

May 1, 2025

# Small & Disadvantaged Business Enterprise Program

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## **SMALL & DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

### **Tier Designation for DBE Program Purposes**

Community Transit is a Tier I recipient as it awards prime contracts exceeding a cumulative total value of \$670,000 in FTA funds in most federal fiscal years, excluding transit vehicle purchases.

### **Section 26.1, 26.23 Objectives and Policy Statement**

Community Transit established a Small and Disadvantaged Business Enterprise (SBE/DBE) Program in accordance with regulations of the U.S. Department of Transportation, 49 CFR Part 26. Community Transit receives Federal financial assistance from the Department of Transportation/Federal Transit Administration (DOT/FTA) and, as a condition of receiving this assistance, Community Transit signed an assurance that it will comply with 49 CFR Part 26.


It is the policy of Community Transit to ensure that SBE/DBEs, as defined in 49 CFR Part 26, have equal opportunity to receive and participate in DOT/FTA-assisted contracts.

It is also our policy to:

1. Ensure non-discrimination in the award and administration of DOT/FTA-assisted contracts;
2. Create a level playing field where SBE/DBEs can compete fairly for DOT/FTA-assisted contracts;
3. Ensure that the SBE/DBE Program is narrowly tailored in accordance with applicable laws;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as SBE/DBEs;
5. Help remove barriers to the participation of SBE/DBEs in DOT/FTA-assisted contracts;
6. Assist the development of firms that can compete successfully in the marketplace outside the SBE/DBE Program;
7. Support small businesses in general to ensure free and open access to Community Transit contracting opportunities.

Kunjan Dayal, Director, Procurement and Contracts is the designated DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the SBE/DBE Program. Implementation of the SBE/DBE Program is accorded the same priority as compliance with all other legal obligations incurred by Community Transit in its financial assistance agreements with the DOT/FTA.

Community Transit disseminated this policy statement to its employees and all stakeholder components of our organization. We have distributed this statement to SBE/DBE and non-SBE/DBE business communities that perform work for us on DOT/FTA-assisted contracts. Our SBE/DBE Policy is available on our website.

  
Kunjan Dayal  
DBE Liaison Officer

May 1, 2025  
Date



## ***Fostering Small & Disadvantaged Business Enterprises***

### **POL-FN-3005**

#### **SUBPART A – GENERAL REQUIREMENTS**

##### **Section 26.1, 26.23 Objectives**

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

##### **Section 26.3 Applicability**

Community Transit is a recipient of federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and Fixing America's Surface Transportation Act (FAST-ACT), Pub. L. 114-94, December 4, 2015.

##### **Section 26.5 Definitions**

Community Transit adopts the meanings for terms used in this Program as they are defined in 49 CFR Section 26.5.

##### **Section 26.7 Non-discrimination Requirements**

Community 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 Regulation 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its SBE/DBE Program, Community 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 SBE/DBE Program with respect to individuals of a particular race, color, sex, or national origin.

##### **Section 26.11 Record Keeping and Reporting Requirements**

###### **Uniform Report of DBE Awards or Commitments and Payments, 26.11(a)**

Community Transit will report DBE participation to the FTA by June 1<sup>st</sup> and December 1<sup>st</sup> using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to 49 CFR Part 26.

###### **Bidders List, 26.11(c)**

Community Transit will maintain a bidders list consisting of information about all SBE/DBE and non-SBE/DBE firms that bid or quote on its DOT/FTA-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach in order to calculate overall goals. The bidders list will include the name, address, SBE/DBE or non-SBE/DBE status, race and gender information for the firm's majority owner, applicable NAICS Codes, age of firm, and annual gross receipts of firms.

This information will be collected by one or more of the following methods:

1. Providing notice in all our DOT/FTA-assisted solicitations that directs Vendors to complete a bid form with their solicitation response;
2. Supplying a form for Vendors to complete;



3. Using a contract clause that requires prime contractors to report the required information regarding their subcontractors.

Community Transit will gather and enter this data into DOT/FTA's designated system for all DBE and non-DBEs who bid as prime contractors and subcontractors on each FTA-assisted contract. The data must be entered no later than December 1<sup>st</sup> following the fiscal year in which the relevant contract was awarded, or the Design Build contractor awards the relevant subcontract(s).

