

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 6/11/2025

Staff Report No. 25-329

TO: AC Transit Board of Directors
FROM: Salvador Llamas, General Manager/Chief Executive Officer
SUBJECT: Disadvantage Business Enterprise

ACTION ITEM

AGENDA PLANNING REQUEST: ☐

RECOMMENDED ACTION(S):

Consider receiving a preliminary status report on the District's proposed 19.50% DBE goal for federal fiscal years (FFY) 2026-2028, authorize staff to initiate a 30-day public comment period, and permit staff to submit the goal to the Federal Transit Administration (FTA) without further Board action if necessary changes are minimal or insignificant.

Staff Contact:
Phillip Halley, Interim Director of Civil Rights & Compliance

STRATEGIC IMPORTANCE:

Goal - Financial Stability and Resiliency
Initiative - Financial Efficiency and Revenue Maximization

The FTA has mandated that AC Transit, as a recipient of Department of Transportation (DOT)-assisted funding, adopt and implement a Disadvantaged Business Enterprise (DBE) program. Inclusive in the implementation is the requirement to analyze future contracting opportunities and submit a new Triennial DBE Goal every three (3) years. Once concurred by the FTA, the District is required to provide semi-annual reporting to the FTA on the success and challenges of meeting established triennial DBE goals. Supporting this requirement ensures that the District remains eligible to receive FTA funding.

BUDGETARY/FISCAL IMPACT:

There is no budgetary or fiscal impact associated with this report.

BACKGROUND/RATIONALE:

Pursuant to 49 CFR 26.45, any Grantee that reasonably anticipates awarding (excluding transit vehicle purchases) more than \$670,000 in FTA funds in prime contracts in a federal fiscal year is required to set an overall goal for DBE participation in FTA-assisted contracts. As such, staff proposes a 19.50% DBE goal for the FFY 2026-2028 triennial period. FTA regulations mandate that prior to submission to the FTA, the proposed goal must be publicly posted for a minimum of 30-days to receive public feedback and comments.

In developing the proposed goal, staff reviewed project and contracting opportunities, and funding strategies with Capital Projects, Information Technology, Planning, Maintenance, and Capital Planning and Grants Management departments. For the three-year period between October 1, 2025, and September 30, 2028, approximately \$8.3 million in federally assisted contracting opportunities has been identified, excluding bus purchases. Based on four identified projects and their contracting opportunities, and utilizing the FTA prescribed calculating methodology, again, staff recommends a 19.50% DBE goal for the upcoming triennial period.

Overview of Goal Methodology Process

Staff met on multiple occasions with various departments to obtain a three-year projection of upcoming federal-assisted contracting opportunities. The scope of work for each of the contracting opportunities was then separately categorized using the North American Industry Classification System (NAICS) Codes and established the estimated project cost and percentage of scope for each work category code.

Years	All Project(s)	Trade Categories	Breakdown	NAICS Code(s)
All Years	All Projects*	Electrical	\$2,000,000	238210
		Public Outreach	\$450,000	541611
		Urban Planning	\$1,500,000	925120
		Guardrail Construction	\$3,096,000	237310
		Pavement Striping		
		Consultant - Program Design	\$382,705	541611
		Program/ Management Development & Training	\$892,978	611430
			\$8,321,683	

Table 1: Identified Contracting Opportunities, Estimated Values, and NAICS Codes

*International Boulevard (Phase 2), Fruitvale Corridor TSP, Foothill Corridor Planning Study, and ZEB-U Workforce Development.

Staff then established the regional availability of DBEs able and willing to perform the identified work. This was done by calculating, as a percentage, all regionally available firms in their respective work category codes using U.S. Census data compared with available DBEs from the California Department of Transportation's Unified Certification Program (CAUCP). The regional availability calculation was limited only those firms within the nine (9) Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma). Lastly, Relative Weights are then calculated by multiplying the relative availability of DBEs by the percentage of work for each category of the scope of work.

