similar types of information, such as the tracking of its DBE commitment, contract goals, dollar value of contracts awarded through the current fiscal year, and break down of DBE contracts awarded by ethnicity/gender and the dollar amount for each group. Although Caltrans has publicly reported on its contracting activity with SBs, DVBEs, and DBEs, the information is neither being reported in a centralized location nor directly to the Legislature.

Based on our review of the draft SBAC reports, the information included in them identifies percentages of entities receiving public contracts from Caltrans, disaggregated by classifications, such as number of state and federal funded contracts awarded by contract size and demographic classification (i.e., ethnicity, race, gender, etc.), and the number and total contract amounts of state and federal funded contracts Caltrans awarded to limited and new small business enterprises (which are defined in the text box).

However, when comparing the information reported in these three reports, we found that Caltrans

does not consistently report on program performance. For instance, in its 2019-20 SBAC report, Caltrans included data on contract amounts awarded to DBEs disaggregated by ethnicity, race, and gender groups, and displayed the weighted average of each ethnicity's availability along with the differences between total awards and each group's availability. In contrast, the 2020-21 SBAC report did not include this same type of data. Another inconsistency we noted is that in the 2019-20 SBAC report, Caltrans included state and federal dollars awarded to new and limited contracting small business enterprises, but in its 2020-21 SBAC report, Caltrans only reported on the state dollars that it awarded to these firms.

Lastly, we found that Caltrans indicated in its 2021-22 SBAC report that contracts it awarded to DBE firms included State Highway Administration and FHWA funding, whereas the 2019-20 and 2020-21 SBAC reports indicated Caltrans only included FHWA funded contract values awarded to DBE firms. These inconsistencies make it difficult to compare year-to-year program performance. We plan to continue our review of Caltrans' methodology for producing these annual reports in our next report. Nevertheless, despite having prepared these internal SBAC reports, none of them have been submitted to the Legislature, as required.

#### Limited and New Small Business Enterprise

Limited contracting small business enterprise means a certified small business, as defined in Government Code, Section 14837, that has received fewer than five public contracts from the department in the previous two years or has received public contracts from the department totaling less than two hundred fifty thousand dollars (\$250,000) in the previous two years.

New small business enterprise means a certified small business, as defined in Section 14837, that has not received a public contract from the department in the previous two years.

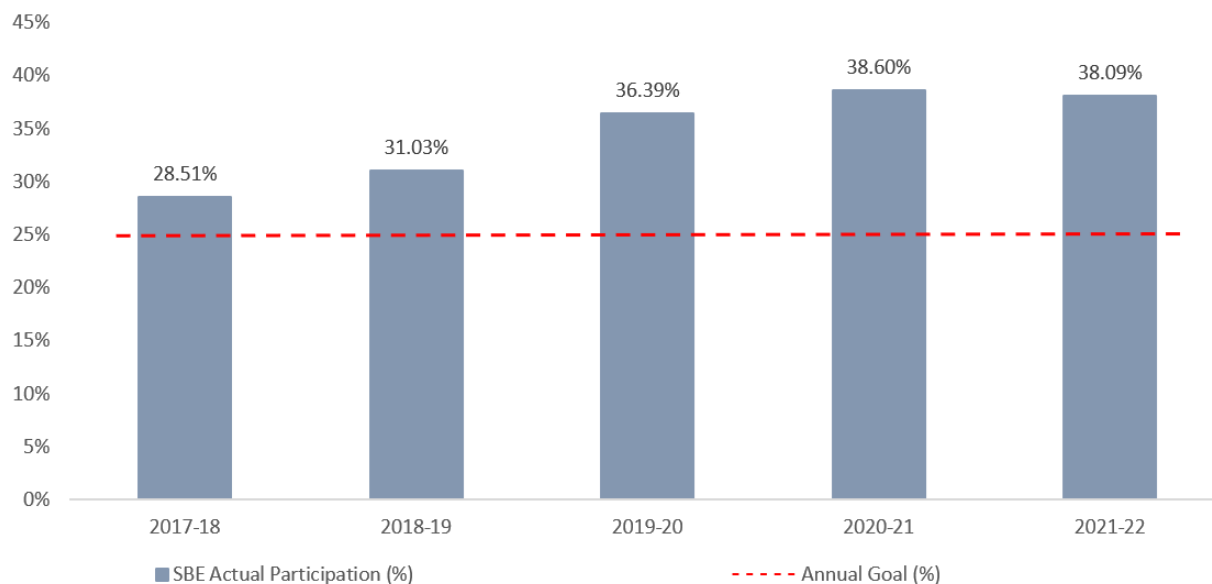
Source: Government Code Section 14110.1.(g)

**Performance Goals**

**Caltrans has exceeded its overall small business and disabled veteran business enterprises' annual performance goal in each of the past five fiscal years.**

