



Pierce Transit  
Disadvantaged Business Enterprise  
(DBE) Program

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**PIERCE TRANSIT  
DISADVANTAGED BUSINESS ENTERPRISE POLICY STATEMENT**

**OBJECTIVES AND POLICY STATEMENT**

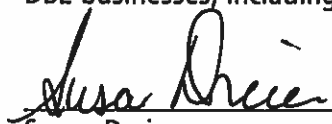
Pierce County Public Transportation Benefit Area Corporation (hereinafter referred to as "Pierce Transit"), a municipal corporation, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with U.S. Department of Transportation (DOT), 49 CFR Part 26. Pierce Transit receives Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Pierce Transit has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy and objective of Pierce Transit to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. The following are also our objectives and policies:

- To ensure non-discrimination 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; and
- To support small businesses to ensure free and open access to Pierce Transit contracting opportunities

The Procurement Manager, Linda Shilley, serves as the Disadvantaged Business Enterprise Liaison Officer (DBELO). She will assure that the objectives of Pierce Transit's DBE Program are met; however, the Executive and Management Staff shall have the responsibility of assisting the DBELO in carrying out the Agency's DBE Program and Goals. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by Pierce Transit in its financial assistance agreements with the Department of Transportation.

As CEO, I have disseminated this Policy Statement to the Pierce Transit Board of Commissioners and all of the Departments of our Organization. Upon significant changes to the DBE Program, Pierce Transit will notify the Federal Transit Administration's Regional Civil Rights Officer and publicize the revised DBE Program on Pierce Transit's website. The Policy Statement and DBE Program are available on Pierce Transit's website and are available to DBE and non-DBE firms on our bidder's list that perform work for Pierce Transit on DOT-assisted contracts. The DBE Program emphasizes Pierce Transit's commitment to providing maximum opportunity to all DBE businesses, including Small Business Enterprises (SBEs), in accordance with 49 CFR Part 26 as amended.

  
\_\_\_\_\_  
Susan Dreier  
Chief Executive Officer

11/25/19  
\_\_\_\_\_  
Date

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

### **SUBPART A - GENERAL REQUIREMENTS**

#### **Objectives**

The objectives are found in the Policy Statement on the first page of this Program.

#### **Applicability**

Pierce Transit is the 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, II and V of the Teas-21, Pub. L. 105-178.

#### **Definitions**

Pierce Transit will adopt the definitions contained in 49 CFR Part 26.5 for this Program.

#### **Non-discrimination Requirements**

Pierce Transit will not exclude any person, business, firm or enterprise from participation in, or deny any person, business, firm or enterprise 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 the DBE Program, Pierce Transit will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

#### **Record Keeping Requirements**

Pierce Transit will report DBE participation to the FTA on a semi-annual basis using the Uniform Report of DBE Commitments/Awards and Payments, found in Appendix B to the DBE regulation as required by 49 CFR Part 26.

Pierce Transit will maintain a bidders' list, consisting of information about DBE and non-DBE firms that bid on DOT-assisted contracts for calculating Overall Goals in accordance with 49 CFR Part 26.11(c). The bidders' list will include the firms' name, address, DBE/non-DBE status, age, and annual gross receipts.

The Washington State Office of Minority and Women Business Enterprises (OMWBE) is the Unified Certification Program (UCP) for Washington State. The OMWBE DBE directory is available online and will be utilized by Pierce Transit in the development of plan holders lists for IFBs, RFPs and Quotes. In addition, the OMWBE website will be utilized by Pierce Transit to attract potential DBE firms by advertising procurement opportunities on the OMWBE website and to identify DBE contractors and sub-contractors.

On DOT-assisted contracts, successful prime contractors will be required to provide to Pierce Transit, within forty-eight (48) hours after bid opening, the name and address of all sub-contractors that have submitted bids whether accepted by the prime contractor or not (Attachment B). Additional information to be submitted by the prime contractor, or to be obtained by Pierce Transit directly, will be the sub-contractors' status as S/DBE or non-S/DBE, age of firm and annual gross receipts.