### **Section 26.13 Assurances**

Community Transit signed the following assurance that is applicable to all DOT/FTA-assisted contracts and their administration:

#### Federal Financial Assistance Agreement Assurance, 26.13(a)

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

#### Contract Assurance, 26.13b

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

*Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by 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 Community Transit deems appropriate, which may include, but is not limited to:*

- a) Withholding monthly progress payments,*
- b) Assessing sanctions,*
- c) Liquidated damages, and/or*
- d) Disqualifying the Contractor from future bidding as non-responsible per 49 CFR§ 26.13(b).*



## **SUBPART B – ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 SBE/DBE Program Updates**

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

### **Section 26.25 DBE Liaison Officer (DBELO)**

Community Transit designated its Director, Procurement and Contracts as its DBE Liaison Officer. Contact details are:

Kunjan Dayal, DBE Liaison Officer

2312 W Casino Road, Everett 98203

Email: [Kunjan.Dayal@commtrans.org](mailto:Kunjan.Dayal@commtrans.org)

Phone: 425-348-2308

In that capacity, the DBELO is responsible for implementing all aspects of the SBE/DBE Program and ensuring that Community Transit complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Chief Executive Officer of Community Transit concerning SBE/DBE Program matters. The DBELO and all Procurement Division staff perform procurement and SBE/DBE Program management work. An organization chart displaying the DBELO position in the organization is found in Attachment A to the Program.

The DBELO is responsible for developing, implementing, and monitoring the SBE/DBE Program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Develops and ensures compliance with the management and implementation of the DBE Program;
2. Gathers and reports statistical data and other information as required by DOT/FTA;
3. Reviews third party contracts and purchase requisitions for compliance with this Program;
4. Works with all departments to set overall goals as frequently as required;
5. Ensures that bid notices and solicitations are available to DBEs in a timely manner;
6. Identifies contracts and procurements so that SBE/DBE Program goals are included in solicitations and monitors results;
7. Analyzes Community Transit's progress toward goal attainment and identifies ways to improve progress;
8. Participates in pre-bid meetings and leads small business networking sessions;
9. Advises the Chief Executive Officer on DBE matters and achievements;
10. Provides DBEs with information and assistance in preparing solicitation responses and obtaining bonding and insurance;
11. Provides outreach to DBEs and community organizations to advise them of opportunities;
12. Accesses Washington State's directory of certified DBEs available on the website of the Office of Minority and Women's Business Enterprises (OMWBE) for any updates;
13. Liaisons with OMWBE in the Uniform Certification Process.

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### ***Fostering Small & Disadvantaged Business Enterprises***



14. Leads the Procurement and SBE/DBE team of staff on DBE matters.

### **Section 26.27 DBE Financial Institutions**

It is the policy of Community Transit to investigate the full extent of services offered by 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/FTA-assisted contracts to make use of these institutions. Community Transit staff reviews Federal Reserve database (<http://www.federalreserve.gov/releases/mob/>) and the current Washington State OMWBE listing of certified DBE financial institutions annually.

#### Use of DBE Financial Institutions: 26.27

Community Transit will include the following clause in each DOT/FTA-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. The list of such firms is available at:*

*<http://www.federalreserve.gov/releases/mob/>.*

### **Section 26.29 Prompt Payment Mechanisms**

#### Prompt Payment, 26.29(a) and Retainage, 26.29(b)

Community Transit will include the following clauses in each DOT/FTA-assisted prime contract and instruct that they must flow down to all lower tier subcontractors:

*When payment is received by a contractor or a subcontractor for work performed, contractor or subcontractor shall pay to any subcontractor, no later than 10 days after the receipt of the payment, amounts allowed the subcontractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein, unless the payment is otherwise excused under the provisions of RCW 39.04.250.*

*Community Transit will not withhold any retainage or payments owing to Contractor. Contractor shall not withhold any retainage or payments owing to any subcontractor. No delays or postponements of payment from the above referenced timeframe may occur unless approved in writing by Community Transit. This clause applies to SBE/DBE and non-SBE/DBE subcontracts.*

*If an SBE/DBE has not been paid on time, it should seek to resolve issues with the Contractor, or subcontractor if the SBE/DBE is on a lower tier. If a satisfactory resolution is not arrived at, the SBE/DBE may approach Community Transit for assistance. While several avenues are available to involve Community Transit, an online option is to fill out a Complaint Form at: , which will escalate the issue immediately.*

Community Transit will not withhold retainage on FTA funded contracts. The Agency's interests are safeguarded by the prime's Payment Bond. Revised Code of Washington 60.28.011 states: "(1)(b) Public improvement contracts funded in whole or in part by federal transportation funds must rely upon the contract bond as referred to in chapter 39.08 RCW for the protection and payment of: (i) The claims of any person or persons arising under the contract to the extent such claims are provided for in RCW 39.08.010; and (ii) the state with respect to taxes, increases, and penalties incurred on the public improvement project under Titles 50, 51, and 82 RCW which may be due. The contract bond must remain in full force and effect until, at a minimum, all claims filed in compliance with chapter 39.08 RCW are resolved."





