



# Disadvantaged Business Enterprise Program (DBE) FTA/USDOT

Central Puget Sound Regional Transit Authority



December 2023

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## **POLICY STATEMENT**

### **STATEMENT OF POLICY**

Central Puget Sound Regional Transit Authority (Sound Transit) is committed to carrying out all of the Disadvantaged Business Enterprises (“DBE”) requirements of 49 Code of Federal Regulations (CFR) Part 26, as amended. The procedures contained in Sound Transit’s DBE Program will assure that all procurements and contracts are administered without discrimination on the basis of race, color, sex or national origin, and that DBEs have an equal opportunity to compete for and participate in the performance of all agreements, contracts, and subcontracts awarded by Sound Transit or its contractors.

It is the policy of Sound Transit to ensure nondiscrimination on the basis of race, color, sex, or national origin in the award and administration of federally-funded contracts. It is the intention of Sound Transit to create a level playing field on which DBEs can compete fairly for agreements, contracts and subcontracts, including but not limited to construction, procurement and proposal contracts, professional and technical services agreements, and purchase orders.

Sound Transit intends to implement its DBE Program in good faith and does not permit the use of quotas or set-asides in the administration of its DBE Program.

Sound Transit’s CEO is responsible for adherence to this DBE Program and has overall responsibility for directing development and implementation of this Program. The CEO has designated the Chief Diversity, Equity and Inclusion Officer as the DBE Liaison Officer. The DBE Liaison Officer will be responsible for development, implementation and monitoring of the DBE Program. It is the expectation of the Board of Directors and CEO that the provisions of this DBE Program will be adhered to both in the spirit and letter by all Sound Transit employees, Contractors and Subcontractors.

This Policy will be circulated to Sound Transit employees, Contractors, Subcontractors and appropriate community and business organizations that perform work on federally-funded contracts. The Policy will be distributed by implementing a notification plan to Contractors, Subcontractors and stakeholders by electronic emailing and hard copy.

This DBE Program is intended to implement the federal requirements pertaining to the DBE Program, including but not limited to 49 CFR Part 26 and the Official Questions and Answers (Q&As) issued by the DOT pursuant thereto. In the event of any inconsistencies between the terms of the Sound Transit DBE Program, on one hand, and the terms of 49 CFR Part 26 or the Q&As on the other, the latter will prevail.

## **GENERAL REQUIREMENTS**

### **Objectives**

The objectives of this DBE Program are to:

- A. Ensure nondiscrimination in the award and administration of federally-funded contracts;
- B. Create a level playing field on which DBEs can compete fairly for federally-funded contracts;
- C. Help remove barriers to DBE participation in the bidding, award and administration of Sound Transit contracts;
- D. Assist in the development of DBEs that can compete successfully in the marketplace outside of the DBE Program;
- E. Ensure that only firms that fully meet the eligibility standards of 49 CFR Part 26 are permitted to participate as DBEs;
- F. Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- G. Identify business enterprises that are qualified as DBEs and are qualified to provide Sound Transit with required materials, equipment, supplies and services; and to develop a good rapport with the owners and management of those enterprises. This will include DBE round tables, DBE notification by electronic notices and networking sessions.
- H. Develop communication programs and procedures that will acquaint prospective DBEs with Sound Transit contract procedures, activities and requirements that allow DBEs to provide Sound Transit with feedback regarding existing barriers to participation and effective procedures to eliminate those barriers;
- I. Administer the DBE Program in close coordination with the various Sound Transit departments so as to facilitate the successful implementation of this Program;
- J. Foster participation by small businesses by implementing the strategies set forth in this DBE Program; and
- K. Promote the use of all types of DBEs.

A copy of the assurance statement submitted by Sound Transit to FTA is set forth in Attachment 1 to this DBE Program.

Sound Transit will provide copies of this DBE Program and 49 CFR Part 26 to interested parties upon their request.

### **Applicability**

Pursuant to 49 CFR Sections 26.3 and 26.21, Sound Transit, a recipient of federal financial assistance from the FTA of the USDOT, is required to implement a DBE Program in accordance with 49 CFR Part 26. The DBE Program outlined herein applies to all Sound Transit contracts that are funded, in whole or in part, by USDOT (DOT).

In the administration of the DBE Program, Sound Transit will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of this DBE Program with respect to individuals of a particular race, color, sex or national origin.

## **Definitions**

The Definitions set forth in 49 CFR Section 26.5 and in Attachment 2 to this DBE Program shall apply in this DBE Program

## **Non-Discrimination Requirements**

Sound Transit will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, Sound Transit will 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 the DBE program with respect to individuals of a particular race, color, sex or national origin.

Each federally-funded Sound Transit contract, and each subcontract entered into by Contractors, will include the following statement (with revisions only to identify the appropriate party):

The Contractor, sub-recipient or Subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Sound Transit deems appropriate as specified in the Contract.

Sound Transit will obtain copies of the subcontracts and subconsultants agreements between contracted Primes and Consultants to verify provisions as mandated in Sound Transit general conditions and agreements language.

## **Record Keeping Requirements**

Reporting to DOT: Sound Transit will report DBE participation to DOT as directed by the FTA.

Bidders List: Pursuant to 49 CFR Section 26.11(c), Sound Transit will maintain a Bidders List consisting of all firms bidding or proposing on prime contracts and bidding, proposing or quoting on subcontracts on federally-funded Contracts. For every firm, the following information will be included: firm name; firm address; firm's status as a DBE or non-DBE; the age of the firm; and, the annual gross receipts of the firm.

The Bidder's List is maintained through Sound Transit's Biddingo Network Platform. Further information about vendor registration, contracting opportunities, listing of open contracts over \$100,000, and notification of contracting request for bids/proposals can be accessed on the Sound Transit website, [www.Soundtransit.org](http://www.Soundtransit.org), and click on "Procurement and Contracts".

Records Documenting DBE Compliance: Pursuant to 49 CFR Section 26.11(d), Sound Transit will keep and retain records of on-site reviews of DBEs for a minimum three (3) years unless otherwise provided by applicable record retention requirements for the financial assistance agreement, whichever is longer.

## **Federal Financial Assistance Agreement**

Sound Transit has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: The following clause, used verbatim per 49 CFR Section 26.13(a), will appear in financial assistance agreements with sub-recipients.

Sound Transit shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. Sound Transit shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. Sound Transit's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Contract. Implementation of this DBE Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Contract. Upon notification to Sound Transit of its failure to carry out its approved DBE Program, DOT may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Contract Assurance: Sound Transit will ensure that the following clause, used verbatim per 49 CFR Section 26.13(b), is included in every DOT-assisted contract and subcontract entered into by Sound Transit with a Contractor and in each and subcontract the Contractor signs with a subcontractor:

The Contractor, sub-recipient, or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Sound Transit deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

## ADMINISTRATIVE REQUIREMENTS

### DBE Program Updates

Since Sound Transit has received grants of \$250,000 or more in FTA planning, capital, and/or operating assistance in a federal fiscal year, Sound Transit will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. Sound Transit will provide updates to DOT representing significant changes in the DBE Program.

### Responsibility for DBE Program Implementation and Administration

- A. Board of Directors. The Board of Directors ultimately is responsible for establishing a DBE policy and ensuring that the DBE Program has a high priority at Sound Transit.
- B. Chief Executive Officer (CEO) The CEO is responsible for ensuring that the Board's policies are implemented throughout Sound Transit.
- C. Chief Diversity Equity and Inclusion Officer. The Chief Diversity Equity and Inclusion Officer has been designated by the CEO as the DBE Liaison Officer as referenced in 49 CFR Part 26. The DBE Liaison Officer is responsible for overseeing the DBE Program, recommending DBE policy, and developing and implementing a written DBE Program and internal and external communication procedures related to the DBE Program. The DBE Liaison Officer shall have adequate staff and shall have direct and independent access to the CEO. The DBE Liaison Officer shall have the full support of the CEO.

The DBE Liaison Officer is the primary person responsible for all aspects of this Program, and she/he will work closely with Sound Transit departments that are responsible for making decisions relative to Sound Transit's Contracts and Subcontracts, including but not limited to construction, professional and technical services, and goods or service purchase orders.

In accordance with 49 CFR Section 26.23, the specific duties and responsibilities of the DBE Liaison Officer or her/his designee will include but not be limited to the following:

- 1. Gathering and reporting statistical data and other information as required by FTA;
- 2. Working with Sound Transit departments to establish overall DBE goals;
- 3. Work with Sound Transit departments to ensure timely notification to the DBE community of bid and contract opportunities;
- 4. Identifying race-neutral methods of achieving DBE participation and evaluating the success of such methods;
- 5. Analyzing Sound Transit progress toward DBE goal attainment, and identifying ways to improve progress, as required;
- 6. Participating in procurement and award of contract processes, including establishing specific DBE contract goals where appropriate, reviewing solicitation documents, attending pre-bid, pre-proposal and pre-construction meetings to explain the DBE Program and to respond to questions from Bidders and Contractors, and evaluating Bids for responsiveness, responsibility and good faith efforts related to compliance with Sound Transit's DBE Program.

7. Analyzing and assessing the available resources and evidence for the establishment and achievement of an overall participation goal for DBEs for periods prescribed by DOT;
  8. Advising the CEO and Board of Directors on DBE Program matters;
  9. Acts as a liaison to the Unified Certification Program (UCP) agreement with the Washington State Office of Minority and Women's Business Enterprises (OMWBE), reviewing procedures related to maintaining and updating the DBE Directory of Certified Firms in accordance with 49 CFR Section 26.11 and 26.81;
  10. Work with Sound Transit departments to ensure that the Bidder's List is maintained and current in accordance with 49 CFR Section 26.11(c).
  11. Implementing race-neutral measures to facilitate participation by DBEs and other small businesses, such as outreach and other communication programs, training and business development programs, restructuring contracting opportunities, simplifying bonding, surety and insurance requirements or other race-neutral means;
  12. Assessing the critical technical and fiscal management needs of DBEs and other small businesses, and planning and conducting training and providing technical assistance for DBEs and other small businesses;
  13. Providing outreach to DBEs, other small businesses and community organizations with advice on DBE Program issues and participation opportunities;
  14. Monitoring DBE participation, adjusting overall goals and means of achievement, and reporting to Sound Transit, the Board, and FTA as needed;
  15. Monitor the Office of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) activities to ensure compliance with regulations and provide to OMWBE relevant information pertaining to issues where the participation of such firms on Sound Transit contracts may not be counted toward DBE contract goals and continued certification of such firms may be in question; and
  16. Maintaining all appropriate records and documentation of the DBE Program.
- D. Economic Development Director. The Economic Development Director directly reports to the Chief Diversity Equity and Inclusion Officer and provides operational support in implementation of the DBE Program.
- E. Diversity Oversight Committee. The Diversity Oversight Committee has been established by Sound Transit in order to further encourage communication between the DBE contracting community and Sound Transit. The purpose of the Committee is to make general recommendations to the CEO and DBE Liaison Officer on Small Business/DBE policies and practices that impact DBE utilization and participation on Sound Transit contracts.
- F. Organizational Chart The current organizational chart for Sound Transit is set forth in Attachment 3 to this DBE Program.



### **DBE Financial Institutions**

Pursuant to 49 CFR Section 26.27, the DBE Liaison Officer will explore the full extent of services offered by banks and other financial institutions that qualify as DBEs in the three-county Puget Sound Region and determine areas in which Sound Transit may reasonably utilize their services. Sound Transit will also encourage its Contractors to use the services of DBE financial institutions. At the present time, there are no banks or financial institutions in the three-county Puget Sound Region that are certified as DBEs. The DBE Liaison Officer will continue to monitor for such institutions that may qualify as DBEs and if identified, will encourage those businesses to seek certification as DBEs.

### **Prompt Payment Mechanisms**

Each of Sound Transit's contracts including those that are federally-funded Contracts will include the following provisions:

The Contractor shall promptly pay any and all Subcontractors by an instrument that guarantees availability of funds immediately upon deposit of said instrument. The Contractor shall include, in its monthly invoice submission to Sound Transit, amounts to pay for all Subcontractors' acceptable invoices, no later than thirty (30) days after receipt of such invoices. Unless otherwise approved in writing by Sound Transit, the Contractor shall within five (5) days after receipt of the payment made by Sound Transit, pay to each of its immediate Subcontractors for satisfactory performance of their subcontracts, the amounts to which they are entitled, after deducting any prior payments and any amount due and payable to the Contractor by those Subcontractors. Any delay or postponement of such payment may take place only for good cause and with Sound Transit's prior written approval. If the Contractor determines the work of the Subcontractors to be unsatisfactory, the Contractor must immediately notify in writing Sound Transit (with a separate notice to Sound Transit's Office of Civil Rights, Equity and Inclusion Economic Development Division if the Subcontractor is a DBE) and state the reasons. Failure by the Contractor to comply with this requirement will be construed to be breach of contract and may be subject to sanctions as specified in the Contract.

Should Sound Transit make incremental inspections and, upon approval of the Contractor's work at various stages of the Contract, pay a portion of the retainage, the Contractor shall promptly, within thirty (30) days after Sound Transit has made such payment, pay to the Subcontractor who has satisfactorily completed all of its work whose work is covered by Sound Transit's inspection and approval, all monies, including retainage owed to the Subcontractor. Sound Transit's incremental inspections, approval or release of a portion of the retainage under this section shall not constitute acceptance.

For the purposes of this section, a Subcontractor's work is satisfactorily completed when the Contractor certifies to Sound Transit that all the tasks called for in the Subcontract have been accomplished and that the Subcontractor's retention may now be paid.

### **OMWBE Directory of Certified Firms**

Pursuant to 49 CFR Section 26.31 and under the UCP, OMWBE maintains the DBE Directory will be maintained and updated at least annually. The DBE Directory identifies the firms that are eligible to participate as DBEs in this DBE Program. Sound Transit will use the DBE Directory as one of the resources in developing overall and contract-specific DBE participation goals and conducting outreach and other programs for DBEs. The DBE Directory will be available online at [www.omwbe.wa.gov](http://www.omwbe.wa.gov), as well as on request, to Contractors and the public. The DBE Directory will include the firm's name, address, telephone number, and types of work, utilizing the North American Industrial Classification System (NAICS) Codes, for which the firm is certified as a DBE.

## **Overconcentration**

Pursuant to 49 CFR Section 26.33, if the DBE Liaison Officer determines that DBE participation is so over-concentrated in certain types of work or contracting opportunities that it unduly burdens the participation of non-DBEs in that type of work, the DBE Liaison Officer will develop appropriate measures to address the overconcentration. The DBE Liaison Officer will seek approval of the measures from the FTA. Once approved, the measures will become part of this Program.

Measures to address DBE overconcentration in a particular field may include but are not limited to:

1. The DBE Liaison Officer may develop ways to assist DBEs to move into non- traditional areas of work;
2. The DBE Liaison Officer may vary the use of DBE contract goals; and
3. The DBE Liaison Officer may work with Contractors to find and use DBEs in other industry areas.

At the present time, Sound Transit is unaware of any types of work that have a burdensome overconcentration of DBE participation.

## **Business Development Programs**

Sound Transit provides contractor informational or technical assistance programs to assist DBEs and other small businesses. Sound Transit also refers DBEs and other small businesses to outside resources for assistance.

This assistance may include but is not limited to general instruction and training in bid or proposal preparation, scheduling, estimating, procurement, change order preparation, negotiations, force account invoicing, certified payroll preparation, insurance, bonding and financing required for a Sound Transit project. The contractor informational or technical assistance programs are not intended to direct the means or methods of performance of any contractual requirements by DBEs and small businesses. It is expected that DBEs and small businesses will perform these tasks themselves with the assistance of such general training as may be available.

Any information or assistance provided by Sound Transit will not relieve the Contractor of the responsibility to manage Subcontractor activities. Sound Transit has also developed a Capacity Building Mentorship Program designed to assist both DBE and non-DBEs in performing their work.

