



Metro

*One Gateway Plaza, Los Angeles, CA 90012,
3rd Floor, Metro Board Room*

Agenda - Final

Thursday, March 21, 2024

11:00 AM

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Executive Management Committee

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Ara J. Najarian

Hilda Solis

Gloria Roberts, non-voting member

Stephanie Wiggins, Chief Executive Officer

METROPOLITAN TRANSPORTATION AUTHORITY BOARD AGENDA RULES
(ALSO APPLIES TO BOARD COMMITTEES)

PUBLIC INPUT

A member of the public may address the Board on agenda items, before or during the Board or Committee's consideration of the item for one (1) minute per item, or at the discretion of the Chair. A request to address the Board must be submitted electronically using the tablets available in the Board Room lobby. Individuals requesting to speak will be allowed to speak for a total of three (3) minutes per meeting on agenda items in one minute increments per item. For individuals requiring translation service, time allowed will be doubled. The Board shall reserve the right to limit redundant or repetitive comment.

The public may also address the Board on non-agenda items within the subject matter jurisdiction of the Board during the public comment period, which will be held at the beginning and/or end of each meeting. Each person will be allowed to speak for one (1) minute during this Public Comment period or at the discretion of the Chair. Speakers will be called according to the order in which their requests are submitted. Elected officials, not their staff or deputies, may be called out of order and prior to the Board's consideration of the relevant item.

Notwithstanding the foregoing, and in accordance with the Brown Act, this agenda does not provide an opportunity for members of the public to address the Board on any Consent Calendar agenda item that has already been considered by a Committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the Committee on the item, before or during the Committee's consideration of the item, and which has not been substantially changed since the Committee heard the item.

In accordance with State Law (Brown Act), all matters to be acted on by the MTA Board must be posted at least 72 hours prior to the Board meeting. In case of emergency, or when a subject matter arises subsequent to the posting of the agenda, upon making certain findings, the Board may act on an item that is not on the posted agenda.

CONDUCT IN THE BOARD ROOM - The following rules pertain to conduct at Metropolitan Transportation Authority meetings:

REMOVAL FROM THE BOARD ROOM - The Chair shall order removed from the Board Room any person who commits the following acts with respect to any meeting of the MTA Board:

- a. Disorderly behavior toward the Board or any member of the staff thereof, tending to interrupt the due and orderly course of said meeting.
- b. A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting.
- c. Disobedience of any lawful order of the Chair, which shall include an order to be seated or to refrain from addressing the Board; and
- d. Any other unlawful interference with the due and orderly course of said meeting.

INFORMATION RELATING TO AGENDAS AND ACTIONS OF THE BOARD

Agendas for the Regular MTA Board meetings are prepared by the Board Clerk and are available prior to the meeting in the MTA Records Management Department and on the Internet. Every meeting of the MTA Board of Directors is recorded and is available at <https://www.metro.net> or on CD's and as MP3's for a nominal charge.

DISCLOSURE OF CONTRIBUTIONS

The State Political Reform Act (Government Code Section 84308) requires that a party to a proceeding before an agency involving a license, permit, or other entitlement for use, including all contracts (other than competitively bid, labor, or personal employment contracts), shall disclose on the record of the proceeding any contributions in an amount of more than \$250 made within the preceding 12 months by the party, or his or her agent, to any officer of the agency, additionally PUC Code Sec. 130051.20 requires that no member accept a contribution of over ten dollars (\$10) in value or amount from a construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity that has contracted with the authority in the preceding four years. Persons required to make this disclosure shall do so by filling out a "Disclosure of Contribution" form which is available at the LACMTA Board and Committee Meetings. Failure to comply with this requirement may result in the assessment of civil or criminal penalties.

ADA REQUIREMENTS

Upon request, sign language interpretation, materials in alternative formats and other accommodations are available to the public for MTA-sponsored meetings and events. All requests for reasonable accommodations must be made at least three working days (72 working hours) in advance of the scheduled meeting date. Please telephone (213) 364-2837 or (213) 922-4600 between 8 a.m. and 5 p.m., Monday through Friday. Our TDD line is (800) 252-9040.

Requests can also be sent to boardclerk@metro.net.

LIMITED ENGLISH PROFICIENCY

A Spanish language interpreter is available at all Committee and Board Meetings. All other languages must be requested 72 hours in advance of the meeting by calling (213) 364-2837 or (213) 922-4600. Live Public Comment Instructions can also be translated if requested 72 hours in advance.

Requests can also be sent to boardclerk@metro.net.



323.466.3876

x2 *Español (Spanish)*

x3 *中文 (Chinese)*

x4 *한국어 (Korean)*

x5 *Tiếng Việt (Vietnamese)*

x6 *日本語 (Japanese)*

x7 *русский (Russian)*

x8 *Հայերէն (Armenian)*

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NOTE: ACTION MAY BE TAKEN ON ANY ITEM IDENTIFIED ON THE AGENDA

Live Public Comment Instructions:

Live public comment can be given by telephone or in-person.

The Committee Meeting begins at 11:00 AM Pacific Time on March 21, 2024; you may join the call 5 minutes prior to the start of the meeting.

Dial-in: 202-735-3323 and enter
English Access Code: 5647249#
Spanish Access Code: 7292892#

Public comment will be taken as the Board takes up each item. To give public comment on an item, enter #2 (pound-two) when prompted. Please note that the live video feed lags about 30 seconds behind the actual meeting. There is no lag on the public comment dial-in line.

Instrucciones para comentarios publicos en vivo:

Los comentarios publicos en vivo se pueden dar por telefono o en persona.

La Reunion de la Junta comienza a las 11:00 AM, hora del Pacifico, el 21 de Marzo de 2024. Puedes unirse a la llamada 5 minutos antes del comienzo de la junta.

Marque: 202-735-3323 y ingrese el codigo
Codigo de acceso en ingles: 5647249#
Codigo de acceso en espanol: 7292892#

Los comentarios del público se tomaran cuando se toma cada tema. Para dar un comentario público sobre una tema ingrese # 2 (Tecla de numero y dos) cuando se le solicite. Tenga en cuenta que la transmisión de video en vivo se retrasa unos 30 segundos con respecto a la reunión real. No hay retraso en la línea de acceso telefónico para comentarios públicos.

Written Public Comment Instruction:

Written public comments must be received by 5PM the day before the meeting. Please include the Item # in your comment and your position of "FOR," "AGAINST," "GENERAL COMMENT," or "ITEM NEEDS MORE CONSIDERATION."

Email: BoardClerk@metro.net

Post Office Mail:

Board Administration

One Gateway Plaza

MS: 99-3-1

Los Angeles, CA 90012

CALL TO ORDER**ROLL CALL**

APPROVE Consent Calendar Item: 23.

Consent Calendar items are approved by one motion unless held by a Director for discussion and/or separate action.

CONSENT-CALENDAR**23. SUBJECT: LONG-TERM ADVERTISING - CULVER CITY STATION**[2024-0090](#)**RECOMMENDATION**

APPROVE a long-term advertising purchase, up to 12 months, at Culver City Station from Max (formerly HBO), generating \$616,000 estimated net revenue for Metro. This is not a title sponsorship and will not affect Culver City Station's title nor the adjacent private property's title, Ivy Station.

Attachments: [Attachment A - Commercial Sponsorship and Adoption Policy](#)
[Attachment B - System Advertising Policy](#)
[Attachment C - Max Advertising-Culver City Station](#)

NON-CONSENT**24. SUBJECT: STATE AND FEDERAL REPORT**[2024-0137](#)**RECOMMENDATION**

RECEIVE AND FILE March 2024 State and Federal Legislative Report.

19. SUBJECT: DISPARITY STUDY[2024-0109](#)**RECOMMENDATION**

CONSIDER:

A. RECEIVING AND FILING the Final 2023 Disparity Study Report; and

B. AUTHORIZING the Chief Executive Officer (CEO) to develop a three-year pilot Micro Small Business Program and certification designation.

Attachments: [Attachment A - 2023 Disparity Study Executive Summary](#)
[Attachment B - Public Comment Period Comments and Responses](#)
[Presentation](#)

(ALSO ON PLANNING AND PROGRAMMING COMMITTEE)

SUBJECT: GENERAL PUBLIC COMMENT[2024-0144](#)

RECEIVE General Public Comment

Consideration of items not on the posted agenda, including: items to be presented and (if requested) referred to staff; items to be placed on the agenda for action at a future meeting of the Committee or Board; and/or items requiring immediate action because of an emergency situation or where the need to take immediate action came to the attention of the Committee subsequent to the posting of the agenda.

COMMENTS FROM THE PUBLIC ON ITEMS OF PUBLIC INTEREST WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION

Adjournment



Board Report

File #: 2024-0090, File Type: Contract

Agenda Number: 23.

EXECUTIVE MANAGEMENT COMMITTEE MARCH 21, 2024

SUBJECT: LONG-TERM ADVERTISING - CULVER CITY STATION

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

APPROVE a long-term advertising purchase, up to 12 months, at Culver City Station from Max (formerly HBO), generating \$616,000 estimated net revenue for Metro. This is not a title sponsorship and will not affect Culver City Station's title nor the adjacent private property's title, Ivy Station.

ISSUE

In compliance with the Commercial Sponsorship and Adoption Policy ("Attachment A"), staff requests approval of long-term advertising and activity by Max at the Culver City Station on the Metro E Line (Expo). Approval of this long-term advertising purchase will authorize Metro's rail advertising broker, Intersection, to manage the extended 12-month purchase and advertising activities stated in this report.

BACKGROUND

In February 2021, the Metro Board approved the Commercial Sponsorship and Adoption Policy. The Sponsorship Policy provides a structured framework and well-defined process to engage in commercial sponsorships as an extension of revenue advertising. This encompasses the definition of sponsorship models, terms and durations, the identification of eligible agency assets, sponsor eligibility and responsibilities, the proposal process, and the criteria used for evaluation for Metro to conduct revenue sponsorship business aligned with the System Advertising Policy ("Attachment B").

Since its adoption, the Sponsorship Policy has enabled the agency's sponsorship deals with Door Dash, Max/HBO, and Adventist Health. Max, formerly Home Box Office (HBO), or MAX, relocated their corporate headquarters to Ivy Station in 2021, adjacent to the Culver City Station on the E Line. To announce their presence in the neighborhood, Max purchased an exclusive station buyout from fall 2021 to fall 2022. Max's buyout excludes any other entertainment studio or content streamer from displaying static or digital advertising at the station. Max views the activated station as an extension of their headquarters and continued the buyout for a second year in 2022-2023 (Metro board approved this sale in early 2022); they are requesting to continue the activation for a third year,

extending into late 2024.

DISCUSSION

Ivy Station is a mixed-use transit-oriented development that provides retail, office, hotel, and residential uses surrounding a large central open space conveniently served by light rail and bus transit. The proximity of Metro's Culver City station to Max's headquarters at Ivy Station presents a unique opportunity where private and public spaces effortlessly commingle. The station design, close proximity, and engaging Max visual content are in harmony - creating an engaging station activation. For Max, the activation provides high visibility and exposure of their brand and service; for Metro, the activation provides an engaging and memorable experience for commuters while generating revenue.

Activation techniques for year three will see similar execution from previous years, including wrapping station elements such as columns, pillars, trestles, escalator exterior walls, and wallscapes via direct decal to the surfaces of station property. As part of the digital ad program, digital screens have also been deployed at this station and used in this campaign. To promote their expansive content offerings, station wraps are exchanged roughly every 10 weeks - leaving little time for vandalism or graffiti incidents to occur. Within the 12-month duration, creative content may be updated at Max and Intersection's discretion. All creative content will comply with Metro's System Advertising Policy and be vetted by the Content Advertising Committee. (Attachment C - Max Advertising-Culver City Station)

DETERMINATION OF SAFETY IMPACT

The advertising vendor will install advertising following Metro's Rail Safety Policy and Guidelines to ensure the safety of Metro's riders and employees.

FINANCIAL IMPACT

There is no negative financial impact with the approval of this item. Commercial Advertising and Sponsorships are revenue-generating programs and do not incur capital costs to Metro. Metro will receive a 70% revenue share, approximately \$616,000, and the contractor will receive a 30% revenue share, approximately \$264,000, from the total gross sale of \$880,000.

The project manager and the accounting department will be responsible for monitoring performance, compliance, costs, and resources in support of this task. Since this sale will extend over two fiscal years into FY25, the program manager, cost center manager, and Chief Customer Experience Officer will ensure all project resources are budgeted in the next fiscal year.

Impact to Budget

Commercial Advertising and Sponsorship revenues are eligible for operating budget from enterprise funds.

EQUITY PLATFORM

While some locations of the Metro system receive more advertising activity and generate more sales, the revenues are eligible to be allocated to all areas of Metro's bus and rail system. The media purchase at this station has been a catalyst for other buyers, generating more revenue from advertising and sponsorships - creating a reliable funding source for agencywide initiatives.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The revenue advertising program supports the Strategic Plan by fulfilling Goal 5 in providing responsive, accountable, and trustworthy governance within the Metro organization, exercising good public policy judgment and fiscal stewardship by monetizing Metro's capital assets to generate non-tax revenues.

ALTERNATIVES CONSIDERED

The Board may choose not to approve this long-term advertising request; however, this is not recommended. Metro would be turning away up to \$616,000 of estimated revenue earnings from an individual station and miss other locally relevant opportunities to generate unrestricted local funding.

NEXT STEPS

Upon Board approval, staff will authorize the advertising broker to complete the advertising sale and begin executing the long-term media placement with Max and Culver City Station on the E Line.

