As of March 31, 2020 PACTS and GPCOG are holding all committee meetings via Zoom conferencing technology. We remain committed to full public access and participation in our meetings through remote access during the COVID-19 crisis. Remote meetings will be held in accordance with the requirements of LD 2167, Public Law Chapter 618.

Both the chat and Q&A features will be turned off during PACTS and GPCOG meetings to ensure full public access to telephone participants and to avoid the confusion of side conversations.

Public comment will be taken verbally during the public comment period. Members of the public who wish to speak should “raise their hands.” Participants joining by computer or mobile app can click on the “Raise Hand” button. Participants joining by telephone can dial *9.

1. **Welcome**

This meeting is being recorded and will be made available at gpcog.org/AgendaCenter.

2. **Public Comment** 5 minutes

Members of the public are welcome to provide up to three minutes of public comment on items not on this agenda. For items on this agenda, additional opportunity for public comment will be provided after the item's staff report.

3. **Acceptance of the April 16 Executive Committee Meeting Minutes** 5 minutes

4. **Request for Additional Construction Funding** 10 minutes
   Congress Street RTMS, City of Portland

Discussion and a vote to approve additional construction funding for the City of Portland's Congress Street Regional Traffic Management System (RTMS) project.
5. **Adoption of the PACTS DBE Plan**

   Discussion and a vote to adopt the PACTS Disadvantaged Business Enterprise (DBE) Plan.

6. **Overview of PACTS' “Complex Project” Selection Process**

   Overview of the process PACTS uses to allocate the region's annual apportionment of Federal Highway Administration (FHWA) capital improvement funds to "complex projects".

7. **Overview of PACTS' Six-Year Capital and Operating Plan (SYCOP) Process**

   Overview of the process PACTS uses to allocate the region's annual apportionment of Federal Transit Administration (FTA) Section 5307 and Section 5337 funds.

8. **Other Business**

9. **Adjourn**

**Upcoming Meetings**

- PACTS Regional Transportation Advisory Committee—May 4, 9:00–10:30 am
- PACTS Policy Board—May 25, 6:00–8:00 pm
- PACTS Regional Transportation Advisory Committee—June 1, 9:00–10:30 am
- PACTS Executive Board—June 22, 9:00–10:30 am
3. **Acceptance of the April 16 Executive Committee Meeting Minutes**

<table>
<thead>
<tr>
<th>Contact</th>
<th>Andrew Clark, staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended action</td>
<td>For information and discussion only.</td>
</tr>
<tr>
<td>Attachments</td>
<td>3-A—2021-04-16 PACTS Executive Committee Meeting Minutes</td>
</tr>
</tbody>
</table>

The final meeting of the PACTS Executive Committee was held on April 16, 2021. Minutes from the meeting are included in this meeting's packet as Attachment 3-A for information and discussion only.
4. Request for Additional Construction Funding
Congress Street RTMS, Portland

<table>
<thead>
<tr>
<th>Contact</th>
<th>Elizabeth Roberts, staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended action</td>
<td>Approve the reallocation of $170,400 in FHWA capital funding, of which 75 percent—$127,800—will come from the Holding WIN, to the Portland Congress Street RTMS project.</td>
</tr>
</tbody>
</table>
| Attachments | 4-A—Request for Additional Construction Funding: Congress Street WIN 01866.00  
4-B—PACTS Holding WIN Balance |

The City of Portland’s Congress Street Regional Traffic Management System (RTMS) project has a funding deficit based on the bids the City has received. The City is requesting an additional 20 percent of the available construction funding. This is in accordance with the PACTS Executive Committee’s decision in March 2020 to increase PACTS’ maximum contribution of construction cost overages from 10 percent to 20 percent.

The available construction funds for this project are $852,000, and the low construction bid is $1,208,252.85. The total available funding for this project is $1,048,000 and the estimated project cost is now $1,404,252.85. The City is requesting an additional $170,400, which is 20 percent of the available construction funding. The City has the match funds available for this request, as well as the funds to cover the remaining costs. A letter from the City of Portland and a spreadsheet on the PACTS Holding WIN balance are included in the packet as Attachments 4-A and 4-B.

*Recommended action: Approve the reallocation of $170,400 in Federal Highway Administration capital funding, of which 75 percent—$127,800—will come from the Holding WIN, to the Portland Congress Street RTMS project.*
5. **Adoption of the PACTS DBE Plan**

<table>
<thead>
<tr>
<th>Contact</th>
<th>Zoe Miller, staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended action</td>
<td>Adopt the DBE plan as presented.</td>
</tr>
<tr>
<td>Attachments</td>
<td>5-A—PACTS Disadvantaged Business Enterprise Plan, April 2021</td>
</tr>
</tbody>
</table>

PACTS has developed a Disadvantaged Business Enterprise (DBE) plan, included in the packet as Attachment 5-A, to meet requirements to be a direct recipient of Federal Transit Administration (FTA) grant funds. This plan will apply to DBE tracking and reporting only for funds where PACTS is the direct recipient, and not where PACTS is a subrecipient through MaineDOT or METRO.

*Recommended action: Adopt the DBE plan as presented.*
6. **Overview of PACTS’ "Complex Project" Selection Process**

<table>
<thead>
<tr>
<th><strong>Contact</strong></th>
<th>Aubrey Miller, staff</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recommended action</strong></td>
<td>For information and discussion only.</td>
</tr>
</tbody>
</table>

PACTS receives an annual allocation of state and Federal Highway Administration (FHWA) capital improvement funding through MaineDOT. This funding is referred to as PACTS' "MPO allocation". This year, PACTS received $4,121,609 in FHWA funding.¹

PACTS uses 60 percent of its FHWA funding—$2,472,965 in 2021—for “complex” roadway and multimodal projects. A “complex project” is one that PACTS programs in two phases—preliminary design report (PDR) work funding in one year, then construction funding a year or more later (after PDR is completed)—per MaineDOT requirements intended to prevent funds from sitting unused. A decision by PACTS to fund PDR is a commitment to fund construction of the project at some point in the future. Municipalities and other eligible agencies must apply for this funding. A municipality or agency may apply for PDR funds or construction funds. A project that received PDR funds from PACTS would not need to reapply for construction funds, but a project that funded PDR through a different source of funding would need to apply for construction funds from PACTS.

