



**WESTERN CONTRA COSTA TRANSIT AUTHORITY
(WESTCAT)**

Disadvantaged Business Enterprise Program

Updated February 2025

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(WestCAT)- Recipient ID 5624**

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POLICY STATEMENT AND PROGRAM OBJECTIVES (§26.1, 26.23)

Western Contra Costa Transit Authority (WestCAT) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (U.S. DOT), 49 Code of Federal Regulations (CFR) Part 26. As a recipient of Federal financial assistance from the U.S. DOT, WestCAT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of WestCAT to ensure nondiscrimination on the basis of race, color, sex, or national origin in the award and administration of DOT-assisted contracts. It is the intention of WestCAT to create a level playing field on which DBEs can compete fairly and participate in the performance of DOT-assisted contracts.


WestCAT’s policies, procedures and goals in this area are detailed in its adopted DBE Program. The program is the result of WestCAT’s commitment to the participation of small businesses owned and controlled by socially and economically disadvantaged individuals meeting eligibility standards set forth in 49 CFR Part 26, in purchasing and contracting opportunities funded, in whole or in part by U.S. DOT assistance. The objectives of the DBE Program are:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

WestCAT’s General Manager has designated the Grants and Compliance Manager as the DBE Liaison Officer (DBELO). The Grants and Compliance Manager has direct and independent access to WestCAT’s General Manager concerning DBE matters. The Grants and Compliance Manager is responsible for the development, implementation, and monitoring of the DBE Program in accordance with WestCAT’s nondiscrimination policy. Implementation of the DBE Program has the same priority as compliance with all other legal obligations incurred by WestCAT in its financial assistance agreements with the U.S. DOT. It is the expectation of the Board of Directors and the General Manager that all WestCAT personnel shall adhere to the spirit, as well as the provisions and procedures of the program.

WestCAT has disseminated this policy statement to its Board of Directors and to all departments of its organization. This policy statement is disseminated to members of the DBE and non-DBE business communities that perform or are interested in performing work on WestCAT’s DOT-assisted contracts. The policy statement is on the [DBE Program page of the WestCAT website \(web\)](#). Questions regarding WestCAT’s DBE Program should be addressed to: Tania Babcock, DBE Liaison Officer

Western Contra Costa Transit Authority (WestCAT)
601 Walter Avenue
Pinole, CA 94564
Telephone: (510) 724-3331 Fax: (510) 724-5551
Email: civilrights@eccta.org



Rob Thompson, General Manager

February 3, 2025
Date

SUBPART A – GENERAL REQUIREMENTS

(Section Numbers Reference Corresponding Sections of 49 CFR Part 26)

Objectives (§26.1)

The objectives are found in the policy statement on page four of this DBE Program.

Applicability (§26.3)

Pursuant to 49 CFR §26.3, WestCAT, a recipient of federal financial assistance from the Federal Transit Administration (FTA) of the United States Department of Transportation (U.S. DOT), is required to implement a DBE Program in accordance with 49 CFR Part 26 (Regulations). The requirements of the Regulations are incorporated by reference. In the event of any conflicts or inconsistencies between the Regulations and the DBE Program with respect to U.S. DOT-assisted contracts, the Regulations shall prevail. The DBE Program outlined herein applies to all WestCAT contracts that are funded, in whole or in part, by U.S. DOT federal financial assistance.

Definitions (§26.5)

WestCAT will adopt the definitions contained in §26.5 for this DBE Program. §26.5 definitions are outlined in Attachment 1.

Non-discrimination Requirements (§26.7)

WestCAT will not 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 governed by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE Program, WestCAT 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.

Record Keeping Requirements (§26.11)

Reporting to U.S.DOT (§26.11)(a)

WestCAT will report DBE participation on a semi-annual basis to FTA using the Uniform Report Form. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

- DBE participation from October 1 through March 31 (submitted by June 1).
- DBE participation from April 1 through September 30 (submitted by December 1).

Reporting to U.S.DOT (§26.11)(b)

WestCAT will continue to report DBE participation and overall goal-setting methods to FTA as directed. Statistical data will be maintained as advised, to provide reports to U.S. DOT reflecting the DBE participation on federally assisted procurement activities

Bidders List: (§26.11)(c)

WestCAT will obtain bidders list information to compile as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on WestCAT's federally assisted contracts for use in helping set its overall goals and to provide FTA with data for evaluating the extent to which the objectives of §26.1 are being achieved.

WestCAT will obtain the bidders list information about all DBE and non-DBEs that bid or quote as prime contractors and subcontractors on each federally assisted contract. The bidders list information will be submitted with the bid or initial response to negotiated procurements. The bidders list information will include:

- 1) Firm name;
- 2) Firm address including ZIP code;
- 3) Firm's status as a DBE or non-DBE;
- 4) Race and gender information for the firm's majority owner;
- 5) NAICS code applicable to each scope of work the firm sought to perform in its bid;
- 6) Age of the firm; and
- 7) The annual gross receipts of the firm.

WestCAT will enter the bidders list information in the centralized U.S. DOT database. WestCAT will maintain the confidentiality of any proprietary information in accordance with applicable California law and the Regulations.

WestCAT collects this information in the following ways:

- A notice in solicitations requesting firms quoting on the solicitation to provide the required information for themselves and all firms who bid, quote, or provide a proposal to perform work, provide labor, render services or provide supplies in connection with the contract. "Prime Contractor and Subcontractor/ Subconsultant/ Supplier Report" (Attachment 2).

Termination and Replacement of Subcontractor/Subconsultant/Supplier:

A Contractor may not terminate a DBE subcontractor listed on a "Prime Contractor and Subcontractor/Subconsultant/Supplier Report" (or an approved replacement DBE firm) without prior written consent from WestCAT. This includes, but is not limited to, instances in which a Contractor seeks to perform work or supply materials originally designated for a DBE subcontractor/supplier with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Contractor shall notify WestCAT in writing of any request to replace or terminate a DBE subcontractor and provide appropriate documentation substantiating the replacement or termination. WestCAT will consent the termination of a DBE subcontractor only for good cause, which includes, but is not limited to, the circumstances enumerated in §26.53 (f)(3).

To initiate the termination or replacement process with a DBE subcontractor, the Contractor (any tier) must do the following:

- (a) The Contractor must give notice in writing to the DBE subcontractor and WestCAT before transmitting to WestCAT its request to terminate and/or replace a DBE subcontractor. The notice must include its request to terminate and/or replace the DBE, the reason for the request and all documentation to support its claim. The Contractor must

submit a copy of the notice and support documentation to WestCAT at the time the original letter is sent to the DBE subcontractor;

- (b) The Contractor must give the DBE subcontractor five (5) business days to respond to the notice and provide WestCAT with reasons, if any, why it objects to the proposed termination of its DBE subcontract and why WestCAT should not consent to the Contractor's action;
- (c) WestCAT will then open a formal investigation inclusive of reviewing all documentation, conducting interviews and making site visits, if necessary. The Contractor carries the burden of proof to demonstrate good cause for the termination and/or replacement;
- (d) If WestCAT determines the Contractor has good cause to terminate the DBE subcontractor, WestCAT will provide written consent of the DBE subcontractor removal and the requirements to substitute work to another DBE firm. If WestCAT finds that good cause does not exist to terminate the DBE subcontractor, WestCAT will provide a written denial of the request to terminate/replace the DBE subcontractor and immediately request a corrective action plan from the Contractor.
- (e) One or more of the following circumstances should exist for purpose of good cause, to terminate or replace a DBE: (1) Failure or refusal to execute a written contract. (2) Failure or refusal to perform the work of its subcontract in a way consistent with normal industry practice and the Contractor has not acted in bad faith. (3) Failure to meet the Contractor's reasonable bonding or insurance requirements. (4) Insolvency, bankruptcy or credit unworthiness. (5) Ineligibility to work on public works project because of suspension or debarment proceedings. (6) A determination that the DBE is not a responsible Contractor. (7) Voluntary withdrawal from the project by written notification that is verified. (8) Other documented good cause that compels the replacement of the DBE.

