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# ***Appendices***

***Appendix A: Overall DBE Goal Setting Report***

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# **APPENDIX A: OVERALL DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL AND GOAL SETTING METHODOLOGY REPORT FFY 2013-2015**

## **I. INTRODUCTION**

The Disadvantaged Business Enterprise (DBE) overall goal setting methodology is a requirement set forth in the United States Department of Transportation (USDOT) DBE regulations, 49 CFR Part 26.45. The DBE regulations require USDOT recipients to set an annual overall goal for DBE participation in their federally assisted projects.<sup>1</sup> Effective March 5, 2010, the Federal Transit Administration (FTA) modified the schedule so that the overall goal must be prepared every three years instead of annually, as previously required.

The regulations require that the overall goal be prepared using a two-step process. According to the *USDOT Tips for Goal Setting*<sup>2</sup> (*USDOT Tips*), approved by the General Counsel of the USDOT, the recipient must first determine a base figure for the relative availability of certified DBEs and potentially certifiable minority and woman-owned business enterprises, hereafter collectively referred to as Disadvantaged Business Enterprises (DBEs), in the relevant market area. Next, the recipient must examine all relevant evidence to determine what adjustment, if any, is needed to the base figure in order to arrive at an overall goal. The final adjusted figure is the recipient's overall goal, and represents the proportion of federal transportation funding that the recipient is expected to allocate to DBEs during the subsequent three federal fiscal years (FFY). Once the adjusted overall goal is determined, the process requires considering what portion of the goal will be met by race and gender-neutral measures.

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<sup>1</sup> Effective February 28, 2011, the USDOT again amended the DBE regulations set forth in 49 CFR Part 26 as described in the Federal Register, Volume 76, Number 19. Pursuant to the 2011 Amendment, USDOT recipients must also incorporate a race and gender-neutral Small Business Enterprise component in the DBE Program.

<sup>2</sup> United States Department of Transportation, "Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program", <http://www.osdbu.dot.gov/DBEProgram/tips.cfm>



If a recipient purports that it can meet its overall goal with race and gender-neutral measures, those measures must be utilized. In contrast, if the recipient determines it cannot achieve the entire overall goal using only race and gender-neutral measures, it must establish a race and gender-conscious portion of the overall goal.<sup>3</sup>

Pursuant to *Western States Paving v. State of Washington*<sup>4</sup> (*Western States*), recipients in the Ninth Circuit cannot consider the use of a race and gender-conscious goal unless a finding of significant statistical disparity has been made for the ethnic and gender groups to be included in its application of the race and gender-conscious goal. The Ninth Circuit determined that statistical findings demonstrating a “small disparity” are insufficient probative value to meet the strict scrutiny standard. Citing *Croson*, the court declared that an inference of discriminatory exclusion could arise where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or its prime contractors.

This *Overall DBE Goal and Goal Setting Methodology Report* is based upon the DBE regulations contained in 49 CFR Part 26.45, as amended, the decisions of the United States Federal Court, and the *USDOT Guidance Memorandum*.

## **II. PROPOSED OVERALL GOAL FOR FFY 2013-2015**

Based on the requirements set forth in 49 CFR Part 26, *Western States* and the *USDOT's Guidance Memorandum*, Los Angeles County Metropolitan Transportation Authority (Metro) is submitting a goal for FFY 2013-2015. The recommended overall DBE goal for the period is 27 percent. The Federal Transit Administration (FTA) reporting period for the recommended overall goal will be October 1, 2013 to September 30, 2015.



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<sup>3</sup> 49 CFR Part 26, §26.51(f)(1), §26.51(d)

<sup>4</sup> *Western States Paving Co. v. United States & Washington State Department of Transportation*, 407 F. 3d 983 (9<sup>th</sup> Cir. 2005)

### **III. OVERALL GOAL SETTING METHODOLOGY**

The two-step goal setting process required by the regulations and the findings of *Western States* has been used to determine the recommended overall goal for FFY 2013-2015. The two steps for setting an overall goal are:

- Establish a base figure for the relative availability of DBEs
- Determine the base figure adjustment, if necessary

The base figure is intended to be a measurement of the current ready, willing, and able DBEs as a percentage of all ready, willing and able businesses to perform the recipient's anticipated FTA-assisted contracts.<sup>5</sup> The regulations present five options for establishing a base figure for relative availability of DBEs. The five options as set forth in the regulations are listed in Table 1.01.

**Table A.01: Methods to Determine Baseline Figure**

<b>Baseline Figure Method</b>
Bidders List
DBE Directories and Census Data
Other Recipient's Base Figure
Disparity Study
Alternative Method

#### **1. Bidders List Method**

This method for calculating a base figure requires Metro to have a comprehensive bidders list with DBE prime contractors and subcontractors classified by industry in order to determine availability. This method limits DBE availability to the number of businesses that have directly participated in, or attempted to participate in, Metro's FTA-assisted contracts in the recent past. It does not include potential DBEs which have not bid on Metro's FTA-assisted contracts as either a prime contractor or subcontractor.