## **Assurances**

Pierce Transit has signed the following Assurance per 49 CFR Part 26.13(a), applicable to all DOT-assisted contracts and their administration:

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

## **Contract Assurance**

Pierce Transit will ensure that the following clause is placed in every DOT-assisted contract and subcontract per 49 CFR Part 26.13(b):

The contractor or sub-contractor 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 Pierce Transit deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **DBE Program Updates**

Pierce Transit will continue to carry out this Program until all funds from DOT financial assistance have been expended. Pierce Transit will provide to DOT updates representing significant changes to the Program.

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

The Procurement Manager, Linda Shilley, (Pierce Transit, 3701 96<sup>th</sup> St. SW, Lakewood WA 98499-0070, 253-581-8059, lshilley@piercetransit.org), will serve as the DBELO and is responsible for implementing all aspects of the DBE Program and ensuring that Pierce Transit complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the CEO concerning DBE Program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment A.

The DBELO will be responsible for developing, implementing and monitoring the DBE Program. The duties and responsibilities of the DBELO include the following:

- Gathers and reports statistical data and other information as required by the DOT
- Reviews third party contracts and purchases for compliance with this Program
- Prepares Uniform Report of DBE Commitments/Awards and Payments as required by the DOT
- Sets Overall Goals every three (3) year term as required by the DOT and evaluates appropriateness of future Goals on an annual basis
- Analyzes progress towards goal attainment and identifies opportunities for improved participation
- Ensures Pierce Transit's bids and proposals are advertised and available to DBEs in a timely manner

- Identifies contract and procurement opportunities to increase DBE participation
- Participates in pre-bid meetings when applicable
- Advises the CEO and the Board of Commissioners on DBE matters and achievements
- Considers and reviews appropriate and reasonable insurance and bonding requirements and monitors enforcement of prompt payment procedures
- When applicable, assists DBEs in understanding specifications and bid documents
- Maintains the ability to access up-to-date DBE directory listings from OMWBE
- Provides outreach to DBEs and attends community events that support S/DBE businesses
- Communicates commitment to the DBE Program within the Agency
- Participates in DBE training opportunities
- Maintains Pierce Transit's bidders list in accordance with 49 CFR Part 26.11(c).

### **DBE Financial Institutions**

It is the policy of Pierce 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-assisted contract to make use of these institutions. Pierce Transit has identified some financial programs that may be available and of benefit to S/DBE firms in our area. This information is included in the Small Business Participation section of this Program as well as posted on Pierce Transit's website. Pierce Transit researches availability of DBE financial institutions every three (3) years in conjunction with the Overall Goal setting process.

### **Prompt Payment Mechanisms**

Pierce Transit's payment policy is net thirty (30) days from date of receipt of a correct invoice after work has been accepted. Progress payments are allowed under certain contracts and are handled on the same basis. In some circumstances, Pierce Transit may agree to shorter payment terms to reduce the cash flow burden on small businesses. Pierce Transit's policy is to use payment and performance bonds in lieu of retainage held for all contracts funded in whole or in part with federal funds to not negatively affect small and disadvantaged businesses. Pierce Transit will include in its contracts a prompt payment clause per 49 CFR Part 26.29 as follows:

The prime contractor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from Pierce Transit. The prime contractor agrees to not withhold retainage from sub-contractor's payments. Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of Pierce Transit. This clause applies to both DBE and non-DBE subcontractors.

Pierce Transit will require contractors to submit regular reports of the actual payments made to DBE firms for work that was committed to them at the time of contract award. Pierce Transit will review the reports submitted by the prime contractor and seek confirmation, as needed, that payment was made to the DBE firm.

If a prime contractor is found to be out of compliance with its DBE commitment, it shall be so notified by Pierce Transit and directed to cure the problem within an appropriate time. Failure by the prime contractor to comply may result in monetary penalties and partial or total termination for default with re-solicitation costs to be borne by the prime contractor or its bond. In addition, Pierce Transit may consider a contractor's non-compliance when evaluating contractor responsibility in future bids or proposals.

