

**Los Angeles County
Metropolitan Transportation Authority
Office of the Inspector General**

**Survey of Small Business Enterprise (SBE)
Certification Programs and Exploring
Opportunity for SBE Reciprocity**

Report No. 22-AUD-05

August 15, 2022



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ACRONYMS AND ABBREVIATIONS

<u>Acronym</u>	<u>Definition</u>
ACDBE	Airport Concessions Disadvantaged Business Enterprise
BART	San Francisco Bay Area Rapid Transit District
CALTRANS	California Department of Transportation
CFR	United States Code of Federal Regulations
CITY OF LA	City of Los Angeles
CORE	City of Los Angeles Certification Outreach Regulations Enforcement
CUCP	California Unified Certification Program
DBE	Disadvantaged Business Enterprise
DEOD	Metro Diversity & Economic Opportunity Department
DGS	California Department of General Services
DVBE	Disabled Veteran Business Enterprise
EDWOB	Economically Disadvantaged Women-Owned Business
LA METRO	Los Angeles County Metropolitan Transportation Authority
LAUSD	Los Angeles Unified School District
LSB	City of Los Angeles – Local Small Business
LSBE	Local Small Business Enterprise
MB	Micro Business
MOU	Memorandum of Understanding
NAICS	North American Industry Classification System
OCR	Office of Civil Rights
OHA	SBA’s Office of Hearings and Appeals
OSDS	Office of Small Business and DVBE Services
PNW	Personal Net Worth
PW	Public Works
SAMTRANS	San Mateo County Transit District
SBA	Small Business Administration
SBE	Small Business Enterprise
SDCRAA	San Diego County Regional Airport Authority
SFMTA	San Francisco Municipal Transportation Agency
SFO	San Francisco International Airport
SLBE	Small/Local Business Enterprise
SMBE	Small Minority Business Enterprise
SWBE	Small Women Business Enterprise
USDOT	United States Department of Transportation
USWCC	US Women’s Chamber of Commerce
UTA	Santa Clara Valley Transportation Authority
WBEC – WEST	Women’s Business Enterprise Council West
WOSB	Women-Owned Small Business



DATE: August 15, 2022

TO: Metro Board of Directors
Metro Chief Executive Officer

FROM: Yvonne Zheng, Senior Manager, Audit
Office of the Inspector General

E-SIGNED by Yvonne Zheng
on 2022-08-15 08:59:15 PDT

SUBJECT: Final Report on Survey of Small Business Enterprise (SBE) Certification Programs
and Exploring Opportunity for Reciprocity (Report No. 22-AUD-05)

EXECUTIVE SUMMARY

As part of our ongoing effort to assist Metro in improving the efficiency and effectiveness of operations, the Office of the Inspector General (OIG) performed a survey of selected government agencies including (a) 10 California Unified Certification Program (CUCP) certifying partner agencies (members), (b) California Department of General Services (DGS), and (c) the County of Los Angeles to explore the possibilities of increasing Small Business Enterprise (SBE) certification reciprocity with other agencies, which is an area of interest of the Metro Board.

Our survey of 10 California Unified Certification Program (CUCP) member agencies (including Metro) found that the agencies have reciprocity to accept Disadvantaged Business Enterprise (DBE) firms certified by other CUCP members. However, there are no uniform requirements and standards for SBE certification and no reciprocity program to accept SBE certification by other agencies. Each agency surveyed had its own program, standards, and criteria to certify and accept or not accept SBE certification by other agencies, and some agencies did not have an SBE certification program. Our survey found opportunities to increase contracting opportunities for SBEs by increasing reciprocity with agencies that have similar standards as Metro. The effectiveness of the SBE Program can be improved by:

- Working with other agencies to develop SBE reciprocity including the City of Los Angeles, County of Los Angeles, and San Francisco Bay Area Rapid Transit District.
- Leading a Los Angeles County SBE summit to discuss requirements, standards and reciprocity with other County agencies and other municipalities.
- Making Metro's SBE Program better known to other State agencies, encouraging them to accept Metro's SBE certification, and offering them the opportunity to develop SBE reciprocity by informing Metro of their SBE Program and verification process.

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- Reviewing and evaluating California DGS’s small business certification program and standards to determine whether Metro can recognize or accept some DGS certifications without compromising Metro’s own SBE certification standards.
 - Metro is already recognized as a leader in SBE certifications. Continue to act as a lead agency in the State and encourage reciprocity by others of Metro’s certifications.
- A. The California Unified Certification Program provides “one-stop shopping” certification services to small, minority and women owned businesses seeking to participate in the United States Department of Transportation (USDOT) DBE Program. The CUCP is charged with the responsibility of certifying firms and compiling and maintaining the database of certified DBE firms for USDOT grantees in California, pursuant to 49 CFR Part 23 and 26. The database is intended to expand the use of DBE firms by maintaining complete and current information on those businesses and the products and services they can provide to federal grantees in California. The 10 CUCP certifying agencies are:
1. Los Angeles County Metropolitan Transit Authority (LA Metro)
 2. California Department of Transportation (Caltrans)
 3. City of Fresno
 4. City of Los Angeles (City of LA)
 5. San Diego County Regional Airport Authority (SDCRAA)
 6. San Francisco Bay Area Rapid Transit District (BART)
 7. San Francisco International Airport (SFO)
 8. San Francisco Municipal Transportation Agency (SFMTA)
 9. San Mateo County Transit District (SamTrans)
 10. Santa Clara Valley Transportation Authority (VTA)
- B. SBE Certification Programs. We found that 5 of the 10 CUCP member agencies have their own SBE certification program (Metro, City of LA, BART, SamTrans, and VTA); one agency (BART) uses the same certification requirements as Metro, and the other three agencies do not have a personal net worth requirement, which is a Metro requirement. In addition, 5 agencies do not have an SBE certification program (Caltrans, City of Fresno, SDCRAA, SFO, and SFMTA). Matrix 1 shows the various CUCP members’ SBE certification requirements compared to Metro’s key requirements.

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Matrix 1: CUCP Members' SBE Certification Key Requirements

Item	California Unified Certification Program (CUCP) Member	Personal Net Worth (PNW)	Business Size (Annual Gross Receipts)	Ownership	Independence	Management Control
		< \$1,320,000	< \$26,290,000	For-Profit Small Business (>51% Interest)	Not Affiliated with Another Firm	Owner Control of Operations
A	LA Metro	X	X	X	X	X
B	Caltrans	No SBE Program				
C	City of Fresno	No SBE Program				
D	City of Los Angeles	No criteria on PNW	X	X	X	X
E	SDCRAA	No SBE Program				
F	BART	X	X	X	X	X
G	SFO	No SBE Program				
H	SFMTA	No SBE Program				
I	SamTrans	SamTrans currently recognizes DGS and VTA only for SBE certification and uses their standards				
J	VTA	No criteria on PNW	X	X	X	X

For more details of each CUCP member's SBE certification requirements, see Attachment B, CUCP Members' Requirements for SBE Certification.

Our review also found that none of the 10 CUCP member agencies and the 2 other agencies reviewed had unlimited or unconditional reciprocity to accept SBEs certified by all other agencies that certify small businesses. However, nine agencies (Caltrans, City of LA, SDCRAA, BART, SFO, SFMTA, SamTrans, VTA, and County of Los Angeles) have a limited reciprocity to accept SBE certifications from certain government agencies.

In addition, 8 of the 10 CUCP members and the County of Los Angeles accept California Department of General Services (DGS) small business (SB) certifications, and Metro and the City of Fresno do not accept DGS SB certifications. All of the 10 CUCP member agencies accept DBEs certified by other CUCP members, as shown in Matrix 2 below. This is because DBE programs all use the same federal standards but SBE standards have not been adopted State wide.