ATTACHMENTS

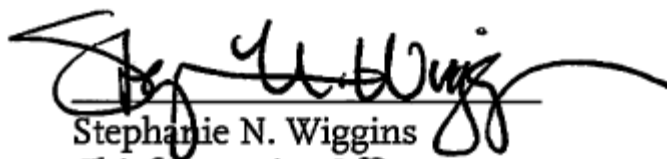
Attachment A - Commercial Sponsorship and Adoption Policy

Attachment B - System Advertising Policy

Attachment C - Max Advertising-Culver City Station

Prepared by: Lan-Chi Lam, Director of Communications, (213) 922-2349
Monica Bouldin, Deputy Chief Customer Experience Officer, (213) 922-4081

Reviewed by: Jennifer Vides, Chief Customer Experience Officer, (213) 922-4060



Stephanie N. Wiggins
Chief Executive Officer

ATTACHMENT A

Commercial Sponsorship and Adoption Policy

POLICY STATEMENT

Commercial Sponsorship and Adoption is a form of advertising in which entities will compensate Metro in order to be associated with certain Metro facilities, services, programs, or events. Compensation to Metro can include, but is not limited to: monetary payments; resources and finance; payment-in-kind; value-in-kind to develop new facilities, services, programs, or events; or, funding to operate and enhance existing facilities, services, programs, or events.

Through implementation of the Commercial Sponsorship and Adoption Policy (“Policy”), Metro seeks to establish guidelines to execute a responsible and consistent process regarding Sponsorship and Adoption business activities. Metro’s Communications department administers the Commercial Sponsorship and Adoption Program (“Program”) as part of its overall responsibility of revenue-generating advertising and Metro’s overarching goal of partnering with businesses on activities that can increase mobility and brand awareness for customers in the Los Angeles region.

As sponsorship is a form of advertising, the Program will adhere to Metro’s System Advertising Policy (COM 6) and apply the same content restrictions in considering sponsors’ core business, brand, and services. Commercial Sponsorship and Adoption may impact Metro facilities, services, programs, amenities, or events. As Metro facilities, services, programs, and events have already been named, the program will also adhere to Metro’s Property Naming Policy (COM 11) and apply the same public outreach processes and principles pertaining to area location, neighborhood identity and system legibility in considering sponsors’ core business, brand, and services.

PURPOSE

Through implementation of this Policy, Metro seeks to establish guidelines regarding Commercial Sponsorship and Adoption of Metro services, facilities, amenities, programs, and events.

Goals and Principles

This Policy will set direction for how Metro plans and implements Commercial Sponsorship and Adoptions on the Metro system. Specific Program goals include, but are not limited to:

- Generate long-term revenues to support agency programs and initiatives**
 Metro has the fiscal responsibility to maximize the utilization of available resources effectively and efficiently to create long-term, agency-generated revenues. Furthermore, diversifying Metro’s revenue sources prepares the agency for future economic shortfalls and unexpected agency impacts.
- Enhance service and/or amenities that improve customer experience**
 Partnerships with local businesses and entities may offset costs of desired customer amenities, such as technology (Wi-Fi, mobile charging stations), commerce (vending kiosks, retail), and convenience (food trucks, parcel pickup). These partnerships allow Metro to focus on operating a world-class transit system while specialist(s) provide amenities enhancing the customer experience.
- Position corporate social responsibilities towards equity-focused communities**
 Metro can create more opportunities to promote small, disadvantaged, and disabled veteran business enterprises through commercial programs by allowing them involvement in the system. Concurrently, corporate entities may provide equity opportunities to communities through Metro’s program.

PROCESS AND PROCEDURE

Eligible Agency Assets

Metro is the transportation planner and coordinator, designer, builder, and operator of a large and expanding transit system. The infrastructure capital investment and other assets are significant within Metro’s county-wide system of bus, rail, and other services; property portfolio; numerous facilities; programs and events. The various facilities, programs, and services that may be eligible for sponsorships and adoption are:

- Facilities** – Any rail station or bus stop, parking lots and parking structures, regional facilities, maintenance buildings and other structures, Metro headquarters building, and any other property owned, leased, managed, or operated by Metro. Example facilities include Pico Station, Sierra Madre Villa parking structure, and El Monte bus station.
- Transit Services** – Any light & heavy rail lines, bus service lines & routes, transitway service lines & routes, and any mode of transit service owned, leased, managed, or operated by Metro. Example transit services include A Line, E Line, and Dodgers Stadium Express.

- **Programs** – Selected established Metro-operated effort/initiative for the benefit of customers and communities that Metro serves, generally in the form of customer service actions and functions. Example programs include Freeway Service Patrol and Metro Micro.
- **Events** – Selected one-time, seasonal, or annual event initiated, partnered with, coordinated by, or conducted by Metro. Example events include Older Adult Expo and Faith Leaders Roundtable.

Program Models

Metro will engage in two types of program models, Adoptions and Sponsorships. Within these two models, proposals may include customized packages of varying marketing techniques and tactics; combine financial payments and value-in-kind amenities; or only provide financial payments or value-in-kind amenities. Metro defines amenities as selected resources, features, or utility that may provide additional enhancement to an established Metro facility, station, or stop. Examples amenities may include technologies such as mobile data and Wi-Fi services, commerce such as retail and vending machines, and convenience such as restrooms.

- **Adoption** - A partnership between Metro and a third party, which provides benefit to Metro riders in the form of sponsored amenities, services, equity opportunities, and customer experience improvements. In an Adoption, third parties may provide resources and/or financing, payment-in-kind, or value-in-kind to develop operating or new facilities, services, programs, or events. Examples: providing free Wi-Fi to a particular station, funding additional maintenance to a particular station.
- **Sponsorship** - A partnership between Metro and a third party, which provides benefit to Metro in the form of financial payments - revenues from sponsorships may be directed towards Metro programs and initiatives. In a Sponsorship, a third party may provide resources and funding, payment-in-kind, or value-in-kind to develop operating or new facilities, services, programs, or events. Examples: temporary station name take-over, long-term media buyouts of a particular station or facility.

Terms and Durations

Sponsorships and Adoptions can take on various forms of advertising in which companies contract with Metro to associate their name, identity and branding with facilities, services, programs or events. Metro may engage in Temporary and Long-Term Sponsorships/Adoptions that provide value and benefit both parties.

- **Temporary** – Sponsorship/Adoption/Advertising activity lasting up to ninety consecutive days — temporary commercial activity is within CEO's approval

authority. Contractor shall not allow or authorize any single advertiser to engage in Station Domination of a single station for a period of more than 90 consecutive days. Immediately following the period of Station Domination by an advertiser, said advertiser shall not be permitted to engage in Station Domination of that same station for at least 90 consecutive days.

- **Long-term** – Sponsorship/Adoption/Advertising activity lasting greater than ninety consecutive days with a maximum length of 10 years — all long-term commercial activity require Board reviewed and approval. The renaming of a facility or station requires a minimum five year commitment. Additionally, any activity affecting facility/station/service names requires Board notification: short-term renaming/co-naming requires Board notification while long-term renaming/co-naming requires Board approval.

Eligibility and Criteria

In line with Metro's System Advertising Policy (COM 6), business entities selling products or services in the prohibited categories will not be considered for participation in the Program including Alcohol, Tobacco and Electronic Cigarettes, Adult Entertainment and Content, Arms/Guns and Weapons, Political Parties, Political Groups, Political Organizations, and Political Candidates or Campaigns, causes (including Religious Groups and Religious Associations, social advocacy groups, lobbyist, etc), or any other category prohibited by COM 6.

Metro shall consider Sponsorships and Adoptions with qualified entities meeting these criteria:

- Businesses already established in the U.S. or have fulfilled all legal requirements and compliance to establish a business within the United States;
- Businesses must establish current financial stability as well as financial stability for the five years prior to proposal submission;
- Businesses with current responsible practices and positive business history within the last five years prior to proposal submission;
- Businesses with satisfactory record of contractual performance within the last five years prior to proposal submission;
- Businesses must not have been awarded a Metro contract as a prime contractor six months prior to proposal submittal. Businesses will also not be considered for Metro contract as a prime contractor six months following proposal submittal.

Proposal Review Committee

A Proposal Review Committee will be established to review and vet each proposal submitted to the agency. The Proposal Review Committee will be managed by

Marketing with concurrence from the Chief Communications Officer and will be composed of stakeholder departments to provide feedback and advisory recommendations for Board review and approval. Committee members may include, but are not limited to the following:

- **Compliance Panel** - The Compliance Panel ensures interested sponsors are in compliance with Metro policies and neither discriminate nor pose a conflict of interest. The Compliance Panel does not score the proposal, instead providing review and comment on the sponsoree, the Compliance Panel may include:
 - Civil Rights
 - Ethics
 - Legal Counsel
 - Office of Inspector General
 - Vendor/Contract Management

- **Evaluation Panel** - The Evaluation Panel reviews and scores each proposal based on the Evaluation Criteria. The Evaluation Panel may be composed of scoring members, and non-scoring members that provide comments but do not participate in scoring; comments and recommendations are submitted to the CEO and Board for final review and approval, the Evaluation Panel may include:
 - Communications (Arts & Design, Community Relations, Marketing, Public Relations)
 - Countywide Planning (Real Estate, Systemwide Design)
 - Customer Experience
 - Equity & Race
 - Respective Asset or Program Owner

Evaluation and Criteria

If a business meets all Eligibility and Criteria, Metro will take into consideration the financial offers and implementation proposals. The Proposal Review Committee will score proposals based on the following evaluation criteria:

- Alignment with Metro's existing brand and agency mission, themes, and priorities
- Innovative sponsorship and business plan(s) that address value-transfers and potential customer experience enhancements
- Reach of cross promotion between Metro and Sponsor/Adoptee, providing Equity Opportunity activities for Metro communities and riders
- Financial offer, including total value and duration, payment options, and package offerings
- Determination of conflicts of interest based on other business activities with Metro

Corporate Responsibilities

All costs related to Sponsorship/Adoption activities of an existing facility, service, or program – including, but not limited to, the costs of replacing affected signage and customer information collateral, Metro materials, media materials, and Metro staff labor – shall be borne by the Adoptee/Sponsor.

Metro expects Sponsorship and Adoption partners to remain in good financial stability and to conduct responsible business practices for the duration of granted Sponsorship/Adoption. Metro may terminate granted Sponsorship/Adoption with partners who fails to maintain these financial and business requirements.

All granted Sponsorship/Adoption must respect and adhere to Metro's System Advertising Policy and Metro's Property Naming Policy.

Equity Opportunity and Community

Metro's mission is to provide a world-class transportation system that enhances quality of life for all who live, work and play within LA County. Under its Equity Platform, Metro recognizes that access to opportunities – including housing, jobs, education, mobility, and healthy communities – is critical for enhanced quality of life. Metro also recognizes that vast disparities exist in access to opportunities and strives to identify and implement projects or programs that reduce and ultimately eliminate those disparities.

Sponsors must include Equity Opportunity in each proposal - which will be scored in the Evaluation Criteria; however, sponsors should consider the qualitative engagement rather than the quantitative engagement within their proposal. While Metro sponsorships will vary, all sponsorships must advance Metro's mission by supporting Equity Opportunity to:

- Increased access to opportunities
- Removal of barriers to access
- Partnership with local communities

Acceptable partnerships will vary. Examples include, but are not limited to:

1. Connecting communities to healthy food especially when they lack such options via the provision of gift cards to grocery stores or health snacks at a community event
2. Promoting safety in high injury areas via bike helmet or bike safety light giveaways
3. Supporting community events via hosting a Wi-Fi hot spots or cooling station

Process and Implementation

Metro may negotiate Sponsorships and Adoptions directly or contract with outside specialist(s) to liaise, negotiate and manage Sponsorships.

Metro's Right of Rejection

Metro and its authorized sponsorship specialist(s) will screen all proposals, Metro reserves the right to reject any Sponsorships submitted for consideration. Decisions regarding the rejection or termination of Sponsorships are made by Metro's Chief Communications Officer or their designee based upon the criteria in this Policy.

System Integration

Metro has an established transit system with known nomenclature, customer information, and service names, thus, coordination with stakeholder departments will be critical to:

- Conclude acceptable enhancements to system facilities affecting customer experience - such as station identity and signage wayfinding.
- Establish reasonable implementation schedules and deliverables - such as those affecting operational logistics in stations, trains, and buses; fabrication logistics such as signage; and customer information materials.

Public Information

All granted Sponsorship/Adoption are subject to the provisions of the California Public Records Act (California Code Government Code §6250 et seq.), including monies paid to Metro.



Metro™

COMMUNICATIONS Metro System Advertising

(COM 6)

1.0 GENERAL

The display of commercial advertising to generate revenue carries with it a responsibility to protect Metro from potential litigation, preserve its nonpublic forum status, and to recognize the potential association of advertising images with Metro services. The agency addresses these issues through the responsible, consistent, and viewpoint neutral application of its advertising policy.

The policy's purpose is to clearly define the use of Metro's advertising space fulfilling the following important goals:

- Maximize advertising revenue and preserving the value of the advertising space;
- Maintain a position of neutrality and preventing the appearance of favoritism or endorsement by Metro;
- Prevent the risk of imposing objectionable, inappropriate or harmful views on a captive audience;
- Preserve aesthetics and avoiding vandalism;
- Maximize ridership and maintaining a safe environment for riders and the public;
- Avoid claims of discrimination and maintaining a non-discriminatory environment for riders;
- Prevent any harm or abuse that may result from running objectionable, inappropriate or harmful advertisements;
- Reduce the diversion of resources from transit operations that is caused by objectionable, inappropriate or harmful advertisements;
- Preserve Metro's business reputation as a professional, effective, and efficient provider of public transit services.