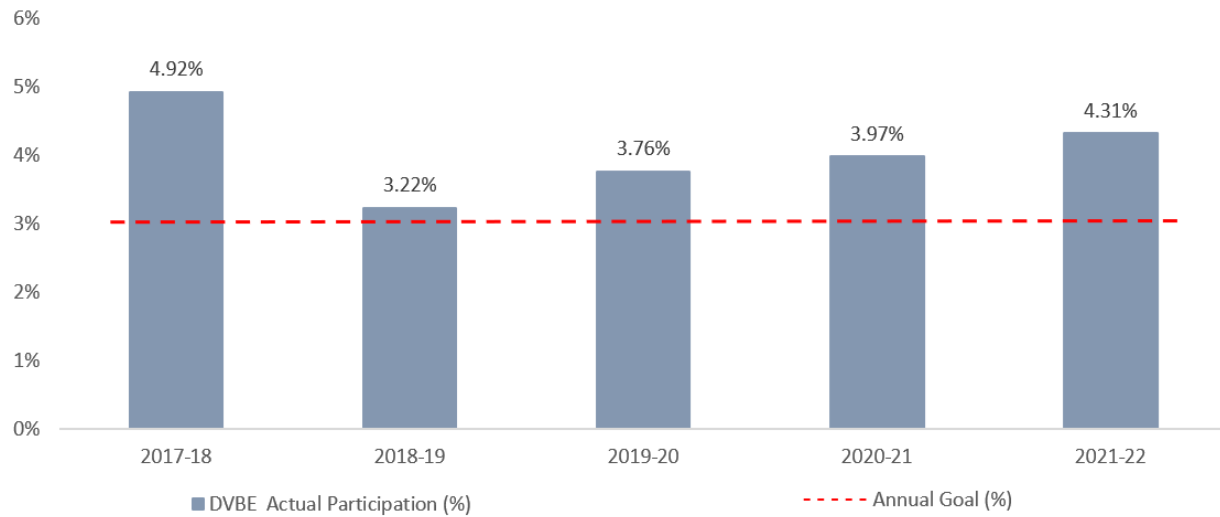
State law requires Caltrans to achieve minimum annual performance goals for its small and disabled veteran business enterprise programs. Specifically, the law requires Caltrans to award contracts to small and disabled veteran business enterprises in the amount of 25 percent and 3 percent, respectively, of total contract awards. We found that Caltrans has consistently exceeded the 25 percent and 3 percent minimum performance goals over the past five fiscal years (refer to Figures 4 and 5, respectively).

**Figure 4. Small Business Enterprise Participation Rate Over Time and Relative to Annual Goal of 25 Percent**



Source: Chart created using unaudited data from Department of General Services' California Consolidated Annual Report for fiscal years 2017-18 through 2020-21 and Caltrans Contracting Activity Report (Form 810) for fiscal year 2021-22.

**Figure 5. Disabled Veteran Business Enterprise Participation Rate Over Time and Relative to Annual Goal of 3 Percent**

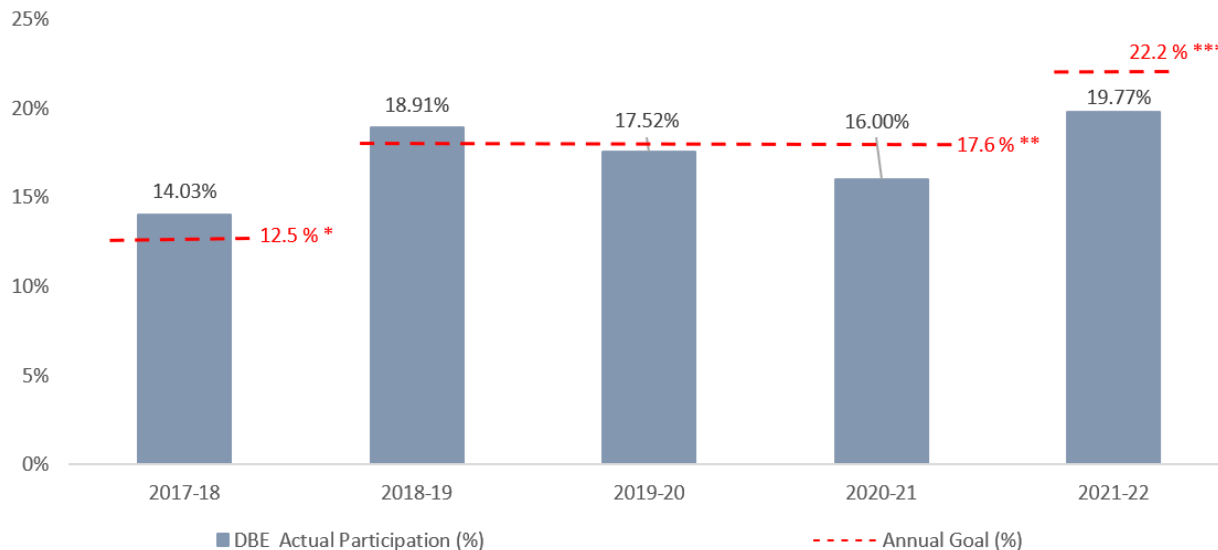


Source: Chart created using unaudited data from Department of General Services' California Consolidated Annual Report for fiscal years 2017-18 through 2020-21 and Caltrans Contracting Activity Report (Form 810) for fiscal year 2021-22.