Assurances (§26.13)

WestCAT has signed the following assurances, applicable to all U.S. DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance (§26.13)(a)

Western Contra Costa Transit Authority (WestCAT) 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. WestCAT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. WestCAT'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 WestCAT 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.).

This language will appear verbatim in all U.S. DOT operating administration financial assistance agreements and in all financial assistance agreements with subrecipients.

Contract Assurance (§26.13)(b)

WestCAT will ensure that the following clause is placed in each DOT-assisted sub-recipient agreement, each contract WestCAT signs with a contractor and in each subcontract the prime 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 Western Contra Costa Transit Authority (WestCAT) 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.*

This language will appear verbatim in all DOT-assisted contracts and subcontracts.

Enforcement:

If a contractor, subcontractor, or sub-recipient fail or refuse to include the §26.13(a) and/or §26.13(b) assurances verbatim in all the DOT-assisted contracts, subcontracts, or sub-recipient agreements, WestCAT may impose penalties and administrative sanctions for non-compliance as documented in “Enforcement Actions for Noncompliance of Participants” on page 13.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

DBE Program (§26.21)(a)(2)(i)

WestCAT is a FTA Tier 1 recipient that will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$670,000 in FTA funds in a Federal fiscal year. WestCAT will have a DBE Program meeting all of the requirements of §26.21.

(§26.21)(b)(1)(2)

WestCAT will submit a conforming DBE Program to FTA. WestCAT will submit an updated DBE Program to FTA when the DBE Program has significant changes, including those required by regulatory updates.

(§26.21)(c)

WestCAT will carry out its DBE Program until all funds from DOT financial assistance have been expended.

Policy Statement (§26.23)

The Policy Statement is on page four of this DBE Program. The Policy Statement is signed and dated by WestCAT’s General Manager.

DBE Liaison Officer (§26.25)

WestCAT has designated the following individual as its DBE Liaison Officer:

Tania Babcock, Grants and Compliance Manager
Western Contra Costa Transit Authority (WestCAT)
601 Walter Avenue
Pinole, CA 94564
Telephone: (510) 724-3331
Email: civilrights@westcat.org

In that capacity, the DBE Liaison Officer is responsible for implementing all aspects of the DBE Program and ensuring that WestCAT complies with all provision of 49 CFR Part 26. The DBE Liaison Officer has direct, independent access to the General Manager of WestCAT concerning DBE Program matters. An organization chart displaying the DBE Liaison Officer’s position in the organization is found in Attachment 3.

The DBE Liaison Officer is responsible for developing, implementing and monitoring the DBE Program. The duties and responsibilities include the following:

- 1) Develops, implements, and updates the DBE Program.
- 2) Gathers and reports statistical data and other information as required by U.S. DOT.
- 3) Works with all affected departments in establishing the overall DBE goal.
- 4) Ensures monitoring and oversight in the DBE Program.
- 5) Participates in pre-bid meetings.
- 6) Advises WestCAT’s General Manager on the DBE Program.
- 7) Provides outreach to DBEs and community organizations to promote contracting opportunities.
- 8) Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.

DBE Financial Institutions (§26.27)

It is the policy of WestCAT to investigate financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. WestCAT has made the following efforts to identify and use such institutions:

- Reviewed all institutions certified as “Minority Depository Institutions (MDIs)” dated 30, September 30, 2024 by using the [Minority Depository Institution page on the Federal Deposit Insurance Corporation website \(web\)](#)

To date, WestCAT has not identified any financial institutions owned and controlled by socially and economically disadvantaged individuals in WestCAT’s community. WestCAT will re-evaluate the availability of DBE financial institutions every three years when setting the overall DBE goal.

WestCAT includes the link to “Minority Depository Institutions (MDI’s)” on the Disadvantaged Business Enterprise page of its website and encourages all businesses to use minority-owned financial institutions when seeking financial services.

WestCAT will include the following clause in each DOT-assisted prime contract:

Per 49 CFR Part 26.27, prime contractors and their subcontractors are encouraged to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in their community and make reasonable efforts to use these institutions.

Prompt Payment Mechanisms (§26.29)

- WestCAT requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law. Prompt payment and return of retainage requirements also apply to all lower-tier subcontractors.
- **In accordance with §26.29, WestCAT will include the following clause in each DOT-assisted prime contract:**
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Western Contra Costa Transit Authority (WestCAT). The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors’ work is satisfactorily complete. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of WestCAT. This clause applies to both DBE and non-DBE subcontracts.
- A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by WestCAT.
- When WestCAT 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.
- WestCAT ensures prompt and full payment of retainage from the prime contractor to the subcontractor. Pursuant to §26.29, WestCAT has selected the following method to comply with this requirement:

- For construction procurements: WestCAT will hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after WestCAT’s payment to the prime contractors.
- For professional services procurements: WestCAT will decline to hold retainage and prohibit prime contractors from holding retainage from subcontractors.

WestCAT will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractors’ work is satisfactorily complete. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of Western Contra Costa Transit Authority (WestCAT). This clause applies to both DBE and non-DBE subcontracts.

- If WestCAT determines that the prime contractor has failed to comply with the prompt payment provisions set forth above, WestCAT may give written notice to the prime contractor and the prime contractor’s surety that, if the default is not remedied within 30 days, the contract may be terminated. WestCAT may also impose penalties and sanctions for non-compliance with the prompt payment clause contained in §26.37, Monitoring and Enforcement Mechanisms.

Directory (§26.31)

WestCAT is a non-certifying member of the California Unified Certification Program (CUCP). WestCAT uses the CUCP DBE directory that is jointly maintained and updated by the CUCP certifying member agencies statewide, and is hosted by the California Department of Transportation (Caltrans). The directory is updated in real time, as changes are made to the directory. The DBE Database is available on Caltrans’ website at: [California Unified Certification Program \(web\)](#). WestCAT will use the DBE directory as a primary resource in developing overall goals and conducting outreach and other activities to promote DBE participation in U.S. DOT contracts.

The directory is an online system that permits the public to search and/or filter for DBEs by:

- 1) Physical location;
- 2) NAICS code(s);
- 3) Work descriptions; and
- 4) All optional information added pursuant to paragraph (c) of §26.31, which includes additional data fields of other items readily verifiable in State or locally maintained databases, such as State licenses held, prequalifications, and bonding capacity.

The DBE Database shall not in any way prequalify the identified DBE firms with respect to licensing, bondability, competence or financial responsibility.