Matrix 2: CUCP Members and Other Agencies DBE & SBE Certification Programs

	California Unified Certification Program (CUCP) Member	DBE Reciprocity	SBE Program in Place	SBE Unlimited Reciprocity	SBE Limited Reciprocity	Accepts DGS SB Certification
A	LA Metro	Yes	Yes	No	No	No
B	Caltrans	Yes	No	No	Yes	Yes
C	City of Fresno	Yes	No	No	No	No
D	City of Los Angeles	Yes	Yes	No	Yes	Yes
E	SDCRAA	Yes	No	No	Yes	Yes
F	BART	Yes	Yes	No	Yes	Yes
G	SFO	Yes	No	No	Yes	Yes
H	SFMTA	Yes	No	No	Yes	Yes
I	SamTrans	Yes	Yes	No	Yes	Yes
J	MTA	Yes	Yes	No	Yes	Yes
	Other Agencies					
K	California DGS		Yes	No	No	N/A
L	County of Los Angeles		Yes	No	Yes	Yes

Note to Matrix 2: For the purposes of this report, “SBE Unlimited Reciprocity” means that an agency accepts or recognizes SBE certifications from all agencies that certify small businesses. “SBE Limited Reciprocity” means that an agency accepts or recognizes SBE certifications from a limited number of agencies.

- C. County of Los Angeles is not a CUCP member. The County has a certification program called Local Small Business Enterprise (LSBE) preference program that uses the same eligibility criteria as DGS, which is not consistent with Metro’s certification requirements in areas such as personal net worth and application verification.
- D. Metro’s Diversity & Economic Opportunity Department (DEOD) is responsible for administrating the SBE and DBE Programs. The DEOD Director stated that Metro uses the same application form for DBE and SBE certifications. Metro accepts CUCP member’s DBE certifications from other CUCP members because all members follow the same Federal regulations to certify DBEs. However, Metro currently does not accept SBE firms certified by other agencies due to concern that their SBE certification requirements are not up to Metro’s standards. Also, each agency has its own certification standards and procedures, and DEOD has concerns that the verification process of other agencies is inadequate.

BACKGROUND

To determine the DBE and SBE eligibility, agencies normally adopt and follow rules published by the United States Code of Federal Regulations (CFR) and the Small Business Administration (SBA). Metro considers the DBE standards in developing its SBE standards, such as the personal net worth element. The following sections are excerpted from CFR rules and SBA Size Eligibility Provisions, and Standards.

A. Rules to Determine Social and Economic Disadvantage (DBE Standards)

Pertinent sections of CFR Title 49, Subtitle A, Part 26, Subpart D § 26.67, to determine social and economic disadvantage are:

(a) Presumption of disadvantage.

- (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.
- (2)
 - (i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, to certify that he or she has a personal net worth that does not exceed \$1.32 million.
 - (ii) You must require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. To meet this requirement, you must use the DOT personal net worth form provided in appendix G to this part without change or revision. Where necessary to accurately determine an individual's personal net worth, you may, on a case-by-case basis, require additional financial information from the owner of an applicant.
 - (iii) In determining an individual's net worth, you must observe the following requirements:
 - (A) Exclude an individual's ownership interest in the applicant firm.
 - (B) Exclude the individual's equity in his or her primary residence.
 - (C) Do not use a contingent liability to reduce an individual's net worth.

- (D) With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.

B. Small Business Administration (SBA) Size Standards

CFR Title 13, Chapter I, Part 121, Subpart A - Size Eligibility Provisions and Standards provides the following rules to determine small business size:

§121.101 What are SBA Size Standards?

- (a) SBA's size standards define whether a business entity is small and, thus, eligible for Government programs and preferences reserved for “small business” concerns. Size standards have been established for types of economic activity, or industry, generally under the North American Industry Classification System (NAICS).

§121.102 How does SBA Establish Size Standards?

- (a) SBA considers economic characteristics comprising the structure of an industry, including degree of competition, average firm size, start-up costs and entry barriers, and distribution of firms by size. It also considers technological changes, competition from other industries, growth trends, historical activity within an industry, unique factors occurring in the industry which may distinguish small firms from other firms, and the objectives of its programs and the impact on those programs of different size standard levels.
- (b) As part of its review of a size standard, SBA will investigate if any concern at or below a particular standard would be dominant in the industry. SBA will take into consideration market share of a concern and other appropriate factors which may allow a concern to exercise a major controlling influence on a national basis in which a number of business concerns are engaged. Size standards seek to ensure that a concern that meets a specific size standard is not dominant in its field of operation.
- (c) As part of its review of size standards, SBA's Office of Size Standards will examine the impact of inflation on monetary-based size standards (e.g., receipts, net income, assets) at least once every five years and submit a report to the Administrator or designee. If SBA finds that inflation has significantly eroded the value of the monetary-based size standards, it will issue a proposed rule to increase size standards.

C. California Unified Certification Program (CUCP)

The United States Department of Transportation (USDOT) requires that a Unified Certification Program, governed by 49 Code of Federal Regulations (CFR), Part 26, be implemented that allows applicants for the Disadvantaged Business Enterprise (DBE) program to apply once for a DBE certification that will be honored by all recipients in a state.

The California Unified Certification Program (CUCP) provides “one-stop shopping” certification services to small, minority and women businesses seeking to participate in the USDOT DBE Program. The CUCP database is intended to expand the use of DBE firms by maintaining complete and current information on those businesses and the products and services they can provide to all grantee agencies in California. The database is available to government agencies within the state.

The California Department of Transportation (Caltrans) processes DBE applications statewide. There are other certifying agencies that certify geographically based on their region. The main eligibility requirements for DBE are:

1. Social and Economic Disadvantage. A disadvantaged owner must be a U.S. Citizen (or resident alien) and meet the federal definition of socially and economically disadvantaged as defined in 49 CFR, Part 26.67. Presumptive groups include women, African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or any individual found to be socially and economically disadvantaged on a case-by-case basis.
2. Personal Net Worth. Only disadvantaged persons having personal net worth (PNW) of less than \$1.32 million can be considered as a potential qualified DBE.
3. Business Size Standard. A firm (including affiliates) must be a small business as defined by the SBA. Average annual gross receipts over the previous three fiscal years may not exceed \$22,410,000 (\$52,470,000 for airport concessions in general, with some exceptions).
4. Ownership. Must be a for-profit small business concern, where socially and economically disadvantaged individuals own at least 51 percent interest in the firm.
5. Management and Control. The DBE owner(s) must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day decisions, as well as long-term decisions on matters of management, policy, and operations.
6. Independence. The business must not be affiliated with another firm in such a way as to compromise its independence and control.
7. On-Site Visit. Federal regulations require an On-Site Review be conducted for all DBE applicants.

OBJECTIVE, METHODOLOGY AND SCOPE OF SURVEY

The objective of this survey is to determine whether Metro and selected government agencies could increase reciprocity of SBE certifications, simplify the certification process, and increase SBE participation.

To achieve the survey objective, we performed a review of Metro DBE and SBE certification programs and related documents. We also visited government agencies websites and contacted certification officials of the selected government agencies to obtain information related to their DBE and SBE certification programs. Our review focused on SBE certification programs and the opportunity for SBE reciprocity. During the survey, we:

- Reviewed Metro’s website and related documents to obtain an understanding of Metro’s DBE and SBE certification programs;
- Obtained DBE and SBE data from Metro’s DEOD;
- Clarified issues related to DBE and SBE certification programs with DEOD personnel;
- Met with Metro officials to discuss SBE reciprocity and obtained updated information;
- Visited CUCP and other selected government agencies’ websites to review their SBE certification programs; and
- Contacted agencies to clarify issues related to SBE certification standards and reciprocity opportunities.

This survey was not an audit and limited in scope. Government Audit Standards were not strictly applied in this survey.

RESULTS OF SURVEY

The following sections discuss Metro and the other nine CUCP certifying agencies’ DBE and SBE Programs. Because Metro is located in the County of Los Angeles, we included the County of Los Angeles SBE certification program in this survey even though it is not a CUCP member. We also included California Department General Services (DGS) in the survey because some of the CUCP members accept DGS SBE certification.

