



Board Policy No. 460

Disadvantaged Business Enterprise (DBE) Policy

ADOPTED: 07/1988

RECENT AMENDMENT: 9/27/2017

SEE ALSO: 46~~56~~, 46~~6~~, 46~~85~~

SUBJECT CATEGORY: SECTION 400, OPERATIONS

SUBSECTION: PROCUREMENT AND MATERIALS

CONTROL DEPARTMENT: COMPLIANCE & DIVERSITY

I. PURPOSE

The Alameda-Contra Costa Transit District ("District") is committed to a Program for the participation of Disadvantaged Business Enterprises ("DBEs") and Small Business Enterprises ("SBEs") in District contracting opportunities in accordance with 49 Code of Federal Regulations (CFR) Part 26, revised as of March 4, 2011, as may be amended ("Regulations"). It is the policy of the District to ensure nondiscrimination on the basis of race, color, sex or national origin in the award and administration of all contracts. It is the intention of the District to create a level playing field on which DBEs and SBEs can compete fairly for contracts and subcontracts relating to the District's construction, procurement and professional service activities.

The District, as recipient of federal financial assistance from the Federal Transit Administration ("FTA") of the U.S. Department of Transportation (DOT), is required to implement a DBE Program in accordance with 49 CFR Part 26. The DBE Policy outlined herein applies to certified SBE and DBE firms, and all **federally funded** (DOT assisted) and non-federally funded contracts. This program is neutral as to race, religion, color, ethnicity, national origin, age, sex, physical handicap, sexual orientation, and any other characteristic protected by law.

To the extent that it is a condition of a federal, state or other funding source that the District comply with Small Business Enterprise, Disadvantaged Business Enterprise, Minority and Women Business Enterprise (MWBE) and/or Disabled Veteran Business Enterprise (DVBE) requirements, the District will make this Policy consistent with external laws or regulations to the extent permissible by law.

This program and the language of the policy are intended to align with, and be consistent with, the District's Procurement Policy (BP 465), Protest Policy (BP 468), and Small and Small Local Business (SLBE) Program Policy (BP 466).

II. PERSONS AFFECTED

Certified Small Businesses and Disadvantaged Business Enterprises.

III. DEFINITIONS

The definitions below are in accordance with 49 CFR Part 26 or defined elsewhere in other federal regulations or nationally recognized programs.

“Availability” means the number of small and small local business enterprises ready and willing to compete for work with AC Transit.

“Bidder” means a person or business submitting a bid or proposal to the District.

“Board” means the AC Transit Board of Directors.

“Contractor” means a person or business awarded a contract with the District.

“Commercially Useful Function (CUF)” means a role performed within contracted work that requires the DBE be responsible for execution of the work and carrying out its responsibilities by actually performing, managing, and supervising the work involved. This work should include at least thirty percent (30%) of the total cost of the DBEs contract be performed with its own workforce or the portion of work that would be expected to be self-performed on the basis of normal industry practice for the type of work involved.

“District” or “Service Area” means the Alameda Contra-Costa Transit District (AC Transit), a special district created under California law comprised geographically of 13 cities and adjacent unincorporated areas, including the cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Fremont, Hayward, Newark, Oakland, Piedmont, Richmond, San Leandro, and San Pablo; and the unincorporated areas of Ashland, Castro Valley, Cherryland, El Sobrante, Fairview, Kensington, North Richmond, and San Lorenzo as further described in AC Transit Resolution No. 11-048.

“Disadvantaged Business Enterprise (DBE)” means a for-profit, small business concern that is 1) at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and 2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and 3) certified through a statewide Unified Certification Program.

“Federally Funded Contracts” (DOT Assisted) means any contract between a recipient and a contractor, at any tier, funded in whole or in part with U.S. DOT funding.

“Good Faith Effort (GFE)” means the steps set forth by this Policy that are to be undertaken by a bidder to document that it has or has not obtained enough participation to meet the specific contract goal(s) required by the District for use of DBE, SBE, SLBE, DVBE, and MWBE Firms.