In February, PACTS staff sent out a “call for projects” asking interested municipalities or agencies to apply for funding. PACTS received nine applications:

1. Falmouth—**Falmouth Corners Intersection Project**
2. Gorham—**Gorham Cross Town Trail**
4. Portland—**The Forest Avenue Smart Corridor Project Phase IV (Revere Street to Bedford Street)**
5. Portland—**Libbytown Safety and Accessibility Project**
6. Saco and Biddeford—**Saco Island Multimodal Bridge**
7. Windham—**Route 302 North Windham Sidewalk**
8. Yarmouth—**Beth Condon Multi-Use Pathway Extension - Preliminary Design**
9. Yarmouth—**Main Street Sidewalk Improvement Project**

*Click on the links above to view the application materials on Google Drive.*

¹ The MPO allocation PACTS received this year, 2021, is actually an estimate of what PACTS will receive in calendar year 2024. Project selection and project development begins years before projects are ready to begin construction.
These applications were scored by a volunteer scoring committee using the criteria in the recently approved PACTS Transportation Funding Framework. Staff will present more information about project scores, and about project funding requests, next month.

In addition to these nine projects, there are projects that have received PDR funding in past years. Staff will provide more information on these projects next month.

Next month, the PACTS Regional Transportation Advisory Committee (RTAC) will consider the scores of the nine project applications, along with any requests for construction funding for projects that have completed PDR, and make a recommendation on how to allocate the $2,472,965\(^2\) in FHWA funding. The PACTS Policy Board will consider RTAC’s recommendation at its meeting on May 25 and approve projects for FHWA funding.

\(^2\) A local funding match of at least twenty-five percent (25%)—$824,322—is required for this funding. Therefore a total of at least $3,297,287 in FHWA and local match funding will be available for complex roadway and multimodal projects.
7. Overview of PACTS' Six-Year Capital and Operating Plan (SYCOP) Process

<table>
<thead>
<tr>
<th>Contact</th>
<th>Andrew Clark, staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended action</td>
<td>For information and discussion only.</td>
</tr>
<tr>
<td>Attachments</td>
<td>7-A—2020 SYCOP 5307 and 5337 Summaries</td>
</tr>
</tbody>
</table>

One responsibility of PACTS is the annual programming of certain Federal Transit Administration (FTA) funding sources. These include:

- Section 5307—Urbanized Area Formula Grants
- Section 5337—State of Good Repair Formula Grants

Section 5307 funds generally support the operations, preventative maintenance, and capital projects of fixed-route bus transit services, and the capital projects of fixed-guideway transit services. Section 5337 funds generally support the capital projects of fixed-guideway transit service. In the greater Portland region, Section 5307 and 5337 funds are currently used by the region's seven transit agencies according to the following table:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Capital</th>
<th>Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biddeford-Saco-Old Orchard Beach Transit</td>
<td>5307</td>
<td>5307</td>
</tr>
<tr>
<td>Casco Bay Lines</td>
<td></td>
<td>5307 and 5337</td>
</tr>
<tr>
<td>METRO</td>
<td>5307</td>
<td>5307</td>
</tr>
<tr>
<td>Northern New England Passenger Rail Auth.</td>
<td>5307</td>
<td></td>
</tr>
<tr>
<td>South Portland Bus Service</td>
<td>5307</td>
<td>5307</td>
</tr>
<tr>
<td>MaineDOT (on behalf of RTP and YCCAC)</td>
<td>5307</td>
<td>5307</td>
</tr>
</tbody>
</table>

*Note: Funding eligibilities could change based on future improvements/investments.*

Allocation of Section 5307 and 5337 funds is done through collaboration of PACTS and the transit agencies via annual updates to the region's Six-Year Capital and Operations Plan (SYCOP). The SYCOP is rooted in the agencies' six-year projections for operations, preventative maintenance, capital project, and other planning project funding needs. Based on the region's annual apportionments of Section 5307 and 5337 funds, PACTS and the transit agencies work together to develop a balanced budget for the year. Once the annual SYCOP is approved by PACTS, staff develops a document known as a split letter—which documents the region's agreed upon split of FTA funding to each transit agency—and
submits it to the FTA. The FTA strongly recommends transit agencies’ funding requests be prepared by the first week of June.

In developing the budget, some transit projects may remain unfunded given projected funding allocations. The project needs are tracked in the SYCOP, and the relevant transit agency is encouraged to pursue discretionary grant funding for the project. For example, FTA offers funding for bus transit operators through Section 5339—Bus and Bus Facilities Grants or Sec 5339(c)—Low- or No-Emission Vehicle Program Grants.

Due to timing constraints, this year the newly formed Transit Task Force will develop a proposed five-year plan (FYCOP). This will allow the group to focus on finalizing projections for 2021 but to forego generating new projections at this time for what would be the sixth year, 2026. Once complete, RTAC will be asked to review the 2021 FYCOP and recommend it for approval by the Policy Board. As in years past, staff will develop and submit the annual split letter to the FTA by early June.
# PACTS Executive Committee

**April 16, 2021**

8:00 am  
Meeting Minutes

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
<th>Attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jim Bennett</td>
<td>Southern Subregion</td>
<td>Y</td>
</tr>
<tr>
<td>Chris Branch</td>
<td>Central Subregion</td>
<td>Y</td>
</tr>
<tr>
<td>Jennifer Brickett</td>
<td>MaineDOT</td>
<td>Y</td>
</tr>
<tr>
<td>Hope Cahan</td>
<td>PACTS Vice Chair</td>
<td>Y</td>
</tr>
<tr>
<td>Erin Courtney</td>
<td>Maine Turnpike Authority</td>
<td></td>
</tr>
<tr>
<td>Eric Dudley</td>
<td>Western Subregion</td>
<td>Y</td>
</tr>
<tr>
<td>Greg Jordan</td>
<td>Transit Committee Chair</td>
<td>Y</td>
</tr>
<tr>
<td>Matt Sturgis</td>
<td>PACTS Chair</td>
<td>Y</td>
</tr>
<tr>
<td>VACANT</td>
<td>Northern Subregion</td>
<td></td>
</tr>
</tbody>
</table>

**For GPCOG**

Chris Chop, Andrew Clark, Kristina Egan

1. **Welcome**  
Matt Sturgis opened the meeting and welcomed the attendees.

2. **Public Comment**  
No public comment was received.

3. **Acceptance of the March 18 and April 6 Meeting Minutes**  
Jim Bennett moved to accept the March 18 and April 6 meeting minutes as written; Hope Cahan seconded. Chris Branch and Jen Brickett abstained, all others were in favor.
4. Preparing for Potential Transportation Earmarks

At its April 6 meeting, the Executive Committee discussed projects to submit for potential federal transportation earmark funding. Three priority projects included:

- Casco Bay Lines ferry replacement—$12 million total, $10.2 million in federal funding
- Regional Traffic Management System (RTMS) server upgrade—$2.5 million total, $1.875 million federal
- Funding towards the Collector Paving Program project backlog—$38.0 million total, $7.2 million federal requested

In advance of a final decision, the committee tabled the item and staff sought additional guidance. The deadline to submit projects to Congresswoman Pingree's office is April 23.

