

July 1, 2019 - June 30, 2020

# Equal Business Opportunity Program Annual Report FY20

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# A MESSAGE FROM METRO'S PURCHASING AGENT AND BUSINESS ASSISTANCE OFFICE DIRECTOR

In 2019 Metro Government began implementation of the Equal Business Opportunity Program. This was an ambitious undertaking. Nashville is among the only municipalities to require separate race and gender subcontractor utilization on city projects.

The EBO Program is setting industry standards not only because it is among the first, but also because it is delivering results. In the first year, **22 contracts were awarded** under the program.

Highlights include:

- **\$8.9 million increase** in spending with **woman owned** (WBE) businesses;
- **\$7.2 million increase** in spending with **black and brown owned** (MBE) businesses;
- **250% increase** in **black, brown, and women owned** subcontractor participation;
  - **21%** - average combined **EBO goal**:
    - **14%** - average for **woman owned** business;
    - **7%** - average for **black and brown owned** business.

As you can see, the Equal Business Opportunity Program is making a real impact. Both the Division of Purchases and the Business Assistance Office are grateful for your continued support of Nashville's black, brown, and woman owned businesses. We welcome the opportunity to discuss the EBO Program with you anytime and commend this report for your consideration.

Best,

*Michelle Hernandez Lane*

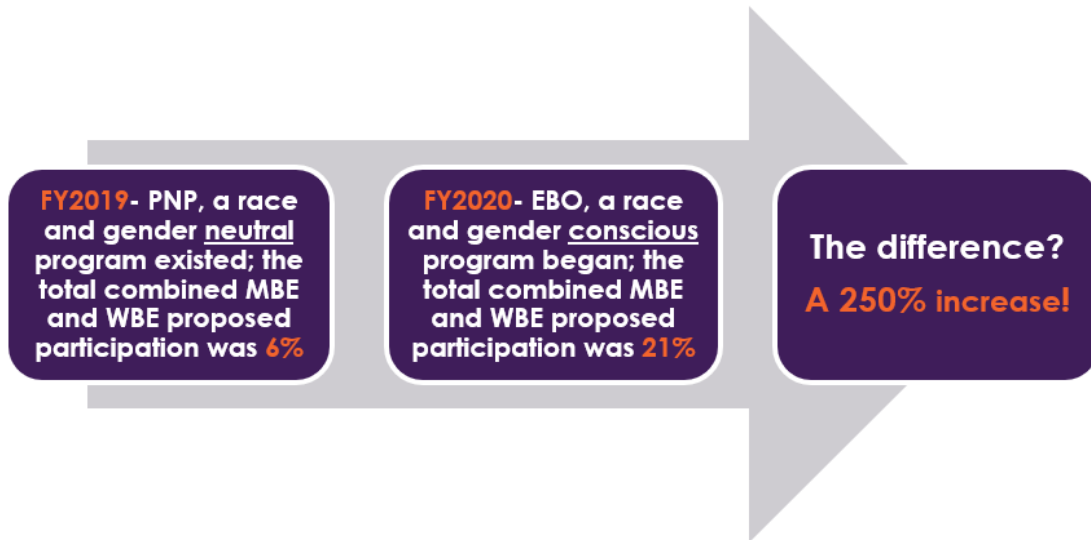
Chief Procurement Officer/Purchasing Agent, Michelle Hernandez Lane

*Christopher S. Wood*

Director/Finance Manager, Christopher S. Wood

# EXECUTIVE SUMMARY

This annual report illustrates how the Equal Business Opportunity Program is helping increase utilization of certified minority owned (MBE) and woman owned (WBE) businesses on Metropolitan Government of Nashville and Davidson County projects.



## 250% INCREASE *in proposed participation*

Proposed participation is the amount of work committed over the life of a contract by a prime contractor to subcontractors at the time of award.

