



Board Report

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Agenda Number: 30.

**EXECUTIVE MANAGEMENT COMMITTEE
MAY 19, 2022**

SUBJECT: 48 BY '28: INCREASING SMALL AND DISADVANTAGED BUSINESS PARTICIPATION

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. RECEIVING and FILING the report back to Motion 43 on a 48 by 2028 Policy Objective to Increase Small and Disadvantaged Business Participation; and
- B. ADOPTING the Top 8 for 48 by '28 Plan.

ISSUE

On December 2, 2021, the Board passed Motion 43 (Directors Solis, Hahn, Dupont-Walker, Sandoval, and Butts) requesting a report back in March 2022 on the development of a policy objective to ensure Metro’s capital program 28 by '28 accelerates the increase of small and disadvantaged business participation by directing as many contract and procurement dollars as possible toward small and disadvantaged businesses.

BACKGROUND

Metro’s Small, Disadvantaged and Disabled Veteran Business Enterprise programs and initiatives such as Small Business Prime set-aside program, Contracting Outreach and Mentoring Program, Contractor Bonding & Assistance Program, and Medium Size Business Program are catalyst for economic opportunity and expands access to contracting opportunities. In 2021, Metro further enhanced the SB Prime program by increasing its contract threshold requirement, creating two new tiers, MSZ-I and MSZ-II, in the Medium Sized program, and the development of a Dashboard and Scorecard to track prime contractor performance in meeting and or exceeding SBE/DBE and DVBE contract goals. In February 2022, the Board approved the Local Small Business Enterprise (LSBE) Preference program to strengthen the local economy and maximize contracting opportunities that increase the capacity and growth of local small and historically under-utilized businesses within the communities in which Metro’s transportation projects are being built. To do more to foster the inclusion of small, disadvantaged, and historically under-

utilized businesses in Metro’s contracting, staff has been asked to bring forth recommendations to support a 48 by '28 aspirational policy objective.

In response to the Board motion, Metro has developed a 48 by '28 plan. According to U.S. Small Business Administration (SBA), small businesses represent 99.9% of all U.S. businesses. Small businesses not only contribute to the economic recovery of communities, but successful small businesses bring growth and innovation, and help stimulate economic growth by providing employment opportunities. Los Angeles County, as the country’s largest small business economy, has approximately 250,000 local small businesses that account for 43% of the local workforce.

From the lens of equity and inclusion, Metro’s 28 by '28 plan embraces the opportunity to develop meaningful innovative strategies to further assist, develop, grow, and increase utilization and participation of small, minority, and women owned businesses in Metro’s contracting program.

The following table provides background information on Metro’s contracting spend with small business for fiscal years 2019 through 2021. As depicted in this table, the pandemic impacted small business participation, demonstrating the need for enhanced small business initiatives.

	FY19	FY20	FY21	Average
SBE Commitment \$'s	\$95,694,827.00	\$347,391,780.00	\$198,242,320.00	\$213,776,309.00
SBE Commitment %	34%	28%	22%	28%

DISCUSSION

Metro understands that it will take a collective effort both agency-wide and regionally to achieve the 48 by '28 aspirational target. In aiming to achieve the target, all of Metro’s small business and disadvantage business programs and initiatives that generate SBE and DBE participation on Metro contracts, will contribute towards reaching the aspirational target. Metro will assess attainment of the aspirational target against its annual contracting spend, inclusive of an estimated \$2 billion in sales tax through Local Return.

The Top 8 for 48 X '28 Plan includes the following eight initiatives:

- 1. Roll-Out 15-Day Pay Initiative for Small Business Enterprise (SBE) as Primes:** To help with cash flow constraints that many small business firms experience, Metro will enact a 15-day Pay initiative for SBE’s that perform as primes. Metro will reduce the current net 30-day payment contract term to net 15-days (Phase I). In phase 2 of this initiative, Metro will expand the 15-day pay to LSBEs and non-LSBE primes that subcontract at least 30% of the contract value with eligible LSBE firms.

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2. **Explore Feasibility of increasing the SBE certification Personal Net Worth (PNW) cap and a potential SBE certification reciprocity with** the Los Angeles Unified School District (LAUSD).; Exploring both of these components is worthwhile in Metro's efforts to increase the pool of certified SBE firms.

