



U.S. Department
of Transportation
**Federal Highway
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

March 11, 2021

In Reply Refer To: HCR-20
DOT# 2021-0109

(b) (6)

Dear Ms. (b) (6):

This letter is in reference to your complaint of discrimination, dated February 25, 2021, which was filed with the Federal Highway Administration (FHWA) Office of Civil Rights. In the complaint, you allege that the California Unified Certification Program and the Los Angeles County Metropolitan Transportation Authority (LA Metro) violate Title VI of the Civil Rights Act of 1964 through a discriminatory procurement process and fraudulent DBE program.

After a thorough review of your complaint, the FHWA has determined that it does not have Title VI jurisdiction. The issues you raised may be within the jurisdiction of a different agency within the U.S. Department of Transportation. Therefore, we have forwarded your complaint to the U.S. Department of Transportation's Office of Civil Rights for appropriate action.

Please be advised that the FHWA's Office of Civil Rights has responsibility to investigate individual complaints of discrimination involving violations, under its jurisdiction, of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act of 1964. These statutes prohibit discrimination based on disability, race, color, nation origin, sex and age under any program or activity receiving Federal financial assistance.

If this office can be of assistance to you in any matter within the FHWA's enforcement responsibility, please contact us at (202) 366-0693, or at the address noted above.

Sincerely,

Nichole McWhorter

Nichole McWhorter
Title VI Program Team Leader
FHWA Office of Civil Rights

cc: Vincent Mammano, Division Administrator, FHWA California Division Office
Paul Schneider, Deputy Division Administrator, FHWA California Division Office
Scott Carson, Civil Rights Specialist, FHWA California Division Office

Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel

Irene Marion, Director, Departmental Office of Civil Rights

Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division,
Departmental Office of Civil Rights

Barbara Dougherty, Deputy Director, Departmental Office of Civil Rights

Irene Rico, Associate Administrator, Departmental Office of Civil Rights



Memorandum

Subject: **ACTION:** (b) (6) v. Los Angeles County
Transportation Authority (LA Metro),
DOT# 2021-0109

Date: March 11, 2021

In Reply Refer To: HCR-20

From: Nichole McWhorter *NM*
Title VI Team Leader
Office of Civil Rights
Federal Highway Administration

To: Mr. Oscar Ruiz
US Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Ave.
Washington, DC 20590

The attached complaint is being forwarded to your office for appropriate action. The complaint was received by the Federal Highway Administration (FHWA) Office of Civil Rights on March 1, 2021.

The complainant, (b) (6), alleges that the California Unified Certification Program and the Los Angeles County Metropolitan Transportation Authority (LA Metro) violate Title VI of the Civil Rights Act of 1964 through a discriminatory procurement process and fraudulent DBE program.

FHWA is referring the case to the Departmental Office of Civil Rights to determine proper subject matter jurisdiction for this complaint. The complainant has been advised of this referral to your office. If you have any questions regarding this submission, please address them to Erik Lacayo of my staff at 202-913-3926.

From: (b) (6)
To: Title.VI@dot.ca.gov
Cc: [Tellis, Ray \(FTA\)](#); marita.fox@dot.gov; [Lacayo, Erik \(FHWA\)](#); (b) (6)
Subject: A CUCP, LA Metro, Caltrans, BART, AC Transit Title VI complaint
Date: Monday, March 1, 2021 10:35:38 PM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.png](#)
[C2PM USDOT Title VI.pdf](#)
[FTA Letter 2.pdf](#)
[August 2, 2016 STS Letter copy.pdf](#)
[1. C2PM - Formal Request for Information.pdf](#)

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To the USDOT Office of Civil Rights

Please see the attached Title VI complaint letter that was mailed to your Washington DC including three relevant attachments.

Please confirm the receipt of this email and I look forward hearing back from you.

Regards,

(b) (6)

Please consider the environment before printing this email

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February 25, 2021

United States Department of Transportation
Office of Civil Rights
1200 New Jersey Ave, SE
Washington, DC 20590

Title.VI@dot.ca.gov.

RE: Title VI Complaint against LA Metro, CUCP, Skanska for Continuous Retaliations and Fraud DBE and Corruption, creating uneven playing field

To Whom it may concern

I (b) (6) have been subjects of a wholesale retaliation by California CUCP member agencies despite the clear USDOT demand letter to LA Metro in 2013 to reinstate my company, (b) (6) back into the DBE program after years of discrimination, despair treatment, ignoring federal regulations and retaliations. I am an (b) (6), duly licensed by the State of California as a licensed General Contractor for well over (b) (6) and I am in full control of my company, hands on the projects, hands on working and managing my staff on the jobsite on a full-time basis.

The trail of discrimination, retaliation and violations of my Civil Rights has continued non-stop since the 2007. This is the first filing of a series of Title VI Complaints to be filed with the USDOT related to widespread discrimination, a controlled procurement process and fraud DBE program that created an uneven playing field for legitimate DBE companies and (b) (6) warranting the complaint. The USDOT has the document and history of my file (b) (6). Below is how the CUCP, LA Metro, Caltrans, BART, AC Transit, LAX and the City and County of San Francisco have been violating the USDOT Final Determination and engaged in discriminatory controlled contracting in an uneven playing field.

(b) (6) testified in the California Assembly on the challenges facing SBE/DBE firms with Caltrans. Caltrans gates of hell and retaliation started immediately by taking out my company from two \$25M Caltrans contracts with LAN Engineering and HNTB and delayed the third contract in hoping the prime would drop my company from their team. All based on document we found years (b) (6) for speaking out without even notifying us (b) (6).

Then Caltrans and Janice Salais started targeting my company DBE certification, falsified my site visits report to the opposite and engaged in conduct that ended in decertifying my company (b) (6) without due process.

I went to LA Metro, Linda Wright to regain my certification and she lined up with Caltrans and continued to keep my company out of the program based on false and manufactured information while creating and manufacturing their own supportive documents, ignoring thick folders of email copies documenting my hands-on and daily involvement in everyone my projects and their refusal to provide me with a copy of relevant documents in my own DBE file to defend my case. This was mentioned in the 2013 USDOT letter.

After that I contacted the USDOT Office of Civil Rights that looked into my case and issued the final Determination letter in 2013. I then contacted Metro management and specifically the Deputy CEO and she was very sympathetic with my pain, the rest of her staff at DEOD were still displaced more malice toward me as they are insisting the DBE program and rules are based on whom they want in the program and whom they will exclude well outside the 49CFR Part 26 regulations. CUCP staff working in certification feel they are entitled to approve and disapprove based on racist and discriminatory conduct that created the largest DBE fraud cases in the history of the United States, (b) (6). They even called my daughter as (b) (6) missing the point she is a female and 3 months ago bared (b) (6) from public comments at TBAC publicly going on record stating (b) (6) (b) (6) filled a Title VI with LA Metro and they dismissed it. All we can say is that (b) (6) is deeply involved in uncovering these scams that have defrauded the US Federal Government with the appropriate circles in Washington DC.