“Minority Small Business Enterprise (MSBE)” means a for-profit, small business concern that is 1) at least fifty-one percent (51%) minority-owned, operated and controlled. Ownership, in the case of a corporation, entails at least fifty-one percent (51%) of the stock is owned by one or more minority group members; and 2) whose physical location is in the United States or its trust territories; and 3) certified through a statewide Unified Certification Program; and 4) management and daily operations must be exercised by the minority ownership member(s) who are United States

citizens. An individual who is at least 25% Asian, Black, Hispanic, or Native American is considered a minority.

“Race-Neutral” means a program component that is used to assist all small businesses. For the purposes of this Policy, race-neutral includes ethnic and gender neutrality.

“Race-Conscious” means a program component that is specifically focused on assisting only DBEs, including women-owned DBEs.

“Set-asides” means a reservation of an acquisition exclusively for participation by small business concerns. A small business set-aside will be open to all small businesses and may be a in part or a total, single acquisition or a class of acquisitions.

“Small Business Element” means a component of the DBE program applied to encourage the utilization and participation of small business enterprises.

“Small Business Enterprise (SBE)” means a small business enterprise, as defined by Section 3 of the Small Business Act and Small Business Administration regulations (13 CFR Part 121), whose three-year average gross receipts, number of employees, and North American Industry Classification System (NAICS) codes meet the guidelines referenced in the Regulations. The firm must be certified small, at the time of bid, by the State of California, Department of General Services or by an authorized agency located in California.

“Small Local Business Enterprise (SLBE)” means a business located within the District and certified as a small business enterprise by an authorized agency located in Alameda or Contra Costa County.

“Small Disabled Veteran Enterprise (SDVE)” means a firm that is certified as a Disabled Veteran business Enterprise by the State of California, Department of General Services and as a Small Business by an authorized agency

IV. POLICY

A. Objectives

1. Increase DBE participation and utilization by performing up to and including the following:
 - a. Assist in removing barriers to DBE participation in the bidding, award and administration of DOT-assisted contracts.
 - b. Assist DBEs to develop and compete successfully outside of the District’s Program.
 - c. Ensure the District’s Program is narrowly tailored in accordance with applicable laws.
 - d. Ensure that only DBEs meeting the eligibility requirements are permitted to participate as DBEs.

- e. Identify business enterprises that are eligible as DBEs to provide the District with required goods, materials and services; and to develop good rapport with the owners, managers and sales' representatives of those enterprises.
 - f. Develop communication programs and procedures which will acquaint prospective DBEs with the District's contract procedures, activities and requirements and allow DBEs to provide the District with feedback on existing barriers to participation and effective procedures to eliminate those barriers.
 - g. Increase Program awareness and effectiveness throughout the District, and coordinate efforts with District staff to provide greater contracting opportunities for DBEs.
 - h. Continuously research and make available to DBEs any resources and/or tools that may increase the possibility of participation, such as bonding or insurance assistance programs, technological tools, education resources, and contractor match-making opportunities.
2. Increase SBE utilization and participation by performing up to and including the following:
- a. Increase opportunities for contract awards to small businesses participating in District contract and procurement activities by establishing contracting goals or set-asides.
 - b. Promote the development of the small business community through participation in outreach events, attending local and regional events that champion SBE firms.
 - c. Continuously research and make available to DBEs any resources and/or tools that may increase the possibility of participation, such as bonding or insurance assistance programs, technological tools, education resources, and contractor match-making opportunities.
 - d. Consider similar or related certifications [of small firms] administered/bestowed/dispensed / furnished/awarded by other regional, Bay Area transit/transportation or related government agency programs upon conducting procurement and outreach activities.

B. Program Administration and Implementation

1. Roles and Responsibilities

- a. The General Manager maintains overall responsibility for adherence to the DBE Program. (S)he has delegated the responsibility for the development, implementation and monitoring of the program to the DBE Liaison Officer, the Contract Compliance Administrator.
- b. The Board of Directors is responsible for establishing and authorizing the DBE Program.
- c. The DBE Liaison Officer is responsible for developing, implementing, and monitoring the daily operations of the DBE Program. He or she will participate in events for small businesses which may be coordinated with other U.S. DOT grantees, federal agencies, or local organizations, providing the opportunity to promote DBE and SBE programs. He or she may work closely with (in coordination with) the General Manager, the Directors of Procurement, Legislative Affairs, Capital Projects to ensure the successful

implementation of and adherence to this program as well as the consideration of DBE and SBE firms in the procurement and monitoring of District let contracts.