Overconcentration (§26.33)

Since WestCAT is a federal recipient located within the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit and subject to *Western States Paving Co, Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005), WestCAT uses race-neutral means of achieving DBE participation. Overconcentration of DBEs is not applicable to WestCAT while using race-neutral means. However, WestCAT has not identified that overconcentration of DBEs exists in the types of work that DBEs perform on WestCAT contracts.

WestCAT will develop appropriate measures to address the over-concentration, if it determines that DBE participation is so over- concentrated in specific types of work or contracting opportunities assisted by the FTA, that it unduly burdens the participation of non-DBEs in that type of work. WestCAT will seek approval of such measures from FTA and, subsequently implement the measures into the DBE Program.

Business Development Programs (§26.35)

WestCAT may establish a DBE Business Development Program to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE Program. If WestCAT determines such a program is beneficial, a proposed program will be written and submitted to FTA for approval, after which it will become part of this DBE Program. Guidelines outlined in Appendices C and D of 49 CFR Part 26 will be utilized in setting up the formal agreements and programs. WestCAT may participate in a Business Development Program and/or Mentor/Protégé Program established by other U.S. DOT recipients.

WestCAT is a member of the Business Outreach Committee (BOC). The BOC represents the nine Bay Area counties, assisting DBEs and other small businesses with expansion of their businesses through training, technical assistance, and relationship building with Bay Area transportation agency staff and the contracting community.

Monitoring Responsibilities (§26.37)

WestCAT implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and sets forth these mechanisms in WestCAT's DBE Program.

Monitoring and Enforcement Mechanisms

- WestCAT requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for WestCAT's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by an authorized representative of WestCAT or U.S. DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.
- WestCAT documents its monitoring and oversight processes by completing a "Record of DBE Compliance Monitoring" (Attachment 4) for each DOT-assisted contract with DBE participation

to ensure that work subcontracted to DBEs at contract award or subsequently is performed by the DBEs to which the work was committed or subcontracted. WestCAT reviews subcontracts, monitors work sites, monitors prime payments to subcontractors and provides a written certification of the monitoring during the life of the project. Payment reviews evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to WestCAT by the prime contractor at contract award. WestCAT's Project Manager or DBE Liaison Officer is responsible for completing the "Record of DBE Compliance Monitoring."

- To ensure compliance with the prompt payment and running tally provisions, WestCAT will require prime contractors to provide information concerning payments to subcontractors and release of retainage where held. WestCAT will require a "Progress Payment Report" (Attachment 5) be completed and submitted by the prime contractor with every invoice. WestCAT will require a "Subcontractor Payment Declaration" (Attachment 6) be completed and submitted by the prime contractor for all subcontractors for every invoice submitted to WestCAT within 5 days following actual payment to subcontractor. WestCAT will also require a "Final Expenditure Report" (Attachment 7) be completed and submitted by the prime contractor at the end of the contract. Data collected from contractors may include copies of cancelled checks.
- To determine the Commercially Useful Function of a DBE, WestCAT completes the "Record of Commercially Useful Function Report" (Attachment 8) for all DBEs on each DOT-assisted contract. This is accomplished by conducting field reviews and DBE contractor interviews. WestCAT's Project Manager or DBE Liaison Officer is responsible for completing the "Record of Commercially Useful Function Report" and for monitoring the DBE firm to provide a written certification that Commercially Useful Function requirements are being met.

Prompt Payment Dispute Resolution

- WestCAT will take the following step to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29.
 - WestCAT will hold a dispute resolution meeting between the prime contractor and subcontractor, along with WestCAT's Project Manager, DBE Liaison Officer, or representative from WestCAT as appropriate. The meeting will include those individuals who are authorized to bind each interested party and a representative from WestCAT with authority to take enforcement action.

Prompt Payment Complaints

- Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.
 - Subcontractors are to contact the prime contractor to discuss payment discrepancies. If a resolution is not reached regarding the payment discrepancies, then the affected subcontractor may escalate the complaint to WestCAT's Project

Manager or DBE Liaison Officer. WestCAT will investigate and follow up with both the subcontractor and prime contractor involved in the complaint resolution within 10 days. If filing a complaint with WestCAT does not result in timely and meaningful action by WestCAT, the affected subcontractor may contact FTA:

- Region 9 Office
Federal Transit Administration
888 S Figueroa St, Ste 440
Los Angeles, CA 90017
213-757-5999

- If a subcontractor is not comfortable contacting the prime contractor directly regarding payment discrepancies, the subcontractor may contact WestCAT's Project Manager or DBE Liaison Officer. WestCAT will investigate and follow up with both the subcontractor and prime contractor involved in the complaint resolution within 10 days. If filing a complaint with WestCAT does not result in timely and meaningful action by WestCAT, the affected subcontractor may contact FTA:

- Region 9 Office
Federal Transit Administration
888 S Figueroa St, Ste 440
Los Angeles, CA 90017
213-757-5999

Enforcement Actions for Noncompliance of Participants

WestCAT will provide appropriate means to enforce the requirements of §26.29. These means include:

- WestCAT will bring to the attention of the United States Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that U.S. DOT can take steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the U.S. DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109.
- In the event of non-compliance with the DBE regulation by a participant in WestCAT's procurement activities, including prompt payment and retainage requirements, under 49 C.F.R. §26.13 (b), the penalties imposed by WestCAT may include, but are not limited to, the following:
 - (a) Liquidated damages;
 - (b) Suspension of payment to the contractor of any monies held by WestCAT as retained on contract;
 - (c) The denial to the contractor of right to participate in future WestCAT contracts for a specified time;
 - (d) Contract termination.

Fostering Small Business Participation (§26.39)

Because WestCAT is a small transit agency, contracts tend to be a size that small businesses, including DBEs, can reasonably perform. In order to foster small business participation, WestCAT has incorporated the following non-discriminatory element into its DBE Program to facilitate competition on DOT-assisted projects by small business concerns.

- WestCAT is a member of the Business Outreach Committee (BOC) that represents Bay Area transit and transportation agencies. The BOC assists DBEs and other small businesses with expansion of their businesses through training, technical assistance, and relationship-building with agency staff and the contracting community of the San Francisco Bay Area. These efforts help to create a level playing field on which DBEs and small businesses can compete fairly; enhance outreach and communication efforts with these firms; provide appropriate assistance and information for participation in DOT-assisted contracts; and develop joint resources among recipients. The BOC also works with NorCal APEX Accelerator as a resource for providing technical assistance and guidance to DBEs and small businesses. WestCAT’s DBE Liaison Officer participates in meetings, trainings and workshops held by the BOC.
- WestCAT provides outreach to the small business community for procurement opportunities and provides a listing of DBE and SBE resources on the [DBE Program page on the WestCAT website \(web\)](#).
- Posting contact information of small business resources, including the Southwest Small Business Transportation Resource Center and NorCal APEX Accelerator, for small business assistance on the [DBE Program page on the WestCAT website \(web\)](#).
- Posting invitations for bids and requests for proposals on the [Procurement page on the WestCAT website \(web\)](#).
- Submitting timely solicitations and developing clearly written plans and specifications that facilitate small business firms’ participation.
- WestCAT verifies small business size as provided in §26.65 and defined by the Small Business Administration (SBA).

SUBPART C - GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas (§26.43)

WestCAT does not use set-asides or quotas in any way in the administration of this DBE Program.