The DBE fraud scale is massive and the coverup by CUCP member agencies is on a Statewide Enterprise RICO level. The initial outcome started coming to public with the joint FBI and USAO plitz operations that went public in February 2020. It resulted in the arrest and charging of more than 20 in both San Francisco and Los Angeles including the SFPUC General Manager, the CCSF DPW Director, two City of LA Council Members and several DBE firms and consultants. The story is the same, bribery, pay-to-play, fixing contracts, fixing DBE certification, granting NAICS Code without justifications nothing that we have not seen, except this time it is confirmed beyond speculation by highest levels of Federal law enforcement agencies.

LA Metro CEO, the largest Federal funds recipient in CA is the subject of 5 Federal Investigations and the Los Angeles Grand Jury and Sheriff Department active investigation, criminal search warrants were served last week for the same and worst conducts. Its all about money and whom is allowed to win contracts in an uneven playing field based on political pay-offs, family and friends program and the normal "pay me and play" with Federally funded contracts.

<https://thecurrentreport.com/biden-harris-transition-team-includes-embattled-l-a-metro-ceo-philip-washington-currently-under-multiple-federal-investigations/>

<https://www.foxla.com/news/la-metro-hotline-costing-taxpayers-thousands-per-call-whistleblower-alleges-cronyism>

<https://www.phillipwashington.com>

After the 2013 USDOT letter was received by LA Metro, DEOD and Procurement continued to exclude my company name from the list of DBEs listed in their RFPs and did not change that until being notified several times pushing back and only admitting if they have to. Basically, catch me if you can.

LA Metro continued to exclude me from projects, RFP, IFB email notifications and I had to rely on extensive, time consuming and expensive staff time to track the contracting opportunities. LA Metro staff continued "low intensity" resistance to provide me and my company with a fair access to project information in an even playing field I had to file a complaint asking them to investigate the staff discrimination conduct with my company (I did not know about Title VI at that time) unknown to me the investigation was conducted by same staff responsible for discrimination and retaliations, DEOD staff Irma Licea and another one from Procurement, the same group the complaint was filed against, they did not assign the discrimination investigation to LA Metro IG, Ethics or any other third party inside or outside Metro. Basically, they investigated themselves and found no wrongdoing.

Despite all of that I was barely able to convince larger primes to include my company as part of their teams and had a limited success since most of these primes are told by whom to use from LA Metro preferred and politically connected subs, not a single one with a License or the education needed for A&E. The "category" of whom is to be used on LA Metro contracts is discussed publicly at the Board meetings and on record, this sent a clear message to the prime of whom they need to include. The LA Metro rubber stamp SBE council, TBAC held special meeting in February 2019 and developed a list with Metro DEOD of 40 companies (mostly without a License, body shops and pass-through) to be recommended to the LA Metro Board and be forced on the FTA funded Purple Line Phase III project. (b) (6) attended the meeting and when he questioned the discriminatory nature of the recommendation, Metro deleted all references of the Public meeting from their website. Luckily (b) (6) kept the documents, list of companies and the transcript of the meeting in his record. This meeting and many of the TBAC meeting are held in complete violations of the Brown Act in notifying the public (this is the subject with details on a follow up Title VI complaint).

When LA Metro realized I was able to get on teams despite all their efforts to prevent me, they then started telling the primes not to utilize my company on already signed contracts, replaced me and subjected me to 2 substitutions led by LA Metro without a due process, including refusal to provide relevant and related document needed to prove my case, despite several Requests for Public Information as they have done with my DBE decertification process when I requested relevant information from my own DBE file. Metro ignores PRA requests on regular basis and LA Metro letter quote a GC justifying reason as in the best interest of public interest. The only other option is to take them to court which is expensive and most smaller firms have no choice but to walk away. This was led by the CEO Special Program Management Team from Denver and Elke Campbell the former CUCP Deputy Chair currently working for Metro.

This complaint is referring to LA Metro as a structured agency including the primary offenders and what is called V/CM which consist of two departments; DEOD responsible for certifications,

goal setting and compliance, while procurement is in charge of contracts. Both report to Debra Avila which she reports to the CEO.

The partial list of discrimination and retaliations below is also supported by an explicit email from LA Metro lawyer Richard Chastang that was involved in my decertification, refused to provide me with relevant documents related to my DBE file stating the following in an email, *“it is unfortunate for your client going down this road, because at the end of the day I don’t see them obtaining more Metro business by going down this path”*.

1. Contract with HDR on LINK US: had an excellent relationship with HDR on a \$85M contract, part of their Mentor Protégée and worked with them well in the beginning until they were told not to use (b) (6), small work worth less than \$20k that was planned in December 2020 got shut down and absolutely no action on the signed and binding Mentor Protégée commitment that reports back to LA Metro. While I and another duly licensed DBE firm was denied the opportunity on this contract, HDR consistent with Metro fronts and pass-through policies opted to reach the DBE goals by using a body shop staffing company sharing HDR office and relaying heavily on HDR as their only clients to provide the technical Engineering service for this contract without the State required License resulting in displacing legitimate licensed firms like (b) (6) from this contract. This DBE Body Shop conduct violates the 49CFR Part 26 for a DBE to depend on one client for their business. This is not the only such case at LA Metro, plenty of those.
2. Contract with Cumming on that had 50% set DBE/SBE goals, they fired the only staff I had from the contract and never provide any additional opportunities to be utilized despite several meetings with Cummings. When Cummings recompeted on the same contract, they did not include my company on the new team.
3. Contract with Gannett Fleming on the MOW: A company that I developed relationship with and was able to prove to them that my qualifications and experience is critical to the MOW scope of services. I was part of the original A&E contract and once Metro realized my involvement, they immediately started sending in other SBE/DBE firms to meet the MOW staff and add them to the team to displace me from my work. Unknown to them since I was embedded within the MOW office, which is a remote office from LA Metro headquarters, I had to meet and interview one of these firms ARC Engineering sent by DEOD specifically to be added to the team after award. ARC Engineering did not have any relevant MOW experience and was far more expensive than (b) (6) but that was irrelevant to DEOD. One the other hand when I request to be added to an existing hem, I was denied every request. This original team at the time of award had only 9 DBE/SBE subs each for specific scope and only due to DEOD/Procurement interference the team ended including a total 21 companies on the third contract modification, some known front colluding for larger firms, double dipping as large company employees and working as a DBE/SBE at the same time, for the single purpose of displacing me from my work on the contract. Please note, I was personally on the jobsite with and directing my staff every day on a full-time basis on the job site reporting daily to LA Metro technical

staff so DEOD cannot claim that I am not in control of my DBE company as they have been claiming as a justification.

