STAFF REPORT

MEETING DATE: 11/19/2025 **Staff Report No.** 25-531

TO: AC Transit Board of Directors

FROM: Salvador Llamas, General Manager/Chief Executive Officer

SUBJECT: Disadvantaged Business Enterprise

BRIEFING ITEM

AGENDA PLANNING REQUEST: ☐

RECOMMENDED ACTION(S):

Consider receiving a report on Disadvantaged Business Enterprise (DBE) utilization for the period of April 1, 2025, through September 30, 2025.

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

STRATEGIC IMPORTANCE:

Goal - Strong Public and Policymaker Support

It is the policy of AC Transit to ensure non-discrimination on the basis of race, color, sex or national origin in the administration and award of contracts. Through the adoption of its Small Business Enterprise (SBE) and Local Business Enterprise (LBE) goals, the District intends to create a level playing field on which all small businesses, including DBEs, can compete fairly for contracts and subcontracts relating to the District's construction, procurement and professional services activities.

BUDGETARY/FISCAL IMPACT:

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

BACKGROUND/RATIONALE:

On September 30, 2025, the U.S. Department of Transportation issued the Interim Federal Rule (IFR): Disadvantaged Business Enterprise (DBE) Program and Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Implementation Modifications. This IFR became effective immediately and removed the race- and sex-based presumption that has generally been a primary basis for the certification of businesses as DBEs. The IFR also paused the requirement for recipients to comply with and report on DBE utilization for adopted triennial DBE goals. Since the effective date of the IFR coincided with the end of the final six-month reporting period (April 1 through September 30) of the District's FFY2023-2025 triennial DBE goal, staff is reporting the utilization data to the Board only and it will not be submitted to the FTA. It should be noted that pursuant to Board Policy 460: Disadvantage Business Enterprise (DBE) Policy, the District's DBE program is "neutral as to race, religion, color, ethnicity, national origin, age, sex, physical handicap, sexual orientation, and any other characteristic protected by law."

The below information pertains to the District's previously adopted FTA Triennial DBE Goal for FFY2023-2025, which was 24% and was to be reported in two semi-annually periods: October through March, and April through September. This is the 6th and final report to the Board for the FFY2023-2025 triennial period, again covering April 1 through September 30, 2025.

During this reporting period, the District did not meet its twenty-four percent (24%) DBE participation goal. The District awarded one federally assisted contract valued at a total of $24,000, to a non-DBE firm.

Prime Contract Award Dollars	$24,000
DBE Prime Awards and Subcontract Commitments	0
DBE Participation (%)	0%

In addition to the above new DBE awards and commitments, the report also looks at ongoing payments to, and utilization of, DBE firms. During this same reporting period, ongoing contracts resulted in 69.9% of payments going to DBEs, as indicated in the table below:

Total Federal Dollars Paid	**Total Payments to DBEs**	**DBE Percentage**
$58,386	$40,814	69.9%

In light of the IFR, staff will not report on, nor submit DBE utilization to the FTA. Although the District adopted a 19.5% DBE goal for the current 2026-2028 triennial federal fiscal year period (October 1, 2025, through September 30, 2028), the IFR has indefinitely paused all requirements to comply with these goals, including establishing DBE goals in contracts, collecting DBE utilization data, and reporting such information to the FTA (or other relevant USDOT agencies). The pause will remain in place until the DBE Unified Certification Programs (UCPs) re-evaluate all DBE certifications without applying the race- and sex-based presumption.

In California, the UCP consists of ten (10) certifying agencies led by the California Department of Transportation (Caltrans) and includes:

- Los Angeles County Metropolitan Transit Authority (LA Metro),
- San Diego County Regional Airport Authority (SDCRAA),
- San Francisco Bay Area Rapid Transit District (BART),
- San Francisco International Airport (SFO),
- San Francisco Municipal Transportation Agency (SFMTA),
- San Mateo County Transit District (SAMTrans),
- Santa Clara Valley Transportation Authority (VTA),
- City of Los Angeles, and
- City of Fresno

Caltrans has issued guidance and trainings and is working with the other UCP agencies to reprocess more than

6,000 certifications across the State. DBE certifications and utilizations cannot continue until the State's UCPs have completed their review and recertification of DBEs. Currently, there is no timeline provided by Caltrans for the completion of their recertification process. Upon the completion of the UCP recertification process, the District must then update and resubmit its 2026-2028 Triennial DBE goal.

The District's current vendors are being notified of the issuance of the IFR and its requirements. The notice to vendors reiterates that AC Transit does not have any current contracts that contain DBE goals and confirms that the IFR does not apply to Local Business Enterprises (LBEs) or SBEs, or any such goals set within District contracts.

In 2021, the District established ten percent (10%) Small Business Enterprise (SBE) and ten percent (10%) Local Business Enterprise (LBE) participation goals to improve engagement of local and small businesses in District contracting, and to mitigate challenges associated with increasing Disadvantaged Business Enterprise (DBE) participation. While the issuance of the IFR has presented significant challenges for the DBE business community, the prior adoption and inclusion of the SBE and LBE goals reaffirm the District's continued commitment to supporting small and local businesses within its service area.

ADVANTAGES/DISADVANTAGES:

This report does not recommend a course of action with notable advantages or disadvantages.

ALTERNATIVES ANALYSIS:

As this report is informational, no alternatives were considered.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Staff Report 21-396
Staff Report 25-264
Staff Report 25-329
Board Policy 460 - Disadvantaged Business Enterprise (DBE) Policy

ATTACHMENTS:

None

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