LONG BEACH TRANSIT
BOARD OF DIRECTORS MEETING
AGENDA

THURSDAY, JULY 23, 2026
4801 AIRPORT PLAZA DRIVE
ROSA PARKS BOARD CHAMBER
3:30 P.M.

Abigail Mejia, Chair
Raul Añorve, Vice Chair
Randy Rawlings, Secretary/Treasurer
James Ahumada, Director
Eduardo Angeles, Director
Carl Kemp, Director
David Sutton, Director

Joshua Hickman, City Representative
Christopher Koontz, City Representative

Kenneth A. McDonald
President and Chief Executive Officer

LONG BEACH TRANSIT BOARD OF DIRECTORS IN-PERSON MEETING

MEMBERS OF THE PUBLIC CAN ATTEND MONTHLY BOARD MEETINGS AT LONG BEACH TRANSIT CORPORATE OFFICE ROSA PARK BOARD CHAMBER, BY RIDING ROUTES 104, 111 AND 112.

THE CLOSEST BUS STOPS TO LBTCO ARE LOCATED:
LAKEWOOD BLVD. AND SPRING ST.
CLARK AVE. AND 29TH ST.
SPRING ST. AND AIRPORT PLAZA DR.

TO CONNECT TO ROUTE 104, TAKE ROUTES 21, 22, 61, 71, 91, 92, 93, 101, 111, 112, 172, 173, 181 AND 182.

TO CONNECT TO ROUTES 111 AND 112, TAKE ROUTES 21, 22, 91, 121, 131, 151, 171, 173, 175 AND 192.

MEMBERS OF THE PUBLIC MAY LISTEN TO THE MEETING BY DIALING
(669) 444-9171 AND ENTERING THE FOLLOWING
MEETING ID: 839 6795 6124

MEMBERS OF THE PUBLIC MAY ALSO JOIN THE VIDEO CONFERENCE VIA THE FOLLOWING ZOOM MEETING LINK:
https://us02web.zoom.us/j/83967956124

PLEASE NOTE THE ZOOM MEETING MAY ENCOUNTER TECHNICAL DISRUPTIONS, BUT IN-PERSON ACCESS AND PUBLIC COMMENT WILL CONTINUE TO BE AVAILABLE IN ACCORDANCE WITH THE BROWN ACT

PERSONS WISHING TO ADDRESS THE BOARD MAY SUBMIT PUBLIC COMMENT VIA EMAIL OR TELEPHONE. MEMBERS OF THE PUBLIC ALSO HAVE THE OPTION TO PROVIDE PUBLIC COMMENT IN THE ZOOM MEETING BY USING THE RAISE HAND FUNCTION OR PRESSING *9 ON YOUR PHONE

Public comments on agenda items may be submitted by email to board@lbtransit.com or by telephone at 562.599.8599.

If calling, please leave a voicemail with your name (please state it clearly), your contact information, and the item number on which you would like to comment (or specify “public comment”).

If emailing, please include your name, contact information, and the item number on which you would like to comment (or specify “public comment”).

More information on this process may be found at ridelbt.com/about-us

REGULAR MEETING – 3:30 P.M.

1. Call to Order. (Abigail Mejia)

2. Roll Call. (Jenese Flores)

3. Employee Recognition. (Elizabeth Brown)

   Employees of the Month for June and July 2026:

   Robert Ragland, Transit Service Delivery and Planning
   Christopher Sanchez, Maintenance and Infrastructure
   Patty Pina, Administrative Staff

   Lakeysha Gray, Transit Service Delivery and Planning
   Janet Maciel, Maintenance and Infrastructure
   Tyler Wigboldy, Administrative Staff

INFORMATION ITEM

4. Public Comment.

Any member of the public may approach the lectern and, upon recognition by the Chair, state his or her name and proceed to address the Board on any item within the subject matter jurisdiction of the Long Beach Transit Board of Directors, provided that no action may be taken on off-agenda items unless authorized by law. Comments shall be limited to three minutes, unless different time limits are set by the Chair, subject to the approval of the Board.

5. President and CEO Report. (Kenneth McDonald)

INFORMATION ITEM

NOTICE TO THE PUBLIC

All matters included on the Consent Calendar are considered routine by the Long Beach Transit (LBT) Board of Directors and will all be enacted by one motion. There will be no separate discussion of these items unless a member of the Board of Directors or the public so requests, in which event the matter shall be removed from the Consent Calendar and considered as a separate item.

CONSENT CALENDAR (6-7)

6. Recommendation to approve the minutes of the regular session meeting held on May 28, 2026.

Suggested Action: Approve recommendation.

7. Recommendation to receive and file the June 2026 monthly financial report.

Suggested Action: Approve recommendation.

REGULAR CALENDAR

8. Recommendation to authorize the President and CEO to enter into a three-year contract with Inter-Con Security, for the provision of Security Officer and Transit Ambassador services at a cost of $5,971,354 with two, one-year options at $2,155,407 for Option Year One and $2,167,659 for Option Year Two with an 8% contingency of $823,554, for a total authorization amount not to exceed $11,117,974. (Lee Burner)

Suggested Action: Approve recommendation.

9. Recommendation to adopt a resolution authorizing the President and CEO to file funding applications for Fiscal Year 2027 subsidies under Article IV of the Transportation Development Act and the State Transit Assistance programs, totaling $36,520,443. (Jenifer Maxwel)

Suggested Action: Approve recommendation.

10. Long Beach Transit's World Cup 2026 Games Service Delivery Update. (Kimberly Yu)

INFORMATION ITEM

11. Transit Gallery Improvement Project Update. (Kim Le)

INFORMATION ITEM

12. Long Beach Transit's Vendor Programs and Local Vendor Engagement. (Joanna Bould)

INFORMATION ITEM

13. Fiscal Year 2026 Fourth Quarter Financial Report. (Lisa Patton)

INFORMATION ITEM

14. Public Comment.

Any member of the public may approach the lectern and, upon recognition by the Chair, state his or her name and proceed to address the Board on any item within the subject matter jurisdiction of the Long Beach Transit Board of Directors, provided that no action may

be taken on off-agenda items unless authorized by law. Comments shall be limited to three minutes, unless different time limits are set by the Chair, subject to the approval of the Board.

15. Closed Session.

    Conference with Labor Negotiator
    Pursuant to Cal. Gov. Code § 54957.6

    Long Beach Transit Representative: Kenneth A. McDonald, President and CEO

    Employee Organization:
    Amalgamated Transit Union, Local 1277

16. Board Requests.

17. Adjourn. The next regular meeting will be held on September 24, 2026. (Abigail Mejia)

Suggested Action: Approve recommendation.

Note:
Long Beach Transit intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If special accommodation is desired, please call the Office of the Board Secretary 48 hours prior to the meeting at 562.599.8599. Long Beach Transit is an entity which is separate and distinct from the City of Long Beach.

LONG BEACH TRANSIT
BOARD OF DIRECTORS MEETING
MINUTES

THURSDAY, MAY 28, 2026
4801 AIRPORT PLAZA DRIVE
ROSA PARKS BOARD CHAMBER
3:30 P.M.

Abigail Mejia, Chair
Raul Añorve, Vice Chair
Randy Rawlings, Secretary/Treasurer
James Ahumada, Director
Eduardo Angeles, Director
Carl Kemp, Director
David Sutton, Director

Joshua Hickman, City Representative
Christopher Koontz, City Representative

Kenneth A. McDonald
President and Chief Executive Officer

REGULAR MEETING – 3:30 P.M.

1. Call to Order. (Abigail Mejia)

   Chair Mejia called the meeting to order at 3:31 p.m.

2. Roll Call. (Jenese Flores)

   Directors Present: James Ahumada, Eduardo Angeles, Raul Añorve, Carl Kemp, Abigail Mejia, Randy Rawlings and David Sutton

3. Employee Recognition. (Elizabeth Brown)

   Employees of the Month for May 2026:

   Ramon Lopez, Transit Service Delivery and Planning
   Martin Esparza, Maintenance and Infrastructure
   Carlie Wade, Administrative Staff

INFORMATION ITEM

Elizabeth Brown, Executive Director/VP, Organizational Development and Administration, presented the Employees of the Month for May 2026.

Item was received and filed

4. Public Comment.

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There were no public comments.

NOTICE TO THE PUBLIC

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CONSENT CALENDAR (5-6)

A motion was made by Director Ahumada, seconded by Secretary/Treasurer Rawlings, to pass the consent calendar. The motion carried by the following vote:

Yes: 7 – James Ahumada, Eduardo Angeles, Raul Añorve, Carl Kemp and Abigail Mejia, Randy Rawlings and David Sutton

5. Recommendation to approve the minutes of the regular session meeting held on April 23, 2026.

Suggested Action: Approve recommendation.

6. Recommendation to receive and file the April 2026 monthly financial report.

Suggested Action: Approve recommendation.

REGULAR CALENDAR

7. Long Beach Transit's Preparation for the World Cup 2026 Games. (Kimberly Yu)

INFORMATION ITEM

Kimberly Yu, Deputy CEO, presented the staff report.

Director Kemp encouraged staff to expand the agency's FIFA World Cup marketing efforts by exploring additional outreach opportunities, including enhanced social media and video campaigns, to further promote transit service and increase public awareness.

Vice Chair Añorve inquired about the financial impacts associated with the FIFA World Cup service plan.

Deputy CEO Yu responded that staff are working with LA Metro to finalize a reimbursement agreement and confirmed that the operating costs associated with the additional service would be reimbursed by Metro.

Vice Chair Añorve requested that staff prepare a post-Games report summarizing lessons learned following completion of the FIFA World Cup events.

Director Angeles inquired whether Long Beach Transit was coordinating with the City of Long Beach to provide additional transit service to FIFA World Cup viewing venues and related events.

City Representative Koontz responded that the City is coordinating with Long Beach Transit to support transportation to downtown viewing venues and other World Cup-related activities, noting that the agency's existing service network provides convenient access to those events.

City Representative Hickman added that the City's Beach Streets event would coincide with FIFA World Cup activities, providing additional opportunities for residents and visitors to access downtown using transit and other active transportation options.

Item was received and filed

8. Recommendation to authorize the President and CEO to extend Long Beach Transit's participation in Year 6 of the Los Angeles Metropolitan Transportation Authority's regional GoPass program until June 30, 2027. (Terry Coon)

Suggested Action: Approve recommendation.

Terry Coon, Manager, Finance, presented the staff report.

Director Angeles commented that the GoPass program should be viewed as a long-term investment in cultivating future transit riders rather than as a loss of fare revenue, noting that introducing students to public transit at an early age helps build lifelong transit users.

Vice Chair Añorve expressed concern regarding the long-term sustainability of the GoPass program beyond the current funding term and commented that the report characterized the program primarily as lost fare revenue rather than emphasizing its broader benefits related to mobility, equity, education, climate policy, and cultivating future transit riders. He inquired whether staff had begun discussions regarding the program's long-term sustainability.

Mr. Coon responded that staff has begun discussions regarding the future of the program but was not prepared to provide additional information at this time.

Vice Chair Añorve encouraged staff to explore strategies to support the long-term sustainability of the program, including sponsorships, institutional partnerships, renegotiation of program costs and fees, cost-sharing opportunities with

educational institutions, limiting pass usage to certain hours, implementing different pricing structures for K-12 and college students, and continuing efforts to convert student riders into long-term transit users.

Director Kemp inquired whether funding was available to support marketing and promotional efforts for the GoPass program.

Mr. Coon responded that, to his knowledge, no funding had been identified specifically for marketing the program.

Director Kemp encouraged staff to explore opportunities to market the GoPass program and highlight Long Beach Transit's partnerships with local educational institutions. He also supported exploring long-term funding strategies, including cost-sharing partnerships with colleges and other institutions that benefit from the program, as well as evaluating pricing and service options to help sustain the program.

A motion was made by Director Angeles, seconded by Vice Chair Añorve, to approve the recommendation. The motion carried by the following vote:

Yes: 6 – James Ahumada, Eduardo Angeles, Raul Añorve, Carl Kemp, Abigail Mejia and Randy Rawlings
Abstain: 1 – David Sutton

9. Recommendation to adopt the Fiscal Year 2027 Operating Budget of $145,900,867 and the Fiscal Year 2027 Capital Budget of $41,940,047. (Kenneth A. McDonald)

Suggested Action: Approve recommendation.

Deputy CEO Yu and Lisa Patton, Executive Director/VP, Finance and Budget, presented the staff report.

The Board received a copy of an email public comment submitted by Steven Conover regarding the Fiscal Year 2027 Budget. The commenter expressed support for the planned procurement of additional battery-electric buses to continue replacing the agency's aging hybrid fleet.

Director Angeles inquired how recently announced State funding for downtown Long Beach pedestrian improvements could complement Long Beach Transit's bus shelter and capital improvement projects and whether any of the funding could be leveraged to support transit-related improvements.

Deputy CEO Yu responded that the funding is intended for City of Long Beach projects and that Long Beach Transit will continue collaborating with the City on complementary capital improvements, including the Transit and Visitor

Information Center (TVIC) program.

City Representative Hickman stated that the City is coordinating several pedestrian improvement projects, including the First Street Pedestrian Corridor Project and other downtown improvements, which will complement Long Beach Transit's infrastructure investments.

City Representative Koontz requested additional information regarding the agency's contingency plans should sales tax revenues decline during the fiscal year, the status of the planned fare study, future service planning efforts, the agency's debt policy, implementation of the Enterprise Resource Planning (ERP) system, and the use of reserve funds.

Deputy CEO Yu responded that several of those topics, including future fare restructuring, service planning, and the Comprehensive Operational Analysis (COA), would be discussed in greater detail upon the President and CEO's return.

Pretty George, Executive Director/VP, Information Technology, provided an update on the Enterprise Resource Planning (ERP) implementation, stating that the Human Capital Management module is scheduled to go live in June 2026, with the financial management module anticipated to be implemented in July 2027.

Ms. Patton explained that the agency's sales tax revenue projections are based on forecasts provided by LA Metro and noted that the agency monitors revenue performance throughout the fiscal year. She further stated that staff has initiated a fare study, reaffirmed the agency's longstanding pay-as-you-go approach to capital funding rather than issuing debt, and confirmed that the proposed use of reserve funds would not reduce the agency's 25% contingency reserve.

Chair Mejia advised that a special Board meeting would be held in July to discuss the agency's long-term financial outlook and potential policy options related to the anticipated fiscal cliff.

Director Angeles inquired whether Long Beach Transit could partner with the City, Metro, or Olympic organizers to capitalize on economic opportunities associated with the 2028 Olympic Games.

Deputy CEO Yu responded that staff will continue coordinating with the City, Metro, and other municipal transit operators regarding Olympic planning and noted that, similar to the FIFA World Cup, transit service associated with the Games is anticipated to be reimbursable through Metro.

Director Ahumada requested additional information regarding the employee development initiatives included in the proposed budget.

Ms. Patton explained that the initiatives include the CARE customer service framework, supervisor development through the ACE program, expansion of employee wellness initiatives, and a mentorship program being developed in partnership with ATU.

Director Sutton encouraged staff to evaluate premium fare opportunities for special event transit services, including the Olympic Games and other major events, and suggested exploring resident and visitor pricing for the AquaBus/AquaLink service. He also recommended continuing investments in customer amenities, particularly bus shelters, and evaluating periodic automatic fare adjustments to reduce the need for infrequent, larger fare increases.

Director Kemp inquired about the proposed reductions to the promotions, sponsorships, and advertising budgets.

Deputy CEO Yu responded that staff evaluated promotional expenditures to prioritize activities providing the greatest community impact while maintaining brand recognition and support for community organizations.

Mike Gold, Executive Director/VP, Community Relations and Communications, added that the proposed reductions reflect anticipated savings from deferred special events and lower-than-anticipated costs associated with the agency's creative services contract and would not reduce overall outreach efforts.

Director Kemp encouraged staff to consider increasing investments in sponsorships, marketing, and customer amenities, including bus shelters, as part of future budget discussions. He also expressed concern regarding the Board's opportunity to review and provide input on the proposed budget before adoption.

Vice Chair Añorve expressed similar concerns regarding the budget development and review process and encouraged providing the Board with additional opportunities to review and discuss future budgets earlier in the process.

Secretary/Treasurer Rawlings and Director Sutton acknowledged the concerns raised regarding the budget review process and supported discussing future budgets earlier in the fiscal year while recommending approval of the proposed Fiscal Year 2027 budget to allow agency operations to proceed.

A motion was made by Chair Mejia, seconded by Director Angeles, to approve the recommendation. The motion carried by the following vote:

Yes: 6 – James Ahumada, Eduardo Angeles, Carl Kemp, Abigail Mejia, Randy Rawlings and David Sutton
No: 1 – Raul Añorve

10. Public Comment.

Any member of the public may approach the lectern and, upon recognition by the Chair, state his or her name and proceed to address the Board on any item within the subject matter jurisdiction of the Long Beach Transit Board of Directors, provided that no action may be taken on off-agenda items unless authorized by law. Comments shall be limited to three minutes, unless different time limits are set by the Chair, subject to the approval of the Board.

Oscar Cancio, Long Beach City Mayoral candidate, gave a live public comment expressing concern regarding the Board's budget review process and emphasized the importance of maintaining the agency's long-term fiscal stability. He also encouraged greater public outreach to increase community awareness and participation in future budget discussions.

11. Board Requests.

Director Ahumada requested that the Board review its governance practices related to the annual budget process, including consideration of a governance committee or similar mechanism to evaluate Board expectations for budget timelines, presentations, and governance procedures.

Director Angeles requested a future briefing regarding Long Beach Transit's potential role in transportation planning for the 2028 Olympic Games, including proposed ferry service and other regional transportation initiatives.

Director Kemp requested that the Board have an opportunity to meet with Mayor Rex Richardson prior to his service on the Metro Board to discuss Long Beach Transit's priorities and perspectives.

Director Kemp requested that the previously requested presentation regarding the agency's procurement processes be scheduled for the next regular Board meeting.

12. Adjourn. The next regular meeting will be held on July 23, 2026. (Abigail Mejia)

Suggested Action: Approve recommendation.

Meeting adjourned at 6:19 p.m.