Governmental entities may advance specific governmental purposes through advertising under this policy.

Los Angeles County contains significant tourism destinations accessible through public transportation, which may be promoted under this policy.

Metro uses designated areas on its properties to directly provide transit and agency information to the public.

2.0 POLICY

2.1 Permitted Advertising Content

Commercial Advertising

Metro will only accept paid commercial advertising that proposes, promotes, or solicits the sale, rent, lease, license, distribution or availability of goods, property,



Metro™ COMMUNICATIONS

Metro System Advertising

(COM 6)

products, services, or events that anticipate an exchange of monetary consideration for the advertiser's commercial or proprietary interest, including advertising from tourism bureaus, chambers of commerce or similar organizations that promote the commercial interests of its members, and museums that offer free admission to the public.

- A. Metro's policy that it will accept only commercial advertising applies regardless of whether the proponent is a commercial or nonprofit organization. To determine whether an ad qualifies as commercial, Metro considers the following nonexclusive factors: (a) whether a commercial product or service is apparent from the face of the ad; (b) whether the commercial product or service is incidental to the public interest content of the ad; (c) whether the sale of commercial products or services is the primary source of the advertiser's total annual revenue; and (d) whether the advertiser is a for-profit entity.
- B. This exclusion does not apply to Government Advertising below.

Government Advertising

Metro will accept advertising that advances specific government purposes from a federal, State of California, or Los Angeles County local governmental entity. The governmental entity must be clearly identified on the face of the advertising.

2.2 Prohibited Content and Subject Matter

Metro retains content control of advertising on the transit system by restricting content; content described below may not be displayed on the Metro transit system and/or agency assets:

- **Alcohol and Spirits** – Imagery of open or closed alcoholic containers, consumption of any alcohol and spirits, or alcohol product brands is prohibited and may not be shown. Services and events for food and beverage, including alcohol and wine events may be shown if the image is compliant with the restrictions stated herein.
- **Tobacco, Vaping and Cannabis** – Imagery that portrays, simulates, or encourages recreational smoking, vaping, or ingesting of tobacco, cannabis, or similar products is prohibited. Services and events for cannabis products, services, and events are prohibited and may not be shown.
- **Illegal Activity** – Content that promotes or relates to an illegal activity



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Metro System Advertising

(COM 6)

- **Violence** – Images, copy or concepts that promote guns/firearms or gun violence, or that depict weapons or other devices in an act of violence or harm on a person or animal, or contain any material that incites or encourages, or appears to incite or encourage, violence or violent behavior.
- **Obscene Matter** – Obscene matter as defined in the Los Angeles County Code, Chapter 13.17, Section 13.17.010, or sexually explicit material as defined in the Los Angeles County Code, Chapter 8.28, Section 8.28.010D.
- **Indecency** – Images, copy or concepts that describe, depict, suggest or represent sexual or excretory organs or activities in a manner that a reasonably prudent person, knowledgeable of Metro’s ridership and using prevailing community standards, would find inappropriate for the public transit environment, including persons under the age of 18.
- **Adult Entertainment and Content** – Content that promotes or displays images associated with adult bookstores, video stores, dance clubs, or other adult entertainment or sexually-oriented establishments, telephone services, internet sites, films, video games, escort services, etc.
- **Adult Rated Media** – Adult/mature rated films, television, video games, or theatrical presentations, such as adult films rated "X" or "NC-17" or video games rated "AO."
- **Profanity** – Contains any profane language.
- **Political Speech** – Advertising that promotes or opposes (a) a political party; (b) any person or group of persons holding federal, state or local government elected office; (c) the election of any candidate or group of candidates for federal, state or local government offices; or (d) initiatives, referendums or other ballot measures.
- **Public Issue Speech** – Advertising that primarily expresses or advocates an opinion, position or viewpoint on a matter of public debate about economic, political, public safety, religious or social issues. This exclusion does not apply to Government Advertising under 2.1.
- **Religion** – Promotes or opposes any identifiable or specific religion, religious viewpoint, belief, message, or practice.



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- **Unsafe Transit Behavior** – Contains images, copy or concepts that depict unsafe behaviors aboard buses or trains, or in or around transit stations or railroad tracks.
- **Injurious to Metro's interests** – Promotes products, services or other concepts that are adverse to Metro's commercial or administrative interests. Prohibited content includes but is not limited to images, copy or concepts that actively denigrate public transportation.
- **Metro's Endorsement** – Contains images, copy or concepts that inaccurately state or imply Metro's endorsement of the subject of the advertisement.
- **Harmful or Disruptive to Transit System** – Contains material that is so objectionable as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.
- **Symbols** - Miscellaneous characters, images or symbols used as a substitute for prohibited content.

2.3 Metro's Government Speech

The provisions of this policy do not apply to Metro's government speech, which includes advertising sponsored solely by Metro or by Metro jointly with another entity to communicate any message deemed appropriate by Metro.

2.4 Metro's Right of Rejection

Metro, and its advertising vendors, will screen and review all advertising content on the transit system, and in all contracts Metro reserves the right to:

- Reject any advertising content submitted for display on its properties; and/or
- To order the removal of any advertising posted on its properties.

Decisions regarding the rejection or removal of advertising are made by the Metro Marketing Executive or their designee based upon the criteria in this policy.

Disclaimer of Endorsement: Metro's acceptance of an advertisement does not constitute express or implied endorsement of the content or message of the advertisement, including any person, organization, products,



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services, information or viewpoints contained therein, or of the advertisement sponsor itself.

2.5 Informational Advertising

Metro has several unique distribution channels at its disposal for disseminating transit information for which it incurs no “space” cost (the fee charged for advertising space). Informational advertising space is limited and reserved exclusively for Metro transit information. All messages and materials distributed by this means are prepared, approved and/or authorized by the Marketing Executive or their designee.

Acceptable information for these distribution channels is categorized as follows:

2.5.1 Transit Information

Transit information includes, but is not limited to: campaigns promoting ridership, service features and changes, fare information and changes, safety and security messages, maps and explanations of related transportation services.

2.5.2 Cross-Promotional Information

On an occasional basis and only when space is available, Metro’s Marketing Department may use Metro’s distribution channels to participate in cross-promotional opportunities (a cooperative partnership in which Metro and one or more entities work together with the goal of jointly promoting their respective services) that offer a direct opportunity to promote use of transit. Any materials distributed for this purpose must prominently include promotion of Metro services (e.g., Metro Ridership Promotion such as, “Go Metro to CicLAvia”). Metro is prohibited by law from donating advertising space to any entity for purposes that are not directly transit-related.

The outside organization involved must either bear the cost of producing such materials or, if approved by Metro’s Marketing Department, provide an equivalent or greater value in cross-promotional benefits (i.e. advertising space, editorial space, etc.).

2.5.3 “Added Value” Materials

On an occasional basis and only when space is available, Metro’s Marketing Department may use Metro’s distribution channels to provide



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“added value” materials to its riders. Such materials must present a specific and time-dated offer uniquely provided for Metro bus and Metro Rail riders (generally a money-saving discount) in which transit can be used to access the redemption point. Any materials distributed for this purpose must prominently include the Metro logo and other wording approved by Metro’s Marketing Department to indicate that the offer is specifically designed for Metro bus and Metro Rail riders. Metro is prohibited by law from simply donating advertising space to any entity for purposes that are not directly transit-related.

The outside organization involved must either bear the cost of producing such materials or, if approved by Metro’s Marketing Department, provide an equivalent or greater value in cross-promotional benefits (e.g., advertising space, editorial space, etc.). Any added value programs must be approved by the Marketing Executive, or their designee based upon the criteria in this policy statement.

2.6 Advertising Vendors

Metro may contract with outside vendors to sell and display advertising on its transit system and related properties for the sole purpose of generating revenue. Vendors for such contracts are solicited through competitive bids, which must conform to Metro’s procurement procedures and be approved by Metro’s Board of Directors.

Such agreements may dedicate up to, but no more than 90% of the available space covered by the contract for commercial advertising, reserving the remaining available space for Metro’s own transit-related information. This percentage of available space, and the remaining percentage of space held for Metro’s information, will be negotiated as part of any contract with an outside advertising space vendor.

2.7 Placement of Advertising

Locations for commercial advertising may include, but are not limited to: the exterior and interior of all Metro’s transit fleet (buses, trains, rideshare cars, and non-revenue cars); the exterior and interior of all Metro’s stations and hubs (rail and bus stations, bus stops, and mobility hubs); digital channels (agency websites, mobile apps, and social media channels); printed materials (brochures, timetables); Metro property (buildings, facilities and parking structures); and any other location approved by Metro’s Marketing Executive. Metro and its advertising contractors will obtain necessary permits as required to comply with local jurisdiction. Specific locations and properties may be exempt and excluded,



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in which case Marketing will coordinate with the agency project manager as advertising inquiry arises.

2.7.1 Graphics on Window and Glass

To ensure the safety and security of passengers, operators and law enforcement officers, advertising displays which employ window graphics are restricted from fully obscuring the window surfaces on any Metro vehicles (trains, buses, ride share, and non-revenue vehicles). The front window, however, may not be covered in any manner.

If an advertising display employs window graphics, the materials must be perforated with a 50/50 coverage-to-visibility ratio. The perforated material applies to all glass surfaces such as vehicle windows, buildings windows, and glass elevators. Metro may provide materials and technical specifications to each vendor.

3.0 PROCEDURES

Action By:

Action:

Advertising Vendors

Sell, post and maintain all commercial advertising on Metro properties. All proposed transit advertising must be submitted to the Advertising Vendor for initial compliance review. The Advertising Vendor will perform a preliminary evaluation of the submission to assess its compliance with this policy. If, during its preliminary review of a proposed advertisement, the Advertising Vendor is unable to make a compliance determination, it will forward the submission to the Metro’s advertising panel for further evaluation. The Advertising Vendor may at any time discuss with the entity proposing the advertisement one or more revisions to an advertisement, which, if undertaken, would bring the advertisement into conformity with this Advertising Policy. The Advertising Vendor will immediately remove any advertisement that Metro directs it to remove.

Metro Advertising Panel

Metro’s advertising panel will review the proposed advertisement for compliance with the guidelines set forth in this policy and will direct the Advertising



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Vendor as to whether the proposed advertisement will be accepted. In the discretion of the advertising panel, any proposed transit advertising may be submitted to Metro’s Marketing Executive for review.

Metro’s Marketing Executive

Metro’s Marketing Executive or designee will conduct a final review of proposed advertising at the request of Metro’s advertising panel. The decision of the Marketing Executive to approve or reject any proposed advertising shall be final.

Metro Advertising Panel and Marketing Executive

Metro’s advertising panel or the Marketing Executive may consult with other appropriate Metro employees, including Metro’s legal counsel, at any time during the review process.

4.0 PROCEDURE HISTORY

- 03/23/00 Original policy adopted by Metro’s Board of Directors.
- 01/27/05 Policy amended by Board of Directors to permit advertising on Metro Rapid vehicles.
- 09/26/08 Biennial review and update. Policy updated to include Board of Directors amendment to permit all forms of non-traditional advertising displays as well as advertising on rail car exteriors and other types of transit service with the exception of Orange Line vehicle exteriors.
- 6/27/13 Content Guidelines amended by Metro’s Board of Directors to add an exception for non-profit organizations pertaining to the non-commercial advertising prohibition, and to expand language regarding various other types of prohibited content.
- 12/5/13 Content guidelines amended by Metro’s Board of Directors to prohibit messages that are injurious to Metro’s interests and to clarify restrictions regarding vulgarity.
- 02/23/17 Review and update: Board approved, Feb. 23, 2017 (Item 40). Streamlined policy for an easier read; removed defined vinyl window graphics prohibitions: now just may not fully wrap a bus; added definitions; clarified outreach channels; may advertise on Orange Line vehicles;



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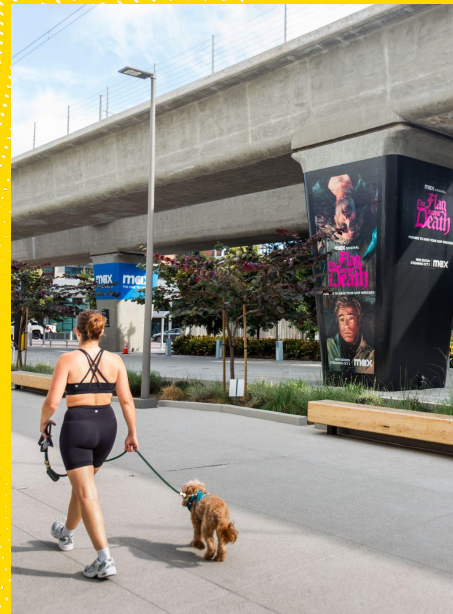
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added items to advertising ban; removed “wine festival” advertising allowance; advertising may not engage in public debate.

- 04/27/2023 Significant Policy changes and edits including Elimination of government sponsored ad exception for non-commercial ads (Exception 2); clarification that Commercial Advertising is the only permitted form of advertising, unless advertiser is a federal, state, LA County governmental entity, or Metro; inclusion of: Revised Policy Purpose statement and objectives and Disclaimer of Endorsement; excludes advertising that “expresses or advocates an opinion, position or viewpoint on a matter of public debate”; and general reorganization and clarification.