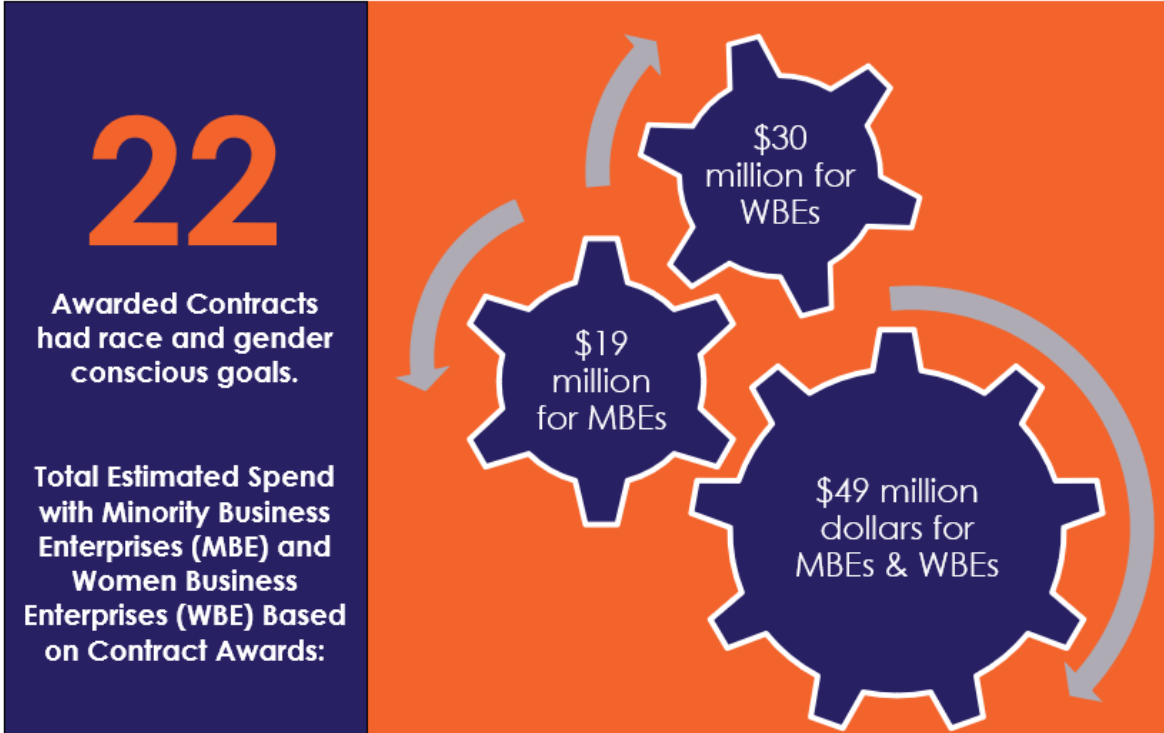
These numbers represent commitments, not payments. Change orders and amendments will be reflected in subsequent reports for the fiscal years in which they were effectuated.

For fiscal year 2019, Metro awards had an average proposed participation of **6%** combined for MBE and WBE subcontractors. In fiscal year 2020, Metro awards had an average proposed participation of **21%** combined for MBE and WBE subcontractors.

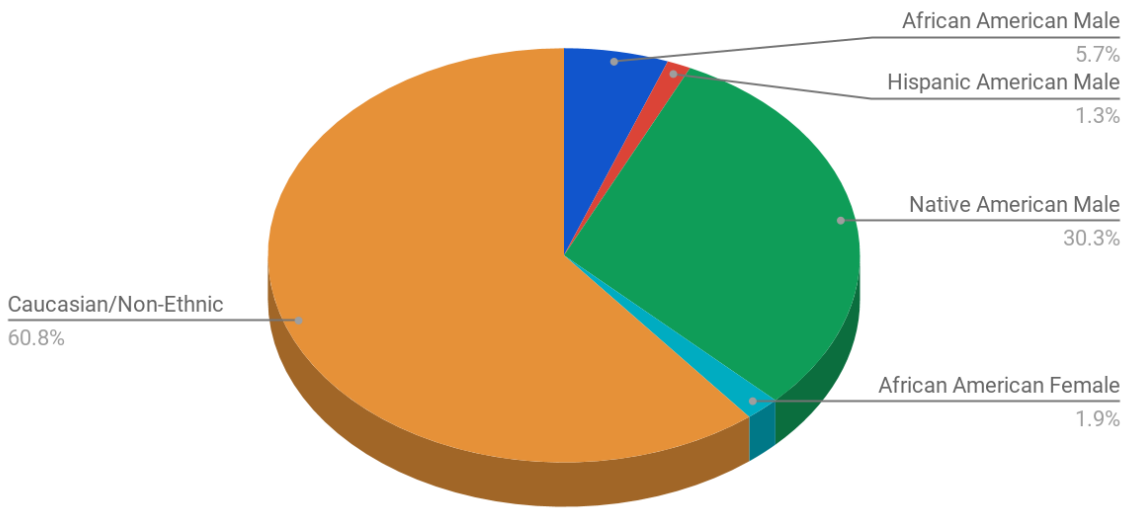
This is a **250%** increase in proposed participation year-over-year.