Hope moved to untable the item, Chris Branch seconded. All were in favor.

Jim felt it would be most beneficial to advance projects that would not otherwise receive funding from regular federal apportionments. Kristina Egan said the three projects represent the top unfunded priorities. An additional list of smaller TIP projects is also provided, should the committee choose to submit smaller projects to the Congresswoman's office. Kristina noted the TIP projects went through the usual public outreach process; some project ideas came from the December 2020 GPCOG call for projects; others came from the 2019 PACTS Priorities process, which included extensive public outreach.

Matt asked how regional transit funding might be affected if the ferry replacement were put forward. Kristina noted the ferry replacement could free up an estimated $10 million for other transit projects. Hope felt the ferry was top priority. Greg echoed the ferry replacement's positive financial impacts, noting the ferry replacement would otherwise consume 50 percent of the region's regular FTA apportionment.

Hope asked whether the projects would be submitted in ranked order. Kristina said a ranking could be articulated when the projects are submitted.
Chris Branch was supportive of all three projects, and agreed the ferry was the top priority.

Jim moved to advance the three priority projects as presented to Congresswoman Pingree's office, in no particular order but with the understanding that staff could informally communicate a preference; Eric Dudley seconded. Jen Brickett abstained; all others were in favor.

Jim moved to authorize staff to communicate to Congresswoman Pingree's office that an additional list of TIP projects can be made available upon request if there is a desire for additional projects, and to authorize staff to advance those projects if necessary; Hope seconded. Jen Brickett abstained; all others were in favor.

Hope moved to authorize staff to issue a letter indicating that the projects can be added to the TIP; Jim seconded. Jen Brickett abstained; all others were in favor.

5. **Designated Recipient Status**
Hope moved to untable the item, Eric seconded. All were in favor.

At its March 18 meeting, the Executive Committee had requested information on the region's FTA designated recipient structure:

- **Best practice**—The FTA prefers one designated recipient per region. The greater Portland region has six, which is unusual for a relatively small region.

- **How the current structure was established**—After the 2010 Census, PACTS became a large MPO and was instructed to identify one or more designated recipients. In 2012, the PACTS Policy Committee voted to designate the current six designated recipients. The minutes from this meeting do not indicate significant discussion, and characterize the decision as pro forma. In 2013, MaineDOT Commissioner Bernhardt "designated" the six entities as "direct" recipients. The FTA, however, considers those entities as designated recipients because the status quo has since treated them as such.

- **How the structure would be changed**—Changing the region's designated recipient structure would require a letter from the governor and concurrence from each of the designated recipients. PACTS is not able to take unilateral
action. Staff have included information from other regions that have changed their designated recipient structure in light of inability to reach agreement on funding processes.

Since the March 18 meeting, the region's designated recipients unanimously agreed to the process used to allocate FTA funding as detailed in the Transportation Funding Framework. Additional unanimous agreement will be necessary in 2022, when operations funding is incorporated into the framework, and in 2025, when the 12 percent set-aside for system enhancement projects is evaluated.

Two key concerns were raised throughout the funding framework process: ensuring enough funding would be available for operations and maintenance, and the new PACTS committee structure resulting in new perspectives in decision making. It has not been the intent of these processes to pursue consolidation. PACTS seeks to advance a customer-focused system that operates regionally.

Hope referenced a model of the MPO serving as the region's designated recipient, which would allow for a process of transit agencies and other stakeholders to be involved, while still allowing decision making to more forward under a majority or supermajority. As chair of METRO, she noted METRO is not pursuing consolidation, but rather collaboration.

Matt asked for public comment.

- Hank Berg of Casco Bay Lines thanked the committee for considering the ferry replacement for earmarks. He noted that, regardless of which agencies are designated recipients, all parties must work collaboratively to allocate funding. He felt it was time to rebuild trust among partners, and did not support further investigation into changing the region's designated recipient structure.
- William Gayle of NNEPRA agreed, noting the new Executive Board would soon be in place.
- Scott Morelli of the City of South Portland felt, in the spirit of collaboration, there should not be discussion of changing agencies' designated recipient status. He noted there had been several agencies in opposition to the funding framework.
Jim noted the challenges of, on one hand, processes that allow one person or entity to prevent progress, and, on the other, processes controlled by only one person or entity. He felt the existing process is problematic.

Jen noted that MaineDOT fully agrees with the need for a customer-focused system. She supported working together to build off the success of recent meetings.

Greg reiterated that METRO is not pursuing consolidation, but rather seeks to advance a regional network that functions seamlessly for riders. He mentioned his past experience working in the Phoenix area, which has local administration of a regional system. He supported continuing to examine the designated recipient structure, including a model with the MPO as the designated recipient.

Matt supported continuing to gather information on the issue, but to prioritize a focus on customer experience and building back ridership.

Jim suggested returning to the issue in the future. He suggested framing the discussion around how a sound process might look. Kristina suggested hosting this conversation at the Policy Board level—of which each transit agency is a member—in 2022. The group agreed the conversation should be grounded in the principles of:

- Advancing collaboration between the agencies
- Ensuring the agencies have the proper amount of influence in the decision
- Avoiding a situation where one party could stall a regional process

6. Other Business
As this meeting is the final Executive Committee meeting, Matt thanked the committee members for their work. Hope thanked Matt for his leadership.

7. Adjourn
Hope moved to adjourn; Greg seconded. With no objection, the motion carried.
April 16, 2021

Elizabeth Roberts
Senior Transportation Planner
PACTS/GPCOG
970 Baxter Boulevard, Suite 201
Portland, Maine 04103

Request for Additional Construction Funding: Congress Street WIN 01866.00

Hi Elizabeth,

Bids were opened for the Congress Street RTMS project. Two bids were received, and the low bid, $1,208,252.85 from Moulison Electric, Inc. was $340,224.80, or 41.8% more than the engineer’s estimate of $852,000.00 identified in the current agreement (Mod 2).

The Executive Committee has approved a policy that will allow for overages up to 20% of construction costs to be covered. For this project the maximum amount available, therefore, is $170,400, of which 75% of that would be PACTS funds.

As such, our request is to frame the funding as follows:

- $170,000 in additional PACTS funding (i.e. $127,500 federal/$42,500 city)

As such, the formal request from Portland is for $127,500 in additional federal funds.

