

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date: August 19, 2014 Consent Regular
 Ordinance Public Hearing
Department: Palm Tran
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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: the Disadvantaged Business Enterprise (DBE) three (3) year Program Goal for Palm Beach County's public transit system, Palm Tran.

Summary: On June 3, 2014, the Board of County Commissioners (BCC) adopted an updated Disadvantaged Business Enterprise (DBE) Program (R2014-0869) for Palm Beach County's public transit system. In accordance with the approved DBE Program, Palm Tran has established an overall goal of DBE participation for FY 2015 to FY 2017 on contracts that are funded with assistance from the Federal Transportation Administration (FTA). The DBE goal identifies the relative availability of DBEs (based on evidence of ready, willing, and able businesses) in relationship to all comparable businesses known to be available to compete for Palm Beach County's FTA-assisted contracts. The overall DBE goal reflects staff's determination of the level of DBE participation expected. The recommended goal for DBE participation is 7%, broken down 4% Race Neutral and 3% Race Conscious. This recommendation is consistent with the BCC-approved DBE Program. Countywide (TKF)

Background and Justification: As a recipient of Federal funding, Palm Beach County is required to adopt and implement a DBE Program pursuant to 49 Code of Federal Regulations (CFR) Part 26, including the establishment of ongoing Program goals.

Attachments:

- 1. Disadvantaged Business Enterprise Program (DBE) Goal FY 2015 - FY 2017
 - 2. R2014-0869
 - 3. Letter from Federal Transit Administration; dated 08/11/2014
- =====

Recommended By:  8-4-14
 Assistant Director **Date**

Approved By:  8-12-14
 Assistant County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital	_____	_____	_____	_____	_____
Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* \$0	_____	_____	_____	_____
No. ADDITIONAL FTE POSITIONS (Cumulative)	0	_____	_____	_____	_____

Is Item Included In Current Budget? Yes ___ No ___

Budget Account No.: Fund ___ Dep't. ___ Unit ___
Object ___ Reporting Category _____

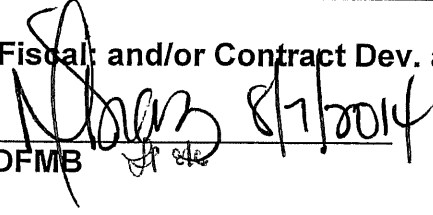
B. Recommended Sources of Funds/Summary of Fiscal Impact:

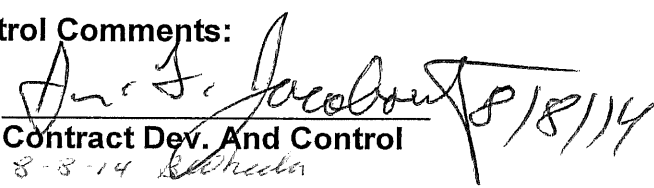
* This Agenda Item has no Fiscal Impact.

C. Departmental Fiscal Review: 
John Murphy, Finance Manager

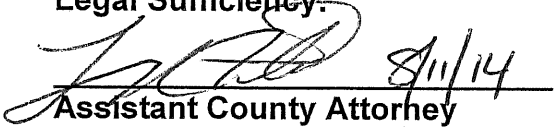
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 8/17/2014
OFMB

 8/18/14
Contract Dev. And Control
8-8-14

B. Legal Sufficiency:

 8/11/14
Assistant County Attorney

C. Other Department Review:

Department Director

**PALM TRAN
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
GOALS/METHODOLOGY FISCAL YEAR 2015-2017**

BACKGROUND

Pursuant to 49 Code of Federal Regulations Part 26 (49 CFR 26), the US Department of Transportation requires that recipients of federal funding assistance of at least \$250,000.00 establish a Disadvantaged Business Enterprise (DBE) Program and submit overall DBE goals for review every three years.

PROPOSED GOAL FOR FY 2015-2017

Palm Tran has established an overall goal of DBE participation for fiscal years 2015-2017 for the Federal Transit Administration (FTA)-assisted contracts. In FY 2015-2017, Palm Tran will have available in federal grant funds approximately \$14,552,000 to award in contracts from October 1, 2014 to September 30, 2017. This amount includes allocations from previous years, projections for allocations for FY 2015 to FY 2017 and excludes funds that have already been assigned to ongoing projects and funds allocated for bus purchases. Out of this amount, it is Palm Tran's goal that the DBE participation on DOT-assisted contracts will be 7%.