2. Business Development Efforts

- a. The DBE Liaison Officer will oversee activities, up to and including the following:
 - i. Gathering and reporting FTA required information
 - ii. Working with relevant departments to establish overall triennial DBE participation goal
 - iii. Working with relevant departments to establish methods of achieving DBE and SBE contracting participation goals, as necessary
 - iv. Establishing annual “Upcoming Contracts” or “Doing Business with AC Transit” events
 - v. Dissemination of procurement notices at regional and District hosted outreach events
 - vi. Dissemination of procurement notices directly to DBEs and SBEs
 - vii. Assist in the Procurement solicitation process (specs, bid time, quantities/unbundling) in ways that facilitate participation by DBEs and SBEs
 - viii. Research and make available to DBEs any resources and/or tools that may increase the possibility of participation, such as bonding or insurance assistance programs, technological tools, education resources, and contractor match-making opportunities
 - ix. Implementation and monitoring of Prompt Payment Mechanisms
 - x. Assist in capacity building mechanisms for small and local firms
 - xi. Conduct internal training seminars to facilitate better DBE program knowledge and objectives
- b. Monitoring Actual DBE Participation

In accordance with regulatory guidelines, the DBE Liaison Officer shall monitor and track the actual DBE participation through contractor and subcontractor payment reports and conduct other appropriate monitoring to ensure that DBE participation is counted toward the District’s overall DBE goal.

Utilization Reports (Scheduled Reporting to FTA by the District)

- i. Bidder’s List
- ii. Utilization reports from contractors to the District, contractually required, describing actual, ongoing DBE attainments at stipulated benchmarks or time frames
- iii. CUF Review - ensure that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed by performing regular work site inspections

- iv. Verify participation of DBEs and SBEs in the program by confirming eligibility and current certification(s) received by a local, state or nationally recognized certifying agency
- v. Substitution of DBEs or SBEs
- vi. The DBE Liaison Officer will provide DBE reports as required by U.S. DOT Regulations.

3. Dissemination of Policy Statement

The District shall issue a signed and dated Policy Statement throughout the District, by posting on the District's website, which will be readily available to the business community, including DBEs, SBEs and non-DBEs/SBEs or who are ready, willing and able to compete on U.S. DOT-assisted contracts for the District.

4. DBE Program Small Business Element

- a. The District will establish separate race, gender and local- neutral, per-contract SBE utilization goals on federally and non-federally funded projects as part of the DBE program when practicable. The goal will be established based on demonstrable evidence of the availability of ready, willing and able SBEs in the District's "service region" relative to all businesses ready, willing and able to participate on DOT-assisted and non-federally funded contracts and expressed as a percentage of the anticipated value of the contract. The District will evaluate each procurement for SBE prime and subcontracting opportunities. A determination will be made for the availability of small businesses. Inclusive with bid submissions, the District requires all bidders to provide a list of the DBE/SBE subcontractors to be utilized to meet the DBE/SBE goal or requires GFE documentation for bidders not meeting the DBE/SBE established contract goal. Proof of goal attainment must be provided with the bid submission, on the bid due date. Failure to provide objective evidence, including filling out the required forms, shall be grounds to reject any bid as non-responsive. If bidders are unable to meet the established contract goal, GFE must be provided. Failure to provide GFE shall be grounds to reject any bid as non-responsive. All GFE submissions must adhere to the requirements specified within this policy; show that efforts were completed prior to the bid due date; and provide supporting documentation not later than seventy-two (72) hours after the bid due date.—The District will require the successful prime contractor to report payments to SBE subcontractors as determined by the District's Contracts Compliance Department. Additional Program elements will include the following steps:

Step 1: The District may set-aside selected federally and non-federally funded procurements with anticipated dollar values up to \$300,000 for small business participation only, provided that it is determined by the District's Contracts Compliance Administrator that availability of SBEs is abundant relative to the applicable NAICS Code and in such numbers to satisfy public procurement

competition requirements.

Step 2: This District may set-aside federally and non-federally funded procurements with anticipated dollar values up to \$150,000 for construction projects and up to \$60,000 for non-construction projects to certified MSBEs provided that it is determined by the District's Contracts Compliance Officer that availability of MSBEs is abundant relative to the applicable NAICS Code and in such numbers to satisfy public procurement competition requirements.

