

**INTERCITY TRANSIT**

**Disadvantaged Business Enterprise (DBE) Program and Goal**

**(Revised August 1, 2022)**

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*Emily Bergkamp*

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**Emily Bergkamp**

3/5/2024

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**Date**

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**OBJECTIVES / POLICY STATEMENT**

**Required under 49 Code of Federal Regulations (CFR) Part 26.1 and 26.23**


Intercity Transit has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Intercity Transit is a recipient of Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Intercity Transit has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Intercity Transit to ensure a level playing field and foster equal opportunity for firms owned and operated by disadvantaged individuals on DOT assisted procurements and contracts to include construction and consultant contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts.
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law.
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards as certified by Washington State Office of Minority and Women Owned Business Enterprises (OMWBE) are permitted to participate as Certified DBEs.
5. To identify and remove where possible barriers to the participation of DBEs in DOT assisted contracts.
6. To promote and encourage DBE and Small Business Enterprise (SBE) participation in DOT assisted contracts and procurements; and
7. To identify opportunities to encourage DBE and small businesses in general to take advantage of resources that can be of help in making them more capable of competing successfully in the marketplace from which Intercity Transit procures products, services, and capital assets – most particularly the resources available through OMWBE.
8. To provide appropriate flexibility to recipients of Federal financial assistance in the establishing and providing opportunities for DBEs.

The Grants Program Manager is delegated as the DBE Liaison Officer (DBELO). In that capacity, the Grants Program Manager is responsible for implementing and/or monitoring all aspects of the DBE program. Implementation of Intercity Transit’s DBE program and compliance with DOT DBE requirements is accorded the same priority as compliance with all other legal obligations incurred by Intercity Transit in its financial assistance agreements with the U.S. Department of Transportation.

Intercity Transit has disseminated this policy statement to the Intercity Transit Authority and all the components of our organization. We have made this statement available to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts through notice in business and minority focus media and through electronic means.

  
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Emily Bergkamp, General Manager\CEO

3/5/2024  
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Date

## **A. GENERAL REQUIREMENTS**

### **1. Objective**

Intercity Transit's DBE Program objective is to ensure a level playing field and foster equal opportunity for all firms including disadvantaged firms participating in USDOT-assisted procurements and contracts to include construction and consultant contracts. This objective is found in the policy statement on page 1 of this Program.

### **2. Applicability**

Intercity Transit is the recipient of Federal Transit funds authorized by Federal Transit laws in Title 49, U.S. Code, and the Moving Ahead for Progress in the 21st Century Act (MAP-21, Public Law 112-141, 2012).

### **3. Definitions**

Intercity Transit has adopted the DBE program definitions of 49 CFR Part 26.5. For a complete list of official definitions pertaining to the USDOT DBE program, please see <https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-C?toc=1>

**Affiliation** has the same meaning the term has in the Small Business Administration (SBA) regulations, [13 CFR part 121](#).

(1) Except as otherwise provided in [13 CFR part 121](#), concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

**Alaska Native** means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

**Alaska Native Corporation** (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

**Assets** mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand

and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

**Business, business concern or business enterprise** means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States, or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

**Compliance** means that a recipient has correctly implemented the requirements of this part.

**Contingent Liability** means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

**Days** mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

**Department or DOT** 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).

**Disadvantaged business enterprise or DBE** means a for-profit small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**DOT-assisted contract** means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

**Good faith efforts** mean efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

**Home state** means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

**Immediate family member** means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

**Indian tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

**Joint 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.

**Liabilities** mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

**Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

**Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

**Noncompliance** means that a recipient has not correctly implemented the requirements of this part.

**Operating Administration or OA** means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

**Personal net worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

**Primary industry classification** means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site:

<http://www.census.gov/eos/www/naics/>.

**Primary recipient** means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

**Principal place of business** means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

**Program** means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

**Race-conscious measure or program** is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

**Race-neutral measure or program** is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

**Recipient** is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

**Secretary** means the Secretary of Transportation or his/her designee.

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

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

**SBA certified firm** refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

**Small business concern** means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

**Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

1. Any individual who is a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.
2. Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:
  - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

- c. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
  - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  5. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
  6. Women;
  7. (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- 3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

**Spouse** means a married person, including a person in a domestic partnership or a civil union recognized under State law.

**Transit vehicle manufacturer** means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale "off the lot" are not considered transit vehicle manufacturers.

**Tribally owned concern** means any concern at least 51 percent owned by an Indian tribe as defined in this section.

**You** refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., 'You must do XYZ' means that recipients must do XYZ).

Additionally, the following are terms/definitions used by Intercity Transit in its program implementation, as mentioned throughout this document:

**Bid Item Breakdown/Written Confirmation form** is a supplemental bid document which lists each separate bid item under which the DBE will be performing work as part of the Condition of Award Goal. It further defines the scope of work and the value of the work as they relate to each bid item for the broader scope of work identified on the Utilization Certification form.

**CFR** means the Code of Federal Regulations.

**Commercially Useful Function (CUF)** means a DBE 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 CUF, the DBE must



also be 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 itself.

**Condition of Award (COA) Goal (pertains to bid-build projects)** means an assigned numerical percentage of the bid amount of the contract. This is the minimum amount that the bidder must commit to by submission of the Utilization Certification Form and/or by Good Faith Efforts (GFE) at the time of bid. The Bid Item Breakdown/ Written Confirmation form will further describe by line item the scopes of work as identified on the DBE Utilization form and require the confirmation of both the bidder and the potential Subcontractor. The COA goal will also be applied to change orders associated with the contract as managed by INTERCITY TRANSIT or Local Agency projects, with OEO approval. To be considered responsive/successful the bidder/contractor must demonstrate good faith efforts in achieving the goal. The bidder/contractor can demonstrate the good faith efforts in either of two ways:

1. The contractor/bidder has obtained sufficient DBE participation to meet the established Condition of Award goal; or
2. The contractor/bidder provides documentation that evidences its good faith efforts to meet the goal, even though it did not succeed in obtaining sufficient DBE participation to do so.

**Consultant** means one who gives expert or professional advice.

**Contract** in this plan means contract, sub-contract, consultant agreement (inclusive of Master agreement, project specific agreement, or task order), purchase order, materials invoice, or any other legally binding document between a Prime Contractor/Prime consultant and their Subcontractor/subconsultants/. Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

**Contracting Opportunity** means a procurement action (by a recipient/sub- recipient/ contractor/subcontractor/consultant/subconsultant) to obtain a product or service commercially.