Overall Goals (§26.45)

A description of the methodology used to calculate the overall goal and the goal calculation can be found in Attachment 9. This section of the program will be updated as required.

The DBE Liaison Officer shall calculate and establish WestCAT’s three-year overall DBE goal

("Triennial Goal"). The Triennial Goal shall be expressed as a percentage of the total amount of U.S. DOT funds (excluding the purchase of transit vehicles) WestCAT anticipates expending during the relative 3-year reporting period. WestCAT's Triennial Goal will represent the amount of ready, willing and able DBEs available to participate in contracting opportunities and shall reflect the amount of DBE participation WestCAT would expect absent the effects of discrimination. WestCAT intends to meet the goal through race-neutral means. WestCAT shall use race-conscious means only if supported by the findings of an approved and authorized Availability and Utilization Study (Disparity Study), and the expressed authorization from FTA.

In accordance with §26.45(f), after approval by the Board of Directors, WestCAT will submit its Triennial Goal to FTA by August 1 at 3-year intervals, based on a schedule established by the FTA. Before finalizing the Triennial Goal, WestCAT will consult with appropriate constituent groups representing minority, women's and general contractor groups; community organizations; and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and WestCAT's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, WestCAT will publish a public notice of the proposed Triennial Goal on the [DBE Program page on the WestCAT website \(web\)](#), informing the public that the proposed goal and its rationale are available for inspection from 9:00am to 4:00pm, Pacific Standard Time, Monday through Thursday, at WestCAT's administrative office and online on the [DBE Program page on the WestCAT website \(web\)](#) for 30 days following the date of the notice, and informing the public that WestCAT will accept comments on the goal for 30 days following the date of the notice. Normally, WestCAT will issue this notice by June 1 of each year that the Triennial Goal is due. The notice will include addresses to which comments may be sent or emailed.

WestCAT will begin using the Triennial Goal on October 1 of the calendar year following the August 1 submission to FTA, unless other instructions have been received from FTA. If WestCAT receives approval from FTA to establish a goal on a project basis, WestCAT will begin using that goal by the time of the first solicitation for a U.S. DOT-assisted contract for the project.

Once established, if circumstances deem the overall Triennial Goal requires adjustment prior to the end of the three-year period, WestCAT will publish a notice of the proposed adjustment of the Triennial Goal on the [DBE Program page on the WestCAT website \(web\)](#) informing the public that the proposed goal and its rationale are available for inspection from 9:00am to 4:00pm, Pacific Standard Time, Monday through Thursday, at WestCAT's administrative office and online on the [DBE Program page on the WestCAT website \(web\)](#) for 30 days following the date of the notice, and informing the public that WestCAT will accept comments on the goal for 30 days following the date of the notice. WestCAT will also mail the notice to those constituent groups, community organizations, and other officials or organizations WestCAT consulted with when setting its initial Triennial Goal. The adjusted Triennial Goal will be approved by the Board of Directors, then submitted to FTA.

Meeting Overall Goals and Accountability (§26.47)

If the awards and commitments shown on WestCAT's Uniform Report Form at the end of any Federal fiscal year are less than the overall goal applicable to that Federal fiscal year, the DBE Liaison Officer will, in accordance with 49 CFR §26.47(c) conduct a Shortfall Analysis. The Shortfall Analysis will analyze in detail the reasons for the difference between the overall goal and WestCAT's awards and commitments in that Federal fiscal year and establish specific steps and milestones to correct the problems identified in the Shortfall Analysis. WestCAT will retain the Shortfall Analysis for three years and make it available to FTA upon request for review.

Awarding DOT-Assisted Contracts to Transit Vehicle Manufacturers (TVMs) (§26.49)

WestCAT will require each transit vehicle manufacturer (TVM), 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 this section and established an overall DBE goal that has been approved or not disapproved by FTA.

Before awarding to a TVM, WestCAT shall verify that the bidder is listed on FTA's eligible TVM list at [Transit Vehicle Manufacturers List \(web\)](#).

WestCAT's DBE Liaison Officer will submit to FTA within 30 days of WestCAT becoming contractually required to procure a transit vehicle, the name of the TVM that was the successful bidder, and the Federal share of the contractual commitment at that time.

WestCAT does not include FTA assistance used in transit vehicle procurements in the base amount from which its overall DBE goal "Triennial Goal" is calculated. WestCAT will establish project-specific goals for DBE participation or include in the overall DBE goal calculation, contracts awarded to non-TVMs when there are no TVMs available to manufacture the transit vehicle in FTA-assisted transit vehicle procurements.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (§26.51)(a-c)

WestCAT uses race-neutral means of achieving DBE participation.

WestCAT uses the following race-neutral means to achieve DBE participation:

- Making DBEs and other small businesses aware of opportunities.
- Submitting timely solicitations and developing clearly written plans and specifications to facilitate DBEs and other small business firms' participation.
- Posting invitations for bids and requests for proposals on the [Procurement page of the WestCAT website \(web\)](#).
- Participating in the Business Outreach Committee (BOC) that represents Bay Area transit and transportation agencies. The BOC assists DBEs and other small businesses with expansion of their businesses through training, technical assistance, and relationship-building with agency staff and the contracting community of the San Francisco Bay Area.

- Including WestCAT’s procurement opportunities in the quarterly Business Outreach Committee (BOC) newsletter.

For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through a prime contract that a DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
- DBE participation through a subcontract from a prime contractor that did not consider a firm’s DBE status in making the award.

Contract Goals (§26.51)(d-g)

Contract goals are race-conscious means that take race into consideration. Since WestCAT is a federal recipient located within the jurisdiction of the U.S. Court of Appeals for the Ninth Circuit and subject to *Western States Paving Co, Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005), WestCAT uses race-neutral means of achieving DBE participation. If WestCAT uses contract goals, it will get approval from FTA to set contract goals.

Good Faith Efforts Procedures Where There are Contract Goals (§26.13)

Good faith efforts procedures apply to contract goals. WestCAT uses race-neutral means of achieving DBE participation, not contract goals.

Counting DBE Participation (§26.55)

WestCAT will count DBE participation toward overall goals as provided in §26.55.

WestCAT uses the “DBE Regular Dealer/Distributor Affirmation Form” developed by U.S. DOT to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in §26.55 (e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. Prime contractors are required to submit with their bid or proposal the “DBE Regular Dealer/Distributor Affirmation Form” (Attachment 10).

SUBPART D - CERTIFICATION STANDARDS

Certification Process (§26.61 - 26.73)

WestCAT is a participant of the CUCP that uses the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. The CUCP Memorandum of Agreement (MOA) provides U.S. DOT recipients the option to be either a certifying member or a non-certifying member. WestCAT is a non-certifying member.

The CUCP makes all DBE certification decisions on behalf of U.S. DOT recipients in the state. WestCAT relies upon the CUCP for the certification of DBE firms and ensures that only firms certified as eligible DBEs participate in the DBE Program.

To be certified as a DBE, a firm must meet all certification eligibility standards.

[Caltrans website \(web\)](#) provides information on required documentation and the certification process.

SUBPART E - CERTIFICATION PROCEDURES

Unified Certification Programs (§26.81-§26.83)

WestCAT is a non-certifying member of the CUCP. As such, WestCAT does not provide certification procedures itself. Certifying agencies may be found online at: [California Unified Certification Program \(web\)](#)

Procedures for Certification Decisions (§26.83)

Re-certifications (§26.83)(a)(c)

WestCAT is a non-certifying member of the CUCP and currently does not re-certify or make certification decisions.