## **Outreach Program**

One method of providing race-neutral efforts for participation by DBEs and other small businesses will be through Sound Transit's DBE Outreach Program. Each year, the DBE Liaison Officer will facilitate at least one vendor fair (such as the Annual Regional Contracting Forum) for all small businesses, including DBEs. Companies will meet with Sound Transit DBE/Small Business Program, procurement and project management staff; and, conversely, Sound Transit staff will have the opportunity to become acquainted with qualified business owners who many supply services and products.

The DBE Liaison Officer will make available information on DBE certification, small business eligibility and DBE Program requirements and procedures. These activities will include procedures explaining how to do business with Sound Transit and exploring best business practices, which may be used to market small businesses at Sound Transit.

In addition, Sound Transit maintains a web site containing information regarding the DBE Program and notices of contracting opportunities; maintains an Outreach Calendar of upcoming events; and a Small Business Resource Guide to assist DBEs and other small businesses.

## **Monitoring and Enforcement Mechanisms**

Sound Transit will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

Sound Transit will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the DBE Program, so that DOT can take the steps (e.g., referral to the US Department of Justice for criminal prosecution, referral to the DOT Office of Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR Section 26.109. Sound Transit maintains a webpage at which anyone with knowledge of any activity involving potential fraud or abuse in the DBE program can report such information. Sound Transit also maintains a toll free number for reporting fraud in the DBE Program (1-877-480-6617 toll free), and reporting may be made by email to [dbefraud@soundtransit.org](mailto:dbefraud@soundtransit.org).

1. Sound Transit will consider similar action under its own legal authorities, including responsibility determinations in future contracts.
2. Sound Transit will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by performing commercially useful function onsite verification that the DBE performs, manages and supervises the subcontracted work and has responsibility for materials and supplies used in the DBE's subcontracted work. The monitoring mechanisms and compliance review procedures are set forth in Attachment 7 to this DBE Program.
3. Sound Transit will keep a running tally of actual payments to DBEs for work committed to them at the time of Contract award.

## **Contract Payment Monitoring Through B2Gnow**

Sound Transit has implemented an online Diversity Management System, powered by B2GNow, for tracking payments to primes, first tier subcontractors/subconsultants, and lower tier subcontractors/subconsultants on agency contracts.

The B2GNow system will help Sound Transit monitor prompt payment as well as progress toward any applicable DBE or small business contract goals. Sound Transit's Diversity Management System, powered by B2GNow is available at <https://soundtransit.diversitycompliance.com/>.

Contract language provisions will be included on applicable contracts requiring monthly reporting onto Sound Transit's Diversity Management System, powered by B2GNow.

## **Maintaining Records and Documents**

Sound Transit will require Contractors to maintain records and documents of payments to DBEs for six years following the performance of Contracts. These records will be made available for inspection upon request by any authorized representative of Sound Transit or DOT. This reporting requirement will also extend to any certified DBE Subcontractor.

Sound Transit will perform routine audits of contract payments to DBEs. The audit will review payments to DBE Subcontractors to ensure that the actual amount paid to DBE Subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## **Non-Compliance and Remedies**

Non-compliance consists of failure or refusal to implement, meet or satisfy the applicable governmental requirements related to DBE participation, including but not limited to 49 CFR Part 26 and related federal guidelines (e.g., FTA Circular 4716.1 A for transit vehicle manufacturers), or the applicable requirements of Sound Transit's DBE Program and/or Sound Transit contracts related to DBE participation.

Sound Transit may impose any remedies for non-compliance authorized by the federal, state and local laws and regulations and included in Sound Transit solicitation or contract provisions, including withholding of progress payments, liquidated damages and termination of the Contract in whole or in part. Sanctions and remedies for noncompliance are set forth in Attachment 8 to this DBE Program.

Sound Transit will implement appropriate mechanisms to ensure compliance with the DBE Program by all DBE Program participants under federal, state and local law.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE Program, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26;
2. Enforcement action pursuant to 49 CFR Part 31, and
3. Prosecution pursuant to 18 USC 1001.

## **GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Set-asides or Quotas**

Sound Transit does not use set-asides or quotas to achieve DBE participation in its DBE Program. To the extent allowed under state law, Sound Transit may use set-asides for all small businesses, as described elsewhere in this DBE Program.

### **Overall Goals**

Pursuant to 49 CFR Section 26.45, the DBE Liaison Officer will establish a DBE overall goal, subject to the approval of the CEO, on a triennial (every three (3) consecutive federal fiscal years) basis for the participation of DBEs in all budgeted contracts utilizing FTA financial assistance. The overall DBE goal will be expressed as a percentage of the total amount of FTA funds Sound Transit anticipates expending in each fiscal year. Sound Transit's overall DBE goal will be reflective of the amount of ready, willing and able DBEs that are available to participate in contracting opportunities and of the amount of DBE participation Sound Transit would expect absent the effects of discrimination. Sound Transit intends to meet this goal to the extent feasible through race-neutral measures. Where race-neutral measures are inadequate to meet the overall DBE goal, Sound Transit will establish specific contract goals for particular projects with subcontracting opportunities. Overall project goals may be set for design-build, turnkey and/or multi-year projects consistent with the requirements of 49 CFR Part 26.

Pursuant to 49 CFR Section 26.45 (g), Sound Transit will provide for public participation in establishing an overall DBE goal, including consultation with minority, women's and general contractor groups, community organizations, and other officials or organization that may have information concerning the availability of DBE and non-DBEs, consideration of the effects of discrimination on DBE opportunities, and consideration of efforts to establish a level playing field for DBE participation. Sound Transit will publish a notice announcing proposed overall DBE goals informing the public the proposed goals and rationale are available for inspection during normal business hours at Sound Transit's principal office for thirty (30) days following the date of the notice, and that Sound Transit and DOT will accept comments on such goals for forty-five (45) days from the date of the notice. The notice will include Sound Transit's address and web site addresses. The notice will be published in general circulation media; minority/women focus media, and trade association publications. All public participation will be completed before Sound Transit's overall goal is submitted to FTA for approval.

The overall DBE goal calculation and public participation and notice process followed by Sound Transit in setting overall DBE goals for FFY 2023 -2025 is set forth in Attachment 12 to this DBE Program.

### **Transit Vehicle Manufacturers Goals**

Sound Transit will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA financially-assisted transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Section 26.49.

Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers (TVM), or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid. The TVMs eligible to bid on federally funded transit procurements are listed on FTA's website at [www.fta.gov/civilrights](http://www.fta.gov/civilrights). Pursuant to the 2014 DBE regulation update, Sound Transit reports all transit vehicle procurement awards, within 30 days of making an award utilizing FTAs online Transit Vehicle Award Reporting Form.

### **Breakout of Estimated Race-Neutral & Race-Conscious Participation**

Pursuant to 49 CFR Section 26.51, Sound Transit will achieve as much of its overall DBE goal as possible by using race-neutral efforts to facilitate DBE participation. Race-neutral efforts may include, but are not limited to, the following:

1. Arranging solicitations, times for presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing to DBEs and other small businesses;
3. Providing technical assistance and other similar services to DBEs and other small businesses;
4. Providing information and communication programs on contracting and business procedures as well as specific contract opportunities;
5. Implementing a supportive service program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which participation by DBEs and other small businesses has been historically low;
8. Ensuring distribution of Sound Transit's DBE database through print and electronic means to the widest feasible range of potential Bidders;
9. Assisting DBEs and other small businesses to develop their capability to utilize emerging technology and conduct business through electronic media;
10. Unbundling larger contracts when feasible into a series of manageable projects to facilitate participation by DBEs and other small businesses; and
11. Conducting internal training seminars to facilitate better understanding among project managers and engineers regarding the objectives of the DBE Program.

### **Contract-Specific DBE Goals**

Sound Transit may establish contract-specific DBE goals on contracts with subcontracting opportunities to the extent that Sound Transit cannot achieve its overall DBE goal with race-neutral measures. The contract-specific DBE goal will be established based on a recommendation and information furnished by the Economic Development Director. The contract-specific goal will apply to the percentage participation of DBEs in the total Contract work and will be set forth in the solicitation documents.

For each Contract involving subcontracting opportunities, the factors outlined below will be considered to determine whether a contract-specific DBE goal should be established for the particular Contract and, if so, what the percentage goal will be:

1. The projected portion of the overall DBE goal that will be met by establishing contract-specific goals;
2. The progress toward achieving the DBE overall goal;

3. The full range of activities in the particular Contract;
4. The availability of DBEs as Subcontractors or Suppliers in the types of work involved in the performance of the proposed Contract; and
5. Any other relevant criteria.

Where a contract-specific DBE goal has been established, the Bidder will be required to make good faith efforts to meet the contract-specific goal, which can be shown by committing to DBE participation equal to or greater than the goal or submitting documentation to demonstrate it made efforts to achieve the goal consistent with the requirements of 49 CFR Part 26.

A Bidder shall be entitled to reconsideration by a Sound Transit official in accordance with 49 CFR Section 26.53(d), if the Economic Development Director determines the Bidder failed to show either it met the goal or did not make sufficient good faith efforts to meet the goal consistent with the requirements of 49 CFR Part 26. A Bidder will be ineligible for award if it does not meet the good faith efforts requirements. Contract solicitation provisions will provide that contract award is conditioned on meeting these requirements.

Where more than one operating administration is providing funding for a project or a contract, the Operating Administration (OA) providing the most funding for the project or contract and the OA, in turn, will coordinate with the DOT agencies involved to determine how to proceed.

## **Good Faith Efforts Procedures**

### **Requirement to Make Good Faith Efforts**

Sound Transit shall include the following clauses, or substantially similar clauses, in solicitation and contract documents for which DBE contract-specific goals have been established.

The requirements of 49 CFR Part 26 apply to this solicitation and subsequent contract. It is the policy of Sound Transit to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of all contracts. All firms qualifying under this solicitation are encouraged to submit bids or proposals, as applicable. Award of the contract will be conditioned upon satisfying these requirements, which apply to all bidders/proposers, as applicable, including those who qualify as a DBE. A DBE contract-specific goal of \_% percent has been established for this solicitation and subsequent contract. The bidder shall make good faith efforts, as defined in Appendix A to 49 CFR Part 26 to meet the contract-specific goal for DBE participation in the performance of this contract.

The Bidder/Proposer will be required to submit the following information:

1. The names and addresses of DBEs that will participate in the work under the contract;
2. A description of the work that each DBE will perform. To count toward meeting a goal, each DBE must be certified in a NAICS code applicable to the kind of work the DBE would perform on the contract;
3. The dollar amount of the participation of each DBE identified to perform work participating
4. Written documentation of the bidder's commitment to use a DBEs as subcontractors whose participation the bidder submits to meet the contract- specific goal;
5. Written confirmation from each listed DBE that it is participating in the contract in the kind and amount of work provided in the bidder's commitment; and

6. If the contract-specific goal is not met, evidence of good faith efforts. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the Bidder/Proposer when a non-DBE subcontractor was selected over a DBE for work on the contract. Such documentation shall be submitted to Sound Transit at the time of bid submittal.

If directed by Sound Transit and by such date as determined by Sound Transit, the Bidder shall complete and submit a DBE/Small Business Commitment Form to confirm a Bidder's/Proposer's commitment to DBE participation. The RFP Forms 3 and 4 – DBE/Small Business Commitment for Design Services and Construction Services are included as Attachment 4 to this DBE Program.

In a negotiated procurement, including a design-build procurement, the bidder may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information identified above before the final selection for the contract is made by Sound Transit.

#### Demonstration of Good Faith Efforts

The obligation of the Bidder/Proposer is to make good faith efforts. The Bidder/Proposer can demonstrate it has done so either by meeting the contract-specific goal or documenting good faith efforts to meet the goal. Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

The Economic Development Director is responsible for determining whether a Bidder/Proposer who has not met the contract-specific goal has documented sufficient good faith efforts to meet the goal. Failure of a Bidder/Proposer to meet the goal or document sufficient good faith efforts to do so shall result in the Bid/Proposal not being considered for award of the Contract.

Sound Transit will ensure all information is complete, accurate and adequately documents the Bidder's/Proposer's good faith efforts before Sound Transit commits to the performance of the Contract by the Bidder.

Sound Transit treats a Bidder's/Proposer's compliance with the good faith efforts requirements as a matter of responsiveness

Sound Transit will verify all information submitted by a Bidder/Proposer for completeness and accuracy prior to award. The recommendation for award will be based on an evaluation of the criteria set forth below and will be reached in accordance with Sound Transit's procedures applicable to specific types of contracting activity. No Bidder/Proposer will be recommended for award unless it has met the contract-specific goal or has made good faith efforts to do so.

1. Evaluation of DBE Certification Status. Sound Transit will require each DBE listed by the Bidder/Proposer for participation in the Contract be certified as an eligible DBE at the time of Bid submittal
2. Determination of Amount of DBE Participation. The Economic Development Director will review for accuracy the total dollar value of the work and the percentage of the total Bid price reported on the DBE Subcontractor submittal documentation and will compare it to the contract-specific goal established for the Contract.
3. Determination of Good Faith Efforts. If the amount of DBE participation does not meet the contract-specific goal, the Economic Development Director will review the good faith efforts documentation



submitted by the Bidder/Proposer, as required by the solicitation documents. In accordance with 49 CFR Part 26 and Sound Transit procedures, the Economic Development Director will determine whether the Bidder/Proposer made good faith efforts to meet the contract-specific goal.

4. Bidder's Right to Reconsideration. If the Economic Development Director determines that the Bidder/Proposer has not met the contract-specific goal and has not demonstrated good faith efforts to do so, the Bidder/Proposer will be notified in writing. The notification will explain the basis and include the reasons for the determination, and it will inform the Bidder/Proposer of its right to reconsideration by a Sound Transit official, other than the Economic Development Director, prior to the time a recommendation for award of contract is made.

The Chief Diversity, Equity, and Inclusion Officer will review GFE appeal requests. After reconsideration, Sound Transit will provide the Bidder/Proposer with a written decision. The result of the reconsideration process is not appealable by the Bidder/Proposer to FTA.

#### Good Faith Efforts when a DBE is Replaced or Not Used

Bidder shall not replace or otherwise fail to use any specific DBE listed in its bid/proposal commitment to perform work on the contract unless the Bidder/Proposer obtains prior written consent from Sound Transit, whose consent will be given only for good cause shown by the Bidder/Proposer. If Sound Transit consents to such replacement or non-use, Bidder/Proposer shall make good faith efforts to find another DBE to substitute for the original DBE.

Contractor shall not terminate any specific DBE listed in its bid to perform work on the contract unless the Bidder obtains prior written consent from Sound Transit's the Economic Development Director whose consent will be given only for good cause shown by Contractor. If Sound Transit consents to such termination, Contractor shall make good faith efforts to find another DBE to substitute for the original DBE. Such good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract-specific DBE goal established for the contract.

### **Counting DBE Participation**

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased by the DBE (except from the Contractor or its affiliate) may also be counted.

DBE participation will not be counted toward the Contractor's achievements or the overall goal until the DBE has been paid. The Economic Development Director will track the participation of DBEs in contract-specific goal contracts separately from the participation of DBEs in contracts without contract-specific goals. Additionally, in accordance with 49 CFR Section 26.51(g), the Economic Development Director will not count towards the overall goal that portion of participation by a DBE that is achieved after the certification of the DBE has been removed during the performance of a Contract. If the ineligibility of the DBE is caused solely by its having exceeded the size standard during the performance of the Contract, Sound Transit will continue to count its participation on that Contract toward overall and contract-specific goals.

- A. Commercially Useful Function. Expenditures may only be counted if the DBE performs a commercially useful function on the Contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating prices, determining quality and quantity, ordering the material, and installing and paying for the material itself. To

determine whether a DBE is performing a commercially useful function, Sound Transit will evaluate the amount of work subcontracted, industry practices, whether the amount the DBE is to be paid under the Contract is commensurate with the work it is actually performing, the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE does not perform a commercially useful function if its role in the Contract is limited to that of an extra participant through which funds are passed in order to obtain the appearance of DBE participation. If the DBE does not perform or exercise responsibility for at least 51% of the total cost of its subcontract with its own work force, or the DBE subcontracts a greater portion of the work of a subcontract than would be expected based on normal industry practice for the type of work involved, the DBE is presumed not to be performing a commercially useful function.