The initial calculation resulted in a proposed 28.83% DBE goal; however, the FTA allows recipients the option to utilize an additional adjustment (Step 2 Adjustment) to account for additional factors such as past participation, recent disparity studies, and regional industry or economic changes to further analyze and establish appropriate goals. The second-step adjustment takes the average DBE utilization attainment for the prior three federal fiscal years, adds this number to the initial proposed goal, and then takes the average of both numbers to come to an adjusted proposed goal.

Past DBE Participation	3-Year
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2022-2023	0.29%
2023-2024	10.19%
2021-2022	13.5%
Median Value	10.19%
Table 3: Proposed DBE Goal (with Step 2 Adjustment)	
<i>Note: FTA guidance states it must be sorted by ascending value not year. Median value (not average) is then selected.</i>	

Step 2 Adjustment: (AWG + 3-Year Median) * 50% = New Goal		
Aggregate Weighted (Proposed) Goal	Past Participation (3-Year Median)	Step 2 Adjusted Goal (average of current/past)
28.83%	10.19%	19.51%
Table 3: Proposed DBE Goal (with Step 2 Adjustment)		

The Step 2 Adjustment reduced the proposed goal from 28.83% down to 19.50% for the upcoming triennial reporting period.

Next steps are to post the proposed goal on the District's external facing website for a 30-day comment period. Should the posting result in significant comments and feedback that warrant additional adjustments to the goal, staff will return to the Board on July 23, 2025, with an updated goal and request for approval of the proposed FFY 2026-2028 DBE Goal. Should the posting period result in minimal or no comments and feedback, staff seeks authorization to submit the proposed goal to the FTA without returning to the Board. Staff will provide written notification to the District Secretary should this occur. The District's proposed FFY 2026-2028 DBE Goal is due to the FTA by August 1, 2025.

If approved by the FTA, the FFY 2026-2028 DBE Goal must be reviewed on a semi-annual basis for changes in funding and contracting opportunities. If staff finds that additional dollars have been identified as contracting opportunities, staff may recommend revisions to the goal to include the additional projects and return to the Board for reapproval.

ADVANTAGES/DISADVANTAGES:

Continuing with the recommended 30-day posting period ensures that the District remains in compliance with FTA regulations and maintains its eligibility for FTA-assisted funding. Staff has not identified any disadvantages associated with proceeding with the recommended actions.

ALTERNATIVES ANALYSIS:

An alternative to adopting the proposed 19.5% DBE goal, which utilizes the nine (9) Bay Area counties pool of firms, would be to utilize a statewide pool of firms. This alternative would result in a slightly higher 21.2% DBE goal (including utilization of the Step 2 Adjustment, as previously mentioned).

Staff does not recommend utilizing this alternative goal as the District has achieved inconsistent DBE participation on federally assisted contracts in recent years (i.e. 2021-2022 (13.5%), 2022-2023 (.29%), and

2023-2024 (10.19%). Although this goal is only slightly higher than the staff recommended goal, it should be consider that the current DBE goal has not been met despite additional efforts including direct telephone outreach to both DBE and SBE firms. Additionally, the statewide utilization goal does not account for DBE firms with offices outside the nine (9) Bay Area counties that will not respond nor mobilize for low value contracts. This was supported when staff analyzed the minimal response rate to District solicitations and outreach for SBE and DBE opportunities in the prior reporting period (2022-2024). In the analysis, staff found that of the District's seven most commonly used NAICS codes, only 13% of corresponding DBEs have business locations within the nine Bay Area counties. Likewise, of those responding to the solicitations, greater than 72% had physical footprints within the nine Bay Area counties.

Therefore, staff does not recommend utilizing the statewide-based 21.2% DBE goal but rather recommends the nine Bay Area counties-based proposed 19.5% DBE goal. The staff recommended and proposed 19.5% goal will also be a challenge to meet given the above information and the fact that the District does not utilize contract specific DBE goals. Instead, the District uses race and gender-neutral contracting goals, or SBE goals.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Board Policy No. 460 Disadvantaged Business Enterprise (DBE)
SR25-264 Disadvantaged Business Enterprise Semi-Annual Payment Report
SR24-525 Disadvantaged Business Enterprise Semi-Annual Payment Report
SR22-241b Disadvantaged Business Enterprise Goal for Fiscal Years 2023-2025

ATTACHMENTS:

None

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