**DBE Performance/Participation Plans** means plans submitted by Bidders /Consultants that outlines in detail how the Bidder/Consultant will meet Performance/Participation goals or inclusion requirements. Performance/Participation plans are associated to Design Build projects and Consultant Services contracts containing DBE goals.

**DBE Utilization Certification Form** means the form that Prime Contractor submits on Condition of Award projects that identifies which DBE(s) the Prime Contractor is committing to use, the scope(s) of work that the DBE is contracted to perform on the project, and the associated dollar amount. The form is attached as Appendix 1. The Bid Item Breakdown/Written Confirmation form (mentioned above) is used in conjunction with the DBE Utilization Certification Form. The DBE Utilization Certification form

is not used in Design-Build, GCCM, or other alternate delivery method contracts (ref. DBE Performance Plan below).

**Diversity Management and Compliance System (DMCS)** is the database which tracks payments to Prime Contractor/Prime Consultants and all Subcontractor/subconsultants on all INTERCITY TRANSIT projects and those Local Agency projects receiving Federal Financial Assistance from INTERCITY TRANSIT.

**Design-build** (or design/build, and abbreviated D-B or D/B accordingly) is a project delivery system used in the construction industry. It is an alternative delivery method (ADM) to deliver a project in which the design and construction services are contracted by a single entity known as the design-builder or design-build contractor. The scope of work and dollar amount that the Design-Builder indicates they will be Subcontracting to certified DBEs, as shown in the DBE Performance Plan submitted with the Design-Builder's Proposal, and for subsequent Work opportunities arising from the Project. The DBE Commitment amount will be incorporated into the Contract and shall be considered a Contract requirement. The Design-Builder shall utilize DBEs to perform the work and supply the materials for which they are committed. Any changes to the DBE Commitment, as described in the DBE Performance Plan, shall require INTERCITY TRANSIT's prior written approval.

**Directory of Certified Firms or DBE Directory** means the OMWBE-created directory of certified DBE firms. This directory is available on OMWBE's website at: [www.omwbe.wa.gov/](http://www.omwbe.wa.gov/). This is the only recognized Directory of DBE firms. The NAICS code and information contained in the "Description of Work" column must comport with the work described on the DBE Utilization Certification.

**General Contractor/Contractor Managed (GC/CM)** is an Alternative Delivery Methodology (ADM) project that allows an owner to engage a construction manager who provides constructability input during the design phase. At a percentage point in the design completion the owner and the construction manager negotiate a "guaranteed maximum price for the construction."

**Goal** means an objective, numerically expressed as a percentage of the total project dollar amount, that contractors are required to make good faith efforts to achieve.

**North American Industry Classification System (NAICS) Codes** means the six-digit code used to determine whether or not a business is considered a small business as determined by the Small Business Administration. The NAICS code designations are described in the North American Industry Classification Manual-United States, which is available on the internet at the U.S. Census Bureau website: <https://www.census.gov/naics/>  
OMWBE, as the Unified Certification Program (UCP) agent for Washington state, determines which NAICS codes most specifically defines the type of work that the DBE firms are certified to perform.

**Sub-recipient** means a local agency, other jurisdiction or non-profit organization that receives financial assistance on a project from USDOT through INTERCITY TRANSIT.

#### **4. Non-Discrimination Requirements**

Intercity 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, Intercity 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.

#### **5. Record Keeping Requirements**

##### **Reporting to DOT**

We will accurately report DBE participation electronically to DOT on a semi-annual basis (June 1 and December 1), using the Uniform Report of DBE Awards of Commitments and Payments as provided by FTA in TrAMS. These reports will reflect payments actually made and commitments made to DBEs on DOT-assisted projects and procurements.

##### **Vendor Information**

In the development of our DBE goals, we will identify the applicable NAICS codes for the upcoming DOT-assisted projects and procurements and then using these codes:

1. Run a report on the OMWBE Directory of Certified Firms webpage to identify all related federally certified DBE and Small Business Enterprise (SBE) suppliers. This report includes supplier contact information and other related business profile detail. (see [OMWBE Certified Firms Directory](#))
2. Run a query on the U.S. Census website to identify the total number of established businesses that are listed in our surrounding area (Thurston, Pierce, and King Counties).

This information will provide reference data for establishing triennial DBE goals and assist Intercity Transit in our DBE and SBE outreach efforts.

#### **6. Federal Financial Assistance Agreement**

Intercity Transit agrees to the following FTA assurances, applicable to all DOT-assisted contracts and procurements and their administration:

##### **General Assurance**

*Intercity 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. Intercity 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. Intercity Transit's DBE Program, as required by 49 CFR Part 26 and as*

*approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Intercity Transit of its failure to carry out its approved program, the Department may impose sanction 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.).*

The language above will appear in financial assistance agreements with sub-recipients should that sub-recipients be associated with federal financial assistance the agency receives.

**Contract Assurance**

Transit will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

*“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 Intercity Transit deems appropriate, which may include, but is not limited to (1) Withholding monthly progress payments; Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.”*

**B. ADMINISTRATIVE REQUIREMENTS**

**1. DBE Program Updates**

Since Intercity Transit receives capital grants, we will continue to carry out this Program until all such grants have been expended. We will update this Program and seek DOT approval should there be significant changes in the approved Program.

**2. Policy Statement**

The Policy Statement is displayed on the first page of this Program.

**3. DBE Liaison Officer (DBELO)**

The individual identified below serves as the Grants Program Manager which includes the role of DBE Liaison Officer (DBELO) for Intercity Transit:

Jessica Gould  
Grants Program Manager  
526 Pattison SE  
P O Box 659  
Olympia WA 98507  
360 705-5805  
[jgould@intercitytransit.com](mailto:jgould@intercitytransit.com)

The DBELO is responsible for implementing or ensuring implementation of all aspects of the DBE Program to include ensuring Intercity Transit complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the General Manager\CEO concerning DBE Program matters. An organization chart displaying the DBELO's position in the organization is found as an attachment to this Program.