HBO Culver City Station Domination Los Angeles

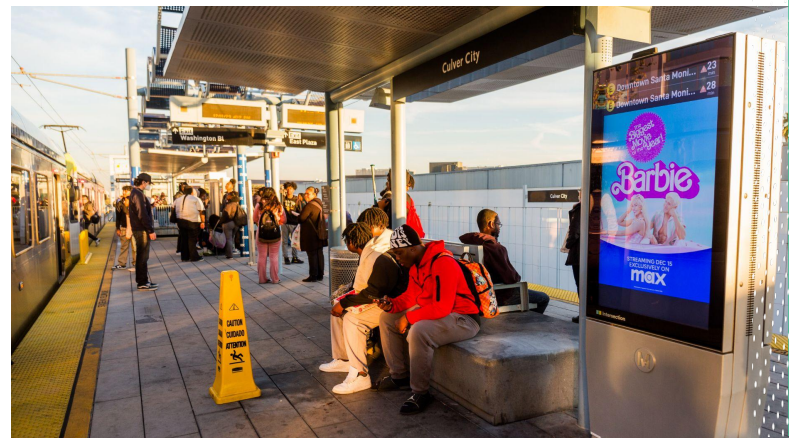
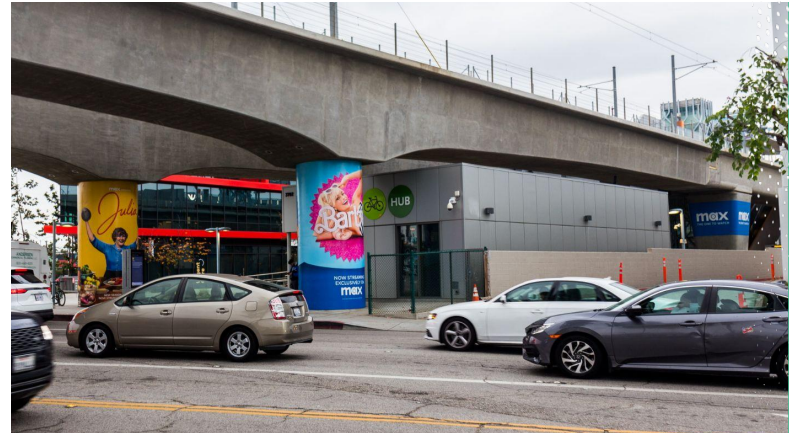


Culver City Station

HBO "Best of" Showcase 2023



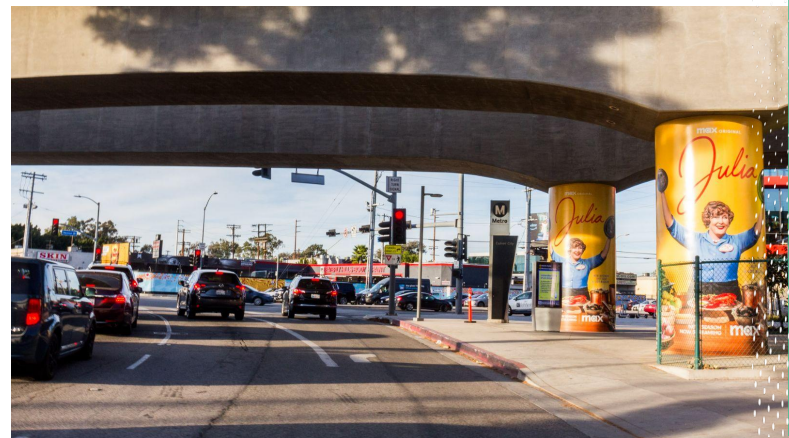












Culver City Station Media Maps



Culver City Station Street Level

Legend

Column Wrap 

Half Wrap Tapered Column 

Trestle Soffit Wrap 

Tapered Column Wrap 

Escalator Panel 

Train Trestle Wrap 

Digital Kiosk 



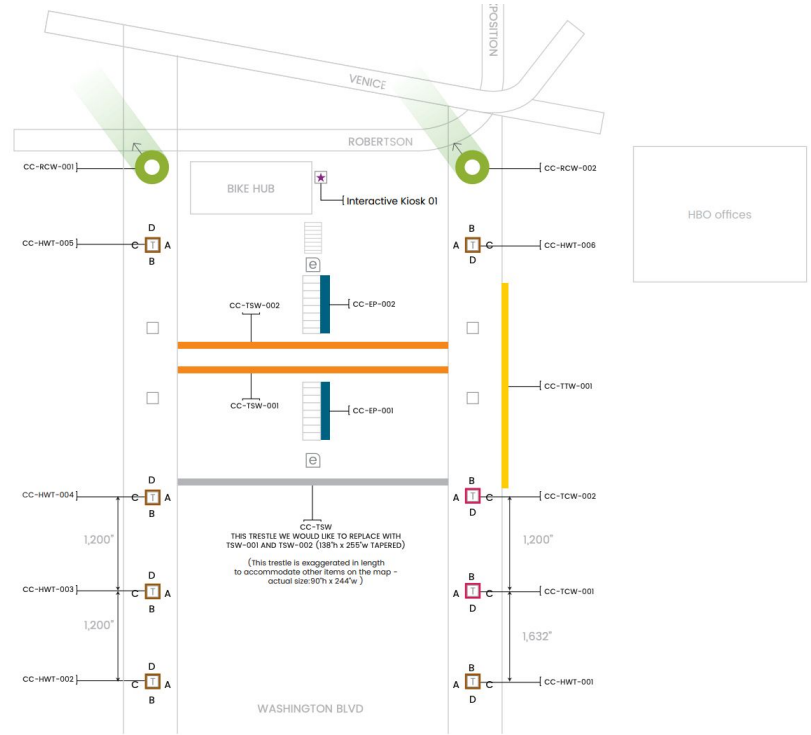
ARROW INDICATES THE DIRECTION THE CREATIVE WILL FACE. SEE MARKUP ON TEMPLATE.

This column is printed in 6 panels.

Please indicate the centermost point that you would like to face oncoming traffic. Indicate by panel number.



THE LETTERING ON THE PILLARS (A, B, C, D) MATCH THE LETTERS ON THE TEMPLATE. THIS WILL GIVE YOU AN IDEA OF DIRECTION AND WHERE THE OBSTRUCTIONS/SIGNAGE ARE LOCATED.

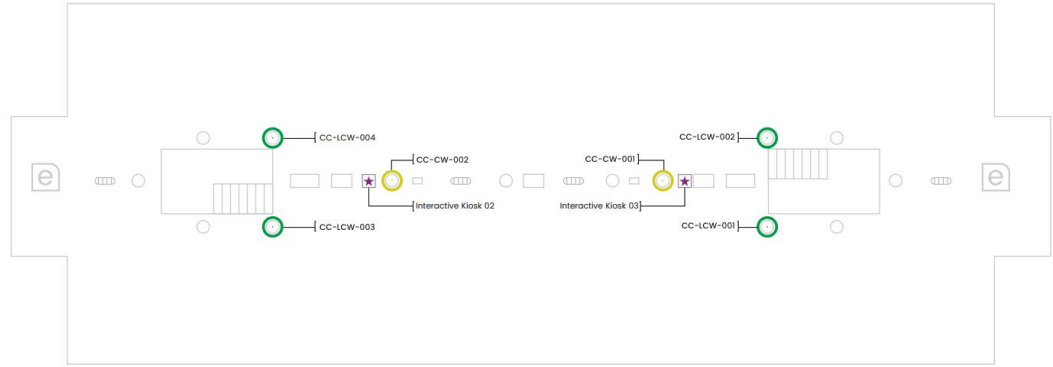


Template note:

Map and unit quantities subject to change.
Review most recent version before developing creative.



Culver City Station Street Level



Legend

Large Column Wrap



Small Column Wrap



Digital Kiosk



Template note:

Map and unit quantities subject to change.
Review most recent version before developing creative.

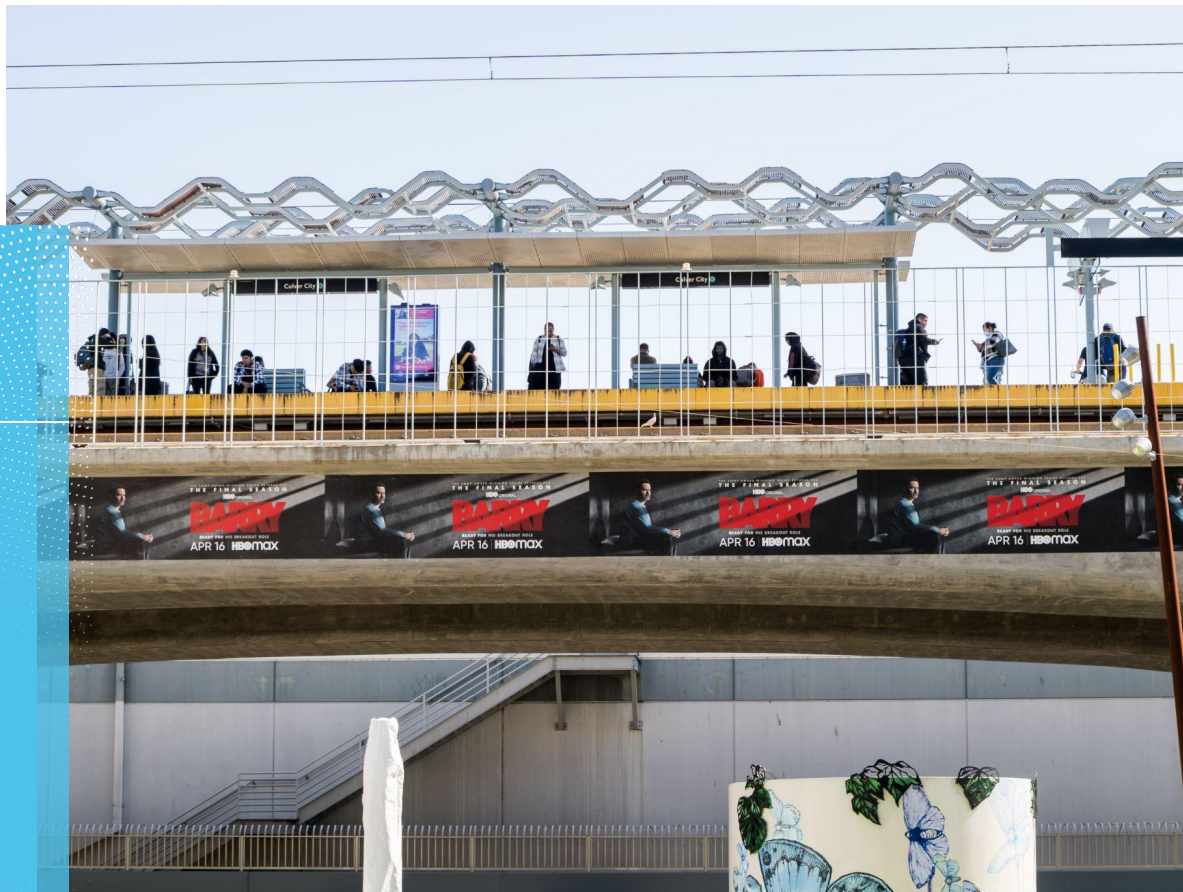


Intersection

Thank You



470 Park Ave South
Floor 10
New York, New York 10016
intersection.com





Board Report

File #: 2024-0109, File Type: Program

Agenda Number: 19.

PLANNING AND PROGRAMMING COMMITTEE

MARCH 20, 2024

EXECUTIVE MANAGEMENT COMMITTEE

MARCH 21, 2024

SUBJECT: DISPARITY STUDY

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

CONSIDER:

- A. RECEIVING AND FILING the Final 2023 Disparity Study Report; and
- B. AUTHORIZING the Chief Executive Officer (CEO) to develop a three-year pilot Micro Small Business Program and certification designation.

ISSUE

In accordance with guidance from the U.S. Department of Transportation, recipients that use race and gender conscious measures (DBE contract goals) as part of their DBE program must conduct a disparity study to determine if disparity and/or discrimination exists within their contracting market area. Metro commissioned BBC Research & Consulting (BBC) to conduct its 2023 Disparity Study to determine if there is evidence of discrimination or disparities in Metro’s contracting market area. Information from the disparity study supports the remedial use of DBE race- and gender- conscious contract goals to promote and ensure equal opportunities for businesses that may face systemic barriers in competing for contracts. BBC analyzed \$8.8 billion of worth of contracts and procurements Metro awarded during the study period to measure the participation and availability of People of Color (POC) and woman-owned businesses for Metro work to assess whether any disparities exist between those measures.

Based on qualitative data obtained during the study, the recommendation to establish a Business Technical Development Program (BTDP) enables Metro to seek a consultant team, with expertise within the transportation industry. The BTDP will include business consultants and industry partners to provide technical assistance and supportive services to POC- and woman-owned small and disadvantaged businesses. Such services can contribute to the growth and business efficiency of firms competing for prime and subcontracts and performing on Metro’s major capital projects.

BACKGROUND

Disparity studies help organizations understand changes in their marketplaces, refine program measures, and ensure up-to-date information on the participation and availability of POC- and woman-owned businesses for their work, including identifying which groups are substantially underutilized on their contracts and procurements. The 2023 study analyzed Metro’s contracting data between January 1, 2016 and December 31, 2021.

While there is no court-mandated expectation of the time between studies, the standard is typically every five to seven years and a comprehensive disparity study lasts about 12 months. The study period includes the most recent full year contracting data available at study kick-off. The 2023 study was kicked off at the close of 2022, rendering 2021 the latest year of complete contract data. Hence, ensuring this continuity while also using the most recent data available resulted in a study period of 6 years. As demonstrated in the table below, Metro has been consistent in conducting disparity studies to support the DBE program with the majority of the study periods being five years.