4. AECOM on the Purple Line CM contract: AECOM approached one of my (b) (6) and asked him to sign a contingency offer letter to be an AECOM key staff on their proposal as their employee. (b) (6) called me and informed me, so I picked up the phone and called AECOM requesting a meeting. I met with their senior staff and asked them to consider (b) (6) as a duly licensed and DBE certified for with 4 similar Tunnel projects experience to this project on their team and I can make sure (b) (6) is committed to the team as a (b) (6) staff. They refused, had their fake outreach event and included other DBEs connected to Metro Management without the education and State Licensing requirements for CM. (A detailed separate compliant on Metro despair treatment of DBE without the required license and fake NAICS codes that is used extensively in violation of the 49CFR Part 26 creating an uneven playing field).
5. A call we had with RT Engineering, a Licensed DBE firm on potential teaming on a Metro CM opportunity. The owner stated, she was advised not to team with (b) (6) by the LA Metro DBE staff that conducted RT site visit for her certification. RT submitted their proposal without including (b) (6). This has been consistence with what we hear that Metro DEOD and V/CM staff have made similar derogatory statements to discourage (b) (6) participation.
6. ARUP Contract: I received a cold call from ARUP asking me to join their team for an LA Metro proposal. I immediately worked diligently providing resumes, project information and completed the form needed for the submittal. All went smoothly until few days before the due date. ARUP informed me that they have removed me from their proposal due to "internal and external reasons". The proposal was already printed and ready for delivery, and Metro issued a time extension so ARUP can remove my company from the already printed proposal and to submit a new one without (b) (6). We know for a fact the external reasons mentioned are the lobbyist that worked behind closed doors during the Blackout relaying communication between LA Metro and ARUP. You can't win a contract with Metro unless you hire a lobbyist to circumvent the Blackout rules and relay LA Metro's management wishes to whom they want on the teams. This is a FACT.
7. Parsons contract on Purple Line Phase I: this was one of largest contract (b) (6) was involved in, a 7-year FTA funded project. When the LA Metro Board approved the contract, (b) (6) was listed for a specific portion of about \$1.59M for the duration.

515.) 14-0044 11/5/2014 Toilet Paper - Line Items 2 - 4 P & R Paper Supply Company \$185,704 FTA - DBE 0% DBE: 0.00%

(b) (6)

517.) 3000002182 10/27/2014 Banner and Printing Services - Purple Line CR&A Custom \$40,000 FTA - DBE 0% DBE: 0.00% CR&A Custom \$40,000 DBE Hispanic American

Last month I found a Metro DBE tracker documentation showing DEOD reduced my \$1.59M allocation and capped it at \$570k only as an executed contract from day one despite the Board report award allocations shown above. So, Parsons is now not obligated to give me the original amount per the approved Board report.



Design Subcontractors

Contract Status	Firm Name	Scope of Work	Tier to STS	Contract Value	RC-DBE Paid-to-Date	Gender	Ethnicity
Executed	Parsons Transportation Group	Lead Design	1	54,676,039	0	N/A	N/A
Executed	BA Inc.	Utility Engineering	2	2,372,024	1,176,897	Male	African American
(b) (6)							
Executed	D'Leon Consulting	Structural Design &	2	147,840	117,192	Male	Hispanic

Other DEOD documents show another known fraud DBE firm owned by a former Metro CPA turned contractor without a State license have been given additional role including contracting without a State license on the same contract. He is a former Metro CPA turned contractor/CM. I also had serious issues with getting paid and later we found a copy of a DEOD letter issued to Parsons informing them that (b) (6) was complaining about late payments. This malice was designed to damage (b) (6) relationship with the prime while making sure (b) (6) does not get paid on time despite the Prompt Payment Act in which LA Metro DBE lawyer Richard Chastang went public and, on the record, stating DBE firms need to hire a public lawyer (like public defender) to file a lawsuit against the prime if they are not paid by the Prompt Payment Act in a DEOD event late last year.

- STV JV on the ESOC CM contract: I worked with STV 3 years in advance to develop a JV to go after this CM opportunity. Met with STV numerous times, signed a JV agreement/MOU, developed the team organizational chart. Had joint meeting between (b) (6), STV and Metro technical staff well before the RFP is issued. One attempt was to schedule a Brown Bag informational meeting to show case STV and (b) (6) previous joint work on the ARTIC project, (identical project to the upcoming LA Metro ESOC). Although Brown Bag meeting is a standard industry practice and all large firms conduct it prior to the RFP being issued, Ivan Page of Metro V/CM started a campaign within LA Metro emailing all key technical staff not to attend the planned meeting throwing all kind of unfounded reasons including claiming the team is conflicted. The emails went all the way up to the top Engineering and Construction management staff at LA Metro, they were told not to show up and only planners and junior staff were allowed to attend. Once the RFP was issued, STV informed me that they have decided to JV with another firm that is based in the east coast but connected to the "CEO" circle of influence, again this was a direct communication between Metro and STV lobbyist. We

also found out STV conducted their own and second Brown Bag meeting with Metro staff without (b) (6).

9. LA Metro DEOD started taking more direct role in depriving me from all proposal that I have submitted. In one case, I submitted a proposal for CM services on the Rail SBE set-aside RFP. Put the team and had 5 examples of Rail Specific projects listed explicitly as rail project because they are Rail projects in my proposal. Mr. Ivan Page never short listed my proposal and when I asked why, V/CM stated that they believe my experience is on highways and not Rail. (b) (6) proposal did not included a single reference to Highway project and only contained Rail project experience. The contract was awarded to a political science major with a history of insider influence and connected to the current CEO criminal investigation. We know for a fact LA Metro Board member Sheila Kuehl ordered the award for Destination Enterprise for the exact and identical same reasons brought to public knowledge by this investigating reporter: <https://www.foxla.com/news/la-metro-hotline-costing-taxpayers-thousands-per-call-whistleblower-alleges-cronyism>. By Metro own regulations, this contract had a max limit of \$3M to be a small business set aside, once the money was spent, Metro added another \$9M to the contract and opted not to open it to public bidding depriving (b) (6) from the opportunity to bid again.
10. (b) (6) found documents showing this company Destination Enterprise was using LA Metro senior CM Staff resumes as her own staff. Those staff were highly likely sitting and influencing CM consulting selections including Destination Enterprise own contracts. (b) (6) also found LA Metro showing V/CM approved the selection of KDG/ Destination Enterprise team with Key staff listed in the proposal without remotely meeting the RFP min qualification requirements. KDG is owned by the LAX former CEO, a lawyer without the education or meeting the State Licensing requirements but connected politically and this was her turn from the CEO give away.
11. Another proposal I submitted, the V/CM contract manager, Mr. Ken Takahasi engaged in unappropriated conduct during the selection process. LA Metro did start an investigation and only when they were pressed with undisputed facts and had to terminate his employment, but I was not given the contract.
12. Another Proposal I submitted as a prime with HDR (a large international A&E firm), the incumbent on the previous contract and this time LA Metro qualified 20 firms on the On-call list. V/CM also did not short list (b) (6), while other firms without the required State License were deemed qualified, awarded the same contract and are doing the majority of the work.
13. (b) (6) submitted on the DBE consulting RFP, was disqualified on purpose so they can keep the same pool of DBE consultants that are used to justify the wholesale DBE corruption and Fraud at LA Metro.
14. (b) (6) also submitted a bid on very small business set aside rail project based on Invitation that was no more than 2 paragraphs long and was the only bidder since the bid schedule was limited to only 5 days and was also disqualified. Metro turned around