The average MBE proposed participation was **7%**; the average WBE proposed participation was **14%**.






A more detailed demographic breakdown of fiscal year 2020 awardees is in Table 1 on Page 9.



### Participation by Demographics



## Ethnicity and Gender Breakdown for Subcontractor Contract Participation

	<p><b>Black Male</b> 300 certified firms; \$2,822,190.95 dollars spent</p>	<p><b>Black Female</b> 185 certified firms; \$915,000.00 dollars spent</p>	
	<p><b>Hispanic Male</b> 49 certified firms; \$658,917.04 dollars spent</p>	<p><b>White Female</b> 579 certified firms; \$29,842,363.98 dollars spent</p>	
	<p><b>Native American Male</b> 17 certified firms; \$14,880,000.00 dollars spent</p>		

## Ethnicity and Gender Breakdown for Metro's Certified Directory

### 27 New MBE Firms - 282 Renewed/Recertified MBE firms

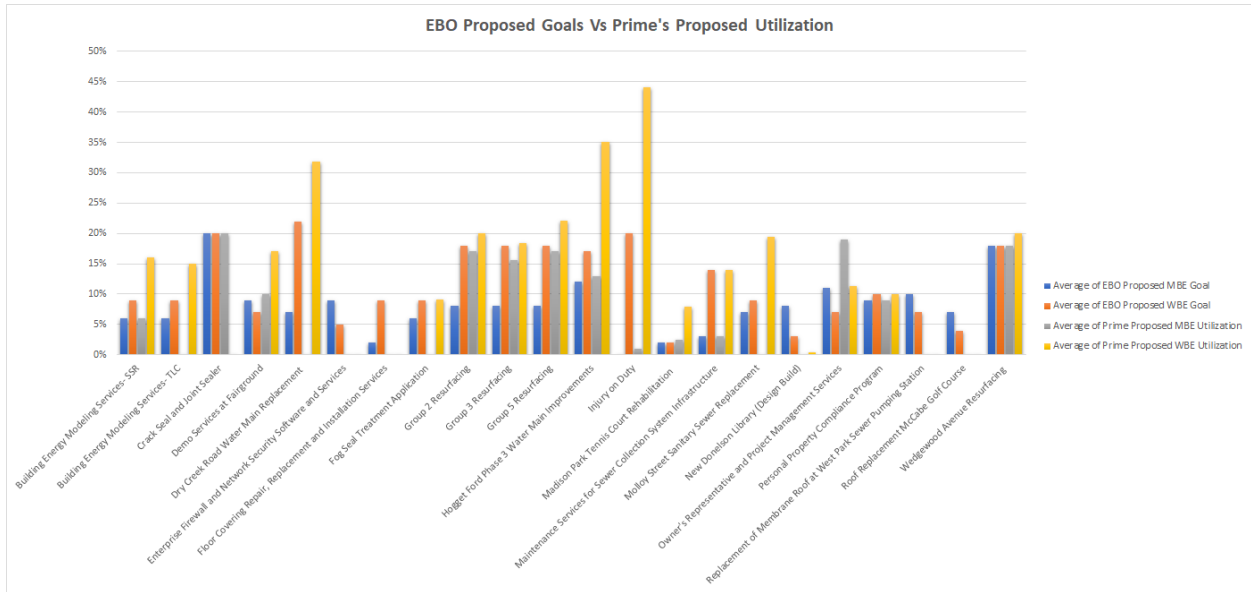
- 15 Asian-Pacific/Asian Female owned
- 39 Asian-Pacific/Asian Male owned (5 new)
- 52 African American/Black Female owned (6 new)
- 144 African American/Black Male owned (12 new)
- 8 Hispanic American/Latina/Latinx Female owned
- 20 Hispanic American/Latino/Latinx Male owned (1 new)
- 1 Native American/American Indian Female owned
- 3 Native American/American Indian Male owned (3 new)