The DBELO will also be responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

- ❑ Ensure the gathering and reporting of statistical data and other information as required by DOT.
- ❑ Reviewing third party contracts for compliance with this program.
- ❑ Working with Procurement staff in formulating overall agency wide, race-neutral DBE goals.
- ❑ Ensuring that bid notices and requests for proposals are available to potentially interested DBEs in a timely manner.
- ❑ Working with Procurement staff to match procurement opportunities with specific DBE and/or Small Business (DBE and non-DBE) participation encouragement efforts.
- ❑ Analyzing Intercity Transit's progress toward attainment of the agency's overall DBE goal and identifies opportunities for improvement.
- ❑ Encourage compliance by attending applicable pre-bid meetings and/or receives a copy of minutes and a list of attendees from Procurement staff.
- ❑ Advising the General Manager\CEO and governing body on DBE matters including progress on DBE goal achievement.
- ❑ Refer interested DBE's to Washington Procurement Technical Assistance Center (PTAC) and OMWBE for information and assistance in preparing bids, obtaining bonding and insurance.
- ❑ Attend and participate in DBE related training seminars as appropriate and available.
- ❑ Providing outreach to DBEs and community organizations to alert them of potential business opportunities with Intercity Transit.
- ❑ Acting as a liaison with OMWBE to include encouraging small businesses to take advantage of OWMBE resources.

#### **4. DBE Financial Institutions**

It is neither the policy nor the normal practice of Intercity Transit to identify financial institutions as business partners for our agency or for businesses that may seek to do business with us. However, we are committed to making such businesses aware of any financing opportunities and services that we may be able to identify as being offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. We have solicited input from other DBE programs around the State of Washington and reviewed local financial institutions and have been unable to identify any such institutions at this time. In the event a later review reveals the existence of such financial institutions, their names will be listed in this document and information will be disseminated to contractors doing business with Intercity Transit on DOT-assisted contracts.

## 5. Prompt Payment Mechanisms

Intercity Transit will include the following clause in each DOT-assisted contracts and use the prime contractor's certified payroll reports for monitoring and enforcement:

This project is funded by the Federal Transit Administration (FTA). According to Washington State's RCW 60.28.011 and the Code of Federal Regulations 49 CFR Section 26.29, retainage may not be withheld from the prime contractor. In lieu of withholding retainage from the prime contractor, Intercity Transit shall rely on the prime contractor's Payment and Performance Bond. However, release of the Payment and Performance Bond shall not occur until Intercity Transit has received a certified copy of Affidavit of Wages Paid for the contractor and each subcontractor, final acceptance by Intercity Transit of work performed, receipt of all necessary releases, and after any other requirements are met as per RCW 60.28.011.

Under RCW 60.28.011, the prime contractor may still withhold retainage from subcontractors. However, as this is a federally funded project, the prime contractor is obligated to pay all retainage owed to the subcontractors for satisfactory completion of accepted work within thirty (30) days of that acceptance. The subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. In any case, if Intercity Transit has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

## 6. Directory of Certified DBE and SBE Firms

To identify certified DBEs and SBEs, Intercity Transit relies on the Office of Minority and Women's Business Enterprises (OMWBE) which is the sole certifying agency for minority, women, and disadvantaged small businesses in Washington State. OMWBE offers the following certifications relative to federal certification requirements:

*"Federally certified firms are eligible to participate in transportation specific federal projects including construction work on rails, roads, bridges, airports, and seaports. This certification is only for those firms who do transportation related scopes of work. The federal projects are funded by the US Department of Transportation (USDOT), including the Federal Highway Administration, (FHWA), Federal Aviation Administration (FAA), and Federal Transit Administration (FTA).*

1. *SBE – Small Business Enterprise. SBE certified firms count towards USDOT small business (gender and race neutral) goals.*
2. *DBE – Disadvantaged Business Enterprise. This certification counts towards USDOT gender and race conscious goals."*

(see <http://www.omwbe.wa.gov/certification/>)

OMWBE maintains a Directory of DBE and SBE certified firms. The directory lists the owner's name, business name, contact information, certification status including certification number, UBI number, the type of work the business has been certified to perform as a DBE and/or SBE to include their NAICS codes and other business profile detail. The OMWBE revises the Directory monthly and is responsible for maintaining all related records. The Directory is available at <https://omwbe.wa.gov/directory-certified-firms>, or in hard copy by contacting the Office of Minority and Women's Business Enterprises at P O Box 41160, Olympia WA 98504-1160, (360) 664-9750, email - [technicalassistance@omwbe.wa.gov](mailto:technicalassistance@omwbe.wa.gov). OMWBE provides a process whereby certifications performed by other state certification programs may be recognized.

## **7. Overconcentration**

Intercity Transit has not identified that overconcentration exists in the types of work that DBEs perform or would be anticipated to perform for our agency.

## **8. Business Development Programs**

Intercity Transit has not established a business development program but does regularly encourage small businesses to utilize the resources of [OMWBE](#).

## **9. Monitoring and Enforcement Mechanisms**

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

1. We will bring to the attention of the federal Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Section F.2. which lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is performed by the DBEs. This will be accomplished by requiring prime contractors to include in each payment request a certification from each DBE of payments received.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

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

### **1. Set-asides or Quotas**

Intercity Transit does not use quotas in any way in the administration of this DBE Program.

### **2. Overall Goals**

A description of the methodology to calculate the DBE overall goal and the goal calculations can be found in Section 'G' of this Program. This section of the program will be updated every three (3) years. In accordance with Section 26.45(f) Intercity Transit is committed to submitting its overall goal to DOT by August 1 every 3<sup>rd</sup> year starting in 2010. Before establishing the overall goal, Intercity Transit evaluates anticipated DOT-funded project activity and consults with the other regional transit programs; minority, women's and general contractor groups; community organizations; or other organizations as appropriate to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, input from OWMBE regarding availability DBEs and SBEs in general, and Intercity Transit's efforts to establish a level playing field for the participation of DBEs and SBEs.



We will begin using our updated overall goal on October 1 at the start of the 3-year fiscal period unless we have received other instructions from DOT. We anticipate having race-neutral, non-project specific DBE goals. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the specific project. For such projects, each solicitation for which a contract goal has been established will require the bidders/offers to submit the following information:

- The names and addresses of DBE firms that will participate in the contract
- A description of the work that each DBE will perform
- The dollar amount of the participation of each DBE firm participating
- Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal
- Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment, and
- Evidence of good faith efforts from the prime contractor if the DBE contract goal is not met.

### **3. Transit Vehicle Manufacturers (TVM) Goals**

Intercity Transit will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26. Alternatively, Intercity Transit may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

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

Intercity Transit will not use DBE quotas or set-asides to achieve the overall annual goal for DBE participation. Participation will be achieved by race-neutral means. Contract goals and good faith efforts requirements will only be applied as warranted by the nature of specific projects and/or if a relevant disparity study identifies the need for contract goals. This is consistent with FTA Guidance in the current FTA DBE Program Template:

*[Note: recipients located within the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit are subject to Western States Paving, Inc. v. Washington State Department of Transportation, 407 F.3d 983, and should verify with DOT whether they may use DBE contract goals and/or race-conscious measures when implementing their DBE programs. Absent approval from DOT, Ninth Circuit recipients should be operating entirely race-neutral DBE programs.]*

### **5. Contract Goals**

Intercity Transit will not use race-conscious contract specific goals until such time as the use of contract goals is better understood in consideration of the 9<sup>th</sup> District decision on Western Paving vs. WSDOT.