and issued full blown set for plans and specifications for 4 companies outside CA and gave them a month-long schedule to bid the same project. None of these firms fit the SBE criteria. This is what LA Metro does with Small Business Set-aside bids under \$5M, they make sure no SBE is given all the information needed to bid accordingly and then V/CM can justify rebidding for the chosen ones.

15. I or (b) (6) have not been able to even make the short list on all the proposal and bids submitted since 2013.
16. Now Metro moved to deprive me from signed contracts. One such contract was Traffic Control with Skanska on the FTA funded RCC contract. Skanska has a proven history of using fraud DBE firms and were fined by the Federal Government \$19M for one case in NY. Fraud, fronts, pass-throughs and unlicensed DBE are cheaper to hire and increase the primes profits while depriving legitimate and Licensed DBEs firms from the opportunities. Skanska emailed us one single email of their intention to engage in one traffic control without ever providing any other details on timing and location, one time only and never followed up on it. Next thing we know, Skanska asked Metro Elke Campbell for substitution and Metro granted the substitution.
17. My last and biggest contract was with Skanska for inspection on the FTA funded Purple Line worth \$7M signed in 2016 on a currently active contract. Skanska and (b) (6)) received, pre-qualified at least 8 inspectors, three of them went to the safety orientation class prior to being allowed in the field (standard process). They did not hire any of them. Then I started getting crumbs as opportunities. Mind you this is a \$2B construction project with one single inspection contract. In one case provided a single excellent inspector, Skanska and (b) (6) asked him to falsify the Inspection report, he refused and was fired for doing his professional job.

In another case, I received a request for another inspector on the Friday prior to Labor Day to report on Labor Day, I sent in the inspector on Labor Day as requested and Skanska and (b) (6) refused to accept him on the project site without giving any reason, no follow up ever on the request, I had to pay him and sent him home per the labor union rules.

In another case, a (b) (6) inspector was forced to work well over 12 hours day shift constantly, Skanska was taking advantage of the bill rates delta between regular Shift and OT shift to their financial advantage with detrimental financial effects on my company. Skanska found a way to make the subs lose money on time and material contracts by exploiting the contract in their favor and controlling my staff without allowing me to exercise my DBE control over my staff. I basically was subsidizing Skanska profit on the project. While I communicated several times with (b) (6) and Skanska over this and the fact, they are creating a serious fatigue and personal safety issues for my staff and they refused any control I had on my staff and insisted they only had the right to control staff in the field (a violation of the controlling clause of 49CFR Part 26). This was communicated with DEOC and DEOD did nothing and allowed (b) (6) and Skanska full control over any staff.

The crumbs of work totaled \$80k in 4 years on a \$7M contract and was clearly not sufficient to fulfill a \$7M contract obligations to (b) (6), so I contacted Metro and Informed them. They started playing the game for over 2 years of what is called development a recovery schedule. No recovery schedule was ever implemented until (b) (6) was served with a Termination and Substitution letter by DEOD. During this process we discovered that LA Metro had already approved the Substitution to the inspection team and approved at least two other DBEs without informing (b) (6) effectively debarring (b) (6) without a proper hearing. We told DEOD that Skanska-(b) (6) has debarred (b) (6) from the contract, DEOD went full speed and planned the substitution hearing which was merely a window dressing to finalize the situation that neither (b) (6) and Skanska had intended to use a duly licensed DBE firm for the specific work assigned by contract. I have asked Elke Campbell and Metro in at least three PRAs for the relevant contract utilization, invoices and DEOD approvals for the actual inclusion of other DBEs on my contract. All of which is relevant to show that the substitution was already in effect, done and completed. The hearing was just to justify the fact. Metro, their Legal and DEOD refused to produce these documents to me before, during or after the hearing. Again, depriving me of my civil rights, due process and an even playing field.

18. The staff involved in these violations are the CEO himself, V/CM Chief Debra Avila, DEOD: Tasha Smith, Elke Campbell, Miguel Cabral, Irma Lucea, Jerome Jacobson, their DBE consultants NJ based Armand a personal friend and reporting directly to the CEO. On the Procurement side: Ivan Page, Bruce Warrenford and other unknown CAs to me that were involved in my bids, signed contracts and proposals.

This filing is the first of many other detailed and upcoming Title VI filings. All the allegations about corruption in the Federal DBE program are no longer allegations, it's a system wide RICO. Every allegation (b) (6) has started verbally and in writing was deemed either as a hoax, conspiracy theory or (b) (6)

After years of denials in writing by LA Metro, Metro IG wrote him the attached letter "Where Warranted". Metro IG would not have taking such a step without the fact they are being investigated for covering these crimes for years.



(b) (6)

February 22, 2021

(b) (6)

Dear (b) (6)

The Office of Inspector General (OIG) would like to thank you for taking the time to contact us and report your concerns. We have reviewed and evaluated the seventeen emails you submitted either directly, or indirectly, to our office. We have also reviewed, and evaluated, your responses to our follow-up requests for information to support your claims.

The OIG has concluded our inquiry into the matters you have heretofore brought to the attention of our office. **Where warranted**, we have referred the matters for appropriate follow-up and/or remedial action within the Agency. With respect to your public records information request, we previously provided you with a link to the Metro portal that handles such requests.

Respectively,

Office of Inspector General

Summary: The primary issues are as follows:

CUCP created an army of fraud DBE firms without the State required License per the Professional Engineers Act, AB-605, GC4525. These firms are fronts and pass-through. Engineering, Survey and Construction Management is treated as a commodity by these brokers depriving legitimate DBE and Licensed firms from any working opportunity.

LA Metro used price as a determining factor on federally funded Construction Management contract for the I-5 project in violation of the Brooks Act. Price is used to manipulate the selection process and have resulted in selecting less qualified firms over more qualified as seen by what Metro released from the score data.

NAICS Codes are given out with no relevance or base for the fraud DBE firm. A broker without a contractor license is granted 239770 which is for heavy construction.

LA Metro constantly add the exact same unlicensed, front and pass-through firms on projects, they gain what Metro deems Metro experience while denying the same opportunity of adding (b) (6) and other Licensed firms creating a despair environment when the unlicensed is considered more qualified than the licensed firm.

