

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 12/14/2022

Staff Report No. 22-241b

TO: AC Transit Board of Directors

FROM: Michael A. Hursh, General Manager/Chief Executive Officer

SUBJECT: Disadvantaged Business Enterprise Goal for Fiscal Years 2023-2025

ACTION ITEM

AGENDA PLANNING REQUEST:

RECOMMENDED ACTION(S):

Consider adopting the District's three-year Disadvantaged Business Enterprise (DBE) Goal of 24% for Federal Fiscal Years (FFY) 2023 - 2025.

Staff Contact:

Michael Hursh, General Manager/Chief Executive Officer

Lynette Little, Director of Civil Rights & Compliance

STRATEGIC IMPORTANCE:

Goal - Financial Stability and Resiliency

Initiative - Financial Efficiency and Revenue Maximization

The Federal Transit Administration (FTA) mandates that AC Transit, as a recipient of Department of Transportation (DOT) funding, is required to adopt and implement a DBE program. Inclusive in the implementation is the establishment of a triennial DBE goal and periodic reporting to the FTA on the success and challenges of meeting the established triennial DBE goal. Supporting this requirement ensures that the District remains eligible to receive FTA funding..

BUDGETARY/FISCAL IMPACT:

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

BACKGROUND/RATIONALE:

On July 27, 2022, the Board adopted the District's FFY2023-2025 proposed 2% DBE goal. The proposed goal was submitted to the Federal Transit Administration (FTA) and after a technical consultation meeting, the District received a concur notification on September 19, 2022.

However, on October 3, 2022, at the request of the FTA, an additional technical consultation meeting occurred in which the FTA indicated that there were concerns about the District's "additional adjustments" which resulted in the proposed 2% goal. The "additional adjustment" in the goal calculation limited the available DBE pool to those firms located within the nine (9) Bay Area counties, as opposed to those DBE firms in the

State that are willing to do business within the nine (9) Bay Area counties. Staff's rationale for including the "additional adjustment" was based upon past participation, a singular upcoming opportunity, and the inflationary economy. In staff's judgement, DBE firms would be less likely to participate from throughout the State, thus reducing the pool of firms that would bid and be awarded contracts. Therefore, the "additional adjustment" to narrow down the pool for goal development was the best option available to ensure the District adopts a reasonable, meaningful, and achievable goal.

Upon further discussion and an additional technical consultation meeting held on October 19, 2022, the FTA recommended that the District remove the "additional adjustment" and maintain the step-two goal of 24%. The FTA's reasoning is that the "additional adjustment" overly restricted DBE participation and was not in alignment spirit of the FTA's DBE Program which seeks to foster greater DBE participation and create an inclusive program.

The FTA concurred DBE goal will be reviewed on a semi-annual basis for changes in funding and contracting opportunities. Should any new projects be added using Federal Funds, the FTA goal may be revised. Contracts Compliance staff will continue robust outreach efforts to small business communities and will coordinate with internal stakeholders to identify any new or additional FTA-assisted contracting opportunities. While staff has concerns that achieving 24% is unlikely, every effort to meet the goal will be made. Should it be necessary, Shortfall Analysis documents will be submitted to FTA as required.

ADVANTAGES/DISADVANTAGES:

The advantage of continuing with the recommended process is that it follows the mandate requirements and recommendations and keeps the District in compliance with the FTA.

Staff has not identified any disadvantages with following the recommended actions.

ALTERNATIVES ANALYSIS:

No alternatives were evaluated for this report.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Board Policy 460 Disadvantaged Business Enterprise
SR22-241 Disadvantaged Business Enterprise Goal for Fiscal Years 2023-2025
SR22-239 Disadvantaged Business Enterprise Semi-Annual Payment Report
SR21-524 Disadvantaged Business Enterprise Semi-Annual Payment Report
SR19-199 Disadvantaged Business Enterprise Goal for Fiscal Years 2020-2022

ATTACHMENTS:

None

Prepared by:

Phillip J. L. Halley, Program Manager, Contracts Compliance

Approved/Reviewed by:

Lynette Little, Director of Civil Rights & Compliance

Chris Andrichak, Chief Financial Officer

Jill A. Sprague, General Counsel/Chief Legal Officer [Click to select](#)

Michael A. Hursh, General Manager/Chief Executive Officer