SUBPART F – COMPLIANCE AND ENFORCEMENT

Compliance Procedures Applicable to WestCAT (§26.101)

WestCAT understands that if it fails to comply with any requirement of this part, WestCAT may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

Information, Confidentiality, Cooperation (§26.109)

WestCAT will follow the procedures in §26.109 regarding availability of records, confidentiality of information on complainants, cooperation, intimidation and retaliation.

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

Participants in WestCAT's DBE Program are required to cooperate fully and promptly with compliance reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved.

Participants in WestCAT's DBE Program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by §26.109, or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing. Failure to comply with this part is a violation.

Attachment 1- Definitions

(§ 26.5) What do the terms used in 49 CFR Part 26 mean?

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 Metlakatla 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 Departmental Office of Civil Rights, 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; 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.

FTA Tier I recipient means an FTA recipient to whom this part applies that will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$670,000 in FTA funds in a Federal fiscal year.

FTA Tier II recipient means an FTA recipient to whom this part applies who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which does not exceed \$670,000 in FTA funds in a Federal fiscal year.

Good faith efforts means 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.

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 or Native American Tribe means any federally or State-recognized Tribe, band, nation, or other organized group of Indians (Native Americans), or an ANC.

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.

Notice of decision or NOD means determination that denies a firm's application or decertifies a DBE.

Notice of intent of NOI means recipients letter informing a DBE of a suspension or proposed decertification.

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 or PNW means the net value of an individual's reportable assets and liabilities, per the calculation rules in §26.68.

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/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. The term does not include construction trailers or other temporary construction sites.

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 means 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 DOT's Secretary of Transportation or the Secretary's 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 member of a group 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 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 rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "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;

(iii) “Native Americans,” which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) “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;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(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 (TVM) means any manufacturer whose primary business purpose is to manufacture vehicles built for mass transportation. Such vehicles include, but are not limited to buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Businesses that perform retrofitting or post-production alterations to vehicles so that such vehicles may be used for public transportation purposes are also considered TVMs. Businesses that manufacture, mass-produce, or distribute vehicles primarily for personal use are not considered TVMs.

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).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014; 89FR 24963, Apr. 9, 2024]

Attachment 2- Prime Contractor and Subcontractor/ Subconsultant/ Supplier Report

WESTERN CONTRA COSTA TRANSIT AUTHORITY (WestCAT)
 Prime Contractor and Subcontractor/Subconsultant/Supplier Report



Bidder's Name: _____ Contract # and Name: _____
 Address: _____ Zip Code: _____ Is your firm a Disadvantaged Business Enterprise: Yes _____ No _____
 Owner or Contact Person: _____ Phone: () _____ Fax: () _____
 E-Mail: _____ Ethnicity: _____ Gender: _____ Annual Gross Receipts: _____ Age of Firm: _____

INSTRUCTIONS: Please provide information on ALL firms (subcontractors/subconsultants/suppliers) that provided Bidder a bid, quote, or proposal to perform work, provide labor, render services or provide supplies in connection with this contract *WHETHER BID WAS ACCEPTED OR NOT*. You shall provide this information for all sub-bidders regardless of tier for both DBEs and non-DBEs alike. Include all bid acceptance(s) AND rejection(s). If no subcontractors/subconsultants/suppliers will be used, mark "NA" and sign the form.

Provide the North American Industry Classification System (NAICS) code(s) applicable to each scope of work the firm is sought out to perform on the contract. NAICS search <https://www.census.gov/naics/>.

Ethnicity: Indicate whether the majority owner is (AS) Asian-Pacific; (B) Black; (H) Hispanic; (N) Native; (SA) Subcontinent Asian; (NM) Non-Minority, or (O) Other

Gender: Indicate gender for the majority owner, either (M) Male or (F) Female. Make a copy of this form for additional firms.

Signature is required on page two of this form to be deemed responsive.

Subcontractor/Subconsultant/Supplier Firm Name/Address/Contact Information	Contractor's License No. DIR Registration No.	DBE (Yes*/No)	Portion of Work or Type of Materials/Supplies (DBE suppliers must complete the DBE Supplier Form)	NAICS Code(s) for each work item	Dollar Amount of Work Materials/Supplies	Bid/Quote Accepted (Yes*/No)	DBE Amount***	Annual Gross Receipts
1 Name: Address: Zip Code: Contact Person: E-mail: Phone: Ethnicity: Gender:								< \$1 Million
								< \$5 Million
								< \$10 Million
								< \$15 Million +
								Age of Firm: _____
2 Name: Address: Zip Code: Contact Person: E-mail: Phone: Ethnicity: Gender:								< \$1 Million
								< \$5 Million
								< \$10 Million
								< \$15 Million +
								Age of Firm: _____
3 Name: Address: Zip Code: Contact Person: E-mail: Phone: Ethnicity: Gender:								< \$1 Million
								< \$5 Million
								< \$10 Million
								< \$15 Million +
								Age of Firm: _____

Prime Contractor and Subcontractor/Subconsultant/Supplier Report (Continued)

Subcontractor/Subconsultant/Supplier Firm Name/Address/Contact Information	Contractor's License No. DIR Registration No.	DBE (Yes*/No)	Portion of Work or Type of Materials/Supplies (DBE suppliers must complete the DBE Supplier Form)	NAICS Code(s) for each work item	Dollar Amount of Work Materials/Supplies	Bid/Quote Accepted (Yes*/No)	DBE Amount****	Annual Gross Receipts
4 Name: Address: Zip Code: Contact Person: E-mail: Phone: Ethnicity: Gender:								< \$1 Million
								< \$5 Million
								< \$10 Million
								< \$15 Million +
								Age of Firm: _____
5 Name: Address: Zip Code: Contact Person: E-mail: Phone: Ethnicity: Gender:								< \$1 Million
								< \$5 Million
								< \$10 Million
								< \$15 Million +
								Age of Firm: _____
6 Name: Address: Zip Code: Contact Person: E-mail: Phone: Ethnicity: Gender:								< \$1 Million
								< \$5 Million
								< \$10 Million
								< \$15 Million +
								Age of Firm: _____

Attach additional sheets as necessary.

DBE Amount: \$ _____ = _____ % Bidder's DBE Achievement
 Total Bid Amount: \$ _____

* If Yes, please also provide certification number or California Unified Certification Program Firm ID number (www.californiaucp.dbesystem.com)

** Do not indicate more than one "Yes" for alternative subcontractors for the same work. Do not indicate TBD for "Bid Quote Accepted."

*** DBE participation includes that portion of the work actually performed by a certified DBE with its own forces. The DBE Regular Dealer/Distributor Affirmation Form must be submitted to confirm counting determinations for DBE supplier/distributor credit. Count 60% of the cost of materials and supplies or 40% for DBE distributor.

