



Disadvantaged Business Enterprise (DBE) Program, Goal and Goalsetting Methodology for Federal Fiscal Years 2025-2027

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POLICY STATEMENT

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

It is the policy of the GPTD to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- 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 that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully 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;
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Chief Financial Officer has been delegated as the DBE Liaison Officer and is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the GPTD in its financial assistance agreements with the Department of Transportation.

GPTD has disseminated this policy statement to the agency's Board of Directors and all of the components of our organization.

We distribute this statement to DBE and non-DBE business communities that may perform work for us on DOT-assisted contracts by including it in procurement solicitations and in contracts, and by referencing the most recent DBE listing on an ongoing basis through our web site.

Glenn Fenton
Interim Executive Director

Date

GENERAL REQUIREMENTS – Subpart A

Section 26.1 Objectives

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

Section 26.3 Applicability

The GPTD is a recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The GPTD has adopted the definitions currently contained in Section 26.5 for this program regarding socially and economically disadvantaged individuals, and in any subsequent revisions to this Section.

Section 26.7 Non-discrimination Requirements

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

In administering its DBE program, the GPTD will not, directly or through contractual or other arrangements, use criteria or methods of selection 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.

Section 26.11 Record Keeping Requirements

Reporting to DOT: 26.11(b)

GPTD will report DBE participation on a semi-annual basis through FTA's Transit Award Management System DBE reporting module, providing all information as required at the time of reporting, and meeting the required deadlines.

Bidders List: 26.11(c)

The GPTD will utilize Maine DOT's DBE list when soliciting bids for DOT-assisted contracts. The GPTD will also maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts, to enable calculation of overall goals. We will collect this information by requiring prime bidders to report the names, addresses, DBE status and type of business of all firms included as subcontracts in their prime bid or quote.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

This language will appear in financial assistance agreements with sub-recipients:

GPTD 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. GPTD shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. GPTD'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 the GPTD 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.).

Contract Assurance: 26.13b

The GPTD will ensure that every DOT-assisted contract and subcontract will include language ensuring that 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, and comply with all applicable requirements of 49 CFR Part 26. Further, that failure by the contractor to carry out these requirements is a material breach of contract, which may result in the termination or such other remedy as GPTD deems appropriate.

ADMINISTRATIVE REQUIREMENTS – Subpart B

Section 26.21 DBE Program Updates

Since the GPTD annually receives FTA grant funds exceeding the minimum threshold for DBE administration, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 DBE Liaison Officer (DBELO)

We have designated the following individual as our DBE Liaison Officer:

Chief Financial Officer
114 Valley Street
Portland, ME 04102
207-774-0351

The DBELO is responsible for implementing all aspects of the DBE program and ensuring that the GPTD complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is included as Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other staff and officials. The duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by DOT.

2. Maintain records related to procurement processes and payments that support DBE reporting.
3. Review third party contracts and purchase requisitions for compliance with this program.
4. Work with all departments to set overall annual goals.
5. Ensure that bid notices and requests for proposals are available to DBEs in a timely manner, and contain applicable language describing GPTD's DBE efforts and goal.
6. Analyze progress toward attainment and identify ways to improve progress.
7. Participate in pre-bid meetings.
8. Advise the Executive Director and Board of Directors on DBE matters and achievement.

Section 26.27 DBE Financial Institutions

It is the policy of the GPTD 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-assisted contract to make use of these institutions.

We have reviewed the Maine Unified Certification Program directory for purposes of identifying DBE financial institutions, and to date we have determined that no such institutions exist in the District's area. As GPTD may issue future solicitations for financial services, we will review this directory for any updated information.

Section 26.29 Prompt Payment Mechanisms

The GPTD will include language in each DOT-assisted prime contract to ensure that the contractor agrees to pay each subcontractor for satisfactory performance of its work no later than thirty days from the receipt of each payment the prime contract receives from GPTD, and to release any retainage payments to each subcontractor within thirty days after the subcontractor's work is satisfactorily completed.

GPTD will verify prompt payment by requiring prime contractors to document that prompt payment and return of retainage is in fact occurring. GPTD will also follow up with subcontractors to ensure they are receiving prompt payments.

Section 26.31 Directory

The GPTD uses a directory maintained by the State of Maine's Department of Transportation (Maine DOT) to identify all firms certified as eligible to participate as DBEs. This Directory is updated weekly and can be accessed at <https://www.maine.gov/mdot/civilrights/dbe/>

Section 26.33 Overconcentration

GPTD has not identified that overconcentration exists in the types of work that DBEs perform for GPTD.