Thank you,

Jeremiah J. Bartlett, PE, PTOE
Transportation Systems Engineer
Portland Department of Public Works

Copy: Chris Branch, Portland DPW
Keith Gray, Portland DPW
Caitlyn Abbott, Portland DPW
Brian Keezer, MaineDOT
## Balance in Holding WIN as of 4/20/2021

<table>
<thead>
<tr>
<th>Description</th>
<th>PE</th>
<th>ROW</th>
<th>CON</th>
<th>CE</th>
<th>Project Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td>STP - Flexible</td>
<td>$ 1,251,298.26</td>
<td>$ 1,251,298.26</td>
<td>$ 1,251,298.26</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>APPRO 9095 STATE 57395000</td>
<td>$ 66,870.87</td>
<td>$ 66,870.87</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>PRIVATE FUNDS</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>$ 1,318,169.13</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

### Pending Transfers out of Holding WIN

<table>
<thead>
<tr>
<th>Description</th>
<th>PE</th>
<th>ROW</th>
<th>CON</th>
<th>CE</th>
<th>Project Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Total Pending Transfers out of Holding WIN</strong></td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

### Pending Transfers into the Holding WIN

<table>
<thead>
<tr>
<th>Description</th>
<th>PE</th>
<th>ROW</th>
<th>CON</th>
<th>CE</th>
<th>Project Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Total Pending Transfers into Holding WIN</strong></td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

### Total Changes to Holding WIN

<table>
<thead>
<tr>
<th>Description</th>
<th>Federal</th>
<th>State</th>
<th>Local¹</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

## Remaining Holding WIN Balances

<table>
<thead>
<tr>
<th>Description</th>
<th>Federal</th>
<th>State</th>
<th>Local¹</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance in Holding WIN as of 4/20/2021</td>
<td>$ 1,251,298.26</td>
<td>$ 66,870.87</td>
<td>$ -</td>
<td>$ 1,318,169.13</td>
</tr>
<tr>
<td>Pending Transfers</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Remaining Holding WIN Balances</td>
<td>$ 1,251,298.26</td>
<td>$ 66,870.87</td>
<td>$ -</td>
<td>$ 1,318,169.13</td>
</tr>
<tr>
<td>Minimum Reserve</td>
<td>$ (240,000.00)</td>
<td>$ (60,000.00)</td>
<td>$ -</td>
<td>$ (300,000.00)</td>
</tr>
<tr>
<td>Holding WIN Balances Available</td>
<td>$ 1,011,298.26</td>
<td>$ 6,870.87</td>
<td>$ -</td>
<td>$ 1,018,169.13</td>
</tr>
</tbody>
</table>

¹ Local funds are shown only to reflect total project amounts. The Holding WIN does not contain any Local Funding.
PACTS DISADVANTAGED BUSINESS ENTERPRISE PLAN

March 2021

This plan was prepared for PACTS by the Greater Portland Council of Governments:

Zoe Miller, MPH, Director of Community Engagement
Marcel Ntagora, Planning and Outreach Associate
Phaeng Southisombath, Planner
Will Parker, Outreach Fellow

This document is available online at www.pactsplan.org. To request translations, print copies or in large print, please contact GPCOG staff.

By Mail:
Greater Portland Council of Governments
970 Baxter Boulevard, Suite 201
Portland, ME 04103
Attention: Title VI

By Telephone:
207-774-9891

By Fax:
207-774-7149

By Email:
info@gpcog.org
# TABLE OF CONTENTS

INTRODUCTION .................................................................................................................. 4  
POLICY STATEMENT ........................................................................................................... 4  
SUBPART A – GENERAL REQUIREMENTS ......................................................................... 5  
SUBPART B – ADMINISTRATIVE REQUIREMENTS ............................................................... 7  
SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING ..................................... 11  
SUBPART B – CERTIFICATION STANDARDS ................................................................... 15  
SUBPART E – CERTIFICATION PROCEDURES .................................................................. 15  
SUBPART F – COMPLIANCE AND ENFORCEMENT ............................................................ 15  
APPENDIX A: GPCOG ORGANIZATIONAL CHART .............................................................. 17  
APPENDIX B: DBE OVERALL GOALS AND METHODOLOGY .......................................... 18
INTRODUCTION

The Portland Area Comprehensive Transportation System (PACTS) supports the participation of Disadvantaged Business Enterprise (DBE) identified organizations throughout the transportation planning process. This plan describes the requirements and procedures that PACTS will adhere to while conducting operations.

POLICY STATEMENT

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

It is the policy of PACTS to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;

The PACTS DBE Liaison Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by PACTS in its financial assistance agreements with USDOT. PACTS has designated the GPCOG Transportation Director as the DBE Liaison Officer:

Chris Chop, Transportation Director, Greater Portland Council of Governments
970 Baxter Blvd, Suite 201, Portland, ME 04103
Tel: (207) 774-9891
Email: info@gpcog.org

PACTS ensures that this policy statement is disseminated to all members and to recipients and subrecipients. The statement is accessible to DBE and non-DBE business communities that perform work on USDOT-assisted contracts. PACTS uses various networks to distribute this policy including electronic notification to stakeholder lists, social media, and the PACTS website.

_________________________________________________  ______________________
[Signature of GPCOG Transportation Director]  Date
SUBPART A – GENERAL REQUIREMENTS

Objectives (49 CFR § 26.1)

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

Applicability (49 CFR § 26.3)

As a recipient of federal financial assistance, PACTS is required to administer a DBE program in compliance with all laws, regulations and Executive Orders and guidance. This DBE Program is also applicable to all PACTS sub-recipients. Sub-recipients are required to sign annual certifications and assurances confirming their compliance with PACTS and federal, state, and local regulations, as appropriate.

Definitions (49 CFR § 26.5)

PACTS will adopt the definitions contained in Section 26.5 for this program. For the purposes of this program, a socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who:

1. A recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Is included in the following groups, members of which are rebuttable presumed to be socially and economically disadvantaged:
   a. “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
   b. “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
   c. “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
   d. “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
   e. “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
   f. Women;
   g. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
Non-discrimination Requirements (49 CFR § 26.7)

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

In administering its DBE program, PACTS will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of DBE program with respect to individuals of a particular race, color, sex, or national origin.