A motion was made by Director Angeles, seconded by Secretary/Treasurer Rawlings, to approve the recommendation. The motion carried by the following vote:

Yes: 7 – James Ahumada, Eduardo Angeles, Raul Añorve, Carl Kemp, Abigail Mejia, Randy Rawlings and David Sutton

LONG BEACH TRANSIT
STATEMENT OF REVENUES AND EXPENSES
FOR PERIOD JULY 1, 2025 TO JUNE 30, 2026

	June 2025	June 2026	June Budget	%	Year to Date FY 2025	Year to Date FY 2026	Year to Date Budget	%
OPERATING REVENUE								
Passenger Fares	$753,570	$770,928	$757,068	102	$9,715,948	$9,822,866	$9,959,809	99
Dial A Lift Fares	3,736	4,564	4,214	108	44,410	48,714	45,398	107
Aqua Service Fares	63,465	45,430	75,234	60	298,702	282,487	260,173	109
Special Event Service Revenue	15,874	115,656	1,750	6,609	216,494	334,941	184,908	181
Advertising Revenue	14,949	70,833	70,833	100	302,802	837,500	837,498	100
Interest & Miscellaneous	526,067	634,706	392,180	162	6,440,505	5,753,834	4,634,657	124
TOTAL OPERATING REVENUE	**$1,377,661**	**$1,642,117**	**$1,301,279**	**126**	**$17,018,861**	**$17,080,343**	**$15,922,443**	**107**
SUBSIDY REVENUE								
Federal	$3,397	$518,287	$2,500,000	21	$24,082,033	$13,195,435	$14,765,866	89
State	2,668,565	2,699,954	3,209,963	84	32,102,883	32,399,404	38,519,622	84
County	3,592,051	5,125,015	5,120,602	100	49,748,438	61,477,730	61,447,136	100
Local	732,805	752,841	714,547	105	9,162,410	9,641,719	9,178,162	105
TOTAL SUBSIDY REVENUE	**$6,996,818**	**$9,096,097**	**$11,545,112**	**79**	**$115,095,763**	**$116,714,288**	**$123,910,786**	**94**
TOTAL REVENUE	**$8,374,479**	**$10,738,214**	**$12,846,391**	**84**	**$132,114,623**	**$133,794,631**	**$139,833,229**	**96**
OPERATING EXPENSES								
Operations	$5,253,891	$5,709,631	$5,999,497	95	$67,874,003	$66,830,084	$69,496,104	96
Maintenance	2,778,898	2,970,001	2,770,405	107	31,934,210	32,198,770	33,120,504	97
Administration	2,698,437	3,020,950	2,583,712	117	26,829,244	28,918,772	30,773,882	94
Fuel & Lubricants	483,321	534,823	489,175	109	5,477,166	5,847,005	6,442,739	91
TOTAL OPERATING EXPENSES	**$11,214,547**	**$12,235,405**	**$11,842,789**	**103**	**$132,114,623**	**$133,794,630**	**$139,833,229**	**96**
NET INCOME (LOSS) BEFORE DEPR.	**($2,840,068)**	**($1,497,191)**	**$1,003,602**		**$0**	**$0**	**$0**	
DEPRECIATION	$1,451,306	$1,925,290	$1,925,290	100	$17,913,337	$20,420,580	$20,420,580	100

LONG BEACH TRANSIT
SCHEDULE OF EXPENSES
FOR PERIOD JULY 1, 2025 TO JUNE 30, 2026

	Operations	Maintenance	Admin	Total Curr. Month	Current Month Budget	%	Year to Date	Year to Date Budget	%
LABOR									
Operators	$2,688,471	$0	$0	$2,688,471	$2,708,071	99	$33,613,072	$33,103,836	102
Maintenance	0	628,017	0	628,017	648,495	97	7,911,425	7,810,726	101
Salaried	401,764	445,642	869,340	1,716,746	1,759,495	98	20,593,713	21,564,630	95
FRINGE BENEFITS									
FICA	217,922	76,664	63,298	357,883	389,802	92	4,380,959	4,772,915	92
Pension	281,655	98,341	87,002	466,998	705,267	66	6,296,535	8,638,602	73
Health	636,493	186,716	135,079	958,288	1,089,224	88	11,509,549	12,579,528	91
Workers' Compensation	617,533	44,186	4,046	665,765	666,156	100	7,992,345	7,993,839	100
Uniform & Tool Allowance	13,083	8,867	1,006	22,956	27,675	83	293,507	352,147	83
Unemployment & Other Fringes	8,893	3,150	39,677	51,720	49,026	105	508,689	682,700	75
SERVICES									
Advertising	0	0	128,917	128,917	122,020	106	839,035	944,262	89
Professional & Technical	90,310	45,872	802,174	938,357	436,472	215	4,337,402	4,691,690	92
Contract Maintenance	0	586,915	256,218	843,133	497,328	170	5,817,658	6,065,643	96
Security	233,138	57,081	0	290,219	357,236	81	3,813,380	4,315,626	88
Employment Physicals	0	0	14,349	14,349	20,500	70	183,522	246,000	75
Other	0	11,076	21,074	32,150	20,731	155	218,637	228,743	96

LONG BEACH TRANSIT
SCHEDULE OF EXPENSES
FOR PERIOD JULY 1, 2025 TO JUNE 30, 2026

	Operations	Maintenance	Admin	Total Curr. Month	Current Month Budget	%	Year to Date	Year to Date Budget	%
MATERIALS & SUPPLIES									
Fuel & Lubricants	$0	$534,823	$0	$534,823	$489,175	109	$5,847,005	$6,442,739	91
Fleet Parts & Supplies	0	477,055	0	477,055	563,216	85	6,450,904	6,736,199	96
Other Materials & Supplies	0	63,811	46,100	109,910	73,210	150	834,016	893,149	93
UTILITIES	0	135,887	41,095	176,982	214,756	82	2,142,303	2,205,361	97
CASUALTY/LIABILITY COSTS	0	5,301	407,379	412,681	412,870	100	5,984,690	4,954,385	121
PURCHASED TRANS. SERVICE									
Dial A Lift	307,367	0	0	307,367	126,446	243	1,454,079	1,402,252	104
Aqua Service	212,584	0	0	212,584	302,347	70	1,048,605	1,290,218	81
MISC. EXPENSES									
Dues & Subscriptions	0	0	12,628	12,628	15,837	80	168,001	190,000	88
Taxes, Fees	0	32,529	12,119	44,648	35,511	126	438,528	430,098	102
Training, Travel & Meetings	0	0	20,562	20,562	27,087	76	217,380	325,000	67
Schedules & Tickets	0	0	7,177	7,177	15,000	48	66,547	135,000	49
Safety & Misc. Items	0	5,249	24,052	29,301	15,932	184	195,713	191,250	102
Recruitment Advertising	0	0	4,112	4,112	6,622	62	63,082	79,475	79
Other	418	57,643	23,546	81,606	47,282	173	574,349	567,216	101
TOTAL OPERATING EXPENSES:	**$5,709,631**	**$3,504,824**	**$3,020,950**	**$12,235,405**	**$11,842,789**	**103**	**$133,794,630**	**$139,833,229**	**96**

LONG BEACH TRANSIT
BALANCE SHEET

	Balance at 06/30/26	Balance at 05/31/26	Balance at 06/30/25
ASSETS			
Cash and Investments	84,560,775	88,259,830	92,031,533
Receivables			
Federal	2,094,145	1,008,479	303,419
State	6,452,994	5,150,583	4,961,816
County	888,501	609,331	300,946
Local	2,281,074	1,505,733	3,416,300
Miscellaneous	3,694,635	3,309,285	3,115,477
Materials & Supplies Inv.	4,411,365	4,410,303	4,119,713
Net Capital Assets	145,780,122	145,076,535	110,680,230
Other Assets	289,498	1,599,558	2,565,759
TOTAL ASSETS	**250,453,106**	**250,929,638**	**221,495,193**
LIABILITIES AND CAPITAL			
Trade Payables	5,383,462	4,163,505	5,283,122
Accrued Payroll Liabilities	13,008,354	11,729,495	8,169,489
Net Pension Liability (GASB 68)	23,177,366	23,177,366	23,275,344
Compensated Absence Liabilities	4,287,757	4,267,404	4,348,649
Estimated Liabilities	76,522,421	77,407,047	72,635,543
Deferred Credits	16,633,907	18,022,050	26,550,669
TOTAL LIABILITIES	**139,013,267**	**138,766,867**	**140,262,816**
Federal Capital Contributions	384,954,582	383,378,731	341,103,399
State Capital Contributions	130,537,899	129,752,872	122,776,145
Local Capital Contributions	136,804,231	136,465,559	133,267,866
Accumulated Earnings (Losses)	(540,856,873)	(537,434,392)	(515,915,032)
TOTAL CAPITAL	**111,439,839**	**112,162,771**	**81,232,377**
TOTAL LIABILITIES AND CAPITAL	**250,453,106**	**250,929,638**	**221,495,193**

RECOMMENDED ACTION

To authorize the President and CEO to enter into contract with Inter-Con Security for the provision of Security Officer and Transit Ambassador Services.

STAFF REPRESENTATIVE

Lee Burner, Executive Director/VP, Transit Service Delivery and Planning

BACKGROUND

Long Beach Transit (LBT) is committed to maintaining resources for the safety and security of its employees, assets, and the customers it serves. Providing security and customer assistance services directly supports the agency's strategic priorities to improve safety and service quality and enhance customer experience. To support these priorities LBT contracts with an outside provider for the provision of facility security officer and Transit Ambassador (TA) services at LBT properties and throughout its transit service area.

The security service provider is responsible for providing Facility Security and TA Personnel that perform a number of services including, but not limited to, controlling 24-hour access to LBT facilities, protecting the safety of our employees, customers, and the general public, conducting uniformed bus rides on all routes, foot patrols of the First Street Transit Gallery and bus shelters throughout LBT service area.

Since October 2015, LBT has contracted with Allied Universal Security Services to provide these security and TA services. The current deployment includes twelve (12) unarmed and trained security officers working in overlapping shifts to ensure continuous security coverage. The officers are strategically located at the entrance of each LBT facility and are responsible for recording all visitor information, inspecting LBT buses entering the property, monitoring LBT's closed-circuit camera system, as well as identifying safety and security hazards for immediate mitigation.

In addition, the current contract provides for twelve (12) state-certified TA's and one (1) TA supervisor who works in teams of two throughout LBT's service area. Some of their duties included assisting LBT customers aboard our buses and at bus stops, answering service-related questions, assisting with wayfinding and providing courteous education, reinforcing LBT's

Customer Code of Conduct, and representing the agency in the community by participating in community events and parades.

The current contract with Allied Universal Security Services expires on October 31, 2026. Accordingly, staff conducted a competitive procurement process to ensure the continued delivery of these essential services without interruption.

PROCUREMENT

LBT issued a Request for Proposal (RFP) to several qualified firms. Twenty-one (21) proposals were received. The proposals were evaluated based on the following criteria:

- Qualification of the Firm
- Staffing and Project Organization
- Management Plan
- Pricing

The total amount of possible points for the technical evaluation was 80. Pricing made up an additional 20 points, for a total of 100 points. Inter-Con Security qualified with a score of 96.

Inter-Con Security, with its office in Pasadena, California, was found to be fair and reasonable by LBT's Procurement department.

Inter-Con Security brings more than 52 years of security industry experience and currently employs over 40,000 security professionals worldwide, including over 25,000 personnel throughout the United States and Canada. The firm has built a strong reputation supporting complex public sector and transportation operations and currently provides security services for several major transit agencies across the country, including the Los Angeles County Metropolitan Transportation Authority, San Diego Metropolitan Transit System, Orange County Transportation Authority, and Dallas Area Rapid Transit.

DBE/SBE PARTICIPATION

A Small Business Enterprise (SBE) goal of 12% was established for this solicitation. Inter-Con is utilizing Diligence Security, an SBE-certified private security company to provide security guard and security consulting services for 12% of the total contract.

ALTERNATIVES CONSIDERED

The Board could opt to not authorize LBT to enter into a contract with Inter-Con Security. However, staff does not recommend this option, as security guard services assist LBT in improving safety and service quality, which is one of LBT's Strategic Priorities.

BUDGETARY/FISCAL IMPACT

LBT included funds for year one of this contract in the previously approved Fiscal Year 2027 operating budget.

LBT will include funding for future contract years in the corresponding annual operating budgets.

STAFF RECOMMENDATION

Staff is requesting LBT's Board of Directors to authorize the President and CEO to enter into a three-year contract with Inter-Con Security, for the provision of Security Officer and Transit Ambassador services at a cost of $5,971,354 with two, one-year options at $2,155,407 for Option Year One and $2,167,659 for Option Year Two with an 8% contingency of $823,554, for a total authorization amount not to exceed $11,117,974.

_____

Kenneth A. McDonald
President and Chief Executive Officer

RECOMMENDED ACTION

To adopt a resolution authorizing the President and CEO to file funding applications for Fiscal Year 2027 subsidies under Article IV of the Transportation Development Act (TDA) and the State Transit Assistance (STA) programs.

STAFF REPRESENTATIVE

Jenifer Maxwel, Manager, Capital Programs

BACKGROUND

Long Beach Transit (LBT) is eligible to receive funding from Article IV of the Transportation Development Act (TDA) and the State Transit Assistance programs, STA and Senate Bill 1 (SB 1) STA. Funds are allocated to transit agencies on a formula basis and may be spent on operating and capital projects. Applications to claim these funds must be filed with the Los Angeles County Metropolitan Transportation Authority (Metro), as the agency serves as the Regional Transportation Planning Agency (RTPA) for Los Angeles County. The TDA allocation also includes funds allocated to the California Transit Training Consortium (CTTC) through LBT.

ALTERNATIVES CONSIDERED

LBT considered other funding sources other than TDA, STA, and SB 1 STA programs. Staff concluded that reliable local, state, and regional funding is necessary to support a portion of the planned Fiscal Year (FY) 2027 operating budget. If LBT does not apply for these funds, the FY 2027 operating budget would be substantially impacted.

BUDGETARY/FISCAL IMPACT

These funds will support LBT's Fiscal Year 2027 budget previously approved by the Board at the May 28, 2026, Board of Directors meeting. In FY 2027, LBT is eligible to receive $36,520,443 and will use these funds to support daily operations. Below are the amounts and sources of the subsidies included in the FY 2027 budget.

TDA Article IV	$29,346,585
STA	4,093,114
SB 1 STA	3,080,744
Total	**$36,520,443**

STAFF RECOMMENDATION

Staff is requesting LBT's Board of Directors adopt a resolution authorizing the President and CEO to file funding applications for Fiscal Year 2027 subsidies under Article IV of the Transportation Development Act and the State Transit Assistance programs, totaling $36,520,443.

Kenneth A. McDonald
President and Chief Executive Officer

Attachment

RESOLUTION OF LONG BEACH TRANSIT

Resolution authorizing the filing of Local Transportation Funds (LTF) Article 4, Public Utilities Code (PUC) Section 99260 (a); State Transit Assistance Funds (STAF) Article 6.5 PUC Section 99315 under the Transportation Development Act (TDA); and PUC Section 99314 with the Los Angeles County Metropolitan Transportation Authority (Metro).

WHEREAS, Metro has been designated to disburse TDA, STA, and SB1 Funds; and

WHEREAS, the TDA, STA, and SB1 funds claim request will impose certain obligations upon the application and may require the applicant to abide by standards of assurances now in effect.

THEREFORE, BE IT RESOLVED by the Board of Directors of Long Beach Transit (LBT):

1. That the President and CEO or their designee is authorized to file the TDA Claim for LTF Article 4, PUC Section 99260 (a) and STAF Article 6.5 PUC Section 99315, and Section 99314 on behalf of LBT with Metro.

2. That the President and CEO is authorized to file the TDA Claim and Standard Assurances for LTF and STAF.

CERTIFICATION
The undersigned duly appointed Chair certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the LBT Board of Directors held on July 23, 2026.

_____ _____

Abigail Mejia
Chair, Board of Directors

Date

INFORMATION ITEM

World Cup 2026 Games Service Delivery Update

STAFF REPRESENTATIVE

Kimberly Yu, Deputy Chief Executive Officer

BACKGROUND

As a follow up request from the Board of Directors on May 28, 2026, this report provides an overview of Long Beach Transit's (LBT) World Cup operations, including the services delivered, operational performance, customer outcomes and key lessons learned that will strengthen the agency's planning and readiness for future international mega events, including the LA28 Olympic and Paralympic Games.

As way of background, LBT was one of the 14 Regional Transit Providers (RTP) in Southern California delivering transit service for the World Cup 2026 matches in Inglewood, California (See Table A). LBT transported a total of 7,488 customers to and from SoFi Stadium for all eight matches (referred as the Los Angeles Stadium during the World Cup). A total breakdown of ridership per match is included in Table B, demonstrating the critical role public transportation played in moving fans safely and efficiently throughout the tournament.

Table A: World Cup Games Enhanced Transit Service (WCGETS) Providers

Regional Transit Providers	
Access Services (ADA)	Santa Monica – Big Blue Bus
Culver City Transit	Riverside Transit Agency
Foothill Transit	Montebello Bus Lines
Norwalk Transit System	Long Beach Transit
OmniTrans	Orange County Transportation Authority (OCTA)
Metrolink	Torrance Transit
City of Gardena - GTrans	Los Angeles County Metropolitan Transportation Authority (Metro)

Table B: World Cup Match Details and Ridership

Date	Match	Time (PT)	Total Ridership
Friday, June 12, 2026	USA vs. Paraguay	6:00 PM	766
Monday, June 15, 2026	IR Iran vs. New Zealand	6:00 PM	868
Thursday, June 18, 2026	Switzerland vs. Bosnia and Herzegovina	12:00 PM	912
Sunday, June 21, 2026	Belgium vs. IR Iran	12:00 PM	1,108
Thursday, June 25, 2026	USA vs. Turkiye (Turkey)	7:00 PM	1,158
Sunday, June 28, 2026	South Africa vs. Canada	12:00 PM	1,092
Thursday, July 2, 2026	Spain vs Austria	12:00 PM	972
Friday, July 10, 2026	Spain vs Belgium	12:00 PM	612
		TOTAL	7,488

Operations

As discussed at the May 2026 Board meeting, LBT's service originated from Downtown Long Beach, where customers had convenient access to transit connections and nearby parking facilities, and connected directly to the designated Regional Transit Provider drop-off location adjacent to Los Angeles Stadium.

LBT deployed a dedicated fleet of buses for each match (15 buses and 3 spare buses), supported by spare vehicles and operational staff to ensure reliable service, maintain schedule flexibility, and respond to changing customer demand throughout the tournament.

Event-branded buses provided a consistent visual identity while enhanced cleaning and maintenance activities ensured vehicles remained in excellent condition throughout the tournament.

Maintenance personnel worked in close coordination with the Operations Control Center to monitor vehicle performance, radio communications, and real-time fleet operations. Dedicated mechanics and utility staff were strategically assigned to support the shuttle operation, allowing maintenance issues to be addressed promptly and minimizing service disruptions. Spare buses were available throughout each event to maintain service reliability and operational continuity.

In addition, customers benefited from an affordable fare ($1.75 one way), multiple contactless payment options, and an all-seated service designed to maximize comfort and safety.

Communications

LBT deployed coordinated messaging across social media platforms, real-time customer alerts, a dedicated World Cup webpage, and targeted digital advertising. These efforts were complemented by print and community outreach materials, including advertisements, hotel visitor information, business window clings, community newsletters, and multilingual flyers distributed throughout Long Beach.

Customer communications focused on schedules, pick-up and drop-off locations, fares, accessibility, and travel planning. Working in partnership with the City of Long Beach, Metro, and other regional partners, LBT maintained consistent messaging across agencies. On each match day, LBT employee volunteers provided on-site customer assistance, supporting wayfinding, answering questions, and helping customers navigate the boarding process to ensure a welcoming and seamless experience.

Security

Long Beach Transit successfully implemented a coordinated security program that provided a safe and secure environment for customers and employees throughout the tournament. Long Beach Police Department Transit Enforcement Detail officers, Transit Ambassadors, and LBT personnel maintained a visible presence at shuttle boarding locations, assisting customers while supporting orderly boarding operations and reinforcing public safety.

The agency executed its Security Incident Response Plan in coordination with operations staff and regional partners, maintaining situational awareness, established communication protocols, and operational readiness throughout each match. This coordinated approach contributed to a safe, secure, and reliable transportation experience for customers.