### 19 New WBE Firms - 274 Renewed/Recertified WBE firms

- 4 Asian-Pacific/Asian Female owned
- 5 African American/Black Female owned (1 new)
- 261 Caucasian/White Female owned (18 new)
- 2 Hispanic American/Latina/Latinx Female owned
- 2 Native American/American Indian Female owned

# YEAR ONE HIGHLIGHTS

- **22** contracts were awarded with race and gender subcontractor participation goals.
- **59%** of contracts awarded to vendors that met or exceeded participation goals; 41% of contracts awarded to vendors that met good faith effort requirements.
- The average MBE project goal set by Metro was **8%**; the average MBE proposed participation by awarded vendors was **7%**. This represents a **1%** underutilization relative to the availability.
- The average WBE project goal set by Metro was **12%**; the average WBE proposed participation by awarded vendors was **14%**. This represents a **2%** overutilization relative to the availability.
- The highest MBE proposed participation was **20%**.
- The highest WBE proposed participation was **44%**.



<sup>1</sup> Metro goals are determined by committee based upon availability of firms as determined in the disparity study.

## MBE and WBE Availability, Aspirational Goals, and Achievement by Procurement Sector

Construction	Non-Professional Services
Total Spent: \$117,200,890.03	Total Spent: \$54,426,179.00
MBE: 9% Availability; 13% Aspirational; 13% Achieved	MBE: 6% Availability; 23% Aspirational; 7% Achieved
WBE: 12% Availability; 12% Aspirational; 16% Achieved	WBE: 11% Availability; 16% Aspirational; 17% Achieved
Professional Services	Goods
Total Spent: \$5,000,000.00	Total Spent: \$1,723,998.02
MBE: 6% Availability; 24% Aspirational; 3% Achieved	MBE: 10% Availability; 10% Aspirational; 3% Achieved
WBE: 9% Availability; 16% Aspirational; 16% Achieved	WBE: 7% Availability; 11% Aspirational; 97% Achieved

## MBE and WBE Contract Participation Breakdown by Procurement Sector and Utilization

	Sum of Contract Value	Count of Needed Good Faith Efforts?	Sum of Prime Proposed MBE Utilization \$	Sum of Prime Proposed WBE Utilization \$
<b>Construction</b>	\$ 118,924,888.05	7	\$ 15,501,507.99	\$ 19,580,473.98
Crack Seal and Joint Sealer	\$ 525,850.00	1	\$ 105,170.00	\$ -
Demo Services at Fairground	\$ 875,150.00		\$ 87,515.00	\$ 148,775.50
Dry Creek Road Water Main Replacement	\$ 1,410,285.00	1	\$ -	\$ 448,470.63
Floor Covering Repair, Replacement and Installation Services	\$ 20,000,000.00	1	\$ -	\$ -
Fog Seal Treatment Application	\$ 2,000,000.00	1	\$ -	\$ 182,800.00
Group 2 Resurfacing	\$ 30,000,000.00		\$ 5,100,000.00	\$ 6,006,000.00
Group 3 Resurfacing	\$ 30,000,000.00		\$ 4,680,000.00	\$ 5,535,000.00
Group 5 Resurfacing	\$ 30,000,000.00		\$ 5,100,000.00	\$ 6,606,000.00
Hogget Ford Phase 3 Water Main Improvements	\$ 451,725.00		\$ 58,724.25	\$ 158,419.96
Madison Park Tennis Court Rehabilitation	\$ 243,555.00		\$ 5,845.32	\$ 19,240.85
Molloy Street Sanitary Sewer Replacement	\$ 349,029.00		\$ -	\$ 67,851.24
New Donelson Library (Design Build)	\$ 740,000.00	1	\$ -	\$ 3,404.00
Replacement of Membrane Roof at West Park Sewer Pumping Station	\$ 178,207.00	1	\$ -	\$ -
Roof Replacement McCabe Golf Course	\$ 128,528.00	1	\$ 192.79	\$ -
Wedgewood Avenue Resurfacing	\$ 2,022,559.05		\$ 364,060.63	\$ 404,511.81
<b>Non-Professional Service</b>	\$ 54,426,179.00	1	\$ 3,634,600.00	\$ 9,486,890.00
Enterprise Firewall and Network Security Software and Services	\$ 6,500,000.00	1	\$ -	\$ -
Injury on Duty	\$ 10,986,179.00		\$ 10,000.00	\$ 4,797,890.00
Maintenance Services for Sewer Collection System Infrastructure	\$ 20,000,000.00		\$ 600,000.00	\$ 2,800,000.00
Owner's Representative and Project Management Services	\$ 15,000,000.00		\$ 2,850,000.00	\$ 1,695,000.00
Personal Property Compliance Program	\$ 1,940,000.00		\$ 174,600.00	\$ 194,000.00
<b>Professional Service</b>	\$ 5,000,000.00	1	\$ 150,000.00	\$ 775,000.00
Building Energy Modeling Services- SSR	\$ 2,500,000.00		\$ 150,000.00	\$ 400,000.00
Building Energy Modeling Services- TLC	\$ 2,500,000.00	1	\$ -	\$ 375,000.00
<b>Grand Total</b>	\$ 178,351,067.05	9	\$ 19,286,107.99	\$ 29,842,363.98