A. Los Angeles County Metropolitan Transportation Authority (Metro)

Metro currently certifies DBEs and SBEs. Metro’s SBE and DBE eligibility requirements are virtually the same with one notable exception; the SBE Program is race, ethnic, and gender neutral and the DBE Program is not.

Disadvantaged Business Enterprise Program. Metro’s DBE Program requires the applicant be socially and economically disadvantaged as outlined in CFR 49 Part 26. Metro is a member of the California Unified Certification Program (CUCP) and accepts DBEs certified by other member agencies.

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Metro receives federal financial assistance from the USDOT through Caltrans, and as a condition of receiving this assistance, Metro signed the California Department of Transportation Disadvantaged Business Enterprise Implementation Agreement. Metro agreed to implement the State of California, Department of Transportation DBE Program Plan, which is based on 49 CFR 26 requirements.

DBE Certification Requirements. Under Metro's DBE Program, applicants must prove Social and Economic Disadvantage. Presumptive groups include women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian-Americans, or other minorities found to be disadvantaged by the regulations or any individual found to be socially and economically disadvantaged on a case-by-case basis. Also, a disadvantaged owner must be:

- A U.S. Citizen (or resident alien), and
- Meet the federal definition of socially and economically disadvantaged as defined in 49 CFR Part 26.67.

Small Business Enterprise Program. Metro is the recipient of non-federal funds from state, local, and other sales tax funding sources. Metro implemented an SBE Program, as a condition of assistance, and in compliance with the Metro Board adopted Small Business Enterprise Program, and in response to Proposition 209 that amended the state constitution to prohibit state governmental institutions from considering race, sex, or ethnicity, specifically in the areas of public employment, public contracting, and public education. The SBE Program is a race and gender-neutral. Metro sets forth the policies and procedures to be implemented in order to assure that small businesses have the maximum opportunity to participate in Metro's non-federally funded competitive negotiated and competitive bid contracts.

SBE Certification Requirements. Under Metro's program, there are five requirements that all applicants for SBE and DBE certification must prove (see Attachment A for more details).

1. Personal Net Worth: Personal Net Worth (PNW) of less than \$1,320,000. Items excluded from a person's net worth calculation include an individual's ownership interest in the applicant firm and equity in his or her primary residence.
2. Business Size Standard: A firm (including affiliates) must be a small business as defined by the Small Business Administration. It must not have annual gross receipts over \$26,290,000, in the previous three or five fiscal years. Effective January 6, 2022 the gross receipt average calculation will go from a three-year average to a five-year average. Through this transition period, firms may choose between using a three-year averaging period or a five-year averaging period. Depending on the type of work the business performs, other size standards may apply. The North American Industry Classification System (NAICS) is used to determine industry and additional size standards.
3. Ownership: Must be a for-profit small business concern with the applicant/owner having at least 51% interest and control management of daily business operations.

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4. Independence: The business must not be affiliated to another firm in such a way as to compromise its independence and control. These include, but are not limited to, areas such as personnel, facilities, equipment, financial and/or bonding support, and other resources.
5. Management and Control: The applicant owner(s) must possess the power to direct or cause the direction to the management and policies of the firm and to make day-to-day decisions, as well as long-term decisions on matters of management, policy and operations.

Certification Process. Metro has one application form for both the DBE and SBE Programs. The applicant indicates which program(s) the applicant would like to apply for by checking a box on the form. The certification process involves a comprehensive review of the submitted certified application and supporting documentation. Metro contacts the applicant if additional information is needed. Site visits are performed for DBE applications to further evaluate eligibility.

- DBE Certifications. Our review found that Metro accepted 324 DBE certifications from 7 of the 10 CUCP agencies as of December 31, 2021 (Caltrans, City of Fresno, City of Los Angeles, BART, SFMTA, SamTrans, and VTA).
- SBE Certifications. Data provided by DEOD showed that Metro certified 2,338 SBE firms as of December 31, 2021, of which 689 SBE firms were awarded Metro contracts.

According to the Director of DEOD, Metro's SBE certification and database only includes firms certified by Metro. To participate in Metro's SBE Program, a firm must be certified by Metro. DEOD staff stated, "There is no way for us to know what other certifications firms may hold with other agencies."

Reciprocity of SBE Certifications. Metro does not have SBE certification reciprocity with other state agencies. Metro's DEOD Manager of Certification & Economic Development stated the following reason for not accepting SBEs certified by other agencies:

In considering accepting the Certification of other agencies that certify firms as SBEs, one of the biggest concerns was whether other SBE programs adhere to the same certification standards as set forth in Metro's SBE Program. For example, the Department of General Services (DGS) has a self-certification SBE program that has little to no verification into whether the applicant firm qualifies as an SBE. Metro conducted a test, creating a fictitious company and was granted certification in a matter of minutes. Therefore, to maintain the integrity of the program, Metro decided to not seek reciprocity.

The DEOD Director stated that although Metro uses the same application form for DBE and SBE, Metro only accepts DBEs certified by other CUCP agencies and does not accept SBEs certified by other agencies. Metro accepts DBEs certified by others because all CUCP members follow the same Federal regulations to certify DBEs.

The Director explained Metro does not accept SBE certifications from other agencies because they either do not have an SBE Program that meets Metro standards, or the agencies accept DGS's SBE certifications which do not have an application verification process. DGS's small business certification process uses a "self-certification" model which has no verification checks or controls and does not require applicants to submit documentation supporting their application, such as a license, tax information, or revenue statements. The Director said this lack of SBE application and documentation verification allows anyone to apply and obtain SBE certification, as was proven in DEOD's test over a year ago.

The Director stated that *"Metro's SBE program is very stringent, and the process is very detailed; accepting DGS's SBE certification discredits our excellent program and will create many problems for Metro and compromise the integrity of Metro's program."*

The Director added that other agencies accept Metro's certification because *"we are the gold standard."* Metro conducts an annual review of certified firms and if they find that they are not up to par, they begin the process to de-certify – a process that other agencies may not be performing.

While it might seem that if agencies are verifying DBEs it would be easy enough to do the same for SBEs, however the number of SBEs far exceeds those applying for DBE status.

Summary. Metro accepts DBEs certified by CUCP member agencies, has an SBE Program, and does not accept SBE firms certified by other agencies.

B. California Department of Transportation (Caltrans)

Caltrans Website. Caltrans' Office of Civil Rights (OCR) is responsible for the contract participation of Small Business (SB), Disadvantaged Business Enterprise (DBE), and Disabled Veteran Business Enterprise (DVBE) firms.

- DBE. The website states that firms wanting to apply for DBE certification may contact any one of the 10 CUCP certifying partners. Caltrans provides DBE certification reciprocity with other CUCP certification partners.
- SBE. Caltrans does not have an SBE certification program. For small business applications, the Caltrans website directs applicants to the California Department of General Services (DGS) website.

DGS Small Business Program. We contacted a DGS Certification Officer, Procurement Division, regarding the Caltrans website directing small business applicants to the DGS website, who responded:

"We are a different program from Caltrans. Our agency is called Department of General Services, and we do a lot of the purchasing for the other state agencies."

Because we do so much of the purchasing, California law gives us the authority to have our own certification program with state rules and terminology. We don't have the authority to accept other certifications, either in certification reciprocity with other organizations or to be accepted for benefits on a state bid. I think the Caltrans website is confusing because they call our State of California Small Business Certification (SB) a different name — Small Business Enterprise (SBE). Our certification uses state size standards (\$15 million), rather than the NAICS-based federal standards used in federal programs. Still, many organizations treat them as if they are equivalent. Caltrans doesn't have an SBE program. It appears that they use our program instead, but I'm not sure how they use SBE in their contracts."