Maine DOT analyzes overconcentration through periodic reviews by using the most updated DBE firm information and the most recent NAICS code information to compare DBE firms to all firms and a particular

NAICS code. GPTD considers it efficient to rely on the results of this MDOT analysis to determine overconcentration in our area. GPTD will reevaluate for overconcentration every three years.

Section 26.35 Business Development Programs

Because of limited resources, the District has not established a business development program. However, MDOT partners with Eastern Maine Development Corporation to provide training and support to current and potential DBE vendors. GPTD has limited resources to create a formal development program and relies on EMDC's programs, along with encouraging any potential GPTD vendors to investigate certification through EMDC.

Section 26.37 Monitoring and Enforcement Mechanisms

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

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps provided in 26.109, as necessary.
2. GPTD has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:
 - Breach of contract action, pursuant to the terms of the contract;
 - Violation of the Maine Department of Transportation DBE Special Provision 105.10.1-6;
 - Violation of any provision of Maine Revised Statutes, Title 5, Chapter 155, Subchapter 1_A, Rules Governing the Competitive Bid Process;
 - GPTD legal and administrative proceedings that will lead to suspension or debarment from FTA pursuant to 49 CFR Part 26;
 - Enforcement action pursuant to 49 CFR part 31;
 - Prosecution pursuant to 18 USC 1001.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by a combination of site visits and/or review of records of the contracted firm and any subcontractors.
4. We will keep a running tally of actual payments to DBE firms for work committed to them through a prime or sub-contract award.
5. The District will rely on the State of Maine to enforce any violations or abuse of the States Certification program.

Section 26.39 Fostering Small Business Participation

GPTD will take affirmative actions in an effort to structure race neutral contracting opportunities to facilitate competition by small businesses. GPTD will take all reasonable steps to eliminate obstacles that may preclude small business participation in procurements as prime contractors or subcontractors including unnecessary and unjustified bundling of contract requirements that may preclude small business

participation in procurements as prime contractors or subcontractors. The District will administer the Small Business Participation program on a race neutral basis.

Small Business Concern program participants will be required to show eligibility via (1) DBE certification in connection with the Maine Unified Certification Program; (2) SBA 8A certification or (3) documentation establishing participation as a registered Dynamic Small Business with SBA. Certified DBEs are presumed eligible to participate in the program.

None of the provisions of this Section shall be interpreted to impose any geographic preferences or limitations and the program is open to all small business concerns regardless of their location.

GPTD will use the following strategies to foster maximum opportunities for contract awards to small business:

1. GPTD will evaluate each procurement need to determine opportunities for small business participation, based on prior experience with and current knowledge of available vendors. We will also rely on resources from MDOT and the SBA to identify small business vendors. Bids and RFPs will be issued to encourage participation by small business enterprises, both by issuing specifications directly targeted to individual small businesses of a particular discipline, or by including language in comprehensive specifications that encourages prime contact respondents to include small business sub-contractors when feasible.
2. When approaching a project scope expected to have a value of \$250,000 or less, the District will evaluate the opportunity to bid specific disciplines of work separately. This will be done based on recent procurement experience, assessment by A&E firm(s) and contractors of opportunities that may exist for small business participation as a subcontractor participant, and also by reviewing the MDOT DBE Directory referenced in 26.31.
3. The District will include in any contract provisions a requirement that prime contractors affirmatively seek out small businesses as part of its subcontractor force. Prime contractors will be required to provide information with their bid that identifies the small businesses that will participate as subcontractors to include the scope(s) of work to be performed.
4. The District will reach out to small businesses in an effort to make them aware of potential contracting and subcontracting in any major capital improvement project. Additional outreach will include:
 - a. Placing contracting opportunities on the District website at: <http://www.gpmetro.org>
 - b. Advertise contracting opportunities in local newspapers and media;
 - c. Send contracting opportunity notices directly to firms on our bidders list;
 - d. Informing prime contractors of local small business subcontractors;
 - e. Conferring and sharing small business availability information with other regional agencies;

- f. GPTD will act as a resource to small businesses by providing information and referral services regarding the requirements to become Maine UCP and U.S. Small Business Administration certified, through web links and contact information, as well as direct communication with small businesses when possible.

GOALS, GOOD FAITH EFFORTS, AND COUNTING – Subpart C

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 2 to this program. This section of the program will be updated triennially.

In accordance with Section 26.45, the District will submit its triennial overall DBE goal to FTA, Region One on or before August 1 of the year specified by FTA. Overall goals will be effective with the October 1 federal fiscal year unless otherwise instructed.

