



Agenda Item No. (3)

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole  
Meeting of March 23, 2023

From: Artemisé Davenport, DBE Program Administrator  
Cody Smith, Director of Accounting  
Joseph M. Wire, Auditor-Controller  
Kellee J. Hopper, Deputy General Manager, Administration and Development  
Denis J. Mulligan, General Manager

Subject: **CORRECTIONS TO THE DISADVANTAGED BUSINESS ENTERPRISE  
PROGRAM FEDERAL TRANSIT ADMINISTRATION UNIFORM  
REPORTING**

### **Recommendation**

This report is to provide information only and does not require any action.

### **Summary**

On May 19, 2022, the Golden Gate Bridge, Highway and Transportation District (District) completed its Federal Transit Administration (FTA) Triennial Review Site Visit for Fiscal Year 2022. The FTA's Triennial Review is an assessment of a recipient's compliance with federal requirements that is determined by examining a sample of award management and program implementation practices in 23 compliance areas, including the Disadvantaged Business Enterprise (DBE) Program. Although there were no deficiencies in the District's DBE Program, District staff discovered FTA Uniform Report errors for the reporting of the Novel Coronavirus 2019 (COVID-19) Relief funds received through the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* and *Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA)*.

In June 2020, the District received its first tranche of CARES Act funds in the amount of \$30.2 million. The DBE Program Administrator followed guidance on how grantees were to report CARES Act funds as it relates to its DBE Program published in FTA's *Frequently Asked Questions from FTA Grantees Regarding Coronavirus Disease 2019 (COVID-19)* found on FTA's website. The language states, "A recipient with an existing DBE program should count CARES Act funds towards the DBE goal as it would all FTA funds." In June 2020, District staff reached out to FTA, Regional Operations, Office of Civil Rights, for clarity on this language and to confirm what activities used with CARES Act funds should be included on the next Uniform Report due to FTA on December 1, 2020. District staff was instructed to report CARES Act funds at 100% used towards services or work that could be contracted or subcontracted. Staff followed this directive and reported CARES Act funds for eligible Bus and Ferry operating vendors.

After the completion of an FTA audit over the District's *American Rescue Plan Act* (ARPA), CARES & CRRSAA drawdowns and in consultation with FTA auditors and the District's external financial statement auditors, in fiscal year 2022, the Director of Accounting conducted an internal audit of ARPA, CARES & CRRSAA funds received from January 20, 2020 to current.

ARPA, CARES & CRRSAA funds require operating expenses, which are not salaries and fringe, to have associated contracts federalized unless signed prior to January 20, 2020. As a result of the audit, it was found none of the District's contracts were federalized for the purpose of these funds. Relief funds have entirely been drawn down to support salaries and fringe benefits only.

The DBE Program Administrator was instructed to revise all semi-annual Uniform Reports submitted to FTA in which the District reported ARPA, CARES or CRRSAA funds to eligible Bus and Ferry operating vendors. As a result, semi-annual Uniform Reports for FFY 2019/2020, and 2020/2021 were revised. A breakdown of the revisions for Awards or Commitments only are in Tables 1-3.

Recipients are to determine their achievement of DBE participation goals by calculating the federal share of awards and commitments to DBEs as shown on the Uniform Report at the end of any fiscal year. If the DBE goal is less than the DBE goal established, recipients must analyze in detail the reasons for the shortfall and establish corrective measures to enable the achievement of meeting the goal for the new fiscal year. At the time of completing the Uniform Reports for the abovementioned FFYs, staff determined that one of the main reasons for the shortfall was due to receiving a significant amount of federal relief funds. Staff has reevaluated the difference between its overall DBE goal and awards and commitments, absent relief funds, and have determined that other factors, such as the type of contracts let and the availability of DBE firms to perform as prime or subcontractors, were responsible for the shortfall. Revised Shortfall Analysis and Corrective Action Measures for each year the District did not meet its overall DBE goal are on file and available for FTA's review upon request. A breakdown of the District's revised DBE achievements for FFY 2019/2020 and 2020/2021 are in Table 4.