Lessons Learned

Operations

LBT's event-based service saw strong ridership, with the prepared bus deployment meeting overall demand despite traffic-related delays. Unauthorized vehicle activity (i.e., Waymo's, party buses, etc.) and rideshare interference highlighted the need for protected bus lanes, clearer right-of-way controls, and strengthened coordination with Metro and other partners. Safety performance remained strong, supported by effective incident-reporting protocols. Ongoing collaboration and targeted operational enhancements will be essential to improving reliability and supporting future innovation for LA28.
Throughout the tournament, LBT identified opportunities to strengthen coordination with Metro's fare collection operations. Intermittent TAP connectivity issues and delays in the delivery of

Metro-provided fare collection equipment required staff to implement operational workarounds to maintain uninterrupted customer service. These experiences underscored the importance of earlier equipment deployment, enhanced system reliability, and clearly defined contingency procedures between Metro and the Regional Transit Providers to support seamless fare collection during future large-scale events.

Security

Parking, traffic management, and event operations were successfully supported through close coordination with the Long Beach Police Department, Transit Ambassadors, and operational staff. These collaborative efforts helped maintain customer access, manage pedestrian activity, and support safe and efficient event operations throughout the tournament. The experience also identified opportunities to further enhance future operations by implementing restricted parking signage earlier, improving coordination of wayfinding personnel, reducing tow response times, and strengthening communication regarding parking enforcement activities.

Safety and security operations were managed effectively, with incidents resolved quickly through established coordination among operations, security personnel, and regional partners. Lessons learned from the event will further strengthen incident response protocols, reporting processes, and frontline support, enhancing Long Beach Transit's preparedness for future large-scale events, including the LA28 Olympic and Paralympic Games.

Communications

Customer satisfaction remained exceptionally high throughout the tournament, reflecting the success of Long Beach Transit's customer service and outreach efforts. The event also identified opportunities to further enhance the customer experience by expanding wayfinding resources, utilizing more durable signage for extended deployments, standardizing customer survey methodologies across partner agencies, and strengthening regional data collection practices to improve performance reporting and future decision-making. Public feedback toward LBT's World Cup service was overwhelmingly positive, and additional opportunities exist to showcase these accomplishments through broader communications and post-event recognition.

STAFF RECOMMENDATION

Not Applicable. Information Item.

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Kenneth A. McDonald
President and Chief Executive Officer

INFORMATION ITEM

Transit Gallery Improvement Project Update

STAFF REPRESENTATIVE

Kim Le, Manager, Transit Customer Amenities

BACKGROUND

The Transit Gallery, located on First Street between Pine Avenue and Long Beach Boulevard in downtown Long Beach, serves as Long Beach Transit's (LBT) primary transit hub. The facility consists of eight bus shelter bays labeled A to H and serves LBT's major routes, while also providing connections to regional transit providers. As one of the agency's busiest customer transfer locations, the Transit Gallery plays a critical role in supporting safe, accessible, and efficient customer connections.

At the January 22, 2026 meeting, the Board of Directors approved a contract with Burns Engineering, Inc. to provide Architectural and Engineering (A&E) design services for the Transit Gallery Improvement Project. The project is intended to modernize the Transit Gallery by enhancing customer wayfinding, improving lighting, increasing visibility, and upgrading the overall customer experience through improved amenities and digital technologies. The project is currently in the design phase, with design completion anticipated in Fall 2026 and construction expected to be completed in late 2027.

As part of the design process, Burns Engineering developed several preliminary design concepts for the Transit Gallery. Through collaboration with LBT staff and executive leadership, those concepts were evaluated and refined into two preferred design alternatives that best align with the project's objectives. To help inform the selection of a preferred design concept, Long Beach Transit initiated a public outreach effort to gather customer and community feedback on the proposed improvements.

To support community engagement, Long Beach Transit launched a dedicated Transit Gallery project webpage on June 30, 2026, featuring renderings of both design concepts and an online survey inviting customers and stakeholders to provide input. The outreach effort was further supported through Long Beach Transit's social media channels to increase awareness and encourage participation. In addition, informational posters containing QR codes linking directly to the project webpage and survey were installed throughout the Transit Gallery at each of the eight bus shelter bays, providing customers with easy access to the survey while using the facility. The public outreach period concluded on July 21, 2026.

The two design concepts previously shared with the Board on June 3, 2026, are included as an attachment to this report for reference. The concepts incorporate enhancements intended to improve the customer experience through upgraded digital passenger information displays,

improved wayfinding, enhanced lighting, expanded customer information, and opportunities for community messaging and public art. While each concept presents a unique architectural approach, both are designed to improve navigation, visibility, accessibility, and the overall functionality of the Transit Gallery.

The next phase of the project includes evaluating public feedback and refining the preferred design concept. Burns Engineering will then continue advancing the selected concept through detailed design, engineering, and permitting, with design completion anticipated in Fall 2026. Staff expects to return to the Board in early 2027 with a recommendation to award a construction contract.

STAFF RECOMMENDATION

Not Applicable. Information Item.

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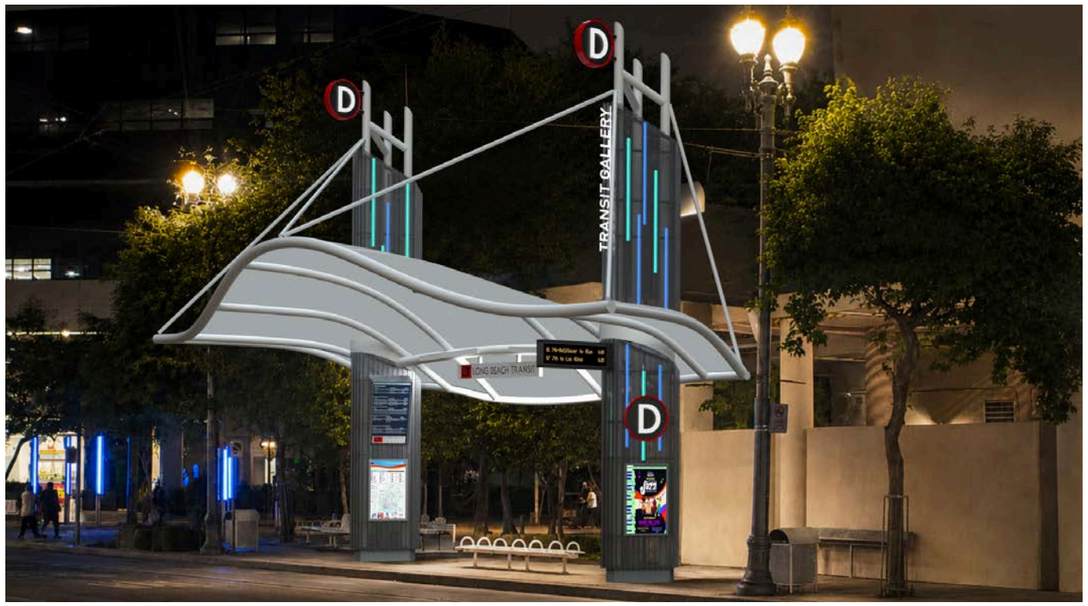
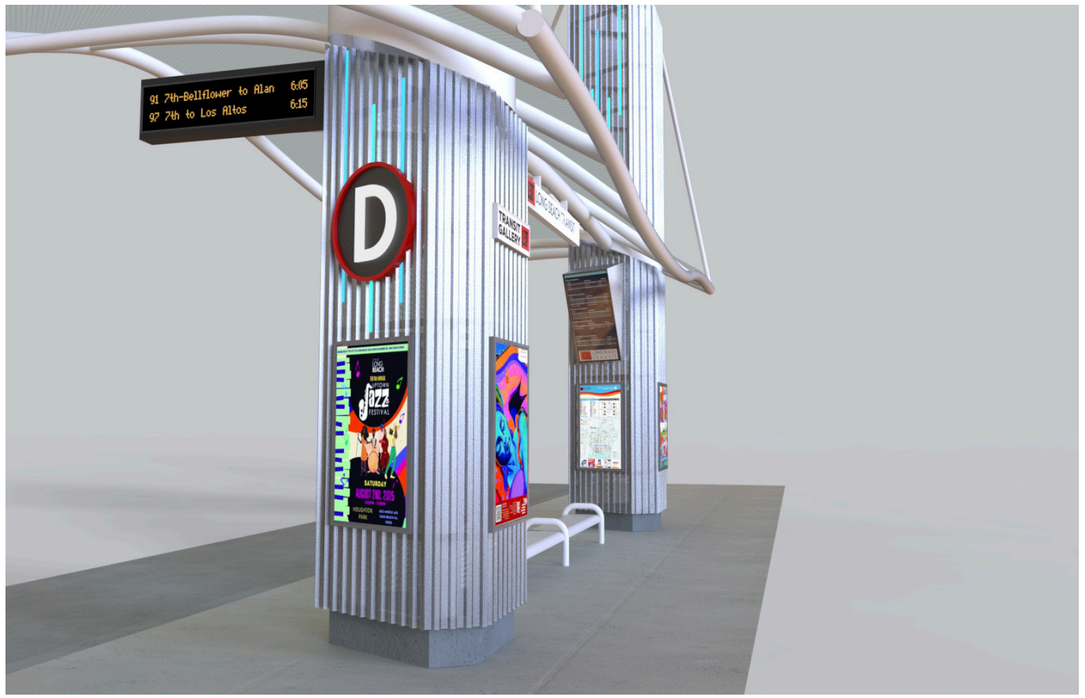
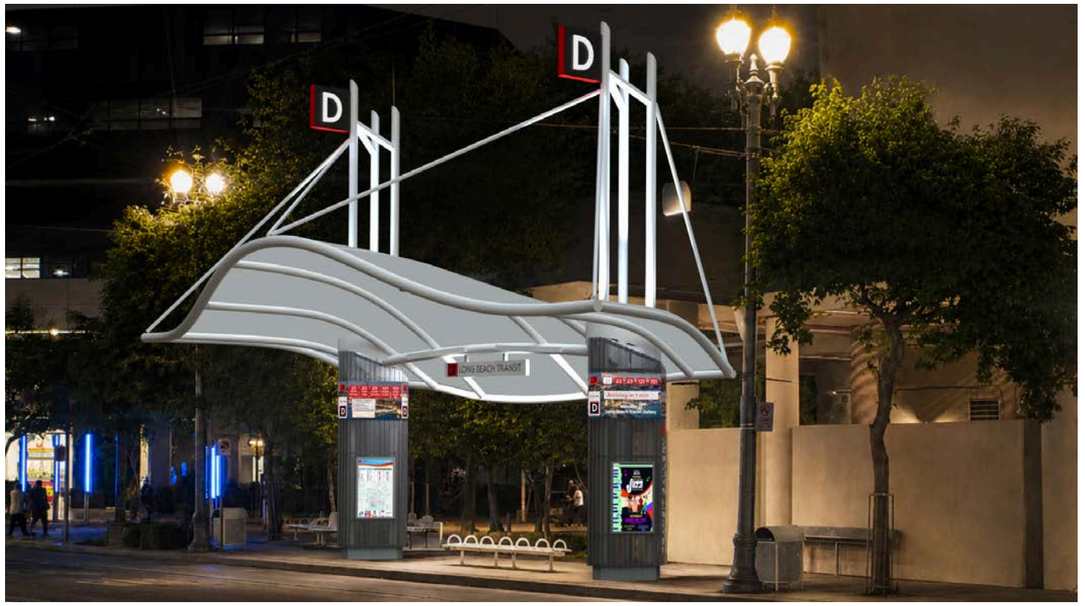
Kenneth A. McDonald
President and Chief Executive Officer

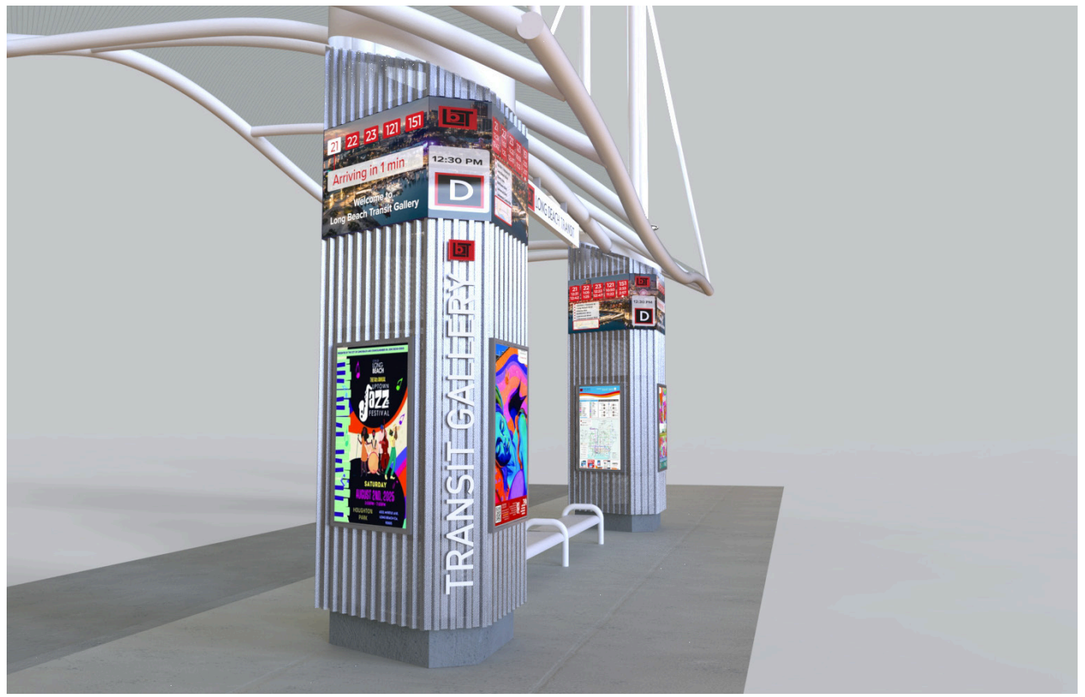
Attachment





Design Option 1





Design Option 2



TRANSIT GALLERY VIEW 1



TRANSIT GALLERY VIEW 2


TRANSIT GALLERY
LONG BEACH TRANSIT
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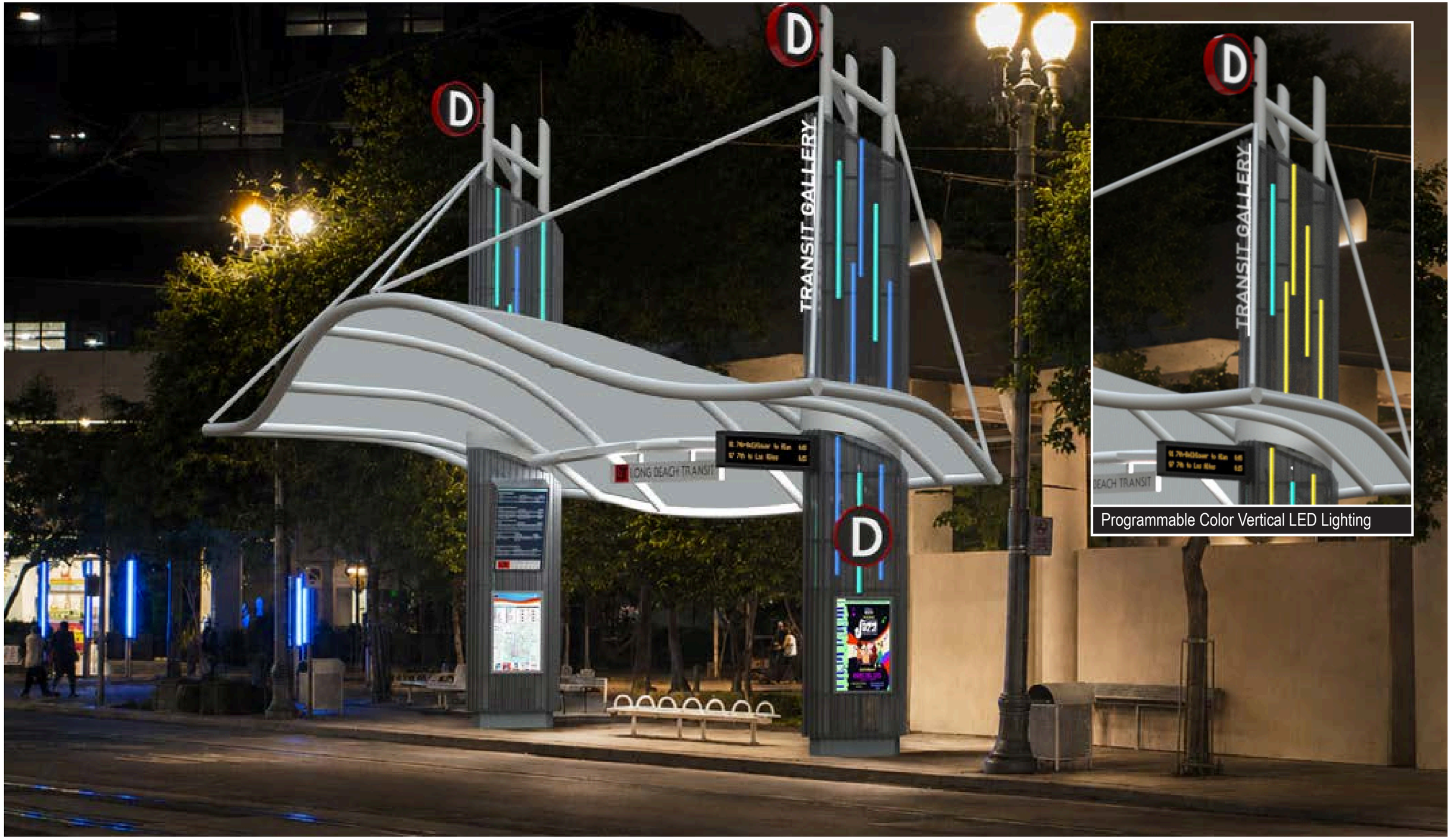
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TRANSIT GALLERY
LONG BEACH TRANSIT
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TRANSIT GALLERY
Programmable Color Vertical LED Lighting



TRANSIT GALLERY VIEW 1



TRANSIT GALLERY VIEW 2


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LONG BEACH TRANSIT
THE FUTURE IS TRANSIT
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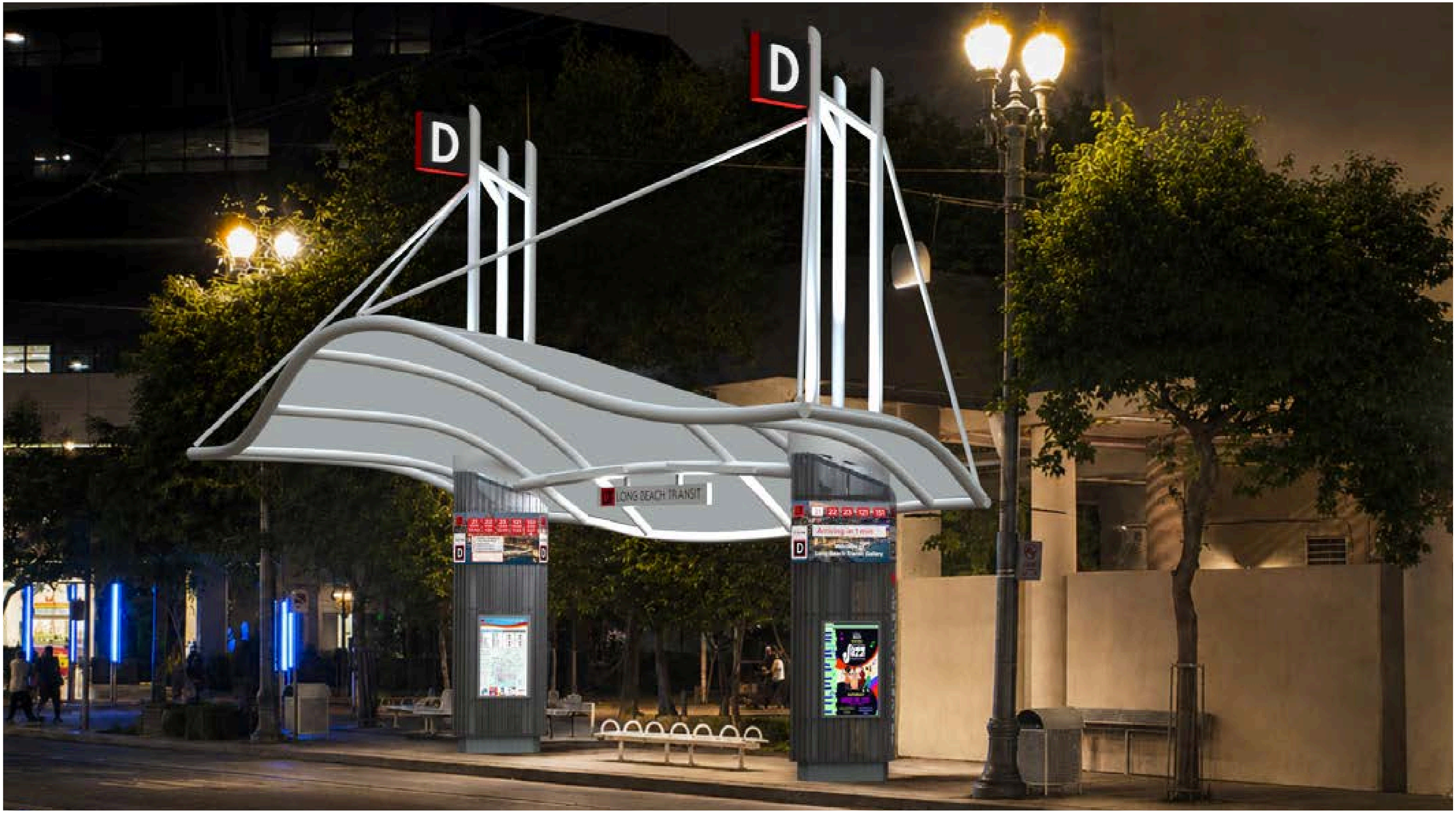
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LONG BEACH TRANSIT

INFORMATION ITEM

Long Beach Transit's Vendor Programs and Local Vendor Engagement

STAFF REPRESENTATIVE

Joanna Bould, Manager, Procurement

BACKGROUND

Long Beach Transit (LBT) is committed to conducting procurement activities that are fair, transparent, competitive, and compliant with all applicable federal, state and local requirements. As a recipient of Federal Transit Administration (FTA) funding, LBT administers its procurement programs within a regulatory framework that differs from other local public agencies. These requirements influence how the agency structures its procurement programs and expands opportunities for qualified businesses to compete for contracting opportunities.