#### **2. DBE Directories and Census Data Method**

DBE directories of California USDOT recipients are consolidated into the California Unified Certification Program (CUCP) database. Using the CUCP database to determine DBE availability is limited to USDOT-certified businesses; however, *USDOT Tips* requires including businesses that are not certified, but are potential DBEs to determine availability. The Census Bureau's County Business Pattern (CBP) data is derived from business federal income tax filings and, therefore, cannot address businesses' willingness to do business with Metro. Additionally, the CBP does not have the functionality to filter

<sup>5</sup> *Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program*, U.S. Department of Transportation



Caucasian male-owned businesses that work exclusively in the private sector, or those not interested in contracting with Metro. Essentially, the CBP over-counts Caucasian males and the CUCP under-counts DBEs, thus understating the relative availability of DBEs.

### **3. Other Recipient's Base Figure Method**

This method uses the goal of another USDOT recipient as the base figure for relative availability. Metro can only use another recipient's goal if it is set in accordance with DBE regulations and performs similar contracting in a similar market area. This method presumes that there is another USDOT recipient which does the same or similar contracting in the same geographic market area. These conditions cannot be met in Metro's market area.

### **4. Alternative Method**

Alternative methods may be used to determine a base figure for the overall goal. Any methodology used to determine a base figure must be based on demonstrable evidence of the local market conditions, and be designed to ultimately attain a goal that is related to the relative availability of DBEs and potential DBEs in the recipient's market area. The alternative method provides the most flexibility, but it is also subject to a higher level of scrutiny.

### **5. Disparity Study Method**

The disparity study methodology is the most comprehensive method for identifying ready, willing, and able DBEs that provide goods and services for Metro's anticipated FTA-assisted projects. A disparity study identifies businesses that made bids to the agency as either a prime or subcontractor, and those that are interested in bidding. It also enumerates DBEs among bidders, and willing and able businesses which have not yet bid. This method is also recommended by the *USDOT Guidance Memorandum* for recipients in the Ninth Circuit. The availability data derived from Metro's 2012 Disadvantaged Business Enterprise (DBE) Program Disparity Study was utilized in the goal setting process.





## **IV. STEP ONE BASE FIGURE CALCULATION**

### **A. Goal Setting Methodology**

The initial phase of the Step One analysis requires the compilation of critical data regarding the recipient's procurement. The relevant data includes:

- Definition of the market area from an analysis of previous contract awards
- Identification of the anticipated federally assisted projects and their costs
- Classification of the anticipated federally assisted projects by North American Industry Classification System (NAICS) code
- Enumeration of qualified businesses in the market area that are willing and able to provide goods or services Metro anticipates awarding
- Analyses of Metro's expenditures that were funded by federal dollars during the 2008-2011 study period

#### **1. Definition of Metro's Relevant Market Area**

The relevant market area was determined by the business location of prime contracts awarded during the January 1, 2008 to December 31, 2010 study period. A cluster analysis was prepared by business location and award amount to define the market area. All procurement with non-profits and other government agencies was excluded from the analysis. The analysis shows 71.86 percent of prime contract dollars were awarded to 107 businesses located in Los Angeles County, Metro's market area. The remaining 75 businesses, which represent 28.14 percent of contract dollars, were awarded in areas outside of Los Angeles County.<sup>6</sup> Table 1.02 presents the location of utilized businesses during the study period.

**Table A.02: Vendors Utilized During Study Period by Location**

<b>Business Location</b>	<b>Total Businesses</b>	<b>Percentage of Contract Dollars</b>
Los Angeles County	107	71.86%
Outside Los Angeles County	75	28.14%
<b>TOTAL</b>	<b>182</b>	<b>100.00%</b>

#### **2. Identify Anticipated Federally Assisted Projects**

The federally assisted projects Metro anticipates awarding over the next three fiscal years were identified with the estimated cost of each project. Estimated project costs for the

<sup>6</sup> For complete market area information, see the *Chapter 5: Market Area Analysis* in the 2012 Disadvantaged Business Enterprise (DBE) Program Disparity Study Final Report. The market area distribution for all industries can be found on page 5-11 in Table 5.06.



three-year projections were grouped by NAICS code based on individual project descriptions. Table A.03 presents the anticipated FFY 2013-2015 projects with the estimated budget grouped by fiscal year and NAICS code.