Staff has begun to research the feasibility of a PNW adjustment formula. Metro's SBE program is the most flexible to consider this type of review. Additionally, staff will also explore the viability of establishing small business certification reciprocity with LAUSD.

Staff will bring forth any future recommendation(s) to the Board for consideration.

3. **Coordination of Efforts with the Los Angeles Area Chamber of Commerce OneLA Collaborative:** The OneLA Inclusive Procurement program focuses on creating a pathway to contract opportunities for local, small and diverse businesses. Metro is a member of this collaborative that provide mentorship, training and relationship-building opportunities through a regional partnership to advance a more equitable, sustainable and resilient economic recovery. As part of our targeted strategies to support the 48x28 motion and increase the capacity and availability of firms to support Metro's small business initiatives, including our soon-to-be launched Local Small Business Enterprise Program (LSBE), staff is proposing to strengthen our collaborative efforts with OneLA by:
- a. Providing Metro and Transportation specific "How To Do Business With Metro" workshops to small businesses graduating from the OneLA training cohort program. This training will be provided as cohorts graduate from the OneLA Program in addition to regular information provided during the training series.
 - b. Refer OneLA graduating construction contractors to Metro's Contractor Development and Bonding Program to receive on-going technical assistance and resources.
 - c. Implementing a process by which OneLA Training graduates are informed of Metro contracting opportunities, including opportunities via Metro's LSBE Program.
 - d. Expediting the Small Business certification review timeline for firms enrolled in the OneLA Training Program to facilitate firms bidding and/or proposing on Metro contract opportunities. Staff is implementing a change to the application system to ask firms if they are currently enrolled or have graduated from the OneLA Training Program.
 - e. Coordinating a Recognition Campaign, in conjunction with the Los Angeles Area Chamber of Commerce, to celebrate prime contractors, small businesses and others who have gone above and beyond the requirements of Metro's small business initiatives.

4. **Enhancing the reach of Metro's Small Business Outreach Efforts by Advertising Metro**

Events on the City of Los Angeles' RAMP Portal: The City of Los Angeles has created a new, comprehensive web-based portal for the regional vendor community named the Regional Alliance Marketplace for Procurement (RAMP). Joining this portal to advertise Metro outreach events and new initiatives will allow Metro to reach a greater number of firms as the goal of RAMP is to provide a one-stop regional business marketplace.

- 5. Engage Local Return and Transit Operators:** Metro is exploring the opportunity to extend the 48 by '28 initiative regionally through the Local Return program. The purpose is to increase the percentage of sales tax dollars available for SBE's and creating new opportunities for SBEs as part of accelerating an equitable recovery from the pandemic within the Los Angeles County region. As a condition of voter approval, 25 percent of the Proposition A tax revenues, 20 percent of the Proposition C tax revenues, 15 percent of Measure R and 17 percent of Measure M tax revenues are earmarked for the Local Return Programs to be used by cities, the County of Los Angeles, and transit operators in developing and/or improving local public transit, paratransit, and related transportation infrastructure.

As required in the respective adopting ordinances, Local Return funds are allocated and distributed monthly to jurisdictions on a "per capita" basis by Metro. Metro will seek to partner with the cities, transit operators and County of Los Angeles to participate in a regional voluntary initiative to encourage and highlight the role Local Return funds can play in advancing small business enterprise utilization on eligible local return projects throughout the County. Understanding that some cities and County of Los Angeles may have their own small business programs, Metro will partner to provide free technical assistance if needed, by encouraging the use of Metro's existing SBE program, if no SBE program is in place. In April, staff issued a survey to local return recipients to obtain information on their current SBE program and any current expenditures with SBE's, if available. Staff will continue to dialogue with the local return recipients on the 48 by '28.

- 6. Enhance capacity building and access to capital:** The CFAP is a new proposed component of Metro's bond program (Contractor Development and Bonding Assistance Program) designed to assist small businesses with access to capital by using their Metro contract as collateral while performing on a Metro contract. The CFAP was approved by the Board in April 2022. During Phase 2 of this initiative, Metro will seek to expand to non-construction firms.
- 7. Encourage Support for Federal Program Changes:** Metro has identified five areas to champion for change and to advance in the Federal arena, including:
- a. Recommending that the U.S. DOT allow federal recipients to exclude contract modifications for settlements and time delays from the total contract value. Prime contractors have expressed that such changes do not have DBE opportunities and should therefore be excluded from its DBE commitment. Currently, when there is a change to a contract on which there is a DBE contract goal, then that contract goal

applies to the change order as well as to the original contract.