## **DBE Directory**

Pierce Transit relies on the Washington State Office of Minority and Women Business Enterprises (OMWBE) to perform DBE certification and can view real-time data as well as download a static version of the DBE directory. This directory is utilized in the development of bidders' lists for IFBs, RFPs and other methods of procurement. In addition, the directory is used to assist potential prime contractors in the identification of available DBE sub-contractors. Interested persons may obtain access to the OMWBE directory by contacting the following or visiting the websites listed below:

Pierce Transit  
Purchasing Department  
3701 96<sup>th</sup> St. SW  
Lakewood, WA 98499-4431  
Tel: (253) 581-8086  
[www.piercetransit.org/Purchasing](http://www.piercetransit.org/Purchasing)

OMWBE  
1110 Capitol Way South, Suite 150  
Olympia, WA 98501  
Tel: (360) 664-9750  
[www.omwbe.wa.gov](http://www.omwbe.wa.gov)

## **Overconcentration**

Over-concentration has not been identified in the types of work that DBEs perform for Pierce Transit. If Pierce Transit should determine there is an over-concentration of DBEs in certain business areas to the extent that small non-DBE businesses can no longer effectively participate in Pierce Transit's contracting opportunities, the Agency will contact the FTA Regional Civil Rights Officer for approval of the over-concentration determination and to request assistance in devising measures to address the over- concentration.

## **Business Development and Mentor-Protégé Programs**

Pierce Transit does not have a Business Development and Mentor-Protégé Program at this time; however, will reevaluate the need for such a program in conjunction with every three (3) year DBE goal setting term.

## **Monitoring and Enforcement Mechanisms**

A Pierce Transit Project Manager or representative will monitor the work performed by a DBE to verify the work committed to a DBE firm is performed by the DBE named in the Contract. (Attachment D). A clause will be included in all contracts that the prime contractor cannot substitute subcontractors without Pierce Transit approval. In addition, if a DBE subcontractor is unable to perform the work contracted for, the prime contractor must either replace the subcontractor with another DBE, or show Pierce Transit that good faith efforts to do so have been made. As provided for in 49 CFR Part 26, Pierce Transit will provide a written certification for the project file confirming that contracting records and monitored work sites have been reviewed. The file will note the findings from this effort and any action taken if required.

Pierce Transit will require contractors to submit regular reports of the actual payments made to DBE firms for work committed to them at the time of contract award. The Verification of Prompt Payment form is used for on-site verification of prompt payment (Attachment E). Pierce Transit will review the reports submitted by the prime contractor and seek confirmation, as needed, that payment was made to the DBE firm.

If a prime contractor is found out of compliance with its DBE commitment, contractor shall be so notified by Pierce Transit and directed to cure the problem within an appropriate time. Failure by the prime contractor to comply may result in monetary penalties and partial or total termination for default with re-solicitation costs to be borne

by the prime contractor or its bond. In addition, Pierce Transit may consider a contractor's non-compliance with its stated good faith efforts when evaluating contractor responsibility in future bids or proposals.

Pierce Transit will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Pierce Transit will bring to the attention of the Washington State OMWBE and the DOT any false, fraudulent, or dishonest conduct regarding the program, so that DOT can take the steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided for in 49 CFR Part 26.

### **Small Business Participation**

Pierce Transit has incorporated a non-discriminatory small business element to its DBE Program per 49 CFR Part 26.39, to facilitate participation with not only DBEs, but also non-DBE small businesses (SBEs). Pierce Transit is committed to providing equal and open access for small businesses and ensuring that all small businesses designations receive adequate opportunities to participate in contracting and procurement activities.