SBE Reciprocity. We also contacted Caltrans Office Chief Certification Branch, Office of Civil Rights, to verify whether Caltrans provides SBE certification reciprocity, who responded:

"Caltrans does not accept SBE certifications from CUCP members or other government agencies. The only certification Caltrans will accept, on a federal contract, is a DBE certification."

Summary. Caltrans accepts DBE certified by CUCP member agencies, does not have an SBE Program, does not provide SBE certification reciprocity, and accepts SB certifications by DGS.

C. City of Fresno

DBE. The City of Fresno is a recipient of Federal Highway Administration, Federal Aviation Administration and Federal Transit Administration funds and as a condition of receiving these funds, the City has implemented the US Department of Transportation DBE and Airport Concessions Disadvantaged Business Enterprise Programs based on 49 CFR, Part 23 and 26 requirements. The City participates in the CUCP and accepts DBEs certified by other CUCP member agencies.

SBE. We did not find a small business program on the City's website. We contacted the DBE Business Coordinator to inquire about the City's SBE Program, who responded, *"The City of Fresno does not have an SBE Program. I usually point vendors to the City of San Francisco SBE Program. However, I hope to start one here in the future."*

Summary. The City of Fresno accepts DBEs certified by CUCP member agencies and does not have an SBE certification program.

D. City of Los Angeles (City of LA)

DBE. We contacted the City of Los Angeles Certification Outreach Regulations Enforcement (CORE) Officer about the City's DBE certifications reciprocity, who told us that as a member of the CUCP, the City of LA accepts all DBE firms certified by other CUCP member agencies.

SBE. The City has 2 SBE certification programs:

- SBE (LA) - A recognition program relying on the CA Department of General Services small business certifications. Other than DGS, the City does not recognize SBE certification from any other agency including Metro.
- SBE (Proprietary) - A recognition program used by the City's proprietary departments such as Department of Water & Power (DWP), Los Angeles World Airport (LAWA), and Port of Los Angeles. The preliminary criteria to be certified as an SBE firm are:
 - An independently-owned and operated business.
 - A small business that meets the size criteria set forth by the SBA 8(a) Business Development Program or the State of California DGS Small Business Program.
 - Organized as a for-profit business.

If a firm is currently certified with any of the following agencies, the firm does NOT need to submit the SBE (Proprietary) Application:

- Los Angeles County Metropolitan Transportation Authority (Metro) – Small Business Enterprise (SBE).
- Federal Small Business Administration (SBA) – 8(a) Business Development Program.
- State of California Department of General Services (DGS) – Small Business (SB), Micro Business (MB) and Public Works (PW).
- California Department of Transportation (Caltrans) – Small Minority/Women Business Enterprise (SMBE/SWBE).
- US Women's Chamber of Commerce (USWCC) – Women-Owned Small Business (WOSB) & Economically Disadvantaged Women-owned Business (EDWOSB).
- National Women Business Owners Corporation (NWBOC) – Women-owned Small Business (WOSB) & Economically Disadvantaged Women-owned Business (EDWOSB).
- Women's Business Enterprise Council West (WBEC - West) - Women-owned Small Business (WOSB).
- City of Los Angeles – Local Small Business (LSB).
- Los Angeles County – Local Small Business Enterprise (LSBE).
- California Unified Certification Program (CUCP) – Disadvantaged Business Enterprise (DBE) member agencies including LA Metro.

Summary. The City of LA accepts DBEs certified by other CUCP member agencies and has two SBE certification programs. The City accepts small business firms certified by DGS, but no one else including Metro. In other instances, the City's proprietary departments such as DWP, LAWA and Port of LA accept SBEs certified by Metro and several other sources.

E. San Diego County Regional Airport Authority (SDCRAA)

SBE Program. According to the Interim Manager/Small Business Development, SDCRAA does not have a specific SBE Program. The Interim Manager advised us,

“If we have a firm that has a DBE certification from the state of California, we consider them to be an SBE. We will also accept the SLBE from the City of San Diego or any agency that certifies firms with the guidelines of the SBA size standards.”

Small Business Preference Program. The Authority has a small business Preference Program. To be considered a small business and eligible for a preference, a business concern must meet one of the following criteria.

- An enrollee in the Authority’s Bonding and Contract Financing Assistance Program; or
- A certified DBE by the CUCP; or
- A business concern that possesses a valid certification issued by an agency, approved by the Authority that verifies the firm is within SBA size standards.

Acceptable Certifying Entities. SDCRAA’s website shows the following agencies that have certifications acceptable to the Authority:

- California Department of General Services (DGS) Small Business Certification provided that the SBA size standard for the specific trade does not exceed \$14 million or 100 employees; or
- DGS Micro Business Certification provided that the SBA size standard for the specific trade does not exceed \$3.5 million or 25 employees; or
- City of San Diego Small Local Business Enterprise (SLBE) certification provided that the SLBE must provide evidence to the City that it meets the SBA size standards. The Authority will seek such verification from the City. It is the SLBE’s responsibility to provide that information to the City’s SLBE program prior to submission of any proposals to the Authority.

Summary. SDCRAA does not have an SBE certification program, but it has a small business preference program and considers a DBE certified by CUCP eligible for preference. It also accepts certifications from DGS, the City of San Diego SLBE certifications, or an agency that certifies firms that are within SBA size standards. It would likely accept Metro certifications.

F. San Francisco Bay Area Rapid Transit District (BART)

SBE Program. BART has an SBE certification program. The booklet titled “BART SBE Certification Application” indicates that BART is responsible for certification of firms and compiling and maintaining the database of certified firms. General guidelines for a firm to be certified as an SBE by BART are:

- The firm must be at least 51% owned and controlled by one or more individuals whose personal net worth does not exceed \$1.32 million, excluding the individual's ownership interest in the applicant firm and the equity in his/her primary residence.
- The firm must be an independent business, and one or more of the owners must control its management and daily operations.
- Only an existing, for-profit firm is eligible to be certified as an SBE. Applicants are first subject to the applicable small business SBA size standards. Additionally, the average annual gross receipts for the firm (and its affiliates) must not exceed the USDOT cap of \$22.41 million.
- The applicant must be a U.S. Citizen or a lawfully admitted permanent resident alien.

BART's Senior Manager of Economic Opportunities & Policies stated:

"If firms are certified as a DBE in the State of California by the CUCP or one of its participating agencies is presumptively held to have met the requirements and the firm remains eligible as a CUCP-certified DBE, then BART accepts it as SBE. If there is an MOU for reciprocity of SBE firms from the certifying agency, we accept reciprocity."

Summary. BART has an SBE Program. BART presumptively accepts CUCP certified DBE firms as an SBE and accepts SBE certification if there is an MOU for reciprocity with the certifying agency. BART may be a candidate for SBE reciprocity with Metro if they adhere to similar standards as Metro.

G. San Francisco International Airport (SFO)

SBE Program. The SFO website provides only limited information regarding small businesses. Therefore, we contacted staff in the SFO Vendor Diversity Administrator Chief Operating Officer's Office who told us that SFO does not have its own SBE Program and accepts SBE certifications of other agencies that use the SBA size standards, and also presumptively accepts DBE certification to qualify as an SBE.

Summary. SFO does not have an SBE certification program in place. Without an SBE Program, SFO would not be an SBE reciprocity agency for Metro. Metro could approach them about accepting Metro certifications.

H. San Francisco Municipal Transportation Agency (SFMTA)

SBE Program. The SFMTA website did not have specific information about an SBE Program. Therefore, we contacted the SFMTA Manager, Contract Compliance Office, who stated:

"We have an SBE verification process for firms wishing to do business with the SFMTA. This process is not necessary if the firm is certified as a DBE, SBE (with the

California Department of General Services Agency), or as a San Francisco Local Business Enterprise (LBE). I'm not showing any other exceptions."

Summary. SFMTA has an SBE verification process, but not a certification program in place. SFMTA also accepts a certified DBE as an SBE, accepts DGS small business certification, and San Francisco certified LBEs.