Final report Issued	Contracting History Period	Duration of Study
2010	January 1, 2003 - December 31, 2007	-5 years
2012*	January 1, 2008 - December 31, 2010	-3 years
2017	January 1, 2011 - December 31, 2015	-5 years
2023	January 1, 2016 - December 31, 2021	-6 years

*Metro determined an update was needed to the 2010 study based on the findings.

DISCUSSION

BBC analyzed \$8.8 billion worth of contracts and procurements Metro awarded during the study period. A custom census availability analysis was conducted to estimate the availability of POC- and woman-owned businesses for Metro work.

BBC also calculated the participation of POC- and woman-owned businesses in relevant contracts and procurements Metro awarded during the study period. BBC used Metro data to help determine the Study’s geographical market area in which Metro spends the substantial majority of its contract and procurement dollars. For this study, Metro awarded approximately 78% of relevant contract and procurement dollars to businesses located in Los Angeles County, representing a 4% increase over the 2017 study results. Key results from those analyses are summarized below.

Availability & Utilization

The following chart compares the data for POC- and woman-owned business availability and utilization between 2017 and 2023 Study findings.

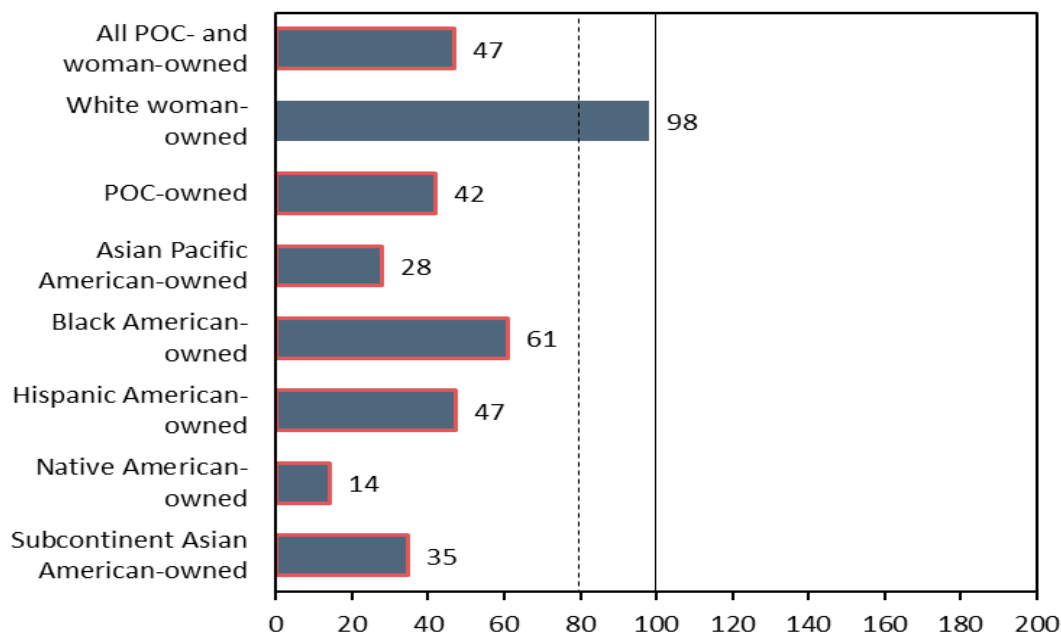
POC-/Woman-Owned Business Results	2017	2023
Composition of Availability Database	47.0%	53.3%
Overall Dollar Weighted Availability	31.3%	46.8%
Overall Dollar Weighted Utilization	23.2%	22.0%
Availability of Potential DBEs	27.0%	31.3%

By comparison, the Study found that overall availability increased by 15.5% from 2017 to 46.8% in 2023. This represents the availability of all POC- and woman-owned firms, including firms that might not qualify for DBE certification due to personal net worth and revenue requirements. The study also found that overall utilization decreased slightly by 1.2% from 2017 to 2023. The 31.3% availability of potential DBEs demonstrates a 4.3% increase over 2017 and represents firms that could potentially be certified as DBEs. It is important to note that the 2017 study period analyzed \$3 billion in contracting, \$5.8 billion less than the 2023 Study.

Disparity Analysis

The 2023 study found all individual groups of POC-owned businesses exhibited substantial disparities for Metro work. A disparity index of 100 indicates parity or the participation is in line with the availability. A disparity index of less than 80 indicates a substantial disparity between participation and availability. Courts interpret a substantial disparity for a particular racial/ethnic or gender group as an inference of discrimination against that group in the marketplace. It often serves as evidence that Metro may need to continue using race- or gender-conscious measures (DBE contract goals) to address barriers for that group. The chart below shows the disparity index by group.

Overall Disparity Analysis Chart



Marketplace Conditions

The Disparity Study includes extensive quantitative analyses that determined POCs, women, and POC and woman-owned businesses face barriers in Metro's contracting and procurement in construction, professional services, goods, and other services, and transit service industries in Los Angeles County. Existing and primary research indicated that POC and women face barriers related to acquiring human capital, accruing financial capital, owning businesses, and operating successful businesses. In many cases, there is evidence that those barriers exist even after accounting for various personal and business factors.

The Study found further evidence that many disparities are due-at least, in part-to race or gender-based discrimination. Barriers in the marketplace likely have important effects on the ability of POCs and women to start businesses in relevant industries-construction, professional services, goods and other services, and transit services-and to operate those businesses successfully. Any difficulties those individuals face in starting and operating businesses may reduce their availability for government work and the degree to which they can successfully compete for such projects.

COVID-19 Pandemic

Economic and social vulnerabilities preceding the onset of the COVID-19 pandemic exacerbated the adverse impacts of the pandemic on POC and woman-owned businesses. Public health measures to reduce the spread of the COVID-19 virus, along with direct health impacts, led to an economic crisis that reached its peak in March and April of 2020. In California, POC and woman-owned small businesses, with the exception of Asian-American owned businesses, experienced higher rates of business closure and slower recoveries than white-American owned small businesses. More than 25 percent of small businesses in Los Angeles County closed during 2020, including approximately 7,500 businesses that closed permanently. Definitive data as to how many small businesses no longer certified as a result of COVID-19 impacts was not collected by Metro DEOD. However, between March 2020 - December 2021, twenty-seven small businesses requested removal from the programs for various reasons (i.e. company went out of business, financial hardship, graduated from the programs, change in ownership, and retirement).

Qualitative Information

The BBC Study team collected testimony and qualitative information. BBC conducted two focus groups and gathered comments from 507 business owners/representatives, managers, trade association representatives, and other key stakeholders in the Los Angeles metropolitan area. Additionally, BBC completed 42 in-depth interviews with business owners/representatives and received 27 written comments during qualitative data collection for the study that were included in the anecdotal appendix and analyzed in developing the considerations chapter. Many small businesses discussed the difficulties they experienced with cash flow due to delayed payment from the prime contractor to its subcontractors, at any tier-level. Several respondents reported that the quantitative and qualitative results of the study were representative of their experiences in the marketplace. Several questions were general clarification questions regarding how a disparity study is conducted. Comments received were incorporated in the final report.

Key concerns raised from the collection of anecdotal evidence included:

- Challenges responding to public sector bid requests and requests for proposals.
- Difficulties managing the administrative aspects of running a business.
- Prompt payment by agencies and prime contractors.
- Access to bonding, insurance, and financing; and
- Closed networks within the business community.

Study Recommendations

Study participants in the qualitative data collection expressed appreciation for all of Metro's efforts to help small businesses and indicated that Metro excels when compared with other agencies in the region, state, and country. Based on a review of Metro policies and qualitative evidence, the study identified the key recommendations listed below for how Metro can increase opportunities and further eliminate barriers in the DBE program

Staff will continue to evaluate and collaborate with Vendor Contract Management (VCM), Metro Departments, and Project Managers to assess the feasibility of implementing initiatives that align to Metro's contracting process.

1. Bench contracts: Consider implementing a rotation system for bench contract task orders to ensure that each business on a bench gets work. Metro could also consider more closely monitoring the participation of small and disadvantaged businesses in bench contracts to ensure that they receive a proportionate amount of the work. Lastly, Metro could consider developing benches comprised exclusively of small and disadvantaged businesses.

Metro Response: Metro is currently implementing, on a small percentage of contracts, a rotational bench system and already has benches established that are comprised exclusively of small and disadvantaged businesses. To provide opportunity for each firm on the bench to get work, staff will continue to work with Metro Departments and VCM to encourage more use of these types of benches, as appropriate. Staff will also review anecdotal to identify further process improvements.

2. Technical assistance support: Metro should provide more detailed information or training on how to bid with the agency. The agency should increase the visibility of appropriate contact points for project issues and consider hiring liaisons for small businesses in particular. Assigning small business liaisons to projects or expanding the responsibilities of existing staff to resolve small businesses' project issues would help them perform Metro work more successfully.

Metro Response: While the DBE Program has experienced a measure of success in providing opportunities for disadvantaged businesses, there is an urgent need to address the substantial disparity identified in the study and to increase utilization. DEOD will establish a Business Technical Development Program (BTDP) to provide technical assistance to small and disadvantaged businesses during the performance of their subcontract. The BTDP will provide targeted and comprehensive business development assistance to foster technical competence, sound business structure, and sustainability to compete and perform on larger projects and lead to continued growth for the firm.

The proposed areas of technical assistance for the BTDP, include, but are not limited to:

- One-on-One technical assistance
- Matchmaking
- Estimating and Scheduling
- Alternative Delivery Project Requirements
- Form 60's Preparation
- Project Management
- Dispute Resolution
- Change Order Process (Prime/Subcontractor)
- Request for Change Process
- Proposal/Bid Preparation

- Human Resources Management
- Overhead Rates
- Construction Management
- Financial Audit/Review
- Accounting - Accountant services, cash flow review, income statement review

3. Microbusiness Program: The Small Business Administration (SBA) size thresholds for small businesses allow gross receipts of up to \$47 million for certain industries. Anecdotal evidence suggests that, due to the large range of small business size standards, smaller SBEs are often unable to compete with larger SBEs. Metro could consider adding an additional certification classification for microbusinesses with smaller revenue requirements. Metro could then consider including preferences and benefits exclusive to these microbusinesses, including proposal points, bid reductions, or setting aside certain opportunities exclusively for microbusiness competition.

Metro Response: Staff recommends policy authorization to develop a three-year pilot Micro Small Business Program and certification designation and will collaborate with VCM on program contracting thresholds.

4. New businesses: Consider using bid and contract language to encourage prime contractors to partner with subcontractors and suppliers they have never worked with. Metro could award evaluation points or price preferences based on the quality of those efforts. Increasing the number of new subcontractors involved in Metro's bid process could help many small businesses-including DBEs-and grow the pool of small businesses involved in Metro work.

Metro Response: DEOD will work with VCM to develop solicitation language that encourages primes to partner with SBE/DBE subcontractors they have never worked with to increase new business engagement.

5. Unbundling contracts: Consider expanding the current efforts to unbundle relatively large prime contracts-and even subcontracts-into several smaller, focused contracts. Such initiatives would likely increase contracting opportunities for all small businesses, including many POC and woman-owned businesses.

Metro Response: DEOD already encourages unbundling as a component part of the Set Aside Program. As a result, staff will continue to work with Metro Departments and Project Manager during the procurement planning process to evaluate the potential benefits of unbundling large contracts.

6. Inflation: Consider adjusting contract prices to account for inflation on projects that span a certain number of years to allow for equitable adjustment considerations for DBEs.

Metro Response: DEOD and VCM will explore the feasibility of implementing this recommendation.

-
7. Pre-Qualification requirements: Consider only applying Pre-Qualification requirements to larger contracts to reduce the administrative burden on small and disadvantaged businesses competing for work. Metro could also consider extending the validity of prequalification reviews or eliminating validation requirements for already prequalified businesses and offer additional technical assistance to help small and disadvantaged businesses navigate the prequalification process.

Metro Response: DEOD will work with VCM to implement process improvements to the Pre-Qualification requirements that will reduce the administrative burden on small and disadvantaged businesses competing for Metro work.

Public Participation

The draft 2023 study report was released on January 12, 2024, for a 30-day public comment period that closed February 12, 2024. The draft Study report was posted on the Metro Vendor Portal with the opportunity to review a PowerPoint presentation summarizing the results. Public comments were accepted by US mail, electronically through the disparity study website, and directly by email, as well as orally or in writing. Metro conducted two public hearings, one in-person at Metro Headquarters on January 29, 2024, with eight participants, and one held virtually on February 5, 2024, with 43 participants. During the public hearings, businesses reported challenges breaking into existing business networks and the importance of networking. Some participants also encouraged Metro to continue to improve access to contracting opportunities. No written comments were received during the public comment period. However, during the in-person and virtual public hearings, a total of seven verbal comments were received (Attachment B).

A presentation on the study's findings was also presented to the Transportation Business Advisory Council (TBAC) at their meeting on March 7, 2024. Questions from TBAC participants regarding study results were addressed and comments received echoed concerns raised during the public hearings and in the collection of the anecdotal data, related to the cost of audited overhead rates for small businesses and the reduction paperwork required during the procurement process.

FINANCIAL IMPACT

There is no financial impact to approving the recommendations.

EQUITY PLATFORM

The purpose of the study is to assess, quantify, and evaluate whether POC- and woman-owned businesses (DBEs) face any barriers in Metro contracting by studying the prevalence, significance, and scope of discrimination in the market area that specifically historically underutilized, POC and/or woman-owned businesses are experiencing and identify strategies to eliminate barriers and increase equity in Metro contracting. The study's results and considerations will be utilized by Metro to identify strategies to increase equity and eliminate barriers in Metro contracting. While Metro has made a significant commitment to offer innovative programs for POC and women, more is still needed to level the playing field for increased equity in Metro contracting. Metro will continue to be a regional leader in advancing a multi-pronged approach to eliminate racial and gender disparities in Metro contracting

further.