PALM TRAN FISCAL YEAR FY 2015-2017 PROJECTS

Palm Tran used calculations by groups of North American Industry Classification Systems (NAICS) codes and extracted only those codes of DBE firms who are ready, willing, and able to participate in the following FTA-assisted contracts for Fiscal Years 2015-2017. They are as follows:

PROJECT DETAIL	NAICS CODE	CATEGORY
Intermodal Janitorial	561720	Janitorial Services
Repair Service and Parts for Motor Oil - lubricants.	811310	Commercial and Industrial Machinery and Equipment
	324191	Petroleum Lubricating Oil and Grease Manufacturing
	424720	Petroleum and Petroleum Products Merchant Wholesalers
Relief Vehicles, Service Truck.	441110	New Car Dealers
Non-revenue auto repair	811111	General Automotive Repair
Bus - Outside service repair	811310	Commercial and Industrial Machinery and Equipment
Parts 3 Years	423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers
Capitalized Maintenance	336390	Motor Vehicle Transmission and Power Train Parts Manufacturing
Facility Expansion. Paving. General Contractors. We estimated that around 12% of the costs of capital equipment are incurred on installation.	236210	Industrial Building Construction
	236220	Commercial and Institutional Building Construction
	238210	Electrical Contractors and Other Wiring Installation Contractors
	238990	All Other Specialty Trade Contractors
Security - Digital Recording security system	561621	Security Systems Services
	423410	Photographic Equipment and Supplies Merchant
Engineering & Design A&E	541330	Engineering Services
	541310	Architectural Services

Attachment # /

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEMS (NAICS)

Table I Identifies the corresponding NAICS Codes, type of industry (Work Item), estimated dollar (Amount) and Percentage most likely to be associated with proposed Palm Tran projects/contracts to be awarded in Fiscal Years 2015-2017.

PROJECT DETAIL	NAICS CODE	CATEGORY	AMOUNT	PERCENTAGE OF TOTAL
Intermodal Janitorial	561720	Janitorial Services	\$90,000	0.62%
Repair Service and Parts for	811310	Commercial and Industrial Machinery and Equipment	\$50,000	0.34%
Motor Oil - lubricants.	324191 424720	Petroleum Lubricating Oil and Grease Manufacturing Petroleum and Petroleum Products Merchant Wholesalers	\$660,000	4.54%
Relief Vehicles, Service Truck.	441110	New Car Dealers	\$572,000	3.93%
Non-revenue auto repair	811111	General Automotive Repair	\$105,000	0.72%
Bus - Outside service repair	811310	Commercial and Industrial Machinery and Equipment	\$250,000	1.72%
Parts 3 Years	423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	\$7,800,000	53.60%
Capitalized Maintenance	336390	Motor Vehicle Transmission and Power Train Parts Manufacturing	\$770,000	5.29%
Facility Expansion. Paving. General Contractors. We estimated that around 12% of the costs of capital equipment are incurred on installation.	236210 236220 238210 238990	Industrial Building Construction Commercial and Institutional Building Construction Electrical Contractors and Other Wiring Installation Contractors All Other Specialty Trade Contractors	\$2,755,000	18.93%
Security - Digital Recording security system	561621 423410	Security Systems Services Photographic Equipment and Supplies Merchant	\$1,000,000	6.87%
Engineering & Design A&E	541330 541310	Engineering Services Architectural Services	\$500,000	3.44%
TOTAL DOT ASSISTED CONTRACTS TO BE AWARDED IN 2015-2017			\$14,552,000	100%

Table II Represents the total number of registered DBE firms and all available firms and subcontractors located in Palm Beach County's Normal Market Area who are ready, willing and able to participate in USDOT-assisted projects. They were extracted from the North American Industry Classification System (NAICS), Florida Department of Transportation Equal Opportunity Office DBE Directory, Palm Beach County Vendor Data Base, and the Census Bureau's County Business Pattern data base.

Relative Availability (expressed as a percentage) = Number of DBE Firms / Total Number of All firms