**Caltrans has not met its annual disadvantaged business enterprise performance goal in the past three fiscal years.**

Federal regulations require Caltrans to achieve a minimum annual performance goal for its DBE program. Unlike the state programs, however, the annual performance goal for this program is ultimately set by Caltrans every third fiscal year. Accordingly, Caltrans has had three different performance goals in the past five fiscal years, which were: 12.5 percent for fiscal year 2017-18, 17.6 percent for fiscal years 2018-19 through 2020-21, and 22.2 percent for fiscal year 2021-22. However, we found that Caltrans has not met its performance goal in three of the five past fiscal years (as depicted in Figure 6 on the following page).

**Figure 6. Disadvantaged Business Enterprise Participation Rate Over Time and Relative to Annual Goal**



Source: Chart created using unaudited data from Caltrans' Uniform Report of DBE Awards/Commitments and Payments.

\* The 12.5 percent rate was established for fiscal years 2015-16 through 2017-18.

\*\* The 17.6 percent rate was established for fiscal years 2018-19 through 2020-21.

\*\*\* The 22.2 percent rate was established for fiscal years 2021-22 through 2023-24.

Caltrans raised its percentage goal line in three of the past five years; however, its actual performance during that timeframe was somewhat mixed. In fiscal year 2017-18 and fiscal year 2018-19, Caltrans was able to stay ahead of the established goal, but its performance dropped below the established goal beginning in fiscal year 2019-20. Despite its drop in performance relative to its goal in fiscal year 2020-21, Caltrans increased its goal and performance in fiscal year 2021-22, but ultimately fell short of its 22.2 percent goal after achieving a rate of only 19.77 percent.

When we asked Caltrans for its perspective on how it planned to reach its new DBE goal of 22.2 percent in 2021-22 being that its performance in fiscal year 2020-21 was only 16 percent, Caltrans' staff stated the 22.2 percent goal is an aspirational goal. Caltrans is optimistic about reaching this goal and continues to increase and improve the availability and utilization of small businesses in Caltrans' contracts and procurements through outreach efforts and engagements. Caltrans' staff shared some of their strategies to increase performance which included a four-day training program focused on DBEs, providing supportive services to prospective and certified DBEs, and working with Caltrans' Division of Procurement and Contracts to improve outreach.

In addition, Caltrans communicated at its November 2022 Statewide Small Business Council meeting, which we attended, its interest in working with council members to come up with ways to conduct outreach

and provide more contracting opportunities for DBEs. Caltrans' staff also communicated at this meeting that Caltrans is promoting dual certification, which was described as a business entity having both DBE and small or disabled veteran business enterprise certifications, to provide additional opportunities for DBEs.

## RECOMMENDATIONS

- To ensure Caltrans performs all required outreach activities, it should develop a formal process to track which activities it conducts and link them to each of the required outreach activities specified in Government Code, Section 14110.1,(b).
- To evaluate the effectiveness of its outreach efforts, Caltrans should perform an assessment of past activities and determine which were successful at increasing the number of bid submittals and contract awards to small, disabled veteran, and disadvantaged business enterprises.
- To comply with the reporting requirement listed in Government Code, Section 14110, Caltrans should develop and submit to the Legislature its plan to increase by up to 100 percent the dollar value of contracts and procurements awarded to small, disabled veteran, and disadvantaged business enterprises.
- To increase public transparency and accountability over its small, disabled veteran, and disadvantaged business enterprise programs, Caltrans should timely submit all required plans and annual reports specified in Government Code, Sections 14110.1,(a)(2) and 14110.1,(d) to the Legislature.
- To ensure that its overall annual disadvantaged business enterprise participation goal is reached, Caltrans should include in its shortfall analysis explanations of how proposed corrective actions will increase disadvantaged business enterprise participation in the current year and include a timeline for implementation, as federal regulations require.
- To increase transparency of its disadvantaged business enterprise reporting methods, Caltrans should separately account for state and federal award information that is included in its calculations.