- B. Materials and Supplies. If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the supply contract will be counted. If the materials and supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted. If the materials and supplies are purchased from a DBE broker or a manufacturer's representative, only the amount of the fees or commissions charged for assistance in the procurement of the materials or supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, will be counted towards the DBE goal, provided the fees, commissions or charges are reasonable and not excessive as compared with fees, commissions or charges customarily allowed for similar services
- C. Trucking. Trucking will be counted in accordance with the provisions of 49 CFR Section 26.55(d).

#### **Tracking DBE Participation**

Sound Transit will track the amount awarded the DBE, the amount paid to the DBE as stated by the Contractor, and the amount paid to the DBE as verified by the DBE.

The CREI-Economic Development Division will report to FTA the actual amounts paid to DBEs. Contractors performing work on the Sound Transit's federally-funded Contracts are required to separately report the DBE participation of their Contracts achieved through race-neutral and through race-conscious means.

Pursuant to 49 CFR Section 26.11(b), Sound Transit will continue to report DBE participation and overall DBE goal-setting methods to the FTA, as directed, and will maintain prescribed statistical data.

DBE subcontracts will be made available to Sound Transit upon request when needed to ensure compliance with the requirements of 49 CFR Part 26

## **CERTIFICATION STANDARDS AND PROCEEDURES**

### **Certification Process**

Sound Transit will rely on the certification of DBEs as conducted and maintained by the Washington State Office of Minority and Women's Business Enterprises (OMWBE). Under Washington State law and consistent with 49 CFR Section 26.81 requiring DOT recipients to participate in Uniform Certification Programs, Sound Transit is not authorized to conduct DBE certification activities. The current agreement between Sound Transit and OMWBE for certification functions is set forth in Attachment 6 to this DBE Program.

For information about the certification process, to apply for certification or to obtain certification application forms and documentation, firms should contact: OMWBE P.O. Box 41160, Olympia WA. 98504-1160 (phone 866-208-1064) or ([www.omwbe.wa.gov](http://www.omwbe.wa.gov)).

The certification standards and procedures, including those for removal of certification or de-certification, are set forth in Title 326 of the Washington Administrative Code.

### **Unified Certification Programs (UCP)**

A Memorandum of Agreement (MOA) for a Statewide Unified Certification Program (UCP) was developed by OMWBE and local agencies in Washington State that are recipients of federal funds. The MOA was accepted by the DOT and was executed November 20, 2007. As a party in the UCP, Sound Transit's DBE Liaison Officer serves on the OMWBE Advisory Committee, comprised of government partners and leaders of organizations that represent the business interests of ethnic minorities and women business owners throughout the state of Washington.

### **Procedures for Certification Decisions**

#### Re-certifications

Sound Transit is not involved in certification or re-certification of DBEs. That responsibility rests with OMWBE. Periodically, the DBE Liaison Officer will review the procedures of OMWBE to determine that OMWBE is satisfactorily conducting certification and re-certification activities.

#### "No Change" Affidavits and Notices of Change

OMWBE is responsible for requiring DBEs to inform OMWBE, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the DBE's application for certification.

OMWBE is responsible for requiring owners of all DBEs certified by OMWBE to submit, on the anniversary date of its certification, a "no change" affidavit meeting the requirements of 49 CFR Section 26.83(j). OMWBE is responsible for requiring DBEs to submit documentation of the DBE's size and gross receipts with the "no change" affidavit.

OMWBE is responsible for notifying all currently certified DBEs of these obligations. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm they meet all regulatory requirements of 49 CFR Part 26, including personal net worth. Likewise if an owner knows or should know that he or she, or the firm, fails to meet an eligibility requirement (e.g., personal net worth), the obligation to submit a notice of change applies.

Periodically, the DBE Liaison Officer will review the procedures of OMWBE to ensure OMWBE is satisfactorily conducting the "no change" and notice of changes activities.

**Denials of Initial Requests for Certification**

If OMWBE denies a firm's application or decertifies a DBE, the firm may not reapply until the number of months specified by OMWBE has passed from OMWBE's action.

**Removal of a DBE's Eligibility**

In the event OMWBE proposes to remove a DBE's certification, OMWBE will follow procedures consistent with 49 CFR Section 26.87.

**Certification Appeals**

Any firm or complainant may appeal a decision in a certification matter by OMWBE to USDOT. Such appeals may be sent to:

U.S. Department of Transportation Departmental Office of Civil Rights  
External Civil Rights Programs Division (S-33) 1200 New Jersey Ave., S.E.  
Washington, DC 20590  
Phone: (202) 366-4754  
TTY: (202) 366-9696  
Fax: (202) 366-5575

OMWBE is responsible for promptly implementing any USDOT certification appeal decisions affecting the eligibility of DBEs for DOT-assisted contracting (e.g., certify a firm if DOT has determined that denial by OMWBE of its application was erroneous

## **DISCLOSURE OF BUSINESS INFORMATION**

### **Information, Confidentiality, Cooperation**

Sound Transit will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, OMWBE is responsible for not releasing personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.

## **FOSTERING SMALL BUSINESS PARTICIPATION**

As an element in its DBE Program, Sound Transit will seek to structure contracting requirements to facilitate competition by small businesses taking all reasonable steps to eliminate obstacles to participation by small businesses, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

For purposes of the small business element in the DBE Program, a small business is a business that:

1. Is organized for profit;
2. Has a place of business in the United States; and
3. Operates primarily within the United States or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor;
4. Does not exceed the numerical size standard established by the Federal Small Business Administration (SBA) in 13 CFR Part 121 for the types of work it seeks to perform on USDOT-assisted contracts; and
5. Has not had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three fiscal years, in excess of the amount established in 49 CFR 26.65(b).

Sound Transit will recognize a firm as a small business if they are certified as SBE, MBE, WBE, MWBE, SEDBE or DBE by OMWBE or if they are SCS certified through King County.

The small business element in the DBE Program may include, but is not limited to, the following strategies:

1. Establishing contract-specific goals for participation by small businesses. Contract-specific goals for participation by small businesses may be established for procurements in which there is a DBE contract-specific goal and in which there is not a DBE contract-specific goal. General provisions for implementing contract-specific goals for small businesses are included in Attachment 9.
2. Using the Job Order Contracting procedures authorized by Washington State law (RCW Chapter 39.10.420) to solicit proposals from small businesses, including DBEs;
3. Establishing a race-neutral small business set-aside for prime contracts. Sound Transit does not currently have a set-aside program for small businesses.
4. Implementing a supportive services program to assist small businesses to develop abilities and capabilities to participate in Sound Transit contracts. This program will be implemented in conjunction with the supportive services program for DBEs described in the Business Development Program and Race-Neutral Efforts portions of this DBE Program. The supportive services program for small businesses will be implemented using state and local funds, not USDOT funds.

Sound Transit will actively implement the program elements to foster small business participation as part of its good faith implementation of its DBE Program.



Sound Transit has developed a Small Business Resource Guide for small businesses, including DBEs which provides general information about the types of assistance available including but not limited to certification, bonding, training, etc. is included in Attachment 9.

Sound Transit has implemented a Capacity Building Mentorship Program to enhance the capabilities participation of small and diverse businesses that are able to perform work on transportation-related projects.

The Capacity Building Mentorship Program is assisting small and diverse businesses with appropriate mentoring with larger primes, they will be able to overcome barriers while trying to bid and work on Sound Transit's capital and relational projects.

Sound Transit offers a training program to meet the needs of small businesses to learn business concepts how to compete more effectively in a "Principles of Construction Business" course. The course provides both theoretical and hands-on applications to help expand knowledge and build capacity for subcontractors interested in working on agency projects.



Approved by:  _____ Chief Executive Officer	<b>Agency Policy 609</b>	Executive
 _____ Chief Diversity, Equity & Inclusion Officer	Disadvantaged Business Enterprise Program	
	Effective Date: 05/22/2021 Revision Date:	

## Disadvantaged Business Enterprise Program

### 1.0 Scope

- 1.1 This policy describes Sound Transit's commitment to its Disadvantaged Business Enterprise (DBE) program.
- 1.2 Sound Transit has established its DBE program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26, and as a condition of receiving this assistance, Sound Transit has signed an assurance that it will comply with 49 CFR Part 26.

### 2.0 Policy

- 2.1 It is the policy of Sound Transit to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts.
- 2.2 Sound Transit's commitment and objective is to:
  - 2.2.1 Ensure non-discrimination in the award and administration of USDOT-assisted contracts.
  - 2.2.2 Create a level playing field on which DBEs may compete fairly for USDOT-assisted contracts.
  - 2.2.3 Ensure that the DBE program is narrowly tailored in accordance with applicable laws.
  - 2.2.4 Ensure that only firms that fully meet eligibility standards are permitted to participate as DBEs.
  - 2.2.5 Help remove barriers to the participation of DBEs in USDOT-assisted contracts.
  - 2.2.6 Assist in the development of firms that can compete successfully in the marketplace outside of the DBE program.
  - 2.2.7 Promote participation by all categories of DBEs in the DBE program.
- 2.3 The chief diversity officer serves as Sound Transit's DBE liaison officer. In that capacity, the chief diversity officer is responsible for implementing all aspects of the DBE program.
- 2.4 The chief diversity officer has direct, independent access to the chief executive officer concerning DBE program matters. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Sound Transit in its financial assistance agreements with the USDOT.
- 2.5 Sound Transit periodically distributes this policy to the Sound Transit Board of Directors and to all employees of the agency.
- 2.6 Sound Transit distributes this policy statement to DBE and non-DBE business communities that perform work for Sound Transit on DOT-assisted contracts, by posting on the Sound Transit website, by electronic mail to all registered Sound Transit vendors, by electronic mail to certification entities, interested entities and individuals, and by direct mail to interested entities and individuals as requested.
- 2.7 In the event of any conflict between this policy and the law, DBEs are afforded all rights required by law.
- 2.8 Failure to comply with this policy may result in corrective action up to and including termination.











# Agency Policy 609 - Disadvantaged Business Enterprise Program\_ADOPTED April 2023

Final Audit Report

2023-04-12

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Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.

## ATTACHMENT 2: DEFINITIONS

In addition to the Definitions set forth in 49 CFR Part 26, the following definitions shall be applicable to Sound Transit's DBE Program. Singular words shall the plural.

**Bid** means the offer submitted by a Bidder to Sound Transit.

**Bidder** means any party that submits a bid, a proposal or quote in response to an invitation to bid, request for qualifications, proposals or both, or request for quotes, respectively.

**Board of Directors** means the representatives of local governments designated by Washington State law and selected by local governments comprising Sound Transit to sit as the governing body for Sound Transit.

**B2Gnow**: Means Sound Transit's "Diversity Management System" utilized to streamline and automate contract compliance data-gathering, tracking, reporting, vendor management, and administrative processes.

**DBE Liaison Officer** means Sound Transit's Chief Diversity Equity and Inclusion Officer who has been designated the DBE Liaison Officer. The DBE Liaison Officer is responsible for development, implementation and monitoring of the DBE Program.

**DOT or USDOT** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

**FTA** means the Federal Transit Administration, an agency of the USDOT.

**OMWBE** means the Washington State Office of Minority and Women Business Enterprise, as established by Washington State law.

**Set-aside** means a contracting practice restricting eligibility for the competitive award of a contract solely to small business firms.

**Small Business Administration or SBA** means the United States Small Business Administration.

**Sound Transit** means The Central Puget Sound Regional Transit Authority. Sound Transit is the entity that receives USDOT financial assistance. Sound Transit may pass some or all of such assistance on to a Sub recipient.

**Sound Transit CEO** means the Chief Executive Officer designated by the Board of Directors.

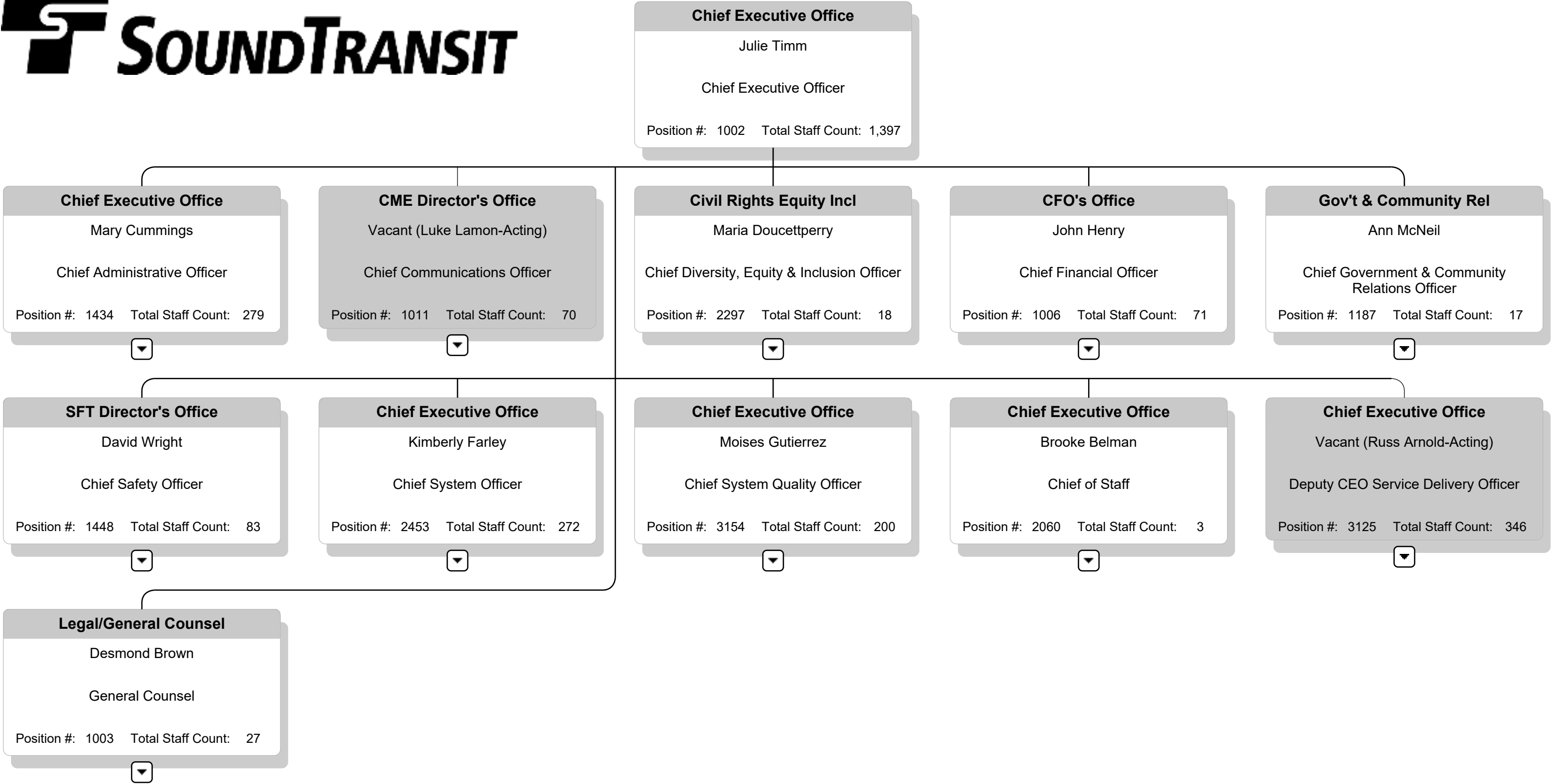
**Subcontractor** means a party, regardless of tier, that enters into a contractual relationship with a Contractor or Subcontractor.

**Sub** recipient means a state or local agency with which Sound Transit contracts for the use of USDOT financial assistance on Programs covered by 49 CFR Part 26.

**Supplier** means a vendor that provides materials, equipment or supplies to Sound Transit, a Contractor or a Subcontractor.