Community Transit will ensure that a CUF review is performed for every DBE working on its DOT/FTA assisted contracts as credit towards the overall goal.

Monitoring and Enforcement Mechanisms, 26.29(d), 26.37

Community Transit will carry out the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26, for each DOT/FTA-funded contract:

1. Create a customized SBE Plan to establish voluntary SBE Goals and strategy for achieving agency-wide race and gender neutral DBE goal.
2. Use SBE Plan to conduct outreach to generate increased awareness and participation by SBE/DBEs.
3. Incorporate the correct FTA DBE related clauses in solicitations and discuss them at pre-bid conferences.
4. Convene a prime contractor and subcontractor SBE/DBE networking session immediately following the pre-bid.
5. Document contract and subcontract awards to SBE/DBEs. Also generate a report concerning SBE/DBE goal achievement and analysis of SBE Plan effectiveness and/or needs for improvements.
6. Monitor prime contractors and subcontractors to enforce contract terms by utilizing B2Gnow, a software system in the following manner:
  - a. Primes identify their subcontractors and provide an electronic copy of all subcontracts. FTA clause flow-down is verified.
  - b. Verification of subcontractors performing Commercial Useful Function (CUF) work as documented in our onsite Inspectors' or PMs' daily reports, and prime submitted subcontractor list. Additional spot check site visits are conducted by Procurement & SBE/DBE Specialists, when feasible.
  - c. Monitor and enforce prompt payment using the B2Gnow payment audit system.
  - d. Ensure retainage is not being held on any subcontractors.
7. Frequently compare cumulative DBE awards/commitments to FTA-assisted prime contract awards to determine if current implementation meets the annual overall goal and inform decisions for future contract goals.
8. Generally compare payments made to each DBE to the progress of work to ensure prime is on track with meeting its Race and Gender-Neutral DBE commitment and address any projected shortfalls to meet the overall goal.

Community Transit will report any false, fraudulent, or dishonest conduct in connection with the Program to the DOT/FTA, so that action can be taken (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) as provided in Section 26.107. Community Transit will also consider similar action under its own legal authorities, including responsibility determinations in future contracts.

**Section 26.31 Directory**

Community Transit adopted, as required by State law, the directory maintained by Washington State OMWBE. Eligible firms that are certified as DBEs by OMWBE are listed in the directory with the following information: firm's name, DBA name, UBI #, address, contact name, type of



work, phone number, e-mail, date of most recent certification, and NAICS the firm has been certified to perform as a DBE. The directory may be obtained by contacting:

Office of Minority and Women's Business Enterprises (OMWBE)  
 P.O. Box 41160  
 Olympia, Washington 98504-1160  
 (800) 208-1064 Toll Free; Internet: <http://www.omwbe.wa.gov>

The directory is used to:

1. Determine the number of ready, willing and able DBEs in NAICS codes;
2. Develop small business analysis of projects and procurements to determine unbundling or subcontracting opportunities for SBE/DBEs;
3. Compile e-mail lists for notification of procurement opportunities, and outreach activities;
4. Develop lists of potential SBE/DBE subcontractors that are provided to potential prime contractors to use in assembling their subcontractor plans.

### **Section 26.33 Overconcentration**

Community Transit has not identified any overconcentration in any types of work that DBEs perform. An annual review will be performed by the DBELO to analyze and address overconcentration, if it arises.

### **Section 26.35 Business Development Program**

In April 2015, FTA directed Community Transit to establish a Business Development Program (BDP) to support SBE/DBEs. The BDP was launched in June 2016. Program details are available at: <https://www.communitytransit.org/about/procurement/smalldisadvantagedbizenterpriseprogram>

Community Transit will re-evaluate the need for such a program every three years.