Before establishing the overall goal for each triennial period, GPTD will consult with organizations and individuals representing or directly working with women, minority, and general contracting communities in GPTD's market area, including its own DBE contractors to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the GPTD's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at your principal office for 30 days following the date of the notice, and informing the public that you and DOT will accept comments on the goals for 30 days from the date of the notice.

GPTD will publish this notice in a local newspaper and on its website. The notice will include instructions on how to provide input and comments. The draft program goals will be posted on the website. Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 following approval, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Section 26.49 Transit Vehicle Manufacturers Goals

GPTD will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, GPTD 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.

GPTD'S Procurement Manual (pg. 22) also includes a requirement that a final award must be documented by completing the online FTA Vehicle Award Report online within 30 days of the award.

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

GPTD's DBE goal continues to be race neutral. There is no break out between a race-neutral and a race-conscious goal.

Section 26.51(d-g) Contract Goals

The GPTD will use contract goals to meet any portion of the overall goal GPTD does not project being able to meet using race-neutral means, if there are sufficient contracting opportunities. GPTD will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.) We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures

Demonstration of good faith efforts for Contract Goals (26.53(a) & (c))

The obligation of the bidder is to make good faith efforts. The bidder can demonstrate that it has done so by either meeting the contract goal or documenting good faith efforts.

The Chief Financial Officer is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. We will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

GPTD will establish a structured pre-award process to assess the eligibility of Disadvantaged Business Enterprise (DBE) suppliers for credit toward contract goals. For each DBE listed as a regular dealer or distributor, the agency will conduct a preliminary counting determination to verify its eligibility for 60% or 40% credit, respectively, based on its demonstrated capacity and intent to perform as defined in § 26.55(e)(2)(iv)(A), (B), and (C) and (e)(3).

The agency will base this determination on the DBE supplier's written responses to relevant inquiries and its affirmation that its subsequent performance of a commercially useful function (CUF) will align with the preliminary counting determination. If a DBE supplier does not affirm its ability to meet the required CUF standards, the agency will adjust the counting of such participation accordingly when evaluating the bidder's good faith efforts toward meeting the contract goal. The bidder is responsible for ensuring that the DBE supplier's provided information is accurate and consistent with the counting determination. The Chief Financial Officer is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. We will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be submitted (26.53(b))

GPTD treats bidders' compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

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

Administrative reconsideration (26.53(d))

Within 10 days of being informed by GPTD that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder should make this request in writing to the following reconsideration official:

Greater Portland Transit District
Executive Director
114 Valley Street
Portland, ME 04102
207-317-3020
info@gpmetro.org

The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts on a Design-Build contract (26.53(e))

In design-build contracting, where project details are minimal at the time of solicitation, GPTD may establish a DBE participation goal that proposers must meet through the submission of an Open-Ended DBE Performance Plan (OEPP). The OEPP serves as a substitute for the DBE documentation required under paragraph 49 CFR 26.53 (b) for design-bid-build contracts.

To be considered responsive, the OEPP must include:

- A clear commitment to meeting the DBE participation goal.

- Identification of subcontracting work or services, including projected dollar amounts, that the proposer will solicit DBEs to perform.
- An estimated time frame for executing DBE subcontracts.

Upon awarding the design-build contract, the GPTD will actively monitor and oversee compliance with the OEPP to ensure the design-builder is making good faith efforts to achieve the established goal. GPTD and the design-builder may agree to written modifications of the OEPP throughout the project's duration. Such modifications may include adjustments to the type of work DBEs will perform or revisions to the proposed schedule, provided that the design-builder continues demonstrating good faith efforts toward meeting the DBE goal.

Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

GPTD will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

CERTIFICATION STANDARDS – Subpart D

Section 26.61 - 26.73 Certification Process

GPTD does not certify DBEs. It relies on the State of Maine, Department of Transportation for certifications through the Maine DOT Unified Certification Program.

CERTIFICATION PROCEDURES – Subpart E

Section 26.81 Unified Certification Programs

GPTD is a member of the Maine DOT Unified Certification Program (UCP) by virtue of a signed agreement dated April 18, 2002. The UCP meets all of the requirements for DBE certification. The Maine DOT maintains an updated directory of firms certified as DBEs in accordance with 40 CFR Part 26. The directory is available electronically or by request, as a hard copy.

Maine DOT will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. For information about the certification process or to apply for certification, firms should contact the Maine Civil Rights Office at:

<https://www.maine.gov/mdot/civilrights/dbe/>

Maine Department of Transportation

SHS 16

Augusta, Maine 04333

Tel: (207)624-3056

Section 26.89 Certification Appeals

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

U.S. Department of Transportation

Departmental Office of Civil Rights

External Civil Rights Programs Division (S-33) 1200

New Jersey Ave., S.E.