We have been living this nightmare since 2007 and it is not stopping, in a matter of fact it is getting worse, LA Metro is taking the lead but BART, AC Transit, CCSF, and Caltrans have the exact same discrimination. I am attaching a previous letter sent regarding BART, not a single item has been corrected and (b) (6) is still being discriminated against by BART in contracting. My only active contract is with Caltrans and the former District 7 corrupt and fired contract manager Jay Shah is now a consultant calling, intimidating and gaining work by stealing other smaller firms like (b) (6) staff. The only way he would have the consultant staff cellphones is through his contacts at Caltrans. Jay Shah and another character named Michael Tahan of TCM, then Hill and then PPM is a public official with no engineering or construction education and no license, they keep winning Caltrans contracts in District 7 and 8 by paying off Caltrans ACMs. They both call smaller firms' staff like (b) (6) and 3 others and inform their staff it would be better for them to join Shah and Tahan otherwise they will never work on a Caltrans project. Jay Shah called my staff on this contract and did the same thing. LAX contract manager gave my 8 staff cell phone number to two larger contractors to hire them from (b) (6) on the same contract and I lost all except for 2 overnight. Same with AC Transit. Same with the SFPUC

The United States Government, The USDOT and its departments FHWA, FAA and others have the fiduciary responsibility obligations to protect DBEs like me and ensure a level playing field. LA Metro, Caltrans, BART, VTA and other recipient of federal funds treat these projects and funds as their own personal property and have created an uneven playing field.

I am requesting a Federal protection and an even leveling field from the Agencies you're funding and return my contracts taken away from me.

(b) (6)

Attachment: previous BART/FTA Letter

Via Email: Edward.Carranza@DOT.GOV
Hard Copy with Attachments will be hand-delivered

July 27, 2018

Mr. Edward Carranza Jr., PE
FTA Region IX Acting Regional Administrator
90 7th St., Suite 15-300
San Francisco, CA 94103

Subject: BART/CUCP Member Agencies Violations of Federal Law and Regulations Related to Federally Funded Projects/Epidemic Fraud in CUCP DBE Program, Retaliations and Civil Rights Violations

Dear Mr. Carranza, PE:

Please accept this formal filing for the FTA and the USDOT to investigate a series of BART and California Unified Certification Program (CUCP) member agencies actions in violation of the Federal Regulations and the 49CFR Part 26 related to DBE fraud certifications, retaliations, discrimination by BART and the CUCP member agencies. The allegations include the following

- 1- BART failure to investigate the DBE fraud allegations as a third-party filing with BART since 2012
- 2- BART engaging in retaliations for bringing specific DBE fraud to their attention since 2012
- 3- BART policy to certify DBE firms without an appropriate State of California License as required by law and mandated by the CUCP own directives
- 4- BART engaging in discrimination based on gender and religion by consultant selection panel staff
- 5- BART engaging in Conflict of Interest on Federally Funded contracts

BACKGROUND:

Since July 2007, I was the victim of the cruelest illegal actions of CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP) members agencies including BART, Caltrans and LAMTA so called Offices of "Civil Rights". I was targeted and decertified illegally as a duly licensed general contractor and engaging as a general contractor in the State of California since 1998 and then State of Washington and been in business since 1998 and was given reasons that were simply manufactured with a typewriter (Exhibit 1) and with no creditable official backup or even a URL/HTTP internet address including ignoring my State of California duly issued contractor license by these agencies as provided in my DBE application to Janice Salais (she spearheaded the illegal decertification and is currently Caltrans Assistant Director).

Janice Salais personally falsified my DBE Site Report (Exhibit 2 “Original copy by Maria Rodriguez Site Visit” and Exhibit 3 “Forged copy by Salais”) without any interview, questions asked or a site visit by Salais. Her actions as part of Caltrans retaliations was for three main reasons:

1. (b) (6) Testimony at the California Assembly Hearing on Caltrans and lack of supporting constructive Small Business Policies
2. Exposing and not participating in the widespread Pay-for-Play and corruption on the SFOBB Bay Bridge and other Federally Funded
3. Exposing the widespread DBE fraud at Caltrans and preferences made for former Caltrans staff to get the vast majority of CI and CM contracts

Lack of management accountability allowed Caltrans contract managers to demand kick back in exchange of getting work including Jay Shah’s District 7 contract manager Pay-for-Play scams and the derailed/covered up investigation while victims/witnesses stated “*if I were to tell you anything bad about Jay Shah, I would be cutting my own throat*” (Exhibit 4) .

I have been very successful working on several contracts with most of Caltrans District including 1, 2, 3, 4, 6, 7, 10, 11 and 59 from 2003 until total retaliatory shutdown on July 2007 as a retaliation by Caltrans. Another consultant, Athalye filed a lawsuit (Exhibit 6) that describes exactly what we experienced as blacklisting, interference with business, leaking our proposal information during the selection process and as Jay Shah has done to Athalye’s contracts when he stopped paying Jay Shah. The Caltrans Contract Managers scams included using front DBE companies including IMS by relatives (Nimesh Desai) controlled by the Caltrans Contract Managers (Jay Shah) and funnel work and invoices toward them. All of these CI contracts are federally funded. When (b) (6) brought this to Caltrans attention, they charged him with Civil Right Violations and Debarment without a hearing claiming he was harassing Caltrans staff of Indian descent (Exhibit 7).

After hiring a former FBI agent that produced Exhibit 4 and Investigator Jim Becker statement that was never provided in the official Caltrans Interview documents (Exhibit 5), I found the origin of the third-party challenge that was filed on my DBE certification and was initiated by a friend of Janice Salais, named Matthew Torres (Exhibit 1 and 8). Torres worked at Colorado DOT at that time. My former FBI consultant found this person to have a history of documented mental conditions. Mr. Torres was used by Janice Salais to initiate the 3rd party complaint against (b) (6) as a form of retaliation.

I was denied dual fair process by the CUCP and member agencies, my family members including my teenage daughters (Females) were race profiled by Janice Salais friend and LAMTA DBE certification Consultant Tina Giles-Potter with absolutely wrong, unfounded and irrelevant information as Filipino/Iranian (Exhibit 9) to justify a race-based decertification. I was humiliated in public with my peers and was targeted for physical threats by Caltrans staff that forced me to close my Oakland office and move to Orange County for the safety of my family (the threats were recorded by Sprint phone company and investigated by the Orange County Sheriff Department and were credible) (Exhibit 10).