### **Small Business Element**

Pierce Transit will utilize the OMWBE website to identify SBEs when soliciting quotes for small projects. End-users and Project Managers performing their own quotes are also encouraged to utilize the OMWBE website to foster small business participation from certified S/DBE firms. When a DBE or an SBE is awarded a Contract, end-users obtaining their own quotes will provide the documentation of S/DBE firms invited to participate in the quote and all back-up documentation to the Procurement Manager or designee for calculating Overall Goals in accordance with 49 CFR Part 26.11(c).

Per 49 CFR Part 26.39, Pierce Transit will carefully review future contracting opportunities and take reasonable steps to eliminate barriers faced by small businesses including unnecessary contract requirements that may preclude small business participation. For multi-year design-build contracts or other large contracts, Pierce Transit may require the Project Manager or prime contractors to specify elements of the contract or specific subcontracts that are of a reasonable size that S/DBEs may perform.

### **Outreach**

The Pierce Transit website includes links to the following Small Business Support Programs:

- Business Impact NW empowers a talented and diverse community of entrepreneurs; supporting the continuing growth of local small businesses through micro-enterprise. [www.businessimpactnw.org](http://www.businessimpactnw.org)
- The Washington State OMWBE general website [www.omwbe.wa.gov](http://www.omwbe.wa.gov) and the Linked Deposit Program for providing the borrowers (the businesses) a loan interest-rate reduction of up to two percent (2%). <http://omwbe.wa.gov/linked-deposit-program/>
- The King County Small Contractors and Suppliers (SCS) Program assists small business with SBE certification, training and development. <http://www.kingcounty.gov/exec/BusinessDev/disadvantaged.aspx>
- WSDOT has a Small Business Services Program webpage with information on training and support. <http://www.wsdot.wa.gov/Business/opportunities/BusinessServices.htm>



- The USDOT Small Business webpage provides additional information on programs available small to businesses. <https://www.transportation.gov/osdbu>
- The Procurement Technical Assistance Center's (PTAC) mission is to maximize the number of capable U.S. companies participating in the government marketplace. Washington PTAC guides companies through the process of applying for and fulfilling government contracts. <http://washingtonptac.org/>

Pierce Transit will include on its website a link to BXWA's website where firms can view open procurements and contract award information. Also listed on our website is the current DBE Program and other information to foster small business participation.

Pierce Transit will continue to participate in the Greater Pierce County Purchasing Forum and similar forums offered by King County, WSDOT, Alliance NW and other programs and events that promote reaching out to S/DBEs.

### **Small Business Certification**

The SBE Certification Program is administered by OMWBE in a manner similar to the administration of the DBE Certification Program. The certification criteria (49 CFR Part 26) will remain similar to that of the DBE Program, without the consideration of gender and/or ethnicity. Eligibility requirements to become certified can be found on the OMWBE website: <https://omwbe.wa.gov/>

Regardless of gender and ethnicity of the firm's owner, the company and OMWBE will follow the certification procedures and application process outlined in 49 CFR Part 26. However, the certification determination will not be appealable to the DOT. After initial appeal to OMWBE, all certification determinations will be binding.

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

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

Pierce Transit does not use set-asides or quotas in the administration of this DBE Program due to the race and gender neutrality of the Program.

### **Overall Goals**

In accordance with 49 CFR Part 26.45, Pierce Transit will develop and submit overall triennial DBE participation Goals by August 1 of the year specified by the FTA. The DBE Goal will be established based on the demonstrable evidence of DBE firms ready, able, and willing to participate in contracting opportunities in DOT-assisted projects. Pierce Transit intends to meet its Overall Goals through race-neutral means in the following manner:

Bidders competing for Pierce Transit contracts are primarily from within Pierce and King Counties. Therefore, Goals are established by comparing overall business availability for Pierce and King Counties utilizing the U.S. Census Bureau database with Pierce and King County DBEs certified through OMWBE. DBE firms are identified according to North American Industry Classification System (NAICS) code from the list of certified DBE firms issued by the Washington State OMWBE.