### **6. Good Faith Efforts Procedures**

Demonstration of good faith efforts – As long as race conscious goals are NOT used, there is no requirement for demonstration of good faith efforts.

## **7. Counting DBE Participation**

Intercity Transit will count DBE participation as follows:

- 1) We will count only certified DBE participation toward an overall, agency-wide race-neutral goal and contract goals (only in the case that contract goals become relevant) as provided in 49 CFR Part 26.55 ([“How is DBE participation counted toward goals”](#)).
- 2) When a certified DBE participates in a contract, we will count toward DBE goals only the value of the work actually performed by the DBE.
- 3) We will not count the participation of a DBE subcontract toward a contractor’s final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.
- 4) If the firm is not certified as a DBE at the time of award or loses its certification, we will not count the firm’s participation toward any DBE goals.
- 5) When a DBE performs as a participant in a joint venture, we will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

## **8. DBE Termination or Substitution**

Intercity Transit will require prime contractors to make available all certified DBE subcontracts. We will include contract language requiring the prime contractor to promptly notify the Intercity Transit Project Lead of a DBE’s inability or unwillingness to perform and provide reasonable justification documentation prior to subcontractor termination. If terminated, we will require the contractor to make a good faith effort to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. In so doing, we will require the prime contractor to obtain prior written approval from Intercity Transit of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith effort. The Contractor will not be entitled to any payment for work or materials without Intercity Transit’s written consent.

## **D. CERTIFICATION STANDARDS & PROCEDURES**

### **1. Certification Process**

In Washington State, a central “one-stop-shop” has been created to perform certification and recertification functions. The Washington State Office of Minority and Women Business Enterprises (OMWBE) has legislative authority to perform all minority, women, and disadvantaged business enterprise certifications for all public agencies in the State. For DBE certifications, the OMWBE is required to utilize certification procedures that meet all federal requirements as defined in 49 CFR Part 26 and as amended to ensure eligibility of certified firms for Department of Transportation projects. Intercity Transit has access to the directory of certified DBEs and SBEs published by the OMWBE. The most recent directory is available in electronic form at <https://omwbe.wa.gov/directory-certified-firms>

## **2. Certification Procedures**

The Washington State Office of Minority and Women’s Business Enterprises performs all DBE federal certifications for public agencies in the state. They maintain a directory which lists the firm’s name, address, telephone number, date of the most recent certification, and the type of work the firm has been certified to perform. The Directory is available at <https://omwbe.wa.gov/directory-certified-firms> or in hard copy by contacting the Office of Minority and Women’s Business Enterprises at P O Box 41160, Olympia WA 98504-1160, (360) 753-9693, email - [technicalassistance@omwbe.wa.gov](mailto:technicalassistance@omwbe.wa.gov). Currently application for federal certification for DBE is \$25 and there is no cost for SBE’s.

OMWBE provides a process whereby they may recognize certifications performed by other state certification programs.

## **3. Confidentiality**

Intercity Transit will safeguard from disclosure to third party’s information that may reasonably be regarded confidential business information consistent with federal, state, and local law. Notwithstanding any contrary provisions of state or local law, Intercity Transit will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

## **E. COMPLIANCE AND ENFORCEMENT**

### **1. Monitoring Payments to DBEs**

We will require prime contractors to maintain records and documents of payments to DBEs a minimum of three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Intercity Transit or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We may perform periodic 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.

### **2. Monitoring and Enforcement Mechanisms**

Intercity Transit has available remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, breach of contract action, pursuant to the terms of the contract.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, 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
3. Prosecution pursuant to 18 USC 1001.

## **F. SMALL BUSINESS PARTICIPATION**

Intercity Transit includes this SBE element in our DBE Program consistent with 49 CFR Part 26.39 to support our intention to foster SBE participation in the marketplace from which Intercity Transit purchases products, services, and capital assets (see Objective/Policy page 1). Intercity Transit is committed to providing equal and open access for SBEs to participate in the agency's contracting and other procurement opportunities whether the enterprise is certified or not. For identification of "SBE Certified" firms we rely on the Washington State Office of Minority and Women Business Enterprises ([OMWBE](#)) defined categories as defined in their [Glossary of Terms](#), namely - Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), Women-owned Business Enterprises (WBE), and the recently added category of [Small Business Enterprise \(SBE\)](#).

Intercity Transit supports fostering small business participation which includes taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. Intercity Transit also anticipates that our focus on race-neutral means of meeting our overall, agency-wide DBE goal will be a positive factor for encouraging small business participation.

As part of this SBE Participation element, Intercity Transit will utilize OMWBE resources and promote the use of OMWBE resources by small businesses where we can do so. This includes raising the awareness of such resources among businesses actually or potentially interested in doing business with Intercity Transit. OMWBE resources include information on and links to the federal Small Business Administration (SBA) and the state's Department of Enterprise Services which can facilitate SBE participation in the marketplace. Intercity Transit will continue to list business / project opportunities with OMWBE for inclusion in their ["Bids and Contracting Opportunities"](#) page.

The magnitude of Intercity Transit's direct effort is limited by the fact that Intercity Transit is a small agency based in the Olympia-Lacey UZA. Federal funds are used for vehicle acquisitions routinely and those purchases are neither reportable for DBE purposes nor relevant for small business encouragement efforts. Intercity Transit normally has a limited number of non-vehicle federally funded project bid opportunities.

Business opportunities for DBEs and SBEs are limited by the size and nature of our business which is factored into our DBE goal setting methodology which evaluates our anticipated purchasing needs in association with the marketplace defined in terms of geography County Business Pattern (CBP) data and relevant NAICS industry codes. The goal analysis has given us a

good estimate of the probability of not only DBE but also SBE participation. Our next goal setting analysis in 2024 for the 2024- 2026 period can target an increased emphasis on business size as an analytical element even though targets or goal are not yet applicable for SBEs.

Despite limitations inherent in our size and mix of projects and procurement opportunities, Intercity Transit will use the following means of SBE identification, outreach to SBEs and strategic commitments to facilitate SBE awareness of business opportunities with Intercity Transit and to encourage increased SBE participation in our federally funded projects and other procurement opportunities. All identified activities will be effective following FTA review of this revised DBE Program or by January 1, 2023, whichever is earliest.