To support participation by businesses of varying sizes and backgrounds, LBT administers several complementary initiatives, including the Small Business Enterprise (SBE) Program, participation in the Federal Disadvantaged Business Enterprise (DBE) Program, and the Local Vendor Outreach Initiative (LVOI). Together, these initiatives promote competition, broaden vendor participation, and strengthen relationships with the regional business community while maintaining compliance with applicable procurement requirements.

Regulatory Framework

As a recipient of federal transit funding, LBT must comply with U.S. Department of Transportation regulations, including 49 CFR Part 26, 2 CFR Part 200, and FTA Circular 4220.1G. These regulations establish the framework within which LBT administers its procurement programs and generally prohibit geographic preferences in federally funded procurements except in limited circumstances authorized by federal law.

Additionally, California Proposition 209 prohibits public agencies from granting preferences based on race, sex, ethnicity, or national origin.

Together, these federal and state requirements establish the regulatory framework that governs LBT's procurement programs. Rather than relying on local preference programs, LBT emphasizes outreach, education, and vendor engagement strategies that expand awareness of contracting opportunities while maintaining full compliance with applicable laws and regulations.

Vendor Programs

LBT administers both a race-neutral Small Business Enterprise (SBE) Program and, when authorized under federal regulations, the Federal Disadvantaged Business Enterprise (DBE) Program.

The SBE Program applies to state- and locally funded procurements and encourages participation by businesses that meet U.S. Small Business Administration (SBA) size standards. Although LBT does not issue SBE certifications, the agency recognizes qualifying third-party certifications that utilize SBA size standards, allowing a broad range of certified small businesses to participate in LBT procurements.

The DBE Program applies to federally funded procurements and is administered in accordance with U.S. Department of Transportation regulations contained in 49 CFR Part 26. A DBE must first qualify as a small business under SBA size standards and must also meet additional federal eligibility requirements demonstrating social and economic disadvantage. When the program is active, the Regulatory Compliance and Civil Rights Department establishes project-specific DBE participation goals for federally funded procurements and develops an overall agency-wide DBE goal every three years. Project goals are incorporated into solicitation documents, and bidders must either meet the established goal or demonstrate that they made good faith efforts to do so.

LBT does not certify DBE firms. Instead, certification is administered statewide through the California Unified Certification Program (CUCP), which utilizes designated certifying agencies to ensure consistent application of federal certification standards throughout California. LBT recognizes DBE certifications issued by any authorized CUCP certifying agency.

Current Status of the Federal DBE Program

In October 2025, the U.S. Department of Transportation issued an Interim Final Rule (IFR) revising the federal DBE certification process. As a result, the federal government temporarily paused the DBE Program while certified firms are reevaluated under the revised eligibility requirements. A copy of the U.S. Department of Transportation's Interim Final Rule (IFR) is included as an attachment for reference.

Until the California Unified Certification Program completes the required statewide recertification process, LBT cannot establish DBE participation goals, count DBE participation toward contract goals, or require DBE participation as part of federally funded procurements.

Although the federal DBE Program is temporarily paused, LBT continues to administer procurements in compliance with all applicable federal requirements and remains prepared to resume full implementation of the DBE Program once the statewide recertification process has been completed.

Local Vendor Outreach Initiative

Recognizing the importance of expanding opportunities for local businesses, Procurement launched the Local Vendor Outreach Initiative (LVOI) in July 2024. The initiative was established to strengthen engagement with local businesses, increase awareness of LBT

contracting opportunities, and identify opportunities to increase procurement spending within Los Angeles County.

The initiative includes proactive market research, targeted outreach and site visits, promotion of upcoming contracting opportunities, participation in outreach events, and collaboration with regional public agencies. These efforts are intended to broaden participation, expand the agency's supplier base, and encourage greater competition while remaining fully compliant with applicable procurement requirements.

Since implementation of the initiative, Procurement has achieved measurable results by increasing local spending, expanding the number of qualified vendors doing business with LBT, strengthening partnerships with regional public agencies, and increasing participation in business outreach events throughout Southern California.

STAFF RECOMMENDATION

Not Applicable. Information Item.

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Kenneth A. McDonald
President and Chief Executive Officer

Attachment

Rules and Regulations

Federal Register
Vol. 90, No. 190
Friday, October 3, 2025

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 107

[Docket No. FAA–2025–0412]

Accepted Means of Compliance for Small Unmanned (sUA) Aircraft Category 2 and Category 3 Operations Over Human Beings; Aerial Vehicle Safety Solutions Inc. (AVSS)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notification of availability.

SUMMARY: This document announces the acceptance of a means of compliance with FAA regulations for sUA Category 2 and Category 3 operations over human beings. The Administrator finds that AVSS's ''Means of Compliance with §§ 107.120(a) and 107.130(a) for Small Unmanned Aircraft,'' revision 6, dated January 7, 2025, provides an acceptable means, but not the only means, of showing compliance with FAA regulations.

DATES: The means of compliance is accepted effective October 3, 2025.

FOR FURTHER INFORMATION CONTACT:

FAA Contact: Kimberly Luu, Cabin Safety Section, AIR–624, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3414; email *Kimberly.H.Luu@faa.gov.*

AVSS Contact: Josh Ogden, CEO, AVSS, 570 Queen Street, Suite 600, Fredericton, New Brunswick, E3B–6Z6, Canada, +1 (650) 741–1326; *Info@avss.co.*

SUPPLEMENTARY INFORMATION:

Background

Title 14, Code of Federal Regulations, part 107, subpart D, prescribes the eligibility and operating requirements for civil sUA to operate over human beings in the United States. To be eligible for use, the sUA must meet the requirements of § 107.120(a) for Category 2 operations or § 107.130(a) for Category 3 operations. These sections require the sUA to be designed, produced, or modified such that it will not cause injury to a human being above a specified severity limit, does not contain any exposed rotating parts that would lacerate human skin, and does not contain any safety defects. Section 107.155 requires that means of compliance with § 107.120(a) or § 107.130(a) be established and FAA-accepted. Section 107.160 requires an applicant to declare that sUA for Category 2 or Category 3 operations meet an FAA-accepted means of compliance.

Means of Compliance Accepted

This notification of availability serves as a formal acceptance by the FAA of the AVSS's ''Means of Compliance with §§ 107.120(a) and 107.130(a) for Small Unmanned Aircraft,'' revision 6, as an acceptable means of compliance, but not the only means of compliance with §§ 107.120(a) and 107.130(a). Applicants may also propose alternative means of compliance for FAA review and possible acceptance.

Revisions

Revisions to AVSS's ''Means of Compliance (MOC) with §§ 107.120(a) and 107.130(a) for Small Unmanned Aircraft (sUA),'' revision 6, will not be automatically accepted and will require further FAA acceptance for any revisions to be considered an accepted means of compliance.

Issued in Kansas City, Missouri, on September 30, 2025.

Patrick R. Mullen,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2025–19435 Filed 10–2–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Parts 23 and 26

[Docket No. DOT–OST–2025–0897]

RIN 2105–AF33

Disadvantaged Business Enterprise Program and Disadvantaged Business Enterprise in Airport Concessions Program Implementation Modifications

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

ACTION: Interim final rule.

SUMMARY: This interim final rule (IFR) ensures that the U.S. Department of Transportation (DOT or Department) operates its Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) Programs (collectively, Programs) in a nondiscriminatory fashion—in line with law and the U.S. Constitution. The IFR removes race- and sex-based presumptions of social and economic disadvantage that violate the U.S. Constitution.

DATES: This IFR is effective October 3, 2025. Comments must be received on or before November 3, 2025. To the extent practicable, DOT will consider late-filed comments.

ADDRESSES: You may submit comments identified by the docket number DOT–OST–2025–0897 by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name, docket name, and docket number DOT–OST–2025–0897 or Regulatory Identifier Number

(RIN) 2105–AF33 for this rulemaking. DOT solicits comments from the public to inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20950, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA; 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this IFR contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this IFR, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' Submissions containing CBI should be sent to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below. Any commentary that OST receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Electronic Access and Filing

A copy of the IFR, all comments received, and all background material may be viewed online at *http://www.regulations.gov.* Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *http://www.ofr.gov* and the Government Publishing Office's website at *http://www.gpo.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Constantine, Office of the General Counsel, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590 at (202) 658–9670 or *peter.constantine@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Spanning nearly 40 years, the Department's DBE and ACDBE programs are small business initiatives intended to level the playing field for businesses seeking to participate in federally assisted contracts and in airport concessions. Rooted in a desire to give small businesses a fair shake in the process, the Programs must balance a desire to help the small business community with an overriding government obligation to serve the public. The government must undertake all these efforts consistent with law—including constitutional nondiscrimination requirements that establish the conditions for national harmony and unity. This IFR advances the administration's goals of nondiscrimination, fairness, and excellence in serving the American public.

Although the Programs aim to assist small businesses owned and controlled by ''socially and economically disadvantaged individuals,'' Congress has mandated by statute that DOT treat certain individuals—women and members of certain racial and ethnic groups—as ''presumed'' to be disadvantaged.[1] Other individuals do not benefit from that statutory presumption. This means that two similarly situated small business owners may face different standards for entering the program, based solely on their race, ethnicity, or sex.

On September 23, 2024, the U.S. District Court for the Eastern District of Kentucky determined that the DBE program's statutory race- and sex-based presumptions likely do not comply with the Constitution's promise of equal protection under the law.[2] The Court held that the Government may only use a racial classification to ''further a compelling government interest'' and may only use race in a ''narrowly tailored fashion.'' It held that although courts have identified a compelling government interest in ''remediating specific, identified instance[s] of past discrimination that violated the constitution or a statute,'' the Government did not present evidence of such discrimination by DOT against each of the groups covered by the DBE program's presumptions. The Court held, moreover, that the presumptions were not narrowly tailored because Congress used an unexplained ''scattershot'' approach in identifying the covered groups, and because the presumptions had no ''logical end point.'' The Court also held that the sex-based presumptions failed heightened scrutiny. Accordingly, the Court issued a preliminary injunction that prohibits DOT from mandating the use of presumptions with respect to contracts on which the two plaintiff entities bid. DOT has implemented the injunction by requiring funding recipients to remove DBE contract goals from any contracts on which the plaintiffs intend to bid.

On January 20, 2025, the President issued Executive Order 14151, *Ending Radical and Wasteful Government DEI Programs and Preferencing,* which affirmed that ''Americans deserve a government committed to serving every person with equal dignity and respect'' and directed agencies to recommend actions to align their programs and activities with this policy. On January 21, 2025, the President issued Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity,* which ordered agencies to ''terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements.''

On March 21, 2025, the Attorney General issued a memorandum to all Federal agencies on implementing these Executive Orders.[3] The Attorney General noted that ''federal policies that give preference to job applicants, employees, or contractors based on race or sex trigger heightened scrutiny under the Constitution's equal protection guarantees and can only survive in rare circumstances.'' The Attorney General directed all Federal agencies immediately to ''[d]iscontinue any policies that establish numerical goals, targets, or quotas based on race or sex,'' and to ''[r]emove any contracting or

[1] Congress has provided that: (1) ''women shall be presumed to be socially and economically disadvantaged individuals''; and (2) the term ''socially and economically disadvantaged individuals'' should otherwise be given the meaning given by section 8(d) of the Small Business Act and its implementing regulations. *See* Infrastructure Investment and Jobs Act, Public Law 117–58, 11101(e)(2) (B) (2021) (DBE program for highway and transit funding); 49 U.S.C. 47107(e)(1) (ACDBE program); 49 U.S.C. 47113(a)(2) (DBE program for airport funding). Section 8(d) of the Small Business Act and its implementing regulations create a rebuttable presumption that ''Black Americans,'' ''Hispanic Americans,'' ''Native Americans,'' ''Asian Pacific Americans,'' and ''Subcontinent Asian Americans'' are disadvantaged. *See* 15 U.S.C. 637(d)(3); 13 CFR 124.103(b)(1).

[2] *Mid-America Milling Co.* v. *U.S. Dep't of Transp.,* No. 3:23–cv–00072, 2024 WL 4267183 (Sept. 23, 2024).

[3] Memorandum from the Attorney General for All Federal Agencies, *Implementation of Executive Orders 14151 and 14173; Eliminating Unlawful DEI Programs in Federal Operations* (March 21, 2025), available at *https://www.justice.gov/ag/media/1409556/dl?inline.*

funding requirement or guidance that induces, requires, or encourages private parties to adopt discriminatory practices.''

On February 19, 2025, the President issued Executive Order 14219, *Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency'' Deregulatory Initiative,* which directed agencies to identify ''unconstitutional regulations and regulations that raise serious constitutional difficulties,'' and to target those regulations for repeal. On April 9, 2025, the President issued a memorandum directing that this effort should prioritize regulations that conflict with certain Supreme Court decisions, including *Students for Fair Admissions, Inc.* v. *Harvard (SFFA).*[4]

In accordance with the directives of the President and the Attorney General, DOT and the U.S. Department of Justice (''DOJ'') have evaluated the DBE and ACDBE programs. DOT and DOJ, consistent with the ruling of the District Court, have determined that the race- and sex-based presumptions of DOT's DBE programs are unconstitutional. In *SFFA,* the Supreme Court held that race-based admissions programs at universities violated the Equal Protection Clause of the Fourteenth Amendment—and, by corollary, Title VI of the Civil Rights Act. In light of *SFFA,* multiple Federal courts have held unlawful the use of presumptions similar to those used in the DBE and ACDBE programs. In *Ultima Serv. Corp.* v. *U.S. Dep't of Ag.,* the Eastern District of Tennessee held that a Small Business Act program violated the equal protection component of the Fifth Amendment's Due Process Clause to the extent that it used the exact same type of race-based presumptions used by the DBE and ACDBE programs.[5] And in *Nuziard* v. *Minority Business Development Agency,* the Northern District of Texas held that a race-based statutory presumption of disadvantage was unconstitutional and that the U.S. Department of Commerce's application of this statutory preference violated the equal protection principle of the Fifth Amendment.[6] As with the presumptions at issue in *Ultima* and *Nuziard,* there is not a strong basis in evidence that the race- and sex-based presumptions used by the DBE and ACDBE programs are necessary to support a compelling governmental interest, and the presumptions are not narrowly tailored. The government has no compelling justification for engaging in overt race or sex discrimination in the awarding of contracts in the absence of clear and individualized evidence that the award is needed to redress the economic effects of actual previous discrimination suffered by the awardee. For these reasons, the presumptions must be disregarded, and the Department's DBE and ACDBE programs must be administered in all other respects in accordance with the law and consistent with the U.S. Constitution.

On May 28, 2025, DOT (represented by DOJ), along with the plaintiffs in the litigation in the U.S. District Court for the Eastern District of Kentucky, asked the Court to enter a Consent Order resolving a constitutional challenge to the DBE program.[7] The motion is currently pending. In the proposed Consent Order, DOT stipulated and agreed that ''the DBE program's use of race- and sex-based presumptions of social and economic disadvantage . . . violates the equal protection component of the Due Process Clause of the Fifth Amendment of the U.S. Constitution.'' The parties asked the Court to declare that ''the use of DBE contract goals in a jurisdiction, where any DBE in that jurisdiction was determined to be eligible based on a race- or sex-based presumption, violates the equal protection component of the Due Process Clause of the Fifth Amendment,'' and to ''hold and declare that [DOT] may not approve any Federal, State, or local DOT-funded projects with DBE contract goals where any DBE in that jurisdiction was determined to be eligible based on a race- or sex-based presumption.''

On June 25, 2025, the Solicitor General wrote to the Speaker of the House, consistent with 28 U.S.C. 530D, to advise the Speaker that DOJ had concluded that the DBE program's presumptions violate the U.S. Constitution, that DOJ would no longer defend the presumptions in court, and that DOJ had taken that position in ongoing litigation.[8] The Solicitor General noted that DOJ ''had previously defended the DBE program's race-and sex-based presumptions by pointing to societal discrimination against minority-owned businesses generally.'' He stated, however, that ''[c]onsistent with *SFFA*'s rejection of a similar justification in the university-admissions context, [DOJ] has determined that an interest in remedying the effects of societal discrimination does not justify the use of race-and sex-based presumptions in the DBE program.'' The Solicitor General also reported that DOJ has determined that ''like the admissions programs at issue in *SFFA,* the DBE program relies on arbitrary, overbroad, and underinclusive racial categories and lacks any logical end point.'' DOT agrees with and adopts the Solicitor General's analysis.