### **Fiscal Impact**

There is no fiscal impact associated with this report.

Attachment: Tables 1-4

**Table 1: Uniform Report (04/01/20 – 09/30/20) due December 1, 2020**

| A  | <b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b><br>(total contracts and subcontracts committed during the reporting period) | Total Dollars | Total Number | Total to DBEs (dollars) | Total to DBEs (number) | Total to DBEs /Race Conscious (dollars) | Total to DBEs /Race Conscious (number) | Total to DBEs / Race Neutral (dollars) | Total to DBEs / Race Neutral (number) | Percentage of total dollars to DBEs |
|----|---|---------------|--------------|-------------------------|------------------------|---|--|--|---------------------------------------|-------------------------------------|
| 8  | Prime contracts awarded this period   | \$44,476,782  | 16           | \$236,030               | 6                      |   |  | \$236,030                              | 6                                     | 0.5%                                |
| 9  | Subcontracts awarded/committed this period  | \$160,466     | 6            | \$40,302                | 3                      | \$0                                     | 0                                      | \$40,302                               | 3                                     | 25.1%                               |
| 10 | <b>TOTAL</b>  |               |              | \$276,332               | 9                      | \$0                                     | 0                                      | \$276,332                              | 9                                     | 0.6%                                |

**REVISED**

| A  | <b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b><br>(total contracts and subcontracts committed during the reporting period) | Total Dollars | Total Number | Total to DBEs (dollars) | Total to DBEs (number) | Total to DBEs /Race Conscious (dollars) | Total to DBEs /Race Conscious (number) | Total to DBEs / Race Neutral (dollars) | Total to DBEs / Race Neutral (number) | Percentage of total dollars to DBEs |
|----|---|---------------|--------------|-------------------------|------------------------|---|--|--|---------------------------------------|-------------------------------------|
| 8  | Prime contracts awarded this period   | \$613,775     | 10           | \$0                     | 0                      |   |  | \$0                                    | 0                                     | 0.0%                                |
| 9  | Subcontracts awarded/committed this period  | 160,466       | 6            | \$40,302                | 3                      | \$0                                     | 0                                      | \$40,302                               | 3                                     | 25.1%                               |
| 10 | <b>TOTAL</b>  |               |              | \$40,302                | 3                      | \$0                                     | 0                                      | \$40,302                               | 3                                     | 6.6%                                |

**Table 2: Uniform Report (10/01/20 – 03/30/21) due June 1, 2021**

| A  | <b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b><br>(total contracts and subcontracts committed during the reporting period) | Total Dollars | Total Number | Total to DBEs (dollars) | Total to DBEs (number) | Total to DBEs /Race Conscious (dollars) | Total to DBEs /Race Conscious (number) | Total to DBEs / Race Neutral (dollars) | Total to DBEs / Race Neutral (number) | Percentage of total dollars to DBEs |
|----|---|---------------|--------------|-------------------------|------------------------|---|--|--|---------------------------------------|-------------------------------------|
| 8  | Prime contracts awarded this period   | \$6,430,424   | 127          | \$40,583                | 6                      |   |  | \$40,583                               | 6                                     | 0.6%                                |
| 9  | Subcontracts awarded/committed this period  | \$289,952     | 6            | \$0                     | 0                      | \$0                                     | 0                                      | \$0                                    | 0                                     | 0.0%                                |
| 10 | <b>TOTAL</b>  |               |              | \$40,583                | 6                      | \$0                                     | 0                                      | \$40,583                               | 6                                     | 0.6%                                |