### **Strategic Activities**

1. The DBELO will make available to purchasing staff a list of potential vendors/contractors identified from OMWBE and other resources as potential providers of goods, services, and capital asset creation. The DBELO will, at procurement events and otherwise, periodically alert staff of potential DBE and/or SBE business partners.
2. Intercity Transit Procurement Coordinators will utilize the resources of the Washington Electronic Business Solution (<https://fortress.wa.gov/ga/webs/>) and/or the Builders Exchange of Washington ([www.bxwa.com](http://www.bxwa.com)) to make plan holder lists available to potential subcontractors and thereby facilitating contact between prime and subcontractors.
3. The DBELO, or other staff, will partner with the Thurston County Economic Development Council (EDC), the Thurston County Chamber of Commerce, and other agencies championing business development in Thurston County and beyond as opportunities are available. This would include but not be limited to participation “Business Showcase” events, contributing to relevant newsletters, and taking advantage of as well as creating opportunities for encouragement and outreach to the community of SBEs as well as DBEs and making businesses aware of current and potential future business opportunities and Intercity Transit’s policy of encouraging SBEs and DBEs.
4. Intercity Transit will participate in local advertising and marketing opportunities as, for example, placement of advertisements and notices in Thurston County Chamber of Commerce and EDC publications to make local businesses aware of workshops and business opportunities.
5. Intercity Transit will post all formal solicitations on our Procurement website so that suppliers can easily and without advance registration learn about our contracting opportunities.

### **Identification & Outreach Activities**

- a. Intercity Transit’s DBELO will use the SBE certification category in OMWBE’s Business Directory to identify applicable certified SBE’s as potential contractors, subcontractors, or vendors with potential for supplying product, goods, or services to Intercity Transit. The DBELO will update this list semi-annually.
- b. Intercity Transit’s Procurement staff will continue to alert OMWBE of upcoming projects and procurement opportunities and seek to encourage small business to take advantage of OMWBE resources (see attached references and resources).

- c. Whenever interacting with the vendor community, the DBELO and Procurement staff will, when applicable, continue to encourage vendors to pursue DBE/SBE certification through OMWBE.
- d. For DOT-assisted contracts, Procurement staff will identify potential DBEs/SBEs and proactively invite their participation in the upcoming contracting opportunity, promote attendance at pre-bid and pre-proposal conferences and encourage them to advertise their interest in subcontractor opportunities to potential prime contractors.
- e. Intercity Transit will include language on our website that is consistent with our DBE Program and promotes business diversity.

<https://www.intercitytransit.com/business/disadvantaged-business-enterprise> which includes contact information for our DBELO and for OMWBE.

*Intercity Transit commits to using minority, women, and disadvantaged businesses and small businesses (whether or not included in the minority, women, or disadvantaged categories) to the maximum extent possible, as outlined in our most current [2019-21 Disadvantaged Business Enterprise plan](#) (in effect until September 30, 2022).*

*Our draft 2023- 2025 Disadvantaged Business Enterprise (DBE) plan is available for review here (<https://www.intercitytransit.com/business/disadvantaged-business-enterprise>). We will begin using our updated overall goal on October 1, 2022, at the start of the 3-year fiscal period. Intercity Transit's overall DBE goal for FFY 2023 - 2025 is 1.5 percent. For the purpose of this program, Intercity Transit will use the rounded, weighted base figure of 1.5% of the federal dollar amount Intercity Transit expends for DOT-assisted contracts [Pattison Base Expansion project] excluding DOT funds used for the purchase of transit revenue vehicles and Intercity Transit staff time.*

*We remind interested firms to afford potential business partners an equal, non-discriminatory opportunity to compete for business as joint venture partners or subcontractors. We are interested in firms that demonstrate a commitment to equal employment opportunity and encourage firms to employ a workforce that reflects the region's diversity and adheres to its non-discrimination provisions. We encourage all such businesses to apply.*

*For more information on how to become certified as a disadvantaged business enterprise or small business enterprise, please contact the [Office of Minority and Women's Business Enterprises](#). Feel free to contact our [Disadvantaged Business Enterprise Liaison Officer](#) if you have any questions or comments.*

If you feel that your business has been denied a business opportunity with Intercity Transit based on discrimination, please complete our [Discrimination Complaint Form](#).

- f. Intercity Transit will include in formal solicitations language that promotes DBE/SBE participation such as:

*Intercity Transit maintains a strong commitment to maximum utilization of minority and women owned businesses and all small businesses. We encourage such businesses to contact the Washington State Office of Minority and Women's Business Enterprises (OMWBE <http://omwbe.wa.gov/>) to explore business development resources they have*

*available and the potential for federal Disadvantaged Business Enterprises (DBE) and Small Business Enterprise (SBE) Certification through OMWBE. There may be general business advantages for such certification but keep in mind that Intercity Transit does not set contract specific DBE goals, nor does it set any SBE participation goals.*

*All interested firms are reminded to afford all potential business partners an equal, non-discriminatory opportunity to compete for business as joint venture partners or subcontractors. Intercity Transit is interested in firms that demonstrate a commitment to equal employment opportunity and encourages firms to employ a workforce that reflects the region's diversity and to adhere to nondiscrimination requirements of federal and state laws.*

## GOAL CALCULATION METHODOLOGY FOR Federal Fiscal Year 2023-2025

### 1. Amount of Goal

Intercity Transit's overall calculated DBE goal for FFY 2023-2025 is 1.47 percent. For the purpose of this program, Intercity Transit will use the rounded, weighted base figure of 1.5% of the federal dollar amount Intercity Transit expends for DOT-assisted contracts exclusive of DOT funds used for the purchase of transit revenue vehicles.

### 2. Applicable Anticipated Projects and DOT Support Level

Intercity Transit has programmed the following project with the indicated DOT funding for FFY 2023- 2025:

Pattison Base Maintenance Operations Administrative (MOA) Expansion & Modernization Project (Pattison Project):

The Pattison Project is divided into the North Parcel construction and South Parcel construction. The North Parcel construction includes the construction of our new Administration/Operations (ADOPS) building and the Fuel Wash Facility (FWF) both of which are slated for completion in September of 2022. The South Parcel work in FFY 2023-2025 includes renovation of the existing Maintenance Building, and demolition of the existing Administration Building including expansion of the employee parking lot all of which is expected to begin in early 2023 and finish in late 2025.