### Looking Ahead: IOAI's Future Preliminary Audit Objectives and Methods

Government Code Section 14110.1, directs the Inspector General to review, audit, and report on Caltrans' outreach efforts required by this section. In addition, the Inspector General shall audit businesses as appropriate to ensure that persons associated with entities that do not meet the definition of a new or limited contracting small business enterprise do not create a new associated entity that would meet the definition of new or limited contracting small business enterprise and thus subvert the purposes of this section.

Preliminary Audit Objectives	Preliminary Methods
<p>1. Determine whether Caltrans updated its 2019 published detailed outreach plan based on the outcome of the 2021 disparity study and submitted it to the Legislature.</p>	<p>Review Government Code 14110.1 to obtain an understanding of what should be detailed in Caltrans updated outreach plan.</p> <p>Obtain a copy of the updated outreach plan and determine if Caltrans submitted it to the Legislature.</p>
<p>2. Validate whether Caltrans has conducted its required outreach efforts.</p>	<p>Obtain complete listings of outreach activities conducted during fiscal years 2019-20, 2020-21, and 2021-22 and determine whether these activities meet GC 14110.1(b) requirements.</p> <p>Select a sample of outreach activities performed during fiscal years 2019-20 through 2021-22 to verify occurrence by reviewing supporting documentation that demonstrate the outreach activity took place.</p> <p>Assess, to the extent possible, whether outreach activities conducted by Caltrans correlate with increase in participation by small, disabled veteran, and disadvantaged business enterprises in Caltrans contracts</p>

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Preliminary Audit Objectives	Preliminary Methods
<p>3. Determine if Caltrans annually reported to the Legislature percentages of entities receiving public contracts from the department disaggregated by classifications and contract size categories as determined by the department.</p>	<p>Obtain an understanding of Caltrans' methodology for producing annual reports. Specifically, how Caltrans compiles, tracks, counts, and reports SB, DVBE, and DBE participation on Caltrans projects by classifications (i.e., ethnicity, gender, contract type) and contract size.</p> <p>Compile and analyze information on Caltrans contracts awarded to certified small, disabled veteran, and disadvantaged business enterprises in fiscal years 2019-20 through 2021-22 to determine whether Caltrans is reporting accurate and reliable information.</p> <p>Verify DBE firms counted toward Caltrans DBE goal are certified in a North American Industry Classification System code applicable to the kind of work the firm would perform on the contract it was awarded.</p>
<p>4. Determine whether small businesses that Caltrans awarded contracts to meet the definition of a new or limited contracting small business enterprise.</p>	<p>Obtain an understanding of how business enterprises get certified as SB, DVBE, and DBE and how the determination is made that the business is a legitimate small or disadvantaged business enterprise. Interview staff from Caltrans and the Department of General Services to obtain an understanding of the certification review process of certified SB, DVBE, and DBE firms.</p> <p>Identify and match vendors awarded Caltrans contracts during fiscal years 2017-18 through 2021-22 to Caltrans directory of certified DBEs and Department of General Services' statewide list of certified SBs and DVBEs, on a sample basis.</p>

## APPENDIX A

### Description of Required Outreach Activities Included in Caltrans' 2019 Outreach Plan

1. Sponsor, fund, or partner with apprenticeship programs. FHWA allocates funds annually to Caltrans to implement an On-the-Job Training Supportive Services program. The On-the-Job Training Supportive Services program seeks to increase the employability of historically underrepresented individuals in the highway construction trades.
2. Host, fund, or partner with organizations that host workshops, training classes, and other activities around the state focused on opportunities to contract with the department. FHWA allocates funding annually to Caltrans for the provision of Disadvantaged Business Enterprise Supportive Services to certified and potential Disadvantaged Business Enterprises at no-cost to participants. Services are made available on a contract basis and include: training, technical assistance, and assistance in preparing and/or updating business plans.
3. Sponsor meetings to introduce prime contractors to new and limited contracting small business enterprises. Meet the primes events facilitate exchanges between prime contractors and small businesses. Each event features a panel of several established prime contractors that educated participating small businesses about the components of a successful bid, the type of work they typically subcontract out, and the resources they make available to assist small businesses to compete for work.
4. Sponsor opportunities, including, but not limited to, prebid meetings and the department's Calmentor program, to increase contacts between prime contractors and small businesses. Caltrans intends to foster new relationships by creating opportunities for small businesses to meet face-to-face with prime contractors to review qualifications, exchange information, and discuss potential contracting opportunities, requirements, and expectations. Caltrans will develop a campaign for ongoing recruitment of mentors to participate in its Calmentor program.
5. Partner with organizations representing persons and business enterprises from underrepresented groups. Caltrans' statewide Small Business Council is an external advisory committee comprised of a diverse group of individuals and business owners representing multicultural, multi-ethnic trade associations; chambers of commerce; and other business assistance organizations. The purpose of Caltrans' statewide Small Business Council is to encourage small business participation on Caltrans' contracts and provide a forum to obtain feedback about Caltrans' policies and procedures that impact small business utilization.