Record Keeping Requirements (49 CFR § 26.11)

PACTS will report DBE participation to USDOT as follows:
- As a recipient of FHWA funding, PACTS will report DBE participation on a semi-annual basis (June 1 and Dec 1), using Uniform Report of DBE Awards or Commitments and Payment Form.
- As a recipient of FTA funding, PACTS will report DBE participation on a semi-annual basis (June 1 and Dec 1), using Uniform Report of DBE Awards or Commitments and Payment Form. These reports will reflect payments made to DBEs on USDOT-assisted contracts.

Bidders List: § 26.11(c)

PACTS will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidders list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

PACTS will collect this information by requiring bidders to report the names, addresses, and other information of DBE subcontractors to PACTS prior to the time of bid opening or finalization of a contract agreement. PACTS will maintain records documenting a firm’s compliance with the requirements of this part. PACTS will keep the complete application package for each certified firm. These records will be retained in accordance with applicable record retention requirements for the recipient’s financial assistance agreement. Other certification or compliance related records will be retained for a minimum of 3 years unless otherwise provided by applicable record retention requirements for the recipient’s financial assistance agreement, whichever is longer.


PACTS has signed the following assurances, applicable to all USDOT-assisted contracts and their administration:
Assurance: § 26.13(a)

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

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

Contract Assurance: § 26.11(b)

PACTS will ensure that the following clause is placed in every USDOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

DBE Program Updates (49 CFR § 26.21)

Since PACTS has received a grant of $250,000 or more in FTA planning capital, and or operating assistance in a federal fiscal year, PACTS will continue to carry out this program until all funds from FTA financial assistance have been expended. PACTS will provide updates to FTA should any significant changes occur in the Program.
Policy Statement (49 CFR § 26.23)

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

It is the policy of PACTS to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;

DBE Liaison Officer (DBELO) (49 CFR § 26.25)

PACTS has designated the following individual as DBE Liaison Officer:

Chris Chop, Transportation Director
Greater Portland Council of Governments
970 Baxter Blvd, Suite 201
Portland, ME 04103
Tel: (207) 774-9891
Email: info@gpcog.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that PACTS complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters. An organization chart displaying the DBELO’s position in the organization is found in Appendix A to this program.

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

1. Gathers and reports statistical data and other information as required by USDOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress).

6. Analyzes PACTS’ progress toward attainment and identifies ways to improve progress.

7. Participates in pre-bid meetings.

8. Advises the PACTS Transportation Director and Policy Committee on DBE matters and achievement.

**DBE Financial Institutions (49 CFR § 26.27)**

It is the policy of PACTS to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on USDOT-assisted contract to make use of these institutions.

Through a search of minority owned businesses as listed by the Maine Department of Transportation and through a search of minority depository institutions as listed by the Federal Reserve, PACTS did not identify any minority owned financial institutions in the PACTS region.

**Prompt Payment Mechanisms (49 CFR § 26.29(a))**

PACTS will include the following clause in each USDOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from PACTS. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of PACTS. This clause applies to both DBE and non-DBE subcontracts.

**Retainage (49 CFR § 26.29(b))**

PACTS does not collect retainage payments.

**Directory (49 CFR § 26.31)**

PACTS uses the MaineDOT DBE directory, which is available online at the following website: [www.maine.gov/mdot/civilrights/dbe/](http://www.maine.gov/mdot/civilrights/dbe/).

MaineDOT publishes a current directory identifying certified DBE’s. The MaineDOT DBE directory includes the address, phone number, and the types of work the firm has been certified to perform as
a DBE; this list is updated weekly. All DBE firms listed in the directory are certified as meeting the requirements as outlined in 49 CFR part 26.

Section 26.33 Overconcentration (49 CFR § 26.33)

If DBE firms are overconcentrated in a certain type of work, this may unduly burden the opportunity of non-DBE firms to participate in this type of work. PACTS has not identified that overconcentration exists in the types of work DBE’s perform. PACTS will continue to monitor DBE participation and usage and will use appropriate measures designed to assist DBE’s if any overconcentration areas are identified.

Business Development Programs (49 CFR § 26.35)

GPCOG has a small business loan program. Small to medium-sized businesses with fewer than 50 employees or sales of less than $5 million are eligible to apply for loans. Loans are made to all types of businesses and can range in size from several thousand dollars to loans in excess of $200,000. Most loans are in the range of $25,000 to $100,000 with an average loan size of about $52,000. Loan applications for projects related to food, energy, and freight would receive priority consideration from GPCOG’s Loan Committee. Interested persons would obtain information about the program by visiting https://www.gpcog.org/280/Loan-Program-for-Small-Businesses

Monitoring and Enforcement Mechanisms (49 CFR § 26.37)

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

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide a running tally of actual DBE attainments (e.g. payment actually made to DBE firms), including a means of comparing these attainments to commitments.
4. We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.
SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or Quotas (49 CFR § 26.43)

PACTS does not use quotas in any way in the administration of this DBE program.

Overall Goals (49 CFR § 26.45)

PACTS will establish overall goals every three years in accordance with the process specified in §26.45 of 49 CFR.

A description of the 2020-23 goal and the methodology to calculate that goal can be found in Appendix B.

In accordance with Section 26.45(f) PACTS will submit its overall goal to USDOT on August 1 of each year. PACTS will also request use of project-specific DBE goals as appropriate and/or will establish project-specific DBE goals as directed by FTA.

Before establishing the overall goal each year, PACTS will consult with the Maine Department of Transportation website to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the PACTS’ efforts to establish a level playing field for the participation of DBEs.

Following this consultation, PACTS will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at our principal office for 30 days following the date of the notice, and informing the public that PACTS and USDOT will accept comments on the goals for 30 days from the date of the notice. This notice will be published on the PACTS website and advertised in local newspapers. Normally, PACTS will issue this notice by June 1 each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

PACTS’ overall goal submission to USDOT will include a summary of information and comments received during this public participation process, including PACTS’ responses.

PACTS will begin using the overall goal on October 1 of each year, unless other instructions are received from USDOT. If PACTS established a goal on a project basis, PACTS will begin using the goal by the time of the first solicitation for a USDOT-assisted contract for the project.

Goal setting and Accountability (49 CFR § 26.47)

If the approved annual goal is not achieved, PACTS must submit a written analysis to USDOT explaining why the goal was not met and what actions PACTS will take to achieve the annual goal in
the following fiscal year. That analysis must be submitted within 90 days after the end of the federal fiscal year for approval.

Transit Vehicle Manufacturers Goals (49 CFR § 26.49)

PACTS has not historically used FTA-assisted funding or otherwise to procure transit vehicles. If this changes, PACTS will require each transit vehicle manufacturer to certify that it has complied with the requirements of this section as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements.