**UCP Agreement** means the Memorandum of Agreement (MOA) for a Statewide Unified Certification Program (UCP) developed by OMWBE and local agencies in Washington State that are recipients of federal funds. The MOA was accepted by the USDOT and was executed November 20, 2007.

**Venture** means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.





Civil Rights Equity Incl

Maria Doucettperry

Chief Diversity, Equity & Inclusion Officer

Position #: 2297    Total Staff Count: 18

Civil Rights Equity Incl

Alison Smith

Chief of Staff-Civil Rights, Equity & Inclusion

Position #: 2532    Total Staff Count: 2

Civil Rights Equity Incl

Edson Zavala

Director-Economic Development

Position #: 2014    Total Staff Count: 5

Civil Rights Equity Incl

Nicole Hill

Director-Equity & Social Responsibility

Position #: 2291    Total Staff Count: 3

Civil Rights Equity Incl

Daphne Cross

Director-Inclusive Culture

Position #: 2461    Total Staff Count: 3

Civil Rights Equity Incl

Christopher Quiocho

Senior Executive Assistant-Civil Rights, Equity & Inclusion

Position #: 2219

## ATTACHMENT

### PROPOSAL FORM NO. 3A INSTRUCTIONS DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMMITMENT FORM - PUBLIC WORKS

By submitting this proposal, the Proposer affirms the following: We have read, understood, and complied with Sound Transit's Diversity Program's provisions in this RFP, establishing the DBE goals. Our submittals (including outreach information) are true and accurate and demonstrate our commitment to comply with the participation provisions throughout the Contract.

Below we have listed all firms who will participate and count toward the DBE goals if we are awarded a Contract under this RFP. **To be counted toward the DBE contract goal, firms must be certified as DBE by OMWBE.**

Name	Description
<b>1a. Procurement Number</b>	Sound Transit's Procurement Number as listed on the cover of the solicitation document.
<b>1b. Procurement Title</b>	Name of procurement as written on the cover of the solicitation document.
<b>1c. Proposer Firm Name</b>	Proposer's company name.
<b>1d. Proposer Contact Name, Email, Phone</b>	Contact information for Proposer's contact person for this procurement.
<b>1e. Contract Compliance Name, Email, Phone</b>	Contact information for Proposer's contract compliance – staff member responsible for payment reporting in B2Gnow.
<b>2a. DBE Contract Goal</b>	Sound Transit's DBE Goal as listed in the solicitation.
<b>2b. Proposers DBE Commitment</b>	Respondent's DBE Goal commitment toward the contract DBE Goal. Total percentage the Proposer commits to including on the contract of proposed subconsultants who are DBEs, including the Proposer's contribution if Proposer is a DBE. (Sum of DBE Commitment Amounts from Section 3, over Total Contract Value)
<b>Column 3a. DBE Firm Name</b>	Official Name and DBA names of firm.
<b>Column 3b. Project Role</b>	<ul style="list-style-type: none"> <li>• <b>Regular DBE prime participation counted at 100 percent.</b></li> <li>• <b>Regular DBE subcontractor participation counted at 100 percent.</b></li> <li>• For subcontractor participation sublet to a <u>DBE Manufacturer</u> the bidder may claim 100 percent of the cost of the materials or supplies toward DBE goals. [§ 26.55 e(1) ]</li> <li>• For subcontractor participation sublet to a <u>DBE Regular Dealer</u> the bidder may only claim 60 percent of the cost of the materials or supplies toward DBE goals. [§ 26.55 e(2) ]</li> <li>• For subcontractor participation sublet to a <u>DBE Broker</u> the bidder may only claim only the DBE's fee or commission, and no part of the cost of the goods, count toward DBE goals. [[§ 26 &amp; ST DBE Program]</li> </ul> <p>For more information, visit: <a href="https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-C/section-26.55">https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-C/section-26.55</a></p>

<b>Column 3c. Description of Work</b>	Brief description of the work to be performed by the proposed DBE/Small Business participant.
<b>Column 3d. NAICS Associated with Scope of Work</b>	NAICS associated with work elements in 3c.
<b>Column 3e. Dollar Amount Contracted</b>	Total amount cited in Prime / Subcontractor contract agreement.
<b>Column 3f. Amount Counted toward DBE Goal.</b>	Based on 3b. Project Role, denote the appropriate dollar of participation to be counted toward contract DBE goal.

## Form 3 DBE Commitment Form - Public Works (Construction)

By submitting this proposal, the Proposer affirms the following:

We have read, understood, and complied with Sound Transit's Diversity Program's provisions in this RFP, establishing the DBE goals. Our submittals (including outreach information) are true and accurate and demonstrate our commitment to comply with the participation provisions throughout the Contract. Below we have listed all firms who will participate and count toward the DBE goals if we are awarded a Contract under this RFP.

### SECTION 1

### SECTION 2

<b>1a)</b>	<b>Procurement Number</b>				<b>2a) DBE Goal</b>	
<b>1b)</b>	<b>Procurement Title</b>				<b>2b) DBE Commitment</b>	
<b>1c)</b>	<b>Proposer Firm Name</b>					
<b>1d)</b>	<b>Proposer Contact Info.</b>	<i>name</i>	<i>email</i>	<i>phone</i>		
<b>1e)</b>	<b>Contract Compliance Contact info.</b>	<i>name</i>	<i>email</i>	<i>phone</i>		

By submitting this proposal, the Proposer affirms the following:

We have read, understood, and complied with Sound Transit's Diversity Program's provisions in this RFP, establishing the DBE goals. Our submittals (including outreach information) are true and accurate and demonstrate our commitment to comply with the participation provisions throughout the Contract. Below we have listed all firms who will participate and count toward the DBE goals if we are awarded a Contract under this RFP. Respondent will submit subcontracts to Sound Transit upon award. In order to be counted toward DBE Goal, firms must be certified as DBE by OMWBE.

### SECTION 3

	3a) DBE Firm Information (Business Name and Address)	3b) Project Role	3c) Description of Work	3d) NAICS Associated	3e) Dollar Amount Contracted	3f) Amount counted toward Goal
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

☐ By Checking this box, the bidder is stating that their attempts to solicit sufficient DBE participation to meet the contract goal have been unsuccessful and good faith effort will be submitted

Sum of 3f Subcontract Amounts  
Divided by Total Contract Value  
DBE Commitment as a Percent for Contract Goal




**PROPOSAL FORM NO. 3A  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMMITMENT FORM -  
PROFESSIONAL SERVICES.**

By submitting this proposal, the Proposer affirms the following: We have read, understood, and complied with Sound Transit's Diversity Program's provisions in this RFP, establishing the DBE goals. Our submittals (including outreach information) are true and accurate and demonstrate our commitment to comply with the participation provisions throughout the Contract.

Below we have listed all firms who will participate and count toward the DBE goals if we are awarded a Contract under this RFP. **To be counted toward the DBE contract goal, firms must be certified as DBE by OMWBE.**

Name	Description
<b>1a. Procurement Number</b>	Sound Transit's Procurement Number as listed on the cover of the solicitation document.
<b>1b. Procurement Title</b>	Name of procurement as written on the cover of the solicitation document.
<b>1c. Proposer Firm Name</b>	Proposer's company name.
<b>1d. Proposer Contact Name, Email, Phone</b>	Contact information for Proposer's contact person for this procurement.
<b>1e. Contract Compliance Name, Email, Phone</b>	Contact information for Proposer's contract compliance – staff member responsible for payment reporting in B2Gnow.
<b>2a. DBE Contract Goal</b>	Sound Transit's DBE Goal as listed in the solicitation.
<b>2b. Proposers DBE Commitment</b>	Respondent's DBE Goal commitment toward the contract DBE Goal. Total percentage the Proposer commits to including on the contract of proposed subconsultants who are DBEs, including the Proposer's contribution if Proposer is a DBE. (Sum of DBE Commitment Amounts from Section 3, over Total Contract Value)
<b>Column 3a. DBE Firm Name</b>	Official Name and any dba names of firm
<b>Column 3b. Description of Work</b>	Brief description of the work to be performed by the proposed Small Business participant.
<b>Column 3c. NAICS Associated with Scope of Work</b>	NAICS associated with work elements in 3b.
<b>Column 3d. Proposed Subcontract Amount</b>	Total amount cited in Prime / Subcontractor contract agreement.

## Form 3 DBE Commitment Form - Professional Services

By submitting this proposal, the Proposer affirms the following:

We have read, understood, and complied with Sound Transit's Diversity Program's provisions in this RFP, establishing the DBE goals. Our submittals (including outreach information) are true and accurate and demonstrate our commitment to comply with the participation provisions throughout the Contract. Below we have listed all firms who will participate and count toward the DBE goals if we are awarded a Contract under this RFP.

### SECTION 1

1a)	Procurement Number			
1b)	Procurement Title			
1c)	Proposer Firm Name			
1d)	Proposer Contact Info.	<i>name</i>	<i>email</i>	<i>phone</i>
1e)	Contract Compliance Contact info.	<i>name</i>	<i>email</i>	<i>phone</i>

### SECTION 2

2a) DBE Goal	
2b) DBE Commitment	

By submitting this proposal, the Proposer affirms the following:

We have read, understood, and complied with Sound Transit's Diversity Program's provisions in this RFP, establishing the DBE goals. Our submittals (including outreach information) are true and accurate and demonstrate our commitment to comply with the participation provisions throughout the Contract. Below we have listed all firms who will participate and count toward the DBE goals if we are awarded a Contract under this RFP. Respondent will submit subcontracts to Sound Transit upon award. In order to be counted toward DBE Goal, firms must be certified as DBE by OMWBE.

### SECTION 3

	3a) DBE Firm Information (Business Name, and Address)	3b) Description of Work	3c) NAICS Associated	3d) Proposed Subcontract Amount
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

☐ By Checking this box, the bidder is stating that their attempts to solicit sufficient DBE participation to meet the contract goal have been unsuccessful and good faith effort will be submitted

Sum of 3f Subcontract Amounts  
Divided by Total Contract Value  
DBE Commitment as a Percent for Contract Goal


**ATTACHMENT**

# *Memorandum of Understanding*

*between*

THE WASHINGTON STATE  
OFFICE OF MINORITY AND WOMEN BUSINESS ENTERPRISES

*and*

THE CENTRAL PUGET SOUND  
REGIONAL TRANSIT AUTHORITY

*and*

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

*for the*

STATE OF WASHINGTON UNIFIED  
CERTIFICATION PROGRAM

This Memorandum of Understanding for participation in the State of Washington Unified Certification Program (UCP) is between the Central Puget Sound Regional Transit Authority (Sound Transit) and the State of Washington, through its Office of Minority and Women's Business Enterprises (OMWBE) and its Department of Transportation (WSDOT) and is effective as of the date of the last signatory hereto.

## WITNESSETH:

WHEREAS, the Undersigned are recipients of funding and assistance program administered by the U.S. Department of Transportation (USDOT) and its operational modal, the Federal Transit Administration (FTA), in the state of Washington;

WHEREAS, the Washington State Office of Minority and Women Business Enterprises (OMWBE) performs certification following the regulations in 49 Code of Federal Regulations (CFR) Part 26;

WHEREAS, 49 CFR 26.81 requires all USDOT recipients in each state to participate in a Unified Certification Program (UCP);

WHEREAS, Chapter 39.19.120 Revised Code of Washington (RCW) designates OMWBE as the exclusive authority for certification of minority, women, and socially and economically disadvantaged business enterprises for all programs administered by the state of Washington, any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington; and

In Consideration of the foregoing recitals, the Undersigned agree as follows:

### 1. Representation of Accountability

The Washington State Department of Transportation (WSDOT) and OMWBE represent that WSDOT is ultimately accountable and responsible to USDOT for Disadvantaged Business

5.4 Share information and documents concerning firms certified in the state of Washington with other state UCPs that are considering applications of certification from such firms.

5.5 Maintain a unified *DBE Directory* of firms certified by OMWBE pursuant to this UCP that shall contain all of the information required by 49 CFR 26.31 and be available to the public electronically, on the internet, and in print.

5.6 Cooperate fully with all oversight, review and monitoring activities of USDOT and the other parties, as it relates to the implementation and ongoing activities of the UCP.

5.7 Cooperate fully with and participate in any audits or certification performance reviews and/or respond to and reply to other requests for information as may be directed to the UCP by USDOT and/or the Federal Transit Administration and/or Sound Transit.

## 6. Duties and Responsibilities of SOUND TRANSIT

Sound Transit shall perform the following duties and have the following responsibilities:

6.1 Pay a reasonable fee or other appropriate charge that has been established by rule in accordance with RCW 39.19.210 and WAC 326-02-034(3) (a).

6.2 Provide OMWBE and WSDOT with a copy of the Sound Transit Disadvantaged Business Enterprise Program Plan, and a copy of the Sound Transit Annual DBE Agency Goal Submittal as provided to the Federal Transit Administration.

6.3 Comply with and follow all certification standards and nondiscrimination requirements of 49 CFR Part 26, as may be approved from time to time, including without limitation, implementation of all USDOT directives and guidance to grantees and recipients concerning certification matters.

6.4 Cooperate fully with all oversight, review and monitoring activities of USDOT and/or the Federal Transit Administration, as it relates to the implementation and ongoing activities of the UCP.

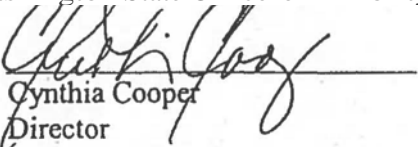
6.5 Cooperate fully with and participate in any audits or certification performance reviews and/or respond to and reply to other requests for information as may be directed to Sound Transit by USDOT and/or the Federal Transit Administration and/or OMWBE.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective as of the last date of all the signatories appearing here below.

ACCEPTED:

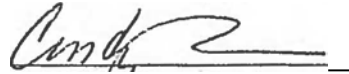
Washington State Office of Minority and Women's Business Enterprises

By:

  
Cynthia Cooper  
Director

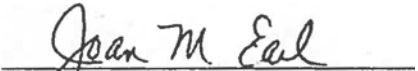
Date: 1-24-08

Approved as to Form:

  
Assist attorney General  
State of Washington

Sound Transit

By:

  
Joan M. Earl  
Chief Executive Officer

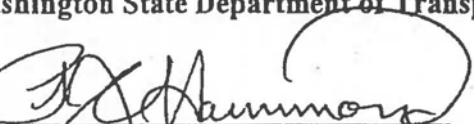
Date: 11-20-07

Approved as to Form:

  
Sound Transit Legal Counsel

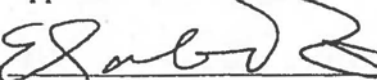
Washington State Department of Transportation

By:

  
Paula J. Hammond  
Secretary

Date: 2-5-08

Approved as to Form:

  
1<sup>st</sup> Assistant Attorney General  
State of Washington

## **ATTACHMENT**

### **MONITORING AND COMPLIANCE REVIEW PROCEDURES**

By 49 CFR § 26.37 (b) and (c), Sound Transit is required to establish a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs.

The Office of Civil Rights, Equity and Inclusion Economic Development Division (CREI-EDD) staff will meet the requirement of 49 CFR § 26.37 (b) and (c) by performing the following actions:

1. Prior to contract award of contracts for which DBE contract goals were established, create a list of DBEs by name and scope of work that the successful bidder or proposer committed to perform work. Commitments to DBE participation will be considered a condition of award. If the bidder or proposer is a DBE, CREI-EDD will track and count that participation toward the race-neutral portion of the overall DBE Goal.
2. Prior to contract award of contracts for which no DBE contract goals were established, if the bidder or proposer is a DBE, identified proposed subcontractors that included DBEs, or both, create a list of DBEs by name and scope of work whose performance CREI-EDD will track and count toward the race-neutral portion of the overall DBE Goal.
3. Review the subcontract between the prime contractor and each DBE. Verify that the clauses in the General Conditions pertaining to Non-discrimination, Prompt Payment and Prompt Return on Retainage and other flow down federal requirements are acknowledged and countersigned by the subcontractor.
4. For each DBE whose performance will be monitored prepare a worksite visits utilizing the three week look ahead schedule provided by the Prime contractor and submitted to the RE.
5. Assure certified payroll records are submitted and recorded into CREI-EDD reporting program to ensure the employees working on the contract (or subcontract, as applicable) are actually employees of DBEs and not of the prime contractor or some other entity.
6. Review Affidavits of Amounts Invoiced and Paid submitted by the contractor to determine the amounts actually paid to DBEs. Participation by DBEs is counted based on the amount paid to DBEs, assuming performance of a commercially useful function. Such amount should also be included in the master database in which participation by DBEs is tracked for reporting to FTA and compiled in Diversity master database for monthly tracking.
7. Review payments by contractors and subcontractors to ensure payments made within prompt payment period specified in contract. Review may include having contractors and subcontractors submit statements of the dates on which payments were made to subcontractors and having subcontractors submit statements of the dates on which payments were received from contractors and subcontractors. For purposes of this review, payments shall include monthly or periodic payments and releases of retainage or other withheld funds, as applicable.
8. Conduct worksite visits on a periodic basis. Develop a worksite visit plan to meet the following requirements.