Source: Caltrans' 2019 Outreach Plan

## APPENDIX B

### Definition of Socially and Economically Disadvantaged

Socially and economically disadvantaged means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the United States Small Business Administration (SBA), at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Source: 49 CFR Part 26.5

## APPENDIX C

Caltrans' annual goal for Disadvantaged Business Enterprises (DBE) in Federal Highway Administration funded transportation contracts is made up of individual components by racial/ethnic and gender groups. Figure 7 lists Caltrans' current 22.2 percent goal, as presented in its 2021 disparity study, broken down by racial/ethnic and gender group and by industry.

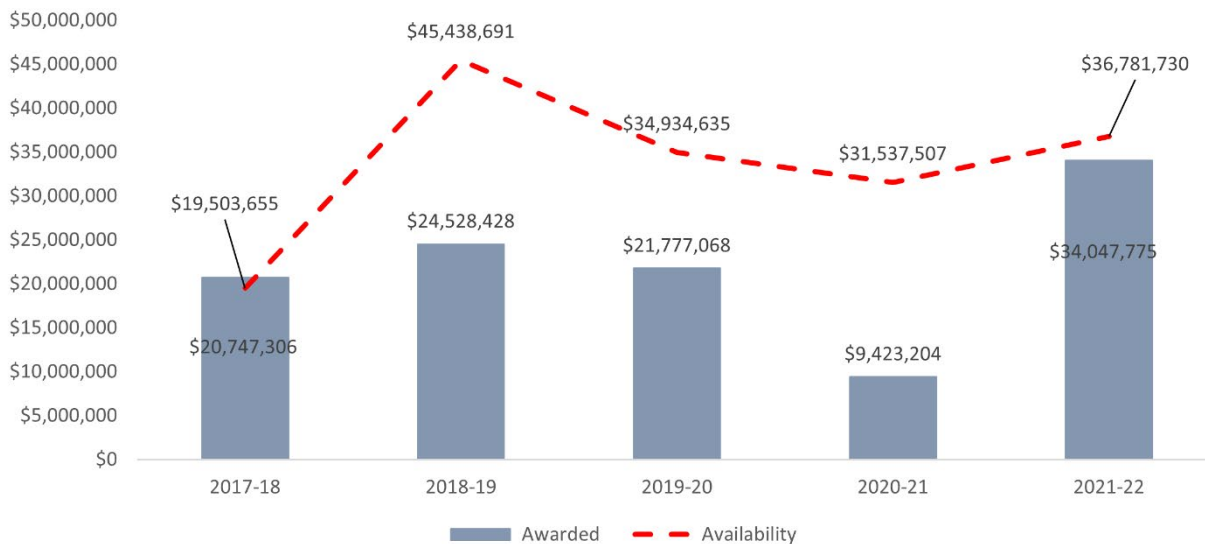
Using the data Caltrans submitted to the federal government each year and the availability percentages from Caltrans' disparity studies in 2012, 2016, and 2021, we present each ethnic groups' total contract dollar participation amount compared to their respective weighted average availability percentages over the past five fiscal years.

**Figure 7. Caltrans' 2021-22 Through 2023-24 Disadvantaged Business Enterprise Goal Base Figure Calculation by Racial/Ethnic and Gender Group**

Potential DBEs	Availability Percentage		
	Construction	Professional Services	Weighted Average
Asian Pacific American	2%	5.6%	2.7%
Black American	1.2%	2.2%	1.4%
Hispanic American	11.8%	2.8%	10%
Native American	1.1%	0.7%	1%
Subcontinent Asian American	1.1%	2.1%	1.3%
Non-Hispanic white woman	4.7%	9.9%	5.7%
<b>Total potential DBEs</b>	<b>22%</b>	<b>23.3%</b>	<b>22.2%</b>
<b>Industry weight</b>	<b>80%</b>	<b>20%</b>	-