Total federal DOT funding Intercity Transit anticipates for the South Parcel Work \$16,802,200. However, the June 2022 50% CD cost estimate projects \$14,307,905 in construction dollars that would be applicable to DBE goals. By applying the FFY 2023-2025 DBE Goal of 1.47 % to the FFY 2023-2025 \$14,307,905 construction dollars, Intercity Transit would reasonably expect to expend \$209,967 of total federal funds with DBEs. For the purposes of this program, Intercity Transit intends to use the rounded, weighted base figure of 1.5% of the total federal funds, or \$214,619.

### 3. Methodology

**Step One:** Develop a Base Figure for the Relative Available DBEs

To calculate the DBE goal for FFY 2023- 2025, Intercity Transit used a methodology consistent with the guidance of DOT's Office of Small and Disadvantaged Business (OSDBU) <https://www.transportation.gov/osdbu> and consistent with relevant federal regulations contained in 49 CFR Part 26.

Intercity Transit needed to determine a base figure of potential DBEs to perform the types of work that Intercity Transit intends to award. This is the percentage of DBE firms as a proportion of all established firms for specific industries that are available to compete for contracts funded with DOT funds.

Intercity Transit used the U.S. Census Bureau's most recent 2020 County Business Pattern (CBP) database as the data source to establish the total number of established businesses in **King, Pierce, and Thurston Counties** for various North American Industry Classification System (NAICS) codes, as noted below, which apply to Intercity Transit's purchasing activities. CBP data is located at:

<https://data.census.gov/cedsci/>



and NAICS code information is located at:

<http://www.naics.com/>

The data source for the number of DBEs within NAICS classifications for the three relevant Washington counties came from the current State of Washington Office of Minority and Women’s Business Enterprises Directory of Disadvantaged Business Enterprises (OMWBE Directory) that is available at:

<https://omwbe.wa.gov/directory-certified-firms>

Intercity Transit programmed only the Pattison Project, specifically the South Parcel work for DOT grant-funded procurement activity for FFY 2023- 2025. Using the 50% Construction Documents Cost Report by DCW Cost Management dated June 28<sup>th</sup>, 2022 (embedded in the attached “DBE Goal Calculations FFY 2023-2025.xlsx” workbook), the following applicable NAICS codes relate to the Pattison MOA Project South Parcel work:

<u>NAICS CODE</u>	<u>DESCRIPTION</u>
238130	Framing contractors
238160	Roofing contractors
238210	Electrical contractors and other wiring installation contractors
238220	Plumbing, heating, and air-conditioning contractors
238290	Other building equipment contractors
238350	Finish carpentry contractors
238910	Site preparation contractors
332710	Machine shops
423620	Household appliances, electric housewares, and consumer electronics merchant wholesalers

The CBP database for these services is **King, Pierce, and Thurston Counties** which represents Intercity Transit’s typical market area for construction contractors. The data indicates a total number of 2,851 firms in these thirteen NAICS codes for this geographical area (see attached “DBE Goal Calculations FFY 2023-2025.xlsx” workbook).

The OMWBE Directory revealed a total number of 51 DBE firms for the same geographic area for these nine NAICS codes.

The total estimated construction cost to complete the South Parcel of the Pattison MOA project based on the June 2022 50% Construction Design cost estimate is \$14,307,905. The table below identifies the total DBE potential % participation and \$ participation for each of these NAICS code (see “DBE Goal Calculations FFY 2023-2025.xlsx” workbook).

Total DBE potential % participation and \$ participation by NAICS code						
NAICS	Description	Estimated Spend By NAICS	# of Established Businesses By NAICS King, Pierce, and Thurston Counties	# of Potential DBEs	% DBE Participation	DBE Potential \$
238130	Framing contractors	\$1,709,927	254	4	1.57%	\$26,928
238160	Roofing contractors	\$1,550,424	332	3	0.90%	\$14,010
238210	Electrical contractors and other wiring installation contractors	\$1,846,143	782	20	2.56%	\$47,216
238220	Plumbing, heating, and air-conditioning contractors	\$3,162,592	390	3	0.77%	\$24,328
238290	Other building equipment contractors	\$141,420	77	1	1.30%	\$1,837
238350	Finish carpentry contractors	\$1,280,162	477	9	1.89%	\$24,154
238910	Site preparation contractors	\$2,176,171	410	10	2.44%	\$53,077
332710	Machine shops	\$2,375,833	129	1	0.78%	\$18,417
423620	Household appliances, electric housewares, and consumer electronics merchant wholesalers	\$65,233	27	0	0.00%	\$0
<b>Total</b>		<b>\$14,307,905</b>	<b>2,851</b>	<b>51</b>		<b>\$209,967</b>

Total Potential DBE \$ ÷ Construction Cost \$ = **Weighted Average DBE Goal:**

$$\$209,967 \div \$14,307,905 = \mathbf{1.47\%}$$

(Rounded, weighted base figure goal = **1.5%**)

As 49 CFR Part 26 Section 51 states, recipients of DOT funds must meet the maximum feasible portion of the overall DBE goal by using race / gender-neutral means of facilitating DBE participation. The DBE goal Intercity Transit has calculated using the methodology and data sources is a Race/Gender Neutral Goal which means that the Intercity Transit DBE goal does not presume nor rely for achievement on individual federally funded contracts that specify a Race/Gender Conscious DBE goal.

**Step Two:** Adjustment of the Base Figure

Per 49 CFR 26.45(d), the second step in the process is to examine available evidence to determine what adjustment, if any, is needed to the base figure to make the DBE goals as precise as possible. The North Parcel Construction began in August 2020 and will be complete in September 2022 and provided a real-world comparable indicator for the market in Thurston County and serves a good predictor of what we can expect for the South Parcel construction

which is scheduled to begin in early 2023 and be complete in late 2025. There were four DBEs contracted to provide cleaning services, fencing, pavement markings, and fire extinguishers/cabinets during different phases of the North Parcel construction as reflected in the Semiannual Reporting data in the table below.