- b. Steering Metro’s Federal advocacy efforts towards encouraging the Federal Railroad Administration (FRA) to stand-up a Disadvantaged Business Enterprise (DBE) Program similar to that of the Federal Transit Administration.
- c. Encouraging the U.S. Department of Transportation to allow for Local Small Business Preferences and goals.
- d. Working with Metro’s Federal Advocacy Team for the “Rally behind the Equity in Infrastructure Project,” a federal Initiative geared towards increasing the number, size and scope of contracts going to certified small and minority owned businesses in the infrastructure space.
- e. Encouraging the U.S Department of Transportation to review the Personal Net Worth cap for DBE certification in line with cost of living and other factors that vary across the Nation to ensure that California socially and economically small businesses are able to equitably participate in the Program.
- f. Initiating a new Disparity Study to determine the capacity and availability of firms to work on Metro’s contracting program, in addition to assessing any potential barriers and/or discrimination that would limit firms from bidding on Metro’s procurements.

8. Increase Small Business Program Regional Attainments: Staff recommends partnering with the regional local return and transit operator recipients to jointly achieve the goals of the 48 X 28 initiative, as discussed in Items 1 through 7 above. Staff believes that these approaches and partnerships, including reporting to the Board annually on our progress towards 48x28, will garner increased regional small business participation in time for the 2028 Olympic Games. The development of this plan, which incorporates Metro’s existing, new and/or enhanced initiatives, along with the encouraged use of Metro’s Small Business programs by local return recipients and transit operators, not only improves small business participation, but is in line with the intent of the 48 X 28 Board motion. The below table denotes how these 2 combined elements of our Program (Metro goals and local/ transit operator goals), will increase opportunities for Small Business participation and allows the flexibility for Metro to increase its own Small Business Annual goals, based on Small Business Dashboard metrics, as necessary to achieve the intent of the Board Motion.

AGENCY	FY23	FY24	FY25	FY26	FY27	FY28
Metro SBE Goal	30%+	30%+	30%+	30%+	30%+	30%+
Local / Transit Operator Goals	TBD	TBD	TBD	TBD	TBD	TBD
48X28 Goal						48%+

Additionally, staff will continue its efforts to launch the LSBE Preference program by June 1, 2022, which will contribute to reaching 48 percent by 2028 initiatives.

Metro will continue its current outreach initiatives that are not directly addressed in the plan to include initiating and coordinating a Countywide Certification Campaign with regional speaking engagements to diverse Chambers of Commerce including associations and Supervisorial Districts. Also, as part of Metro's Shared Responsibility Program, internal Departments will be required to prepare annual written plans on their efforts to increase contracting opportunities to include, but not limited to, unbundling components of projects for SB Prime and Medium Size opportunity, increasing bid/build opportunities, and continual cooperation and partnership in the phased increased program goal and contract goal levels.

Finally, staff considered comments from the Transportation Business Advisory Council (TBAC), the Southern California Chapter of the Associated General Contractors (AGC), and the Los Angeles County of the American Council of Engineering Companies (ACEC) on the 48 by '28 initiative. TBAC offered support of the program, while the AGC expressed some concern with the pool of available certified firms to bid on opportunities, small businesses over-extending themselves, and suggested Metro consider net 15-day payment terms to prime contractors.

FINANCIAL IMPACT

Board approval of the recommendations do not have direct financial impact. Should funds be needed, they will be requested through the annual budget process and in the case of projects with Board authorized life-of-project budget, funds will not exceed the authorized level. For multi-year contracts, respective Cost Center manager(s), Project Manager(s), and Chief cabinet officer(s) are responsible for annual budget requests.

EQUITY PLATFORM

Staff recommendations are to increase the utilization of small, local small business, disadvantaged, minority, and women-owned business enterprise firms in Metro's contracting program. Currently there are 2,340 Metro SBE certified firms. Of those SBE certified firms, 1,601 are also DBE certified. As a result, 68% of Metro's SBE certified firms are minority and/or women owned. These recommendations will help with the County's economic recovery by increasing the percentage of transportation dollars that remain in the region and within economically and socially disadvantaged communities. As Metro continues to establish progressive goals on projects to increase opportunities, the new recommendations will help to achieve the aspirational target of 48 by '28.