On July 1, 2007 all my contracts were stopped, I was not allowed to work on 2 large contracts including the (b) (6) (Exhibit 11) with LAN Engineering, and (b) (6) with HNTB even when I was listed in the proposal as a DBE as Janice Salais, Shahin Pourvahidi, Caltrans D59 Contract Manager and the CUCP member agencies conspired to remove me from these signed contracts and then decertify my company. Caltrans just as BART did forwarded fraud complaints about contract improprieties to the primes, seeking their retaliations by denying (b) (6) work on these federally funded contracts and not allowing me to team on other contracts as a form of retaliation. Caltrans even released a copy of my proposal to Peter Lim at LAN Engineering while it was in procurement by Caltrans as evidence from the leaked LAN email showing they know whom (b) (6) submitted on the proposals while it was still in review (Exhibit 12). Another Caltrans contract manager in District 4 wrote to one of my staff from his personal email directing him Caltrans DPAC list and stating, *“you can see the pattern of consulting firms (Primes) that has repeated business with Caltrans”*.

The series of removing (b) (6) from contracts continued and reached the point when (b) (6) won as the prime CM the \$450M Doyle Drive Phase I, CM contract with San Francisco County Transportation Authority, (Exhibit 13) SFCTA. Once selected, Caltrans pressured SFCTA to eliminate ALL of (b) (6) task orders and staffing plan that was listed in the RFP and the base of qualification selections. All of (b) (6) staff with the exception of one electrical inspector were replaced with former Caltrans staff from one of the (b) (6) subs and the project was staffed by Caltrans from other Caltrans contracts including Peter Lim at LAN. Later we found emails describing Bijan Sartipi, Caltrans District 4 Director admitting taking a “personal interest” in the (b) (6) contract. Another email from SFCTA to Caltrans warning them that Caltrans rendered the (b) (6)/DBE contract as a pass-through and it violated the federal agreements with USDOT. Caltrans did not care and continued while asking other primes to hire (b) (6) key staff listed in the proposal and offer them on the same project through other Caltrans contracts. Other similar contracts listed in (Exhibit 14) shows a partial number of systematic retaliation and denying work on won contracts including a contract that I was listed including SMCTA headed by former Caltrans Susan Chang, JPB, SMCTA, CMA, Transbay and a long list of proposal that were denied by CUCP member agencies while other (b) (6) related to water projects and not funded by federal funds continued undisturbed.

CUCP member agencies and Caltrans were leaking sensitive and privileged 3rd party DBE fraud complaint to the actual firms and the physical threats became bolder and more direct as we experienced on December 31, 2016 at the Aria Casino Resort in Las Vegas. While attending the New Year private Gala Dinner. Peter Lim of PreScience and his son Ben Lim physically charged toward (b) (6) upon seeing him at the reception. The incident was taken very seriously by the Aria security and Las Vegas Police Dept. Hotel CCTV showed the attempted physical attack on (b) (6) and both Lims were escorted out of the Hotel before midnight. (Exhibit 15).

After filing the second appeal with the USDOT and against all odds, the USDOT issued the November 7, 2017 letter to LAMTA demanding to reinstate my DBE certification immediately and the **USDOT determination is administratively final**. (Exhibit 16). This USDOT determination shows how the CUCP violates the

Federal regulations and engaged in civil rights violations of the groups that they are obligated to protect and as mandated by their Federal funding agreements. A sample of what USDOT wrote in the 2013 letter:

- USDOT: CUCP “determination is unsupported by substantial evidence”
- USDOT: “None of the concerns raised is sufficiently supported by actual regulation requirements”
- USDOT: CUCP “misread and misapplies several of the Provisions” (49CFRPart 26)
- USDOT: CUCP “do not even purport to be direct quotations from (b) (6)”
- USDOT: CUCP “contrary to its obligations under 49CFR Part 26.86(a) to make the report available to the firm upon request, declined to provide the report to (b) (6) until counsel for the firm intervened”
- USDOT: CUCP “siting, (b) (6)” irrelevant in a female owner certification.
- USDOT “concerned that Metro and CUCP attempts to enforce a standard that is impossible to meet in a firm of substantial scale”
- USDOT: CUCP “that is a misstatement of the rule”
- USDOT: “CUCP has produced no evidence”. “In contrast, the firm produced substantial evidence that it met the requirements of both provisions”
- USDOT: CUCP “misplaced” facts
- USDOT: “there is little evidence to support CUCP’s determinations”
- USDOT: “CUCP then reaches the conclusion, unsupported by substantial evidence”

This USDOT ruling infuriated CUCP member agencies and management at Caltrans, BART and LAMTA. Finally, there was an independent third-party review of the misuse and the criminal nature of the DBE program in California. In addition, I was facing illegal debarments without hearing and blacklisting that we discovered from former Caltrans staff after they left Caltrans (Exhibit 17). We also discovered other documents of illegal debarment without hearings (Exhibit 7).

Caltrans and the CUCP took another hard accusation on (b) (6) and trying to charge his with a bogus complaint to other State Agencies that lacked foundations by Shahin Pourvahidi Caltrans D59 contract manager for the \$25M LAN Engineering (b) (6) and he leaked the information to LAN. Pourvahidi wrote an anonymous complaint on (b) (6) impersonating a licensed engineer as a result of a typographic error by staff. (b) (6) had to hire an attorney and go to court and successfully proved he had nothing to do with it (Exhibit 18). Please note I had no “Registered Civil Engineer whatsoever in August 2007 and my (b) (6) form will prove my statement, the anonymous complaint of a “concerned employee” lacked fundamental foundation as I had no licensed engineers as the complaint claims. During the trail we found that Caltrans Attorney Jim Ahern in which was defending Caltrans with my lawsuit was feeding the investigation with

(b) (6)

information and files, the investigation also reached all of my clients and some did not want to allow me to work on their executed contracts including City of Irvine, where I had a prime CM contract. Shahin Pourvahidi Caltrans contract manager for the \$25M LAN (b) (6) went further by claiming that (b) (6) communicated with one DES contract manager “in potentially threatening way” while (b) (6) email provided as part of (Exhibit 18) is very straight forward and has no threats whatsoever.

Today, these CUCP agencies funded by the USDOT explicitly blacklisted my company in writing without a formal hearing or dual process. (Exhibit 19 & 20) shows two recent contracts with Port of Oakland CM and LAMTA being terminated and approved substitution with a BART certified DBE without a State License as required by the CUCP called Holins. The Port of Oakland CM substitution was approved without a hearing while LAMTA refused to provide me with the (b) (6) information based their Termination/Substitution decision on. It worth noting that the Port of Oakland was on the CUCP distribution list of the minutes and special meeting where it was decided to stop issuing DBE certifications without a State License.

CUCP member agencies closed their eyes when primes started hiring my staff on the same contract that I was listed with them, so I would not be able to do the work. They substituted my company without cause and for fake reasons as I am now experiencing on multiple federally funded Transit projects in Los Angeles and San Jose including the LAMTA RCC and Westside Phase I, and BART/VTA Berryessa federally funded Transit Extension.