..Implementation_of_Strategic_Plan_Goals
IMPLEMENTATION OF STRATEGIC PLAN GOALS

This report supports strategic plan Goal 5.5, “Expanding opportunities for businesses and external organizations to work with Metro.”

NEXT STEPS

- Upon Board approval, initiate development, and implementation process for the three-year pilot Micro Small Business Program.
- Staff will use the study data to develop the upcoming triennial Overall DBE Goal for Federal Fiscal Years (FFY) 2025 - 2027. This will require the following activity in accordance with 49 Code of Federal Regulation Part 26.45:
 - Staff is currently obtaining anticipated contracts to be awarded over the FFY2025-2027 from Grants and Project Managers to determine availability, if not similar to the mix of contracts analyzed in the study.
 - Complete draft of the overall DBE Goal and Goal Methodology report, with base figure and required step 2 adjustment analysis.
 - Post Metro's draft Overall DBE Goal and Methodology Report Metro website for a 30-day public comment period.
 - Return to the Board in June 2024 with the recommended triennial overall DBE goal for consideration and approval.
 - Submit FFY 2025- 2027 Overall DBE Goal Methodology to FTA by the August 1, 2024, deadline.
- New initiatives developed and implemented as a result of the study will be included in the 48 x '28 Plan, for tracking and reporting purposes.

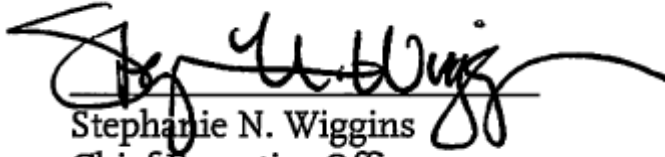
ATTACHMENTS

Attachment A - 2023 Final Disparity Study Executive Summary

Attachment B - Public Comment Period Comments and Responses

Prepared by: Elke Campbell, Deputy Executive Officer, (213) 418-3081
Tashai R. Smith, Executive Officer, (213) 922-2128

Reviewed by: Sharon Gookin, Deputy Chief Executive Officer, (213) 418-3101



Stephanie N. Wiggins
Chief Executive Officer

SECTION ES.

Executive Summary

BBC Research & Consulting (BBC) conducted a *disparity study* to evaluate whether person of color (POC)- and woman-owned businesses face any barriers in the Los Angeles County Metropolitan Transportation Authority (LACMTA's or Metro's) construction, professional services, and non-professional services and goods contracts and procurements. As part of the disparity study, we examined whether there are any disparities, or differences, between:

- The percentage of contract and procurement dollars Metro awarded to POC- and woman-owned businesses during the *study period*, which was January 1, 2016 to December 31, 2021 (i.e., *utilization, or participation*); and
- The percentage of contract and procurement dollars one might expect Metro to award to POC- and woman-owned businesses based on their availability to perform specific types and sizes of Metro contracts and procurements (i.e., *availability*).

Information from the disparity study will help Metro better understand outcomes for POC- and woman-owned businesses in its contracting and procurement and help Metro address any substantial disparities between the participation and availability of POC- and woman-owned businesses in Metro work. Moreover, if Metro determines that it is appropriate to use race- and gender-conscious measures to address substantial disparities (e.g., awarding individual contracts and procurements with the use of POC- and woman-owned business participation goals), then the agency can rely on information from the disparity study to help ensure its use of such measures adheres to the *strict scrutiny* and *intermediate scrutiny* standards of constitutional review, respectively.

A. Disparity Study Results

BBC analyzed \$8.8 billion of worth of contracts and procurements Metro awarded during the study period to measure the participation and availability of POC- and woman-owned businesses for Metro work to assess whether any disparities exist between those measures. We summarize key results from those analyses below and identify sections of the report that provide more details about the methodology and results of each analysis.

1. Availability analysis (Chapter 6 and Appendix E of the report). BBC conducted a *custom census availability analysis* to estimate the availability of POC- and woman-owned businesses for Metro work while accounting for the specific characteristics of relevant businesses that exist in the Los Angeles County marketplace and the specific characteristics of the relevant prime contracts and subcontracts Metro awards. Figure ES-1 presents the availability of each relevant group of POC- and woman-owned businesses for relevant Metro contracts and procurements overall. The availability of those businesses is 46.8 percent. The business groups that exhibit the greatest availability for Metro work are Hispanic American-owned businesses (18.8%), Asian Pacific American-owned businesses (12.2%), and Black American-owned businesses (6.0%).

Figure ES-1.
Availability estimates for Metro work

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

Source:

BBC availability analysis.

Business group	Availability
White woman-owned	4.3 %
Asian Pacific American-owned	12.2 %
Black American-owned	6.0 %
Hispanic American-owned	18.8 %
Native American-owned	0.2 %
Subcontinent Asian American-owned	5.4 %
Total POC-owned	42.6 %
Total POC- and woman-owned	46.8 %

2. Utilization analysis (Chapter 7 of the report). BBC also calculated the participation of POC- and woman-owned businesses in relevant contracts and procurements Metro awarded during the study period. As shown in Figure ES-2, during the study period, Metro awarded 22.0 percent of its relevant contract and procurement dollars to POC- and woman-owned businesses. The groups that exhibited the greatest levels of participation in that work were Hispanic American-owned businesses (8.9%), white woman-owned businesses (4.2%), and Black American-owned businesses (3.6%).

Figure ES-2.
Utilization analysis results for Metro work

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

Source:

BBC utilization analysis.

Business group	Utilization
White woman-owned	4.2 %
Asian Pacific American-owned	3.4 %
Black American-owned	3.6 %
Hispanic American-owned	8.9 %
Native American-owned	0.0 %
Subcontinent Asian American-owned	1.9 %
Total POC-owned	17.9 %
Total POC- and woman-owned	22.0 %

3. Disparity analysis (Chapter 8 and Appendix F of the report). The crux of the disparity study was to assess whether any disparities exist between the participation of POC- and woman-owned businesses in Metro work and the availability of those businesses for that work. A disparity index of 100 indicates *parity* between actual participation and availability. That is, the participation of a particular business group is in line with its availability. A disparity index of less than 100 indicates a *disparity* between participation and availability. That is, the group is considered to have been underutilized relative to its availability. Finally, a disparity index of less than 80 indicates a *substantial disparity* between participation and availability. A *substantial disparity* for a particular racial/ethnic or gender group is interpreted by courts as an inference of discrimination against that group in the marketplace and often serves as evidence that the organization of interest could consider using race- or gender-conscious measures to address barriers for that group (for details, see Chapter 2).

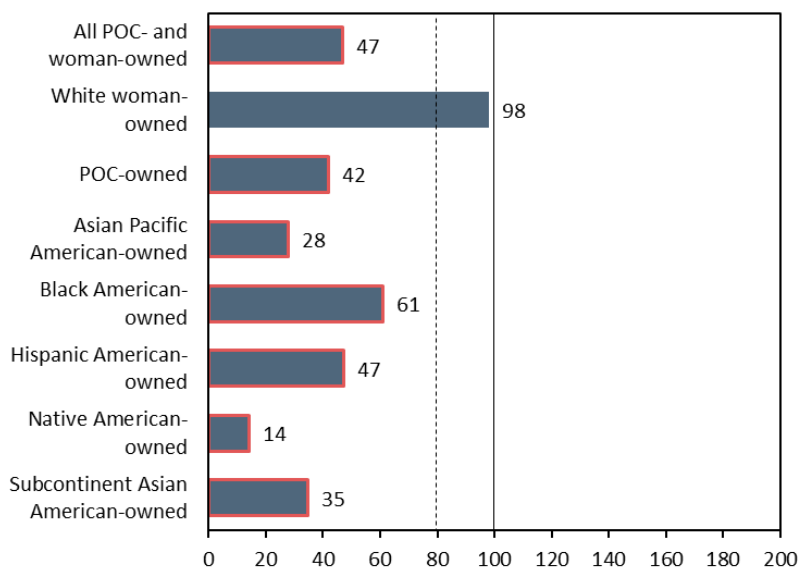
a. Overall. Figure ES-3 presents disparity indices for POC- and woman-owned businesses for all relevant prime contracts and subcontracts Metro awarded during the study period considered together. As shown in Figure ES-3, POC- and woman-owned businesses considered together exhibited a disparity index of 47 for all relevant contracts and procurements Metro awarded during the study period,

indicating a disparity where Metro awarded POC- and woman-owned businesses \$0.47 for every dollar one might expect the agency to award to those businesses based on their availability for that work. All individual groups of POC-owned businesses exhibited substantial disparities for Metro work: Asian Pacific American-owned businesses (disparity index of 28), Black American-owned businesses (disparity index of 61), Hispanic American-owned businesses (disparity index of 47), Native American-owned businesses (disparity index of 14), and Subcontinent Asian American-owned businesses (disparity index of 35). White woman-owned businesses did not exhibit a substantial disparity for Metro work (disparity index of 98).

Figure ES-3.
Overall disparity analysis
results for Metro work

Note:
 Substantial disparities
 highlighted with red borders.

Source:
 BBC disparity analysis.



b. Funding source. The Federal DBE Program applies specifically to Metro’s United States Department of Transportation (USDOT)-funded projects.¹ As part of the program, the agency uses various race- and gender-neutral measures as well as race- and gender-conscious DBE contract goals to encourage the participation of POC- and woman-owned businesses in the USDOT-funded projects it awards. However, Metro is prohibited from using race- and gender-conscious measures to award non USDOT-funded projects due to Proposition 209. Thus, comparing disparity analysis results separately for USDOT- and non USDOT-funded projects may be indicative of the efficacy of Metro’s implementation of the Federal DBE Program as well as its use of race- and gender-conscious measures to encourage the participation of POC- and woman-owned businesses in its work relative to their availability for it. As shown in Figure ES-4, POC- and woman-owned businesses considered together exhibited substantial disparities for both USDOT-funded work (disparity index of 47) and non USDOT-funded work (disparity index of 47). Disparity analysis results differed by business group and funding source:

- Asian Pacific American-owned businesses (disparity index of 17), Hispanic American-owned businesses (disparity index of 47), Native American-owned businesses (disparity index of 11) and Subcontinent Asian American-owned businesses (disparity index of 46) all exhibited substantial disparities for USDOT-funded projects. Black American-owned businesses also showed a disparity for USDOT-funded work (disparity index of 86), but that disparity was not substantial.

¹ BBC considered a project to be USDOT-funded if it included at least one dollar of USDOT funding.

- White woman-owned businesses (disparity index of 69), Asian Pacific American-owned businesses (disparity index of 52), Black American-owned businesses (disparity index of 42), Hispanic American-owned businesses (disparity index of 48), Native American-owned businesses (disparity index of 17), and Subcontinent Asian American-owned businesses (disparity index of 28) showed substantial disparities on non USDOT-funded work.

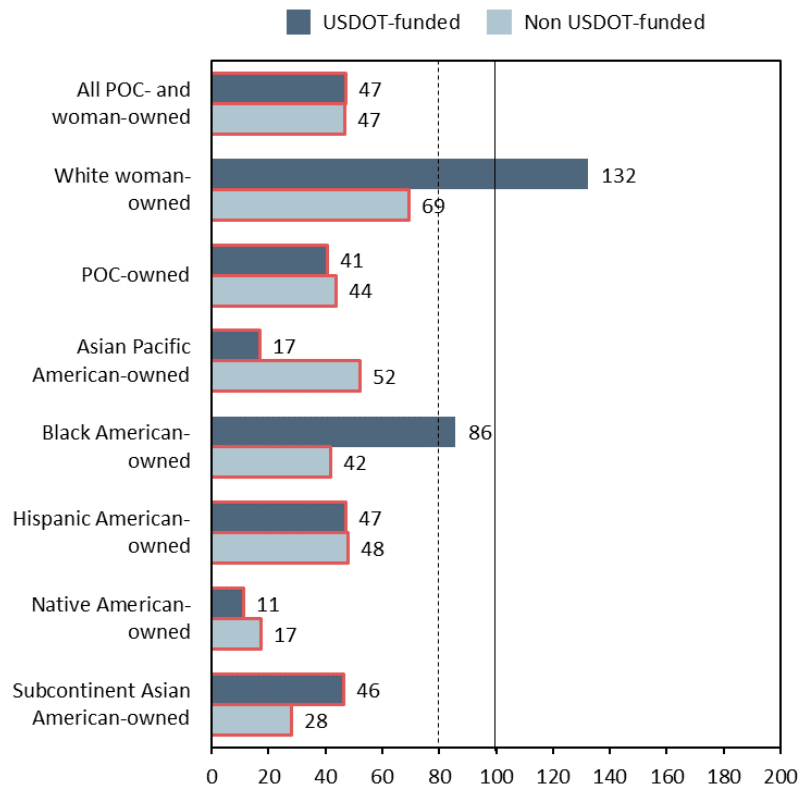
Figure ES-4.
Disparity analysis results by funding source

Note:

Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals.

Source:

BBC disparity analysis.



c. Summary. Figure ES-5 presents a visualization of the various sets of Metro contracts and procurements for which relevant POC- and woman-owned business groups exhibited substantial disparities, as indicated by black circles. Most POC-owned business groups showed substantial disparities for many of the contract and procurement sets shown in Figure ES-5 with the exception of Black American-owned businesses. Black American-owned businesses showed substantial disparities for all work considered together, as well as for prime contracts, for professional services projects, and for non-USDOT funded work, but did not show substantial disparities for any other projects sets presented in Figure ES-5. Similarly, white woman-owned businesses showed substantial disparities for prime contracts, professional services projects, and non USDOT-funded work, but did not show substantial disparities for any other project sets presented in Figure ES-5. Substantial disparities indicate inferences of discrimination against relevant POC- and woman-owned business groups in the Los Angeles County marketplace and as part of Metro’s contracting and procurement.