PROJECT DETAIL	NAICS CODE	CATEGORY	Number of All Firms	Number of DBE's	Relative DBE Availability
Intermodal Janitorial	561720	Janitorial Services	378	5	1.32%
Repair Service and Parts for	811310	Commercial and Industrial Machinery and Equipment	71	3	4.23%
Motor Oil - lubricants.	324191	Petroleum Lubricating Oil and Grease Manufacturing	11	0	0.00%
	424720	Petroleum and Petroleum Products Merchant Wholesalers	123	7	5.69%
Relief Vehicles, Service Truck	441110	New Car Dealers	1141	0	0.00%
Non-revenue auto repair	811111	General Automotive Repair	378	0	0.00%
Bus - Outside service repair	811310	Commercial and Industrial Machinery and Equipment	71	3	4.23%
Parts 3 Years	423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	190	3	1.58%
Capitalized Maintenance	336390	Motor Vehicle Transmission and Power Train Parts Manufacturing	51	1	1.96%
Facility Expansion. Paving. General Contractors. We estimated that around 12% of the costs of capital equipment are incurred on installation.			999	57	23.34%
	236210	Industrial Building Construction	218	14	6.42%
	236220	Commercial and Institutional Building Construction	190	5	2.63%
	238210	Electrical Contractors and Other Wiring Installation Contractors	376	17	4.52%
	238990	All Other Specialty Trade Contractors	215	21	9.77%
Security - Digital Recording security system			651	53	9.55%
	561621	Security Systems Services - Electrical	555	53	9.55%
	423410	Photographic Equipment and Supplies Merchant	96	0	0.00%
Engineering & Design A&E			492	25	10.85%
	541330	Engineering Services	335	15	4.48%
	541310	Architectural Services	157	10	6.37%
TOTAL DOT ASSISTED CONTRACTS TO BE AWARDED IN 2015-2017			4,556	157	3.45%

Table III Palm Tran's Base Figure for FY 2015-2017 is 7%; a number based on our past history and the relative availability of DBEs. Our spare parts line item is the highest rank of federally funded purchases accounting for 53.6% of our expected contracts for FY 2015-2017, but with only three (3) DBE companies available under this category.

The weighted percentage average for each listed NAICS Code was calculated as follows:

Palm Tran has in previous years used a Weighted Average to develop a Base Figure. This was determined by multiplying the estimated percentage of total dollars expected to be expended within each NAICS category (**Table I**) on DOT-assisted contracts to be awarded in FY-2015-2017 by the Percentage of DBE firms and subcontractors in each NAICS category (**Table II**).

The following calculation has been used to arrive at a Base Figure of the goal setting process:

NAICS CODE	CATEGORY	Table I PERCENTAGE OF TOTAL Funds Available	Table II Relative DBE Availability	<u>A Multiplied by B</u> <u>Weighted % Per Category</u>
561720	Janitorial Services	0.62%	1.32%	0.01%
811310	Commercial and Industrial Machinery and Equipment	0.34%	4.23%	0.01%
324191 424720	Petroleum Lubricating Oil and Grease Manufacturing Petroleum and Petroleum Products Merchant Wholesalers	4.54%	5.69%	0.26%
441110	New Car Dealers	3.93%	0.00%	0.00%
811111	General Automotive Repair	0.72%	0.00%	0.00%
811310	Commercial and Industrial Machinery and Equipment	1.72%	4.23%	0.07%
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	53.60%	1.58%	0.85%
336390	Motor Vehicle Transmission and Power Train Parts Manufacturing	5.29%	1.96%	0.10%
236210 236220 238210 238990	Industrial Building Construction Commercial and Institutional Building Construction Electrical Contractors and Other Wiring Installation Contractors All Other Specialty Trade Contractors	18.93%	23.34%	4.42%
561621 423410	Security Systems Services Photographic Equipment and Supplies Merchant	6.87%	9.55%	0.66%
541330 541310	Engineering Services Architectural Services	3.44%	10.85%	0.37%
BASE FIGURE = TOTAL WEIGHTED PERCENTAGE DBE GOAL FOR FY2015-2017				6.75%

Using Weighted Average to develop a base figure is calculated as follows:

(Percent of Total Dollars) X (% Available DBE Firms) all NAICS categories are added = Total %

Example: Parts (NAICS 423120):

Percentage Total from Table I		Relative Availability Percentage from Table II		
56.60%	X	1.96%	=	0.85%

+ all other NAICS categories calculated as such = Total % (which is 6.75%)

Palm Tran is confident that the base established figure of 7% can be met. Steps have been taken to further open opportunities to DBEs by separating a portion of the cost of equipment to account for installation; this is a portion that could be subcontracted. Implementation of the ADA transition plan will be fragmented to allow for DBEs to participate as prime contractors.

Palm Beach County and Palm Tran, in association with the organization Palm Beach Partners, continue to participate in the annual Matchmaker Conference & Expo with the goal to bring State, County and Local Government Agencies, major corporations and small businesses together to match the multitude of disciplines needed to participate on major contracts. We are certain the conference will allow us to identify new partners that can provide the services and supplies we need. Small businesses sometimes are not aware of how to complete the proper DBE certification in order to be able to participate in our federally funded projects.