### **Section 26.39 Small Business Participation**

Community Transit incorporated the following non-discriminatory elements to its SBE/DBE Program in order to facilitate and increase competition by small business concerns (both SBE/DBE and non-SBE/DBE) on DOT/FTA-assisted procurements:

1. Promoting SBE/DBE participation in the solicitation announcements, on our website, and in solicitation notification emails;
2. Increasing outreach to SBE/DBEs to elevate awareness of contracting opportunities;
3. Leveraging partnerships with other SBE/DBE support organizations to provide technical assistance and training to SBE/DBEs as part of our BDP;
4. Analyzing and structuring procurements to align SBE/DBE opportunities as prime contractors, unbundling or subcontracting categories;
5. Conducting and attending local, procurement outreach events aimed at increasing SBE/DBE awareness of contracting opportunities;
6. Assisting prime contractors in identifying SBE/DBE subcontracting opportunities and connecting them with SBE/DBE by providing contact information and networking opportunities during pre-bid conferences;
7. Analyzing and conducting procurements with small business contract goals, where possible, to increase SBE/DBE participation.





## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

Community Transit does not use quotas, in any way, in the administration of its SBE/DBE Program.

### **Section 26.45 Overall Goals**

In accordance with Section 26.45, Community Transit will submit a triennial Race-Neutral DBE goal to the FTA on August 1 of the year specified by the FTA. The triennial goal for FYs 2015, 2016, and 2017 was effective Oct 1, 2015 through September 30, 2017. Future triennial goals will be developed and due every three years thereafter. Goals represent the level of DBE participation Community Transit expects to achieve during the upcoming fiscal year and reflect the level of DBE participation that could be expected based on a level playing field. Community Transit intends to meet its overall goals through race-neutral means unless discrimination can be proven.

1. **Method:** Community Transit uses the following method to calculate triennial goals:

Develop a base figure for the relative availability of DBEs (Section 26.45(c)). The base figure is stated as a percentage that is calculated by dividing the total number of ready, willing, and able DBEs by the total number of all available firms for the types of DOT/FTA-assisted contracts we anticipate awarding during the triennial period.

- a. Forecast the types of DOT/FTA-assisted contracting for the triennial period; source data from Community Transit business planning, Long Range Transit Plan, Transit Development Plan, procurement history, budgets, department input and plans, etc. using the best data available. Exclude FTA-assisted Transit Vehicle Manufacturers (TVM) contracts.
- b. Breakdown the data from item “a” above, into major NAICS code groupings.
- c. Source Total Number of DBEs from the Washington State OMWBE Directory; obtain the latest list of certified DBE firms in the two-county area of King and Snohomish County, Washington.
- d. Source Total Number of Available Firms from the US Census Bureau (e.g. <http://censtats.census.gov/cbpnaic/cbpnaic.shtml>) and Community Transit vendor registrations; obtain the most current major industry grouping lists for the two-county area of King and Snohomish County, Washington.
- e. From each Total Number in item “c” and “d” above, eliminate firms in non-DOT/FTA-assisted NAICS codes and sort remaining by major NAICS code groupings to get Sorted Number of DBEs and Sorted Number of Available Firms.
- f. Compute the percentage of DBE for each major NAICS code group by dividing the number of DBEs for each major NAICS group (numerator, item “e” above, Sorted Number of DBEs) by the corresponding number of firms for the same major NAICS group (denominator, item “e” above, Sorted Number of Available Firms).
- g. Compute the percent of awards expected based on the expected federal grant funding for the triennial goal period for each major NAICS group.
- h. Adjust the computed percentage of DBE for each major industry group (item “f” above) by the relative percent of contracting expected based on the expected federal grant funding for the triennial goal period (item “g” above).



- i. Examine program data, statistics, and historical evidence to determine any adjustments.
2. Goal Setting: Once the percentage is established using the method above, it shall become the overall goal and stated as a percentage of all DOT/FTA-assisted contract funds that Community Transit will expend on DOT/FTA-assisted contracts in the three forthcoming fiscal years (exclusive of funds to be used for the purchase of TVMs).
3. Disparity: Unless discrimination can be proven through a disparity study or some other evidence-gathering effort, Community Transit will compute its overall DBE goal using the method outlined above.
4. Consultative Process: Before establishing the overall annual goal, Community Transit will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for SBE/DBEs, and our efforts to establish a level playing field for the participation of SBE/DBEs. The consultation will include interactive exchanges (e.g., face-to-face meetings, teleconferences) with as many interested stakeholders as possible, focused on obtaining information relevant to the our goal setting process.
5. Public Notice: Following consultation with community stakeholders, Community Transit will publish a public notice of the proposed overall goal. This notice will inform the public that Community Transit and the FTA will accept comments on the goal for 45 days from the date of the notice.