Breakout of Estimated Race-Neutral & Race-Conscious Participation (49 CFR § 26.51(a-c))

PACTS seeks to meet the established DBE annual goal solely through race-neutral means. Race and gender neutral DBE participation occurs when a DBE is awarded a contract through customary competitive procurement procedures, is awarded a subcontract on a contract that does not carry a DBE contract goal, or wins a subcontract from a prime contractor that did not consider its DBE status in making the award.

Contract Goals (49 CFR § 26.51(d-g))

PACTS will meet the maximum feasible portion of its overall goal using race-neutral means of facilitation DBE participation.

PACTS will only use contract goals to meet any portion of the overall goal if PACTS does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

PACTS will establish contract goals only on those USDOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

PACTS will express the contract goals as a percentage of the federal share of a USDOT assisted contract.

Good Faith Efforts Procedures (49 CFR § 26.53)

If a contract goal is established on a particular project, clear direction will be given to the bidder. It is the obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts.
The DBELO is responsible for determining whether a bidder/offer who has not met the established contract goal has documented sufficient good faith efforts in their attempt to meet that goal.

PACTS will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be Submitted (§ 26.53(b))

PACTS treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

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

Administrative reconsideration (§ 26.53(d))

Within 30 days of being informed by PACTS that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Kristina Egan, Executive Director
Greater Portland Council of Governments
970 Baxter Blvd, Suite 201
Portland, ME 04103
Tel: (207) 774-9891
Email: kegan@gpcog.org

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

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

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

PACTS will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. PACTS will require the prime contractor to notify the DBE Liaison officer immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation. The DBE must be given 5 days to business days to respond to the contractor and DBELO if they intend to object to the request for removal from the project. The 5 business days response period may be shortened for safety reasons existing on the project.

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

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

**Sample Bid Specification:**

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of PACTS to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 1.53% percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offeror’s commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.
Counting DBE Participation (49 CFR § 26.55)

When contracted goals are applicable, PACTS will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

SUBPART B – CERTIFICATION STANDARDS

Certification Process (49 CFR § 26.61-26.73)

PACTS will rely on the State of Maine DBE certification procedures. These procedures are available from the Maine Department of Transportation, 16 State House Station, Augusta, Maine 04333. MaineDOT uses the certification standards of Subpart D and Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards.

SUBPART E – CERTIFICATION PROCEDURES

Unified Certification Programs (49 CFR § 26.81)

PACTS works closely with MaineDOT, which is the certifying agency for all USDOT recipients in Maine for the DBE program, which was approved by USDOT in 2000. MaineDOT requires that all recipients sign the UCP Agreements in order to participate in USDOT assisted programs. MaineDOT has a list of all participating recipients and has signed copies of agreements on file at MaineDOT.


PACTS relies on MaineDOT for certification decisions regarding DBEs. MaineDOT’s DBE program states that “to be certified as a DBE, and for currently certified firms to remain in good status, a firm and the majority owner must meet all eligibility requirements including furnishing the Personal Financial Statement. Certification and renewal decisions are based on the facts as a whole. As such, the burden of proof for all applicants and those seeking renewal must furnish all evidence required under 49 CFR Part 26.”

For more information about certification procedures, contact MaineDOT’s Civil Rights Office at (207) 624-3066 or at: http://www.maine.gov/mdot/civilrights/dbe

SUBPART F – COMPLIANCE AND ENFORCEMENT

Information, Confidentiality, Cooperation (49 CFR § 26.109)

PACTS relies on MaineDOT for information, confidentiality, and cooperation. MaineDOT’s DBE Program states that “MaineDOT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal law and the Maine Freedom of Information Act, MSRS Title 5 CH. 65 § 791.
‘Records and correspondence utilized by state agencies in the certification for minority business enterprises, women’s business enterprises and a disadvantaged business enterprises which pertain to the applicant’s financial or tax status, to private contracts made by the applicant, to the applicant’s trade secrets or to any other matter customarily regarded as confidential business information shall be confidential and shall not be open for public inspection [1985, c. 587 (NEW).]

Nothing in this section prevents the disclosure of any records, correspondence or other materials to authorized officers and employees of the State Government and Federal Government. [1985, c. 587 (NEW).]

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.”

**Monitoring Payments to DBEs**

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

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.
APPENDIX A: GPCOG ORGANIZATIONAL CHART
APPENDIX B: DBE OVERALL GOALS AND METHODOLOGY

OVERALL GOAL

§ 49 CFR 26 requires that the Portland Area Comprehensive Transportation System (PACTS) set an overall goal of Disadvantaged Business Enterprise (DBE) participation in the use of FTA funds for transit planning. PACTS’s annual DBE goal for funded projects for the Federal Fiscal Years 2020-2022 is 1.53%. PACTS will meet its DBE goal through race neutral contracting opportunities.

METHOD OF ESTABLISHING GOAL

Step 1: Determining a Base Figure

PACTS used DBE directories and Census Bureau Data to determine the number of ready, willing, and able DBEs in the market area. The relevant market area is determined to be the State of Maine since most contractors and subcontractors with which PACTS does business with are located throughout the entire state.

Using the Census Bureau’s County Business Pattern (CBP) database, PACTS determined the number of all ready, willing and able businesses available in the market areas that perform the work in the same NAICS codes. To determine the number of certified DBE firms that are ready, willing and able to work on a given FTA-assisted project, PACTS looked for the NAICS codes based on anticipated contracts and the Maine DBE directory for firms that offer transit-related services. The number of DBE’s in the market area was divided by the number of all businesses in the State.