**Step One:** The base figure is determined by the total number of Pierce and King County businesses available under the identified NAICS codes for the types of contract awards anticipated. That figure is divided by the total number of ready, willing and able DBE firms in the two counties weighted by the dollars expected to be expended in each project resulting in the DBE availability, and base figure.

**Step Two:** Pierce Transit's past participation and experience is examined in Step Two. The historical median from the current and a minimum of two previous years is determined. Historical data regarding successful/unsuccessful DBE and non-DBE contractors is analyzed. The results are compared with Step One results. If substantially different, the methods and statistics are reviewed, and results adjusted as appropriate.

Pierce Transit considers the research and analysis of local Disparity Studies and recognizes there are quantifiable barriers for minority businesses in the local transportation industry and will seek DOT guidance on adopting a race-conscious program if established DBE Goals are not attainable by race neutral measures.

### **Outreach Process**

Pierce Transit will consult with and seek comment from members of the contracting community, prime contractors, subcontractors and agencies that support small business communities and small business development centers to obtain information regarding DBE and non-DBE availability and general feedback for the types of work Pierce Transit plans to procure during the triennial period.

Not later than July 1 of each goal-setting year, Pierce Transit will post its proposed Overall Goal on its web site informing the public of the proposed Goal and its rationale. The Goal will be available for public comment for thirty (30) days. The website will address how comments may be submitted. Comments received will be considered and the Program will be adjusted if appropriate. The Goal Methodology will include a summary of information and comments received during the consultative and public participation processes and Pierce Transit's response to such input. Unless other instructions are received from the FTA, the Overall Goals will be used beginning October 1 of the triennial period.

### **Goal Setting and Accountability**

If the awards and commitments shown on Pierce 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:

Pierce Transit will analyze in detail the reason for the difference between the Overall Goal and the actual awards/commitments. Pierce Transit will establish specific steps to correct the obstacles identified in the analysis, establish a corrective action plan, conduct a short-fall analysis and maintain information and records regarding the analysis and efforts made. If Pierce Transit is a top 50 transit authority as determined annually by the FTA, the short-fall analysis is required to be submitted to the FTA Regional Civil Rights Officer.

### **Transit Vehicle Manufacturers (TVM)**

Pierce Transit will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on DOT-assisted transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26.

### **Meeting Overall Goals**

Pierce Transit will use the following race-neutral methods to meet its overall goal and facilitate DBE participation:

- Use the OMWBE website to determine S/DBE firms and invite firms to participate in formal and informal procurements
- Encourage prime contractors to subcontract portions of work to DBEs

- Consider (subject to state law and Pierce Transit needs) alternatives to stated specifications, such as bonding, insurance limits, and financing, which may limit DBE participation
- Provide technical assistance as needed
- Provide information regarding Washington State OMWBE
- Upon request, provide prime contractor with potential DBE subcontractors
- Provide information about Pierce Transit's contracting opportunities and procedures to DBEs and post on Pierce Transit's website open solicitations and contract award information on BXWA website accessible through [www.bxwa.com](http://www.bxwa.com)
- Participate in regional governmental procurement outreach events that support all small business designations
- Use contract language which supports S/DBE participation
- Assist firms to contact local agencies who provide services to help S/DBEs

### **Good Faith Efforts Procedures**

Good Faith Effort procedures regarding contract goal-setting do not apply because Pierce Transit's DBE Program is race-neutral; however, Pierce Transit has adopted the following good faith efforts when obtaining information from bidders/proposers:

- Name, address and OMWBE Certification Number of DBE firm(s) that will participate in the contract
- A description of the work the DBE firm(s) is expected to perform
- The value of the subcontract

Bidders/proposers shall be required to submit the following information within 48 hours after the bid opening:

- The percentage and value of the subcontract to be performed by the DBE
- Written and signed confirmation from the DBE that is participating in the contract as provided in the prime contractor's commitment
- Prime contractor's completion of the Bidder Disclosure Form. Staff will ensure that all information is complete and accurate and adequately documented prior to contract award

### **Good Faith Efforts when a DBE is Terminated/Replaced on a Contract**

Additionally, Pierce Transit requires prior written consent when terminating a DBE subcontractor listed in a bid/contract even though no contract goals have been established. Pierce Transit must determine "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to Pierce Transit its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to Pierce Transit prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise Pierce Transit of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate, Pierce Transit will require the prime contractor to make good faith efforts to replace a DBE with another certified DBE. Pierce Transit will require the prime contractor to notify the Procurement Manager or designee immediately of the DBEs inability or unwillingness to perform and provide reasonable documentation of the circumstance.