**Table A.03: Anticipated FFY 2013-2015 Projects by FFY and NAICS Code**

<b>2013</b>			
<b>NAICS Code</b>	<b>Project Description</b>	<b>Industry</b>	<b>Estimated Contract Amount</b>
237130	Power and Communication Line and Related Structures Construction (pt)	Construction	\$ 30,881,000.00
238210	Electrical Contractors (pt)		\$ 5,350,000.00
238990	All Other Specialty Trade Contractors (pt)		\$ 1,075,000.00
238910	Site Preparation Contractors		\$ 17,510,000.00
238190	Other Foundation, Structure, and Building Exterior Contractors		\$ 5,055,500.00
237310	Highway, Street, and Bridge Construction		\$ 27,700,000.00
237990	Other Heavy and Civil Engineering Construction		\$ 1,451,056,028.73
541330	Engineering Services	Architecture & Engineering and Professional Services	\$ 454,167,432.27
541380	Testing Laboratories		\$ 267,850.00
541611	Administrative Management and General Management Consulting Services		\$ 63,942,000.00
561790	Parking lot cleaning (e.g., power sweeping, washing) services		\$ 548,898.75
541430	Graphic Design Services	Goods and Services	\$ 126,868,000.00
561720	Janitorial Services		\$ 150,000.00
561730	Landscape care and maintenance services; Tree trimming services; Weed control and fertilizing services		\$ 1,594,642.50
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers		\$ 16,400,000.00
711510	Independent Artists, Writers, and Performers		\$ 320,000.00
238390	Fabrication		\$ 34,725.00
339950	Sign Manufacturing	\$ 90,000.00	
<b>TOTAL</b>			<b>\$ 2,203,011,077.25</b>
<b>2014</b>			
<b>NAICS Code</b>	<b>Project Description</b>	<b>Industry</b>	<b>Total Estimated Contract Amount</b>
237990	Other Heavy and Civil Engineering Construction	Construction	2,196,052,000.00
541611	Administrative Management and General Management Consulting Services	Architecture & Engineering and Professional Services	20,000.00
541430	Graphic Design Services		120,000.00
711510	Independent Artists, Writers, and Performers	Goods and Services	120,000.00
<b>TOTAL</b>			<b>\$2,196,312,000.00</b>
<b>2015</b>			
<b>NAICS Code</b>	<b>Project Description</b>	<b>Industry</b>	<b>Total Estimated Contract Amount</b>
238210	Electrical Contractors (pt)	Construction	500,000.00
237990	Other Heavy and Civil Engineering Construction		887,524,000.00
<b>TOTAL</b>			<b>\$888,024,000.00</b>

**GRAND TOTAL \$5,287,347,077.25**



### 3. Identify Procurement Types by NAICS Codes

A six-digit NAICS code was assigned to each of the anticipated federally funded projects in FFY 2013-2015. The NAICS codes were derived from the descriptions of the anticipated federally assisted projects. Table A.04 below defines the NAICS codes by industry.

**Table A.04: NAICS Codes by Industry and Definition for FFY 2013-2015 Projects**

NAICS Code	Industry	Definition
237130	Construction	Power and Communication Line and Related Structures Construction
238210		Electrical Contractors
238990		All Other Specialty Trade Contractors
238910		Site Preparation Contractors
238190		Other Foundation, Structure, and Building Exterior Contractors
237310		Highway, Street, and Bridge Construction
237990		Other Heavy and Civil Engineering Construction
541330	Architecture and	Engineering Services
541380		Testing Laboratories
541611	Engineering, Professional Services	Administrative Management and General Management Consulting Services
561790		Parking Lot Cleaning (e.g., Power Sweeping, Washing) Services
541430		Graphic Design Services
561720	Goods and Other Services	Janitorial Services
561730		Landscape Care and Maintenance Services; Tree Trimming Services; Weed Control and Fertilizing Services
423120		Motor Vehicle Supplies and New Parts Merchant Wholesalers
711510		Independent Artists, Writers, and Performers
238390		Fabrication
339950		Sign Manufacturing

### **B. Base Figure Determination**

The base figure is intended to be a measurement of the relative percentage of ready, willing, and able businesses that are DBEs. The recipient is required to measure willing and able businesses in its marketplace, using the best available evidence, to derive a fair and accurate base figure that represents the percentage of available DBEs.

According to Section 26.45(c) and *Tips for Goal Setting*, the overall goal must be based on demonstrable evidence of available ready, willing, and able DBEs relative to all ready, willing, and able non-DBE businesses to participate on Metro’s FTA-assisted contracts.

The USDOT rules require the calculation of the base figure using the following formula:

$$\text{Step One Base Figure} = \frac{\text{Ready, willing and able DBEs}}{\text{All ready, willing and able businesses (Including DBEs and non – DBEs)}}$$



The availability database compiled for Metro’s 2012 Disadvantaged Business Enterprise (DBE) Program Disparity Study, was used as the source to determine the availability of DBE and non-DBE businesses. The availability database was populated using three sources which identified businesses in the market area that provide the goods and services that Metro procures. The first source was Metro’s utilized businesses, the second source was local, state and federal government certification lists, and the third source was business associations’ membership lists. Any business identified from more than one source was counted only once in an industry.

Extensive targeted outreach to business associations in Metro’s market area was performed to identify and secure business membership lists. Business community meetings, letters, and telephone contact with the associations garnered a number of membership lists.

To enumerate a more refined accounting of availability, the database was then queried for businesses within the NAICS codes of the anticipated contracts only. Businesses that do not perform the types of work related to the anticipated contracts were excluded to ensure that the base figure did not overestimate or underestimate the number of available businesses. Table A.05 below presents the relative DBE availability by NAICS code for FFY 2013-2015. The percent of available businesses in each NAICS code reflects the portion of all available businesses in the market area. The relative availability of DBEs within the market area is 44.14 percent.<sup>7</sup>

**Table A.05: Relative Availability by NAICS Code for FFY 2013-2015**

NAICS Code	Number of Available Businesses		Percent of Total Available Businesses	
	DBE	All	DBE	All
237130	236	595	3.20%	8.06%
238210	101	191	1.37%	2.59%
238990	229	600	3.10%	8.13%
238910	483	995	6.54%	13.48%
238190	167	466	2.26%	6.31%
237310	87	152	1.18%	2.06%
237990	8	34	0.11%	0.46%
541330	528	1171	7.15%	15.87%
541380	176	453	2.38%	6.14%
541611	360	606	4.88%	8.21%
561790	134	325	1.82%	4.40%
541430	146	283	1.98%	3.83%
561720	150	355	2.03%	4.81%
561730	166	409	2.25%	5.54%
423120	0	1	0.00%	0.01%
711510	52	129	0.70%	1.75%

<sup>7</sup> The availability analysis for goal setting was predicated on businesses in the NAICS codes for anticipated projects only, whereas the 2012 Disadvantaged Business Enterprise (DBE) Program Disparity Study Final Report enumerates the availability of all businesses in the market area.