In light of DOT and DOJ's determination that the DBE program's race- and sex-based presumptions are unconstitutional, DOT is issuing this IFR to remove the presumptions from the DBE program regulations set forth in 49 CFR part 26. Because the ACDBE presumptions are functionally identical and suffer the same constitutional infirmity, this IFR also removes the presumptions from the ACDBE regulations set forth in 49 CFR part 23. To ensure a level playing field between existing participants and new applicants, while also eliminating the effects of the unconstitutional presumptions and reliance in whole or in part on claims of disadvantage based on race or sex, this IFR requires each Unified Certification Program (UCP) to reevaluate any currently certified DBE or ACDBE, to recertify any DBE or ACDBE that meets the new certification standards, and to decertify any DBE or ACDBE that does not meet the new certification standards. The IFR includes certain requirements that apply during the pendency of this reevaluation process.

II. Revisions

Part 26

Subpart A—General

1. Objectives (§ 26.1)

The Department amends § 26.1 to clarify the proper objectives of the DBE program. The Department's amendments replace references to the DBE program being ''narrowly tailored'' with an objective intended to ensure that the DBE program operates in a nondiscriminatory manner and without regard to race or sex, while maximizing efficiency of service. These amendments center the DBE program's purpose of leveling the playing field for businesses owned and controlled by socially and economically disadvantaged individuals while providing excellent service to the American people.

2. Definitions (§ 26.5)

The Department changes the definition of ''socially and economically disadvantaged individual'' in § 26.5 to

[4] 600 U.S. 181 (2023).

[5] *Ultima Servs. Corp.* v. *U.S. Dep't of Agric.,* 683 F. Supp. 3d 745 (E.D. Tenn. 2023).

[6] *Nuziard* v. *Minority Bus. Dev. Agency,* 721 F. Supp. 3d 431 (N.D. Tex. 2024).

[7] Joint Motion for Entry of Consent Order, *Mid-America Milling Co.* v. *U.S. Dep't of Transp.,* No. 3:23–cv–00072 (E.D. Ky. May 28, 2025).

[8] Letter from Solicitor General D. John Sauer to Hon. Mike Johnson (June 25, 2025), *https://www.justice.gov/oip/media/1404871/dl?inline.*

remove the race- and sex-based presumptions that DOT and DOJ and have found to violate the Fifth Amendment. Under the revised rule, any individual seeking to demonstrate that he or she is a ''socially and economically disadvantaged individual'' will be required to make the same individualized showing of disadvantage, regardless of the individual's race or sex.

In furtherance of these legal conclusions, the IFR also replaces the terms ''race-neutral'' and ''race-conscious'' in § 26.5 with ''DBE-neutral'' and ''DBE-conscious'' and modifies the definitions slightly for the same reasons.

3. Recordkeeping and Reporting (§ 26.11)

Similarly, the IFR eliminates the requirement in § 26.11(c)(2)(iv) for recipients to obtain bidders list information about the majority owner's race and sex for all DBEs and non-DBEs who bid as prime contractors and subcontractors on each of a recipient's federally assisted contracts, and then renumbers the requirements in current §§ 26.11(c)(v) through (c)(vii) as §§ 26.11(c)(iv) through (c)(vi).

The IFR also eliminates the requirement in § 26.11(e)(1) that recipients report and categorize the percentage of in-State and out-of-State DBE certifications by sex and ethnicity. The IFR also eliminates the requirements in §§ 26.11(e)(5) and (6) that recipients report the number of in-State and out-of-State applications for an ''individualized'' determination of social or economic disadvantage status, and the number of in-State and out-of-State applicants who made an individualized showing of social and economic disadvantaged status. This IFR requires all applicants to demonstrate social and economic disadvantage affirmatively to participate in the DBE program, which renders these reporting requirements unnecessary. The IFR further renumbers the reporting requirements in current §§ 26.11(e)(2) through (e)(4) as §§ 26.11(e)(1) through (e)(3).

Subpart B—Administrative Requirements for DBE Programs for Federally Assisted Contracting

4. Recipient Monitoring Responsibilities (§ 26.37)

For consistency, the IFR replaces the word ''race-neutral'' with ''DBE-neutral'' in § 26.37(b).

5. Fostering Small Business Participation (§ 26.39)

For consistency, the IFR replaces the word ''race-neutral'' with ''DBE-neutral'' in §§ 26.39(b)(1) and (5).

Subpart C—Goals, Good Faith Efforts, and Counting

6. Setting Goals (§ 26.45)

For consistency, the IFR replaces the phrase ''race-neutral DBE program'' with ''DBE-neutral program'' in § 26.45(a)(2).

For consistency, the IFR amends the second sentence of § 26.45(b) to replace the word ''discrimination'' with ''social and economic disadvantage'' so it will read as follows: ''The goal must reflect your determination of the level of DBE participation you would expect absent the effects of social and economic disadvantage.''

For consistency and to ensure recipients establish overall goals that include only DBEs who are ready, willing, and able to compete for and participate in DOT-assisted contracts, the Department amends § 26.45(c)(3) to clarify that any disparity studies utilized by recipients in setting their goals must provide a detailed capacity analysis, including the methodology used. The Department makes the same clarification regarding the use of disparity studies in § 26.45(d)(ii).

For consistency, the IFR amends § 26.45(f)(3) to remove references to race-neutral and race-conscious measures.

The IFR amends § 26.45(g)(1) to remove consultation requirements for minority and women's contractor groups, as well as the language related to posting proposed overall goals in minority-focused media.

The IFR amends § 26.45(h) by removing the existing language, as there will be no opportunity to create group-specific goals now that race and sex have been removed from the regulation. In its place, the IFR adds new language in § 26.45(h) to indicate that a recipient is not required to update its overall goal until its UCP completes the reevaluation process described in § 26.111.

7. Failing To Meet Overall Goals (§ 26.47)

For consistency, the IFR replaces the words ''race-conscious'' and ''race-neutral'' with ''DBE-conscious'' and ''DBE-neutral'' in in § 26.47(c)(4) and § 26.47(d).

The IFR adds § 26.47(e) to provide that until a Unified Certification Program (UCP) completes the reevaluation process described in § 26.111, the compliance provisions of § 26.47 will not apply to any recipient covered by that UCP. This requirement ensures fairness to recipients during the transition period.

8. Means Used To Meet Overall Goals (§ 26.51)

For consistency, the IFR replaces the words ''race-conscious'' and ''race-neutral'' with ''DBE-conscious'' and ''DBE-neutral'' throughout § 26.51 and the corresponding examples.

The IFR adds § 26.51(h) to provide that until a UCP completes the reevaluation process described in § 26.111, a recipient covered by that UCP may not set any contract goals. This provision ensures that existing DBEs do not continue to receive any benefits as a result of their certification under the old standards.

9. Counting DBE Participation Toward Goals (§ 26.55)

The IFR adds § 26.55(i) to provide that until a UCP completes the reevaluation process described in § 26.111, a recipient covered by that UCP may not count any DBE participation toward DBE goals. This provision ensures that existing DBEs do not continue to receive any benefits as a result of their certification under the old standards.

Subpart D—Certification Standards

10. Burden of Proof (§ 26.61)

The IFR eliminates § 26.61(b)(2), which imposed a burden of proof on certifiers with respect to individuals subject to the race- and sex-based presumptions that the IFR eliminates.

11. Social and Economic Disadvantage (§ 26.67)

The IFR revises § 26.67 to implement the removal of unconstitutional race- and sex-based presumptions. The IFR requires all small business concerns to demonstrate social and economic disadvantage based on their own experiences and circumstances without reliance in whole or in part on race or sex.

Subpart F—Compliance and Enforcement

12. Reevaluation Process (§ 26.111)

This IFR adds § 26.111 to require each UCP to reevaluate any currently certified DBE, to recertify any DBE that meets the new certification standards, and to decertify any DBE that does not meet the new certification standards or fails to provide additional information required for submission under the new certification standards. The IFR provides that decertification procedures of 49 CFR 26.87 do not apply to any

decertification decisions under this process. The IFR requires each UCP to complete the reevaluation process as quickly as practicable following issuance of this IFR. The Department will work with each UCP to minimize the practical impact of this rule change during the pendency of the reevaluation process. This reevaluation process will ensure a level playing field between existing participants and new applicants, while also eliminating the effects of the unconstitutional presumptions and reliance on claims of disadvantage based in whole or in part on race or sex. This process does not replace or restrict the Department's ability to conduct a review or take action under Title VI or other applicable law regarding compliance with equal protection principles. A companion provision has been added to part 23 with respect to reevaluation of ACDBEs.

Part 23

Subpart A—General

13. Aligning Part 23 With Part 26 Objectives (§ 23.1)

The IFR amends the program objectives for the ACDBE program in § 23.1 that are similar to the amendments to the DBE program objectives in § 26.1.

14. Definitions (§ 23.3)

The IFR amends the definition of the phrase ''socially and economically disadvantaged individual'' in § 23.3 to conform to the definition of the phrase in § 26.5. In addition, the IFR replaces the terms ''race-conscious'' and ''race-neutral'' with ''ACDBE-conscious'' and ''ACDBE-neutral'' in § 23.3.

Subpart B—ACDBE Programs

15. Measures To Ensure Nondiscrimination Participation of ACDBEs (§ 23.25)

For consistency, the IFR replaces the words ''race-neutral'' and ''race-conscious'' with ''DBE-neutral'' and ''DBE-conscious'' in §§ 23.25(d) and (e).

The IFR adds § 23.25(h) to provide that until a UCP completes the reevaluation process described in § 23.81, a recipient covered by that UCP may not set concession-specific goals or use any of the other methods described in § 23.25(e). This provision ensures that existing ACDBEs do not continue to receive any benefits as a result of their certification under the old standards.

16. Fostering Small Business Participation (§ 23.26)

For consistency, the IFR replaces the words ''race-neutral'' with ''DBE-neutral'' in § 23.26(b)(1).

For consistency, the IFR replaces the words ''minority and women owned'' with ''socially and economically disadvantaged'' in § 23.26(d)(5).

For consistency, the IFR replaces the word ''gender'' with ''sex'' in § 23.26(e).

17. Reporting and Recordkeeping (§ 23.27)

The IFR eliminates the requirement in § 23.27(c)(2)(iv) for recipients to obtain information about the majority owner's race and sex for all ACDBEs and non-ACDBEs who seek to work on each of a recipient's concession opportunities, and then renumbers the requirements in current §§ 23.27(c)(v) through (c)(vii) as §§ 23.27(c)(iv) through (c)(vi). The IFR also eliminates the requirement in § 23.27(d)(1) that recipients report and categorize the percentage of in-State and out-of-State ACDBE certifications by sex and ethnicity. The IFR also eliminates the requirements in §§ 23.27(d)(5) and (6) that recipients report the number of in-State and out-of-State applications for ''individualized'' determinations of social or economic disadvantage status, and the number of in-State and out-of-State applicants who made an individualized showing of social and economic disadvantaged status. This IFR requires all applicants to demonstrate social and economic disadvantage affirmatively to participate in the ACDBE program, which renders these reporting requirements unnecessary. The IFR further renumbers the reporting requirements in current §§ 23.27(d)(2) through (d)(4) as §§ 23.27(d)(1) through (d)(3).

Subpart D—Goals, Good Faith Efforts, and Counting

18. Goal and Consultation Requirements (§§ 23.41, 23.43)

The IFR amends § 23.41(d) by removing the existing language, as there will be no opportunity to create group-specific goals now that race and sex have been removed from the regulation. In its place, the IFR adds new language to indicate that a recipient is not required to update its overall goal until its UCP completes the reevaluation process described in § 23.81.

The IFR amends § 23.43(b) to remove consultation requirements for minority and women's contractor groups, as well as the language related to posting proposed overall goals in minority-focused media.

19. Setting Goals (§ 23.51)

For consistency, the Department amends § 23.51(a) to replace the words ''discrimination and its effects'' with ''social and economic disadvantage.'' For consistency, the IFR replaces the words ''race-neutral'' and ''race-conscious'' with ''ACDBE-neutral'' and ''ACDBE-conscious'' in §§ 23.51(f), (g), and (h), and in § 23.51(d)(5).

For consistency and to ensure recipients establish overall goals that include only DBEs who are ready, willing, and able to compete for and participate in DOT-assisted contracts, the Department amends § 23.51(c)(3) to clarify that any disparity studies utilized by recipients in setting their goals must provide a detailed capacity analysis, including the methodology used.

20. Counting ACDBE Participation During Transition Period (§§ 23.53, 23.55)

The IFR adds § 23.53(g) and § 23.55(m) to provide that until a UCP completes the reevaluation process described in § 23.81, recipients covered by that UCP, and car rental companies operating at airports covered by that UCP, may not count any ACDBE participation toward ACDBE goals. These provisions ensure that existing ACDBEs do not continue to receive any benefits as a result of their certification under the old standards.

21. Failing To Meet Overall Goals (§ 23.57)

For consistency, the IFR replaces the words ''race-conscious'' and ''race-neutral'' with ''DBE-conscious'' and ''DBE-neutral'' in in § 23.57(b)(4) and § 23.57(c).

The IFR adds § 23.57(d) to provide that until a UCP completes the reevaluation process described in § 23.81, the compliance provisions of § 23.57 will not apply to any recipient covered by that UCP. This requirement ensures fairness to recipients during the transition period.

22. Reevaluation Process (§ 23.81)

This IFR adds § 23.81 to require each UCP to reevaluate any currently certified ACDBE, to recertify any ACDBE that meets the new certification standards, and to decertify any DBE that does not meet the new certification standards or fails to provide additional information required for submission under the new certification standards. The IFR provides that decertification procedures of 49 CFR 26.87 do not apply to any decertification decisions under this process. The IFR requires each UCP to complete the reevaluation process as quickly as practicable following issuance of this IFR. The Department will work with each UCP to minimize the practical impact of this rule change during the pendency of the reevaluation process. This reevaluation

process will ensure a level playing field between existing participants and new applicants, while also eliminating the effects of the unconstitutional presumptions and reliance on claims of disadvantage based in whole or in part on race or sex. This process does not replace or restrict the Department's ability to conduct a review or take action under Title VI or other applicable law regarding compliance with equal protection principles. A companion provision has been added to part 26 with respect to reevaluation of DBEs.

III. Public Proceedings

The Administrative Procedure Act generally requires agencies to provide the public with notice of proposed rulemaking and an opportunity to comment prior to publication of a substantive rule. However, 5 U.S.C. 553(b)(B) authorizes agencies to publish a final rule without first seeking public comment on a proposed rule ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' DOT finds that providing advance notice and an opportunity to comment on these regulatory changes pertaining to the DBE and ACDBE programs would be impracticable, unnecessary, and contrary to the public interest. Consistent with the letter authored by the Solicitor General and discussed elsewhere in the preamble,[9] DOT has determined that race- and sex-based presumptions of the DBE and ACDBE programs violate the U.S. Constitution. In the absence of this IFR, however, DOT's own regulations would continue to require funding recipients to apply those very same presumptions. Allowing this confusing and contradictory situation to continue during a notice-and-comment process would be impracticable and contrary to the public interest. Further, notice-and-comment is unnecessary where a regulatory action is required as a matter of law to ensure consistency with rulings of the United States Supreme Court. It is well-established that an agency is not required to continue to enforce a statutory provision that it has found to be unconstitutional.[10] By the same token, an agency is not required to subject the public to unconstitutional requirements. This IFR provides notice of the amendments to the regulations' provisions and invites the public to comment. DOT has determined, however, that it should not delay the effectiveness of the amendments and that it should act immediately to remedy the unconstitutional programs. For the foregoing reasons, the good cause exception in 5 U.S.C. 553(d)(3) also applies to DOT's decision to make this IFR effective upon publication.

IV. Regulatory Analyses and Notices

A. Executive Order: 12866 (''Regulatory Planning and Review''), Executive Order 13563 (''Improving Regulation and Regulatory Review''), and DOT Regulatory Policies and Procedures

The IFR is a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' as supplemented by Executive Order 13563, ''Improving Regulation and Regulatory Review.'' Accordingly, the Office of Management and Budget (OMB) has reviewed it under that Executive Order.

The IFR amends reporting and eligibility requirements for the Department's Airport Concession Disadvantaged Business Enterprises (ACDBE) program and Disadvantaged Business Enterprise (DBE) program. These programs are implemented and overseen by recipients of certain Department funds. The changes to the requirements would affect businesses participating in the programs, recipients of Department funds who oversee the programs, and the Department.

The IFR replaces the race- and sex-based presumptions previously embedded in these programs with a requirement for individualized demonstrations of social and economic disadvantage. The IFR also modifies terminology and data reporting requirements to align with constitutional principles while maintaining the programs' statutory objectives.

Need for Regulatory Revisions

The IFR is being issued pursuant to legal determinations by DOT and DOJ that the race- and sex-based presumptions previously embedded in these programs are unconstitutional. In addition to legal compliance, this action corrects a regulatory failure—namely, reliance on presumptions that no longer withstand judicial scrutiny—by shifting to individualized determinations. The IFR aligns the programs with constitutional mandates.

Costs and Benefits

Costs

While DOT is unable to quantify all the economic costs and benefits of the IFR, the Department has identified both qualitative and quantitative impacts. Several provisions may lead to increased or decreased burdens for applicants, certifying agencies, and recipients related to transitional documentation requirements, the degree of technical rigor in disparity studies, and changes in program reporting. The magnitude of these costs and benefits would depend on the scope of the change; the likelihood of behavior adjustment; and potential legal, administrative, or programmatic effects.

Unquantified Costs

Key provisions of the IFR and their related cost impacts include:

- *Removal of race- and sex-based presumptions.* This provision eliminates presumptive eligibility based on race or sex and requires applicants to submit individualized evidence of social disadvantage, alongside the remaining required showing of economic disadvantage. Although the underlying economic disadvantage documentation (*e.g.,* Personal Net Worth, income verification) was already a component of many applications, the shift to a required narrative or case-specific justification for all applications, as opposed to just those that did not meet the presumption of eligibility, may introduce additional procedural burdens and time costs on some applicants. This may increase the complexity of preparing applications and even potentially deter participation among some eligible small businesses, especially those with limited administrative capacity or legal support. This may also implicate reliance interests for businesses that were previously certified based on presumptive eligibility. However, many eligible small businesses will continue efforts at applying for certification and assume the additional burden to apply because of the benefits to being certified and the potential opportunity it brings outweighs the added burden of the application process. All eligible businesses may apply for and potentially obtain certification under the new certification process, which mitigates any impact on reliance interests. In addition, businesses'

[9] Letter from Solicitor General D. John Sauer to Hon. Mike Johnson (June 25, 2025), *https://www.justice.gov/oip/media/1404871/dl?inline.*

[10] *See In re Aiken County,* 725 F.3d 255, 259 (D.C. Cir. 2013) (Kavanaugh, J.) (''If the President has a constitutional objection to a statutory mandate or prohibition, the President may decline to follow the law unless and until a final Court order dictates otherwise. . . . [This] basic constitutional principle[ ] appl[ies] to the President and subordinate executive agencies.''); Office of Legal Counsel Opinion, *Presidential Authority to Decline to Execute Unconstitutional Statutes,* 18 U.S. Op. Off. Legal Counsel 199 (1994).

reliance interests do not justify continuing to implement presumptions that DOT and DOJ have determined are unconstitutional.