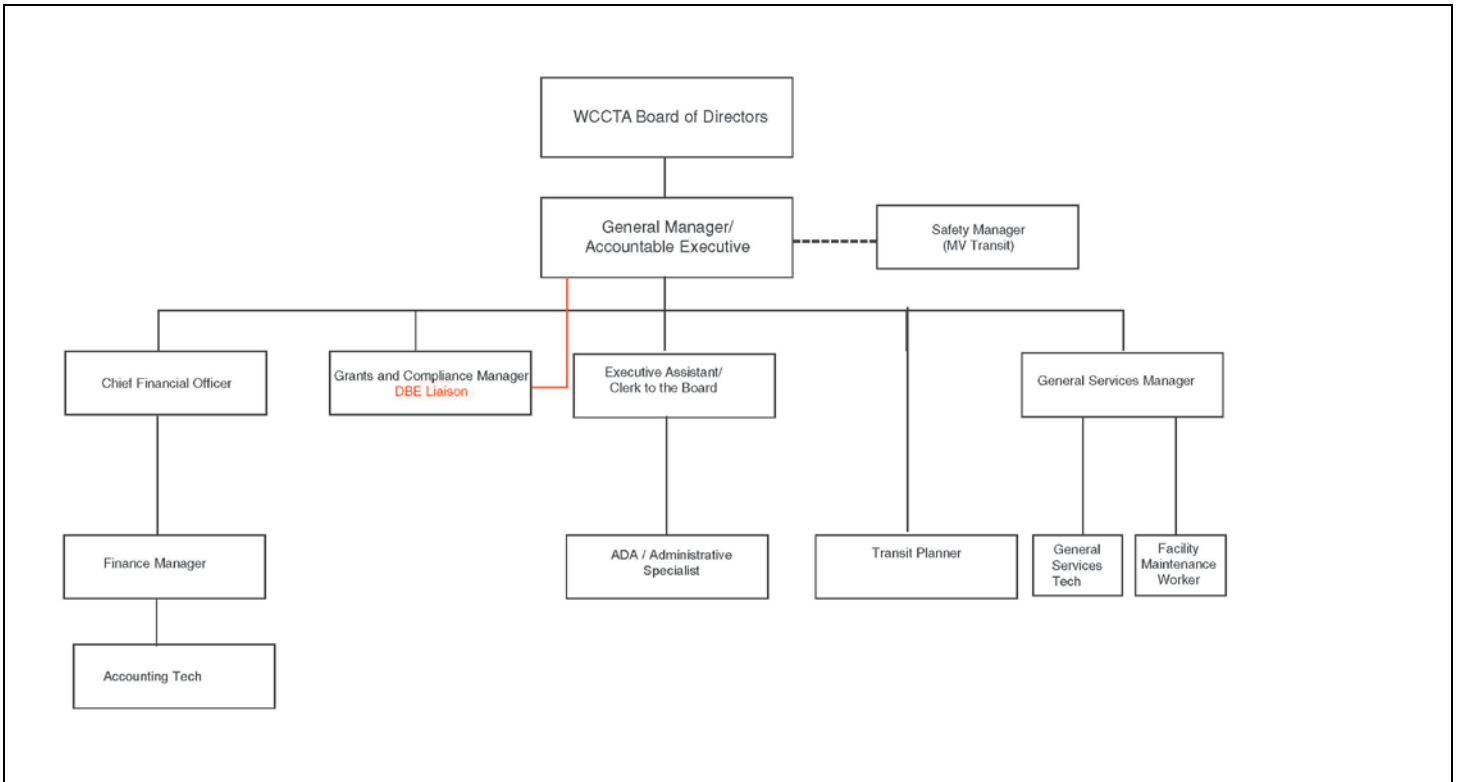
The undersigned agrees that if it is the successful bidder and is awarded the contract with Western Contra Costa Transit Authority (WestCAT) it will enter into a formal agreement with the subcontractor(s), subconsultant(s) and/or supplier(s) whose bid/quote was accepted for the work as indicated above. I certify that the information included on this form is accurate and true.

 Signature of Owner or Authorized Representative
 February 2025

 Title

 Date

Attachment 3- Organizational Chart



Attachment 4- Record of DBE Compliance Monitoring

Record of DBE Compliance Monitoring

Contract Number:		Contract Award Date:	
Current Contract Amount:		Contract End Date:	
Prime Contractor:		DBE Commitment Amount:	
DBE Subcontractors:			

Records reviewed:

Subcontracts Review

DBE Name	Date Reviewed	Reviewed By	Subcontract Reviewed for the Following			
			Scope (Y/N)	Price (Y/N)	Restrictions (Note Any)	Additional Comments

Summary Site or Place of Business Visits

Date	Place	Business	Comments

Summary of Invoice/Payment Review

Date	Activity	Comments

This summary serves as the certification that the above monitoring activities occurred on the project noted in accordance with 49 CFR Part 26.37.

Name/Signature

Date

Attachment 5- Progress Payment Report

Western Contra Costa Transit Authority (WestCAT)

PROGRESS PAYMENT REPORT



To be completed by Prime Contractor and submitted with every invoice.

PART 1: PROJECT SUMMARY

Contract Award Date:	WestCAT Contract No.:	Contract Title:		
Prime Contractor:	Contact Person:	Contact Phone No.:	Contact Email:	
Prime Contractor Address:		Signature:		
Invoice Date:	Invoice No.:	For the Period:		

1. Award amount of Prime Contract	\$
2. Amount of Change Orders, Amendments and Modifications to Date	\$
3. Total Contract Amount to Date including Change Orders, Amendments and Modifications (Line 1 + Line 2)	\$
4. Total Amount for this Invoice	\$
5. Total Previously Invoiced Awaiting Payment	\$
6. Total Amount Paid to Date (not including Lines 4 and 5)	\$
7. Total Invoice Amount Requested to Date (Line 4 + Line 5 + Line 6)	\$
8. Percent Complete (Line 7/Line 3)	%

PART 2: SUBCONTRACTOR PAYMENT DETAIL SUMMARY

A	B	C	D	E	F	G	H	I
Name of Firm (Including Prime Contractor and Subcontractor)	DBE (Y/N)	Contract Amount (\$)	Amount of Change Orders to Date (\$)	Total = Contract Amount + Change Orders (C+D) (\$)	Amount Invoiced This Period (\$)	Previously Invoiced Awaiting Payment (\$)	Amount Paid to Date (\$)	Percent Complete to Date ((F+G+H / E) (%))
TOTAL								

Attachment 6- Subcontractor Payment Declaration

WESTERN CONTRA COSTA TRANSIT AUTHORITY (WestCAT)  WESTCAT
SUBCONTRACTOR PAYMENT DECLARATION

This form must be completed and submitted by the Prime Contractor for all subcontractors for every invoice submitted to WestCAT within five (5) days following actual payment to subcontractor. Payments to subcontractor shall be made no later than thirty (30) working days following receipt of progress payment from WestCAT. Use additional sheets if necessary. Failure to submit all required information may lead to partial withholding of progress payment.

Date: _____ Contract No.: _____

Contract Title: _____

Prime Contractor: _____

Invoice Date: _____ Invoice No.: _____

For the Period: _____

Total Amount of Invoice: _____ WestCAT Check #: _____

Subcontractor	DBE (Y/N)	Business Address Payment Sent To Including ZIP Code	Amount Paid	Payment Date	Check Number

Total Amount Paid to Subcontractor(s) (this Pay Period)

--

I/We declare under penalty of perjury under the laws of the State of California that the above information is complete, and that the tabulated amounts paid to date are accurate and correct.