NAICS Code	Number of Available Businesses		Percent of Total Available Businesses	
	DBE	All	DBE	All
238390	203	553	2.75%	7.49%
339950	32	63	0.43%	0.85%
<b>TOTAL</b>	<b>3258</b>	<b>7381</b>	<b>44.14%</b>	<b>100.00%</b>

### **C. Weighted Base Figure**

Weighting is recommended in *USDOT Tips* to determine the overall goal. The first step is to calculate a weight for each NAICS code, which is the percentage of the estimated budget for FFY 2013-2015 anticipated contracts. The second step is to divide the number of DBEs by the total number of businesses in each NAICS code and multiply the result by the corresponding weight in order to calculate the weighted percentage of DBE availability. Lastly, the weighted percentages in each NAICS code are combined to determine the weighted base figure. Table A.06 presents the calculation of weighted availability. The weighted DBE availability is 26.84 percent and non-DBE availability is 73.16 percent.

**Table A.06: Weighted Base Figure**

NAICS Code	Percent of Firms		Anticipated Contract Amount	Weight	Percent of Weighted Firms	
	DBE	All			DBE	All
237130	0.397	0.603	30,881,000.00	0.58%	0.23%	0.35%
238210	0.529	0.471	5,850,000.00	0.11%	0.06%	0.05%
238990	0.382	0.618	1,075,000.00	0.02%	0.01%	0.01%
238910	0.485	0.515	17,510,000.00	0.33%	0.16%	0.17%
238190	0.358	0.642	5,055,500.00	0.10%	0.03%	0.06%
237310	0.572	0.428	27,700,000.00	0.52%	0.30%	0.22%
237990	0.235	0.765	4,534,632,028.73	85.73%	20.17%	65.56%
541330	0.451	0.549	454,167,432.27	8.59%	3.87%	4.71%
541380	0.389	0.611	267,850.00	0.01%	0.00%	0.00%
541611	0.594	0.406	63,962,000.00	1.25%	0.74%	0.51%
561790	0.412	0.588	548,898.75	0.01%	0.00%	0.01%
541430	0.516	0.484	126,988,000.00	2.40%	1.24%	1.16%
561720	0.423	0.577	150,000.00	0.00%	0.00%	0.00%
561730	0.406	0.594	1,594,642.50	0.03%	0.01%	0.02%
423120	0.000	1.000	16,400,000.00	0.31%	0.00%	0.31%
711510	0.403	0.597	440,000.00	0.01%	0.00%	0.00%
238390	0.367	0.633	34,725.00	0.00%	0.00%	0.00%
339950	0.508	0.492	90,000.00	0.00%	0.00%	0.00%
<b>TOTAL</b>			<b>\$ 5,287,347,077.25</b>	<b>100.00%</b>	<b>26.84%</b>	<b>73.16%</b>



## V. STEP TWO BASE FIGURE ADJUSTMENT

### A. Considerations for Adjustments to the Base Figure

The Step Two base figure adjustment, as recommended in *USDOT Tips*, requires examining relevant and reliable data in the recipient's market area to determine if an adjustment to the base figure is warranted. The consideration of an adjustment is intended to account for any impact the relevant factors may have on DBEs' contracting opportunities with Metro. The following factors were considered for the Step Two adjustment:

- Past DBE participation
- Certified DBEs compared to non-certified DBEs
- Documented private-sector discrimination
- Anecdotal evidence from Metro's 2012 DBE Program Disparity Study

#### 1. Past DBE participation

DBE participation hereafter referred to as utilization, during FFY 2008-2010 was documented in Metro's 2012 DBE Program Disparity Study. Table A.07 details the combined prime and subcontractor DBE utilization during the study period, the median figure is simply the center point among an ordered list of figures. In a race and gender-neutral environment, Metro achieved 6.11 percent median DBE utilization, which is markedly below the 43.02 percent availability of DBEs in the market area as calculated by Metro's 2012 Disadvantaged Business Enterprise (DBE) Program Disparity Study. It is, however, only a slight increase over the 6.03 percent average as reported in the FFY 2011 and 2012 DBE Utilization Report.

**Table A.07: Metro's DBE Utilization: All Contracts  
January 1, 2008 through December 31, 2010**

	2008	2009	2010
DBE Utilization	33.91%	6.11%	4.38%
<b>Median DBE Utilization 6.11%</b>			



## 2. Certified DBEs compared to non-certified DBEs

Although certified and non-certified DBEs must be counted to enumerate DBE availability, only certified businesses may be counted toward DBE utilization. Table A.08 below presents the total available market area businesses, of which 55.48 percent were non-minority male-owned, 22.63 percent were DBE-certified and 21.89 percent were non-CUCP certified DBEs. This adjustment factor was considered, however, no adjustment was made due to the fact that this factor will become less impactful as more non-certified DBEs become certified.