For contracts with durations less than one year, conduct at least one worksite visit to observe performance by each DBE. That is, if there are four DBEs to perform on the contract, conduct at least one visit for each DBE, provided that if more than one DBE is performing at the same time, the visit could include all DBEs then working.

For contracts with durations of one year or greater not less than one worksite visit shall be conducted for each DBE each year.

In addition to the worksite visits prescribed above, if CREI-EDD at any time gains information that raises issues or questions about whether a DBE is actually performing work consistent with the FTA DBE Regulations and commitments made by the prime contractor, CREI-EDD shall conduct worksite visits as needed to address the issues and questions and to satisfy CREI-EDD that the DBE and prime contractor are fully complying with all requirements in the contract and FTA DBE Regulations.

9. During worksite visits, consider the elements set forth in 49 CFR § 26.55 to determine if the DBE is performing the work committed to as a condition of award, if applicable, and is meeting the requirements related to commercially useful function. Such elements include, but are not limited to:
  - Is the DBE performing the work with its own forces and its own equipment? If the DBE is using another's forces or equipment, what are the reasons and what are the financial arrangements?
  - Is the DBE subcontracting any portion of the work to another DBE or non-DBE? What are the reasons and what are the financial arrangements applicable to such subcontracting?
  - If the DBE is participant in a joint venture, is the DBE performing with its own forces a clearly defined portion of the work consistent with the portion of the contract amount committed to as a condition of award?
  - Is the DBE responsible for execution of the work and carrying out its responsibilities by actually performing, managing and supervising the work involved?
  - Is the DBE responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material?
  - Will the DBE be paid an amount commensurate with the work it is actually performing? Explain the basis for the conclusion?
  - Is the DBE's role limited to that of an extra participant in the contract through which funds are passed to give the appearance of DBE participation?
  - Will the DBE perform or have responsibility for at least 30 percent of the total cost of its contract (e.g., subcontract) with its own forces? Or, will the DBE subcontract a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved?
  - Is the DBE a DBE trucking company? If so, (i) is the DBE responsible for the management and supervision of the entire trucking operation for which it is responsible on the contract (e.g., subcontract), (ii) does the DBE itself own and operate at least one fully licensed, insured and operational truck used on the contract, (iii) will the DBE provide transportation services using trucks it owns, insures and operates with drivers it employs, and (iv) to what extent will the DBE lease trucks from

another DBE firm or non-DBE firm and do the leased trucks display the name and identification number of the DBE.

- Will the DBE provide materials and supplies? What are the sources (i.e., manufacturers and dealers) for the materials and supplies? What role will the DBE have in providing the materials and supplies?
10. Verify that the DBE still certified as a DBE. If the DBE was decertified since the award of the prime contract, document what was the date of the decertification and what were the reasons.
  11. Does the contractor appear to be on track to meet its DBE participation commitments? If not, has the RE requested the contractor to submit a plan whereby the contractor would meet its DBE participation commitments? Provide explanation of reasons about contractor's actions and Resident Engineer's directions to contractor or lack thereof.
  12. Prepare a Commercially Useful Function report summarizing the worksite visit and all information gathered related to performance of the work by each DBE. Highlight all issues or questions that could not be resolved and recommend next steps for approval by the CREI-EDD Director.
  13. Upon return of the memorandum by the CREI-EDD Deputy Director, take actions determined appropriate and retain the memorandum in the CREI-EDD contract files.



## **ATTACHMENT**

### **SANCTIONS FOR NON-COMPLIANCE WITH NON-DISCRIMINATION OR CREI-EDD PROGRAM REQUIREMENTS**

- A. In the event the selected Bidder and/or its proposed Subcontractors fail to comply with any substantive requirement of this solicitation document related to non-discrimination, participation by Disadvantaged Business Enterprises and/or Small Businesses, equal employment opportunity or apprentice utilization, Sound Transit may impose sanctions as it may determine to be appropriate, including, but not limited to, the following:
1. Require the Bidder to take remedial action to bring the Bidder or Subcontractor into compliance;
  2. Refuse to award a Contract to the Bidder;
  3. Debar the Bidder from future contracts with Sound Transit;
  4. File civil and/or criminal action(s) against the Bidder and, if applicable, its proposed Subcontractors, suppliers, employees, agents and representatives.
- B. In the event the Contractor and/or its Subcontractors fail to comply with any substantive - requirement of the Contract related to non-discrimination, participation by Disadvantaged Business Enterprises and/or Small Businesses, equal employment opportunity or apprentice utilization, Sound Transit may impose sanctions as it may determine to be appropriate, including but not limited to:
1. Requiring the Contractor to take remedial action to bring the Contractor or Subcontractor into compliance;
  2. Withholding payments to the Contractor until the Contractor or Subcontractor is in compliance;
  3. Suspending this Contract;
  4. Terminating this Contract;
  5. Debarring the Contractor or Subcontractor from future contracts with Sound Transit; and/or
  6. Filing civil and/or criminal action(s) against the Contractor and, if applicable, its Subcontractors, suppliers, employees, agents, and representatives.
- C. **FLOW-DOWN REQUIREMENT**

The Contractor shall include the applicable FTA provisions in every Subcontract, including procurements of materials and leases of equipment, unless specifically exempt in writing by Sound Transit. The Contractor shall take such action with respect to any Subcontract or procurement as Sound Transit may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request Sound Transit to enter into such litigation to protect the interests of Sound Transit.

## **ATTACHMENT**

### **PROCEDURES FOR ESTABLISHING AND MONITORING CONTRACT-SPECIFIC GOALS FOR PARTICIPATION BY SMALL BUSINESSES**

In general, Sound Transit will follow procedures for establishing small business contract-specific goals similar to those procedures it follows for establishing DBE contract-specific goals. In summary, Sound Transit may establish small business contract-specific goals by:

- A. The contract-specific DBE goal will be established based on a recommendation and information furnished by the DBE Liaison Officer. The contract-specific goal will apply to the percentage participation of DBEs in the total Contract work and will be set forth in the solicitation documents. Sound Transit may not establish a contract-specific goal for every Contract with subcontracting opportunities.
- B. Small business contract-specific goals will be established by assessing the potential opportunities for participation by small businesses, reviewing the available information related to availability and capability of small businesses to participate and considering previous participation levels by small businesses in performing similar work. Goals will be established at levels deemed appropriate to encourage and foster participation by small businesses.
- C. Where a contract-specific small business goal has been established, the Bidder/Proposer will be required to make good faith efforts to meet the contract-specific goal, which can be shown by committing to small business participation equal to or greater than the goal or submitting documentation to demonstrate it made efforts to achieve the goal consistent with the requirements of 49 CFR Part 26. A Bidder/Proposer shall be entitled to reconsideration by a Sound Transit official if the DBE Liaison Officer determines the Bidder/Proposer failed to show either it met the goal or it made efforts to meet the goal consistent with the requirements of 49 CFR Part 26. A Bidder/Proposer will be ineligible for award if it does not meet the good faith efforts requirements. Contract solicitation provisions will provide that contract award is conditioned on meeting these requirements.
- D. Determinations of whether a Bidder/Proposer made good faith efforts to achieve small business participation will be made using the same criteria and standards applicable to determining whether a Bidder/Proposer made good faith efforts to achieve DBE participation, as described in this DBE Program.
- E. Small business participation will be counted and tracked using the same criteria and standards applicable to counting and tracking participation by DBEs, as described in this DBE Program.
- F. Sound Transit will take steps to minimize fraud and abuse by verifying a firm's eligibility to be counted as a small business. Sound Transit will not allow firms to self-certify/verify as small businesses. Such steps will include, but not be limited to, the following:
  - 1. Relying on the certification/verification processes used by another public entity, provided that process is designed to confirm eligibility consistent with the small business criteria set forth in 49 CFR Part 26.

- a. Relying on certification by King County under its Small Contractor and Supplier (SCS) Program, for which Sound Transit has contracted for with King County
- b. Relying on certification by the Washington State Office of Minority and Women Business Enterprise (OMWBE) as SBE, DBE, MBE, WBE, MWBE, or SEDBE

# Small Business Resource Guide



Newest resources always available at [soundtransit.org/small-business-guide](https://soundtransit.org/small-business-guide)

## Economic Development

Civil Rights Equity & Inclusion (CREI) office is committed to supporting small and disadvantaged business enterprises in the Puget Sound region. These resources are intended to provide general information and support services to help small businesses succeed. This is not intended to be a comprehensive list of resources; however, we hope it will serve as a helpful starting point for small businesses. For general information on how to do business with Sound Transit, please visit our Procurement & Contracts Department at: [soundtransit.org/procurement](https://soundtransit.org/procurement).

### Certification Resources for Sound Transit

On projects with subcontracting opportunities, Sound Transit may set two kinds of numeric goals: Disadvantaged Business Enterprise (DBE) goals and Small Business goals. After thorough analysis, staff set the goals as a percentage of the total contract for projects.

For projects with federal funds, where a DBE goal is set, Sound Transit requires federal DBE certification to be counted on projects. This certification is available through the Office of Minority and Women's Business Enterprises (OMWBE). Only firms who have been certified by OMWBE as DBEs can be counted towards the fulfillment of the goal.

For small businesses to be counted towards our small business goal, they must meet the Small Business Administration's small business size standards and be below \$23.98 million in gross receipts over the last three years. Sound Transit strongly encourages firms to be certified as small businesses through the State certification offered through OMWBE or through King County's Small Contractors and Suppliers certification.

### Office of Minority and Women's Business Enterprises (OMWBE):

Certifies at both the state and federal levels. The DBE certification is a federal certification and is required for a firm to be counted towards a Sound Transit DBE goal.

OMWBE also provides federal certification for Small Business Enterprises (SBEs). Additional State certifications include Women's Business Enterprises, Minority Business Enterprises, Minority Women Business Enterprise, Combination Business Enterprise, and Socially and Economically Disadvantaged Business Enterprise. Details and applications are located on their website.

Phone: 866-208-1064; [www.omwbe.wa.gov](http://www.omwbe.wa.gov)

### Small Contractor and Supplier (SCS):

A King County certification program, this certification increases the competitiveness of certified firms for good & services, consulting, and construction contracts with King County. The program also includes a training component. Sound Transit accepts the SCS certification for a business to be counted towards the Small Business Goal. Please visit their website: [www.kingcounty.gov/exec/BusinessDev/contractingopps.aspx](http://www.kingcounty.gov/exec/BusinessDev/contractingopps.aspx)

### Small Business Administration (SBA)

Has information on small business size standards based on NAICS Codes. Phone: 206-553-7310; [www.sba.gov](http://www.sba.gov)

### Bonding Assistance

Bonding assistance that is available for small businesses to access higher levels of bonds to begin working on larger projects.

### Northwest Small Business Transportation Resource Center (SBTRC)

Works to increase the ability of small businesses to compete for and enter into transportation-related contracts at local, state, and federal levels. Provides business counseling, market research, certification, procurement and technical assistance. They also offer bonding and loan assistance. Phone: 425-248-4222; [www.dot.gov/osdbu/nw-sbtrc](http://www.dot.gov/osdbu/nw-sbtrc)



### Small Business Administration (SBA)

Provides small businesses with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting, and advocacy. They also offer surety bonds to small businesses. Phone: 206-553-7310; [www.sba.gov/surety-bonds](http://www.sba.gov/surety-bonds)

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### Financial Assistance/Loans

Loans and financial assistance targeted to small businesses to grow or provide seed money for new businesses.

### Seattle Community Capital Development

Offers training, coaching, and loans to new and growing small businesses. They have programs specifically for women, veterans and minorities. Phone: 206-324-4330; [seattleccd.com](http://seattleccd.com)

### Craft3

A nonprofit community development financial institution. Provides loans to entrepreneurs, nonprofits, individuals, and others who don't normally have access to financing. They also offer expertise, networks, and advocacy to clients. Focus on minority, women, and veteran owned businesses in high poverty areas. Phone: 888-231-2170; [www.craft3.org](http://www.craft3.org)

### Small Business Administration (SBA)

Provides small business with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting, and advocacy. Phone: 206-553-7310; [www.sba.gov](http://www.sba.gov)

### Evergreen Business Capital

Provides loans to small businesses that assist them in purchasing commercial real estate and equipment. They partner with lenders in Washington, Oregon, Alaska, and Northern Idaho. Phone: 206-622-3731; [www.evergreen504.com](http://www.evergreen504.com)

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### Training Resources

A wide range of training resources are available to small businesses to increase their technical expertise and capacity.

### Washington Small Business Development Center (WSBDC)

Various centers located throughout the state including Everett, Seattle, and Tacoma. Client services include: starting a new business, helping grow your business, starting or expanding exporting, cutting cost and updating processes. They offer trainings and one-on-one counseling to small businesses including developing business plans. [www.wsbdc.org](http://www.wsbdc.org)

**Edmonds Community College:** 425-640-1435

**Seattle:** 206-428-3022

**South Seattle:** 206-246-4445

**Seattle Export Center** (specializes in International Trade): 206-439-3785

### Washington Procurement Technical Assistance Center (PTAC)

Provides no cost, one-on-one technical assistance in all aspects of selling to federal, state, and local governments. They advise businesses on bid reviews, marketing assistance, contract performance, and small business designations. They also host trainings and seminars. [www.washingtonptac.org](http://www.washingtonptac.org)

**Snohomish:** 425-248-4223 **King:** 253-520-6267

**Pierce:** 253-680-7054

### Native PTAC

Provides PTAC services (above) to Native owned businesses, Tribal governments, Alaska Native Corporations, Native Hawaiian Organizations, Tribal owned businesses, and ANC and NHO owned enterprises. Phone: 206-816-6596; [www.nativePTAC.org](http://www.nativePTAC.org)

### Northwest Small Business Transportation Resource Center (SBTRC)

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### Greater Seattle SCORE

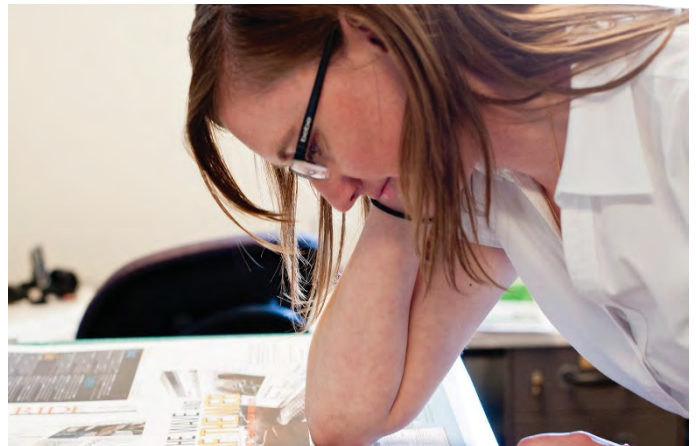
Offers free mentoring, templates & tools, and low cost trainings and workshops. Offers programs for new businesses as well as established. Phone: 206-553-7320; [seattle.score.org](http://seattle.score.org)

### Seattle Community Capital Development

Offers training, coaching, and loans to new and growing small businesses. They have programs specifically for women, veterans and minorities. Phone: 206-324-4330; [seattleccd.com](http://seattleccd.com)

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### Civil Rights Equity and Inclusion

[soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion](http://soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion)

Sound Transit plans, builds and operates regional transit systems and services to improve mobility for Central Puget Sound.