Step 3: The District shall research and make available to DBEs/SBEs any resources and/or tools that may increase the possibility of participation, such as bonding or insurance assistance programs, technological tools, education resources, and contractor match-making opportunities.

Step 4: Prompt Payment Mechanisms will ensure contract clause to require prime contractor to pay subcontractor for satisfactory and full payment of contracts no later than 7 days from receipt of each payment received from the District.

- i. The Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) calendar days from the receipt of each payment the Contractor receives from the Sponsor Agency. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with the District's prior written approval. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor, deficient sub-consultant performance, and/or noncompliance by a sub-consultant.
- ii. The Contractor further agrees to release retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is completed and accepted. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with Sponsor Agency's prior written approval.

5. DBE Participation Goals

- a. The Contracts Compliance Administrator, in the role as DBE Liaison Officer shall calculate and establish the District's three-year overall DBE goal. The Board of Directors shall approve the goal (to be submitted to the FTA for final approval) for the participation of DBEs in all federally-funded contracts. The overall goal shall be expressed as a percentage of the total amount of U.S. DOT funds the District anticipates spending during the relative 3-year reporting period. The District's overall goal will represent the amount of ready, willing and able DBEs available to participate in contracting opportunities and shall reflect the amount of DBE participation the

District would expect absent the effects of discrimination. The District intends to meet the goal through race and gender-neutral means. The District shall use race and gender-conscious means only if supported by the findings of an approved and authorized Availability and Utilization Study (Disparity Study), and the expressed authorization from the FTA.

b. Methodology For Setting DBE Participation Goals

- i. In establishing the District's overall DBE goal, the DBE Liaison Officer, in consultation with the appropriate District departments, will conduct a thorough analysis of the projected number, types of work and dollar amounts of contracting opportunities that will be funded, in whole or in part, by U.S. DOT federal financial assistance for the reporting period.
- ii. The overall goal shall be based on demonstrable evidence of the availability of ready, willing and able DBEs within the previously established District "service region" relative to all businesses ready, willing and able to participate on the District's DOT-assisted contracts.

c. Public Participation and Outreach Efforts

The District's activities managing public participation and outreach efforts are directed at assisting the District to solicit public input to set overall DBE participation targets and meet the District's overall DBE goal. In establishing the overall DBE goal, the District will provide for public participation which shall include the following:

- i. Prior to finalizing the Overall Goal Analysis Report, the District will invite the participation of U.S. DOT agencies; other U.S. DOT grantees, minority, women's and general contractor groups, community organizations, and/or other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the District's efforts to establish a level playing field for the participation of DBEs.
- ii. The District will publish a tri-annual notice announcing its proposed overall goal, informing the public that the District's Overall Goal Analysis Report is available for inspection during normal business hours at the office of the DBE Liaison Officer for a period of thirty (30) days, and that the District and the U.S. DOT will accept comments on the proposed goal for thirty (30) days from the date of the notice. The notice will be distributed in general circulation media, local minority-focused media, and trade association publications.
- iii. In conjunction with the District's activities to meet its overall DBE goal, the District will implement various public participation and outreach activities designed to broaden awareness of the District's DBE Program. The measures described in 49 CFR § 26.51, focusing on race and gender-neutral means will be actively pursued,

and the District will also encourage its contractors to make similar outreach efforts to include DBE participation in subcontracting opportunities.

- iv. Once established, the District's three-year overall DBE goal shall be reviewed on a semi-annual basis and adjusted accordingly if circumstances deem such actions to be appropriate. Any proposed adjustments to the District's overall goal prior to the end of the three-year period shall be re-publicized for a thirty (30) day period, public comments re-solicited for the forty-five (45) day period, and re-approved by the Board prior to implementation.

C. Transit Vehicle Manufacturers Certification

The District shall require and confirm that transit vehicle manufacturers certify that they have established an overall DBE participation goal that has been approved by the FTA and is included with the bid/proposal package for District contracting opportunities pursuant to 49 CFR, 26.49.