**Table A.08: Market Area Available Businesses by Business Classification**

<b>Business Classification</b>	<b>Percentage of Available Businesses</b>
CUCP DBE Certified	22.63%
Non-CUCP Certified DBEs	21.89%
Non-Minority Male (non-DBEs)	55.48%
<b>TOTAL</b>	<b>100.00%</b>

## 3. Documented private-sector discrimination

Private sector business practices, which are not subject to government requirements, are indicators of marketplace conditions which could affect the formation and growth of DBEs. *Concrete Works of Colorado v. City of Denver*<sup>8</sup> (*Concrete Works II*) set forth a framework for considering evidence of discrimination in private sector business practices. In accordance with *Concrete Works II*, three regression models were used to examine three outcome variables—business ownership rates, business earnings, and business loan approval. Each regression model compared minority males and females, and Caucasian females, to similarly situated Caucasian males by controlling for race and gender-neutral explanatory variables such as age, education, marital status, and access to capital. This adjustment factor was considered, however, no adjustment was made due to the various exemplary practices and support services Metro has implemented in order to decrease the barriers that DBEs confront when attempting to do business.

## 4. Anecdotal evidence from Metro’s 2012 DBE Program Disparity Study

The anecdotal accounts from interviews conducted for Metro’s 2012 DBE Program Disparity Study revealed DBE’s experiences bidding in Metro’s market area. Metro’s Small Business Office was credited for providing valuable technical assistance services to DBEs. Metro’s outreach events including “*Meet the Primes*” and “*Meet the Buyers*,” were reported as providing DBEs an opportunity to meet with prime contractors to

<sup>8</sup> *Concrete Works of Colo., Inc. v. City of Denver*, 86 F. Supp. 2d 1042, 1073 (D. Colo. 2000), rev’d on other grounds, 321 F.3d 950 (10th Cir. 2003), cert. denied, 540 U.S. 1027 (2003).



secure possible subcontracting opportunities. This supportive service was reported as a contributing factor to DBEs obtaining subcontract work. The “How to Do Business with Metro” workshop was provided to DBEs in an effort to teach businesses how to navigate Metro’s procurement process. Metro’s commitment to unbundle large contracts into smaller projects provided DBEs with prime contracting opportunities that would otherwise not have been available. Many DBEs reported that Metro’s DBE program was instrumental in building capacity for their businesses as well as securing work from other public agencies. This adjustment factor was considered, however no adjustment was made because the anecdotal accounts were not quantifiable.

### **B. Adjustments to the Base Figure**

As required by the *USDOT Tips*, the previously presented factors were considered and no adjustments were made for the Step 2 analysis. The weighted base figure of 26.84 was rounded up 0.16 percent to 27 percent.

**FINAL OVERALL DBE GOAL**  
27 percent

## **VI. RACE AND GENDER-NEUTRAL GOAL**

### **A. Formulation of the Race and Gender-Conscious/Neutral Portions of the Goal**

The final requirement of the goal setting process, as noted in 49 CFR 26.51, is to determine the projected portion of the overall goal that will be achieved by race and gender-neutral measures. 49 CFR 26.51 requires that a recipient meet the maximum feasible portion of its overall goal by using race and gender-neutral measures. Based on Metro’s median past DBE utilization, presented in Table A.07, it is reasonable to expect that 6.11 percent of the 27 percent overall can be achieved using race and gender-neutral measures. The remaining 20.89 percent will be met through race and gender-conscious measures, but are only applicable to the ethnic and gender groups for which a disparity has been determined.

Recipients in the United States Court of Appeals for the Ninth Circuit cannot consider the use of a race and gender-conscious goal unless a finding of disparity has been made for the ethnic and gender groups to be included in the application. The disparity analysis on all subcontracts in Metro’s 2012 DBE Program Disparity Study determined an underutilization for all ethnic groups, as shown in Table A.09.<sup>9</sup> Ethnic groups include both males and females.

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<sup>9</sup> For the complete disparity analysis findings, see *Chapter 9: Disparity Analysis* in the 2012 Disadvantaged Business Enterprise (DBE) Program Disparity Study Final Report.