<table>
<thead>
<tr>
<th>NAICS Code</th>
<th>Description</th>
<th>Maine Firms</th>
<th>Relevant Market Area DBEs</th>
</tr>
</thead>
<tbody>
<tr>
<td>236220</td>
<td>Commercial and institutional building construction</td>
<td>142</td>
<td>4</td>
</tr>
<tr>
<td>237310</td>
<td>Highway, street and bridge construction</td>
<td>81</td>
<td>3</td>
</tr>
<tr>
<td>237990</td>
<td>Construction management, mass transit</td>
<td>41</td>
<td>3</td>
</tr>
<tr>
<td>238220</td>
<td>Plumbing heating and air conditioning contractors</td>
<td>619</td>
<td>2</td>
</tr>
<tr>
<td>238910</td>
<td>Site preparation contractors</td>
<td>514</td>
<td>5</td>
</tr>
<tr>
<td>483114</td>
<td>Coastal passenger transport to and from domestic ports</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>485111</td>
<td>Commuter transit systems, mixed mode</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>485991</td>
<td>Paratransit transportation services</td>
<td>15</td>
<td>1</td>
</tr>
<tr>
<td>541320</td>
<td>Urban planning services</td>
<td>21</td>
<td>3</td>
</tr>
<tr>
<td>541330</td>
<td>Engineering services</td>
<td>302</td>
<td>11</td>
</tr>
<tr>
<td>541511</td>
<td>Computer programming services</td>
<td>225</td>
<td>1</td>
</tr>
<tr>
<td>541611</td>
<td>Admin management and consulting services</td>
<td>249</td>
<td>1</td>
</tr>
<tr>
<td>541618</td>
<td>Management consulting services</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>541810</td>
<td>Advertising agencies</td>
<td>39</td>
<td>1</td>
</tr>
<tr>
<td>541850</td>
<td>Transit advertising services</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>541990</td>
<td>All other professional, scientific and technical services</td>
<td>45</td>
<td>1</td>
</tr>
<tr>
<td>561720</td>
<td>Janitorial services</td>
<td>369</td>
<td>1</td>
</tr>
</tbody>
</table>

Totals: 2688 41

BASE FIGURE: Total Maine Firms/TOTAL Market Area DBEs 1.53%
Step 2: Adjustments to Base
Based on a review of the requirements of § 26.45, there are no adjustments to be made to the base figure of 1.5%.

1. The current capacity of DBEs to perform work in your USDOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years; 
   As a new direct recipient of FTA funds, PACTS does not have sufficient data to support an adjustment.

2. Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; 
   There have been no disparity studies in Maine on the ability of DBE’s to get transit contracts;

3. If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program. 
   This method is not used for Goal Calculation.

4. Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program. 
   There is no data on self-employment, education, training and union apprenticeship programs relative to transit contracts;

5. Adjustment to your base figure to account for the continuing effects of past discrimination (often called the “but for” factor) or 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. 
   There is no data available in Maine relative to past discrimination in contracts.

EXPRESSION OF DBE GOAL
The DBE goal for PACTS will be expressed as a percentage of all FTA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that PACTS will expend in FTA contracts in the three forthcoming fiscal years. PACTS’s annual DBE goal for FFY 2020-2022 is 1.53%.

RACE NEUTRAL AND CONSCIOUS MEASURES
The PACTS DBE program goal of 1.53% for FFY 2020-2022 will be achieved entirely through race and gender-neutral means.
PUBLIC PARTICIPATION
DBE Goal Setting Public Outreach/Consultation Requirements §26.45(g) of Title 49, CFR Part 26 requires specific consultation activities as part of the overall DBE goal setting process as follows:
- Goal information will be posted on the website with an email alert to stakeholders.
- A summary will be developed of comments received and responses made. The summary will be attached as an appendix to the DBE plan.

The Public Notice below was posted February 22-April 8 2021
No comments were received.

DBE GOAL METHODOLOGY FFY 2020-2023
Portland Area Comprehensive Transportation System
Disadvantaged Business Enterprise Program

Notice is hereby given that in accordance with USDOT regulation 49 CFR Part 26, the Portland Area Comprehensive Transportation System (PACTS) has established a DBE Program for disadvantaged business participation in projects funded in whole or in part with Federal Transit Administration funds including consulting, supplies, manufacturing, and service contracts. The draft DBE plan and the overall goal were developed with input from the PACTS Executive Committee, the Maine Department of Transportation, and Federal Highway Administration.

For FFY 2020-2023 (October 1, 2020 through September 30, 2023) PACTS has established an annual DBE participation goal of 1.53% to be achieved through race/gender neutral means. Contractors/providers should examine each element of work on Federally Funded projects for DBE subcontracting or sub-consulting opportunities.

Click here to review the PACTS DBE Plan [add link]

To request a printed copy by mail, email info@gpcog.org or call 207-774-9891

PACTS will accept comments on the goal through the close of business on ____________. Comments should be addressed to DBE Liaison Officer (Transportation Director). Comments can be provided:

By Mail
Greater Portland Council of Governments
970 Baxter Boulevard, Suite 201
Portland, ME 04103
Attention: DBE Liaison Officer
By Telephone
If you or someone you know needs to review the plan in a language other than English, please email info@gpcog.org and include in the subject line: I need [SPECIFY LANGUAGE] interpreting for PACTS DBE Plan.”

(Arabic)

إذا كنت بحاجة إلى مراجعة الخطة باللغة العربية، أرسل بريدًا إلكترونيًا إلى info@gpcog.org بتضمينها:

I need Arabic interpreting for PACTS DBE Plan.

(Portuguese)

Se precisar revisar o plano em português, mande um email para info@gpcog.org e coloque a frase: I need Portuguese interpreting for PACTS DBE Plan.”

(Somali)

Haddii aad jeceshahay inaad dib u eegto qorshaha oo af-Soomaali ah, fadlan emayl ugu soo dir info@gpcog.org qadka mawduuqa: I need Somali interpreting for PACTS DBE Plan.

(Spanish)

Si necesita revisar el plan en español, envíe un correo electrónico a info@gpcog.org y en la línea del asunto incluya: I need Spanish interpreting for PACTS DBE Plan.

(French)

Si vous avez besoin de reviser le plan en Français, envoyez un e-mail à info@gpcog.org et incluez dans la ligne d’objet: I need French interpreting for PACTS DBE Plan.

Comments may also be sent directly to the Federal Transit Administration by contacting:

Ms. Margaret Griffin
Civil Rights Officer, Region I
Federal Transit Administration
55 Broadway, Suite 904
Cambridge, MA 02142
Tel: (617) 494-2397
E-mail: Margaret.griffin@dot.gov

PACTS DISADVANTAGED BUSINESS ENTERPRISE PLAN
## Long Range Financial Plan: 2020-2025

### Capital Program
- **Local**: $1,082,400 to $1,639,468
- **2015**: $3,910,892
- **2016**: $7,179,360
- **2020**: $5,413,136
- **2025**: $5,672,769

### Operating Program
- **Local**: $155,743
- **2015**: $10,347,997
- **2016**: $13,300,934
- **2020**: $9,169,511
- **2025**: $13,397,882

### ADA Complementary Paratransit
- **Local**: $155,743
- **2015**: $9,169,511
- **2016**: $13,300,934
- **2020**: $9,169,511
- **2025**: $13,397,882

### Planning Projects
- **Local**: $13,942
- **2015**: $155,743
- **2016**: $155,743
- **2020**: $9,169,511
- **2025**: $13,397,882