I. San Mateo County Transit District (SamTrans)

SBE Program. SamTrans has an SBE Program. In addition, it accepts SBE certifications from a limited number of agencies including:

- Small Business (SB) certification performed by the California Department of General Services (DGS) for the following industries only: (a) Construction (NAICS 230000), (b) Manufacturing (NAICS 310000-330000), (c) Wholesaling (NAICS 420000), and (d) Trucking (NAICS 484000).
- All Microbusiness (MB) certifications by the DGS for all industries.
- Small Business Enterprise (SBE) certification by the Santa Clara Valley Transportation Authority (VTA).

Our discussion with the SamTrans DBE Administrator confirmed the only agencies SamTrans currently recognizes for small business certification are DGS and VTA.

Summary. SamTrans has an SBE Program, and accepts small business certification from DGS and Santa Clara VTA. SamTrans may be a candidate agency to accept Metro SBE certifications because Metro's SBE certification requirements meet or exceed the minimum requirements of DGS and VTA.

J. Santa Clara Valley Transportation Authority (VTA)

SBE Program. VTA has implemented an SBE Program to provide an equal opportunity for all small business firms to participate in non-federally funded contracts. The VTA Business Diversity Programs Management Analyst told us that VTA certifies small businesses, and also accepts certifications by the Department of General Services (DGS). VTA's certification process does not include a personal net worth requirement.

Summary. VTA has an SBE certification program and accepts DGS small business certifications. With no net worth standard, Metro would not provide reciprocity for VTA certifications, but Metro could approach VTA about accepting Metro certifications.

K. California Department of General Services (DGS)

DGS is the State's certifying agency that administers the small business, small business for the purpose of public works, and DVBE certification programs. In order for a small business to be eligible for small business certification, it must meet the following requirements:

- Be independently owned and operated;
- Not dominant in field of operation;
- Principal office located in California;
- Owners (officers, if a corporation) domiciled in California; and
- Including affiliates, be either:
 - A business with 100 or fewer employees; an average annual gross receipt of \$15 million or less, over the last three tax years;
 - A manufacturer with 100 or fewer employees; or
 - A micro business – a small business will automatically be designated as a micro business, if gross annual receipts are \$5,000,000 or less; or the small business is a manufacturer with 25 or fewer employees.

Our review found that 8 of the 10 CUCP members accept DGS SB certifications; LA Metro and the City of Fresno do not accept DGS SB certification. See Matrix 2 of this report.

We contacted the DGS Certification Officer, Procurement Division, Office of Small Business & DVBE Services (OSDS) to clarify the difference between DGS's SB certification and LA Metro's SBE certification standards/requirements in five areas - (1) Personal Net Worth, (2) Business Size Standard, (3) Ownership, (4) Independence, and (5) Management and Control (see Attachment A). The Certification Officer's response included the following pertinent information.

Our Small Business program, which includes State of California Small Business (SB) and Small Business for the Purpose of Public Works (SB-PW) certifications, is not a federal-style SBE program; however, localities and special districts use our SB Certification as if it is federal SBE.

The difference is that our certification is based completely on state of California laws and regulations:

All of the criteria are in the California State laws and regulations, but some rules are not clear to readers, for example:

- *There are no citizenship requirements for SB certification*
- *There are no ethnicity, race, gender, social disadvantage, or economic disadvantage requirements for SB certification*
- *Certified SBs must be for-profit enterprises*
- *An applicant cannot be dominant in their industry; meaning, have the ability to exercise a controlling or major influence, on a statewide basis, in a kind of business activity.*

For your specific questions:

- *For state of California certifications, there is no review of **Personal Net Worth**, and net worth information is not collected from the applicants.*
- ***Size standards** do not link to NAICS codes, and there are only two size categories for SB, one category for SB-PW, and two categories for microbusinesses (SB/Micro):*
 - *SB certification [...]has the following size limits:*
 - *The applicant firm, together with affiliates, has average gross annual receipts equal to or less than \$15 million.*
 - *The applicant firm, together with affiliates, has 100 or fewer employees.*
 - *SB certification for manufacturers [...]have the following size limits:*
 - *No average gross annual receipts limit for manufacturers.*
 - *The applicant firm, together with affiliates, has 100 or fewer employees.*
 - *Small Business for the Purpose of Public Works (SB-PW) certification [...]has the following size limits:*
 - *The applicant firm, together with affiliates, has average gross annual receipts equal to or less than \$36 million.*
 - *The applicant firm, together with affiliates, has 200 or fewer employees.*
 - *Smaller businesses will automatically receive the Micro designation on their SB certification (not including SB-PW) if:*
 - *SB certifications [...]has average gross annual receipts equal to or less than \$5 million.*
 - *SB certifications for manufacturers [...]has 25 or fewer employees. Manufacturers do not have a Microbusiness gross receipts limit.*
- ***Ownership** must be disclosed in the application and match support documents and research.*
 - *Ethnicity, race, gender, social disadvantage, or economic disadvantage, etc. are not evaluated and there is no “qualifier.”*
 - *In general, owners or officers must be domiciled in California.*
- *Applicant business must be **Independently Owned and Operated**.*
 - *There is no “qualifier” who must be independent, but the entire business must be independent.*
 - *Most subsidiaries are not certified due to this rule.*
 - *We do not evaluate affiliation under this section; it is evaluated with the size standard.*
- ***Management and control***
 - *This is not a separate issue that is evaluated for individuals. See Independently, above.*

- *There is no “qualifier” who must have management and control, but the entire business must be managed and controlled by its own leadership.*

See Attachment C for additional information on certification eligibility requirements for DGS programs on Small Business, Small Business-Micro Business, and Small Business for Purpose of Public Works.

Summary. While other CUCP member agencies may accept SBE certifications from DGS, it may not be a reciprocity agency for Metro due to the exceptions in their program, which are not consistent with Metro’s certification requirements in areas such as personal net worth and application verification.

L. County of Los Angeles (County of LA)

Small Business Community Enterprise (CBE). The County of Los Angeles has a Small Business CBE Program that encourages business owners who are minorities, women, disabled veterans, or disadvantaged to capitalize on opportunities in government and private-sector procurement programs. To be eligible to participate in the CBE Program, a business must be certified as any one of the following:

- Minority Business Enterprise (MBE)
- Women Business Enterprise (WBE)
- Disadvantaged Business Enterprise (DBE)
- Disabled Veteran Business Enterprise (DVBE)

CBE Program Accepts DBE Certification. The County does not certify DBEs. However, the County’s CBE Program recognizes DBEs for program participation purposes. To qualify for the CBE program as a DBE, a business must be certified by:

- A. The State of California Department of Transportation’s CUCP.
- B. Any agency authorized to certify under the CUCP.

Local Small Business Enterprise. The County also has a Local Small Business Enterprise (LSBE) Preference Program, which boosts contracting opportunities for small businesses in the County. The County uses the same criteria to define local small businesses as DGS.

Summary. The County of Los Angeles has an LSBE preference program and uses the same criteria as DGS, which do not equate to Metro’s certification requirements in areas such as personal net worth and application verification. The Program also has an additional requirement for a business to have its main office in Los Angeles County for at least 12 months.

CONCLUSION

The survey found that all 10 CUCP member agencies accept DBE firms certified by the other CUCP members. However, there are no uniform requirements and standards for Small Business Enterprise (SBE) certification and no statewide reciprocity program to accept SBE firms certified by other agencies. Each agency surveyed had its own program, standards and criteria to certify and accept or not accept small business firms certified by other agencies, and some agencies did not have an SBE certification program.

SBE Certification Program. We found that 5 of the 10 CUCP member agencies have their own SBE certification program (Metro, City of LA, BART, SamTrans, and VTA); one agency (BART) had the same certification requirements as Metro, and the other three agencies did not have a personal net worth requirement. Moreover, 5 agencies do not have an SBE certification program (Caltrans, City of Fresno, SDCRAA, SFO, and SFMTA).