D. Prohibited Discrimination

The District shall not exclude persons from participation in, deny benefits to, or otherwise discriminate against any persons in connection with the award and performance of any contract governed by 49 CFR Part 26 on the basis of race, color, sex or national origin. The District shall not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of this program with respect to individuals of a particular race, color, sex or national origin.

E. Good Faith Efforts (GFE)

1. Guidance from FTA: In any situation in which you (the recipient) have established a contract goal, 49 CFR Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient of U.S. DOT assistance, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet a contract goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain participation sufficient to meet the contract goal. Mere pro forma efforts are not good faith efforts to meet the contract goal requirements. We emphasize, however, that your determination concerning the sufficiency of the bidder's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.
2. It is the District's intent and policy to fulfill its small business (DBE, SBE, SLBE, DVBE, and MWBE) participation goals. If a bidder fails to meet established contract goal(s), the District must determine whether the bidder made good faith efforts (GFE) to meet the goals. Efforts that are merely pro forma shall not be deemed as made in "good faith".

Documentation of the bidder's good faith effort activities, which must have been completed prior to the bid due date and time, shall be reviewed and considered part of the bid submission that does not meet the established small business participation goal. If submitting GFE, all documentation shall be made available to the District for evaluation up to but not later than seventy-two (72) hours after the designated bid due date and time. The bidder's efforts to reach out to small, local, and disadvantaged firms shall be evaluated based upon the level of effort put into achieving the factors outlined below. Failure to meet the small business participation goals will not by itself be the basis for disqualification or determination of non-compliance with the DBE Program. However, At the District's sole discretion and final determination, failure to meet the goal, coupled with failure to submit supporting documentation of GFE undertaken, will render the bid non-responsive. A bidder shall certify, via the Certificate of GFE by Contractor form and all backup documentation, which actions it took in order to establish that it made reasonable GFE to meet an established contract small business participation goal.

3. Good Faith Effort (GFE) Factors: if an established contract small business participation goal cannot be met, and a bidder includes GFE documentation as part of its bid submission, the following factors will be evaluated by the District to determine if sufficient GFE was undertaken to meet established contract small business participation goals.

Factor 1: Attendance at Pre-Bid Meeting/Job Walk

Effort: Attendance at pre-bid conference and/or job walk, if held by the Agency (and deemed mandatory) to meet potential SBEs and DBEs who can perform the contracted work.

Evidence: Name and date of person(s) attended to be verified by sign-in sheet.

Factor 2: Identify Specific Items of Work

Effort: Select portion(s) of work to be performed by DBEs, SBEs or MBEs in order to increase the likelihood of meeting the goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate utilization even when the Prime Bidder/Proposer might otherwise prefer to perform these work items with its own forces.

Evidence: Identified scope(s) of work the Prime Bidder intends to offer to or be performed by the subcontractor to meet the goal. (See Prime Proposer & SubProposer/Supplier Report Worksheet)

Factor 3: Advertisement of Subcontracting Opportunities

Effort: Advertise, not less than fifteen (15) calendar days before bid submittal due date, in appropriate print or electronic media including, weekly or daily newspapers, trade association publications, trade journals, trade social media platforms, or other media to solicit DBE, SBE, or MBE firms interested in the project.

Evidence: Proof of advertisements placed, and /or proof of publication containing at minimum the information specific in Factor 2.

Factor 4: Written Notification of Contracting Opportunity and Request for Bids/Proposals

Effort: *Issue written notice of Prime Bidder's interest in soliciting DBE, SBE, and MBE firms. Notices should be sent at least fifteen (15) calendar days prior to bid submittal due date; and must be sent to a minimum of ten percent (10%) of certified, "ready, willing, and able" firms listed under the applicable subcontracting scope of work and corresponding NAICS code(s). If ten percent (10%) of certified firms is less than ten (10) total firms, then all certified firms shall be notified.*

Evidence: *Copy of the solicitation notification, list of recipients grouped by each identified subcontracting area and NAICS code – including pertinent contact information, such as firm name, email address, physical address, phone number, and date contacted for all firms per subcontracting area.*

Factor 5: Solicitation Follow-Up

Effort: *Follow up on initial solicitation to those firms that did not respond to bidder's original solicitation notice. Follow-up may be by same means as initial solicitation, however, bidder should consider other methods not already attempted. Efforts should be within all available subcontracting areas and occur within a reasonable time (not less than 72 hours) of initial solicitation.*