**REVISED**

| A  | <b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b><br>(total contracts and subcontracts committed during the reporting period) | Total Dollars | Total Number | Total to DBEs (dollars) | Total to DBEs (number) | Total to DBEs /Race Conscious (dollars) | Total to DBEs /Race Conscious (number) | Total to DBEs / Race Neutral (dollars) | Total to DBEs / Race Neutral (number) | Percentage of total dollars to DBEs |
|----|---|---------------|--------------|-------------------------|------------------------|---|--|--|---------------------------------------|-------------------------------------|
| 8  | Prime contracts awarded this period   | \$4,711,804   | 13           | \$0                     | 0                      |   |  | \$0                                    | 0                                     | 0.0%                                |
| 9  | Subcontracts awarded/committed this period  | \$289,952     | 6            | \$0                     | 0                      | \$0                                     | 0                                      | \$0                                    | 0                                     | 0.0%                                |
| 10 | <b>TOTAL</b>  |               |              | \$0                     | 0                      | \$0                                     | 0                                      | \$0                                    | 0                                     | 0.0%                                |

**Table 3: Uniform Report (04/01/21 – 09/30/21) due December 1, 2021**

| A  | <b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b><br>(total contracts and subcontracts committed during the reporting period) | Total Dollars | Total Number | Total to DBEs (dollars) | Total to DBEs (number) | Total to DBEs/ Race Conscious (dollars) | Total to DBEs/ Race Conscious (number) | Total to DBEs/ Race Neutral (dollars) | Total to DBEs/ Race Neutral (number) | Percentage of total dollars to DBEs |
|----|---|---------------|--------------|-------------------------|------------------------|---|--|---------------------------------------|--------------------------------------|-------------------------------------|
| 8  | Prime contracts awarded this period   | \$3,074,289   | 121          | \$34,209                | 3                      |   |  | \$34,209                              | 3                                    | 1.1%                                |
| 9  | Subcontracts awarded/committed this period  | \$295,645     | 5            | \$50,863                | 1                      | \$0                                     | 0                                      | \$50,863                              | 1                                    | 17.2%                               |
| 10 | <b>TOTAL</b>  |               |              | \$85,072                | 4                      | \$0                                     | 0                                      | \$85,072                              | 4                                    | 2.8%                                |

**REVISED**

| A  | <b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b><br>(total contracts and subcontracts committed during the reporting period) | Total Dollars | Total Number | Total to DBEs (dollars) | Total to DBEs (number) | Total to DBEs/ Race Conscious (dollars) | Total to DBEs/ Race Conscious (number) | Total to DBEs/ Race Neutral (dollars) | Total to DBEs/ Race Neutral (number) | Percentage of total dollars to DBEs |
|----|---|---------------|--------------|-------------------------|------------------------|---|--|---------------------------------------|--------------------------------------|-------------------------------------|
| 8  | Prime contracts awarded this period   | \$570,304     | 7            | \$0                     | 0                      |   |  | \$0                                   | 0                                    | <b>0.0%</b>                         |
| 9  | Subcontracts awarded/committed this period  | \$295,645     | 5            | \$50,863                | 1                      | \$0                                     | 0                                      | \$50,863                              | 1                                    | 17.2%                               |
| 10 | <b>TOTAL</b>  |               |              | \$50,863                | 1                      | \$0                                     | 0                                      | \$50,863                              | 1                                    | <b>8.9%</b>                         |

**Table 4: Goals and DBE Achievement FFY 2019/20 through 2020/21:**

| <b>Fiscal Year</b> | <b>Overall Goal</b> | <b>Achievement</b> | <b>% of Goal Achieved</b> | <b>Revised Achievement</b> | <b>Revised % of Goal Achieved</b> |
|--------------------|---------------------|--------------------|---------------------------|----------------------------|-----------------------------------|
| 2019-2020*         | 3.2%                | 0.6%               | 19%                       | 1.1%                       | 34%                               |
| 2020-2021*         | 3.2%                | 1.4%               | 44%                       | 1.0%                       | 31%                               |

\* **Revised** Shortfall Analysis and Corrective Action Measures.