**Table A.09: Disparity Analysis: All Subcontracts,  
January 1, 2008 through December 31, 2010**

<b>Ethnicity</b>	<b>Utilization</b>	<b>Availability</b>	<b>Disparity Ratio</b>	<b>P-Value</b>
African Americans	1.91%	9.41%	0.20	< .05 *
Asian-Pacific Americans	2.59%	9.17%	0.28	< .05 *
Subcontinent Asian Americans	0.65%	2.14%	0.30	< .05 *
Hispanic Americans	10.57%	17.75%	0.60	< .05 *
Native Americans	0.00%	0.77%	0.00	---
Caucasian Females	14.61%	8.50%	1.72	**
Non-Minority Males	69.67%	52.26%	1.33	< .05 †
<b>TOTAL</b>	<b>100.00%</b>	<b>100.00%</b>		

< .05 \*      The underutilization is statistically significant  
 < .05 †      The overutilization is statistically significant  
 ---          There are too few available firms to test statistical significance  
 \*\*          The statistical test is not performed for the overutilization of DBEs or the underutilization of Non-Minority Males

The disparity analysis findings illustrate the need to consider a race-conscious DBE remedy to meet the FFY 2013-2015 overall DBE goal. The Study’s disparity findings showed significant statistical disparities for the following groups African Americans, Asian-Pacific Americans, Subcontinent Asians, and Hispanic Americans. Metro also proposes to include Native Americans for which findings showed underutilization although there were too few firms to test for statistical significance. Metro proposes to use race-neutral measures to obtain participation from Caucasian females for which the Study showed no significant disparity. Metro will continue to closely monitor DBE participation for all DBE groups to identify any trends indicating an increase or decrease in utilization during the goal period.

**B. Limited Application Waiver**

The DBE Program 49 CFR Part 26.47 requires that overall goals must provide for participation by all certified DBEs and must not be subdivided into group specific-goals. FTA guidance requires Metro to submit a waiver for approval to sub-divide (apply limited application) of race-conscious DBE contract goals for African-Americans, African Americans, Asian-Pacific Americans, Subcontinent Asians, Hispanic Americans and Native Americans. Metro will submit to the FTA Office of Civil Rights for approval, a waiver to limit the application of race-conscious goals to the aforementioned groups. If the waiver is approved, the race-conscious goal will be set on a contract-by-contract basis for prime contracts with subcontracting opportunities.



## **C. Race and Gender-Neutral Initiatives**

### **1. Small Business Enterprise Program**

The Small Business Enterprise (SBE) Program was first adopted in 1997 and was designed to comply with California's Proposition 209, which prohibits explicit consideration of race or gender in the award of state and locally funded contracts. The 15 percent SBE utilization in federally assisted contracts was increased to 30 percent for fiscal years 2012 and 2013. The SBE Program applies a SBE subcontracting goal to competitively bid and negotiated contracts and is identical in practice and scope to Metro's DBE program. Metro uses the California Unified Certification Program (CUCP) DBE application for the SBE program, as the requirements are similar, except for the necessity to establish the owner's social disadvantage for DBE Program eligibility. All businesses that received DBE certification are also certified as a SBE.<sup>10</sup>

### **2. Shared Responsibility Program**

In 2011, Metro launched a new Chief Executive Officer initiative agency-wide in order to engage departments at the highest level in increasing DBE participation. Metro has established an internal 20 percent small and disadvantaged business target for each department. This shared responsibility requires department executives to identify contracting opportunities within their respective departments for small business participation. Department year-end performance is tracked and reported to the Chief Executive Officer, and is included in executive performance reviews.

### **3. Transportation Business Advisory Council**

Small Business owners and interested parties are welcomed and encouraged to attend the monthly Transportation Business Advisory Council (TBAC) meeting. TBAC meetings provide small businesses a forum to discuss topics and issues impacting business owners throughout the contracting community. Particularly, TBAC advocates for small business owners to have increased access to Metro's procurement process. TBAC meetings are beneficial for all business interests. The meetings feature: a monthly speaker series, Metro current and future contract opportunities, legislation updates, and current trends in transportation. TBAC is comprised of professional business associations representing an array of industries and trades. TBAC has been instrumental in working with the Diversity & Economic Opportunity Department to develop a successful path toward bridging relationships between small businesses and Metro.<sup>11</sup>

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<sup>10</sup> Los Angeles County Metropolitan Transportation Authority, Small Business Enterprise (SBE), <http://www.metro.net/about/deod/sbe/>

<sup>11</sup> Los Angeles County Metropolitan Transportation Authority, Transportation Business Advisory Council (TBAC), <http://www.metro.net/about/deod/tbac/>



#### **4. Unbundling Prime Contracts**

Metro currently unbundles large contracts in order to facilitate the participation of DBE businesses. In addition to ongoing efforts, Metro will take additional affirmative steps to break up large contracts, when feasible, in order to increase small business contracting opportunities and participation.

#### **5. Insurance Broker Panel**

Metro has established a panel of commercial insurance brokers to assist businesses that lack required insurance coverage. The panel provides proposals and insurance placement for contractors in order to assist them in meeting Metro's risk management requirements. The broker panel is disseminated to small businesses through the Transportation Business Advisory Council (TBAC), small business outreach events, Metro's small business orientation classes and published on Metro's website.

#### **6. Meet the Prime Network/Relationship Building Event**

These events provide opportunities for small businesses to build relationships with large contractors that do business with Metro, and other agencies in the Southern California region. At these events, small businesses can share their products, services and professional expertise with approximately 20 large businesses, and with Metro personnel.

#### **7. Meet the Buyers Network/Relationship Building Event**

This event, conducted at least twice per year, provides an opportunity to meet in person with Metro's Contract Administrators and Buyers. DBEs and other small businesses can share their products and services with pertinent Metro staff. They can also receive information and assistance on registering as a vendor, certification as a DBE, completing prequalification requirements, enrolling in the Small Business Orientation sessions, and meeting key Metro personnel.