Figure ES-5.
Substantial disparities observed for Metro work

Contract set	Business group							
	All POC and white woman	All POC	White woman	Asian Pacific American	Black American	Hispanic American	Native American	Subcontinent Asian American
All work	●	●		●	●	●	●	●
Construction	●	●		●		●	●	●
Professional services	●	●	●		●	●		●
Non-prof. svcs. and goods	●	●		●		●	●	●
Prime contracts	●	●	●	●	●	●	●	●
Subcontracts	●	●		●			●	●
USDOT-funded	●	●		●		●	●	●
Non USDOT-funded	●	●	●	●	●	●	●	●

Notes: ● indicates substantial disparity

Source: BBC disparity analysis.

B. Marketplace Conditions

BBC conducted extensive quantitative analyses to assess whether POCs, women, and POC- and woman-owned businesses face any barriers in the construction, professional services, goods and other services, and transit services industries in Los Angeles County. The study team also examined the potential effects any such barriers have on the formation and success of businesses as well as their participation in and availability for contracts and procurements Metro awards. We examined local marketplace conditions in four primary areas:

- **Human capital**, to assess whether POCs and women face barriers related to education, employment, and gaining industry experience;
- **Financial capital**, to assess whether POCs and women face barriers related to wages, homeownership, personal wealth, and financing;
- **Business ownership**, to assess whether POCs and women own businesses at rates comparable to that of white men; and
- **Business success**, to assess whether POC- and woman-owned businesses have outcomes similar to those of businesses owned by white men.

For more details, see Chapter 3 and Appendix C of the report.

1. COVID-19 Pandemic. Economic and social vulnerabilities preceding the onset of the COVID-19 pandemic exacerbated the adverse impacts of the pandemic on POC- and woman-owned businesses.ⁱ Public health measures to reduce the spread of the COVID-19 virus along with direct health impacts led to an economic crisis that reached its peak in March and April of 2020.^{ii, iii, iv} In California, POC- and woman-owned small businesses, with the exception of Asian American-owned businesses, experienced higher rates of business closure and slower recoveries than white American-owned small businesses.^v More than 25 percent of small businesses in Los Angeles County closed during 2020, including approximately 7,500 businesses that closed permanently.

Disparities in the rates of request and approval of the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) Program illustrated the limited reach of the government’s financial assistance to small businesses. A fraction of small businesses received financial support from the federal government to cover revenue losses and retain employees.^{vi} Other small businesses did not receive any assistance, in part due to differences in the resources available to between large and small businesses to navigate bank loan processes and from lack of information for businesses with no employees on how to make assistance requests.^{vii} Disparities in access to pandemic-related financial assistance between large and small businesses are particularly impactful to POC- and women-owned businesses, because in the Los Angeles Metro Area, POC- and women-owned businesses are more likely to be small businesses than white American- and men-owned businesses.^{viii}

2. Summary. BBC’s analyses of marketplace conditions in Los Angeles County indicate that POCs and women face various barriers in industries relevant to Metro’s contracting and procurement. Existing research and primary research we conducted indicate that disparities exist in acquiring human capital, accruing financial capital, owning businesses, and operating successful businesses. In many cases, there is evidence those disparities exist even after accounting for various personal and business factors. There is also evidence that many disparities are due—at least, in part—to race- or gender-based discrimination. Barriers in the marketplace likely have important effects on the ability of POCs and women to start businesses in relevant industries—construction, professional services, goods and other services, and transit services—and to operate those businesses successfully. Any difficulties those individuals face in starting and operating businesses may reduce their availability for government work and the degree to which they are able to successfully compete for such projects.

C. Overall DBE Goal

In accordance with 49 Code of Federal Regulations (CFR) Part 26 and United States Department of Transportation (USDOT) requirements, every three years, Metro must establish an overall goal for the participation of DBEs in the USDOT-funded projects it awards. USDOT requires agencies to set their overall DBE goals using a two-step process: establishing a base figure and considering whether a step 2 adjustment to the base figure is warranted. The disparity study provides information regarding both steps of the required goal-setting process for Metro to consider as it sets its next overall DBE goal.

1. Base figure. In accordance with USDOT requirements, BBC assessed the availability of potential DBEs—that is, POC- and woman-owned businesses that are currently DBE-certified or appear they could be DBE-certified according to size limits specified in the Federal DBE Program—for the USDOT-funded projects Metro awarded during the study period. That analysis indicated that the availability of potential DBEs for Metro’s USDOT-funded work is 31.3 percent, which Metro could consider as its base figure for its next overall DBE goal.

2. Step 2 adjustment. After establishing a base figure, Metro must consider additional information to determine whether any adjustment is needed to the base figure to ensure the agency’s new overall DBE goal is precise and reflects current conditions in the local marketplace for POCs, women, and POC- and woman-owned businesses. USDOT suggests agencies consider the following information in assessing whether to make step 2 adjustments to their base figures:

- Current capacity of DBEs to perform agency work;
- Information related to employment, self-employment, education, training, and unions;

- Disparities in the ability of DBEs to access financing, bonding, or insurance; and
- Other relevant factors.²

BBC assessed information related to each of the above factors, which we summarize below:

- **Current capacity of DBEs to perform agency work.** USDOT’s “Tips for Goal-Setting” suggests that agencies should examine data on past DBE participation in their USDOT-funded projects in recent years. Based on information from Metro’s Uniform Reports, the participation of certified DBEs in the USDOT-funded projects Metro awarded in FFYs 2016 through 2021 was 18.7 percent of total dollars on USDOT-funded projects. That information supports a downward adjustment to Metro’s base figure.
- **Information related to employment, self-employment, education, training, and unions.** BBC’s analyses of barriers in the local marketplace indicate barriers that certain POC groups and women face related to human capital, financial capital, business ownership, and business success. Such barriers may decrease the availability of POC- and woman-owned businesses for the USDOT-funded projects Metro awards. For example, BBC used regression analyses to investigate whether race/ethnicity and gender are related to business ownership in relevant industries among workers in the Los Angeles marketplace, independent of various other personal characteristics, including familial status, education, and age. (Chapter 3 and Appendix C provide details about our regression analyses.) Based on the results of those analyses, Metro might consider an upward adjustment of its base figure for USDOT-funded contracts to account for marketplace barriers.
- **Any disparities in the ability of DBEs to get financing, bonding, or insurance.** BBC’s analysis of access to financing, bonding, and insurance also revealed quantitative and qualitative evidence that POCs, women, and POC- and woman-owned businesses in the region do not have the same access to those business inputs as non-Hispanic white men and businesses owned by non-Hispanic white men. Any barriers to obtaining financing, bonding, or insurance might limit opportunities for POCs and women to successfully form and operate businesses in the RGMA. Any barriers that POC- and woman-owned businesses face in obtaining financing, bonding, or insurance would also place those businesses at a disadvantage in competing for Metro’s USDOT-funded projects. Thus, those results also support an upward adjustment to Metro’s base figure.
- **Other relevant data.** Marketplace analyses also indicate that POC- and woman-owned businesses are less successful than other businesses in the local marketplace in terms of business closures, business receipts, business owner earnings, and other metrics. Barriers in business success among POC- and woman-owned businesses can limit their growth, which may depress their availability for Metro’s USDOT-funded work. Thus, those results also support an upward adjustment to the agency’s base figure.

The agency should consider the above information carefully as part of setting its next triennial DBE goal for Federal Fiscal Years (FFY) 2025-2027, if anticipated future contracts are similar to the contracts reviewed as part of the disparity study. Metro is not required to make a step 2 adjustment, but it must explain its decision to make or not make an adjustment in goal documentation it submits to USDOT.

² 49 CFR Section 26.45.

D. Guidance

BBC observed substantial disparities between the participation and availability of POC- and woman-owned businesses for the contracts and procurements Metro awarded during the study period. We present guidance on how Metro can use that information and other information from the disparity study to further encourage the participation of those businesses in its work and address the disparities we observed effectively and in a legally defensible manner, including potentially using race- and gender-conscious measures to do so. In considering the guidance we provide, Metro should be mindful of the legal requirements surrounding the use of race- and gender-conscious measures in particular, including state and federal regulations as well as relevant case law. The organization should consult closely with its Department of Justice in developing any new policies or programs related to POC- and woman-owned businesses to ensure they are consistent with the requirements of the strict scrutiny, intermediate scrutiny, and *rational basis* standards of constitutional review, respectively. We present key recommendations below and present additional recommendations and more information relevant to those recommendations in Chapter 10 of the report.

1. Bench contracts. Anecdotal evidence suggests businesses that are awarded Metro's bench contracts often receive little to no work from those awards. In addition, once on a bench, businesses must maintain the appropriate level of insurance coverage, regardless of whether they actually perform work on the contract, which can place a financial burden on small and disadvantaged businesses. Metro could consider implementing a rotation system for bench contract task orders to ensure that each business on a bench gets work. The agency could also consider more closely monitoring the participation of small and disadvantaged businesses on bench contracts to ensure that they receive a proportionate amount of the. Lastly, Metro could consider developing benches comprised exclusively of small and disadvantaged businesses. For example, the San Diego Association of Governments (SANDAG) has a bench program that includes pool of certified DBE and SBE subcontractors that prime consultants can access for work on various SANDAG bench contracts.

2. Technical assistance support. Multiple interviewees indicated that they consider the public sector bid process to be confusing and time-consuming. To better support businesses bidding with Metro, some interviewees suggested that Metro should provide more detailed information or training on how to bid with the agency. Additional anecdotal evidence indicated that when businesses experience challenges during project performance, finding the appropriate Metro employee to contact can be difficult. The agency should increase the visibility of appropriate points of contact for project issues and consider hiring liaisons for small businesses in particular. Assigning small business liaisons to projects or expanding responsibilities of existing staff to resolve project issues small businesses experience could help them perform Metro work more successfully. For example, the State of Maryland has designated liaisons for its small business program that act as advocates for small businesses working on contracts for the agency.

3. Microbusiness program. For certain industries, the SBA size thresholds for small businesses allow gross receipts of up to \$47 million. Anecdotal evidence suggests that, due to the large range of small business size standards, smaller SBEs are unable to compete with larger SBEs. Metro should consider adding an additional certification classification for microbusinesses with smaller revenue requirements. For example, the State of California Department of General Services has a microbusiness program (implemented as a subset of their small business program) for businesses with gross annual receipts of \$5 million or less. In addition, the San Francisco Bay Area Rapid Transit District has a Micro Small

Business Entity certification for businesses whose average gross receipts over the prior three years do not exceed \$10 million (construction) or \$6 million (professional services and procurement), which are thresholds Metro could consider. The organization could then add preferences and benefits exclusive to microbusinesses, including proposal points, bid reductions, or setting aside certain opportunities exclusively for microbusiness competition.

4. New businesses. The disparity study indicated that a substantial portion of the contract and procurement dollars Metro awarded to POC- and woman-owned businesses during the study period were largely concentrated with a relatively small number of businesses. Metro could consider using bid and contract language to encourage prime contractors to partner with subcontractors and suppliers with which they have never worked. For example, as part of the bid process, the agency might ask prime contractors to submit information about the efforts they made to identify and team with businesses with which they have not worked, and Metro could award evaluation points or price preferences based on the quality of those efforts. Increasing the number of new subcontractors involved in Metro's bid process could help many small businesses—including DBEs—become aware of and compete for Metro opportunities and grow the pool of small businesses involved in Metro work.

5. Unbundling contracts. As part of in-depth interviews and public meetings, several business owners reported that the size of Metro projects is sometimes a barrier to their success. To further encourage the participation of POC- and woman-owned businesses in its work, Metro should consider expanding its current efforts to unbundle relatively large prime contracts—and even subcontracts—into several smaller pieces. Such initiatives might increase contracting opportunities for all small businesses, including many POC- and woman-owned businesses.

6. Inflation. Metro has many projects that span multiple years. Anecdotal evidence indicated that businesses that are awarded such contracts or associated subcontracts associated often supply goods or services years after their initial proposals and cost estimates. At times, inflation can make quoted prices too low for a business to provide goods or services years later. Metro could consider adjusting contract prices to account for inflation for projects that span a certain number of years. For instance, the federal government often adds an Economic Price Adjustment clause in its contracts in times of high inflation or strong economic uncertainty to further balance risk and to hedge against fluctuations in labor or material costs.

7. Prequalification requirements. Businesses competing for Metro projects worth \$100,000 or more are required to complete prequalification applications, which the agency reviews prior to making awards to ensure that businesses are qualified to provide requested services. Although prequalification reviews remain active for a period of two years, businesses must submit validation forms for each solicitation to which they respond and often must update their applications for each solicitation. Business representatives that reported doing work with Metro discussed the burden associated with prequalification paperwork required for each new bid. Other businesses also expressed that doing the amount of paperwork required to start each project is daunting for new businesses. Metro could consider raising the contract value threshold for which prequalification requirements apply to reduce the administrative burden on small and disadvantaged businesses competing for its work. The agency could also consider extending the length of validity of prequalification reviews or eliminating validation requirements for businesses that have already been prequalified. Lastly, Metro could consider providing

additional technical assistance to help small and disadvantaged businesses navigate the prequalification process.