Washington, DC 20590

Phone: (202) 366-4754

TTY: (202) 366-9696

Fax: (202) 366-5575

COMPLIANCE AND ENFORCEMENT – Subpart F

Section 26.109 Information, Confidentiality, Cooperation

GPTD will safeguard from disclosure to third parties and 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, GPTD will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

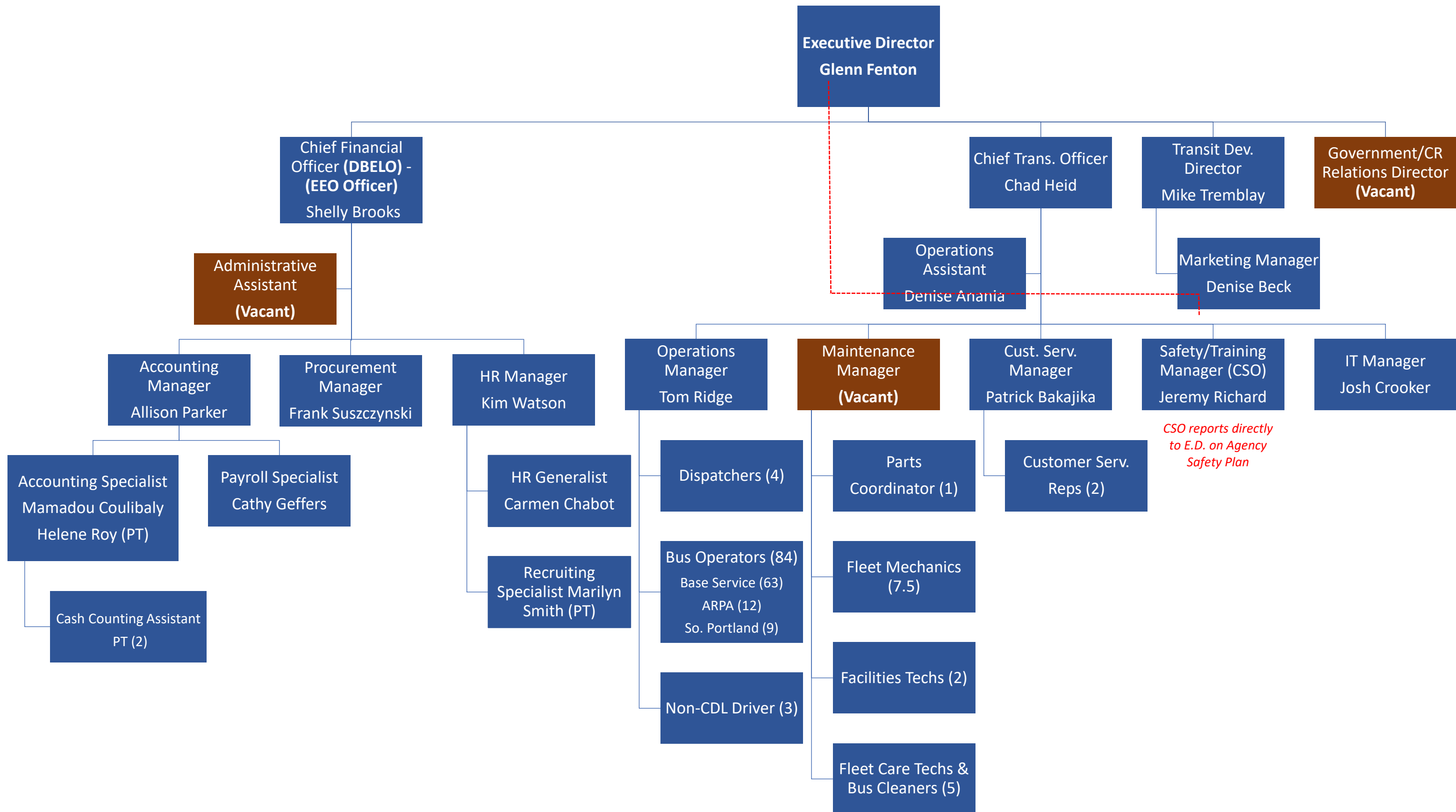
GPTD will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. Any authorized representative of the GPTD or DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE subcontractor.

GPTD may perform interim audits of contract payments to DBE subcontractors to ensure that the actual amount paid to equals or exceeds the dollar amounts stated in the prime contractor's schedule of DBE participation. GPTD may also require labor and material payment verification forms, signed by DBE subcontractors, be submitted with the prime contractor's payment requests, and/or a final waiver of lien form signed by subcontractors to indicate they have received payment.