## Contract Participation Breakdown by Ethnicity and Gender with UNSPSCs

	MBE (UNSPSC)	WBE (UNSPSC)	Prime
<b>Construction</b>			
Crack Seal and Joint Sealer	Black Male (72101500)		White Female
Demo Services at Fairground	Black Male (78101801)	White Female x3 (78101801 x2 & 70170001)	White Female
Dry Creek Road Water Main Replacement		White Female (72101700 & 72141103)	
Floor Covering Repair, Replacement and Installation Services			
Fog Seal Treatment Application		White Female (80111613)	White Female
Group 2 Resurfacing	Native American Male (22100000)	White Female x4 (78140000, 72131701, 30120000 & 301216, 72141106, 70130000 & 46161500)	
Group 3 Resurfacing	Native American Male (22100000)	White Female x3 (72141106, 72131701, 46161500)	
Group 5 Resurfacing	Native American Male (25101611)	White Female (72131701 & 72100000)	
Hogget Ford Phase 3 Water Main Improvements	Hispanic Male (11111502)	White Female (70130000)	
Madison Park Tennis Court Rehabilitation	Black Male (72101703)	White Female (72103301)	
Molloy Street Sanitary Sewer Replacement		White Female (81100000)	
New Donelson Library (Design Build)			
Replacement of Membrane Roof at West Park Sewer Pumping Station			
Roof Replacement McCabe Golf Course	Hispanic Male (76120000)		Native American Female
Wedgewood Avenue Resurfacing	Black Male (72131701)	White Female x2 (72131701 & 46161500)	
<b>Non-Professional Service</b>			
Enterprise Firewall and Network Security Software and Services			
Injury on Duty		White Female (85101705)	
Maintenance Services for Sewer Collection System Infrastructure	Hispanic Male (83101500)	White Female x2 (46161500 & 83101500)	White Female
Owner's Representative and Project Management Services	Black Male x2 (72100000 & 80130000) and Black Female	White Female x2 (81101514 & 81101600)	
Personal Property Compliance Program	Black Male (84110000)	White Female x2 (84110000 x2)	
<b>Professional Service</b>			
Building Energy Modeling Services- SSR	Black Male (83100000)	White Female (81100000)	
Building Energy Modeling Services- TLC		White Female x2 (81100000 & 81101508)	