#### **8. Monthly "How to Do Business with Metro" Workshops**

The Small Business Orientation helps small and disadvantaged businesses understand how to do business with Metro. The orientation covers the requirements a business must meet in order to do business with Metro, the certifications that are required for certain programs or types of projects, the types of contracts Metro typically performs, where to find project solicitations, and how to obtain other information about Metro. Small business owners also meet procurement staff in their area of expertise to ask questions, as staff is available.



## **9. Attendance at Vendor Fairs/Business Networking Events**

Metro representatives attend vendor fairs of other agencies to provide information on how to do business with Metro, and to provide information on upcoming contracting opportunities.

## **10. Memberships in Contracting Organizations**

Metro is a member of various contracting organizations, and attends membership meetings and membership events to provide information on how to register as a Metro vendor and become SBE or DBE certified.

## **11. Contract Look-Aheads**

Metro distributes and posts bidding opportunities and “Contract Look-Aheads” to small and disadvantaged businesses and to the contracting community at large. The purpose of Contract Look-Aheads is to inform businesses of Metro’s upcoming contracting opportunities to encourage business networking and teaming.



#### ***D. Public Comment Period***

The public notice of the recommended overall DBE goal will be available for inspection during normal business hours at Metro headquarters for a period of 45 days. During this period written comments from the public will be accepted and considered.



# APPENDIX B: SUPPORTING STATISTICAL TABLES

**Table B.01: Los Angeles County Metropolitan Transportation Authority  
Availability Prime and Subcontractors – All Industries**

<b>Weighted Availability</b>	
<b>Ethnicity</b>	<b>Percent of Businesses</b>
African Americans	9.44%
Asian-Pacific Americans	9.54%
Subcontinent Asian Americans	1.98%
Hispanic Americans	12.79%
Native Americans	0.78%
Caucasian Females	8.49%
Non-Minority Males	56.98%
<b>TOTAL</b>	<b>100.00%</b>
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African American Females	3.56%
African American Males	5.88%
Asian-Pacific American Females	2.53%
Asian-Pacific American Males	7.01%
Subcontinent Asian American Females	0.39%
Subcontinent Asian American Males	1.59%
Hispanic American Females	3.40%
Hispanic American Males	9.40%
Native American Females	0.26%
Native American Males	0.52%
Caucasian Females	8.49%
Caucasian Males	56.98%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Gender</b>	<b>Percent of Businesses</b>
Minority Females	10.14%
Minority Males	24.39%
Caucasian Females	8.49%
Non-Minority Males	56.98%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Females</b>	<b>Percent of Businesses</b>
Minority Business Enterprises	34.53%
Caucasian Female Business Enterprises	8.49%
<b>Disadvantaged Business Enterprises</b>	<b>43.02%</b>
Non Disadvantaged Business Enterprises	56.98%
<b>TOTAL</b>	<b>100.00%</b>



**Table B.02: Los Angeles County Metropolitan Transportation Authority  
Availability Prime and Subcontractors – Construction**

<b>Weighted Availability</b>	
<b>Ethnicity</b>	<b>Percent of Businesses</b>
African Americans	9.05%
Asian-Pacific Americans	8.43%
Subcontinent Asian Americans	1.40%
Hispanic Americans	13.81%
Native Americans	0.96%
Caucasian Females	6.74%
Non-Minority Males	59.61%
TOTAL	100.00%
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African American Females	3.20%
African American Males	5.85%
Asian-Pacific American Females	1.92%
Asian-Pacific American Males	6.52%
Subcontinent Asian American Females	0.27%
Subcontinent Asian American Males	1.13%
Hispanic American Females	3.02%
Hispanic American Males	10.79%
Native American Females	0.33%
Native American Males	0.63%
Caucasian Females	6.74%
Caucasian Males	59.61%
TOTAL	100.00%
<b>Minority and Gender</b>	<b>Percent of Businesses</b>
Minority Females	8.73%
Minority Males	24.92%
Caucasian Females	6.74%
Non-Minority Males	59.61%
TOTAL	100.00%
<b>Minority and Females</b>	<b>Percent of Businesses</b>
Minority Business Enterprises	33.65%
Caucasian Female Business Enterprises	6.74%
<b>Disadvantaged Business Enterprises</b>	<b>40.39%</b>
Non Disadvantaged Business Enterprises	59.61%
TOTAL	100.00%



**Table B.03: Los Angeles County Metropolitan Transportation Authority  
Availability Prime and Subcontractors – Architecture and Engineering,  
Professional Services**