Pierce Transit will require the prime contractor to obtain prior approval of the substitute DBE and provide copies of new or amended subcontracts, and documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the contracting officer 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.

### **Counting DBE Participation**

When a DBE is participating in a DOT-assisted contract, only the work performed by the DBE will be counted toward Pierce Transit's Goals. Pierce Transit will count DBE participation toward Overall Goals as provided in 49 CFR Part 26.55.

## **SUBPARTS D & E - CERTIFICATION**

### **Unified Certification Programs**

Pierce 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 in the State of Washington, consistent with 49 CFR Section 26.81. The UCP will meet all the requirements of this section. OMWBE manages the certification process and maintains the DBE directory. Information about certification as well as the updated directory can be found on <http://www.omwbe.gov>. Pierce Transit will use and count for DBE participation only for those DBE firms certified by OMWBE.

### **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:

U.S. Department of Transportation  
Office of Civil Rights Certification Appeals Branch  
1200 New Jersey Ave. SE  
Washington, D.C. 20590

Pierce Transit will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

### **Decertification**

In addition to the performance of the certification function in the State of Washington, OMWBE is responsible for decertification for DBEs that no longer qualify for the Program under 49 CFR Part 26. Pierce Transit will cooperate with OMWBE as needed to assist in the decertification process. Once decertified, a DBE contractor will no longer be counted towards the Agency's Overall Goal.

## **SUBPART F - COMPLIANCE AND ENFORCEMENT**

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

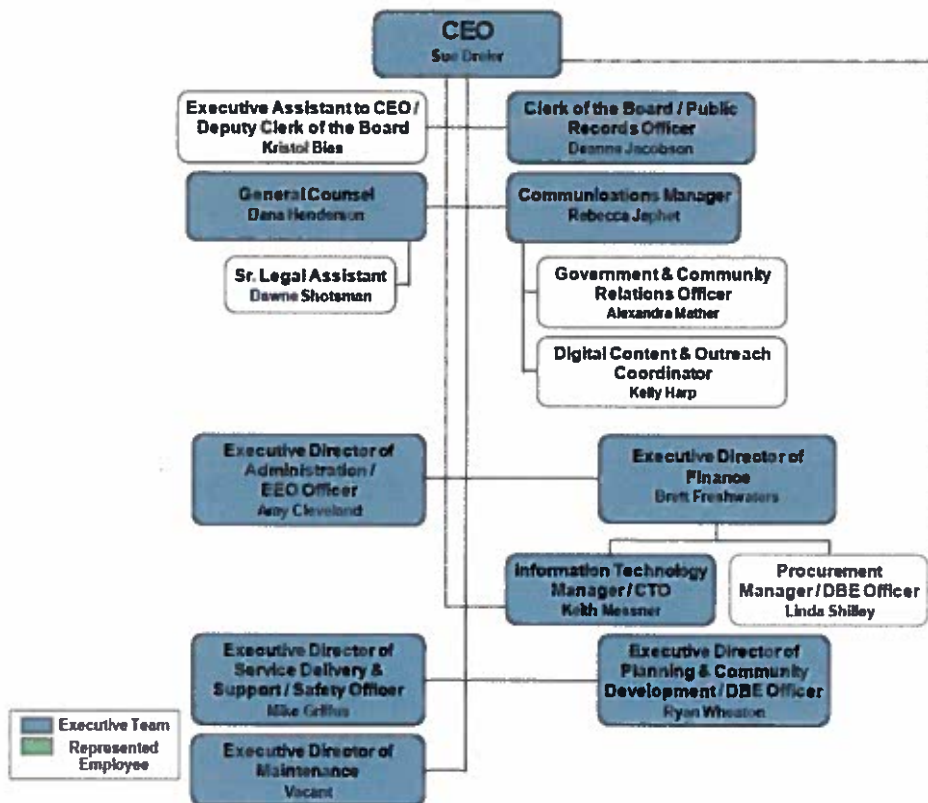
Records provided to Pierce Transit may be public records subject to disclosure under the Washington State Public Records Act and/or other laws requiring disclosure or discovery of records. Pierce Transit, in its sole discretion, may withhold or redact all or portions of records that are subject to exemption, consistent with Federal, state and local laws. In the event Pierce Transit receives a request for disclosure of records that are marked by contractor as "confidential" or "proprietary", Pierce Transit will provide at least ten (10) business days' written notice prior to release of responsive records.