ATTACHMENTS

Attachment 1 Organizational Chart

Attachment 2 Overall Goal Calculation



GREATER PORTLAND TRANSIT DISTRICT | METRO PROPOSED TRIENNIAL OVERALL GOAL AND GOALSETTING METHODOLOGY FOR FFY 2025-2027

Proposed DBE Goal: 1.59%

Effective: October 1, 2024 through September 30, 2026

INTRODUCTION

The Greater Portland Transit District (Metro) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT).

Pursuant to 49 CFR Part 26 and USDOT official guidance, Metro has determined that its overall annual DBE attainment on Federal Transit Administration (FTA) funded projects for FFY 2025-2027 is 1.59% (the “Overall Goal”). The Overall Goal will be obtained using race- and gender-neutral measures. In establishing its Overall Goal, Metro has actively sought input from women, minorities, and the general contracting community.

Metro is submitting a revised goal for the FFY 2025-2027 due to the merger of South Portland Bus Service and Greater Portland Transit District, effective December 29, 2024. Due to the merger, Metro has updated the estimated expenditures for the purposes of calculating the proposed DBE goal. The prior proposed goal submitted was 1.61%. The revised goal is 1.59%. The reduction in the goal is related to minimal increases in expenditure categories that have little or no DBE participation potential based on the analysis.

This document describes in detail the process used by Metro to establish the Overall Goal.

STEP 1. DETERMINING A BASE FIGURE

As specified in 49 CFR 26.45(c), Metro calculated a percentage base figure reflecting the availability of DBEs relative to all businesses ready, willing, and able to participate on FTA-assisted contracts in its local market area. The base figure reflects a DBE participation level that Metro would expect in the absence of discrimination.

Local Market Area

Metro determined its local market area by reviewing the business locations of the contractors and subcontractors with which Metro does businesses and by considering where Metro spends the substantial majority of its contracting dollars. Based on this information, Metro determined that its local market area encompasses the counties of Cumberland, Androscoggin, and York.

Sources of Data

The number of ready, willing, and able DBEs and the total number of ready, willing, and able businesses in Metro's market area were determined using the following verifiable sources of data:

- Maine DOT DBE Directory (<https://www.maine.gov/mdot/civilrights/dbe/>). The directory lists the firm's name, address, phone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most NAICS code available to describe each type of work. The directory is housed and updated weekly online. It is searchable by scope of work, and receives widespread distribution in hard copy at seminars, conferences, trainings, and other networking events. www.maine.gov/mdot/civilrights/dbe/
- Census Bureau County Business Patterns (CBP) database. County Business Patterns provides data on the total number of establishments by detailed industry for all counties in the United States.
- Metro Bidders List. Metro has created and maintained a bidders list based on vendors who routinely seek to work on USDOT-assisted contracts in METRO's local market area.

Calculation

Metro used the Maine DOT DBE Directory and Census Bureau data, supplemented by its bidders list, to calculate a base figure, as shown in Figure 1, attached hereto. Specifically, Metro calculated the relative availability percentage as follows:

1. Metro determined the number of ready, willing, and able DBEs in its local market area from the Maine DOT DBE directory and supplemented this number with any additional DBE vendors on its bidders list who are available to perform USDOT-assisted contracts. Then, using the Census Bureau's CBP database, Metro determined the number of all ready, willing, and able businesses available in its local market area that perform work in the same NAICS codes. (See Figure 1, Columns A-E).
2. Data from the CBP database was filtered for Metro local market area—the counties of Cumberland, Androscoggin and York—and for the NAICS codes categories set forth in Figure 1, Column B, which Metro determined are applicable for contracting opportunities.
3. The CBP database, supplemented by Metro's bidders list, identified a total of 4,795 businesses ready, willing, and able to perform work in the above-described NAICS codes categories in Metro's market area. The most recent Maine DOT DBE directory, supplemented by Metro's bidders list, showed 87 certified DBEs who are ready, willing, and able to perform work in these NAICS codes categories.
4. To ensure that the base figure is as accurate as possible, Metro weighted its calculation of the relative availability of firms. Specifically, Metro calculated the

ratio of DBEs to the total number of vendors (*see* Figure 1, Column F), and then multiplied this ratio by the ratio of contract dollars estimated to be spent on each category of NAICS codes (*see* Figure 1, Column H), to arrive at a weighted ratio for each category of NAICS codes (*see* Figure 1, Column I).