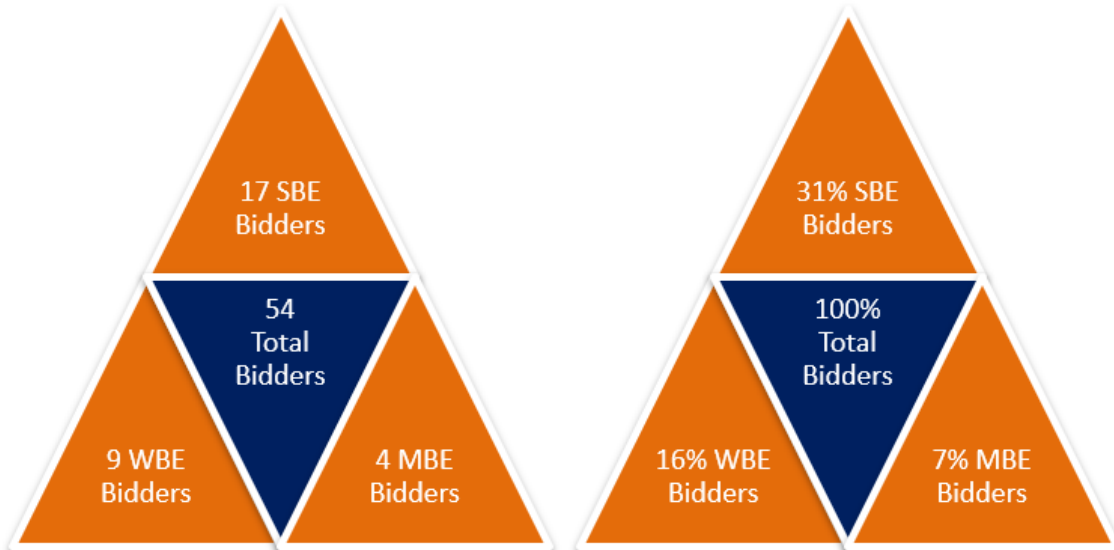


# MBE AND WBE PAYMENTS

Many contracts awarded under the EBO Program did not progress far enough along in the fiscal year to trigger payments to primes, let alone subcontractors. Contract awarding and execution processes can take the better part of a year to complete from start-to-finish. We anticipate that FY21 will provide a fuller picture of payments to subs, as well as capture a full year of payments applicable to the program.

One of the awarded twenty-two contracts did have payments to a subcontractor, Demo Services at Fairgrounds. A certified WBE, white female business received **\$54,225** for services related to the **UNSPSC 72153507 Construction Site Haul Away Service**.

## Number of MBE and WBE Prime Contract Bidders on EBO Awarded Projects



## Number of MBE and WBE Prime Contract Bidders on All Awarded Projects



## CONTRACT COMPLIANCE

BAO has a team of Contract Compliance Officers. Prior to Purchasing issuing a notice of award, a Contract Compliance Officer evaluates all bids for compliance with the EBO Program. This includes the review of Statement of MWBE Utilization, Statement of Interested Subcontractors/Vendors, and Statement of Bid Proposals/Price Quotations. If one, or both MWBE goals have not been met, Good Faith Effort Summary Sheets and supporting documents are evaluated. After an award is issued, BAO closely monitors all contracts with EBO goals to ensure that proposed participation goals are met, and subcontractors are paid within the appropriate timeframe. If there are disputes about performance, payments, or other related items, BAO also act as a mediator between the involved parties.

From the twenty-two awarded contracts, there were six (6) bidders that were deemed non-responsive for failing to comply with the EBO Program. Most failed to submit Good Faith Effort Summary Sheets when they did not achieve the established MBE and/or WBE project goals. This occurred on the following projects: Building Energy Modeling Services, Hoggett Ford Phase 3 Water Main Improvements, Demo Services at Fairground (2), and Dry Creek Road Water Main Replacements (2).

## PROCUREMENT ACCOUNTABILITY

Per the request of Metro Procurement, a Procurement Accountability Officer (PAO) position was created in parallel to the creation and launch of the EBO Program. The PAO reports to an outside division, the Office of Financial Accountability (OFA), and is considered an impartial party when it comes to ensuring compliance with program regulations as identified by Metro Code. Throughout the fiscal year, the PAO conducts audits and monitors actions within the program as it relates to the equitable treatment of small, minority, woman, and service-disabled veteran owned businesses.

During FY20, the Procurement Accountability Officer completed the following reviews and reports:

- **7** Completed Procurement Delegated Purchasing Authority Compliance Reviews
- **2** Completed Procurement Certificate of Insurance Verification Reviews
- **4** Completed Prompt Pay Quarterly Procurement Standards Reports
- **240** (4 per Department) Prompt Pay Quarterly Department Follow-Up Requests

# BAO REGISTRATION AND OUTREACH

BAO continues to cultivate and expand relationships with the growing diverse business community, professional organizations, and trade groups. Our outreach efforts help to elevate, empower, and enable local diverse businesses by supporting capacity building; training on certifications; providing technical assistance; and advocating for the adoption of practical business administration skills.