### **Monitoring Payments to DBEs**

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

Pierce Transit will perform interim audits of contractor payments to DBE subcontractors. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to the DBE subcontractor equals or exceeds the dollar amounts stated in the Disadvantaged Business Participation Form and contract.

### Executive Office



As of 10/11/19



**ATTACHMENT B**  
**DISADVANTAGED BUSINESS PARTICIPATION**

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 Pierce Transit deems appropriate.

Pierce Transit's Disadvantaged Business Enterprise (DBE) participation is to be achieved through race-neutral means. Contractors who have difficulty identifying disadvantaged or small business subcontractors for this project, or have questions in regard to Pierce Transit's DBE Program should contact Linda Shilley, Procurement Manager, via email at [lshilley@piercetransit.org](mailto:lshilley@piercetransit.org)

To be eligible for award of this Contract, the Bidder must submit with the bid the Disadvantaged Business Utilization Table below listing the DBEs to be contracted with, including all information required. DBEs listed must be certified by the Washington State Office of Minority and Women Business Enterprises (OMWBE) at the date and time bids/proposals are due.

The successful Contractor shall enter into a contract with the firms identified on these tables as successful subcontractors. Failure to complete this section of the bid proposal or the inclusion of false information shall be considered as evidence that the proposal is nonresponsive and shall not receive further consideration.

**DISADVANTAGED BUSINESS UTILIZATION TABLE**

Name Of Subcontractor	Address	Telephone	Description of Work To Be Performed	Will Contract Be Awarded: (Yes/No)	\$ Value Of Subcontract	Percent of Subcontract Work Actually Performed by DBE Subcontractor
<b>TOTAL DISADVANTAGED BUSINESS UTILIZATION</b>					<b>\$</b>	<b>%</b>

**NOTE: Written confirmation from each DBE firm that is participating in the Contract as shown above must be received by Pierce Transit within forty eight (48) hours after the bid due date and time.**

**Note:** In the category of supplies, please inform Pierce Transit if the business is the dealer, broker, re-packer, or manufacturer. Pierce Transit will verify eligibility of disadvantaged business subcontractors.



Attachment C:

The following checklist and Bidder Disclosure below must be completed by the Contractor. It will be used to assist Pierce Transit in determining if efforts have been made by the contractor to award subcontracts under this project to Small Business Enterprises (SBEs).

	YES	NO
1. Did Contractor notify Small Businesses in writing that bids were being solicited?	_____	_____
2. Did Contractor follow up initial contact to determine if Small Businesses were interested?	_____	_____
3. Did Contractor allow sufficient time for Small Businesses to respond?	_____	_____
4. Were portions of work to be subcontracted of a type and size to facilitate Small Businesses' participation?	_____	_____
5. Did Contractor provide to the Small Businesses sufficient information about the plans, specifications, and requirements of the Contract?	_____	_____
6. Did Contractor reject interested Small Businesses as unqualified without sound reason based on investigation of their capabilities?	_____	_____

**Additional Required Bidder Disclosure (per 49 CFR Part 26.11):**

Is this company a certified Disadvantaged Business Enterprise (DBE) or a certified Small Business Enterprise (SBE)? No \_\_\_ Yes \_\_\_ DBE \_\_\_ SBE \_\_\_

Certification No. \_\_\_\_\_

How many years has this company been in business? \_\_\_\_\_ years.