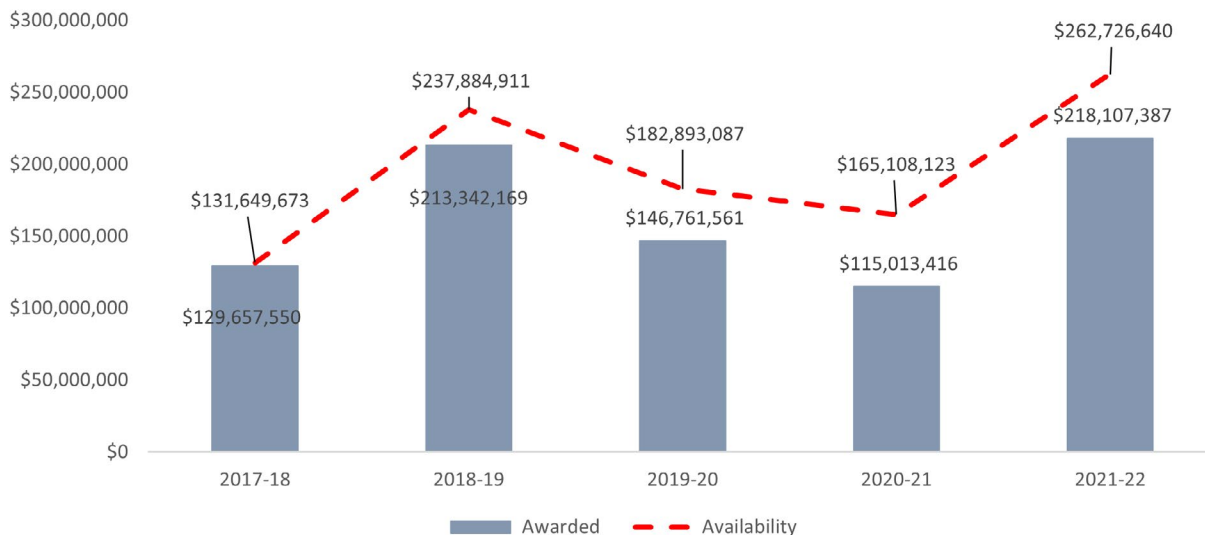
Source: Caltrans' Disparity Study for 2021, Chapter 9, page 2, Figure 9-1. Numbers have been rounded to nearest tenth of 1 percent and therefore do not sum exactly to totals.

**Figure 8. Black American Contract Dollar Participation Amount Over Time and Relative to Availability**



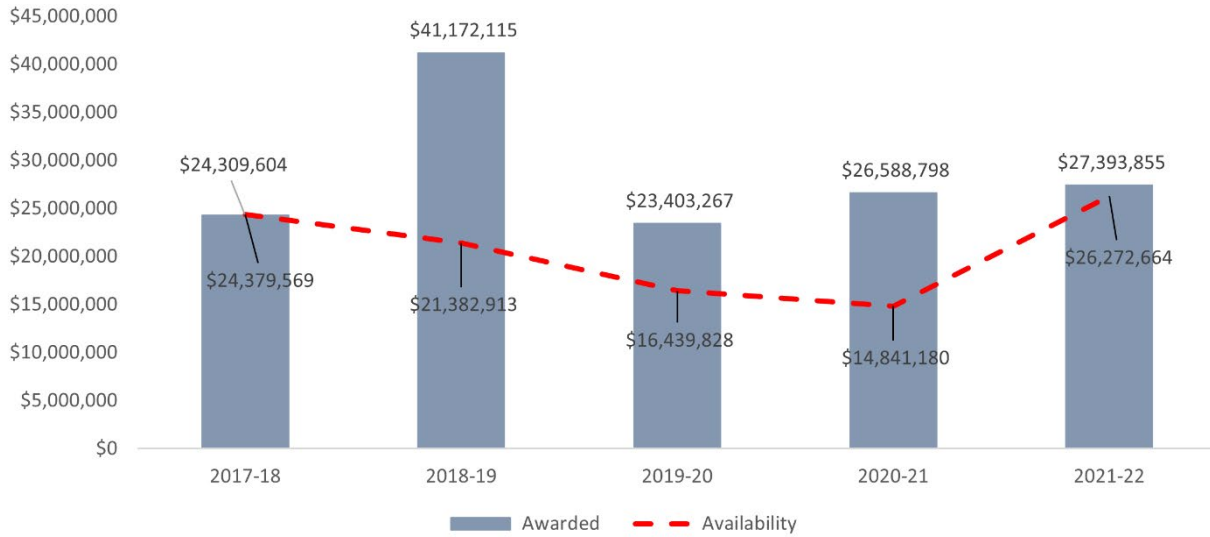
Source: Chart created using unaudited data from Caltrans' Semi Annual and Annual Uniform Report of DBE Awards/ Commitments and Payments for Federal Fiscal Years 2017-18 through 2021-22 and Disparity Studies for 2012, 2016, and 2021. Availability percentage numbers used from the disparity studies were rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