5. By adding the weighted ratios for each NAICS codes category and reflecting the total as a percentage, Metro derived a base figure of 4.14% for the relative availability of DBEs in Metro's local market area.

Result

Step 1 Base Figure = 4.14%

STEP 2. DETERMINING IF ADJUSTMENT IS NEEDED

As specified in Section 26.45, once the relative availability of ready, willing, and able DBEs in Metro's local market area has been determined, it is necessary to examine additional evidence and, if appropriate, make adjustments to the base figure, to ensure that the DBE goal truly and accurately reflects the level of DBE participation Metro would expect absent the effects of discrimination. Accordingly, Metro has considered and accounted for other evidence of conditions affecting DBEs, as set forth below, and determined that an adjustment to the Step 1 Base Figure is appropriate.

After establishing the base figure, Metro considered available information of conditions affecting DBEs to determine whether any adjustment to the base figure would be needed to establish its new overall DBE goal for FTA-funded contracts.

Factors Considered

Past and Future Contracting Activity

Metro examined the nature of contracting work anticipated for FFY 2025-2027. The two primary areas of expected NAICS spending are construction related to bus stop improvements and architecture and engineering services related to a facility rebuild project in the CIP. Otherwise, the activity and market conditions in Metro's local market area have not substantially changed.

Metro also reviewed this in relation to the prior triennial activity and DBE percentages, as shown in the table below. As a small agency, one contract with a high DBE amount can significantly impact the percentage for that period, and the table shows that result.

In periods where the percentage is much higher than the goal, it is often driven by a capital contract and not by consistent operating activity. One of the prior periods includes a contract for Transit Signal Priority project, which included a certified DBE subcontractor, with a federal share of over \$80,000. For the purposes of calculating an obtainable goal, Metro has removed this reporting period from the historical median calculation.

Additionally, Metro contracts with an outdoor advertising agency, who is also a certified DBE, for bus and shelter advertising. However, the majority of the expenses incurred with this vendor are attributed to a revenue sharing contract, which is not allowable activity towards meeting the overall DBE goal. Therefore, expenses to this vendor as part of the revenue sharing agreement have been excluded from the goal calculation.

Metro's ability to meet DBE goals is attributable in large part to three DBE vendors that have consistent operating expense activity. Metro's actual DBE participation may be affected if the activity with these three consistent vendors changes, or if there is a change of scope, timing or funding for other major one-time projects.

Prospective DBE Participation

For many years, MDOT has hired Eastern Maine Development Corporation (EMDC), a community development and small business development agency, to administer its DBE Supportive Services Program. Metro contacted the EMDC about their training and outreach programs and to determine any changes in the availability of DBE vendors who could likely provide the goods and services Metro uses in the course of its business. EMDC training and events, which result in any new certified DBEs, are listed on the MDOT site that is updated weekly and is referenced by Metro. Also, during the prior triennial period, Metro staff encouraged two businesses it contracted with to become certified as DBE. One was women owned and another was women-minority owned. However, neither opted to go through the certification process, at least yet.

Metro has determined that no additional data exists that would help to better measure the percentage of work that DBEs would be likely to obtain. Metro has concluded that an adjustment to the base figure is appropriate, and the Adjusted Figure below more accurately represents a level of DBE participation that Metro would expect absent discrimination.

Calculation

Metro determined that an adjustment based upon past and expected participation was appropriate, mitigated by the factors contributing to significant spikes. Metro followed the guidance set forth in USDOT's Tips for Goal-Setting to average the Step 1 Base Figure with a figure which represents Metro's median past participation, as follows:

1. Metro determined the median past participation percentage based on the actual DBE participation during the two most recent DBE goal setting periods:
2. Metro then averaged the historical median of 0.09% and 0.54% and the Step 1 Base Figure of 4.19% to arrive at an adjusted figure of 1.61%, representing a 1.31% increase over the last triennial period.

HISTORICAL MEDIAN: 2018 Program		
DBE Report Period	Metro Race-Neutral Goal	Actual DBE Participation
Oct 2018 – March 2019	2%	1.06%
April 2019 – Sept 2019	2%	0.07%
Oct 2019– March 2020	2%	12.39%
April 2020 – Sept 2020	2%	0.10%
Oct 2020 – March 2021	2%	0.08%
HISTORICAL MEDIAN:		0.10%
HISTORICAL MEDIAN W/O OUTLIER:		0.09%

HISTORICAL MEDIAN: 2022 Program		
DBE Report Period	METRO Race-Neutral Goal	Actual DBE Participation
Oct 2021 – March 2022	0.30%	0.73%
April 2022 – Sept 2022	0.30%	19.47%
Oct 2022– March 2023	0.30%	0.34%
April 2023 – Sept 2023	0.30%	7.91%
Oct 2023 – March 2024	0.30%	0.07%
HISTORICAL MEDIAN:		0.73%
HISTORICAL MEDIAN W/O OUTLIER:		0.54%

Result

Adjusted Figure = 1.59%

RACE-/GENDER-NEUTRAL AND RACE-/GENDER-CONSCIOUS SPLIT

In accordance with federal regulations and USDOT guidance, Metro will strive to meet the maximum feasible portion of its proposed overall DBE goal by using race- and gender-neutral measures.