## Foster School of Business, Consulting and Business Development Center at the University of Washington

They offer the Minority Business Executive Program and Business Certification Program. They also place student interns with businesses on projects to help grow their capacity. Phone: 206-543-9327; [foster.uw.edu/centers/consulting-and-business-development-center/business-programs](http://foster.uw.edu/centers/consulting-and-business-development-center/business-programs)

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## Counseling Services

Individualized counseling and mentoring services that are locally available to help small businesses with everything from developing business plans to understanding procurement guidelines.

## Washington Small Business Development Center (WSBDC)

Various centers located throughout the state including Everett, Seattle, and Tacoma. Client services include: starting a new business, helping grow your business, starting or expanding exporting, cutting cost and updating processes. They offer trainings and one-on-one counseling to small businesses including developing business plans. [www.wsbdc.org](http://www.wsbdc.org)

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## Washington Procurement Technical Assistance Center (PTAC)

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## Native PTAC

Provides PTAC services (above) to Native owned businesses, Tribal governments, Alaska Native Corporations, Native Hawaiian Organizations, Tribal owned businesses, and ANC and NHO owned enterprises. Phone: 206-816-6596; [www.nativePTAC.org](http://www.nativePTAC.org)

## Northwest Small Business Transportation Resource Center (SBTRC)

Works to increase the ability of small businesses to compete for and enter into transportation-related contracts at local, state, and federal levels. Provides business counseling, market research, certification, procurement and technical assistance. They also offer bonding and loan assistance. Phone: 425-248-4222; [www.dot.gov/osdbu/nw-sbtrc](http://www.dot.gov/osdbu/nw-sbtrc)



## Seattle Community Capital Development

Offers training, coaching, and loans to new and growing small businesses. They have programs specifically for women, veterans and minorities. Phone: 206-324-4330; [seattleccd.com](http://seattleccd.com)

## Small Business Administration (SBA)

Provides small businesses with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting, and advocacy. Phone: 206-553-7310; [www.sba.gov](http://www.sba.gov)

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## Veteran Specific Resources

### Seattle Community Capital Development

Offers training, coaching, and loans to new and growing small businesses. They have programs specifically for women, veterans and minorities. They also have a Veterans Business Outreach Center Client Portal. Phone: 206-324-4330; [seattleccd.com](http://seattleccd.com)

### Greater Seattle SCORE

Offers Veteran Fast Launch Initiative which includes free software and services combined with SCORE's mentoring program with the goal of accelerating the success of veterans and their families to succeed in small businesses. Phone: 206-553-7320; [seattle.score.org](http://seattle.score.org)

### U.S. Department of Veterans Affairs

Office of Small & Disadvantaged Business Utilization has numerous resources for veterans including how to start a business, financing, how to grow a business, and finding opportunities. Phone: 866-584-2344; [www.va.gov/osdbu/entrepreneur](http://www.va.gov/osdbu/entrepreneur)

### Small Business Administration

Office of Veterans Business Development offers resources, training, and potential partners to veteran entrepreneurs, their dependents, and their survivors. Includes Boots to Business, Entrepreneurship Boot Camp for Veterans with Disabilities, and Women Veterans Igniting the Spirit of Entrepreneurship. Phone: 202-205-6773; [www.sba.gov/offices/headquarters/ovbd](http://www.sba.gov/offices/headquarters/ovbd)

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## Civil Rights Equity and Inclusion

[soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion](http://soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion)

Sound Transit plans, builds and operates regional transit systems and services to improve mobility for Central Puget Sound.



### Veteranscorp.org

Works to structure and make connections between nonprofit and for profit small businesses and veteran/service disabled veteran owned small businesses. They offer resources, training links, and act a 'Clearinghouse of ideas.' Visit their website; [www.veteranscorp.org](http://www.veteranscorp.org)

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## Permitting and Licensing Resources

### Washington State Department of Labor & Industries

Has a Help for Small Business website that includes information on business requirements, registration requirements, and training and counseling resources. Phone: 800-987-0145; [www.lni.wa.gov/main/small-business](http://www.lni.wa.gov/main/small-business)

### Access Washington

A Washington State website that has information on Doing Business in Washington State. This includes licenses, permits, tax information, and additional resources. Visit their website; [www.business.wa.gov](http://www.business.wa.gov)

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## Networking/Membership Organizations

Organizations where membership is required to access many of the services offered.

### American Council of Engineering Companies Washington (ACEC)

Professional association for the design industry. Works to advocate for improved business conditions for its members, provides business education, and a variety of events and trainings. Phone: 425-453-6655; [www.acec-wa.org](http://www.acec-wa.org)

### Associated General Contractors of Washington (AGC)

Professional association of contractors that provide services, benefits, and advocacy for its members. Benefits include education, labor relations, networking, product discounts, legal assistance, health insurance, and retirement programs. Phone: 206-284-0061; [www.agcwa.com](http://www.agcwa.com)

### ASTRA Women's Alliance

Membership organization to advance women owned businesses. Offers support, trainings, advocacy and networking opportunities for its members. Phone: 503-941-9724; [www.astrawba.org](http://www.astrawba.org)

### Business Network International Northwest

A networking organization that is built around the idea of referrals within their networks. Could be helpful to newer businesses looking to build a customer base. Phone: 425-391-6830; [bninw.com](http://bninw.com)

### Entrepreneurial Institute of Washington (EIW)

Offers its members professional and leadership development, business support services, and technical assistance. In the future, hopes to have an incubator space. Phone: 800-270-0724; [www.eiwwashington.org](http://www.eiwwashington.org)

### National Association of Minority Contractors (NAMC)

Provides education, training, advocacy, and networking to address needs and concerns of minority contractors. Membership meetings are monthly. Phone: 425-444-2706; [namcwa.com](http://namcwa.com)

### National Association of Women in Construction

Puget Sound Chapter #60 is a professional association comprised of women working in construction and related industries. Visit their website; [www.nawicpugetsound.org](http://www.nawicpugetsound.org)

### Northwest Mountain Minority Supplier Development Council (NWMSSDC)

Membership based organization that links minority owned businesses to public and private agencies. They offer formal and information networking opportunities as well as advocacy and support. Phone: 253-243-6959; [www.nwmtnmsdc.org](http://www.nwmtnmsdc.org)

### Tabor 100

A membership based group for business owners and entrepreneurs. They are committed to economic power, educational excellence and social equity for African-Americans and the community at large. Phone: 206-368-4042; [www.tabor100.org](http://www.tabor100.org)

### Women's Transportation Seminar (WTS)

An organization that works to build the future of transportation through the advancement of women. Offers professional activities, networking, mentoring, and access to industry and government leaders. Phone: 206-931-0875; [www.wtsinternational.org/pugetsound](http://www.wtsinternational.org/pugetsound)

## Online Resources

### Seattle Chamber of Commerce

Has a small business tools page that offers a number of resources and guides to small business owners. <http://seattle.toolsforbusiness.info/success-in-washington>

### Governor's Office for Regulatory Innovation and Assistance

Provides a small business guide online that can assist in helping

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## Civil Rights Equity and Inclusion

[soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion](http://soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion)

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plan, run, grow, or close small businesses in Washington State. General website: [www.oria.wa.gov](http://www.oria.wa.gov). Link directly to the PDF version of the guide: [www.oria.wa.gov/Portals/\\_oria/VersionedDocuments/BusinessPublications/small\\_business\\_guide.pdf](http://www.oria.wa.gov/Portals/_oria/VersionedDocuments/BusinessPublications/small_business_guide.pdf)

### Federal Transit Administration

Has a website with online presentations and videos to assist in training on civil rights related topics. Include DBE, Title IV, and EEO. [www.fta.dot.gov/civilrights/12885.html](http://www.fta.dot.gov/civilrights/12885.html)

### Braddock's Procurement Opportunity Guide

The guide states it is free to clients that work with PTAC and is designed to help small business owners and decision makers understand the government procurement and private sector procurement spaces. [www.apta-us.org/braddocks-procurement-opportunities-guide](http://www.apta-us.org/braddocks-procurement-opportunities-guide)

### Small Business Administration (SBA)

Provides small businesses with a wide variety of services primarily through four programmatic functions: access to capital, entrepreneurial development, government contracting, and advocacy. [www.sba.gov](http://www.sba.gov)

### NAICS Association

Resource to help firms identify their self-assigned NAICS (North American Industry Classification System) Codes. Identifying these codes is a necessary step in the certification process. [www.naics.com](http://www.naics.com)

### Chambers of Commerce

African Chamber of Commerce of the Pacific Northwest  
Filipino Chamber of Commerce of the Pacific Northwest  
The Greater Seattle Chinese Chamber of Commerce  
Japan-American Society  
Korean American Chamber of Commerce WA State  
Seattle Chamber of Commerce  
Taiwanese Chamber of Seattle

## Accelerators and Incubators

Support for new and emerging businesses including co-locating with other entrepreneurs.

### Accelerators

Short term programs that invest in externally generated programs in return for capital and mentorship.

**9Mile Labs:** A high tech accelerator that focuses on B2B software and cloud technologies.

**Accelerator Corp.:** A biotechnology investment and management company that identifies, finances, and manages the development of emerging biotechnology opportunities.

**Entrepreneurs' Organization:** A Global business network of 11,000 individuals, in 150 chapters in 48 countries that focuses on business growth, personal development, and community engagement.

**Fledge:** Operates three programs for entrepreneurs with a focus on making a measurable impact in the world. They are interested in investing in programs that improve lives, the environment, health, communities, and making the world more sustainable.

**Founder Institute:** Offers a four month, part time program to help entrepreneurs launch technology companies through structured training courses, practical business building assignments, and feedback.

**Ivy Softworks:** A stealth innovation studio that brings together early-stage innovators to work on multiple start-up projects together.

**Madrona Venture Labs:** Develops new companies from the ground up focusing on transformational products and staffed by hackers and designers.

**McKinstry Innovation Center:** Brings together new and emerging companies a place where they work together in the same space. Offers mentorship, shared expertise, and professional amenities in four cluster areas: clean tech, education, high tech, and life sciences.

**Microsoft Ventures:** Works with startups globally at all stages to help them scale their business, bring innovative services to market, and reach new customers using mentors and accelerator program.

**Reactor:** An initiative that is a part of the Washington Interactive Network that works to develop the next generation of talent for interactive media, including games and technology.

**Startup Next:** A program geared to help businesses get ready for accelerators or investors. Offers a five week mentoring and training program to prepare new start-ups for the next step.

**TechBA:** A project of the US-Mexico Foundation for Science, focuses on developing Mexican technology-based companies to prepare them to enter the global market.

**Techstars:** Provides seed money, support, and mentorship for technology oriented companies that can have national or worldwide reach.

**Village88 Tech Lab:** A stealth accelerator that works with companies at all levels of development providing them with various resources and support including engineering resources.

## Civil Rights Equity and Inclusion

[soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion](http://soundtransit.org/get-to-know-us/office-civil-rights-equity-inclusion)

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## Incubators

Develops ideas internally and manages those ideas with a management team. They are longer term than accelerators.

**CoMotion (UW):** Provides dedicated space and facilities to support UW-affiliated start-up companies through their early stages of company and product development.

**Eastside Incubator:** A co-working space available exclusively to early stage software startups (from 2-8 people).

**Kick Incubator:** Offers a six week course to help new businesses from idea to start-up for non-profits and for-profits.

**Seattle Fashion Incubator:** Offers independent fashion brands an environment to develop and grow their business including design space, goods and equipment, professional coaching, and presentation space.

**SURF Incubator:** Supports all stages of startup entrepreneurs as well as large companies needing a satellite location including mentors, interns, co-working space, collaborative learning, and networking.

**William Factory (Tacoma):** Created to help business in East Tacoma improve living and working conditions. They house more than 40 companies in specialty trade construction, applied technologies, and business services.

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## Apprenticeship Resources

### Washington State Department of Labor & Industries

**Apprenticeship Programs:** Apprentices must go through approved programs and the Department of Labor & Industries regulates and approves those programs. All information regarding how to become an apprentice, what programs are currently accepting applications, and where to go for more information is located on their website. Phone: 360-902-5320; [www.lni.wa.gov/TradesLicensing/Apprenticeship](http://www.lni.wa.gov/TradesLicensing/Apprenticeship)

**Pre-Apprenticeship Programs:** Labor & Industries also certifies pre-apprenticeship programs for those that are not quite ready to enter the trades as an apprentice. Their website has a list with links of those that are formally recognized as well as those not yet recognized. Phone: 360-902-5320; [www.lni.wa.gov/TradesLicensing/Apprenticeship/About/IntroProg/default.asp](http://www.lni.wa.gov/TradesLicensing/Apprenticeship/About/IntroProg/default.asp)

## Sound Transit Resources and Information

[soundtransit.org/small-business-labor](http://soundtransit.org/small-business-labor)

### Title VI Program

Works to ensure no person will be excluded from participation in, be denied benefits of, or be subject to discrimination for any program or activity receiving Federal financial assistance because of race, color, or national origin. It also covers limited English proficiency populations and environmental justice applications. For more information please visit our website or call 206-903-7246.

### Project Labor Agreement

A collective bargaining agreement between building trade unions and contractors. The PLA sets workforce diversity goals, defines rules and regulations regarding payment of workers, and promotes fairness in employment for union and non-union workers. For more information please visit our website or call 206-689-4992.

### Disadvantaged Business Enterprise Fraud

Fraud is a deliberate deception to secure an unfair gain. DBE fraud can include bid rigging, bribery, kickbacks, misrepresentation of who is doing the work or who owns the company. For more information on fraud and how to report it please visit our website. You can also call our DBE Fraud Hotline and leave a message about suspected fraud: 1-877-480-6617.

For more information about Sound Transit's Small Business Development & Labor Compliance please contact us at [diversity@soundtransit.org](mailto:diversity@soundtransit.org) or 206-689-4914. Our website is [www.soundtransit.org/small-business-labor](http://www.soundtransit.org/small-business-labor).



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## Civil Rights Equity and Inclusion

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## **ATTACHMENT 1**

### **PROCEDURES FOR BUNDLING CONTRACTS AND UNBUNDLING LARGER CONTRACTS TO FACILITATE OPPORTUNITIES FOR PARTICIPATION BY SMALL BUSINESSES**

Sound Transit will administer its programs and projects keeping in mind that fostering participation in contracts by small businesses, including DBEs, is an agency-wide responsibility involving executive and management levels for programs and contracts.

By direction of Sound Transit's CEO, the DBE Liaison Officer will work with management of programs and contracts to determine the appropriate phase or stage of a program in which to consider the scope, schedule and amount of work that will be performed by contractors, consultants and materials/equipment providers and the extent to which such work could be bundled into contracts that would facilitate opportunities for small businesses, including DBEs. Whether to bundle contracts in ways that facilitate opportunities for small businesses will be balanced and considered in light of available resources to manage such contracts. However, Sound Transit is committed to increasing participation by small business in its contracts and, therefore, some increase in contract administration resources is expected and will need to be paid for within available program budgets.

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## **ATTACHMENT 11**

### **SOUND TRANSIT**

#### **MOTION NO. M2006-55**

A motion of the Board of the Central Puget Sound Regional Transit Authority establishing a Diversity Oversight Committee and authorizing the chief executive officer to recruit members who work or reside in the Sound Transit District, and recommend candidates for appointment by the Board.

#### **Background**

On November 1, 1996, the Sound Transit Board approved Motion 17, adopting guiding principles for employment and contracting. On May 22, 1997, the Board approved Motion 29, adopting policies to implement the guiding principles. This motion to establish a Diversity Oversight Committee reiterates the Board's commitment to the guiding principles to help fulfill its employment and contracting objectives.