Please keep in mind, the USDOT letter directing LAMTA to reinstate (b) (6) DBE was dated November 7, 2013, while I was still not able to get on FTA federal funded contracts, the most explicit blacklisting came in the following email dated November 26, 2014 (Exhibit 22) from LAMTA Richard Chastang over defending my company DBE and exposing the CUCP fraud DBE within LAMTA. The bluntness of CUCP member agencies covering federal crimes has reached a new level, and the message was clear “shut up or no work”. The email is a very direct illegal threat and a violation of my civil rights against my Company. This was the same experience with BART lawyers coverup of DBE fraud.

The same LAMTA attorney took another aim at C2PM in April 2, 2015 (Exhibit 23) by publicizing my case to defend my company DBE statues against LAMTA DBE consultant Tina Gilles-Potter to the general public through the TBAC public meetings and although my DBE issues had nothing to do with TBAC nor it had anything to do with LAMTA, except for LAMTA assisting Tina Giles-Potter in

her legal defense and LAMTA had the power for directing the primes to cancel and terminate my current contracts with LAMTA. This was another retaliation by a CUCP member agency just as BART did with publicizing my recent protest letter to all 8 primes.

The USDOT letter also shows senior certification staff and consultants don't even understand the 49CFR Part 26. Tina Potter Giles, Janice Salais close friend, and the person that established the CUCP Membership Agreement and now a DBE consultant for LAMTA testified in court Under Oath, “*the 49CFR Part 26 is wrong and I am right in denying (b) (6)*” the certification, she was found guilty in

(b) (6)

the wrongful decertification of (b) (6) by a California court and lost an appeal, yet LAMTA and the CUCP member agencies continues to allow her to work on DBE certifications and provided her legal counsel assistance during the trial paid for with taxpayers money even when she is an independent consultant and not an employee of any of these Agencies.

This court determination (Exhibit 24) represented a major dent in the CUCP DBE process credibility. The court ruling further infuriated CUCP member agencies, BART, LAMTA and management at Caltrans. Their denials of my proposals continued as a blanket denial since 2007 while the little contracts I win as a sub is blanketed with illegal termination and illegal substitution.

As an example, I submitted an SBE Set-Aside Proposal to LAMTA for Rail CM services. I was disqualified as the Project Manager and was told formally by LAMTA procurement that my proposal was deemed more of "Highway Experience than Rail Experience". In my proposal, I only listed Rail projects and rail related experience (Exhibit 25) including the following:

- BART Transbay Tube Seismic retrofit Construction Management
- Port of Los Angeles ICTF Rail Yard Construction Management
- EXPO Phase II LRT D-B Project
- LAMTA Purple Line D-B Project
- Alaskan Way Tunnel Viaduct D-B Project
- Anaheim Regional Transportation Intermodal Center Construction Management (Rail Station)

All projects that include Rail, LRT and Tunnels which is exactly what LAMTA Transit System consist off. But just as in the case of BART, a secret criteria and blacklisting dominated the selection process in violation of the RFP stated Selection criteria, the federal Brooks Act and non-discrimination clauses. The selected firm Destination Enterprise owner is simply a Political Science Major with no California License or related education, and LAMTA gave her NAICS code 237990 after award without a State License as required by the CUCP own rules (Exhibit 26). Last month LAMTA extended her \$3M max limit contract size for SBE Set-aside (by LAMTA own rules) to over \$9M, this will deprive me and other licensed DBE firms from submitting construction management related bids for another 3-4 years.

Just as in BART and the CUCP member agencies, the NAICS code is irrelevant for DBEs. True examples include DBE with Fashion Design NAICS code awarded CM contract. Housewife Yoga Instructor awarded Transit System Design contracts and a CPA with Survey and Geo Instrumentation Installation without NAICS Code or a State License, as long as they don't have the (b) (6) last name.

Even playing Field/Determination of CM Services CUF & NAICS Codes:

In LAMTA own literature provided to DBE firms, LAMTA correctly advertise NAICS code 237990 and 237110 as the appropriate NAICS code for Construction Management (Exhibit 27) both codes require a State of California CSLB Contractor License "A", yet BART and CUCP member agencies ignore the requirements in certification and selection criteria. By selecting an unlicensed

DBE over licensed DBE, CUCP and BART effectively violated both the State and Federal Brooks Act since unlicensed DBE can't be more qualified than licensed DBE in their profession. I can work for 30 years in a law firm but I can never provide legal advice or legal presentation without a BAR license.

BART and CUCP member agencies are committing civil right violations by denying licensed DBEs and allowing unlicensed DBE access to federally funded contracts. BART and CUCP member agencies would not stand a chance in court if they awarded a large contract to an unlicensed contractor when other bidders are licensed. but they are taking advantage of the weaker smaller firms that have no fulltime legal counsel on staff as the larger one do. That is not an even playing field as stipulated by the 49CFR Part 26.

CUCP own DBE applications requires "*evidence of State or other Licensing*" for Construction and Engineering scope of work as listed in the application, in addition to other professional services (Exhibit 27), yet they ignore it and Tina Giles-Potter ignores it as well. All CUCP member agencies including BART have not followed their own uniform DBE application and regulations and allowed firms with the owner that is not licensed in the State to win the majority of CM and Engineering Contracts. In comparison, when I applied to New York State, they asked me for my local New York License (Exhibit 28) which I did not have. The 49CFR Part 26 covers all States, yet its applied discriminatory in California by BART and CUCP member agencies. We can document wide spread discrimination when CUCP member agencies grant the DBE certification to a couple and denies others while both applicates have the same circumstances of ethnical, PNW and licensed background.

Many other DBE decertification was a form of retaliation, it was illegal and CUCP did not follow the 49CFR Part 26 on a grand scale. The DBE program became a "friends and family program" as you will see from the follow up extensive DBE fraud documentations that will be provided in a Federal investigation.

BART has been consistent in not applying the 49CFR Part 26, they refused to provide several requests for public information related to previous executed proposal, DBE Tracker Reports and COI information to show the violations. BART admitted on several occasions they do not track DBE participation on Federally Funded Design-Build contracts and allow any DBE to do CM work in violations of the CUCP own rules and the State of California license requirements (Exhibit 26 & 27). Please note I was denied a NAICS code by New York DOT for not having an Engineering License but have the experience. The 49 CFR Part 26 is being applied selectively by States which created an uneven playing field, while I agree with New York decision (Exhibit 28), I do point to the CUCP selectiveness.

An excellent example illustrating how these Agencies coordinate the cover-up on the licensing requirement is the following attachment CSLB (Exhibit 29). CSLB have no record or any documentation of their communication with CUCP member agencies and Caltrans as reflected in the CUCP minutes and refused to provide the information referenced by CUCP listed (Exhibit 26). Either the CSLB or CUCP committing perjury since the communications and admissions are very clear.