<b>Weighted Availability</b>	
<b>Ethnicity</b>	<b>Percent of Businesses</b>
African Americans	9.75%
Asian-Pacific Americans	10.68%
Subcontinent Asian Americans	2.50%
Hispanic Americans	11.91%
Native Americans	0.67%
Caucasian Females	10.12%
Non-Minority Males	54.37%
<b>TOTAL</b>	<b>100.00%</b>
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African American Females	3.83%
African American Males	5.92%
Asian-Pacific American Females	3.09%
Asian-Pacific American Males	7.59%
Subcontinent Asian American Females	0.49%
Subcontinent Asian American Males	2.01%
Hispanic American Females	3.72%
Hispanic American Males	8.19%
Native American Females	0.21%
Native American Males	0.46%
Caucasian Females	10.12%
Caucasian Males	54.37%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Gender</b>	<b>Percent of Businesses</b>
Minority Females	11.35%
Minority Males	24.16%
Caucasian Females	10.12%
Non-Minority Males	54.37%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Females</b>	<b>Percent of Businesses</b>
Minority Business Enterprises	35.51%
Caucasian Female Business Enterprises	10.12%
<b>Disadvantaged Business Enterprises</b>	<b>45.63%</b>
Non Disadvantaged Business Enterprises	54.37%
<b>TOTAL</b>	<b>100.00%</b>





**Table B.04: Los Angeles County Metropolitan Transportation Authority  
Availability Prime and Subcontractors – Architecture and Engineering**

<b>Weighted Availability</b>	
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African Americans	9.54%
Asian-Pacific Americans	10.71%
Subcontinent Asian Americans	2.50%
Hispanic Americans	11.86%
Native Americans	0.68%
Caucasian Females	9.90%
Non-Minority Males	54.82%
TOTAL	100.00%
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African American Females	3.65%
African American Males	5.88%
Asian-Pacific American Females	3.04%
Asian-Pacific American Males	7.67%
Subcontinent Asian American Females	0.48%
Subcontinent Asian American Males	2.02%
Hispanic American Females	3.63%
Hispanic American Males	8.23%
Native American Females	0.21%
Native American Males	0.47%
Caucasian Females	9.90%
Caucasian Males	54.82%
TOTAL	100.00%
<b>Minority and Gender</b>	<b>Percent of Businesses</b>
Minority Females	11.02%
Minority Males	24.26%
Caucasian Females	9.90%
Non-Minority Males	54.82%
TOTAL	100.00%
<b>Minority and Females</b>	<b>Percent of Businesses</b>
Minority Business Enterprises	35.28%
Caucasian Female Business Enterprises	9.90%
<b>Disadvantaged Business Enterprises</b>	<b>45.18%</b>
Non Disadvantaged Business Enterprises	54.82%
TOTAL	100.00%



**Table B.05: Los Angeles County Metropolitan Transportation Authority  
Availability Prime and Subcontractors – Professional Services**

<b>Weighted Availability</b>	
<b>Ethnicity</b>	<b>Percent of Businesses</b>
African Americans	12.50%
Asian-Pacific Americans	10.38%
Subcontinent Asian Americans	2.56%
Hispanic Americans	12.60%
Native Americans	0.52%
Caucasian Females	12.96%
Non-Minority Males	48.48%
<b>TOTAL</b>	<b>100.00%</b>
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African American Females	6.13%
African American Males	6.37%
Asian-Pacific American Females	3.78%
Asian-Pacific American Males	6.60%
Subcontinent Asian American Females	0.67%
Subcontinent Asian American Males	1.89%
Hispanic American Females	4.86%
Hispanic American Males	7.75%
Native American Females	0.20%
Native American Males	0.32%
Caucasian Females	12.96%
Caucasian Males	48.48%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Gender</b>	<b>Percent of Businesses</b>
Minority Females	15.64%
Minority Males	22.92%
Caucasian Females	12.96%
Non-Minority Males	48.48%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Females</b>	<b>Percent of Businesses</b>
Minority Business Enterprises	38.56%
Caucasian Female Business Enterprises	12.96%
<b>Disadvantaged Business Enterprises</b>	<b>51.52%</b>
Non Disadvantaged Business Enterprises	48.48%
<b>TOTAL</b>	<b>100.00%</b>



**Table B.06: Los Angeles County Metropolitan Transportation Authority  
Availability Prime and Subcontractors – Goods and Services**

<b>Weighted Availability</b>	
<b>Ethnicity</b>	<b>Percent of Businesses</b>
African Americans	10.01%
Asian-Pacific Americans	7.79%
Subcontinent Asian Americans	2.00%
Hispanic Americans	12.56%
Native Americans	0.27%
Caucasian Females	7.84%
Non-Minority Males	59.54%
<b>TOTAL</b>	<b>100.00%</b>
<b>Ethnicity and Gender</b>	<b>Percent of Businesses</b>
African American Females	4.14%
African American Males	5.87%
Asian-Pacific American Females	2.39%
Asian-Pacific American Males	5.40%
Subcontinent Asian American Females	0.39%
Subcontinent Asian American Males	1.60%
Hispanic American Females	3.63%
Hispanic American Males	8.92%
Native American Females	0.27%
Native American Males	0.00%
Caucasian Females	7.84%
Caucasian Males	59.54%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Gender</b>	<b>Percent of Businesses</b>
Minority Females	10.82%
Minority Males	21.80%
Caucasian Females	7.84%
Non-Minority Males	59.54%
<b>TOTAL</b>	<b>100.00%</b>
<b>Minority and Females</b>	<b>Percent of Businesses</b>
Minority Business Enterprises	32.62%
Caucasian Female Business Enterprises	7.84%
<b>Disadvantaged Business Enterprises</b>	<b>40.46%</b>
Non Disadvantaged Business Enterprises	59.54%
<b>TOTAL</b>	<b>100.00%</b>