Semiannual Reports	
10-01-19 to 03-31-20	\$0
04-01-20 to 09-30-20	\$0
10-01-20 to 03-31-21	\$430,055
04-01-21 to 09-30-21	\$23,107
10-01-21 to 03-31-22	\$0
04-01-22 to 09-30-22	Due 12-01-22
<b>Total FFY 2020-2022 DBE Expenditures</b>	<b>\$453,162</b>
<b>FFY 2020- 2022 \$ Goal</b>	<b>\$183,497</b>

The FFY 2020-2022 DBE Goal was based on the North Parcel new construction of a new Administration/Operations (ADOPS) building and a new Fuel Wash Facility (FWF). The FFY 2020-2022 goal was calculated to be 0.77% (rounded up to 1%) or \$183,497 based on \$18,349,670 in federal DOT funding. The total North Parcel DBE expenditures reported during FFY 2020-2022 to date is \$453,162 or 2.5% and thereby exceeding our 1% goal. FFY 2023-2025 is calculated to be 1.47% (rounded up to 1.5%) or \$214,619 based on \$14,307,905 in federal DOT funding. Even though the South Parcel is largely renovation work (not new construction work) to the Maintenance Building we are expecting the same level of DBE participation that we achieved with the North Parcel construction. However, due to increasing market turmoil and disruption in the supply chain, Intercity Transit intends to stick with the data and stay true to the goal calculation methodology and therefore maintain the 1.5% DBE goal for the South Parcel renovation work.

### Means to Meet Overall DBE Goal

Intercity Transit will use race/gender-neutral means to encourage DBE participation in its federally assisted contracts. In 2017, the Washington State Department of Transportation (WSDOT) retained Colette Holt & Associates to conduct a “disparity study” to assist in its implementation of the Federal DBE Program. Intercity Transit has reviewed the disparity study and chose not to use it based on its contracts and relevant geographic market areas. WSDOT operates across the entire state and tailored its DBE goal based on its contracts and relevant market area.

Intercity Transit anticipates meeting the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Intercity Transit uses the following race-neutral means to promote DBE participation:

1. Ensuring Forma (Pattison Project GC/CM) implements its Diverse Business Inclusion Plan specific to the Pattison Project (see attached FormaDiverseBusinessInclusionPlan.pdf)
2. Ensuring contracting opportunities are advertised in minority focus media.

3. Ensuring contracting opportunities are published via Washington State’s Office of Minority and Women’s Business Enterprises (OMWBE).
4. Encouraging MBEs and WBEs to seek Federal DBE certification.
5. Encouraging DBEs to attend pre-bid and pre-proposal conferences to advertise their interest in projects to potential prime contractors.

Intercity Transit estimates that, in meeting our overall goal for FFY 2023- 2025 of 1.47 percent (or 1.5% rounded, weighted base figure), we will obtain 1.5% from race-neutral participation and 0.0 percent through race-conscious measures. This overall goal will be effective October 1, 2022, and remain in effect until September 30, 2025, unless we have received other instructions from DOT or until the goal is revised as circumstances may warrant and as the application of this goal-setting methodology may indicate.

### Public Involvement in the Overall Goal Setting Process

Because the Department of Enterprise Services (DES) is experienced and authorized in leading the General Contractor/Construction Manager (GC/CM) alternative procurement methodology, Intercity Transit entered into an Interagency Agreement (IAA) with DES to serve as our Project Manager who in turn competitively awarded the GC/CM contract with Forma Construction Company (Forma). As the GC/CM, Forma must competitively award all subcontracted work under the GC/CM contract in coordination with DES. DES requires an inclusion plan from the GC/CM and to better ensure success (see attached [FormaDiverseBusinessInclusionPlan.pdf](#)). In so doing, Forma includes a dedicated Outreach & Inclusion Manager, [Carrie Whitton](#) (360.754.5788) to better promote DBE participation for Intercity Transit as well as their other government clients and therefore has a good pulse on the DBE market in Thurston County. As the South Parcel bid packages are being finalized, Forma will be using the OMWBE website to directly invite DBE’s to participate in the South Parcel work just as they did for the North Parcel construction. Forma also invites potential bidders to attend the pre-bid conference to further boost DBE participation. By law, the GC/CM can self-perform up to 30% of the work provided they competitively win the work and if so, the GC/CM may subcontract a portion of that work to a DBE to assist the agency in meeting their DBE goals. As Covid19 restrictions continue to be lifted, Forma’s Outreach & Inclusion Manager also regularly participates in outreach events to include:

#### **Yearly Events:**

Regional Contracting Forum  
Alliance Northwest  
North Puget Sound Small Business Summit

#### **Monthly Events:**

Construction Design Entrepreneurs (CDE)  
AWMB – Third Wednesday of every month  
NWMBA – Third Thursday of every month

#### **FORMA hosted Events:**

Quarterly Small Business Summits

- Highlighting how to work with FORMA
- Upcoming projects
- Job Order Contracting Projects

#### **Project Specific Pre-Bid Events (GCCM and PDB)**

- Highlighting the bid packages
- How to read the bid manual
- How to team up with bigger prime subcontractors

- Who to contact to get on JOC projects

Intercity Transit also consults with community organizations and certified DBEs although the OMWBE expressly prohibits use of their DBE contact information to make unsolicited contact with their DBEs. Intercity Transit has historically posted our proposed overall DBE goal and rationale on our website and have solicited comments although no feedback was received (see Intercity Transit website screenshots below). Intercity Transit shared information and consulted with the following organizations:

- Washington State Office of Minority & Women’s Business Enterprises
- Certified DBEs
  - Washington State Procurement Technical Assistance Center (PTAC)
  - Washington State Department of Transportation’s Training Event “Tips and Tools for Understanding Disadvantaged Business Enterprise programs

Because no feedback was received, no changes were made to Intercity Transit’s proposed DBE goal.

Intercity Transit’s Procurement webpage:

**INTERCITY TRANSIT** Search

PLAN YOUR TRIP HOW TO RIDE SERVICES EMPLOYMENT ABOUT US

Home > Business and Partnerships > Procurement: Awards and Solicitations

## Procurement

Transit Authority  
Community Advisory Committee  
Office Hours and Locations  
Contact Us ▾  
Intercity Transit Proposition 1  
**Business and Partnerships ▾**  
Procurement: Awards and Solicitations  
Disadvantaged Business Enterprise  
Interlocal Agreements  
Plans, Publications, and Fact Sheets  
Construction Projects  
Sustainability  
News and Alerts

Intercity Transit regularly procures a wide range of goods and services which are common to the public transportation industry, in a manner consistent with applicable procurement laws, regulations, policies and guidelines. Effective fulfillment of our mission requires contractual partnerships with conscientious suppliers that share our values and consistently deliver best value solutions. Intercity Transit values and encourages supplier participation in our procurements. Please review the information below or contact us directly for additional information.