• *Certification burden.* As the burden of production and persuasion shifts away from certifying officials to individual applicants, certifying agencies may experience increased numbers of intake inquiries and clarification requests as applicants navigate the new social disadvantage requirements, or face inconsistent application quality, especially during the transition period. This would require certifying agencies to spend time following up with applicants and guiding them through the application as they go through the re-certification process, which implicates certifying agencies' reliance interests. In the short-term, the increase in workload and support services on certifying agencies may temporarily elevate the demands on the recipients' staff demands or delay determinations, which could at least partially offset any cost savings from shifting this burden to applicants. However, in the long run, it is expected that after the initial review of each applicant, subsequent reviews of applicants will require minimal agency time and will not implicate agencies' reliance interests.

• *Reevaluation of all affected DBEs/ACDBEs.* DBE/ACDBE participants who have previously qualified based in whole or in part on their race or sex will incur additional costs to develop and provide the individualized narrative required by the IFR. In addition, all firms will temporarily lose certifications until the reevaluation process is complete, and some firms may lose the certifications that currently lead to opportunities for them to participate, potentially leading to a loss of business opportunities and implicating firms' reliance interests (though this would be offset by other firms who face increased access to the same opportunities). Additional administrative burdens will also fall on certifiers (UCPs) performing the reevaluations. This could also lead to delays in goal setting and program participation, resulting from the temporary pause in counting DBE participation while the reevaluation process is underway.

• *Clarified disparity study expectations.* The rule requires that disparity studies include detailed capacity analyses, which may necessitate additional economic modeling, data collection, and expert analysis beyond what is standard practice in many jurisdictions. These requirements could increase costs, particularly for large or multi-jurisdictional studies. While such studies are episodic rather than annual, the enhanced methodology could impose non-trivial compliance costs when undertaken.

• *Elimination of race/sex reporting in bidder lists.* The removal of demographic fields from bidder list reporting will reduce the administrative burden of data entry for participants and recipients, though the cost impact would likely be negligible.

• *Terminology changes and redefinitions.* These changes update program language to reflect constitutional terminology but do not alter administrative procedures or eligibility. The impact is purely semantic and is not expected to have any material cost impacts.

Quantified Costs: Information Collection Burden (Paperwork Reduction Act)

In addition to the above qualitative costs, the Department has quantified a portion of the expected compliance burdens as part of its Paperwork Reduction Act (PRA) package of the rule. These burdens represent the time and resources required to prepare, submit, and review program-related information.

Requirement	Estimated cost burden	Timing
Certification narratives (firms)	$91.9 million	One-time.
UCP reevaluations	$3.4 million	One-time.
Interstate certification	$0.46 million	One-time.
Bidders' list reporting	$1.24 million	Annual.
ACDBE annual report	$0.58 million	Annual.
Goal setting (disparity studies)	$0.46 million (annual cost)	Every three years.

These figures reflect fully loaded labor costs consistent with the Bureau of Labor Statistics data and DOT's standard methodology. One-time burdens primarily reflect transaction costs related to individualized certification requirements, while recurring burdens are associated with ongoing reporting and program administration. Overall, the IFR's primary quantified costs are transitional and one-time, totaling approximately $95 million, with recurring annualized burdens of about $1.8 million.

Benefits

With respect to benefits, the IFR will enhance constitutional compliance and reduce risks associated with constitutional litigation. It may also improve public trust by reinforcing fairness in eligibility determinations, which, although not easily quantifiable, represent important benefits from improved program integrity.

B. Executive Order 14192 (''Unleashing Prosperity Through Deregulation'')

This interim final rule is considered an E.O. 14219 deregulatory action because the unquantified cost-savings associated with constitutional compliance outweigh the quantified costs.

C. Executive Order 13132 (''Federalism'')

This IFR has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''), and the rule satisfies the requirements of the Executive Order. While the rule may include provisions that impose substantial direct compliance costs on State and local governments, the Department has determined that consultation with State and local governments prior to promulgation of the rule is not practicable given the urgent need to cure constitutional infirmities with the existing DBE and ACDBE regulations. These changes are required not by statute, but to ensure that the DBE and ACDBE programs do not violate the U.S. Constitution. We seek comment from State and local governments on these burdens during the comment period for this IFR.

D. Executive Order 13175 (''Consultation and Coordination With Indian Tribal Governments'')

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this rulemaking does not significantly or uniquely affect the communities of the Indian Tribal

governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with the base year of 1995). This rulemaking would not result in annual State expenditures exceeding the minimum threshold. The Department has determined that the requirements of the Title II of the Unfunded Mandates Reform Act of 1995 therefore do not apply to this rulemaking.

F. National Environmental Policy Act

The Department has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1D, available at *https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts.* Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). The purpose of this rulemaking is to amend the Department's DBE and ACDBE regulations. Section 9(f) of DOT Order 5610.1D states that a DOT Operating Administration can use the categorical exclusions developed by another Operating Administration. This action is covered by the categorical exclusion listed in the Federal Transit Administration's implementing procedures, ''[p]lanning and administrative activities that do not involve or lead directly to construction, such as: . . . promulgation of rules, regulations, directives . . .'' 23 CFR 771.118(c)(4). In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Whenever an agency is required by 5 U.S.C. 553, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency must conduct and publish for public comment a regulatory flexibility analysis. Because the Department is not required to publish a proposed rulemaking for this action, an analysis under the RFA is not required.

H. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (Pub. L. 104–13, 49 U.S.C. 3501, 3507) requires Federal agencies to obtain approval from the Office of Management and Budget (OMB) before undertaking a new collection of information imposed on ten or more persons, or continuing a collection previously approved by OMB that is set to expire.

This IFR modifies existing collection instruments in both parts 23 and 26. The following is a description of the sections that contain new and modified information collection requirements, along with the estimated hours and cost to fulfill them.

For purposes of estimating the cost burden on recipients, the State government wage rate was taken from the Bureau of Labor and Statistics (BLS) estimate of median wages for employees in the category of ''Eligibility Interviewer in Government Programs'' (OEWS Designation 43–4061). For the purpose of calculating loaded wage rates, these burden estimates assume wages represent 61.9 percent of total compensation, which is consistent with similar loaded wage rate estimates identified by BLS and used by DOT for related purposes. Because wages represent 61.9 percent of total compensation, the appropriate cost multiplier is 1.62 (1/0.619). Accordingly, the wage rate ($25.95) is multiplied by 1.62 to get a fully loaded hourly wage rate of $42.04 to account for the cost of employer-provided benefits.

For purposes of estimating the cost burden on applicant and certified DBE/ACDBE firms, the wage rate was taken from the BLS estimate of median wages for individuals in the category of ''Cross-industry, Private Ownership Only'' (OEWS Designation 00–0001). Using the same loaded wage rate identified above, the wage rate for DBE/ACDBE applicant firms ($69.20) is multiplied by 1.62 to get a fully loaded hourly wage rate of $112.10 to account for the cost of employer-provided benefits. The Department emphasizes that many of these hour and cost burdens are one-time burdens as a result of the change in the DBE certification eligibility requirements. After the initial transition to the new requirements, increases in annual burdens will be modest. For DOT recipients, reporting burdens are expected to decrease as a result of reduced DBE/ACDBE reporting requirements.

i. Reapplication Review for DBE/ACDBE Certification Based on Individualized Showing of Social Disadvantage

To satisfy the social and economic disadvantage (SED) requirement and ensure all determinations of disadvantage are not based in whole or in part on race or sex, an owner must provide the certifier a Personal Narrative (PN) that establishes the existence of disadvantage by a preponderance of the evidence based on individualized proof regarding specific instances of economic hardship, systemic barriers, and denied opportunities that impeded the owner's progress or success in education, employment, or business, including obtaining financing on terms available to similarly situated persons who did not face barriers in obtaining terms.

The PN must state how and to what extent the impediments caused the owner economic harm, including a full description of type and magnitude, and must establish the owner is economically disadvantaged in fact relative to similarly situated non-disadvantaged individuals.

The owner must attach to the PN a current personal net worth (PNW) statement and any other financial information the owner considers relevant. The total annual burden hours below were calculated based on the average of three stakeholder responses ranging from 240–2,000 hours. The total annual cost burden was calculated based on one stakeholder response of $80,000.

In preparing this estimate, DOT estimated a 10 percent decrease in the number of currently certified firms who will submit documentation to maintain their DBE/ACDBE decertification status. DOT also assumed a 50 percent reduction in the total burden hours compared to the pre-existing estimated burden for completing the full Uniform Certification Application (UCA), as firms will be able to use many of their other existing certification documents for resubmission.

Respondents: Firms seeking to maintain their DBE/ACDBE certification.
Estimated Number of Respondents: 41,000.
Frequency: One time per respondent.
Total Annual Burden Hours: 820,000 (one-time burden).
Total Annual Cost Burden: $91,922,000 (one-time burden).

ii. Unified Certification Program (UCP) Reevaluation of Applications for DBE/ACDBE Certification Based on Individualized Showing of Social Disadvantage

UCPs will need to reevaluate DBE/ACDBE applicant firms based on updated submission of application materials, including the PN and PNW statement. This estimate assumes an average burden of two hours to complete a review and make a disposition for each DBE/ACDBE certification application, including notifications to other jurisdictions.
Respondents: UCPs.
Estimated Number of Respondents: 53.
Frequency: One-time reevaluation of 41,000 applicant firms.
Total Annual Burden Hours: 82,000 (one-time burden).
Total Annual Cost Burden: $3,447,280 (one-time cost).

iii. Maintaining and Updating Bidders' Lists

We estimate that recipients will experience a reduced burden to implement 49 CFR 26.11 as a result of eliminating the race- and sex-based reporting requirements for bidders' lists, in addition to eliminating the requirement to report data related to applications for and determinations of individualized social and economic disadvantage.
Respondents: FAA, FHWA, and FTA funding recipients.
Estimated Number of Respondents: 1,639.
Frequency: 3 times per year.
Total Annual Burden Hours: 29,502.
Total Annual Cost Burden: $1,240,264.

iv. ACDBE Annual Report of Percentages of ACDBEs in Various Categories

We estimate that FAA airport recipients will experience a reduced burden to implement 49 CFR 26.11 as a result of eliminating the race- and sex-based reporting requirements for bidders' lists, in addition to eliminating the requirement to report data related to applications for and determinations of individualized social and economic disadvantage.
Respondents: State Departments of Transportation, District of Columbia, U.S. Virgin Islands, and Puerto Rico.
Estimated Number of Respondents: 53.
Frequency: Once per year.
Total Annual Burden Hours: 13,780.
Total Annual Cost Burden: $579,311.

v. Setting Overall Goals for DBE Participation in DOT-Assisted Contracts

The Department estimates a modest increase in burden for setting overall DBE goals as a result of the transition to the new DBE certification requirements and enhanced expectations related to disparity studies used in setting overall goals. These changes may result in increases in the amount of time for recipients to set goals based on the relative availability of certified DBEs.
Respondents: DOT funding recipients.
Estimated Number of Respondents: 1,639.
Frequency: Once every three years.
Total Annual Burden Hours: 10,927.
Total Annual Cost Burden: $459,371.

vi. Providing Evidence of Certification to an Additional State When a Firm Certified in Its Home State Applies to Another State for Certification (Interstate Certification)

The Department estimates a one-time increase in the burden for firms to provide evidence of certification to an additional State when a firm certified in its home State applies to another State for certification.
Respondents: DBE/ACDBE firms applying for interstate certification.
Estimated Number of Respondents: 4,100.
Frequency: Once.
Total Annual Burden Hours: 4,100.
Total Annual Cost Burden: $459,610 (one-time cost).

As noted in the Costs and Benefits section of this analysis, these burden hour and cost estimates have been incorporated into the Department's overall assessment of regulatory costs.

Notwithstanding any other provision of law, no person is required to respond to a collection of information unless that collection displays a valid OMB control number.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DOT will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. This rule does not constitute a major rule as defined in 5 U.S.C. 804(2).

List of Subjects in 49 CFR Parts 23 and 26

Administrative practice and procedure, Airports, Civil rights, Government contracts, Grant programs—transportation, Mass transportation, Minority businesses, Reporting and recordkeeping requirements.

Sean P. Duffy,
Secretary of Transportation.

For the reasons stated in the preamble, the Department of Transportation amends 49 CFR parts 23 and 26 as follows:

PART 23—PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISE IN AIRPORT CONCESSIONS

■ 1. The authority for part 23 continues to read as follows:

Authority: 49 U.S.C. 47107 and 47113; 42 U.S.C. 2000d; 49 U.S.C. 322; E.O. 12138, 44 FR 29637, 3 CFR, 1979 Comp., p. 393.

■ 2. Amend § 23.1 by revising paragraph (c) to read as follows:

§ 23.1 What are the objectives of this part?

* * * * *

(c) To ensure that the Department's ACDBE program operates in a nondiscriminatory manner and without regard to race or sex, while maximizing efficiency of service;

* * * * *

■ 3. Amend § 23.3 as follows:
■ a. Add definitions for ACDBE-conscious and ACDBE-neutral in alphabetical order;
■ b. Remove the definitions of Race-conscious and Race-neutral; and
■ c. Revise the definition of Socially and economically disadvantaged individual.

The additions and revisions read as follows:

§ 23.3 What do the terms used in this part mean?

ACDBE-conscious measure or program is one that is focused specifically on assisting only ACDBEs.

ACDBE-neutral measure or program is one that is, or can be, used to assist all small business concerns.

* * * * *

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who a certifier finds to be socially and economically

disadvantaged on a case-by-case basis. A determination that an individual is socially and economically disadvantaged must not be based in whole or in part on race or sex. For that reason, applicants may qualify as socially and economically disadvantaged only if they can meet the relevant criteria described in § 26.67.

* * * * *

■ 4. Amend § 23.25 as follows:

■ a. Revise the introductory text of paragraphs (d) and (e); and

■ b. Add paragraph (h).

The revisions read as follows:

§ 23.25 What measures must recipients include in their ACDBE programs to ensure nondiscriminatory participation of ACDBEs in concessions?

* * * * *

(d) Your ACDBE program must include ACDBE-neutral measures that you will take. You must maximize the use of ACDBE-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. These are responsibilities that you directly undertake as a recipient, in addition to the efforts that concessionaires make, to obtain ACDBE participation. The following are examples of ACDBE-neutral measures you can implement:

* * * * *

(e) Your ACDBE program must also provide for the use of ACDBE-conscious measures when ACDBE-neutral measures, standing alone, are not projected to be sufficient to meet an overall goal. The following are examples of ACDBE-conscious measures you can implement:

* * * * *

(h) Effective October 3, 2025, you may not use any of the measures described in paragraph (e) of this section until the UCP that covers you has completed the reevaluation process described in § 23.81.

■ 5. Amend § 23.26 by revising paragraphs (b) introductory text, (b)(1), (d)(5), and (e) to read as follows:

§ 23.26 Fostering small business participation.

* * * * *

(b) This element must be submitted to the FAA for approval as a part of your ACDBE program. As part of this program element, you may include, but are not limited to including, the following strategies:

(1) Establish an ACDBE-neutral small business set-aside for certain concession opportunities. Such a strategy would include the rationale for selecting small business set-aside concession opportunities that may include consideration of size and availability of small businesses to operate the concession.

* * * * *

(d) * * *

(5) You will take aggressive steps to encourage those socially and economically disadvantaged firms eligible for ACDBE certification to become certified; and

* * * * *

(e) A State, local, or other program, in which eligibility requires satisfaction of race, sex, or other criteria in addition to business size, may not be used to comply with the requirements of this part.

* * * * *

§ 23.27 [Amended]

■ 6. Amend § 23.27 as follows:

■ a. Remove paragraph (c)(2)(iv);

■ b. Redesignate paragraphs (c)(2)(v), (c)(2)(vi), and (c)(2)(vii) as paragraphs (c)(2)(iv), (c)(2)(v), and (c)(2)(vi), respectively;

■ c. Remove paragraph (d)(1);

■ d. Redesignate subparagraphs (d)(2), (d)(3), and (d)(4) as paragraphs (d)(1), (d)(2), and (d)(3), respectively; and

■ e. Remove paragraphs (d)(5) and (d)(6).

■ 7. Amend § 23.41 by revising paragraph (d) to read as follows:

§ 23.41 What is the basic overall goal requirement for recipients?

* * * * *

(d) Effective October 3, 2025, you are not required to update your overall goals until the UCP that covers you has completed the reevaluation process described in § 23.81.

* * * * *

■ 8. Amend § 23.43 by revising paragraph (b) to read as follows:

§ 23.43 What are the consultation requirements in the development of recipients' overall goals?

* * * * *

(b) Stakeholders with whom you must consult include, but are not limited to, business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged businesses and the recipient's efforts to increase participation of ACDBEs.

* * * * *

■ 9. Amend § 23.45 by revising paragraphs (f), (g), and (h) to read as follows:

§ 23.45 What are the requirements for submitting overall goal information to the FAA?

* * * * *

(f) Your submission must include your projection of the portions of your overall goals you propose to meet through use of ACDBE-neutral and ACDBE-conscious means, respectively, and the basis for making this projection (see § 23.51(d)(5)).

(g) FAA may approve or disapprove the way you calculated your goal, including your ACDBE-neutral/ACDBE-conscious ''split,'' as part of its review of your plan or goal submission. Except as provided in paragraph (h) of this section, the FAA does not approve or disapprove the goal itself (*i.e.,* the number).

(h) If the FAA determines that your goals have not been correctly calculated or the justification is inadequate, the FAA may, after consulting with you, adjust your overall goal or ACDBE-neutral/ACDBE-conscious ''split.'' The adjusted goal represents the FAA's determination of an appropriate overall goal for ACDBE participation in the recipient's concession program, based on relevant data and analysis. The adjusted goal is binding.

* * * * *

■ 10. Amend § 23.51 as follows:

■ a. Revise the introductory text of paragraph (a);

■ b. Revise paragraph (a)(2);

■ c. Revise paragraph (c)(3); and

■ d. Revise paragraph (d)(5).

The revisions read as follows:

§ 23.51 How are a recipient's overall goals expressed and calculated?

(a) Your objective in setting a goal is to estimate the percentage of the base calculated under §§ 23.47 through 23.49 that would be performed by ACDBEs in the absence of social and economic disadvantage and its effects.

* * * * *

(2) In conducting this goal setting process, you are determining the extent, if any, to which the firms in your market area have been impacted by social and economic disadvantage in connection with concession opportunities or related business opportunities.

* * * * *

(c) * * *

(3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study. Any disparity study utilized must

provide a detailed capacity analysis, including the methodology used.

* * * * *

(d) * * *

(5) Among the information you submit with your overall goal (see § 23.45(e)), you must include description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, as well as the adjustments you made to the base figure and the evidence relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and an explanation of how you used that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through ACDBE-neutral and ACDBE-conscious measures, respectively (see §§ 26.51(c) of this chapter).

* * * * *

■ 11. Amend § 23.53 by adding paragraph (g) to read as follows:

§ 23.53 How do car rental companies count ACDBE participation toward their goals?

* * * * *

(g) Effective October 3, 2025, you as a car rental company may not count any ACDBE participation toward the goal that an airport has set for you until the UCP covering that airport has completed the reevaluation process described in part 26, § 23.81

■ 12. Amend § 23.55 by adding paragraph (m) to read as follows:

§ 23.55 How do recipients count ACDBE participation toward goals for items other than car rentals?

* * * * *

(m) Effective October 3, 2025, you may not count any ACDBE participation toward ACDBE goals until the UCP covering you has completed the reevaluation process described in § 23.81.

■ 13. Amend § 23.57 as follows:

■ a. Revise paragraphs (b)(4) and (c); and

■ b. Add paragraph (d).

The revision and addition read as follows:

§ 23.57 What happens if a recipient falls short of meeting its overall goals?