The notice will also inform the public that the proposed goal and the rationale for its calculation will be available for inspection during normal business hours at Community Transit's principal office for 30 days following the date of the notice. Included in the notice will be the addresses where comments may be sent or e-mailed and locations where the proposed goal may be reviewed.

The media used to publish the notice will include (at a minimum): Community Transit's web page and its newspaper of record, *The Everett Herald*. Community Transit will issue this notice by May 1 in each year a new overall DBE goal has to be established.

6. Goal Submittal: Community Transit will submit its overall goal to the FTA on August 1 at three-year intervals, based on a schedule established by the FTA and post it on its website. The goal submittal to the FTA will include:
  - a. The goal, including the breakout of estimated race-neutral participation, a copy of the methodology, worksheets used to develop the goal;
  - b. Summary of information and comments received during the public participation process with our responses;
  - c. Copy of the public notice with proof of publication.
7. Adjustments During the Triennial Period: Community Transit will submit to FTA for approval any significant adjustment(s) it may make to its goal during the three-year period based on changed circumstances. FTA may direct Community Transit to undertake a review of its goal if necessary to ensure that the goal continues to fit its circumstances appropriately.

Community Transit will begin using its overall goal on October 1 of each year, unless it receives other instructions from FTA. The goal will remain effective for the duration of the three-year period established and approved by FTA.



### **Section 26.47 Goal and Program Accountability**

**Shortfall Analysis:** If the awards and commitments shown on Community Transit's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, Community Transit will:

1. Analyze, in detail, the reason for the difference between the overall goal and the actual awards/commitments achieved for the fiscal year;
2. Establish a Corrective Action Plan (CAP) with specific steps and milestones to correct the problems identified in the analysis;
3. Submit the CAP to the FTA within 90 days of the end of the affected fiscal year, provided Community Transit is identified by FTA as being one of the largest Top 50 transit authorities in the USA, otherwise, retain the analysis and CAP.
4. Implement the CAP to enable the Agency to fully meet the goal for the following fiscal year.
5. Maintain records of the shortfall analysis and efforts using the CAP.

### **Section 26.49 Transit Vehicle Manufacturer Goals**

As a condition of being authorized to bid or propose on DOT/FTA-assisted transit vehicle procurements, Community Transit will require each Transit Vehicle Manufacturer (TVM) to certify that it has complied with the requirements of this section. Alternatively, Community 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.

Verifies the proposing vendors are on the FTA approved DBE list for TVMs. Only TVM's on this list can be awarded utilizing FTA funding.

Within thirty days of award, Community Transit will report to the FTA: 1) the name of the successful TVM; and 2) the federal share of the contractual commitment at time of award. Information is uploaded at: <https://www.surveymonkey.com/r/vehicleawardreportsurvey>

### **Section 26.51 Meeting Overall Goals**

**Race-Neutral Means:** Community Transit will meet its overall goal by using the following race-neutral means to generate increased DBE participation and remove barriers in its contracting opportunities:

1. Conducting outreach to the SBE/DBE community to elevate awareness about contracting opportunities and the agency's SBE/DBE Program;
2. Promoting SBE/DBE participation in the solicitation announcements, on our website, and in solicitation notification emails;
3. Analyzing and structuring procurements to align SBE/DBE opportunities as prime contractors, unbundling or subcontracting categories;
4. Developing specifications and solicitation processes which facilitate participation by DBEs and other small businesses;
5. Providing technical assistance to SBE/DBEs about procurement procedures, as needed;
6. Exploring alternatives, subject to State law and Community Transit needs, to stated specifications, such as bonding, insurance limits, and financing, which may limit SBE/DBE participation;



7. Assisting and encouraging prime contractors in identifying SBE/DBE subcontracting opportunities and connecting them with SBE/DBE contact information and networking during pre-bid conferences;
8. Conducting and attending local, procurement outreach events and reverse vendor trade shows aimed at increasing SBE/DBE awareness of contracting opportunities;
9. Providing a Business Development Program (BDP) for SBE/DBEs to improve their ability to receive or participate in Community Transit's contracts in a level playing field;
10. Leveraging partnerships with other SBE/DBE support organizations to provide technical assistance and training to SBE/DBEs as part of our BDP;
11. Providing information about certification, the Washington State Unified Certification Program and Washington State OMWBE;
12. Exploring the ability to conduct a pilot contract with SBE goal on a future project that may further expand our program with another tool;
13. Participating in regional governmental procurement SBE/DBE programs;
14. Assisting SBE/DBEs in contacting local agencies who provide services to help SBE/DBEs achieve self-sufficiency and grow their businesses.