PROCESS

Palm Tran is required to submit its overall DBE goals for Fiscal Years 2015-2017 to The Federal Transit Administration (FTA) every three years, except in cases where a recipient submits a project goal. The current DBE Goal for Fiscal Years 2012-2014 expires on September 30th, 2014.

Palm Tran posted a notice of the proposed overall DBE goals, informing the public that the proposed goal and its rationale are available for inspection during business hours at Palm Tran's main facility located at 3201 Electronics Way, West Palm Beach, Florida, for 45 days following the date of the notice and informing the public that Palm Tran will accept comments on the goals for 45 days from the date of the notice. Palm Tran published its overall goal with the Palm Beach Post, a countywide publication. The goal is also posted on Palm Tran's website: www.palmtran.org. Palm Tran issued this notice on June 15, and July 6, 2014. The notice included addresses to which comments may be sent and addresses (including offices and website) where the proposal may be reviewed. Palm Tran also reached out to certified DBEs doing business under the NAICS categories identified at the beginning of the goal setting process. Palm Tran sent those DBEs a notice of the DBE goal publication, including information on how to register with the County to receive notices about future contract opportunities.

PUBLIC COMMENTS

No comments were received during the 45 day public comment period.

CONTRACT GOALS

Palm Tran will use contract goals to meet any portion of the overall goal that cannot be met using race-neutral means. Palm Tran will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. Palm Tran 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., scope of work, location of work, and availability of DBEs to perform the particular type of work).

Palm Tran will express its contract goal as a percentage of the total amount of a DOT-assisted contracts expensed during the Fiscal Year.

BREAKOUT OF ESTIMATED RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION

The following is a summary of the basis of the estimated break out of Race Neutral and Race Conscious DBE participation.

Palm Tran anticipates that 4% of the total proposed goal of 7% will be attained through race neutral means. Palm Tran through close monitoring of awarded contracts will use race conscious means after the semi-annual report is completed for the first half of each fiscal year, if overall contract awards have not met at least 7% of DBE participation.

PAST PARTICIPATION (Previous years goals / accomplishments)

Over the past three years, Palm Tran met the DBE goals for FY 2011 and FY 2013, and did not meet the goal for FY 2012.

After a review of FY 2012 procurements, Palm Tran reported that only 3.35% of the awards went to DBEs. An analysis of the contracts awarded reveals:

\$3,105,057 was awarded in FY 2012, and \$103,961 (3.35%) was awarded to DBEs, the 10% goal of DBE participation was not met in FY 2012.

\$1,537,712.50 or 49.52% of these contracts were identified as construction contracts. Based on DBE availability, construction in buildings has a 13.33% DBE availability.

A review of the construction projects reveals that two (2) of these projects did not have DBE participation. The South County Parking Lot Lights, and the Bus Lift Replacement, were labeled as construction projects, but did not involve building construction. A review of the certified DBEs in the region, did not identify any certified DBEs for this kind of work. These contracts did not have DBE availability.

The analysis of the awarded construction contracts in FY 2012 reveals that: The two (2) contracts without DBE participation amount to 81.8% of the \$1,537,712.50. The remainder 18.2% (\$279,863.68) of contracts with DBE availability, had a 37.15% of DBE participation or the \$103,961 that was reported for DBE participation in FY 2012.

Palm Tran will continue to analyze DBE participation semiannually to provide opportunities to DBEs on projects that have relative DBE participation. Palm Tran will use contract goals to meet any portion of the overall goal that cannot be met 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 the overall goal that is not projected to be met through the use of race-neutral means.

RESOLUTION NO. R - 2014-0869

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ADOPTING A REVISED DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM FOR PALM BEACH COUNTY'S PUBLIC TRANSIT SYSTEM, PALM TRAN; AUTHORIZING PALM TRAN'S EXECUTIVE DIRECTOR OR ASSISTANT EXECUTIVE DIRECTOR THROUGH THE COUNTY ADMINISTRATOR, ON BEHALF OF THE BOARD, TO EXECUTE THE DBE PROGRAM POLICY STATEMENT, TO TRANSMIT THE REVISED DBE PROGRAM TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) FOR APPROVAL, AND TO MAKE CERTAIN MINISTERIAL ADJUSTMENTS TO THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County ("County"), through Palm Tran, operates the public transit system; and

WHEREAS, the County has accepted financial assistance from the United States Department of Transportation for the development and improvement of the public transit system, and as a condition of receiving this assistance, the County has signed assurances that it will comply with 49 CFR Part 26; and

WHEREAS, the County is required to adopt a Disadvantaged Business Enterprise ("DBE") Program pursuant to 49 CFR § 26.21 (a)(2); and

WHEREAS, recent regulatory changes and modifications to departmental policies and procedures necessitate the adoption of a revised DBE Program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. **DBE Program.**

The Board of County Commissioners ("Board") hereby approves and adopts the revised DBE Program for the public transit system, Palm Tran, attached hereto as Attachment "1" ("DBE Program") and authorizes the County Administrator or his designee to execute the Policy Statement set forth in the DBE Program and to transmit the DBE Program to the Federal Transit Administration for approval. Palm Tran's Executive Director or Assistant Executive Director shall be considered a designee of the County Administrator for purposes of this resolution.