* * * * *

(b) * * *

(4) The FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your ACDBE-neutral/ACDBE-conscious split, or the introduction of additional ACDBE-neutral or ACDBE-conscious measures.

* * * * *

(c) If information coming to the attention of FAA demonstrates that current trends make it unlikely that you, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FAA may require you to make further good faith efforts, such as modifying your ACDBE-conscious/ACDBE-neutral split or introducing additional ACDBE-neutral or ACDBE-conscious measures for the remainder of the fiscal year.

(d) Effective October 3, 2025, you are not subject to this section until the UCP that covers you has completed the reevaluation process described in § 23.81.

■ 14. Add § 23.81 to subpart E to read as follows:

§ 23.81 ACDBE reevaluation process.

(a) Effective October 3, 2025, each UCP must:

(1) Identify each currently certified ACDBE;

(2) Provide each firm identified pursuant to paragraph (a)(1) of this section with the opportunity to submit documentation demonstrating its ACDBE eligibility under the standards set forth in this part;

(3) Determine whether each firm identified pursuant to paragraph (a)(1) of this section meets the ACDBE eligibility standards set forth in this part; and

(4) Issue a written decision to each firm reevaluated pursuant to subparagraph (a)(3), indicating that it has either been recertified or is decertified.

(b) The provisions of § 26.87 of this chapter shall not apply to any action taken pursuant to paragraph (a) of this section.

(c) Each UCP must reevaluate each firm identified pursuant to paragraph (a)(1) of this section as quickly as practicable and must promptly notify the Department when it has done so. The Department reserves the right to review a UCP's reevaluation process.

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

■ 15. The authority for part 26 continues to read as follows:

Authority: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.;* 49 U.S.C. 47113, 47123; Sec. 1101(b), Pub. L. 114–94, 129 Stat. 1312, 1324 (23 U.S.C. 101 note); Sec. 150, Pub. L. 115–254, 132 Stat. 3215 (23 U.S.C. 101 note); Pub. L. 117–58, 135 Stat. 429 (23 U.S.C. 101 note).

■ 16. Amend § 26.1 by revising paragraph (c) to read as follows:

§ 26.1 What are the objectives of this part?

* * * * *

(c) To ensure that the Department's DBE program operates in a nondiscriminatory manner and without regard to race or sex, while maximizing efficiency of service;

* * * * *

■ 17. Amend § 26.5 as follows:

■ a. Add definitions for DBE-conscious and DBE-neutral in alphabetical order;

■ b. Remove the definitions of Race-conscious and Race-neutral; and

■ c. Revise the definition of Socially and economically disadvantaged individual.

The addition and revision read as follows:

§ 26.5 Definitions.

* * * * *

DBE-conscious measure or program is one that is focused specifically on assisting only DBEs.

DBE-neutral measure or program is one that is, or can be, used to assist all small businesses.

* * * * *

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who a certifier finds to be socially and economically disadvantaged on a case-by-case basis. A determination that an individual is socially and economically disadvantaged must not be based in whole or in part on race or sex. For that reason, all applicants shall qualify as socially and economically disadvantaged if they can meet the relevant criteria described in § 26.67. Being born in a particular country does not, standing alone, mean that a person is necessarily socially and economically disadvantaged.

* * * * *

§ 26.11 [Amended]

■ 18. Amend § 26.11 as follows:

■ a. Remove paragraph (c)(2)(iv);

■ b. Redesignate paragraphs (c)(2)(v), (c)(2)(vi), and (c)(2)(vii) as subparagraphs (c)(2)(iv), (c)(2)(v), and (c)(2)(vi), respectively;

■ c. Remove paragraph (e)(1);

■ d. Redesignateparagraphs (e)(2), (e)(3), and (e)(4) as paragraphs (e)(1), (e)(2), and (e)(3), respectively; and

■ e. Remove paragraphs (e)(5) and (e)(6).

■ 19. Amend § 26.37 by revising paragraph (b) to read as follows:

§ 26.37 What are a recipient's responsibilities for monitoring?

* * * * *

(b) A recipient's DBE program must also include a monitoring and enforcement mechanism to ensure that work committed, or in the case of DBE-neutral participation, the work subcontracted, to all DBEs at contract award or subsequently is performed by the DBEs to which the work was committed or subcontracted to, and such work is counted according to the requirements of § 26.55. This mechanism must include a written verification that you have reviewed contracting records and monitored the work site to ensure the counting of each DBE's participation is consistent with its function on the contract. The monitoring to which this paragraph (b) refers may be conducted in conjunction with monitoring of contract performance for other purposes such as a commercially useful function review.

* * * * *

■ 20. Amend § 26.39 by revising paragraphs (b)(1) and (b)(5) to read as follows:

§ 26.39 Fostering small business participation.

* * * * *

(b) * * *

(1) Establishing a DBE-neutral small business set-aside for prime contracts under a stated amount (*e.g.,* $1 million).

* * * * *

(5) To meet the portion of your overall goal you project to meet through DBE-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

* * * * *

■ 21. Amend § 26.45 as follows:
■ a. Revise paragraph (a)(2);
■ b. Revise paragraph (b);
■ c. Revise paragraph (c)(3);
■ d. Revise paragraph (d)(1)(ii);
■ e. Revise paragraph (d)(3);
■ f. Revise paragraph (f)(3);
■ g. Revise paragraph (g)(1); and
■ h. Revise paragraph (h);

The revisions read as follows:

§ 26.45 How do recipients set overall goals?

(a) * * *

(2) If you are an FTA Tier II recipient who intends to operate a DBE-neutral program, or if you are an FAA recipient who reasonably anticipates awarding $250,000 or less in FAA prime contract funds in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA, respectively, for that Federal fiscal year.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on your DOT-assisted contracts (hereafter, the ''relative availability of DBEs''). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of social and economic disadvantage. You cannot simply rely on either the 10 percent national goal, your previous overall goal, or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) * * *

(3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study. Any disparity study utilized must provide a detailed capacity analysis, including the methodology used.

* * * * *

(d) * * *

(1) * * *

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure. To the extent that the disparity study provides a detailed capacity analysis, include the methodology used;

* * * * *

(3) If you attempt to make an adjustment to your base figure to account for the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

* * * * *

(f) * * *

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through DBE-neutral and DBE-conscious measures, respectively (*see* § 26.51(c)).

* * * * *

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

(i) Consultation with general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (*e.g.,* a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official internet website and may be posted in any other sources (*e.g.,* trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official internet website.

* * * * *

(h) Effective October 3, 2025you are not required to update your overall goals until the UCP that covers you has completed the reevaluation process described in § 26.111.

■ 22. Amend § 26.47 as follows:
■ a. Revise paragraph (c)(4);
■ b. Revise paragraph (d); and
■ c. Add paragraph (e).

§ 26.47 Can recipients be penalized for failing to meet overall goals?

* * * * *

(c) * * *

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your DBE-conscious/DBE-neutral split, or the introduction of additional DBE-neutral or DBE-conscious measures.

* * * * *

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current

trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your DBE-conscious/DBE-neutral or introducing additional DBE-neutral or DBE-conscious measures for the remainder of the fiscal year.

(e) Effective October 3, 2025, you are not subject to this section until the UCP that covers you has completed the reevaluation process described in § 26.111.

■ 23. Amend § 26.51 as follows:
■ a. Revise paragraph (a);
■ b. Revise the introductory text to paragraph (b);
■ c. Revise paragraph (c);
■ d. Revise paragraph (d);
■ e. Revise paragraph (e)(2);
■ f. Revise paragraph (f);
■ g. Revise paragraph (g); and
■ h. Add paragraph (h).

The revisions read as follows:

§ 26.51 What means do recipients use to meet overall goals?

(a) You must meet the maximum feasible portion of your overall goal by using DBE-neutral means of facilitating DBE-neutral participation. DBE-neutral participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

(b) DBE-neutral means include, but are not limited to, the following:

* * * * *

(c) Each time you submit your overall goal for review by the concerned operating administration, you must also submit your projection of the portion of the goal that you expect to meet through DBE-neutral means and your basis for that projection. This projection is subject to approval by the concerned operating administration, in conjunction with its review of your overall goal.

(d) You must establish contract goals to meet any portion of your overall goal you do not project being able to meet using DBE-neutral means.

* * * * *

(e) * * *

(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of DBE-neutral means.

* * * * *

(f) To ensure that your DBE program continues to be narrowly tailored to overcome the effects of social and economic disadvantage, you must adjust your use of contract goals as follows:

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through DBE-neutral means, you must implement your program without setting contract goals during that year, unless it becomes necessary in order meet your overall goal.

Example 1 to paragraph (f)(1): Your overall goal for Year I is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through DBE-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year I. However, if part way through Year I, your DBE awards or commitments are not at a level that would permit you to achieve your overall goal for Year I, you could begin setting DBE-conscious contract goals during the remainder of the year as part of your obligation to implement your program in good faith.

(2) If, during any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of DBE-neutral or DBE-conscious measures to allow you to meet the overall goal.

Example 2 to paragraph (f)(2): In Year II, your overall goal is 12 percent. You have estimated that you can obtain 5 percent DBE participation through use of DBE-neutral measures. You therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, you have already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, you use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if you determine in September that your participation for the year is likely to be only 8 percent total, then you would increase your use of DBE-neutral or DBE-conscious means during the remainder of the year in order to achieve your overall goal.

(3) If the DBE participation you have obtained by DBE-neutral means alone meets or exceeds your overall goals for two consecutive years, you are not required to make a projection of the amount of your goal you can meet using such means in the next year. You do not set contract goals on any contracts in the next year. You continue using only DBE-neutral means to meet your overall goals unless and until you do not meet your overall goal for a year.

Example 3 to paragraph (f)(3): Your overall goal for Years I and Year II is 10 percent. The DBE participation you obtain through DBE-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether you obtained additional DBE participation through using contract goals in these years.) In Year III and following years, you do not need to make a projection under paragraph (c) of this section of the portion of your overall goal you expect to meet using DBE-neutral means. You simply use DBE-neutral means to achieve your overall goals. However, if in Year VI your DBE participation falls short of your overall goal, then you must make a paragraph (c) of this section projection for Year VII and, if necessary, resume use of contract goals in that year.

(4) If you obtain DBE participation that exceeds your overall goal in two consecutive years using contract goals (*i.e.,* not through DBE-neutral means alone), you must reduce your use of contract goals proportionately in the following year.

Example 4 to paragraph (f)(4): In Years I and II, your overall goal is 12 percent, and you obtain 14 and 16 percent DBE participation, respectively. You have exceeded your goals over the two-year period by an average of 25 percent. In Year III, your overall goal is again 12 percent, and your paragraph (c) of this section projection estimates that you will obtain 4 percent DBE participation through DBE-neutral means and 8 percent through contract goals. You then reduce the contract goal projection by 25 percent (*i.e.,* from 8 to 6 percent) and set contract goals accordingly during the year. If in Year III you obtain 11 percent participation, you do not use this contract goal adjustment mechanism for Year IV, because there have not been two consecutive years of exceeding overall goals.

(g) In any year in which you project meeting part of your goal through DBE-neutral means and the remainder through contract goals, you must maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. You must report this data to the concerned operating administration as provided in § 26.11.

(h) Effective October 3, 2025, you may not set any contract goals until the UCP that covers you has completed the reevaluation process described in § 26.111.

■ 24. Amend § 26.55 by adding paragraph (i) to read as follows:

§ 26.55 How is DBE participation counted toward goals?

* * * * *

(i) Effective October 3, 2025, you may not count any DBE participation toward DBE goals until the UCP that covers you has completed the reevaluation process described in § 26.111.

■ 25. Amend § 26.61 by revising paragraph (b) to read as follows:

§ 26.61 Burden of proof.

* * * * *

(b) The firm has the burden of demonstrating, by a preponderance of the evidence, *i.e.,* more likely than not, that it satisfies all of the requirements in this subpart. In determining whether the firm has met its burden, the certifier must consider all the information in the record, viewed as a whole. In a decertification proceeding the certifier bears the burden of proving, by a preponderance of the evidence, that the firm is no longer eligible for certification under the rules of this part.

■ 26. Revise § 26.67 to read as follows:

§ 26.67 Social and economic disadvantage.

(a) Non-presumptive Disadvantage. All applicants must demonstrate social and economic disadvantage (SED) affirmatively based on their own experiences and circumstances within American society, and without regard to race or sex.

(1) To satisfy the SED requirement and ensure all determinations of disadvantage are not based in whole or in part on race or sex, an owner must provide the certifier a Personal Narrative (PN) that establishes the existence of disadvantage by a preponderance of the evidence based on individualized proof regarding specific instances of economic hardship, systemic barriers, and denied opportunities that impeded the owner's progress or success in education, employment, or business, including obtaining financing on terms available to similarly situated, non-disadvantaged persons.

(2) The PN must state how and to what extent the impediments caused the owner economic harm, including a full description of type and magnitude, and must establish the owner is economically disadvantaged in fact relative to similarly situated non-disadvantaged individuals.

(3) The owner must attach to the PN a current PNW statement and any other financial information he considers relevant.

■ 27. Add § 26.111 to subpart F to read as follows:

§ 26.111 DBE Reevaluation Process.

(a) Effective October 3, 2025, each UCP must:

(1) Identify each currently certified DBE;

(2) Provide each firm identified pursuant to subparagraph (a)(1) with the opportunity to submit documentation demonstrating its DBE eligibility under the standards set forth in this part;

(3) Determine whether each firm identified pursuant to subparagraph (a)(1) meets the DBE eligibility standards set forth in this part; and

(4) Issue a written decision to each firm reevaluated pursuant to subparagraph (a)(3), indicating that it has either been recertified or is decertified.

(b) The provisions of § 26.87 of this part shall not apply to any action taken pursuant to paragraph (a).

(c) Each UCP must reevaluate each firm identified pursuant to subparagraph (a)(1) as quickly as practicable and must promptly notify the Department when it has done so. The Department reserves the right to review a UCP's reevaluation process.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 622

[Docket No. 250915–0853]

RIN 0648–BM94

Fisheries of the Caribbean, Gulf of America, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendment 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in Amendment 2 to the Fishery Management Plans (FMPs) for Puerto Rico, St. Croix, St. Thomas and St. John FMP (Amendment 2), as prepared by the Caribbean Fishery Management Council (Council). This final rule prohibits and restricts the use of certain net gear in U.S. Caribbean Federal waters and requires a descending device to be available and ready for use on vessels when fishing for federally managed reef fish species in U.S. Caribbean Federal waters. The purpose of this final rule and Amendment 2 is to protect habitats and species from the potential negative impacts associated with the use of certain net gear and to enhance the survival of released reef fish in U.S. Caribbean Federal waters.

DATES: This final rule is effective November 3, 2025, except for the revisions for §§ 622.437(a)(4), 622.477(a)(4), and 622.512(a)(4), which are effective April 1, 2026.

ADDRESSES: Electronic copies of Amendment 2, which includes a fishery impact statement, an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-2-puerto-rico-st-croix-and-st-thomas-and-st-john-fishery-management-plans-trawl.*

FOR FURTHER INFORMATION CONTACT: Maria Lopez-Mercer, NMFS Southeast Regional Office, 727–824–5305, *maria.lopez@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the Council, manages the Puerto Rico, St. Croix, and St. Thomas and St. John fisheries in U.S. Caribbean Federal waters under the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs. The Council prepared the FMPs, which the Secretary of Commerce approved, and NMFS implements the FMPs through regulations at 50 CFR parts 600 and 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On August 27, 2024, NMFS published a notice of availability for Amendment 2 and requested public comment (89 FR 68572). On September 30, 2024, NMFS published a proposed rule for Amendment 2 and requested public comment (89 FR 79492). NMFS

Official Frequently Asked Questions (FAQs) on the U.S. Department of Transportation's Disadvantaged Business Enterprise Program and Disadvantaged Business Enterprise in Airport Concessions Program Implementation Modifications, October 3, 2025, Interim Final Rule

Updated December 1, 2025

The General Counsel of the Department of Transportation has reviewed these questions and answers and approved them as consistent with the language and intent of 49 CFR Part 26. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

A. General

1. When did the Interim Final Rule (IFR) become effective?

The IFR was published in the Federal Register on October 3, 2025 and became effective that day.

2. By when must the recipients update their DBE program plans?

In accordance with § 26.21(b), significant changes to DBE plans must be submitted to DOT for approval. The Department believes the IFR significantly changes the way recipients must implement their DBE plans. Therefore, we expect that recipients will amend their plans as soon as practicable after the Unified Certification Program (UCP) in their jurisdiction completes the reevaluation process described in § 26.111 to reflect the changes in the IFR. Any portion of a DBE program plan that is dependent upon presumptions of disadvantage, DBE goals, or any aspect of the prior DBE rule that has changed based on the IFR is no longer valid.

3. Do these changes apply to the Airport Concession Disadvantaged Business Enterprise (ACDBE) Program?

Yes, the IFR made changes to the ACDBE regulations in 49 CFR part 23 in a substantially similar manner to those changes made in 49 CFR part 26. Accordingly, these FAQs apply to ACDBEs.

4. **Can recipients implement their own race- and sex-neutral small business enterprise programs on federally assisted contracts? (added 12/01/2025)**

Yes. DOT's DBE regulations at 49 CFR § 26.39 (Fostering Small Business Participation) provide that recipients must include an element in their DBE program plans to facilitate competition by small business concerns. This element must be submitted to the appropriate DOT operating administration for approval as a part of the recipient's DBE program. As part of this type of program's elements, recipients may include, among other practices, establishing a DBE-neutral small business set-aside program. Certification for eligibility in a recipient's small business enterprise program cannot be based in whole or in part on race or sex.

5. **Are recipients expected to continue meeting the requirements of a DBE conciliation agreement under 49 CFR § 26.103? (added 12/01/2025)**

Yes, but only for compliance measures in a conciliation agreement that relate to compliance with regulations that remain valid under the IFR. Any compliance measures remaining open that relate to the implementation of race- or sex- based preferences removed under the IFR are null and void.

6. **After the reevaluation process, if a DBE performing work on a contract is not recertified during the reevaluation process, the recipient will be required to take appropriate action to discontinue the effect of the unconstitutional certification. What appropriate action must be taken? (added 12/01/2025)**

If the reevaluation process results in circumstances that necessitate a recipient to take appropriate action, the recipient must assess its project, including, for example, the contracts and subcontracts, and take all measures to ameliorate prior unconstitutional actions. The appropriate action a recipient must take will depend on individual circumstances and should be tailored on a case-by-case basis.

7. **Where the FAQs reference DBE programs and their regulatory provisions, do they apply similarly to ACDBE programs? (added 12/01/2025)**

Yes, the FAQs apply to both the DBE and ACDBE programs.

B. Contracting Questions

1. **How does the IFR affect projects that are currently authorized/advertised and projects/contracts already awarded that have DBE goals?**

Recipients with DBE goals on contracts that have been advertised but not yet let (i.e., bids not yet opened) must issue amendments to the advertisements removing the DBE contract goals. For projects with DBE contract goals that have been let (i.e., bids opened) but contracts not yet awarded (i.e., executed), recipients must take appropriate action to

zero out the DBE goal. Due to the program changes in the IFR, DOT will allow recipients to amend the contracts without readvertising the projects, but each recipient should make its own determination on whether the contract needs to be recompeted under State law. Contracts with a DBE goal that were let and executed prior to October 3, 2025 are not required to be modified, but DBE participation on such contracts cannot be counted toward the DBE contract goal or toward the recipient's overall DBE goal until the UCP in the recipient's jurisdiction completes the reevaluation process described at 49 CFR § 26.111. If, after the reevaluation process, every DBE performing work on a contract is recertified under the new standards, then the contract will not need to be modified. In contrast, if a DBE performing work on a contract is not recertified during the reevaluation process, the recipient will be required to take appropriate action to discontinue the effect of the unconstitutional certification; if a recipient does not take appropriate action with respect to a contract, DOT will not make any payments with respect to that contract.