The guiding principles are:

#### **Guiding Principle I**

The RTA will promote and encourage a contract workforce that reflects the region's diversity for consultant and professional services contracts, and goods and services (purchasing) contracts.

#### **Guiding Principle II**

The RTA will promote and encourage the maximum use of local businesses for RTA consultant and professional services contracts, and goods and services (purchasing) contracts.

#### **Guiding Principle III**

The RTA will promote and encourage the maximum use of small businesses for RTA consultant and professional services contracts, and goods and services (purchasing) contracts.

#### **Guiding Principle IV**

The RTA will promote and encourage the maximum use of minority, women and disadvantaged businesses for RTA consultant and professional services contracts, and goods and services (purchasing) contracts.

#### **Motion**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority establishing a Diversity Oversight Committee and authorizing the chief executive officer to recommend committee members for appointment by the Board.

It is also moved that:


1. The Diversity Oversight Committee shall not exceed 15 members and shall be composed of members from throughout the Sound Transit District. The committee shall include members who represent small businesses, trade and craft organizations, community representatives, community organizations in impacted neighborhoods, and such other interested parties as deemed appropriate by the chief executive officer. Committee members must be independent of Sound Transit, meaning no contracts and no plans to compete for or bid on Sound Transit contracts or subcontracts.

2. The chief executive officer's committee recommendations should reflect the cultural and ethnic diversity of the communities involved.
3. The Diversity Oversight Committee shall be an advisory committee to the chief executive officer and shall periodically report to the chief executive officer and to the Board regarding Sound Transit's compliance with the guiding principles for employment and contracting established in Motion No. 17.
4. The committee will regularly consult with the chief executive officer.
5. The Diversity Oversight Committee may review any or all of the following:
  - a. Contracting and employment opportunities available to minorities and women in connection with Sound Transit and its public works projects
  - b. Minority and women participation on Sound Transit's third-party contracts, including actual utilization rates for DBE firms
  - c. EEO and DBE goal compliance
  - d. Existing programs and advise Sound Transit in developing and implementing plans and programs that support a diverse workforce and businesses
  - e. Sound Transit's efforts to enforce its obligations under the FTA Master Grant Agreement, Titles VI and VII of the Civil Rights Act of 1964 and other relevant laws
  - f. Issues affecting the ability of DBE contractors to successfully compete for public works contracts

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on July 13, 2006.

  
John W. Ladenburg  
Board Chair

ATTEST:

  
Marcia Walker  
Board Administrator

## ATTACHMENT 12

# FEDERAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PROPOSED OVERALL GOAL & METHODOLOGY FOR FEDERAL FISCAL YEARS 2023 - 2025

In accordance with 49 Code of Federal Regulations (CFR) Part 26 and United States Department of Transportation (USDOT) guidance, Sound Transit must establish a new overall goal for the participation of Disadvantaged Business Enterprises (DBEs) in the Federal Transit Administration- (FTA-) funded contracts and procurements it anticipates awarding in federal fiscal years (FFYs) 2023, 2024, and 2025.

## A. Overall DBE Goal

Sound Transit based its new overall DBE goal on information about FTA-funded work it anticipates awarding in FFYs 2023, 2024, and 2025; results from the 2020 Sound Transit Disparity Study (referred to herein as the 2020 Disparity Study); and information about conditions in the local marketplace for minorities, women, and minority- and woman-owned businesses.<sup>1</sup> The 2020 Disparity Study is included as Appendix A. The agency has followed the required two-step goal-setting methodology to develop its new goal: 1) establish a *base figure*; and 2) consider whether a *step 2 adjustment* to the base figure is warranted.

**1. Base figure.** Sound Transit began the goal-setting process by establishing a base figure, which it based on the demonstrable availability of *potential DBEs* for the FTA-funded work it anticipates awarding in FFYs 2023, 2024, and 2025. The agency defined potential DBEs as minority- and woman-owned businesses that are currently DBE-certified or appear they could be DBE-certified according to size requirements specified in 49 CFR Part 26.65. Figure 1 presents the projects associated with the work Sound Transit anticipates awarding along with associated dollar values. The agency has already initiated many of the projects listed in Figure 1, but the dollar values represent *new work* it anticipates awarding in connection with those projects in FFYs 2023, 2024, and 2025, totaling approximately \$3.3 billion.

**Figure 1.**  
**FTA-funded projects Sound**  
**Transit anticipates awarding in**  
**FFYs 2023, 2024, and 2025**

Source:  
Sound Transit.

Project	Dollar value
Federal Way Link Extension	\$953,617,000
Lynnwood Link Extension	\$501,424,000
I-405 BRT	\$381,514,000
Downtown Redmond Link Extension	\$368,865,000
East Link	\$278,772,000
Everett Link Extension	\$134,523,000
West Seattle-Ballard Link Extensions	\$128,904,000
SR 522-NE 145th St BRT	\$72,795,000
Northgate Link Extension	\$57,375,000
Tacoma Dome Link Extension	\$52,742,000
Rapidride C And D	\$50,050,000

<sup>1</sup> Woman-owned businesses refer specifically to businesses owned by *white woman-owned businesses*. Minority woman-owned businesses are classified along with their corresponding race/ethnic groups.

**Figure 1 (continued).  
FTA-funded projects Sound  
Transit anticipates awarding in  
FFYs 2023, 2024, and 2025**

Source:  
Sound Transit.

Project	Estimated Cost
Northgate Link Extension Project Reserve	\$50,000,000
Pacific Ave SR 7 Bus Corridor	\$40,219,000
Link O&M Facility East	\$30,973,000
Transit System Access Program	\$19,302,000
Central Link Fiber Upgrade	\$18,987,000
Start	\$16,968,000
IT Tech Infrastructure	\$16,621,000
Information Tech Program	\$15,859,000
Orca Next Generation	\$10,171,000
Rex I-90 2 Way Trans & HOV III	\$7,366,000
Souder South Capacity Expansion	\$6,735,000
Tod Planning Program Capital	\$5,997,000
Puyallup Station Improvements	\$5,527,000
St Express Bus Base	\$4,380,000
St3 Planning	\$4,222,000
Station Codes	\$4,200,000
Bike Parking Program	\$3,950,000
Sumner Station Improvements	\$3,828,000
Efficiency & Sustainability Program	\$3,375,000
Lakewood Station Improvements	\$3,282,000
South Tacoma Access Improvements	\$3,193,000
Kent Station Access Improvements	\$2,897,000
Souder Maintenance Base	\$2,882,000
North Corridor Maintenance Of Way	\$2,673,000
NE 130th Street Infill Station	\$2,435,000
BRT Maintenance Base	\$2,430,000
Auburn Station Access Improvements	\$2,073,000
Noise Abatement	\$1,690,000
D ST - M ST Track & Signal	\$1,664,000
Parking Management Program	\$1,608,000
Environmental Remediation	\$1,500,000
Start Operations & Maintenance	\$1,476,000
North Sammamish Park & Ride	\$1,399,000
S 200th Link Extension	\$1,195,000
Security Radio System	\$663,000
Sodo MLK Hazard Mitigation	\$590,000
Replacement Admin Pool Vehicles	\$488,000
Administrative Pool Vehicles	\$434,000
Link Line Renaming	\$417,000
Souder South Expanded Service	\$378,000
Environmental Mitigation And Monitoring	\$367,000
Signage Improvements	\$363,000
Link At Grade	\$331,000
Hilltop Tacoma Link Extension	\$323,000
Issaquah Lakewood Cctv Upgrade	\$217,000
Escalator Modernization Program	\$90,000
First Hill Streetcar	\$50,000
Bellevue Rider Service Center	\$42,000
Pine Street Stub Security	\$30,000
Tacoma Dome Station Parking And Access	\$26,000
<b>Total</b>	<b>\$3,286,467,000</b>

**a. Methodology.** As part of the 2020 Disparity Study, BBC conducted a *custom census* availability analysis focused on the specific areas of work (*subindustries*) related to FTA-funded construction, architecture and engineering, other professional services, and goods and other services prime contracts and subcontracts Sound Transit awards. The firm began by identifying specific subindustries in which Sound Transit spends the majority of its relevant contract and procurement dollars as well as the geographic area in which most of the businesses that perform work for the agency are located (referred to as the relevant geographic market area, or *RGMA*). BBC identified the RGMA as King, Pierce, and Snohomish Counties in Washington.

Once BBC identified relevant subindustries and the RGMA, the firm conducted surveys to develop a representative, unbiased, and statistically-valid database of businesses potentially available for Sound Transit work. The objective of the availability survey process was not to collect information from each and every relevant business operating in the local marketplace. Instead, it was to collect information from an unbiased subset of the business population that appropriately represents the entire relevant business population operating in the region.

**i. Availability surveys.** BBC began the survey process by compiling a comprehensive and unbiased *phone book* of relevant businesses of all ownership types—that is, not just minority- and woman-owned businesses—located in the RGMA and that perform work in relevant subindustries. The firm developed the phone book based on information from Dun & Bradstreet Marketplace listings, which is accepted as a comprehensive and unbiased source of business listings throughout the country. BBC used the surveys to collect information about each business in the phone book, including:

- Status as a private sector business (as opposed to a nonprofit organization);
- Status as a subsidiary or branch of another company;
- Primary lines of work;
- Contract role (i.e., prime contractor, subcontractor, or both);
- Interest in performing work for Sound Transit;
- Largest prime contract or subcontract bid on or performed in the previous five years; and
- Race/ethnicity and gender of the owners.

**ii. Availability database.** Five hundred forty-seven businesses completed availability surveys, but Sound Transit did not consider them all potentially available for the FTA-funded projects it anticipates awarding in FFYs 2023, 2024, and 2025. The agency considered businesses to be potentially available for that work if, as part of availability surveys, they reported possessing *all* the following characteristics:

- Being a private sector business;
- Working in subindustries relevant to Sound Transit work;
- Having bid on or performed relevant work in the past five years; and
- Being interested in participating in Sound Transit work.



Sound Transit also considered the following information about businesses to determine if they were potentially available for specific prime contracts or subcontracts the agency anticipates awarding in FFYs 2023, 2024, and 2025:

- The roles in which they work (i.e., prime contractors, subcontractors, or both); and
- The largest contracts or procurement they bid on or performed in the past five years.

Based on the characteristics of businesses that completed availability surveys and the FTA-funded work Sound Transit anticipates awarding, the agency considered 432 businesses as potentially available to perform work on the specific construction, architecture and engineering, other professional services, and goods and other services contracts and procurements it anticipates awarding in FFYs 2023, 2024, and 2025. Of those businesses, 26.2 percent were minority- or woman-owned, which merely reflects a simple count of businesses with no analysis of their availability for specific Sound Transit contracts or procurements.

**iii. Availability calculations.** Sound Transit estimated the availability of potential DBEs for its anticipated FTA-funded work based on information from the availability database described above and information about the work presented in Figure 1. The agency began by identifying specific prime contract and subcontract opportunities (referred to generally as *contract elements*) that it expects will be associated with each relevant project based on the work involved and typical prime contracts and subcontracts associated with such work. The agency then identified specific characteristics of each contract element—including type of work, contract role, and contract size—and took the following steps to estimate the availability of potential DBEs for each one:

1. Sound Transit identified businesses in the availability database that reported they:
  - Are interested in performing relevant construction, architecture and engineering, other professional services, and goods and other services work for government organizations;
  - Perform work in the role corresponding to the contract element (i.e., as a prime contractor or subcontractor);
  - Perform the same type of work involved in the contract element;
  - Serve customers or perform work in the Seattle, Washington area; and
  - Have the ability to compete for or perform work of that size or larger.
2. The agency then counted the number of potential DBEs—by race and gender group—and businesses owned by white men in the availability database that met the criteria specified in step 1.
3. Sound Transit translated the number of potential DBEs in step 2 into a percentage of total businesses potentially available for the contract element.

Sound Transit repeated those steps for each contract element included in the analysis, and then multiplied the percentage of potential DBEs available for each contract element by the dollars associated with it, added results across all contract elements, and divided by the total dollars for all contract elements. The result was dollar-weighted estimates of the availability of potential

DBEs for the FTA-funded work Sound Transit anticipates awarding in FFYs 2023, 2024, and 2025. The estimates represent the percentage of dollars one would expect Sound Transit to award to those businesses on anticipated work associated with FTA-funded projects.

**b. Results.** Figure 2 presents availability analysis results, organized in the following manner:

- Column (a) presents the groups of potential DBEs Sound Transit considered in the analysis;
- Column (b) presents the availability of each group for anticipated construction contract elements;
- Column (c) presents the availability of each group for anticipated architecture and engineering contract elements;
- Column (d) presents the availability of each group for anticipated other professional services contract elements;
- Column (e) presents the availability of each group for anticipated goods and other services contract elements; and
- Column (f) presents the availability of each group for all anticipated FTA-funded contract elements considered together.

As presented at the bottom of column (f), the analysis indicated that potential DBEs are available for 7.7 percent of the FTA-funded prime contracts and subcontracts Sound Transit anticipates awarding in FFYs 2023, 2024, and 2025. **Sound Transit considers 7.7 percent as the base figure for its new overall DBE goal.**

**Figure 2.**  
**Availability of potential DBEs for work associated with FTA-funded projects Sound Transit anticipates awarding in FFYs 2023, 2024, and 2025**

a. Potential DBE group	Industry				f. Total
	b. Construction	c. Architecture and engineering	d. Other professional services	e. Goods and other services	
Asian Pacific American-owned	0.5 %	0.5 %	0.0 %	1.3 %	0.5 %
Black American-owned	0.6 %	1 %	33.4 %	0.0 %	2 %
Hispanic American-owned	2.9 %	0.3 %	0.0 %	0.0 %	2.4 %
Native American-owned	2.3 %	0.2 %	0.0 %	1.2 %	1.9 %
Subcontinent Asian American-owned	0.0 %	0.1 %	0.0 %	0.0 %	0.0 %
Total minority-owned	6.3 %	2.1 %	33.4 %	2.6 %	6.8 %
White woman-owned	0.9 %	1.6 %	0.2 %	0.9 %	0.9 %
<b>Total potential DBEs</b>	<b>7.1 %</b>	<b>3.6 %</b>	<b>33.6 %</b>	<b>3.5 %</b>	<b>7.7 %</b>

Notes: Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

Sound Transit applied the following weights to availability for each industry to calculate total availability: construction = 0.83, architecture and engineering = 0.11, other professional services = 0.04, and goods and other services = 0.02. The weights were based on the proportion of total FTA-funded contract and procurement dollars for which each industry is anticipated to account during FFYs 2023, 2024, and 2025.

Source: Sound Transit and BBC.

**2. Step 2 adjustment considerations.** After establishing the base figure, Sound Transit considered additional information to determine whether any adjustment was needed to the base figure to ensure the agency’s new overall DBE goal is precise and reflects current conditions in the local marketplace for minorities, women, and minority- and woman-owned businesses. In considering an adjustment to the base figure, the agency evaluated information about:

- a. Current capacity of DBEs to perform agency work;
- b. Information related to employment, self-employment, education, training, and unions;
- c. Disparities in the ability of DBEs to access financing, bonding, and insurance; and
- d. Other factors.<sup>2</sup>

**a. Current capacity of DBEs to perform agency work.** USDOT’s “Tips for Goal-Setting” suggests that agencies should examine data on past DBE participation in their USDOT-funded work in recent years as an indication of the aggregate capacity of those businesses to perform in its future work and to consider adjusting their base figures accordingly. USDOT further suggests that an agency should do so by averaging the median level of annual DBE participation for those years with its base figure and potentially consider the result as its new overall DBE goal.<sup>3</sup> Figure 3 presents the participation of certified DBEs in Sound Transit’s FTA-funded contracts and procurements in FFYs 2017 through 2021, based on the agency’s Uniform Reports of DBE Awards or Commitments and Payments. As shown in Figure 3, median DBE participation in Sound Transit’s FTA-funded work for FFYs 2017 through 2021 was 20.16 percent, supporting an **upward adjustment** to the agency’s base figure.

**Figure 3.**  
**Past participation of DBEs in**  
**Sound Transit’s FTA-funded**  
**projects, FFYs 2017-2021**

Source:  
Sound Transit Uniform Reports of DBE  
Awards or Commitments and Payments.