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, staff will proceed with implementing the 48 by '28 Plan. The increase to the

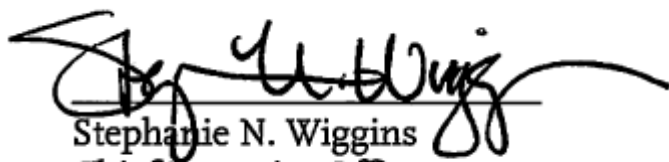
SBE Program goal will be effective July 1, 2022. Metro will highlight its progress in tracking toward reaching the 48 percent target by 2028 on an annual fiscal year-end basis. It is expected that as plan initiatives are implemented, elements of reporting and tracking will be adjusted.

ATTACHMENTS

Attachment A - Motion 43 (December 2, 2021 Board Meeting)

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**Board Report**

File #: 2021-0766, **File Type:** Motion / Motion Response**Agenda Number:** 43.

**REGULAR BOARD MEETING
DECEMBER 2, 2021****Motion by:****DIRECTORS SOLIS, HAHN, DUPONT-WALKER, SANDOVAL, AND BUTTS****48 by '28: Increasing Small and Disadvantaged Business Participation**

The U.S. Department of Transportation (USDOT) requires state and local transportation agencies to establish goals for participation of disadvantaged business enterprises (DBE) on contracts and procurements supported by the USDOT. This DBE participation goal is determined by the state or local agency based on a variety of factors including the availability of qualified DBE's. Metro re-evaluates its DBE participation goal every three years and the current goal covering Federal Fiscal Years 2022 through 2024 is 28 percent. Metro also has a Small Business Enterprise (SBE) program for projects without federal funds, which was first established in 1997 with an initial goal of 15 percent SBE utilization. Today, Metro's overall SBE participation goal is 30 percent, and a participation goal of 3 percent for Disadvantaged Veteran Business Enterprises (DVBE) is also set any time an SBE goal is established for a contract. During any contract solicitation preparation process, Metro staff considers whether or not to establish a DBE, SBE and DVBE participation goal based on various factors such as funding type and availability of subcontracting opportunities. When these participation goals are established, they become a mandatory condition of award and awardees are expected to meet or exceed their participation goals over the duration of the contract. We further understand that firms can meet DBE goals by submitting satisfactory evidence of having conducted Good Faith Efforts. These goals are partly intended to help address the disparities between the number of available small, minority- and women-owned businesses qualified to do certain kinds of work and the actual proportion of Metro contract/procurement dollars that are awarded to them.

Over 90 percent of businesses in Los Angeles County are small businesses with less than 20 employees, and Los Angeles County has more minority- and women-owned businesses than any other county in the nation. Those businesses are truly representative of the County, where over 70 percent of the population is a person of color. More than 15,000 small businesses have reported temporary and/or permanent closure as a result of the pandemic, and communities of color have borne the brunt of COVID-19's economic and public health impacts. In particular, Latinx individuals, who make up over 48 percent of the County, have seen severe impacts since the onset of the pandemic. In January 2021, daily death rates for Latinx communities in Los Angeles County exploded by 1,000 percent from 3.5 per 100,000 Latinx residents to 40 deaths per 100,000 Latinx residents. Small businesses, especially those in communities of color, have struggled to stay afloat and have been closing at higher levels due to drastically decreased revenues.

Metro is currently in the midst of delivering an ambitious program of capital projects called Twenty-Eight by '28. This initiative mainly addresses planning, design and construction of projects and does not address where those contract dollars are going. With an \$8 billion budget, Metro has the capacity to help accelerate recovery in Los Angeles County by directing as many contract and procurement dollars as possible towards small and disadvantaged businesses. To help accomplish this, Metro can establish a new policy objective to reach 48 percent participation by small and disadvantaged businesses on contracts and procurements.

SUBJECT: 48 BY '28: INCREASING SMALL AND DISADVANTAGED BUSINESS PARTICIPATION

RECOMMENDATION

APPROVE Motion by Directors Solis, Hahn, Dupont-Walker, Sandoval, and Butts that the Board of Directors direct the Chief Executive Officer to establish an aspirational policy objective for Metro to reach 48% participation by small and disadvantaged businesses on contracts and procurements by 2028, and to report back in March 2022 with recommendations to achieve the goal.