2. Do recipients need to continue to perform commercially useful function (CUF) reviews of DBE work on existing contracts during the reevaluation process described in 49 CFR § 26.111?

No. Because the purpose of CUF reviews is to ensure that DBE participation on a project can be properly counted toward DBE goals (contract goals and overall DBE goals) and the counting of DBE participation is suspended during the reevaluation process, it is unnecessary for recipients to conduct CUF reviews during the reevaluation process. Recipients may determine whether any existing contracts should be modified with respect to ongoing CUF requirements.

3. Do the regulatory DBE termination provisions continue to apply during the reevaluation period described in 49 CFR § 26.111?

Yes. The termination provisions at 49 CFR § 26.53(f) continue to apply to existing contracts. A prime contractor cannot terminate a DBE or any portion of the DBE's work listed in response to the good faith efforts bidding requirements of 49 CFR § 26.53(b) without the recipient's prior written consent upon a showing of good cause, unless the recipient causes the termination or reduction. (49 CFR § 26.53(f)). The regulations provide:

"Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged, or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award."

Good cause for termination exists if a DBE loses its DBE certification after the reevaluation process described in § 26.111 is completed because it is ineligible to receive DBE credit for the type of work required. (49 CFR 26.53(viii)).

4. How does the IFR affect DBE open-ended performance plans for design-build projects?

In cases in which a design-build contractor has already signed contracts prior to October 3, 2025 with DBE subcontractors toward meeting an open-ended performance plan, the contractor should proceed with the contract. The DBE subcontractor may not be terminated or have its work reduced without the written consent of the recipient and only for good cause, including a change in eligibility. See 49 CFR 26.53 for additional grounds for good cause. Where a DBE goal has been established for a design-build contract or a separate phase of a design-build contract, but no DBEs have yet been awarded contracts, the recipient should take appropriate action to zero out the DBE goal.

If, after the reevaluation process, every DBE performing work on a design-build contract is recertified under the new standards, then the recipient need not take any further action. In contrast, if a DBE performing work on a design-build contract is not recertified during the reevaluation process, the recipient will be required to take appropriate action to discontinue the effect of the unconstitutional certification; if a recipient does not take appropriate action with respect to a contract, DOT will not make any payments with respect to that contract.

5. How does a recipient remove an advertised DBE contract goal prior to a letting?

Recipients should issue amendments to the project advertisements to remove the DBE goal.

6. Does Section II (Nondiscrimination), Part 10.a, of Federal Highway Administration (FHWA) Form 1273 incorporate by reference the DBE regulations as amended by the IFR?

Yes. For contracts awarded on or after October 3, 2025, the new DBE program regulations apply.

7. What changes should be made to DBE special provisions that recipients use for contract awards?

DBE special provisions based on the DBE regulations in effect before October 3, 2025, should not be included in contracts entered into on or after October 3, 2025. For any contracts entered into on or after October 3, 2025, recipients should review and update any such DBE special provisions to comply with the DBE regulations as amended by the IFR. To the extent that an operating administration approves DBE special provisions, updated DBE special provisions must be approved by that DOT operating administration. Recipients may use their revised and DOT-approved DBE special provisions (when required) on contracts entered into after the recipient's UCP has completed the reevaluation described in 49 CFR § 26.111 and adopted a new overall DBE goal in accordance with 49 CFR § 26.45.

8. Are DOT recipients required to include the contract clauses in 49 CFR §§ 23.9 and 26.13 in contracts awarded on or after October 3, 2025 during the UCP reevaluation period?

Yes, DOT recipients are required to include the contract clauses listed in 49 CFR §§ 23.9 and 26.13(a-b) in all contracts. The IFR did not make changes to this requirement.

9. Are DOT recipients required to comply with the prompt payment requirements in 49 CFR § 26.29 during the UCP reevaluation period?

Yes. DOT recipients are required to implement and document compliance with the prompt payment requirements in 49 CFR § 26.29, including: (1) ensuring prime contractors pay subcontractors for satisfactory performance of their contract no later than 30 days from receipt of each payment made to the prime contractor, and (2) prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractors work is satisfactorily completed. The IFR did not make changes to this requirement.

10. Is a prime contractor that terminates a DBE or a portion of a DBE's work on an existing contract in accordance with the termination provisions in 49 CFR § 26.53(f) during the reevaluation process described in 49 CFR § 26.111 required to use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal in accordance with 49 CFR § 26.53(g)? (added 12/01/2025)

No. During the reevaluation process described in 49 CFR § 26.111, a recipient is prohibited from counting DBE participation toward DBE goals. As a result, a prime contractor who terminates a DBE or a portion of a DBE's work in compliance with the termination procedures in 49 CFR § 26.53(f) is not required to attempt to include additional DBE participation because the DBE goal provisions of the contract cannot be given effect under the IFR.

11. May a recipient issue a change order to zero out a DBE goal on an existing contract executed before October 3, 2025? (added 12/01/2025)

Yes. A recipient may issue a change order to zero out a contract goal on an existing contract executed before October 3, 2025. However, termination of any DBEs in executed contracts prior to October 3, 2025, must be processed in accordance with the termination provisions in 49 CFR § 26.53(f).

12. Should recipients set DBE goals to zero for task orders issued for on-call, Indefinite Delivery Indefinite Quantity (IDIQ), or Job-Order-Contracting (JOC) contracts extending past the IFR issuance? (added 12/01/2025)

Yes. The IFR provides that until a UCP completes the reevaluation process provided in 49 CFR § 26.111, each recipient covered by that UCP may not: (1) include DBE contract goals; or (2) count any participation toward overall DBE goals.

13. Should recipients set concession-specific ACDBE goals to zero on new Requests for Proposals (RFPs), Requests for Qualifications (RFQs), Requests for Letters of Interest (RLIs), or similar concession procurement methods during the IFR transition? (added 12/01/2025)

Yes. According to the IFR, until the UCP completes the reevaluation process provided in 49 CFR § 23.81, each recipient covered by that UCP may not: (1) include concession-specific ACDBE goals; or (2) count any participation toward overall ACDBE goals.

14. For projects with DBE goal shortfalls that were completed prior to October 3, 2025, should a recipient conduct shortfall reviews and carry out the applicable remedies? (added 12/01/2025)

No. Because the IFR requires recipients to stop counting DBE participation toward goals until the recipient's UCP completes the reevaluation process at 49 CFR § 26.111, any project shortfall analysis regarding the prime contractor's good faith efforts to meet a DBE contract goal (49 CFR § 26.53(g)) not completed prior to October 3, 2025, should be terminated and no remedies applied.

C. Certification Reevaluation

1. Does a UCP have to reevaluate all currently certified DBEs in its DBE directory or only those DBEs for which the UCP was the jurisdiction of original certification?

Under the certification reevaluation requirements at 49 CFR § 26.111, UCPs are required to reevaluate the certifications only of those DBEs for which the UCP is the jurisdiction of original certification. UCPs are not required to reevaluate the certifications of DBEs that obtained certification from the UCP through the interstate certification procedures at 49 CFR § 26.85. DBEs that received certification from UCPs through interstate certification will have their certifications reevaluated by the UCPs in their jurisdiction of original certification. If such DBEs are recertified by the UCP in their jurisdiction of original certification, they will be required to reapply for interstate certification with the UCPs for the jurisdictions in which they wish to be certified.

2. Is there a date by which a UCP must complete its certification reevaluation process?

No. The regulation at 49 CFR § 26.111 provides that UCPs should complete the reevaluation process "as quickly as practicable."

3. Can a UCP impose a deadline on currently certified DBEs for submission of the reevaluation documentation required under 49 CFR § 26.111?

No, the regulation at 49 CFR § 26.111 does not provide a deadline for a currently certified DBE to submit documentation demonstrating its DBE eligibility under the new standards provided in the IFR. Firms that do not submit the necessary information, however, will remain ineligible for the DBE program until they submit the required documentation demonstrating DBE eligibility under the new standards.

4. Can a UCP simply decertify all currently certified DBEs without completing the reevaluation process?

No. The IFR requires UCPs to identify each currently certified DBE and provide each identified firm with the opportunity to submit documentation demonstrating its DBE eligibility under the standards described at 49 CFR § 26.67

5. Are recipients required to submit Uniform Reports during the reevaluation process?

Under the IFR, recipients are not required to update their overall DBE goals until the UCP in the recipient's jurisdiction has completed the reevaluation process described in 49 CFR § 26.111 and notified the Department that the reevaluation process is complete. In addition, recipients may not set any contract goals and may not count any DBE participation toward DBE goals until the UCP in the recipient's jurisdiction completes the reevaluation process described in 49 CFR § 26.111. As a result of these requirements, recipients are not required to submit Uniform Reports under 49 CFR § 26.21 until the recipient has established a new overall annual DBE goal following completion of the reevaluation process at 49 CFR § 26.111.

6. What is the Department's role in the reevaluation process?

Each UCP is responsible for carrying out the reevaluation of currently certified DBEs for which the UCP was the jurisdiction of original certification. DOT is available to provide technical assistance as necessary.

7. Can a firm that is decertified through the reevaluation process appeal the decision to DOT?

Yes. A firm that is decertified under the reevaluation procedures described at 49 CFR § 26.111 is entitled to appeal the decertification to DOT under the procedures described at 49 CFR § 26.89.

8. Should recipients take down their DBE directories until their respective UCP completes the reevaluation process (and certifies qualified DBEs)? (added 12/01/2025)

That is a matter of discretion for each recipient. No DBE goals may be set, and no DBE participation may be counted until the UCP in the recipient's jurisdiction completes the reevaluation process described in 49 CFR § 26.111.

9. Does the owner of a DBE firm undergoing reevaluation need to submit a new personal net worth statement along with the personal narrative of social disadvantage? (added 12/01/2025)

Yes. In seeking reevaluation of its certification under 49 CFR § 26.111, the owner of a currently certified DBE needs to submit the personal narrative along with the current personal net worth statement and any other financial information the owner considers relevant, in accordance with 49 CFR § 26.67. Under 49 CFR § 26.83(i), currently certified DBEs continue to be responsible for notifying the UCP in writing of any changes in circumstances affecting the DBE's ability to meet the certification requirements of 49 CFR Part 26, including disadvantaged status (*e.g.*, compliance with the personal net worth threshold of $2,047,000).

10. To establish social disadvantage through the personal narrative, does a DBE owner have to meet all categories of economic hardship, systemic barriers, and denied opportunities described in 49 CFR § 26.67? (added 12/01/2025)

No. Per 49 CFR § 26.67, a DBE owner must provide the certifier a personal narrative that establishes the existence of disadvantage by a preponderance of the evidence. Certifiers must holistically evaluate all presented evidence before making a determination. Considerations may include:

Education -- factors such as denial of equal access, compared to all similarly situated persons, to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures that discouraged the individual from pursuing a professional or business education.

Employment -- factors such as unequal treatment compared to all similarly situated persons in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory behavior by an employer or labor union; and social patterns or pressures that have channeled the individual into non-professional or non-business fields; or

Business history – factors such as unequal access, compared to all similarly situated persons, to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts

or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

Other relevant evidence may be considered, but the incidents or experiences discussed in the narrative must not rely, in whole or in part, on race or sex.

11. Should the personal narrative span the full scope of the owner's life experiences related to economic disadvantage, from childhood through to the present, including both the time before and after starting the business? (added 12/01/2025)

The personal narrative can discuss incidents and experiences of economic hardship, systemic barriers, and denied opportunities from any point in the owner's life within American society that impeded the owner's progress or success in education, employment, or business opportunities, including obtaining financing on terms available to similarly situated, non-disadvantaged persons. However, the incidents or experiences discussed in the narrative must not rely, in whole or in part, on race or sex.

12. If a DBE is recertified through the reevaluation process, will its certification anniversary remain the date of its original certification or the date it is recertified under the new IFR certification standards? (added 12/01/2025)

The DBE regulations at 49 CFR § 26.83(j) require a certified DBE to provide its certifiers, every year on the anniversary of its original certification, a new Declaration of Eligibility (DOE) along with the specified documentation in section 26.65(a). The certification anniversary of a DBE recertified under the reevaluation process at 49 CFR § 26.111 will continue to be the date of the DBE's original certification under the DBE certification standards issued prior to October 3, 2025. This should alleviate the burden on UCPs of reviewing annually submitted DOEs that may otherwise be concentrated around the time the UCPs are completing their reevaluations of existing DBEs.

13. Because a UCP cannot establish a deadline by which currently certified DBEs must submit the reevaluation documentation required under 49 CFR § 26.111 (Q&A C.3), at what point in time can a UCP notify DOT the reevaluation process is complete? (added 12/01/2025)

The reevaluation regulation at 49 CFR § 26.111 provides that each UCP must provide currently certified DBEs with the opportunity to submit documentation demonstrating DBE eligibility under the new standards adopted under the IFR. 49 CFR § 26.111(a)(2). The rule, however, does not establish a deadline by which currently certified DBEs must submit such documentation. See Q&A C.3. This creates a situation where a UCP may be prevented from completing the reevaluation process if a currently certified DBE delays or refrains from submitting the required documentation. To address this situation, a UCP can set a date by which currently certified DBEs should submit the required documentation. A UCP may notify DOT that its reevaluation process is complete after it completes its reevaluation of the firms that submit the necessary information by the UCP's submission

date. Currently certified DBEs that do not submit the required information by the UCP's submission date may still submit the required documentation at a later time, but such firms will remain ineligible for counting towards DBE participation until they submit the required documentation demonstrating DBE eligibility under the new standards and obtain certification.

14. Does the IFR affect Alaska Native Corporations (ANCs) or require ANCs to seek certification? (added 12/01/2025)

The DBE IFR does not change the DBE certification rules for ANCs. The DBE certification requirements for ANC-owned firms continue to be governed by 49 CFR § 26.63(c)(2), which was not amended by the DBE IFR.

15. Does a UCP have the discretion to complete the reevaluation process for ACDBEs first and get that ACDBE program reinstated to start setting goals and counting participation, and then focus on the reevaluation of the DBEs thereafter? (added 12/01/2025)

UCPs should use their established procedures for determining the order for reevaluations.

D. Goal Setting and Counting

1. What do recipients need to do about their existing overall annual DBE goals?

Recipients are not required to do anything with their DBE goals until their respective UCPs have completed the reevaluation process described in 49 CFR § 26.111. Until the UCP completes the reevaluation process, a recipient is not required to update its DBE goal (§ 26.45(h)) and may not count any DBE participation toward its goal (§ 26.55(i)).

2. What is the role of DOT operating administrations in reviewing the three-year DBE goal setting methodology?

DOT operating administrations will continue to review and approve the DBE goal methodologies of their recipients in accordance with 49 CFR § 26.45. Recipients are not required to update their overall goal methodologies until the UCP in the recipient's jurisdiction has completed the reevaluation process described in 49 CFR § 26.111.

3. Can recipients continue to set DBE contract goals before the recipient's UCP has completed the reevaluation process described in 49 CFR § 26.111?

No. A recipient may not set any DBE contract goals until the UCP in the recipient's jurisdiction has completed the reevaluation process described in 49 CFR § 26.111.

4. Should recipients continue counting DBE participation on existing contracts without DBE goals toward the recipient's overall goal?

No. Starting on October 3, 2025, no DBE participation may be counted toward a recipient's overall goal, including such participation obtained through race and gender-neutral means.

E. New Certification Applications

1. Will new DBE applicants only need to provide a personal narrative statement and personal net worth statement, or will other components of the regulatory application process apply?

New applicants will be required to provide a personal narrative statement in addition to meeting the other certification standards at 49 CFR part 26, Subpart D. Applicants are required to submit the Uniform Application Form found at https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/uniform-certification-application-english. DOT expects to provide an updated Uniform Application Form on its website.

2. Will DOT update the Declaration of Eligibility (DOE) form on its website to account for the regulatory changes in the IFR? (added 12/01/2025)

Yes. DOT will update the DOE form on its website.

3. Does the IFR affect firms recently denied certification? (added 12/01/2025)

No. The IFR did not make changes to 49 CFR § 26.86. Under that provision, each UCP is authorized to set a waiting period of no more than 12 months before a firm denied certification may reapply for certification. Applicants who reapply after the waiting period expires must comply with the revised certification standards established in the IFR.

F. Transit Vehicle Manufacturers

1. Are transit vehicle manufacturers (TVM) required to set DBE goals and submit Uniform Reports in accordance with 49 CFR § 26.49(b) and (c)?

DOT will treat TVMs similarly to recipients. A TVM will not be required to update its DBE goal or submit Uniform Reports until after the UCP reevaluation of DBEs described in 49 CFR § 26.111. A manufacturer that wants to request eligibility as a TVM before the completion of the UCP reevaluation can submit a request to the Federal Transit Administration (FTA) at ftatvmsubmissions@dot.gov. During this time, FTA will not require the submission of a DBE program or DBE goal to become a TVM.

2. Are FTA recipients required to continue checking the eligible list of TVMs when purchasing vehicles?

Yes. FTA recipients are required to continue checking the eligible list of TVMs to determine if the manufacturer is eligible to bid or propose on an FTA-assisted transit vehicle procurement. FTA is working directly with the manufacturers to ensure that this list is kept up-to-date.

3. Are FTA recipients required to comply with the requirement in 49 CFR § 26.49(a)(4) and report transit vehicle purchases within 30 days of becoming contractually required during the UCP reevaluation period?

No. FTA recipients are not required to submit Transit Vehicle Award Reports during the UCP reevaluation period.

4. How do the changes to the DBE rule affect ferry procurements? (added 12/01/2025)

The DBE rule generally requires FTA recipients to limit solicitations for transit vehicles (including ferries) to vendors that are certified Transit Vehicle Manufacturers (TVM). 49 CFR § 26.49(a). However, as an alternative, a recipient may establish a project-specific DBE goal for a vehicle procurement when a TVM cannot be identified. 49 CFR § 26.49(f). Historically, recipients have relied on this alternative when procuring ferries.

Until the recipient's UCP finishes the reevaluation described in 49 CFR § 26.111, a recipient setting a project-specific goal following the procedures of 49 CFR § 26.49(f) should set a goal of zero.

INFORMATION ITEM

Fiscal Year 2026 Fourth Quarter Financial Report

STAFF REPRESENTATIVE

Lisa Patton, Executive Director/VP, Finance and Budget

BACKGROUND

At its December 2025 meeting, the Board of Directors approved a modification to the format of recurring financial reporting. Specifically, the Board approved placing the standing Monthly Financial Report on the Consent Calendar beginning January 2026, with staff providing detailed financial presentations on a quarterly basis.

The Fiscal Year (FY) 2026 Fourth Quarter Financial Report provides an overview of the agency's financial status for the period of April 1, 2026 through June 30, 2026, marking the conclusion of the forth quarter of FY 2026.

Staff will continue to monitor the agency's financial position and will inform the Board of any items requiring Board awareness or action between quarterly presentations.

STAFF RECOMMENDATION

Not Applicable. Information Item.

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Kenneth A. McDonald
President and Chief Executive Officer