These efforts include:

1. Hosting, attending, and participating in more than **30** outreach events, including business networking and procurement fairs, trade shows, and business matchmaking.
2. Four (**4**) "Doing Business with Metro" workshops conducted by the BAO staff and featuring contracting opportunities with City departments.
3. Registering **107** new diverse businesses in the BAO Directory, reaching a total of **3,715** diverse businesses registered.
4. **16** Small Businesses being approved for the Small Business Reserve Program, which launched in the middle of FY20.

BAO targets its outreach to address the long-term economic health and well-being of Nashville and Davidson County's diverse businesses and develop a vendor pool that is diverse, highly competent, capable, and financially stable. BAO is building the capacity of vendors and suppliers to not only meet Metro's procurement needs, but also the needs of the broader marketplace.

BAO works with stakeholders to encourage the maximization of MBE, WBE, & SBE/SDV utilization in all sectors and categories of Metro's vendor supply chain. The office envisions these diverse firms moving from sub to prime contracting opportunities, from smaller value contracts with single departments to larger, multi-year engagements.

BAO uses the following tactical measures to increase availability of diverse firms in the BAO Directory:

1. Hosting targeted outreach events for specific contract needs.
2. Meeting with firms one-on-one to encourage participation.
3. Working with community and business partners to leverage their membership lists.
4. Attending industry-specific outreach events to identify viable diverse firms.
5. Using digital and social media platforms to notify firms of outreach events

## INTERNAL EFFORTS



**-----75-----**  
**Metro personnel trained**  
to learn how MBE and WBE goals are established, and how they can help to ensure expediency in the procurement process.

The Procurement Data Officer (PDO) diligently works with many Metro Department Project Managers to ensure that projects are broken down into a variety of work items. This helps provide a truer reflection of the availability of MBE and WBE firms on any given project. Many Project Managers and Department Heads have not only embraced the EBO Program, but many have offered feedback and suggestions to help the BAO team improve processes, documentation, and reporting.

**WE LOOK FORWARD TO FURTHER SUCCESS IN THE FUTURE**

## APPENDIX:

### DEFINITIONS FROM BL2018-1419, CHAPTER 4.46. EQUAL BUSINESS OPPORTUNITY PROGRAM

**African American:** Means persons having origins in any black racial group of Africa. It includes people who indicate their race as "Black, African American, or Negro," or provide written entries such as African American, Afro American, Kenyan, Nigerian, or Haitian.

**Annual Aspirational Goal:** Means a non-mandatory annual aspirational percentage goal for overall MWBE Prime and Subcontractor participation in Metropolitan Government contracts for Construction, Professional Services, Goods and other Services contracts. This goal is established every five (5) years by a duly-authorized disparity study and based upon and derived from the Prime and Subcontractor availability statistics provided therein, and is measured every year to ascertain program effectiveness.

**Asian:** Means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

**Availability:** Means being "qualified" to perform work for the Metropolitan Government. This means that the Bidder does business within an industry group from which the Metropolitan Government and its agencies make certain purchases; the firm's owner has taken steps to do business with the Metropolitan Government and qualified itself to do such business by registering or certifying; and the firm is located within a relevant geographical area such that it can do business with the Metropolitan Government.

**Bid:** Means a quotation, proposal, sealed bid or offer to perform or provide labor, materials, supplies or services to the Metropolitan Government for a price.

**Bidder:** Means any individual, sole proprietorship, partnership, joint venture, or corporation that submits a Bid to the Metropolitan Government.

**Certification:** Means the qualifying process that assures buyers and local, state, and federal agencies that a particular business is an MWBE that performs a commercially useful function. Certification or Recertification shall mean official recognition and approval by the acceptable certifying agency and/or Metropolitan Government that a business meets the qualification criteria of an MWBE, as set forth in this EBO Program. Certification or Recertification relates to qualifications regarding ownership and control, not the quality of the service or product.