Based on information regarding awards and commitments to DBEs, certified DBEs received a median of 0.73% of the dollars on Metro’s FTA-funded contracts in FFY 2022-2024.

Metro did not apply contract goals or any other race- or gender-conscious measures to any FTA-funded contracts that Metro or subrecipients awarded during that timeframe; thus, 100% of DBE contractors and subcontractors were used on contracts without DBE goals.

Metro currently has a broad range of race- and gender-neutral measures to encourage and facilitate DBE participation in its contracts, including:

- Maintaining one-stop DBE certification with Maine DOT;
- Publicizing EMDC’s web site and services to support Maine DBE businesses;
- Utilizing Metro’s website and paid advertisements in newspapers and trade publications to encourage increased DBE participation;
- Using pre-bid meetings in construction contracts;

- Maintaining a policy on race-neutral measures, and training Metro staff with respect to implementation;
- Continuing administrative enforcement of prompt payments between prime contractors and subcontractors;
- Providing consistent and accurate data collection of DBE participation;
- Continuing to maintain Metro's bidders list;
- Providing timely updates to current DBEs on all bidding and subcontracting opportunities; and
- Continuing to search Metro's active vendor base for prospective new DBE participants and direct them to Maine DOT/EMDC resources and information in efforts to persuade them to become certified as DBEs.

Although the DBE vendor base applicable to transit is small in Metro's local market area, Metro continues to review the Maine DOT DBE registry and conduct outreach with individuals and organizations with direct contact with the DBE community for possible additions to its vendor base.

Based on its levels and trends of past participation and its race- and gender-neutral measures, Metro projects that Metro will be able to meet 100% of its new overall DBE goal through race- and gender-neutral measures. Accordingly, Metro projects that it will not need to utilize any race-conscious or gender-conscious measures to meet its proposed Overall Goal.

ADDITIONAL INFORMATION

For additional information about this document or Metro's DBE Program, please contact:

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Figure 1. GPTD Goal Setting Methodology: Step 1 Base Figure Calculation

