

MEMORANDUM

Date: December 18, 2023 (updated March 1, 2024)
To: BCDCOG Board of Directors
From: Ronald E. Mitchum, Executive Director
Subject: FFY 2023 FTA DBE Program Shortfall Analysis & Corrective Action Plan

Purpose

This memorandum documents the shortfall analysis and corrective action plan for the Berkeley-Charleston-Dorchester Council of Government’s (BCDCOG) Disadvantaged Business Enterprise (DBE) program for FTA-assisted contracts during the period of FFY 2023 (10/1/2022 – 9/30/2023).

DBE Participation

During the three-year period of FFY 2023 through FFY 2025, BCDCOG’s DBE program **goal for FTA-assisted contracts was 10.0%** (100.0% race neutral/ 0.0% race conscious). This goal was set by the South Carolina Department of Transportation (SCDOT) in anticipation of FTA reimbursement for construction of the Lowcountry Rapid Transit (LCRT) project. This project has not yet received FTA reimbursement and is currently funded entirely through local funding sources. Therefore, while the project was the basis for the overall participation goal, it is not represented in the DBE participation rates for FFY 2023.

During FFY 2023, BCDCOG reported **4.6% DBE participation on new contract awards** (5.4% points below the goal) and **9.7% DBE participation on payments to ongoing contracts** (0.3% points below the goal). **Table 1** shows how DBE participation rates so far in FFY 2023-2025 compared to previous three-year periods.

Table 1: BCDCOG DBE Participation Rate on FTA-assisted Contracts (ongoing payments)

Period	BCDCOG FTA DBE Goal	DBE Participation Rate
FFY 2017-2019	10.0%	0.0%
FFY 2020-2022	5.0%	5.7%
FFY 2023-2025 (ongoing)	10.0%	9.7%

A full break down of DBE participation on new contracts and ongoing contracts during FFY 2023 is provided in **Table 2** and **Table 3**. All contracts during FFY 2023 used race neutral means of facilitating DBE participation and did not use any race-conscious strategies.

Table 2: BCDCOG DBE Awards & Commitments on FTA-assisted Contracts (FFY 2023)

Project Name (FTA Funding Program)	FTA Funding Program	FTA Project Number	FTA-assisted Contract Value	DBE Awards & Commitments		Total FFY 2023 DBE Participation
				10/1/22 – 3/30/23	4/1/23 – 9/30/23	
LCRT Transit-Oriented Development Study, Phase II	FTA Pilot Program for TOD Planning	SC-2022-020-00	\$799,138.40	\$79,409.60	-	\$79,409.60 (9.9%)
FFY 2022 Charleston Dorchester Mental Health	FTA 5310	SC-2023-009-00	\$20,000.00	-	\$0.00	\$20,000.00 (0.0%)
FFY 2022 CARTA On-Demand (Uber)	FTA 5310	SC-2019-009-00	\$48,000.00	-	\$0.00	\$48,000.00 (0.0%)
FFY 2022 CARTA On-Demand (Lyft)	FTA 5310	SC-2019-009-00	\$48,000.00	-	\$0.00	\$48,000.00 (0.0%)
FFY 2022 Berkeley Citizens	FTA 5310	SC-2023-009-00	\$60,000.00	-	\$0.00	\$60,000.00 (0.0%)
FFY 2022 Dorchester County Board of Disabilities & Special Needs	FTA 5310	SC-2023-009-00	\$60,000.00	-	\$0.00	\$60,000.00 (0.0%)
FFY 2022 Trident Rideshare	FTA 5310	SC-2023-009-00	\$40,000.00	-	\$0.00	\$40,000.00 (0.0%)
FFY 2023 BCD RTMA Operating Assistance	FTA 5307	-	\$656,788.00	-	\$0.00	\$656,788.00 (0.0%)
Total			\$1,731,926.40	\$79,409.60	\$0.00	\$79,409.60 (4.6%)

Table 3: BCDCOG DBE Participation on Ongoing FTA-assisted Contracts (FFY 2023)