Our review also found that none of the 10 CUCP member agencies and the 2 other agencies reviewed had unlimited or unconditional reciprocity to accept SBEs certified by any government agency. However, nine agencies (Caltrans, City of LA, SDCRAA, BART, SFO, SFMTA, SamTrans, VTA, and County of Los Angeles) have limited reciprocity to accept certifications from certain government agencies.

In addition, 8 of the 10 CUCP members and the County of Los Angeles accept Department of General Services (DGS) SB business certifications; Metro and the City of Fresno do not accept DGS certifications.

California Department of General Services. DGS has various types of small business certification programs, but not an SBE Program. DGS small business certification programs follow State law, which in some areas differ from Metro's requirements. For example, DGS's program does not have a personal net worth (PNW) requirement and has a self-certification process, while Metro has a PNW requirement and verifies application information. Therefore, reciprocity with agencies who accept SBE certification from DGS obstructs Metro from accepting SBE certifications from those agencies as it would compromise the integrity of Metro's SBE Program.

Metro Does not Accept SBE Certifications from Other Agencies. Metro has a robust verification process to ensure applicants actually meet SBE eligibility requirements. Metro currently does not accept SBE firms certified by other agencies, in part, because of concerns that others may not adhere to the same standards as set forth in Metro's SBE Program and may not verify SBE applications. Additionally, Metro conducted a test of DGS's program by creating a fictitious company and was granted SBE certification in a matter of minutes. It appears that DGS's self-certification had little to no verification whether the applicant qualifies as an SBE.

Some Agencies Accept SBEs Certified by Others. We found that some agencies accept small businesses certifications of other agencies, which demonstrates an interest and need for reciprocity. For example:

- The City of Los Angeles accepts small business certification from DGS, and the City's propriety departments accept SBE certification from several agencies including Metro and LSBE certification from the County of Los Angeles.
- SDCRAA accepts SLBE certification from the City of San Diego, DGS, and other agencies that use SBA size standards.
- BART accepts SBE certification if there is an MOU for reciprocity with the certifying agency.
- SFO accepts SBE certification from other agencies that use SBA size standards.
- SFMTA accepts San Francisco Local Business Enterprise and DGS certifications.
- SamTrans accepts small business certifications from VTA and DGS.

In addition, four agencies (SDCRAA, BART, SFO, and SFMTA) presumptively accept a certified DBE as an SBE.

Path Forward. Our survey found opportunities to increase contracting opportunities for small businesses by increasing SBE certification reciprocity with other agencies, which may improve the efficiency and effectiveness of the SBE Program. In our opinion, Metro may consider accepting SBE certifications from other agencies or developing SBE certification reciprocity with other agencies if the other agencies have a formal SBE Program and use the same or similar certification requirements as Metro. BART uses the same five SBE certification key requirements as Metro. Thus, an opportunity for SBE reciprocity exists there.

Metro is recognized as a leader in the certification of SBE applicants in the State and is viewed by other agencies with confidence in its verification process. Metro may increase its leadership role and improve its acceptance of other agencies SBE certifications, or at least increase acceptance of Metro's SBE certifications by other agencies by conducting increased outreach to other agencies for that purpose.

Metro should not engage in SBE reciprocity with agencies who do not have their own formal SBE certification program but instead rely upon the SBE certification program from DGS, whose SB Program does not meet Metro's SBE certification requirements. If Metro's program were to become rife with fraud it would diminish the reputation of the agency and dilute program benefits for legitimate SBE vendors.

OBSERVATIONS

Metro's Recent SBE Program Development

In response to the Board Motion 43 on December 2, 2021, Metro has developed a 48 by '28 plan, which includes the following top 8 initiatives:

1. Roll-Out 15-Day Pay Initiative for Small Business Enterprise (SBE) as Primes.

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).
3. Coordination of Efforts with the Los Angeles Area Chamber of Commerce OneLA Collaborative.
4. Enhancing the reach of Metro's Small Business Outreach Efforts by Advertising Metro Events on the City of Los Angeles' RAMP Portal.
5. Engage Local Return and Transit Operators.
6. Enhance capacity building and access to capital.
7. Encourage Support for Federal Program Changes.
8. Increase Small Business Program Regional Attainments.

In 2021, Metro 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. Metro is continuing its efforts to launch the LSBE Preference program by June 1, 2022.

To increase the pool of Certified SBE firms, Metro has begun to research the feasibility of a Personal Net Worth (PNW) adjustment formula. In addition, Metro is exploring the viability of establishing small business certification reciprocity with the Los Angeles Unified School District (LAUSD).

Metro Board Report (Item 34) April 15, 2021

An April 2021 Metro Board Report responded to Board Motion 51 on strategies to create new pathways for the increase of contracting opportunities for SBEs including determining the feasibility of achieving certification reciprocity with agencies that have similar baseline standards as Metro. The Board Report stated:

Metro's analysis revealed that the City of Los Angeles, LAWA, LAUSD, and the County of Los Angeles accept both Metro and DGS certification. In addition, the County of Los Angeles has had conversations with Metro regarding its SBE Program and is considering developing their own program that would emulate Metro's.

This may present an opportunity for 1) the City, County and Metro to develop reciprocity agreements for a County Wide Small Business Program where both the city and the county accept Metro Certification, or 2) the City and County adhere to Metro certification standards.

DBE Application Fraud

In April 2022, the U.S. Department of Transportation, together with the U.S. Attorney's Office for the Central District of California, entered into a deferred prosecution agreement with a DBE who underreported the company's gross income to qualify for the DBE Program. The agreement included a \$650,000 criminal penalty. The company has since agreed not to apply for DBE certification at any time in the future.

This company was a certified DBE with Metro up until 2018. Metro's DEOD found the company had issues with its reported income and no longer met the eligibility standards to be certified as a DBE and was removed from the CUCP DBE database. Identifying DBEs who falsify their applications and removing them from the agency SBE/DBE Programs maintains the integrity of the Programs and avoids potentially negative publicity for the agency. Metro's reluctance to accept SBE certifications by others is in large part due to skepticism about others verification efforts.

RECOMMENDATIONS

Our survey identified opportunities to improve the efficiency and effectiveness of Metro's SBE certification program by working with other agencies to achieve reciprocity. We recommend Metro's Diversity and & Economic Opportunity Department:

1. Review and evaluate BART's SBE certification process and standards, which appears to have the same SBE standards and requirements as Metro and determine whether Metro can (1) accept SBE firms certified by BART, and (2) develop SBE certification reciprocity with BART to enter an agreement with them for that purpose.
2. Work with the City and County of Los Angeles to harmonize their SBE Programs, develop SBE certification reciprocity, and accept certifications with these two agencies.
3. Consider leading a Los Angeles County SBE Certification Summit to discuss program terms and requirements, minimum standards, and reciprocity among other agencies to achieve recognition of SBE certification with those entities.
4. Continue to be a lead agency by making Metro's SBE Program known to other agencies throughout the State, encourage them to accept Metro's SBE certifications, and offer them the opportunity to develop SBE reciprocity by informing Metro of their SBE Program and verification process.
5. Continue to review and evaluate the California Department of General Services (DGS) small business certification program and standards to determine whether Metro can recognize or accept some DGS certifications without compromising Metro's own SBE certification standards.

MANAGEMENT COMMENTS TO RECOMMENDATIONS

On July 15, 2022, we provided Metro Management a draft report. On August 11, 2022, we received their response, as shown in Attachment D.

OIG EVALUATION OF MANAGEMENT RESPONSE

Metro Management's response is responsive to the survey results and recommendations in the report. Therefore, we consider all issues related to the recommendations resolved and closed based on the actions taken.

ATTACHMENTS

Metro Small Business Certification Requirements



Metro

Small Business Certification Requirements

Metro strives to promote contracting opportunities for small business and certifies businesses to increase their visibility through the **Small Business Enterprise Program (SBE)** and the **Disadvantaged Business Enterprise Program (DBE)**.