### Learn more about our needs:

- [Current Solicitations](#) - View the status of current solicitations and register to be contacted about specific RFPs or RFBs.
- [Recent Awards](#) - View list of recent awards.
- [Supplier Diversity](#) - Learn about our Disadvantage Business Enterprise (DBE) program and goals.
- [Sustainability Commitment](#) - Learn about our Environmental and Sustainability Management System (ESMS).

### Procurement Team:

Name	Job Title	Phone #
<a href="#">Steve Krueger</a>	Procurement/Capital Projects Manager	360-705-5833
<a href="#">Katie Cunningham</a>	Procurement Coordinator	360-705-5837
<a href="#">Jeff Peterson</a>	Procurement Coordinator	360-705-5878
<a href="#">Tammy Ferris</a>	Procurement Coordinator	360-705-5818
<a href="#">Jon Licht</a>	Inventory Supervisor	360-705-5882
<a href="#">Becky Higgenbottom</a>	Inventory Specialist	360-705-5845
<a href="#">Brian Sutherby</a>	Inventory Specialist	360-705-5876
<a href="#">Dan Driscoll</a>	Inventory Specialist	360-705-5842

## Intercity Transit's Disadvantaged Business Enterprise webpage:



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PLAN YOUR TRIP
HOW TO RIDE
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Home
Business and Partnerships
Disadvantaged Business Enterprise

## Disadvantaged Business Enterprise

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- Business and Partnerships ▾
  - Procurement: Awards and Solicitations
  - Disadvantaged Business Enterprise
  - Interlocal Agreements
- Plans, Publications, and Fact Sheets
- Construction Projects
- Sustainability
- News and Alerts

Intercity Transit commits to using minority, women, and disadvantaged businesses and small businesses (whether or not included in the minority, women, or disadvantaged categories) to the maximum extent possible, as outlined in our most current [2019-21 Disadvantaged Business Enterprise plan](#) (in effect until September 30, 2022).

Our draft 2023- 2025 Disadvantaged Business Enterprise (DBE) plan is [available for review](#). We will begin using our updated overall goal on October 1, 2022, at the start of the 3-year fiscal period. Intercity Transit's overall DBE goal for FFY 2023 - 2025 is 1.5 percent. For the purpose of this program, Intercity Transit will use the rounded, weighted base figure of 1.5% of the federal dollar amount Intercity Transit expends for DOT-assisted contracts [Pattison Base Expansion project] excluding DOT funds used for the purchase of transit revenue vehicles and Intercity Transit staff time.

We remind interested firms to afford potential business partners an equal, non-discriminatory opportunity to compete for business as joint venture partners or subcontractors. We are interested in firms that demonstrate a commitment to equal employment opportunity and encourage firms to employ a workforce that reflects the region's diversity and adheres to its non-discrimination provisions. We encourage all such businesses to apply.

For more information on how to become certified as a disadvantaged business enterprise or small business enterprise, please contact the [Office of Minority and Women's Business Enterprises](#). Feel free to contact our [Disadvantaged Business Enterprise Liaison Officer](#) if you have any questions or comments.

If you feel that your business has been denied a business opportunity with Intercity Transit based on discrimination, please complete our [Discrimination Complaint Form](#).

### Information for Minority Owned, Disadvantaged Business Enterprises, or Small Businesses

Intercity Transit maintains a strong commitment to maximum utilization of minority, women, and disadvantaged businesses (DBE), and small businesses whether DBEs or non-DBEs. All such businesses are encouraged to participate in the competitive contracting opportunities Intercity Transit offers.

All interested firms are reminded to afford all potential business partners an equal, non-discriminatory opportunity to compete for business as joint venture partners or subcontractors. Intercity Transit is interested in firms that demonstrate a commitment to equal employment opportunity and encourages firms to employ a workforce that reflects the region's diversity and to adhere to non-discrimination provisions.

### Submit Better Bids or Proposals

My firm would like to submit a bid or a proposal for one of your open solicitations. What do we need to do to make sure that our bid or proposal receives your consideration?

Request a copy of the bid or proposal package as soon as possible after it is released so you have ample time to develop a response.

Thoroughly read the whole RFB or RFP and any accompanying documents. This explains the purpose of the project and all of the information that is required from interested vendors.

If you have questions about our solicitation, the correct format for your document, our selection process, or anything else, contact [Procurement](#) as early as possible in the process.

Most RFBs or RFPs have scheduled pre-bid or preproposal meetings so vendors can ask us questions or obtain clarifications about the solicitations. If possible, attend the meeting to learn as much as you can about the project. If you are unable to attend, a summary of the meeting plus any Addenda to the solicitation will be posted at [Builder's Exchange](#).

### Carefully read these to see if any requirements have changed.

Specific bid selection criteria or proposal evaluation criteria will be described in the solicitation. Make sure you understand these criteria and the project requirements, so your response fully addresses what is requested. Complete or provide all additional forms, certifications or paperwork requested in the solicitation.

Every RFB or RFP lists a date and time as its submittal deadline. We must receive your bid or proposal in our [business office](#) before that date and time. We will not accept late bids or proposals and we will return them unopened, no exceptions. Whether you are using the regular mail, a delivery service or hand delivering your bid or proposal, it is your responsibility to ensure it meets the submittal deadline. We cannot accept faxed or electronic submittals.

Intercity Transit selects vendors and awards contracts in an open, competitive process and according to established guidelines. Each solicitation describes the selection process that will apply. If you are not awarded a contract for your bid or proposal, please consider submitting a bid or proposal for the next opportunity. Each solicitation is a new competitive opportunity, and each contract award is made through an independent selection process.

## **H. DBE SMALL BUSINESS-RELATED RESOURCES, REFERENCES, AND ATTACHMENTS**

- A. Attachment 1 Intercity Transit Organizational Chart.
- B. Link to FTA DBE Resources:
  - a. <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>
- C. Regulation 49 CFR Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs:
  - a. <https://www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1>
  - b. <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/49-cfr-part-26-sample-disadvantaged-business>
- D. Intercity Transit Website – Procurement Page
  - a. <https://www.intercitytransit.com/business/disadvantaged-business-enterprise>
- F. Washington State Office of Minority, Women, and Disadvantaged Enterprises (OMWBE)
  - a. <http://www.omwbe.wa.gov/> and specifically, for:
  - b. workshops that often feature small business development workshops: <https://omwbe.wa.gov/resources/calendar>
  - c. Small Business Resources: <https://omwbe.wa.gov/small-business-guide>
- G. OMWBE Directory
  - a. <https://omwbe.wa.gov/directory-certified-businesses>
- H. US DOT Office of Small and Disadvantaged Business Utilization
  - a. <https://www.transportation.gov/osdbu>