**Figure 9. Hispanic American Contract Dollar Participation Amount Over Time and Relative to Availability**



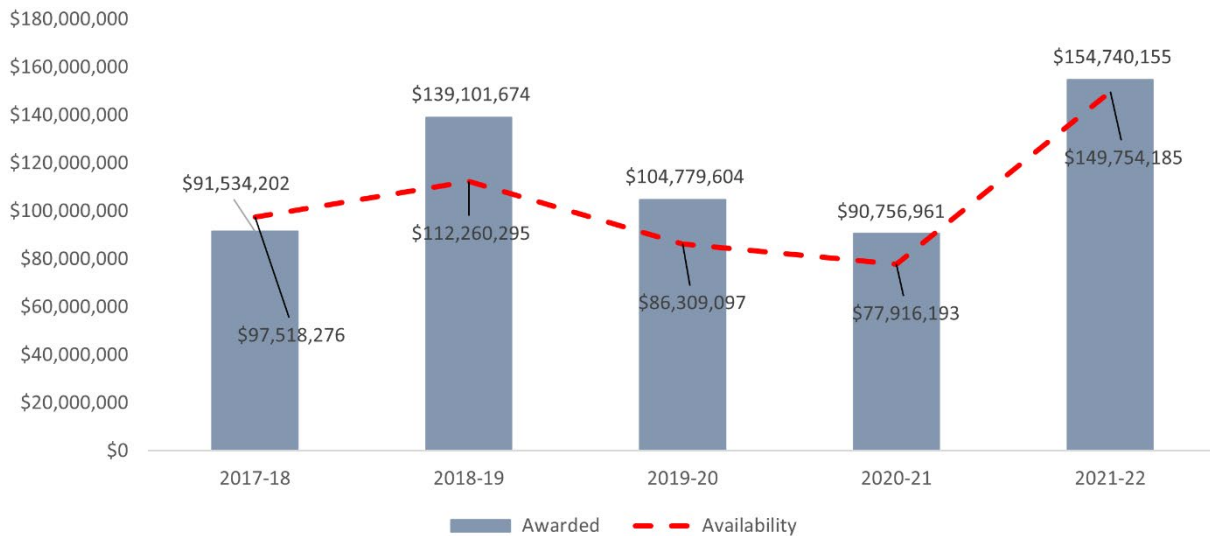
Source: Chart created using unaudited data from Caltrans' Semi Annual and Annual Uniform Report of DBE Awards/ Commitments and Payments for Federal Fiscal Years 2017-18 through 2021-22 and Disparity Studies for 2012, 2016, and 2021. Availability percentage numbers used from the disparity studies were rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

**Figure 10. Native American Contract Dollar Participation Amount Over Time and Relative to Availability**



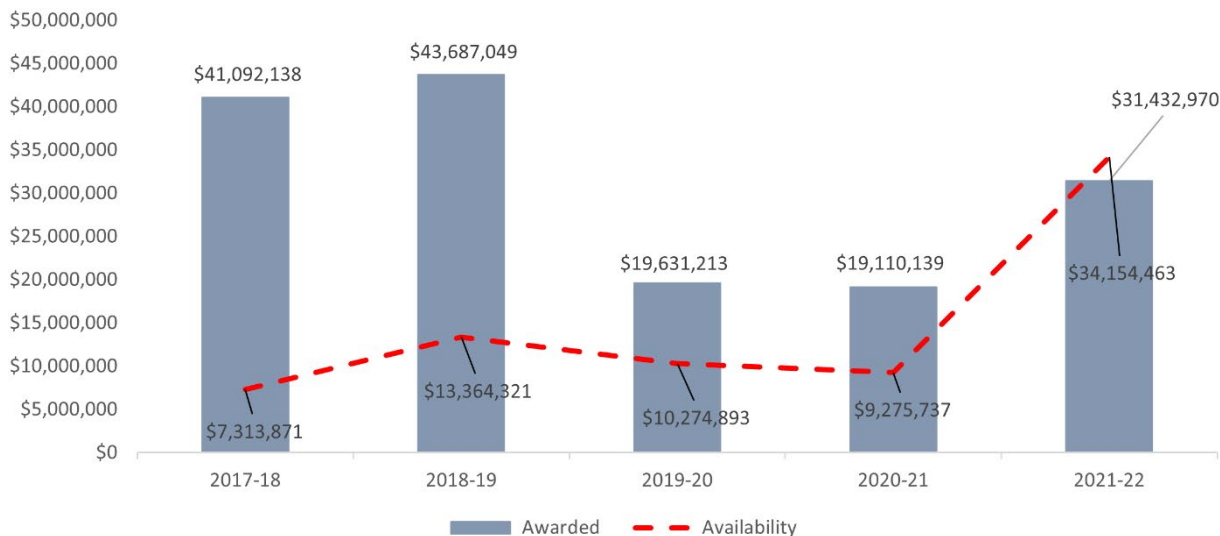
Source: Chart created using unaudited data from Caltrans' Semi Annual and Annual Uniform Report of DBE Awards/ Commitments and Payments for Federal Fiscal Years 2017-18 through 2021-22 and Disparity Studies for 2012, 2016, and 2021. Availability percentage numbers used from the disparity studies were rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