Figure 1. GPDT Goal Setting Methodology: Step 1 Base Figure Calculation															
A		B		C		D	E	F	G		H	I	J		
						Number of Vendors	# DBE Vendors	DBE %	Est Expenditures 2025-2027	% of Est Exp	Weighted DBE %	Est DBE Expenditure			
Contract Type	2017 NAICS code	NAICS Code Label													
Electricity	221122	Electric power distribution		15	-	0.0%	\$ 460,500	2.73%	0.00%	\$ -					
Bus Fuel/Heat	221210	Natural gas distribution		4	-	0.0%	\$ 930,000	5.52%	0.00%	\$ -					
Bus Stop Improvements	237310	Highway, street, and bridge construction		40	17	42.5%	\$ 997,358	5.91%	2.51%	\$ 423,877					
Bus Stop Improvements	238110	Poured concrete foundation and structure contractors		112	4	3.6%	\$ 2,327,168	13.80%	0.49%	\$ 83,113					
HVAC	238220	Plumbing, heating, and air-conditioning contractors		744	2	0.3%	\$ 105,000	0.62%	0.00%	\$ 282					
Promotional Materials	323111	Commercial printing (except screen and books)		68	1	1.5%	\$ 52,500	0.31%	0.00%	\$ 772					
Service Vehicle Replacement/Lease	441228	Motorcycle, ATV, and all other motor vehicle dealers		124	-	0.0%	\$ 133,600	0.79%	0.00%	\$ -					
Parts	441310	Automotive parts and accessories stores		161	-	0.0%	\$ 952,500	5.65%	0.00%	\$ -					
Building Maint	444130	Hardware stores		111	-	0.0%	\$ 96,000	0.57%	0.00%	\$ -					
Building Maint	444190	Other building material dealers		191	2	1.0%	\$ 105,000	0.62%	0.01%	\$ 1,099					
Employee Appreciation	445110	Supermarkets and other grocery (except convenience) stores		279	-	0.0%	\$ 45,000	0.27%	0.00%	\$ -					
Uniforms	448190	Other clothing stores		233	-	0.0%	\$ 116,850	0.69%	0.00%	\$ -					
Office Supplies	453210	Office supplies and stationery stores		4	-	0.0%	\$ 94,800	0.56%	0.00%	\$ -					
Fuel	454310	Fuel dealers		170	-	0.0%	\$ 2,745,000	16.28%	0.00%	\$ -					
ADA Paratransit	485991	Special needs transportation		11	-	0.0%	\$ 1,522,206	9.03%	0.00%	\$ -					
Bus Maintenance	488410	Motor vehicle towing		39	-	0.0%	\$ 6,000	0.04%	0.00%	\$ -					
Marketing/Public Svc	511110	Newspaper publishers		29	-	0.0%	\$ 13,500	0.08%	0.00%	\$ -					
Bus WiFi/Internet/Phones/Email	517919	All other telecommunications		208	1	0.5%	\$ 212,328	1.26%	0.01%	\$ 1,021					
Website Hosting	518210	Data processing, hosting, and related services		63	1	1.6%	\$ 5,898	0.03%	0.00%	\$ 94					
Depository Banking	522110	Commercial banking		255	-	0.0%	\$ 2,700	0.02%	0.00%	\$ -					
Liability and Workers Comp	524210	Insurance agencies and brokerages		442	1	0.2%	\$ 1,298,907	7.70%	0.02%	\$ 2,939					
Legal Services	541110	Offices of lawyers		685	1	0.1%	\$ 135,000	0.80%	0.00%	\$ 197					
Annual Audit	541211	Offices of certified public accountants		231	-	0.0%	\$ 96,249	0.57%	0.00%	\$ -					
Facility	541310	Architectural services		158	4	2.5%	\$ 1,007,500	5.97%	0.15%	\$ 25,506					
Facility/Bus Stop Improv	541330	Engineering services		359	26	7.2%	\$ 1,007,500	5.97%	0.43%	\$ 72,967					
Facility	541350	Building inspection services		43	4	9.3%	\$ 33,975	0.20%	0.02%	\$ 3,160					
Marketing/Public Svc	541430	Graphic design services		87	6	6.9%	\$ 19,500	0.12%	0.01%	\$ 1,345					
Network Security	541519	Other computer related services		13	3	23.1%	\$ 21,600	0.13%	0.03%	\$ 4,985					
Marketing/Public Svc	541613	Marketing consulting services		196	14	7.1%	\$ 76,000	0.45%	0.03%	\$ 5,429					
Marketing/Public Svc	541890	Other services related to advertising		38	2	5.3%	\$ 110,000	0.65%	0.03%	\$ 5,789					
Marketing/Public Svc	541910	Marketing research and public opinion polling		18	5	27.8%	\$ 20,000	0.12%	0.03%	\$ 5,556					
Marketing/Public Svc	541922	Commercial photography		39	2	5.1%	\$ 10,500	0.06%	0.00%	\$ 538					
Marketing/Public Svc	541930	Translation and interpretation services		13	1	7.7%	\$ 19,500	0.12%	0.01%	\$ 1,500					
Recruitment/Staffing	561320	Temporary help services		136	7	5.1%	\$ 15,000	0.09%	0.00%	\$ 772					
Bldg Security/Camera Replacement	561621	Security systems services (except locksmiths)		11	-	0.0%	\$ 4,320	0.03%	0.00%	\$ -					
Cleaning Services	561720	Janitorial services		430	4	0.9%	\$ 145,500	0.86%	0.01%	\$ 1,353					
Building Maint	562111	Solid waste collection		55	1	1.8%	\$ 12,960	0.08%	0.00%	\$ 236					
Building Maint	562211	Hazardous waste treatment and disposal		3	-	0.0%	\$ 5,400	0.03%	0.00%	\$ -					
Staffing/Drug Testing	621511	Medical laboratories		3	-	0.0%	\$ 43,500	0.26%	0.00%	\$ -					
Bus Maintenance	811113	Automotive transmission repair		6	-	0.0%	\$ 1,140,000	6.76%	0.00%	\$ -					
Bus Maintenance	811121	Automotive body, paint, and interior repair and maintenance		116	-	0.0%	\$ 307,875	1.83%	0.00%	\$ -					
Bus Maintenance	811198	All other automotive repair and maintenance		7	1	14.3%	\$ 392,925	2.33%	0.33%	\$ 56,132					
Air Compressor Maint	811310	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance		113	1	0.9%	\$ 15,000	0.09%	0.00%	\$ 133					