2. **Administration of DBE Program.**

Except as otherwise directed by the County Administrator, Palm Tran shall be responsible for the administration and implementation of the DBE Program on behalf of the County, which shall include submission of required reports and goals to the Federal Transit Administration. The County Administrator or his designee shall be authorized to make ministerial adjustments to the DBE Program from time to time to ensure compliance with 49 CFR Part 26; document changes in County or departmental procedures or policies; and to undertake other ministerial acts required or recommended by the Federal Transit Administration, the Unified Certification Program

for the State of Florida, or applicable federal regulations, policies, guidance documents, or orders. Any changes to the DBE Program shall be filed in the Minutes of the Clerk of the Board and be subject to approval by the Federal Transit Administration as provided in 49 CFR Part 26.

3 Severability.

If any section, paragraph, sentence clause or word of this Resolution is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Resolution.

4 Effective Date

This Resolution shall be effective upon adoption.

The foregoing Resolution was offered by Commissioner Vana, who moved its adoption. The motion was seconded by Commissioner Berger, and upon being put to a vote, the vote was as follows:

- | | |
|---|------------|
| Commissioner Priscilla A. Taylor, Mayor | <u>Aye</u> |
| Commissioner Paulette Burdick, Vice Mayor | <u>Aye</u> |
| Commissioner Hal R. Valeche | <u>Aye</u> |
| Commissioner Shelley Vana | <u>Aye</u> |
| Commissioner Steven L. Abrams | <u>Aye</u> |
| Commissioner Mary Lou Berger | <u>Aye</u> |
| Commissioner Jess R. Santamaria | <u>Aye</u> |

The Mayor thereupon declared the resolution duly passed and adopted this

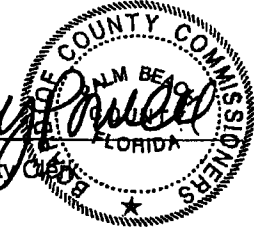
3rd day of June, 2014.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
County Attorney

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COMMISSIONERS
Sharon R. Bock, Clerk and Comptroller

By: [Signature]
Deputy Clerk





U.S. Department
Of Transportation
**Federal Transit
Administration**

FTA Region IV

230 Peachtree Street, NW, Suite 800
Atlanta, GA 30303

August 11, 2014

Claudia Salazar
Palm Tran - Grants Coordinator
3201 Electronics Way
West Palm Beach, FL 33407

Re: DBE Goal Methodology Concurrence, FFY 2015-2017: Palm Tran - Recipient ID No. 1098

Dear Ms. Salazar

This letter is to inform you that the Federal Transit Administration (FTA) received the Palm Beach County / Palm Tran's Disadvantaged Business Enterprise (DBE) Goal and Methodology for Federal Fiscal Year 2015-2017 submitted on July 29, 2014. This submission is required pursuant to the Department of Transportation DBE regulations found at 49 CFR Part 26.

We have reviewed the complete submittal and determined that it is satisfactory. The DBE Goal will next expire on September 30, 2017. New goals will be due by August 1, 2017 in order to give the FTA adequate time to complete reviews. Please delete any versions of the DBE Goal in TEAM that this submission is replacing. If you encounter any problems with FTA's TEAM-Web system, please contact the TEAM Helpdesk at (888) 443-5305 or Team.Helpdesk@dot.gov.

Thank you for your ongoing support of and cooperation in meeting civil rights requirements. A copy of this letter has been attached to your Recipient Profile in TEAM. Please contact me at (404) 865-5471 or at Carlos.Gonzalez3@dot.gov for any questions.

Sincerely,

Carlos A. Gonzalez
Region IV Civil Rights Officer

cc: Shannon LaRocque, Interim Executive Director, Palm Tran (Electronic)
Dr. Yvette G. Taylor, FTA Regional Administrator, Region IV (Electronic)
Monica McCallum, FTA Civil Rights Regional Division Chief (Electronic)

Attachment # 3

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