**Figure 11. Non-Minority Contract Dollar Participation Amount Over Time and Relative to Availability**



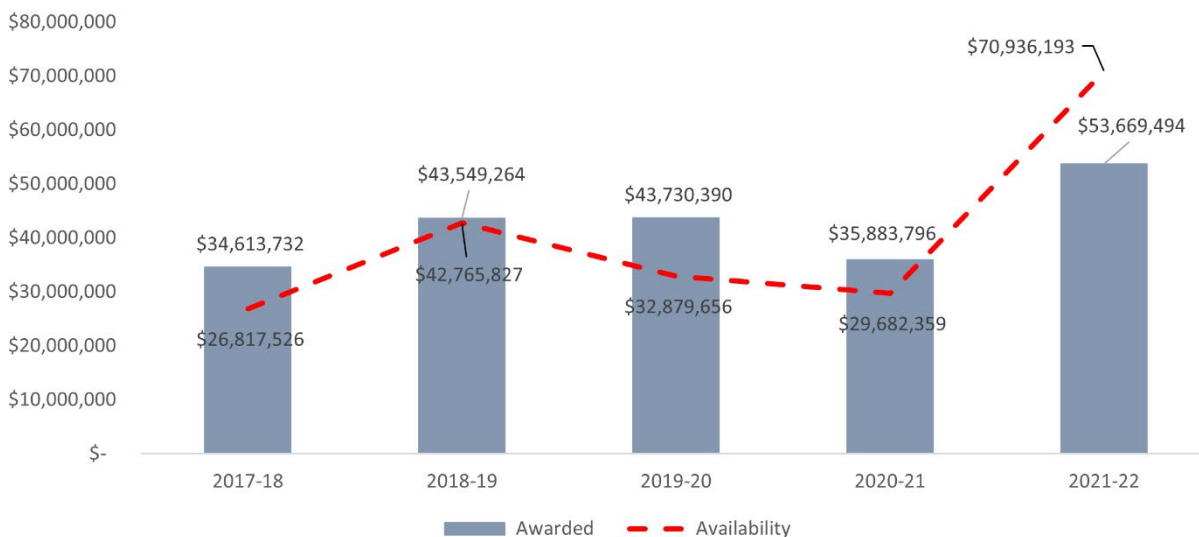
Source: Chart created using unaudited data from Caltrans' Semi Annual and Annual Uniform Report of DBE Awards/ Commitments and Payments for Federal Fiscal Years 2017-18 through 2021-22 and Disparity Study Reports for 2012, 2016, and 2021. Availability percentage numbers used from the disparity studies were rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

**Figure 12. Subcontinent Asian American Contract Dollar Participation Amount Over Time and Relative to Availability**



Source: Chart created using unaudited data from Caltrans' Semi Annual and Annual Uniform Report of DBE Awards/ Commitments and Payments for Federal Fiscal Years 2017-18 through 2021-22 and Disparity Study Reports for 2012, 2016, and 2021. Availability percentage numbers used from the disparity studies were rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

**Figure 13. Asian-Pacific American Contract Dollar Participation Amount Over Time and Relative to Availability**



Source: Chart created using unaudited data from Caltrans' Semi Annual and Annual Uniform Report of DBE Awards/ Commitments and Payments for Federal Fiscal Years 2017-18 through 2021-22 and Disparity Study Reports for 2012, 2016, and 2021. Availability percentage numbers used from the disparity studies were rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.



## CALTRANS' RESPONSE

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

### California Department of Transportation

OFFICE OF THE DIRECTOR  
P.O. BOX 942873, MS-49 | SACRAMENTO, CA 94273-0001  
(916) 654-6130 | FAX (916) 653-5776 TTY 711  
[www.dot.ca.gov](http://www.dot.ca.gov)



April 24, 2023

Mr. Bryan Beyer  
Inspector General  
Independent Office of Audits and Investigations (IOAI)  
P.O. Box 942874, MS-2  
Sacramento, CA 94274-0001

Dear Mr. Beyer:

The Department of Transportation (Caltrans) would like to thank IOAI for the information provided in the Caltrans' Small and Disadvantaged Business draft audit report (22S.SPEC09) dated April 10, 2023.

Caltrans has received the draft report and is currently reviewing the recommendations. We look forward to continuing to work with the Inspector General's staff on developing a corrective action plan and implementing the recommendations.

Caltrans appreciates your assistance in making our programs the best they can be.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tony Tavares'.

TONY TAVARES  
Director

c: Mike Keever, Chief Deputy Director  
David DeLuz, Deputy Director, Office of Civil Rights  
Ben Shelton, Chief, Caltrans Internal Audits Office

"Provide a safe and reliable transportation network that serves all people and respects the environment"







**Independent Office of Audits and Investigations**

P.O. Box 942874, MS-2  
Sacramento, CA 94274-0001  
(916) 323-7111 | [oig.dot.ca.gov](http://oig.dot.ca.gov)