Race-Conscious Means: Community Transit does not currently use contract goals or other race-conscious means to achieve goals. In the event Community Transit is unable to meet DBE goals utilizing race-neutral means for two consecutive years, Community Transit in consultation with FTA will review its goals and as appropriate consider the use of other tools such as availability or disparity studies. Contract goals may be used if Community Transit meets the conditions set forth as established by law.

### **Section 26.53 Good Faith Efforts Procedures**

Good Faith Efforts Procedures are not applicable when there are no contract goals. Currently, only race-neutral methods may be used for goal achievement. Contract goals may not be used in Washington State unless a disparity study has been conducted and historical discrimination has been confirmed; however, if Community Transit decides to begin using contract goals in the future, we will outline "Good Faith Efforts Procedures".

Terminations: Prime contractors in DOT/FTA-assisted contracts cannot terminate DBEs without Community Transit's prior written consent, except for specific reasons outlined in the Contract, with the Agency assessing whether good cause exists for termination (i.e., DBE's failure to perform or meet standards, bankruptcy, or the prime's inability to self-perform or substitute after contract award).

Community Transit's termination procedures require written notice to the DBE by the prime contractor and five days for the DBE to respond. If termination occurs, the prime must make efforts to replace the DBE and, if requested by Community Transit, submit documentation of these efforts within seven days, with possibility for an additional seven-day extension, subject to assessment by Community Transit. The prime's failure to comply may result in partial or total termination for default with re-solicitation costs assessed to the prime or its bond.

### **Section 26.55 Counting DBE Participation**

Community Transit will count DBE participation toward its overall goal as provided in 49 CFR 26.55.

**SUBPARTS D & E – CERTIFICATION****Section 26.65(b) Certification Standards and Procedures for Small Business Enterprises**

Small Business Enterprises (SBE) is defined by Small Business Administration (SBA) standards 13 CFR Part 121, and must submit verifiable self-certification documentation to be eligible that shows that their average annual gross receipts for the previous three years do not exceed \$23.98 million (or as adjusted by FTA) pursuant to 49 CFR Part 26.65(b) to be considered a SBE.

**Section 26.81 Unified Certification Programs**

Community Transit is a member of the Unified Certification Program (UCP) administered by the Washington State Office of Minority and Women's Business Enterprises (OMWBE). The OMWBE is the sole certifying entity for M/W/DBEs in the State of Washington, consistent with 49 CFR Section 26.81. The UCP will meet all of the requirements of this section. They manage the certification process and maintain the DBE directory. Information about certification as well as the updated directory can be found on the Internet at <http://www.omwbe.wa.gov>. Community Transit will use and count, for DBE credit, only those DBE firms certified by the Washington State Office of Minority and Women's Business Enterprises.

**Section 26.83-26.91 Procedures for Certification Decisions**

Any firm or complainant may appeal a State of Washington decision in a certification matter to DOT. Such appeals may be sent to:

Departmental Office of Civil Rights  
External Policy & Program Development Division  
400 7th Street SW – Room 5414  
Washington, DC 20590

**Section 26.87(j) Counting DBE Participation After Decertification**

Community Transit's contract language states that decertification has the following effects on the overall goal and DBE participation:

1. If a prime contract or subcontract is executed before the Notice of Decertification (NOD) is issued, the contract may not be extended, nor work added to it. Any continued performance may not be counted toward an overall goal.
2. If the NOD is due to exceeding business size standards, the participation may be counted toward the overall goal.
3. If the NOD is due to a merger with a non-DBE firm, the participation may not be counted toward the overall goal.

**SUBPART F – COMPLIANCE AND ENFORCEMENT****Section 26.109 Information, Confidentiality, Cooperation**

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

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirements to a third party (other than DOT/FTA) without the written consent of the submitter.