What are the annual gross receipts for this company? (Please circle one item)

- |                           |                            |
|---------------------------|----------------------------|
| Less than \$500,000       | \$500,000-\$1,000,000      |
| \$1,000,000-\$2,000,000   | \$2,000,000 to \$5,000,000 |
| \$5,000,000-\$10,000,000  | \$10,000,000-\$23,000,000  |
| \$23,000,000-\$50,000,000 | Greater than \$50,000,000  |

Attachment D:

## Disadvantaged Business Enterprise (DBE) On-site Review Form

PROJECT INFORMATION		
Name of DBE being reviewed:		
Project Title:		
Today's Date:	Award Date:	Est. % Complete:
Description of project and work being performed by DBE:		
CONTRACTOR INFORMATION		
Prime Contractor Name:	Is the Prime a DBE?	
Sub-Contractor Name:	Is the Sub a DBE?	
ON-SITE PERSONNEL OBSERVED		
Name of Employee Interviewed:	Length of Employment:	
Name of Employee Interviewed:	Length of Employment:	
Name of Employee Interviewed:	Length of Employment:	
What is the name of the Supervisor that the employees report to?		
Are the employee's exclusively employed by the DBE?		
DBE INTERVIEWEE QUESTIONS		
Do DBE employees appear to have knowledge of and skills of the work they are performing?		
Does the work the DBE is performing appear to be what they are Contracted to do?		
Does the DBE Sub effectively manage their work without interference from Prime?		
Has the DBE Owner been present?		
Are any of the DBE employees working for any other Contractor on this same project?		
With what you've observed, does it appear that the DBE is in compliance and performs a CUF?		
EQUIPMENT OR MATERIALS USED		
What equipment, if any, did you witness the DBE using?		
Does the equipment appear to be owned solely by the DBE?		
If the equipment is leased, is there a formal agreement identifying the terms and parties?		
AGENCY CERTIFICATION		
I certify that the on-site performance of the Disadvantage Business Enterprise has been MONITORED.		
Project Manager or Agency Representative:	Date:	
Printed Name:	Received by & Date:	

Attachment E:



**Verification of Prompt Payment to Sub-Contractors**

After the work has been accepted, Pierce Transit is to pay invoices within 30 days of receipt of a correct invoice. The Contractor agrees to pay each Sub-Contractor under this prime contract for satisfactory performance of work no later than thirty days from the receipt of each payment the Prime Contractor receives from Pierce Transit.

The Prime Contractor agrees to not withhold retainage from Sub-Contractors payments. Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of Pierce Transit. This clause applies to both DBE and non-DBE Sub-Contractors.

In lieu of retainage being withheld, Pierce Transit's DBE policy states that the Agency will rely on the Payment and Performance Bonds in lieu of retainage held for all contracts so as to not negatively affect Small and Disadvantaged Businesses.

**Project:**

**Project Manager:**

**Prime Contractor:**

**Sub-Contractor(s):**

**Verification Done By:**

Company	Contact	Phone Number	Certified DBE? <i>Yes or No</i>	Date of Verification of Prompt Payment *

*\*Documentation of cancelled checks must be attached.*



# Verification of Prevailing Wage Rates & Payment by Contractor/Sub-Contractor

**Project:**

**Prime Contractor:**

**Project Manager:**

**Interview Done By:**

**Date of Interview(s):**

Company	Worker's Name (Print)	Job Classification	Prevailing Wage Rate	The worker agrees by signing below that they are being paid the minimum Prevailing Wage Rate of higher, and are paid by the company listed on the certified payroll.

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