Signature of Contact Person

Date

Print Name

Phone

Attachment 7- Final Expenditure Report

WESTERN CONTRA COSTA TRANSIT AUTHORITY (WestCAT)
FINAL EXPENDITURE REPORT



To be completed and submitted by Prime Contractor at the end of the contract.

CONTRACT TITLE/NO.			TOTAL CONTRACT AWARD AMOUNT				DATE OF AWARD				
PRIME CONTRACTOR NAME AND ADDRESS INCLUDING ZIP CODE			TOTAL EXPENDITURES AT END OF CONTRACT				DATE OF CONTRACT COMPLETION				
PROJECT MANAGER NAME			PROJECT MANAGER SIGNATURE						DATE		
CONTACT PERSON NAME RE: FINAL EXP. REPORT			CONTACT PHONE NUMBER				CONTACT EMAIL				
IMPORTANT: Identify all subcontractors											
LIST FIRM(s) List Name, Address including ZIP code, and Contact Person	Phone Number	Email Address	Item of Work, Service or Material Supplied	NAICS Code ¹	DBE Participation				Date of Work Completed	Date of Final Payment	Total Amount Paid
					Certified DBE (Y/N)	Certifying Agency	Ethnicity	Gender			
A. PRIME Contractor											
B. Subcontractor											
TOTAL											
Comments/Notes: (If you list cost overruns or discrepancies, DBE firms submit address, etc.)											

¹-NAICS Code: North American Industry Classification System Code. Codes can be found at <http://www.conrad.com/naics>
 - Ethnicity: Indicate whether the majority owner is (A) Asian-Pacific, (B) Black, (H) Hispanic, (S) Native, (SA) Subcontinent Asian, (NM) Non-Minority, or (O) Other
 - Gender: Indicate gender for the majority owner, either (M) Male or (F) Female
 - DBEs must be certified by an agency participating in the California Unified Certification Program. www.californiausp.cbeysystem.com
 - Use additional sheets as necessary.

Attachment 8- Record of Commercially Useful Function Report

Record of Commercially Useful Function Report

Contract Number:
Review Date:
Prime Contractor:
DBE Firm:
DBE Function:

Please mark "YES", "NO" or "N/A" for each question.

For any question marked "NO", please explain in the "COMMENTS" section below.

PERFORMANCE

1. Does the DBE have its own employees on the job to perform the work? _____
2. Does the DBE own the equipment being utilized to perform its work? (If there is a lease agreement, review information on lease document.) _____
3. Is the DBE self performing the subcontract defined task for a specific item of work on the contract? _____

HAULING FIRMS

1. Does the DBE hauling firm own and/or lease their trucks? (Review ownership/vehicle registration and/or lease documents to verify). _____
2. Does the DBE employ drivers for trucks owned by the company? (If leased trucks include operators, this should be indicated in the agreement/purchase order.) _____
3. Do the haul tickets and/or bills of lading associated with the project confirm that hauling is being performed by the DBE? _____

MATERIAL SUPPLIERS OR MANUFACTURERS/FABRICATORS

1. Does the DBE's name appear on all applicable invoices, haul tickets, and/or bills of lading? _____
2. Did the DBE provide documentation showing that the funds used to pay a supplier in fact came from the DBE's own funds? _____
3. If the DBE had any materials drop shipped to the project site, was the invoice addressed to the DBE? _____
4. Did the DBE deliver materials to the site with their own and/or leased trucks? _____

SUPERVISION

1. Is the DBE self performing work without assistance from the prime or another subcontractor? _____

2. Is the DBE providing supervision of its employees and their work? _____

3. Is the supervisor a full-time employee of the DBE? _____

Comments: _____

This summary serves as the certification that the above Commercially Useful Function review occurred on the project noted in accordance with 49 CFR Part 26.55.

Name/Signature

Date

GUIDANCE FOR COMPLETING THE RECORD OF COMMERCIALY USEFUL FUNCTION REPORT

The guidance below is included to assist you in determining whether or not a Disadvantaged Business Enterprise (DBE) is performing a Commercially Useful Function (CUF) as required under Section 26.55 of Title 49 Code of Federal Regulations Part 26. Federal DBE regulations provide that a DBE is performing a CUF when it is responsible for execution of the work it committed to perform under a contract with the prime and is carrying out its contractual responsibilities by performing, managing, and supervising the work. If it is determined that a DBE is not performing a CUF on some or all of the work subcontracted to them, the prime contractor will lose DBE credit. Continue to monitor the DBE firm to ensure that Commercially Useful Function requirements are being met during the life of the project. A CUF form must be completed for all DBEs performing on any federally funded project.

The following are some examples of some common incidences:

PERFORMANCE

RED FLAGS

- Employee(s) working for both the Prime and the DBE
- Equipment used by DBE belongs to the Prime Contractor
- Equipment used by DBE belongs to another contractor with no formal lease agreement
- Equipment signs and markings cover another contractor's identity
- Equipment has another contractor's name on it
- A portion of the DBE's work being done by the Prime Contractor or jointly with another contractor

RECORDS/DOCUMENTS

- Certified payrolls
- Equipment ownership, rental, or lease documents
- Subcontract Agreement or Purchase Order

HAULING FIRMS

RED FLAGS

- Trucks used by DBE belong to the Prime Contractor.
- Trucks used by DBE belong to another contractor with no formal lease agreement
- Truck signs and markings conceal another contractor's identity
- Trucks have another contractor's name on them
- Operator(s) working for both the Prime and DBE
- Use of operator(s) for leased trucks is/are not specified in the lease agreement and operator(s) is not an/are not employee(s) of the DBE
- Haul tickets and/or bills of lading have a firm other than the DBE listed

RECORDS/DOCUMENTS

- Certified payrolls
- Truck ownership/vehicle registration, purchase orders, rental, or lease documents

Record of Commercially Useful Function Report Page 3

MATERIAL SUPPLIERS OR MANUFACTURERS/FABRICATORS

RED FLAGS

- Invoices do not indicate that DBE is the customer
- A Prime Contractor's employee is listed as the contact person on invoices
- Materials are ordered, billed to, and/or paid, by the Prime Contractor
- Drop shipped materials are addressed to the Prime Contractor
- Materials for DBE credited work are delivered by the Prime Contractor
- Evidence is provided that the DBE supplier is not actually supplying material
- Evidence is provided that the DBE manufacturer is not actually manufacturing material
- Two Party checks or joint checks are sent by the Prime to the supplier or manufacturer

RECORDS/DOCUMENTS

- Invoices/Purchase Orders
- Copies of cancelled checks, electronic bill transfers, bank statements, credit card statement, etc.
- Bills of Lading

SUPERVISION

RED FLAGS

- Prime Contractor or another subcontractor is performing the DBE's work
- The DBE's employees are being supervised by the Prime Contractor or another subcontractor
- The DBE provides little or no supervision of work
- The DBE supervisor is not a full-time employee of the DBE

RECORDS/DOCUMENTS

- Document communication with DBE owner or Superintendent
- Certified Payroll

Attachment 9- Overall DBE Goal “Triennial Goal” (\$26.45)

SUMMARY

In accordance with 49 CFR Part 26, WestCAT implements a Disadvantaged Business Enterprise (DBE) Program to ensure nondiscrimination in the award of federally funded contracts. As part of this program, WestCAT has established a Triennial Goal for DBE participation in all new contracts planned to be funded with Federal Transit Administration (FTA) funds. WestCAT does not include FTA assistance used in transit vehicle procurements in the base amount from which its overall DBE goal “Triennial Goal” is calculated.