**Compliance:** Means the condition existing when a Participant has met the requirements of this EBO Program.

**Goal, or Contract-by-Contract, or Project-by-Project Goal:** Means race or gender-conscious corrective measures administered on a contract-by-contract or project-by-project basis which measure sets a percentage-based minimum participation level for MWBE subcontractors based on the available subcontracting opportunities for that project and the available firms and may be set as MBEs and WBEs or any ethnic subset of MBEs.

**Goal Setting Committee (“GSC”):** Means a committee comprised of the head of the BAO, the Purchasing Agent, and the head of the originating Department, which Committee is, tasked with setting contract/project goals for the EBO Program. All goals for the EBO Program are subject to the approval of the Purchasing Agent prior to its implementation.

**Good Faith Efforts:** Means the voluntary actions of a Participant undertaken in good faith to ensure that it does not discriminate in its contracting practices and to explain any failure to meet either an Annual Aspirational Goal or a contract/project Goal set in accordance with this legislation.

**Hispanic American:** Means people who identify with the terms "Hispanic" or "Latino" and who classify themselves in a specific Hispanic or Latino category such as "Mexican," "Puerto Rican," "Cuban," or "other Spanish, Hispanic, or Latino."

**Minority Business Enterprise (“MBE”):** Refers to a business enterprise maintaining a significant business presence in the Program Area and performing a commercially useful function that is owned by one or more of the following: (1) African Americans, (2) Native Americans, (3) Hispanic Americans, and (4) Asian Americans.

**Minority or Women Owned Business Enterprise (“MWBE”):** Refers to a business enterprise maintaining a significant business presence in the Program Area and performing a commercially useful function that is owned by one or more of the following: (1) African Americans, (2) Native Americans, (3) Hispanic Americans, (4) Asian Americans and (5) Women. Racial and gender categories are separated for monitoring and tracking purposes only.

**Metropolitan Government:** Means the Metropolitan Government of Nashville and Davidson County, including any of its operating elements, officers, and/or employees acting with authority, but excluding the Metropolitan Development and Housing Authority, Nashville Electric Service, Metropolitan Transit Authority, the Metropolitan Nashville Public Schools, the Metropolitan Hospital Authority, the Metropolitan Sports Authority and the Metropolitan Nashville Airport Authority.

**Metropolitan Nashville Disparity Studies:** Means the Disparity Studies prepared by Griffin & Strong, P.C., and submitted to the Metropolitan Government in December 2004, and in August 2018.

**MWBE Owned:** Means that African American, Native American, Hispanic American, Asian American or woman owner(s) who are citizens or permanent residents of the United States individually or collectively possess an ownership interest of at least fifty-one percent (51%) of the business.

**Native American:** Means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

**Non-Compliance:** Means the condition existing when a Participant has failed to meet the requirements of this EBO Program.

**Participant:** Means an individual or entity that enters into a contract with the Metropolitan Government to provide goods or services within the scope of the EBO Program, or a subcontractor or supplier to such an individual or entity.

**Program or EBO Program:** Means the Equal Business Opportunity Program.

**Purchasing Agent:** Shall have the meaning given in section 8.108 of the Metropolitan Charter.

**Purchasing Sector:** Means the UNSPSC category for the specific procurement of construction, non-professional services and professional services.

**Race/Gender-Conscious:** Means any governmental or legislative policy or programmatic action that uses race or gender as criteria for participation.

**Race/Gender-Neutral:** Means any governmental or legislative policy or a programmatic action in which race or gender is not among the criteria for participation.

**Supplier:** Means a warehouse or manufacturer of materials, supplies or equipment that contracts directly with a Bidder to provide such materials, supplies or equipment on a project that involves a trade or service. For purposes of measuring the total contract dollars awarded or paid to suppliers on projects, only amounts paid to suppliers of goods customarily and ordinarily used based upon standard industry or trade practices shall be counted.

**Underutilization:** Means the percentage of dollars spent by the Metropolitan Government with MWBE's is less than participation of MWBE's than reasonably expected based on the availability of MWBE's within the Program Area.

**UNSPSC:** Means the United Nations Standard Products and Services Code used to identify the Purchasing Sector.

**Women Business Enterprise (WBE):** Means a business that is an independent and continuing enterprise for profit, performing a commercially useful function, and which is owned and controlled by one or more women and is not otherwise certified as an MBE.