Evidence: *Copies of all solicitation notifications, and list of recipients grouped by each identified subcontracting area and NAICS code – including pertinent contact information, such as firm name, email address, physical address, phone number, and date contacted for all firms per subcontracting area. Bidder must identify all methods utilized for follow-up solicitation.*

Factor 6: Make Project Plans, Specifications, Requirements Available

Effort: *Make plans, specifications and requirements for specified work items or material supply work available for review by interested firms.*

Evidence: *Provide in solicitation notifications (Factor 4 & Factor 5) a link to the appropriate project plans, specifications and requirements.*

Factor 7: Provision of Assistance in Obtaining Bonding, Lines of Credit or Insurance (Only Applicable to Projects Greater than \$5 Million)

Effort: *Provide and/or make efforts to assist interested firms, as applicable and/or needed, in obtaining lines of credit, bonding, or required insurance.*

Evidence: *Brief description of the type of assistance (i.e. referrals, recommendations, co-signing, or "additional insured coverage") provided by the Prime Bidder to interested firms in obtaining bonding, lines of credit, and insurance (if applicable).*

Factor 8: Utilization of Outreach Services

Effort: *Utilize outreach services available within the DBE, SBE or MBE community, including construction/consultant groups, State and Federal SBE/DBE offices, AC Transit Contracts Compliance Department and other organizations that provide assistance in recruiting SBE and DBE firms.*

Evidence: *Bidder must provide copies of all methods used to contact organizations for outreach to the DBE, SBE, and MBE community. Bidder must document outreach to a*

minimum of ten percent (10%) of certified, “ready, willing, and able” firms listed under the applicable subcontracting scope of work and corresponding NAICS code(s). If ten percent (10%) of certified firms is less than ten (10) total firms, then all certified firms shall be notified. **Note: AC Transit posts the complete list of firms contacted in its own small business outreach on the project solicitation website.**

Factor 9: Negotiate in Good Faith

Effort: Negotiate in good faith with interested subcontractors utilizing a sound basis for selection or rejection of sub-bids/proposals.

Evidence: Documentation with names and contact information of firms that responded to solicitation notification, and reasons for accepting or rejecting the sub-bids/proposals.

Note: Barring lack of qualifications to perform work (including inability to meet project schedule), only significant, excessive, and unreasonable price differences between the selected non-DBE firm and rejected DBE firm’s proposed costs would be considered as valid cause for rejecting DBE sub-bids.

Factor 10: Goal Performance of Other Proposers

Effort: AC Transit will take into account the performance and success of other Prime Bidders in meeting established small business participation contract goals.

Evidence: The District will evaluate whether or not a successful bidder made all reasonable efforts toward meeting the established small business participation goal, in lieu of submitting GFE, as compared to that of any non-successful bidders.

4. Good Faith Effort (GFE) Review and Evaluation: if GFE documentation is included (or expected) as part of the bidder’s submission package, the review and evaluation process will be completed within three (3) business days of receipt by the Contracts Compliance Administrator. The GFE factors will be evaluated independently, and as a whole.
 - a. Initial Review – the Contracts Compliance Administrator has the primary responsibility for reviewing GFE documentation and determining whether such documentation constitutes a good faith effort in achieving established small business participation goals. A written summary of the review will be provided for inclusion in the procurement file.
 - b. Administrative Appeal – if the Contracts Compliance Administrator (CCA), after review of the GFE documentation, determines that insufficient good faith efforts have been undertaken, the bidder has the right to request an Administrative Review by submitting a bid protest (see Board Policy 468: Procurement Protest Procedures).
 - i. Administrative Review Committee (ARC) – the Administrative Review Committee (ARC), shall render its review based upon the procedures established in Board Policy 468: Procurement Protests and Procedures, and shall be composed of at least three (3) members to include one (1) from each of the following:
 - a) AC Transit: Contracts Compliance Department
 - b) AC Transit: Project’s Department of Origin

c) External Member: a staff member of a local agency, other than AC Transit, that ~~provides public transit services; and~~ has expertise in relevant project delivery or contract compliance monitoring

V. AUTHORITY

The Board of Directors has the authority to amend the policy as it deems appropriate or otherwise required by law.