The SBE and DBE eligibility requirements are virtually the same with one notable exception. The SBE program is race, ethnic and gender neutral and the DBE program is not.

The following five requirements must be proved by all applicants.

Personal Net Worth: Personal Net Worth (PNW) of less than \$1,320,000. Items excluded from a person's net worth calculation include an individual's ownership interest in the applicant firm and his or her equity in their primary residence.

Business Size Standard: A firm (including affiliates) must be a small business as defined by the Small Business Administration (SBA). It must not have annual gross receipts over \$26,290,000, in the previous three or five fiscal years. Effective January 6, 2022 the gross receipt average calculation will go from a three-year average to a five-year average. Through this transition period, firms may choose between using a three-year averaging period or a five-year averaging period. Depending on the type of work the business performs, other size standards may apply. The North American Industry Classification System (NAICS) is used to determine industry and additional size standards.

Ownership: Must be a for-profit small business concern With the applicant/owner having at least 51% interest, control management of daily business operations.

Independence: The business must not be affiliated to another firm in such a way as to compromise its independence and control. These include, but are not limited to, such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

Management and Control: The applicant owner(s) must possess the power to direct or cause the direction to the management and policies of the firm and to make

day-to-day decisions, as well as long-term decisions on matters of management, policy and operations.

The following requirement must be proved by DBE applicants only:

Social and Economic Disadvantage: A disadvantaged owner must be a U.S. Citizen (or resident alien) and meet the federal definition of socially and economically disadvantaged as defined in 49 CFR Part 26.67. Presumptive groups include women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian-Americans, or other minorities found to be disadvantaged by the regulations or any individual found to be socially and economically disadvantaged on a case-by-case basis.

Certification Process:

There is only one application required for both the DBE and SBE programs. The applicant indicates which program(s) they would like to apply by checking a box. The certification process involves a comprehensive review of the submitted certification application and supporting documentation. The applicant is contacted by Metro if additional information is needed. Site visits are performed for DBE applications to further evaluate the eligibility of applicants. The time frame varies depending on the completeness of documentation submitted by the applicant and number of applications in review.

Once a firm has gone through an extensive review Metro will contact the firm to inform them if they have been granted DBE and/or SBE certification.

Metro does not charge applicants for processing DBE/SBE certifications.

The on-line application may be accessed at:
metro.gob2g.com

For More Information:
Email: CertificationUnit@metro.net
Tel. 213-922-2600
metro.net/connect

Summary of CUCP Members' Requirements for SBE Certification

Item	CUCP Member	Personal Net Worth	Business Size Standard	Ownership	Independence	Management and Control	Notes
A	LA Metro	Less than \$1,320,000. Items excluded from a person's net worth calculation include an individual's ownership interest in the applicant firm and his or her equity in their primary residence.	Must not have annual gross receipts over \$26,290,000, in the previous three or five fiscal years.	Must be a for-profit small business concern with the applicant/owner having at least 51% interest, control management of daily business operations	Not affiliated to another firm in such a way as to compromise its independence and control.	Applicant owner(s) must possess the power to direct or cause the direction to the management and policies of the firm and to make day-to-day decisions, as well as long-term decisions on matters of management, policy and operations.	No SBE reciprocity
B	California Department of Transportation (Caltrans)	Caltrans does not have an SBE program.					Caltrans has Small Minority Business Enterprise (SMBE) and Small Women Business Enterprise (SWBE) programs which they process for certification. Caltrans doesn't use SMBE/SWBE certifications on federal contracts. SMBE or SWBE certified by Caltrans use their certifications with DGS, state projects.
C	City of Fresno	City of Fresno does not have an SBE program.					
D	City of Los Angeles	No criteria on personal net worth	Small business that meets the size criteria set forth by the Small Business Administration 8(a) Business Development Program or the State of California DGS Small Business Program.	Organized as a for-profit business Owners, officers, members/managers, and/or partners must be domiciled in California	Independently owned and operated	Independently owned and operated Not dominant in field of operations; principal office located in California	Have two kinds of SBE: SBE (LA) - relies on DGS certification SBE (Proprietary) - Program used by the City's proprietary departments: DWP, LAWA and Port of LA; firms already certified by accepted agencies do not have to complete SBE (Proprietary) application and will be recognized as SBEs by proprietary department.
E	San Diego County Regional Airport Authority (SDCRAA)	SDCRAA does not have an SBE program.					No specific SBE program; considers firm to be SBE if DBE certified. Also accepts SBE from the City of San Diego or any agency that certifies firms with the guidelines of the SBA size standards.

Summary of CUCP Members’ Requirements for SBE Certification

Item	CUCP Member	Personal Net Worth	Business Size Standard	Ownership	Independence	Management and Control	Notes
F	San Francisco Bay Area Rapit Transit (BART)	Does not exceed \$1.32 million, excluding the individual’s ownership interest in the applicant firm and the equity in his/her primary residence.	For-profit firm; average annual gross receipts for the firm (and its affiliates) must not exceed the USDOT cap of \$22.41 million.	At least 51% owned and controlled by one or more individuals.	The firm must be an independent business.	One or more of the owners must control its management and daily operations.	Applicant must be a U.S. Citizen or a lawfully admitted permanent resident alien. Firm certified by CUCP as DBE considered as an SBE.
G	San Francisco International Airport (SFO)	SFO does not have an SBE program.					SFO does not have criteria; accepts SBE certification of other agencies that use the SBA size standards; also accepts DBE certification to qualify as an SBE.
H	San Francisco Municipal Transportation Authority (SFMTA)	SFMTA does not have an SBE program.					Process not necessary if the firm is certified as a DBE, SBE (with the California Department of General Services Agency), or as a San Francisco Local Business Enterprise (LBE).
I	San Mateo County Transit District (SAMTrans)	SamTrans currently recognizes DGS and VTA only for SBE certification and uses their standards.					Also recognizes SBA 8(a) by the Small Business Administration provided that a firm's average annual gross receipts do not exceed the cap of \$23.98 million.
J	Santa Clara Valley Transportation Authority (VTA)	No criteria on personal net worth	Average annual gross receipts of less than \$22.41 million	Must be real, substantial, and continuing	Independent	Involved in daily operations	Accepts certifications by DGS.

Other Agencies

Item	Agency	Personal Net Worth	Business Size Standard	Ownership	Independence	Management and Control	Notes
K	California Dept. of General Services (DGS)	No criteria on personal net worth	Varies - depending on the type of certification See Attachment C	For-profit enterprise Owners, officers, members/managers, and/or partners must be domiciled in California	Independently owned and operated	Managed and controlled by its own leadership Not dominant in field of operation	Not a CUCP participating agency
L	County of Los Angeles	The County has an SBE certification program - Local Small Business Enterprise (LSBE) - with the following requirements:					
		No criteria on personal net worth	With 100 or fewer employees and average annual gross receipts of \$15 million or less over the last three years (including affiliates); or Manufacturer with 100 or fewer employees	Owners (officers in case of corporation) live in California	Independently owned and operated	Not dominant in its field of operation Main office in Los Angeles County for at least the last 12 months	Not a CUCP participating agency

Certification Eligibility Requirements of California Department of General Services

Certification Eligibility Requirements of California Department of General Services						
DGS Certification Program	Personal Net Worth	Business Size Standard	Ownership	Independence	Management and Control/Others	Notes
Small Business (SB)	No review of personal net worth	For non-manufacturers: Average gross annual receipts (GARs) cap of \$15 million over the last three tax years (including affiliates, and applicant, together with affiliates, has 100 or fewer employees For manufacturers: No average gross annual receipts limit, and applicant, together with affiliates, has 100 or fewer employees	For-profit enterprise Owners, officers, members/managers, and/or partners must be domiciled in California	Independently owned and operated	Managed and controlled by its own leadership	The SB certification can be used and counted on all types of contracts including public works contracts/projects.
Small Business - Microbusiness Designation (SB/MB)		For non-manufacturers: Average gross annual receipts (GARs) cap of \$5 million over the last three tax years (including affiliates); or For manufacturers: No average gross annual receipts limit, and applicant, together with affiliates, has 25 or fewer employees			Not dominant in field of operation	
Small Business for the Purpose of Public Works (SB-PW)		Average gross annual receipts (GARs) cap of \$36 million over the last three tax years (including affiliates); and With 200 or fewer employees			Principal office located in California	The SB-PW certification can only be used and counted on public works-related contracts/projects.