**Monitoring Payments to DBEs**

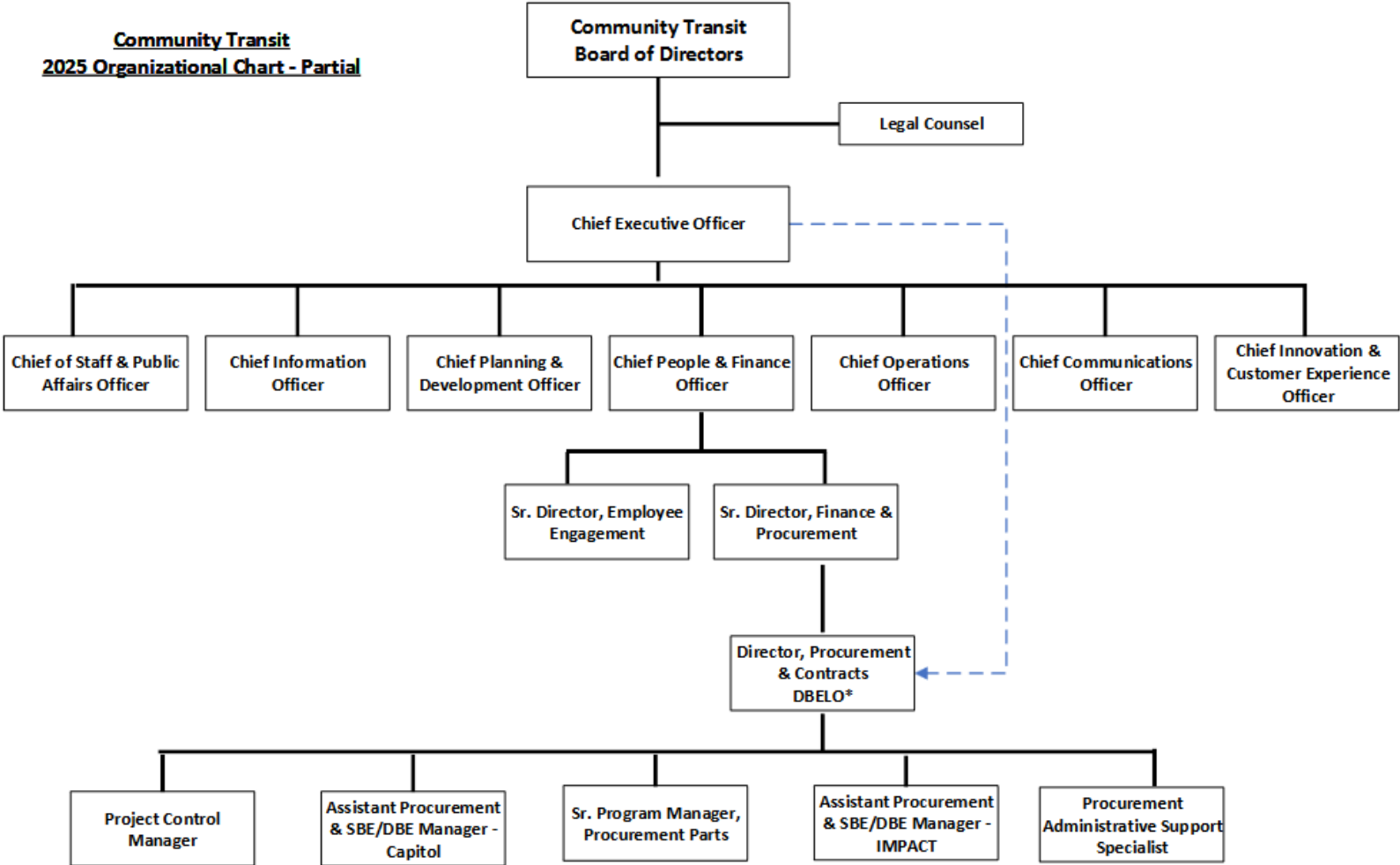
We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract, unless Washington State law requires a longer retention period. These records will be made available for inspection upon request by any authorized representative of Community Transit or the FTA. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to SBE/DBEs. The audit will review payments to SBE/DBE subcontractors to ensure that the actual amount paid to SBE/DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of SBE/DBE participation.

Attachment A: Organizational Chart



ATTACHMENT A – ORGANIZATIONAL CHART



\*Pursuant to Resolution No. 08-10, the Procurement and Contracts Director reports to the CEO on DBE matters.