### Total
- **Local**: $13,942
- **2015**: $155,743
- **2016**: $155,743
- **2020**: $9,169,511
- **2025**: $13,397,882

### Sources of Funds
- **RAD Balance**: $5,788,203
- **Annual Apportionment**: $10,616,887
- **Total Sources of Funds**: $16,405,090

### Uses of Federal Funds
- **Capital Program**: $4,586,569
- **Operating Program**: $2,761,368
- **Planning Program**: $212,729
- **ADA Paratransit**: $55,769

### Available RAD Funds
- **2015**: $8,788,655
- **2016**: $7,179,360
- **2020**: $5,413,136

### Federal Fiscal Years (Oct. 1 - Sept. 30)
## Long Range Financial Forecast

### Long Range Financial Plan

#### Sources of Funds

<table>
<thead>
<tr>
<th>Year</th>
<th>Starting Balance</th>
<th>Annual Apportionment</th>
<th>Total Available Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$ -</td>
<td>$ 6,893,549</td>
<td>$ 6,893,549</td>
</tr>
<tr>
<td>2016</td>
<td>$ -</td>
<td>$ 7,816,835</td>
<td>$ 7,816,835</td>
</tr>
<tr>
<td>2017</td>
<td>$ -</td>
<td>$ 7,681,853</td>
<td>$ 7,681,853</td>
</tr>
<tr>
<td>2018</td>
<td>$ -</td>
<td>$ 9,019,885</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2019</td>
<td>$ -</td>
<td>$ 8,633,375</td>
<td>$ 8,633,375</td>
</tr>
<tr>
<td>2020</td>
<td>$ -</td>
<td>$ 7,982,135</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2021</td>
<td>$ -</td>
<td>$ 7,982,135</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2022</td>
<td>$ -</td>
<td>$ 7,982,135</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2023</td>
<td>$ -</td>
<td>$ 7,982,135</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2024</td>
<td>$ -</td>
<td>$ 7,982,135</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2025</td>
<td>$ -</td>
<td>$ 7,982,135</td>
<td>$ 7,982,135</td>
</tr>
</tbody>
</table>

#### Uses of Federal Funds

<table>
<thead>
<tr>
<th>Year</th>
<th>Capital Program</th>
<th>Operating Program</th>
<th>ADA Paratransit</th>
<th>Planning Program</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$ 523,220</td>
<td>$ 6,370,329</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 6,925,435</td>
</tr>
<tr>
<td>2016</td>
<td>$ 618,312</td>
<td>$ 7,198,523</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,816,835</td>
</tr>
<tr>
<td>2017</td>
<td>$ 635,289</td>
<td>$ 7,046,564</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,681,853</td>
</tr>
<tr>
<td>2018</td>
<td>$ 718,787</td>
<td>$ 8,301,098</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2019</td>
<td>$ 689,070</td>
<td>$ 7,944,305</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 8,633,375</td>
</tr>
<tr>
<td>2020</td>
<td>$ 636,974</td>
<td>$ 7,345,161</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2021</td>
<td>$ 636,974</td>
<td>$ 7,345,161</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2022</td>
<td>$ 636,974</td>
<td>$ 7,345,161</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2023</td>
<td>$ 636,974</td>
<td>$ 7,345,161</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2024</td>
<td>$ 636,974</td>
<td>$ 7,345,161</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,982,135</td>
</tr>
<tr>
<td>2025</td>
<td>$ 636,974</td>
<td>$ 7,345,161</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 7,982,135</td>
</tr>
</tbody>
</table>

### Funding Summary

<table>
<thead>
<tr>
<th>Year</th>
<th>Capital Program</th>
<th>Operating Program</th>
<th>ADA Complementary Paratransit</th>
<th>Planning Projects</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$ 654,025</td>
<td>$ 7,962,911</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 8,616,936</td>
</tr>
<tr>
<td>2016</td>
<td>$ 772,890</td>
<td>$ 8,998,154</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,771,044</td>
</tr>
<tr>
<td>2017</td>
<td>$ 794,111</td>
<td>$ 8,808,205</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,532,889</td>
</tr>
<tr>
<td>2018</td>
<td>$ 898,484</td>
<td>$ 10,376,373</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 11,274,685</td>
</tr>
<tr>
<td>2019</td>
<td>$ 861,338</td>
<td>$ 9,930,381</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 10,791,643</td>
</tr>
<tr>
<td>2020</td>
<td>$ 796,218</td>
<td>$ 9,181,451</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2021</td>
<td>$ 796,218</td>
<td>$ 9,181,451</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2022</td>
<td>$ 796,218</td>
<td>$ 9,181,451</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2023</td>
<td>$ 796,218</td>
<td>$ 9,181,451</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2024</td>
<td>$ 796,218</td>
<td>$ 9,181,451</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
<tr>
<td>2025</td>
<td>$ 796,218</td>
<td>$ 9,181,451</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 9,019,885</td>
</tr>
</tbody>
</table>

### Federal Fiscal Years (Oct. 1 - Sept. 30)

<table>
<thead>
<tr>
<th>Year</th>
<th>Capital Program</th>
<th>Operating Program</th>
<th>Planning Projects</th>
<th>ADA Complementary Paratransit</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$ 130,805</td>
<td>$ 1,592,582</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,592,582</td>
</tr>
<tr>
<td>2016</td>
<td>$ 154,578</td>
<td>$ 1,799,631</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,954,209</td>
</tr>
<tr>
<td>2017</td>
<td>$ 158,822</td>
<td>$ 1,701,641</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,904,685</td>
</tr>
<tr>
<td>2018</td>
<td>$ 179,697</td>
<td>$ 2,075,275</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 2,158,497</td>
</tr>
<tr>
<td>2019</td>
<td>$ 172,268</td>
<td>$ 1,986,076</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,920,367</td>
</tr>
<tr>
<td>2020</td>
<td>$ 159,244</td>
<td>$ 1,836,290</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,836,290</td>
</tr>
<tr>
<td>2021</td>
<td>$ 159,244</td>
<td>$ 1,836,290</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,836,290</td>
</tr>
<tr>
<td>2022</td>
<td>$ 159,244</td>
<td>$ 1,836,290</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,836,290</td>
</tr>
<tr>
<td>2023</td>
<td>$ 159,244</td>
<td>$ 1,836,290</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,836,290</td>
</tr>
<tr>
<td>2024</td>
<td>$ 159,244</td>
<td>$ 1,836,290</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,836,290</td>
</tr>
<tr>
<td>2025</td>
<td>$ 159,244</td>
<td>$ 1,836,290</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 1,836,290</td>
</tr>
</tbody>
</table>