Management Comments to Draft Report


Metro

Interoffice Memo

Date	August 11, 2022
To	Yvonne Guan Zheng, Senior Manager, Office of the Inspector General
From	Miguel Cabral, Executive Officer, DEOD
Subject	Response to OIG Report on the Survey of SBE Certification Programs

The Diversity & Economic Opportunity Department (DEOD) appreciates the opportunity that this assessment has provided to enhance and improve the efficiency and effectiveness of Metro's SBE Certification Program.

Below is a breakout of each recommendation and DEOD's response.

Recommendation 1

Review and evaluate BART's SBE certification process and standards, which appears to have the same SBE standards and requirements as Metro and determine whether Metro can (1) accept SBE firms certified by BART, and (2) develop SBE certification reciprocity with BART to enter an agreement with them for that purpose.

Response: Agreed

On January 28, 2021, the Metro Board passed Motion 51 (Directors Dupont-Walker, Hahn, Mitchell, Butts, Najarian and Solis) requesting strategies to create new pathways for the increase and continued access to contracting opportunities for Small Business Enterprises (SBEs) through the enhancement of Metro's SBE Programs. At this time, Metro reviewed and evaluated BART's SBE certification process and standards and determined that Metro can accept SBE firms certified by BART. Metro reached out to BART to inquire about entering an SBE reciprocity agreement with Metro in which BART expressed interest.

Metro and BART prepared an MOU, and the MOU was then cleared by Metro's legal counsel for signature. Metro sent the final MOU over to BART to be signed and finalized, at which point there was no action taken on BART's end. Though Metro continued to reach out for multiple months via email and phone calls to follow up on the MOU, BART did not respond.

Metro will once again reach out to BART to attempt to finalize the MOU and develop SBE certification reciprocity with BART. If BART accepts/cooperates, Metro plans to have this executed by March 2023.

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Recommendation 2

Work with the City and County of Los Angeles to harmonize their SBE Programs, develop SBE certification reciprocity, and accept certifications with these two agencies.

Response: Agreed

In seeking ways to create new pathways for increase and continued access to contracting opportunities for Small Business Enterprises (SBEs), Metro also conducted extensive benchmarking of other agencies' SBE programs. Metro reviewed and evaluated the City and County of Los Angeles' SBE program and found that both accept DGS certification which does not have an application verification process. DGS' program does not have a personal net worth (PNW) requirement and has a self-certification process, while Metro has a PNW requirement and verifies applicant information. Therefore, SBE reciprocity with both the City and County of Los Angeles would compromise the integrity of Metro's SBE program.

The City and County of Los Angeles both accept Metro's SBE certification and in July 2021, Metro reached out to the City and County of Los Angeles regarding obtaining a formal letter of agreement with their agency to leverage the strength of Metro's certification for small businesses that choose to be certified with Metro. The City and County of Los Angeles did not express interest.

Metro will reach out to the City and County of Los Angeles Certification units within the next three months, completed by December 2022, to attempt to harmonize their SBE programs, and work with them to develop criteria that meets Metro's SBE standards, so that we may develop SBE certification reciprocity and eventually accept certification from the City and County of Los Angeles.

Metro has additionally been a part of the OneLA initiative spearheaded by the Los Angeles Area Chamber of Commerce. OneLA is a coalition of regional public agencies and the Chamber designed to streamline the procurement process and Small Business requirements. Metro will continue to advocate for consistent Small Business certification requirements from participating agencies, as well as certification reciprocity amongst the members.

Recommendation 3

Consider leading a Los Angeles County SBE Certification Summit to discuss program terms and requirements, minimum standards, and reciprocity among other agencies to achieve recognition of SBE certification with those entities.

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Response: Agreed

Metro will increase its leadership role by conducting increased outreach and hosting an SBE Certification Summit to discuss program terms and requirements, minimum standards, and reciprocity to achieve recognition of SBE certification with those entities.

Metro's SBE certification program, which mirrors the DBE program, is considered the gold standard certification in California. On July 21, 2022, USDOT proposed to make changes to the Disadvantaged Business Enterprise Program regulations. This is the first-time changes have been proposed to the DBE program since 2014. One of the primary components proposed in the change is an increase in Personal Net Worth (PNW) limit which would go from \$1.32 million to \$1.6 million. USDOT is also proposing to have an automatic 5-year PNW increase based on Federal Reserve data. Additionally, USDOT will also be removing retirement assets, value of applicant firm, equity in personal residence along with removing consideration of state marital/community property law from the PNW calculation. Metro will be providing comments and be in support of this rule change. Once these proposed changes are in effect, Metro will be implementing these changes to Metro's SBE program.

These changes will enhance both the DBE and Metro's SBE program by further creating opportunities for small businesses who otherwise may not qualify, increase the pool of certified firms, and will hopefully encourage other agencies to see the benefit in accepting Metro's SBE certification.

Metro will host a Certification Summit within three months of the DBE regulation being finalized and Metro's SBE program being updated to reflect these changes.

Recommendation 4

Continue to be a lead agency by making Metro's SBE Program known to other agencies throughout the State, encourage them to accept Metro's SBE certifications, and offer them the opportunity to develop SBE reciprocity by informing Metro of their SBE Program and verification process.

Response: Agreed

After evaluating local and regional SBE programs, Metro found that many agencies throughout the State, such as City of Los Angeles, the County of Los Angeles, Los Angeles Community College District, Metrolink, Los Angeles World Airports (LAWA) and the Los Angeles Unified School District, already accept Metro's SBE certification.

In being a lead certifying agency, Metro's SBE program matches the DBE program. Under the revised rule more firms will qualify for DBE certification, therefore, more firms will also qualify for SBE certification. Metro will continue to make Metro's revised SBE Program known to other agencies throughout the State, including California Unified Certification

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Program (CUCP) agencies, to encourage them to accept Metro's SBE certification. This will be part of Metro's ongoing outreach efforts.

Recommendation 5

Continue to review and evaluate the California Department of General Services (DGS) small business certification program and standards to determine whether Metro can recognize or accept some DGS certifications without compromising Metro's own SBE certification standards.

Response: Agreed

DGS' small business certification requirements in areas such as PNW, application verification, and size standards, are not consistent with Metro's SBE certification requirements. DGS's SBE certification process uses a "self-certification" model which has no verification checks or controls and does not require applicants to submit documentation supporting their application. The lack of application and documentation verification allows any firm to apply and obtain SBE certification.

Metro has a robust verification process to ensure applicants meet SBE eligibility requirements. As the OIG report recognized on page 19, "Therefore, reciprocity with agencies who accept SBE certification from DGS obstructs Metro from accepting SBE certifications from those agencies as it would compromise the integrity of Metro's SBE program." The OIG report also documented on page 20, "Metro should not engage in SBE reciprocity with agencies who do not have their own formal SBE certification program but instead rely upon the SBE certification program from DGS, whose SB program does not meet Metro's SBE certification requirements. If Metro's program were to become rife with fraud, it would diminish the reputation of the agency and dilute program benefits for legitimate SBE vendors."

Metro will continue to review and evaluate the California Department of General Services (DGS) small business certification program and standards to determine if any changes have been made to their program to see whether Metro can recognize or accept DGS certification without compromising Metro's own SBE certification standards.

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