WestCAT has calculated a Triennial DBE Goal, which is available for review on the [DBE Program page of the WestCAT website \(web\)](#)

DEVELOPMENT OF ANTICIPATED DBE GOAL

As an eligible recipient of federal funding, WestCAT is required to comply with 49 CFR Part 26, which states that grantees must establish and implement a DBE Program and set triennial DBE participation goals.

GOAL METHODOLOGY

The methodology to calculate an agency's DBE goal is a two-step process described in 49 CFR Part 26. Step-One of the methodology establishes a base figure for new federally funded contracts anticipated to be awarded in the upcoming three Federal Fiscal Years. The base figure is derived from the relative availability of DBEs that are ready, willing, and able to participate on these anticipated contracts.

Step-Two relies on the agency's knowledge of its contracting markets and previous history of DBE participation to determine if an adjustment to the base figure is needed. The calculation using the two-step methodology results in the anticipated Triennial DBE Goal.

Step-One Process: Development of Base Figure

The initial step in developing an anticipated Triennial DBE Goal is to determine the market area for WestCAT. WestCAT's market area consists of the nine Bay Area counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma. The nine-county Bay Area is the most appropriate market area for WestCAT to use in its goal-setting methodology as the majority of past and current WestCAT vendors are from the Bay Area.

Then, WestCAT determines the relative availability of DBE's in WestCAT's market area. WestCAT determines the number of ready, willing, and able DBEs in the market area from the CUCP directory. Using the Census Bureau's County Business Pattern database, WestCAT determines the number of all ready, willing, and able businesses in the market area that perform work in the same NAICS codes. WestCAT divides the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in the market area.

Step-Two Process: Adjustment to the Base Figure

The purpose of the analysis in Step-Two is to make a determination based on relevant evidence available to WestCAT if any adjustments to the Step-One Base Figure are justified. WestCAT's DBE participation history can assist in determining whether an adjustment to the Step-One Base Figure is warranted.

PUBLIC PARTICIPATION / OUTREACH IN SETTING DBE GOAL

WestCAT has sought and encouraged public participation input from minority, women's and general contractor groups, through its participation as a member of the BOC (Business Outreach Committee). This consortium of Bay Area Transit and Transportation Agencies assists Disadvantaged Business Enterprises (DBEs) and Small Business Enterprises (SBEs) with expansion of their businesses through training, technical assistance, and relationship-building with agency staff and the contracting community of the San Francisco Bay Area. WestCAT attends monthly BOC meetings and participates in BOC events. WestCAT participates in the BOC's Public Participation Meetings that provide members of the public with the opportunity to learn about upcoming transportation projects and provide input on the goal-setting process for federally assisted contracts.

NOTICE OF PROPOSED DBE GOAL

Federal regulations require that notice of WestCAT's proposed overall DBE goal be posted on the Agency's official website. Such notice must inform the public that the proposed DBE goal and its rationale are available for inspection during normal business hours for a period of thirty (30) days following the date of the notice. WestCAT accepts comments on the proposed goal for thirty (30) days following the date of notice. The notice will include addresses to which comments may be sent or emailed.

Attachment 10- DBE Regular Dealer/Distributor Affirmation Form

OMB Control #2105-0586 (Exp. 5/31/2027) **DBE Regular Dealer/Distributor Affirmation Form**

U.S. Department of Transportation

Bidder Name:

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A), (B), (C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will **all** items sold or leased be provided from the on-hand inventory at your establishment? YES NO
 (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)? YES NO (If "YES," Go to Question 2. If "NO" Continue.)

b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory? YES NO* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3, to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate? YES NO¹
 (If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)
¹ If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)? YES² NO³

a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased? YES² NO³

² If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

³ If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

Attachment 11- DBE Program Board Resolution

A RESOLUTION OF THE WESTERN CONTRA COSTA TRANSIT AUTHORITY TO APPROVE WESTCAT'S DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATED IN COMPLIANCE WITH THE APRIL 9, 2024 DBE FINAL RULE AND AUTHORIZE STAFF TO SUBMIT THE PROGRAM TO THE FTA

WHEREAS, In accordance with 49 CFR Part 26, Western Contra Costa Transit Authority (WestCAT) is a Federal Transit Administration (FTA) Tier 1 recipient that will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$670,000 in FTA funds in a Federal fiscal year; and

WHEREAS, As a condition of receiving Federal financial assistance, WestCAT must prepare a Disadvantaged Business Enterprise Program in compliance with 49 CFR Part 26; and

WHEREAS, WestCAT has prepared an updated Disadvantaged Business Enterprise Program in compliance with the April 9, 2024 DBE Final Rule (49 CFR Part 26); and

WHEREAS, It is the policy of WestCAT to ensure nondiscrimination on the basis of race, color, sex, or national origin in the award and administration of DOT-assisted contracts; and

WHEREAS, It is the intention of WestCAT to create a level playing field on which DBEs can compete fairly and participate in the performance of DOT-assisted contracts; now, therefore be it

RESOLVED, That the Board of Directors approves WestCAT's Disadvantaged Business Enterprise Program updated in compliance with the April 9, 2024 DBE Final Rule and authorizes staff to submit the program to the FTA; and be it finally

RESOLVED, To comply with the FTA submission deadline of March 1, 2025, this Resolution shall be effective immediately.

I hereby certify that the foregoing resolution is a full, true, and correct copy of a resolution passed by Western Contra Costa Transit Authority Board of Directors.

Passed this 13th day of February 2025, by the following vote:

AYES:

NOES:

ABSTAIN:

AGENCY BOARD DESIGNEE:

February 13, 2025

BY: Tom Hansen, Chair
WestCAT Board of Directors

Date

Resolution 2025-02

A RESOLUTION OF THE WESTERN CONTRA COSTA TRANSIT AUTHORITY TO APPROVE WESTCAT'S DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATED IN COMPLIANCE WITH THE APRIL 9, 2024 DBE FINAL RULE AND AUTHORIZE STAFF TO SUBMIT THE PROGRAM TO THE FTA

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WHEREAS, It is the policy of WestCAT to ensure nondiscrimination on the basis of race, color, sex, or national origin in the award and administration of DOT-assisted contracts; and

WHEREAS, It is the intention of WestCAT to create a level playing field on which DBEs can compete fairly and participate in the performance of DOT-assisted contracts; now, therefore be it

RESOLVED, That the Board of Directors approves WestCAT's Disadvantaged Business Enterprise Program updated in compliance with the April 9, 2024 DBE Final Rule and authorizes staff to submit the program to the FTA; and be it finally

RESOLVED, To comply with the FTA submission deadline of March 1, 2025, this Resolution shall be effective immediately.

I hereby certify that the foregoing resolution is a full, true, and correct copy of a resolution passed by Western Contra Costa Transit Authority Board of Directors.

Passed this 13th day of February 2025, by the following vote:

AYES: 4 (Swillinger, Hansen, Parsons, Martinez-Rubin)

NOES: 0

ABSTAIN: 0

AGENCY BOARD DESIGNEE:



BY: Tom Hansen, Chair
WestCAT Board of Directors

2/13/25

Date
February 13, 2025