Project Name (FTA Funding Program)	FTA Funding Program	FTA Project Number	Total FFY 2023 FTA-assisted Payments	DBE Payments		Total FFY 2023 DBE Participation
				10/1/22 – 3/30/23	4/1/23 – 9/30/23	
Lowcountry Go Vanpool Program	FTA 5307	SC-2020-025-00	\$1,032.21	\$0.00	\$0.00	\$0.00 (0.0%)
Mobile Fare Collection	FTA 5312	SC-2021-013-00	\$64,063.15	\$0.00	\$0.00	\$0.00 (0.0%)
CARES Act	FTA 5307	SC-2021-014-00	\$108,569.47	\$0.00	\$0.00	\$0.00 (0.0%)
BCDRTMA Capital & Operating	FTA 5307	SC-2021-040-00	\$52,066.43	\$0.00	\$0.00	\$0.00 (0.0%)
LCRT Transit-Oriented Development Study, Phase II	FTA Pilot Program for TOD Planning	SC-2022-020-00	\$185,850.20	\$12,983.03	\$36,287.90	\$49,270.94 (26.5%)
FFY 2018 Charleston Dorchester Mental Health	FTA 5310	SC-2019-005-00	\$3,744.68	\$0.00	\$0.00	\$0.00 (0.0%)
FFY 2021 Charleston Dorchester Mental Health	FTA 5310	SC-2022-006-00	\$7,782.48	\$0.00	\$0.00	\$0.00 (0.0%)
FFY 2018 CARTA On-Demand (Uber)	FTA 5310	SC-2019-005-00	\$26,390.11	\$0.00	\$0.00	\$0.00 (0.0%)
FFY 2022 CARTA On-Demand (Uber)	FTA 5310	SC-2019-009-00	\$21,820.06	\$0.00	\$0.00	\$0.00 (0.0%)
FFY 2022 CARTA On-Demand (Lyft)	FTA 5310	SC-2019-009-00	\$1,419.16	\$0.00	\$0.00	\$0.00 (0.0%)
FFY 2021 Berkeley Citizens	FTA 5310	SC-2022-006-00	\$28,041.60	\$0.00	\$0.00	\$0.00 (0.0%)
FFY 2021 Trident Rideshare	FTA 5310	SC-2022-006-00	\$6,437.74	\$0.00	\$0.00	\$0.00 (0.0%)
Total			\$507,217.30	\$12,983.03	\$36,287.90	\$49,270.94 (9.7%)

Shortfall Analysis

Because BCDCOG fell below its FTA DBE participation goal during the period of FFY 2023, BCDCOG staff completed a shortfall analysis to better understand ways to improve its DBE program in the future. The analysis included a review of FTA-assisted contracts during FFY 2023 and engagement activities.

FTA-assisted Contracts

Race neutral strategies for the FTA **Pilot Program for TOD Planning** funding included scoring the level of DBE participation within proposals. After accounting for a contract modification, this race neutral strategy resulted in 9.9% DBE participation (0.1% point below BCDCOG's three-year goal). This contract was executed in FFY 2023 and represents the entirety of BCDCOG's DBE participation on new and ongoing currents during this period.

Table 4 shows how the DBE participation was weighted when selecting proposals for the Lowcountry Rapid Transit Transit-Oriented Development (LCRT TOD) Study, Phase II. DBE participation represented 5% of the total available points.

Table 4: LCRT TOD Study, Phase II (Selection Criteria & Weighting)

Selection Criteria	Weighting
Understanding the Need	20 points
Method of Approach	30 points
Technical Expertise	25 points
Key Staff	20 points
DBE Participation	5 points
Total	100 points

In addition, BCDCOG included a list of DBE-related federal requirements and a confirmation of DBE certification form in the appendix of its Request for Proposals for LCRT TOD Study, Phase II. No other references or discussion of the DBE program were included in the Request for Proposals.

For the FTA **Section 5310** (Enhanced Mobility for Seniors & Individuals with Disabilities) call for applications, no specific DBE-related strategies were used. This is because historically most applications for urban Section 5310 funding have come from nonprofits which are ineligible for DBE certification. Similarly, all new contracts or ongoing payments to Section 5310 recipients were for nonprofits (Charleston Dorchester Mental Health, Berkeley Citizens, and the Dorchester County Board of Disabilities & Special Needs), an on-demand transportation service with no available DBE firms, and approximately \$1,000 in purchases in support of a regional transportation demand management program.

For FTA **Section 5307** (CARES Act) funding, BCDCOG expended funds on support vehicles, preventative maintenance, operating assistance for transit services, software, and bus station equipment. Limited DBE opportunities exist for these goods and services within South Carolina.

For **FTA 5312** (COVID Research Demonstration Grant Program) funding, BCDCOG expended funds on contactless payment technology which was not available through a DBE vendor.

Overall, BCDCOG has been successful in contracting with DBEs and making payments to DBEs for FTA-assisted planning projects but not for grant subawards, equipment and software purchases, maintenance services, and operating assistance. Similarly, BCDCOG has experienced similar relatively strong DBE participation on FHWA-assisted planning projects but limited DBE participation on FHWA-assisted equipment and software purchases. This reflects a **lack of DBE availability for most of these goods and services outside of planning projects**. For example, there are no new automobile dealerships (NAICS Code 441110), used automobile dealerships (NAICS Code 441120), automobile repair shops (NAICS Code 811111), transportation equipment manufacturing (NAICS Code 336000), or tire dealers (NAICS Code 441320) within the region or surrounding counties that are certified as DBEs.

BCDCOG did not unbundle any FTA-assisted contracts during FFY 2023. Although this process can be done as part of a planning effort it is typically reserved for larger construction projects. In FFY 2023, BCDCOG did not contract any construction projects. Feedback from agencies that did complete transportation construction projects in our region shows a trend towards bundling multiple projects together. This is because these other agencies were not receiving bids on individual transportation construction projects, and they hope that a large award amount will encourage firms to submit bids.