ⁱ Wang, Qingfang, and Wei Kang. 2021. What are the Impacts of COVID-19 on Small Businesses in the U.S.? Early Evidence Based on the Largest 50 MSAS. *Geographical Review* 111 (4): 528-557. doi:10.1080/00167428.2021.1927731.

ⁱⁱ Los Angeles County Economic Development Corporation. 2021. *Pathways for Economic Resiliency: Los Angeles County 2021-2026*. Report, Los Angeles. Retrieved, September 8, 2023 (https://wdacs.lacounty.gov/wp-content/uploads/2021/02/Pathways-for-Economic-Resiliency-Executive-Summary-copy.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=).

ⁱⁱⁱ Fairlie, Robert. 2020. *The impact of COVID-19 on small business owners: Evidence from the first three months after widespread social-distancing restrictions*. *Journal of Economics & Management Strategy* 29 (4): 727-740. doi:10.1111/jems.12400

^{iv} Together for L.A. 2022. *Small Business Recovery Report and Resource Guide*. Report, Los Angeles. Retrieved, September 8, 2023 (<https://laedc.org/wp-content/uploads/2022/06/Together-for-LA-Small-Business-Recovery-Report-and-Resource-Guide-June-2022-v2.pdf>).

^v Dani, Lokesh, John S. Earle, and Kyung Min Lee. 2022. *COVID-19 Impact on California's Entrepreneurs*. Report. Retrieved, September 8, 2023 (<https://edcollaborative.com/wp-content/uploads/2021/02/COVID-19-Impact-on-California-Entrepreneurs-v3.pdf>).

^{vi} United States Census Bureau. 2022. *Impacts of the COVID-19 Pandemic on Business Operations*. June 15. Retrieved September 8, 2023 (<https://www.census.gov/library/publications/2022/econ/2020-aces-covid-impact.html#:~:text=In%202020%2C%20the%20coronavirus%20pandemic,different%20impact%20on%20their%20payroll>).

^{vii} Next Street; CommonFuture. 2020. *Los Angeles County Small Business Ecosystem Assessment*. Report.

^{viii} United States Census Bureau. 2019. "Annual Business Survey." Retrieved September 25, 2023 (<https://data.census.gov/table?q=AB1900CSA04&g=310XX00US31080>).

Public Comment Period Comments and Responses

Below are verbal comments received during the disparity study public hearings and were included in the anecdotal appendix and analyzed in developing the considerations chapter in the final report.

Topic – Importance of prompt payment

Comment – “Prompt pay works well but for small and micro business the financial burden can be difficult to manage. For example, if a prime has submitted an invoice that is challenged for whatever reason, it can delay payment to business that does not have anything to do with the contested invoice. Agencies that provide support in finance and capacity such as allowing for initial deposits for ramp up, etc., are significantly ahead of the curve in building their supply chain of DBE's.”

Comment – “The same problem exists when the Prime (for whatever reason) delays submitting their invoices. Agencies need to push primes to submit timely invoices, and monitor and address issues with that. We waited 6 months for a payment on High-Speed Rail due to a Prime not submitting invoices for 3 months. This happens more than agencies realize.”

Comment – “One option some agencies have considered is developing an escrow account to pay SB/DBE firms right after invoice acceptance by the Prime.”

Metro Response: The study addressed comments on this topic in the qualitative data collection chapter and the qualitative data collection appendix of the report.

Topic – Negative impacts of established rates and the cost of completing an audit to be exempted from those fully loaded rates for small professional services firms.

Comment – “Small businesses that are below \$5M in annual revenues cannot operate with a cap on mark-up - it's not sustainable for us to deliver the value if we lose money on your contracts.”

Comment – “Whatever you're doing has to be economically viable. And so that means, you know, a path to prime opportunities. One, because as a sub you know your profitability is going to be severely limited. ... The drift toward task orders has created a lot more limitations on DBE vendors and SBE vendors because that means that you have to carry the bench to be able to do the work. And if you're making decisions based upon the individuals that are presented in the initial SOQs, those individuals you know often are beyond the reach of DBE and SBE vendors because you know, they're typically extremely well compensated and rest within organizations, which can be competitive disadvantage for DBE vendors. [One] model might be the Port Authority of New York and New Jersey, ... they've actually created a separate class of contracts for minority-owned and women-owned vendors. And what they've also done is they've identified the disparity between the disparity, and they focused on specific... racial groups and provided opportunities to address those disparities, but they literally created

two classes of procurements. One is the standard kind of contract. If there's a calling contract, then they created a corollary, a contract for small business, or even for minority-owned business. I know that you can't do to MBE, and instead of California, but that's a potential resource to leverage, but being able to look at procurements and look at procurement activity ... You're [LA Metro's] kind of the 800-pound gorilla regionally and even in the state. So, the culture that you create relative to procurement is very likely to be adopted by other places because they're looking at you as creating a precedent."

Metro Response: The study addressed comments on this topic in the qualitative data collection chapter and the qualitative data collection appendix of the report.

Topic – What is the goal setting process for disabled veteran-owned businesses.

Comment – "Purchasers often become comfortable with large providers, suppliers, contractors, making it impossible for small new entrants to participate. When an agency uses a firm, regularly and primes can pull them into be seen as experience in the agency environment, it eliminates the ability of SBEs to be considered... This also finds its way in when primes list potential small firms as part of their teams, but do not actually utilize them after the award. I'll give you a direct example with Metro. ... You have firms that do third party administration for project labor agreements. They are an extension of your internal administration processes. There are other firms like ours that are specifically experienced and can-do large-scale work as was described in one of the questions earlier. But the two issues that we face is you can't even see a procurement go out because these companies are already embedded into the system and if and when prime is looking for somebody to support on their side, they are typically not encouraged to ensure that it's a DBE or [not]. They are encouraged to use the existing administrative offices that Metro has around these processes or to partner with. ... Does the agency have an appetite for real time compliance review so that they can actually validate performance and adjust as companies are moving through their construction processes, especially if they're meeting or not meeting these inclusion criteria like the measurement of apprenticeship, the utilization of small businesses et cetera, ... is there an appetite for that to happen in real time rather than post-performance?" (Addressed by Taisha Smith during the meeting).

Metro Response: This comment was addressed by Metro staff during the meeting. The disparity study focuses on the DBE program.

Topic – Legal considerations around substitutions and elimination of work for DBEs and the rights of subcontractors/subconsultants as protected by the Federal DBE Program and California state law.

Comment – "Agencies should be aware of which DBEs are still under contract so they can identify any removals. They should also provide education to those firms on their rights."

Metro Response: This comment was addressed by Taisha Smith during the meeting.



2023 Disparity Study Report

Executive Management Committee

March 21, 2024



Metro

RECOMMENDATIONS/BACKGROUND

- A. RECEIVE AND FILE the Final 2023 Disparity Study Report; and
- B. AUTHORIZE the Chief Executive Officer (CEO) to develop a three-year pilot Micro Small Business Program and certification designation.

BACKGROUND:

- Metro commissioned BBC Research & Consulting to conduct 2023 Disparity Study.
- Purpose: To evaluate if current contracting conditions at Metro are creating barriers for POC- and woman-owned businesses (DBEs) and to identify strategies to increase equity and eliminate barriers in Metro contracting.
- Analyzed Metro's contracting data over a six-year period from January 1, 2016 – December 31, 2021.
- Study Engagement:
 - Led 2 focus groups
 - Gathered anecdotal comments from 507 business owners/representatives
 - Completed 42 in-depth interviews with owners/representatives
 - Conducted 2 public meetings, one in-person and one virtual on study findings



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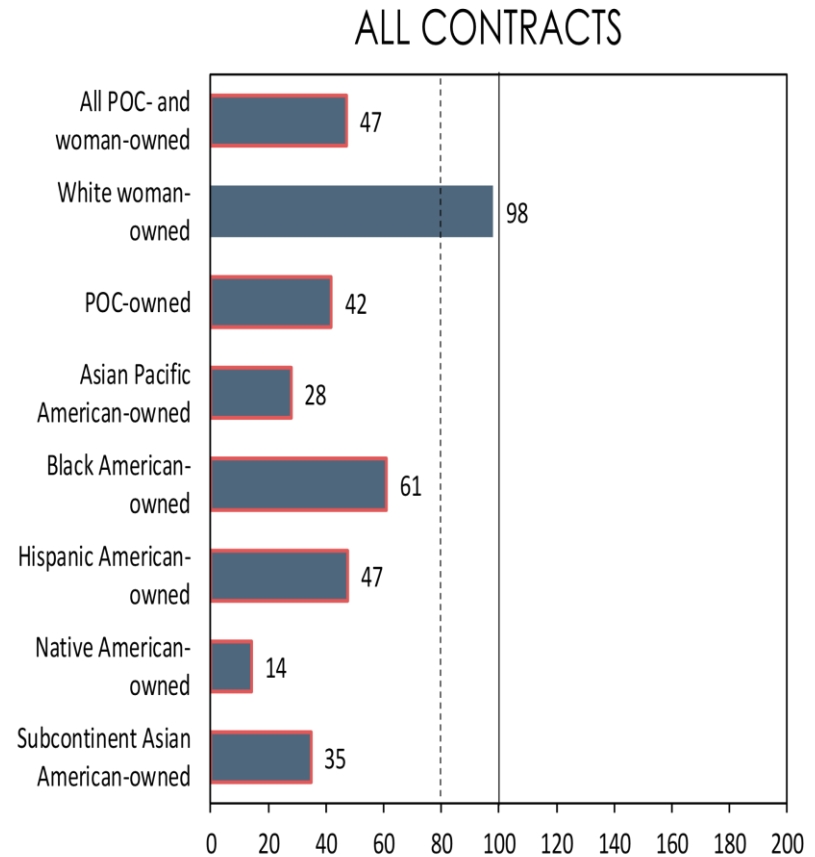
2017 – 2023 COMPARISON

- By comparison, the Study found overall availability increased by 15.5% from 2017 to 46.8% in 2023.
- The Study also found overall utilization decreased slightly by 1.2% from 2017 to 2023.
- The 31.3% availability of potential DBEs demonstrates a 4.3% increase over 2017 and represents firms that could potentially be certified as DBEs.

POC-/Woman-Owned Business Results	2017	2023
Composition of Availability Database	47.0%	53.3%
Overall Dollar Weighted Availability	31.3%	46.8%
Overall Dollar Weighted Utilization	23.2%	22.0%
Availability of Potential DBEs	27.0%	31.3%

OVERALL DISPARITY RESULTS

- All individual groups of People of Color (POC) -owned and women-owned businesses exhibited substantial disparities for Metro work.
 - All POC-and woman-owned (47)
 - White woman-owned businesses did not exhibit a substantial disparity for Metro work (98)
 - POC-owned (42)
 - Asian Pacific American-owned businesses (28)
 - Black American-owned businesses (61)
 - Hispanic American-owned businesses (47)
 - Native American-owned businesses (14)
 - Subcontinent Asian American-owned businesses (35)



*Disparity index of 80 or less = substantial underutilization; Disparity index of 100 = parity



QUALITATIVE DATA

Key concerns raised from qualitative data collection:

- Challenges responding to public sector bid requests and requests for proposals.
- Difficulties managing the administrative aspects of running a business.
- Prompt payment by agencies and prime contractors.
- Access to bonding, insurance, and financing; and
- Closed networks within the business community.

STUDY RECOMMENDATIONS

	Recommendations	Metro Response
1.	Rotation system for bench contracts and/or developing benches comprised solely of SBE/DBE firms	Metro is currently implementing, on a small percentage of contracts, a rotational bench system and already has benches established that are comprised exclusively of small and disadvantaged businesses. To provide opportunity for each firm on the bench to get work, staff will continue to work with Metro Departments and Vendor Contract Management (VCM) to encourage more use of these types of benches, as appropriate. Staff will also review anecdotal to identify further process improvements.
2.	Provide technical assistance support on how to bid with Metro	While the DBE Program has experienced a measure of success in providing opportunities for disadvantaged businesses, there is an urgent need to address the substantial disparity identified in the study and to increase utilization. DEOD will establish a Business Technical Development Program (BTDP) to provide technical assistance to SBE/DBE firms during the performance of their subcontract.
3.	Develop a Microbusiness Program	Staff recommends policy authorization to develop a three-year pilot Micro Small Business Program and certification designation and will collaborate with VCM on program contracting thresholds.
4.	Consider changing solicitation language to encourage primes to partner with subcontractors with which they have never work	DEOD will work with VCM to develop solicitation language that encourages primes to partner with SBE/DBE subcontractors they have never worked with to increase new business engagement.
5.	Unbundling large contracts	DEOD encourages unbundling as a component part of the Set Aside Program. Staff will continue to work with Metro Departments and Project Manager during the procurement planning process to evaluate the potential benefits of unbundling large contracts.
6.	Adjust contract value for inflation for projects that span a certain number of years	DEOD and VCM will explore the feasibility of implementing this recommendation.
7.	Improvements prequalification requirements	DEOD will work with VCM to implement process improvements to the Pre-Qualification requirements that will reduce the administrative burden on small and disadvantaged businesses competing for Metro work.



NEXT STEPS

- Upon Board approval, initiate development, and implementation process for the three-year pilot Micro Small Business Program.
- Staff will use Study data for the development of upcoming triennial Overall DBE goal for FFY 2025 – 2027:
 - Return to the Board in June 2024 with recommended triennial overall DBE goal for consideration and approval.
 - Submit FFY 2025- 2027 Overall DBE Goal Methodology to FTA by the August 1, 2024, deadline.
- New initiatives developed and implemented as a result of the study will be included in the 48 x '28 Plan for tracking and reporting purposes.