FFY	DBE Attainment
2017	22.85%
2018	18.14%
2019	17.81%
2020	20.16%
2021	30.53%
<b>Median</b>	<b>20.16%</b>

**b. Information related to employment, self-employment, education, training, and unions.** Sound Transit used regression analyses to investigate whether there are independent relationships between race/ethnicity or gender and rates of self-employment (i.e., business ownership) among individuals working in relevant industries in the RGMA. The analyses allowed the agency to examine those relationships while statistically controlling for various other personal characteristics, including education, homeownership, marital status, income, and age.

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<sup>2</sup> 49 CFR Section 26.45.

<sup>3</sup> Section III (A)(5)(a) in USDOT’s “Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program.”

Figure 4 presents the race and gender factors independently and significantly related to business ownership after accounting for various personal characteristics:

- Black Americans and Hispanic Americans working in the local construction industry are significantly less likely to own business than non-Hispanic whites, even after accounting for various personal characteristics. In addition, women working in the local construction industry are significantly less likely to own business than men.
- Asian Pacific Americans working in the local architecture and engineering industry are significantly less likely to own business than non-Hispanic whites, even after accounting for various personal characteristics. In addition, women working in the local architecture and engineering industry are significantly less likely to own business than men.
- Asian Pacific Americans and Subcontinent Asian Americans working in other professional services are significantly less likely to own business than non-Hispanic whites, even after accounting for various personal characteristics.

**Figure 4.**  
**Race and gender factors**  
**independently related**  
**to business ownership**  
**by industry**

Source:

Sound Transit and BBC from 2014-2018 ACS 5% Public Use Microdata samples.

The raw data extract was obtained through the IPUMS program of the MN Population Center:  
<http://usa.ipums.org/usa/>.

Industry	Group	Regression Coefficient
Construction	Black American	-1.01
	Hispanic American	-0.27
	Women	-0.39
Architecture and engineering	Asian Pacific American	-0.50
	Women	-0.27
Other professional services	Asian Pacific American	-0.42
	Subcontinent Asian American	-0.74
Goods and other services	None	N/A

Sound Transit analyzed the potential impacts the relationships between race and gender and business ownership rates have on the base figure by estimating the availability of potential DBEs for the FTA-funded contracts and procurements the agency anticipates awarding in FFYs 2023, 2024, and 2025 if minorities and women owned businesses at the same rate as non-Hispanic white men who shared similar personal characteristics. Figure 5 presents the results of the analysis, which is referred to as a *but-for* analysis, because it estimates the availability of potential DBEs *but for* the continuing effects of any race- or gender-based discrimination. The rows and columns of Figure 5 present the following information:

- **Current availability.** Column (a) presents the availability of potential DBEs by group and industry for the FTA-funded work Sound Transit anticipates awarding in FFYs 2023, 2024, and 2025. Before any adjustment, the availability of potential DBEs for that work is 7.7 percent, as shown in row (37) of column (a).
- **Disparity indices for business ownership.** For each group significantly less likely than non-Hispanic whites and men to own businesses (as shown in Figure 4), Sound Transit simulated business ownership rates if they owned businesses at the same rate as non-Hispanic white men who share the same personal characteristics. To simulate business ownership rates, the agency took the following steps:

- The agency performed a probit regression analysis predicting business ownership including only workers in the dataset who were white men; and
- The agency used coefficients from the model and mean personal characteristics of each race and gender group that was significantly less likely than white men to own businesses to simulate business ownership rates.

The agency calculated a business ownership disparity index for each relevant race and gender group by dividing the group’s actual business ownership rate—which BBC calculated as part of the 2020 Disparity Study—by the simulated business ownership rate described above and multiplying by 100. Values of less than 100 indicate that, in reality, the group’s business ownership rate is less than what would be expected for white men who share similar personal characteristics. Column (b) presents disparity indices related to business ownership rates for the different groups. For example, as shown in row (2) of column (b), Black Americans own construction businesses at 17 percent of the rate one might expect for non-Hispanic white men who share similar personal characteristics.

- **Availability after initial adjustment.** Column (c) presents availability estimates by group and industry after initially adjusting for statistically significant disparities in business ownership rates. Sound Transit calculated adjusted availability by dividing current availability in column (a) by the disparity index for business ownership in column (b) and multiplying by 100. The agency only adjusted availability for those groups significantly less likely than similarly situated non-Hispanic white men to own businesses in each industry.
- **Availability after scaling to 100 percent.** Column (d) shows adjusted availability estimates Sound Transit rescaled so the sum of those estimates equaled 100 percent for each industry. The agency rescaled the estimates by taking each group’s adjusted availability estimate in column c and dividing it by the sum of availability estimates shown under “Total”—in row (9) for construction, row (18) for architecture and engineering, row (27) for other professional services, and row (36) for goods and other services—and multiplying by 100. For example, the rescaled adjusted availability estimate for Black American-owned construction businesses shown in row (2) of column (d) was calculated in the following way:  $(3.5\% \div 105.9\%) \times 100 = 3.3$  percent.
- **Components of goal.** Column (e) shows the component of the total base figure attributed to adjusted potential DBE availability for each industry. BBC calculated each component by taking the total availability estimate shown under “Potential DBEs” in column (d)—in row (7) for construction, row (16) for architecture and engineering, row (25) for other professional services, and row (34) for goods and other services—and multiplying it by the proportion of total FTA-funded dollars for which each industry is anticipated to account in FFYs 2023, 2024, and 2025 (i.e., 0.83 for construction, 0.11 for architecture and engineering, 0.04 for other professional services, and 0.02 for goods and other services). For example, BBC took the 12.3 percent adjusted availability estimate of potential DBEs for construction, as shown in row (7) of column (d), and multiplied it by 0.83 for a result of 10.2 percent (see row (7) of column (e)). The values in column (e) were then summed to equal the availability of potential DBEs for FTA-funded projects Sound Transit anticipates awarding in FFYs 2023, 2024, and 2025, adjusted for barriers in business ownership—**12.2 percent**—as shown in the bottom row of column (e). Thus, the adjusted availability figure of 12.2 percent also supports an **upward adjustment** to the base figure.

**Figure 5.**  
**Availability for FTA-funded work Sound Transit anticipates**  
**awarding after adjusting for business ownership disparities**

Industry and group	a. Current availability	b. Disparity index for business ownership	c. Availability after initial adjustment*	d. Availability after scaling to 100%	e. Components of base figure**
<b>Construction</b>					
(1) Asian Pacific American	0.5 %	n/a	0.5 %	0.5 %	
(2) Black American	0.6	17	3.5	3.3	
(3) Hispanic American	2.9	54	5.4	5.1	
(4) Native American	2.3	n/a	2.3	2.1	
(5) Subcontinent Asian American	0.0	n/a	0.0	0.0	
(6) White woman	0.9	61	1.4	1.3	
(7) Potential DBEs	7.1 %	n/a	13.1 %	12.3 %	10.2 %
(8) All other businesses ***	92.9	n/a	92.9	87.7	
(9) <b>Total</b>	<b>100.0 %</b>	n/a	<b>105.9 %</b>	<b>100.0 %</b>	
<b>Architecture and engineering</b>					
(10) Asian Pacific American	0.5 %	42	1.3 %	1.2 %	
(11) Black American	1.0	n/a	1.0	1.0	
(12) Hispanic American	0.3	n/a	0.3	0.3	
(13) Native American	0.2	n/a	0.2	0.2	
(14) Subcontinent Asian American	0.1	n/a	0.1	0.1	
(15) White woman	1.6	75	2.1	2.0	
(16) Potential DBEs	3.6 %	n/a	4.9 %	4.8 %	0.5 %
(17) All other businesses ***	96.4	n/a	96.4	95.2	
(18) <b>Total</b>	<b>100.0 %</b>	n/a	<b>101.2 %</b>	<b>100.0 %</b>	
<b>Other professional services</b>					
(19) Asian Pacific American	0.0 %	46	0.0 %	0.0 %	
(20) Black American	33.4	n/a	33.4	33.4	
(21) Hispanic American	0.0	n/a	0.0	0.0	
(22) Native American	0.0	n/a	0.0	0.0	
(23) Subcontinent Asian American	0.0	20	0.0	0.0	
(24) White woman	0.2	n/a	0.2	0.2	
(25) Potential DBEs	33.6 %	n/a	33.6 %	33.6 %	1.3 %
(26) All other businesses	66.4	n/a	66.4	66.4	
(27) <b>Total</b>	<b>100.0 %</b>	n/a	<b>100.0 %</b>	<b>100.0 %</b>	
<b>Goods and other services</b>					
(28) Asian Pacific American	1.3 %	n/a	1.3 %	1.3 %	
(29) Black American	0.0	n/a	0.0	0.0	
(30) Hispanic American	0.0	n/a	0.0	0.0	
(31) Native American	1.2	n/a	1.2	1.2	
(32) Subcontinent Asian American	0.0	n/a	0.0	0.0	
(33) White woman	0.9	n/a	0.9	0.9	
(34) Potential DBEs	3.5 %	n/a	3.5 %	3.5 %	0.1 %
(35) All other businesses	96.5	n/a	96.5	96.5	
(36) <b>Total</b>	<b>100.0 %</b>	n/a	<b>100.0 %</b>	<b>100.0 %</b>	
(37) <b>TOTAL</b>	<b>7.7 %</b>	n/a		n/a	<b>12.2 %</b>

Notes: Numbers rounded to nearest tenth of 1%. Numbers may not add to totals due to rounding.

\* Initial adjustment is calculated as current availability divided by the disparity index..

\*\* Components of the base figure were calculated as the value after adjustment and scaling to 100%, multiplied by the percentage of total anticipated dollars in each industry (construction = 0.83, architecture and engineering = 0.11, other professional services = 0.04, and goods and other services = 0.02).

\*\*\* All other businesses are businesses owned by white men and minority- and woman-owned businesses that are not potential DBEs.

Source: Sound Transit and BBC.

**c. Disparities in the ability of DBEs to get financing, bonding, and insurance.** In 2019, Sound Transit commissioned analyses of barriers minority- and woman-owned businesses face in financing, bonding, and insurance in the local marketplace. (BBC did not conduct those analyses.) Results from those analyses indicated that small businesses are more likely than other businesses to be denied commercial bank loans, even after accounting for various business characteristics. Any barriers small businesses face in accessing financing could depress their availability for work with government agencies such as Sound Transit, which would disproportionately affect minority- and woman-owned businesses, because many of those businesses are small in size. Thus, analyses related to access to financing also support an **upward adjustment** to the base figure.

**d. Other factors.** USDOT suggests that agencies also examine “other factors” when determining whether to make step 2 adjustments to their base figures. Marketplace analyses Sound Transit commissioned in 2019 also provided evidence that minority- and woman-owned businesses are less successful than other businesses. Such evidence includes:

- Minority- and woman-owned businesses make up approximately 8 percent of businesses in the local marketplace but account for less than 3 percent of business revenue in the region.
- Sound Transit is less likely to award prime contracts to Black American-owned businesses compared to businesses owned by non-Hispanic whites, even after accounting for various other business characteristics such as size, bonding capacity, and qualifications.
- Black American-owned businesses and Asian Pacific American-owned businesses are more likely to have never worked on Sound Transit prime contracts or subcontracts compared to businesses owned by non-Hispanic whites, even after accounting for various business characteristics.
- DBEs tend to win smaller contracts in the local marketplace compared to businesses owned by white Americans, even after accounting for various business characteristics.

All the above results support an **upward adjustment** to the base figure.

**e. Adjustment.** Sound Transit has considered myriad information relevant to a potential step 2 adjustment and has decided to make an **upward adjustment** to its base figure. The agency has decided to make an upward adjustment based on: i) disparities in business ownership for minorities and women; ii) the current capacity of DBEs to perform work on Sound Transit’s FTA-funded projects; and iii) barriers in financing and business success for minorities, women, and minority- and woman-owned businesses.

**i. Disparities in business ownership.** Econometric analyses indicate that the availability of potential DBEs would be 12.2 percent if minorities and women in the RGMA who work in industries relevant to Sound Transit’s FTA-funded projects owned businesses at the same rate as white men who share the same personal characteristics. To account for barriers in business ownership, Sound Transit has decided to adjust its base figure upward to 12.2 percent.

**ii. Capacity of DBEs to perform agency work.** Sound Transit has achieved DBE participation as high as 30.53 percent in its FTA-funded work in recent years and believes it is important for its

overall DBE goal to be reflective of that participation. Consistent with USDOT guidance, to further adjust its base figure to account for recent participation of DBEs in its FTA-funded work, the agency took the average of its base figure adjusted for disparities in business ownership (12.2%) and median DBE participation in its FTA-funded work for FFYs 2017 through 2021 (20.16%), resulting in 16.17 percent.<sup>4</sup>

**iii. Barriers in financing and business success.** Analyses Sound Transit commissioned in 2019 indicated various barriers in access to financing and business success for minorities, women, and minority- and woman-owned businesses. To account for those barriers, Sound Transit has decided to further adjust its base figure upward by 2 percentage points to 18.17 percent.

**3. New goal.** Sound Transit proposes a **new overall DBE goal of 18.17 percent** for FFYs 2023, 2024, and 2025.

## **B. Race- and Gender-Neutral and Race- and Gender-Conscious Split**

*Race- and gender-neutral* program measures are designed to encourage the participation of all businesses—or all small businesses—in an agency’s work. In contrast, *race- and gender-conscious* measures are designed to encourage the participation of minority- and woman-owned businesses specifically in an agency’s work (e.g., using DBE participation goals to award individual contracts). If an agency cannot meet its goal solely through using race- and gender-neutral measures, then it must consider also using race- and gender-conscious measures.

In accordance with federal regulations and USDOT guidance, Sound Transit will attempt to meet the maximum feasible portion of its proposed 18.17 percent overall DBE goal using race- and gender-neutral measures. Sound Transit’s Uniform Reports of DBE Awards of Commitments and Payments from 2017 through 2021 indicate that the agency attained 9.44 percent DBE participation using race- and gender-neutral measures alone. Sound Transit will continue to encourage its departments to use Small Business Enterprise (SBE) contract goals when they award work in FFYs 2023, 2024, and 2025 and will also encourage prime contractors to partner with DBEs to meet SBE goals. The agency projects that those efforts will help maintain the level of DBE participation that resulted from the use of race- and gender-neutral measures in the recent past—9.44 percent. The agency will meet the remainder of its overall DBE goal—8.73 percent—using race- and gender-conscious measures, specifically using DBE contract goals to award various FTA-funded contracts and procurements, as appropriate.

## **C. Public Participation**

Public participation is a key component of Sound Transit’s process for establishing a new overall DBE goal. Sound Transit and BBC presented the agency’s new goal at two public webinars on June 28, 2022, answered questions from participants, and offered opportunities to provide any

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<sup>4</sup> Section III (A)(5)(a) in USDOT’s “Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program.” <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.



feedback. The agency also made this document available to its stakeholders on its website. Sound Transit did not receive any feedback from the public regarding its new overall DBE goal.

## **D. Summary**

Sound Transit proposes a new overall DBE goal for FFYs 2023, 2024, and 2025 of 18.17 percent. Based on information about FTA-funded work the agency anticipates awarding and results from the 2020 Disparity Study, the agency determined that the base figure for its new overall DBE goal is 7.7 percent. Sound Transit decided to adjust the base figure to 12.2 percent to account for barriers in business ownership local minority and women workers face. It decided to further adjust the base figure to 16.17 percent to account for the current capacity of DBEs to perform work on its FTA-funded work. And finally, the agency further adjusted its base figure to 18.17 percent to account for barriers local minorities, women, and minority- and woman-owned businesses face in financing and business success. Sound Transit will attempt to meet its overall DBE goal through a combination of race- and gender- neutral and race- and gender-conscious program measures. The agency projects it will be able to meet 9.44 percent of its overall DBE goal using race- and gender-neutral measures and the remaining 8.73 percent using race- and gender-conscious measures.