No known disparity studies are available for this region.

Engagement Activities

The next step in the shortfall analysis was consultation with minority-owned businesses, women-owned businesses, contractor groups, community organizations, and other officials or organizations that could provide insights into the availability of disadvantaged businesses. Below is a list of engagement activities during or immediately after FFY 2023:

On January 19, 2023, BCDCOG staff visited the [South Carolina Business Development Center](#) (SBDC) in Columbia. BCDCOG staff shared existing regionally-controlled revolving loan opportunities with SBDC and discussed the potential for small business development grant opportunities through the Economic Development Administration. On February 2, 2023, BCDCOG staff met with additional staff from SBDC to discuss rural business development needs.

On March 11, 2023, BCDCOG staff tabled at the [Charleston Black Expo](#) in North Charleston, SC. This annual event promotes economic development through increased exposure for Black-owned businesses.

On May 23, 2023, BCDCOG tabled at the [North Charleston Business Expo](#) in North Charleston, SC. The annual event brings together entrepreneurs from across the region to network.

On May 6, 2023, BCDCOG staff attended the [Liberty Hill STEM Day](#). The event promotes science, technology, engineering, and math K-12 education for through student exhibits and industry-sponsored stations with hands-on STEM-related activities.

During the week of June 12, 2023 through June 19, 2023, BCDCOG attended [Lowcountry Juneteenth Week](#) activities in North Charleston, SC.

On September 12, 2023, BCDCOG participated in the [Public Sector Career Fair](#) in North Charleston, SC. This annual event gives public sector agencies the opportunity to showcase their available job openings to job seekers.

During FFY 2023, BCDCOG did not provide any DBE-specific training activities or develop any training materials. However, SCDOT's business development office does provide training and training materials.

BCDCOG and SCDOT do not have offices of diversity, so no specific staff responsibility for diversity, equity, and inclusion were present during the FFY 2023 contracting processes.

Corrective Action Plan

During FFY 2024, BCDCOG plans to execute the seven FTA-assisted contracts shown in **Table 5**.

Table 5: BCDCOG Anticipated FTA-assisted Contracts (FFY 2024)

Project Name (FTA Funding Program)	FTA Funding Program	FTA-assisted Contract Value
CARTA Hop Lot	FTA 5339	\$799,138.40
US-52 BRT Corridor Study	FTA 5307 (ARP Act)	\$650,000.00
TriCounty Link On-Demand Rural Transit Development Plan	FTA 5305 (Area's of Persistent Poverty Grant)	\$342,000.00
FFY 2023 CARTA On-Demand	FTA 5310	\$200,000.00
FFY 2023 Charleston Dorchester Mental Health	FTA 5310	\$25,000.00
FFY 2023 Trident United Way	FTA 5310	\$50,000.00
FFY 2023 Trident Rideshare	FTA 5310	\$40,000.00
Total		\$2,106,138.40

The FFY 2023 FTA Section 5310 awards have already been announced. However, BCDCOG anticipates a FFY 2024 FTA Section 5310 call for applications. Although these contracts may not be executed until FFY 2025, there is an opportunity to shift how they are advertised. Still, because most applicants are nonprofits and, therefore, ineligible to be a DBE, it is unlikely that FFY 2024 Section 5310 recipients will include any DBEs.

BCDCOG anticipates using the same race-neutral means of encouraging DBE participation for the FFY 2024 FTA Sections 5339, 5307, and 5305 contracts that it used for the FFY 2023 Pilot Program for TOD Planning because these strategies were effective for a similar type of project. For BCDCOG to reach its 10.0% DBE goal in FFY 2024, it will need to slightly exceed 10.0% DBE participation on new contracts to help offset FTA Section 5310 contracts that will not include DBE participation. **These three projects total approximately \$1.8 million in reimbursable FTA assistance and will need to award 11.8% of funding to DBEs in order to reach the 10.0% DBE goal for FFY 2024.**

In addition, BCDCOG will explore implementation of the following race-neutral strategies:

- Participating in events organized to promote minority- and owned businesses (During the 2nd Quarter of FFY 2024, BCDCOG will conduct outreach at the Small Business Expo in downtown Charleston on March 28th)
- Highlighting contracting opportunities from BCDCOG's *Unified Planning Work Program* and *Rural Planning Work Program* on BCDCOG's procurement webpage so that contractors can more easily anticipate upcoming contract opportunities during the next two federal fiscal years
- Providing certified DBEs with advanced knowledge of the release of an RFP so that they can coordinate with prime contractors
- Pre-bid meet and greets with potential prime and subcontractors
- Bonding assistance and waiver programs
- Updated RFP language that highlights the intention of the DBE program and BCDCOG's three-year goal of 10.0%
- Creation of a consolidated DBE resource page with all of the education and assistance opportunities available within the Southeast, South Carolina, and the local area