With the exception of BART and BART objections, on April 25, 2017 the CUCP has stated (Exhibit 26), “*effective immediately, the CUCP will stop assigning or granting applicants Construction Management work codesbased on information provided by the Contractor State Licensing Board (CSLB) that California.....*”. While BART is claiming on record that it only effects their SBE program, the reality is BART has a long history of certifying firms with any NAICS code to perform Construction and Program Management. Their refusal to provide the requested public information is their only defense.

As an example of BART DBE and the interchanging of roles and responsibility within the CUCP conduct can be illustrated by the following sample (Exhibit 30):

1. A former BART employee owing a large firm B&C and creating a new DBE firm TSE that was awarded a \$20M +/- Engineering contract within the last two years. BART refused to provide copies of the proposal and other relevant documents. TSE uses B&C employees and controlled by the same owner as you can see from their email in (Exhibit 30).
2. Elle Consultants: A General Counsel/President advertising her DBE company with NAICS code 237990 without a State License and describe her services as with “*a team of senior level estimators from Large reputable Construction Companies which all work for BART*”. She is simply a pass-through without the control of her services and BART allows her and account for her work on the large D-B project funded by FTA.
3. Randy Bruner, Caucasian male President and CEO of Ghirardelli Associates, <https://www.linkedin.com/in/randall-bruner-44a1402/>, a DBE firm with several DBE large contracts with BART, Caltrans and LAMTA. The 49CFR part 26 is very clear as to the 51% owner has to be in control of the company daily operation, hiring and firing and other stipulations. Just because Caltrans approved the ownership changes (FYI, both former Caltrans employees) does not mean the ownership changes allows the 51% owner to not be in control and she has to hire a President and CEO to run her company and sign her contracts with BART, Caltrans and LAMTA while she is effectively retired in her farm by Sacramento. BART refused to provide copies of the company proposal and other relevant documents.
4. Holins Consulting, DBE file number 45371 certified by BART. This is the company that substituted (b) (6) on the recent Port of Oakland Contract referenced earlier. The owner is simply a former SF City Hall staff without a License or engineering/construction related education and was given NAICS code 237990 without the required State license by BART.

Additionally, the company address is 2945 3rd Street in San Francisco, CA. This is the same address as another DBE called Townsend Management (TMI) which is certified by SFMTA, File number 32969. The shear coincident continues as Guy Holins is also a former TMI employee as well as Carl Holmes, the new BART Assistant General Manager for Planning, Development and Construction, the BART staff ultimately responsible to manage these new CM contracts that I was denied and the focus of this appeal with the USDOT/FTA. It gets better when BART grant the company work code C1980 Imported Borrow and C1970 Embankment Construction,

all without a CSLB license or relevance to construction management. It is also worth mentioning that TMI Vice President, Peter McKean and other BART contractor's senior staff and relative of City Hall Public Officials were indicted by the Department of Justice on April 7, 2017 (Exhibit 31) for Fraud and Bribery in connection with State and Federal Construction Contracts. We believe BART staff including Carl Holms conspired to get Holins certified as a DBE without a license, so it can act as a front for TMI while they are facing the federal charges and Holins is included as a DBE sub on these CM contracts without holding the required State License as required by State and CUCP.

5. In 2012, we filed a third-party DBE challenge with BART on Quality Engineering Inc. QEI, a firm owned by 6 individuals, one minority male and 5 females listed in the DBE application. The 5 females have no experience in construction, license or education related to engineering/construction, one of them is a teacher and the other is a tennis instructor, but they are married to the 5 white Caucasian males that operate and control QEI daily operation and control. The 5 white Caucasian males own another shell firm registered in Nevada without the minority male acting as the front for QEI. Another registration we discovered was in Delaware for the same 5 white Caucasian males without minority male acting as the front. The timing of the two-shell corporation's set-up in Nevada (Exhibit 32) and Delaware leads to the conclusion these shells are with the intention to defraud the Federal government DBE program from all of QEI contracts with BART, Transbay, VTA and LAMTA, to name a few. These shells act as a way to distribute the company profits without raising questions about the 5 white Caucasian males owners of QEI. This detailed information was provided to BART since 2012 in accordance with the 49CFR Part 26. In another casual meeting with BART Hayden Lee, he informed (b) (6) that BART's attorneys directed him not discuss any DBE issues with (b) (6). We had a meeting with BART's General Manager, Grace Crunican (Exhibit 33) and few emails were exchanged on this subject. Ms. Lynette Sweet, former BART Director email dated October 1, 2012 confirms the issues with BART Construction Management as *"this issue with our On-call CM's is begin to get repetitive. Too many are coming back with the same issue. If Jacobs (large Consulting Firm) is circumventing BART rules that should be immediately addressed"*. BART did not respond to any of the issues except for a phone call from BART's Wayne Wong on September 11, 2017 informing (b) (6) that BART found a lot of issues with QEI DBE certification but decided to shut down the investigation and close the file with no action taken.
6. BART certified Triunity, a Colorado based company as a DBE without a State of California License, and that allowed to win a record \$109M Program Management contract as a prime DBE with Kal Krishnan (KKCS) without a State of California License while LAMTA allowed the same company to be added to the Division 20 Design project that its managing as the Program Manager with a clear COI. Ironically, KKCS had to depend on another large contractor to obtain the CSLB license as required and once they signed the \$109M DBE Program Management JV contract with LAMTA they defaulted on the required Bond as reported by the CSLB records (Exhibit 34). Ironically, KKCS own CSLB is under Kal Krishnan,

(b) (6)

the father and he had to pull out the company due to exceeding his PNW. Both BART and LAMTA conspired to move KKCS file from BART to LAMTA and kept the certification without the principal owner being a duly licensed in the State of California and KKCS continued to provide engineering design services at BART and other Transit Agencies without any challenges with the new son owner, who is not licensed and has a banking career background only. Again, it's not an issue unless you carry (b) (6) as a last name since LAMTA forced me to drop from an Environmental Training Task Order contract in order to keep another contract that had no similarity with the other stating it's a COI.

BART's Retaliations

BART's July 23, 2018 letters admits "Board Rule 3-5.3" of notifying all proposers including the alleged fraud DBE firms that BART has refused to investigate. BART also confirms that it notified ALL 8 selected firms on June 25, 2018, while we only alleged 3 potential fraud DBEs. Again, another smear campaign consistent with CUCP retaliations and the 3rd party DBE challenge as stipulated in Federal Regulations was leaked to the firms as they have done since 2007. BART is obligated by the 49CFR Part 26 to investigate the allegations, yet BART in its own letter admitted relying on these firms to respond without investigations and incorporated the DBE firms in question response on the July 23, 2018 letter as BART's defenses without BART addressing the core issues and denying facts listed in their own RFP.

One of the issues experienced while challenging DBE fraud in California is once you provide documentations and proofs, CUCP member agencies engage in coverups, deceptions and suppression of the information, specifically website and public information links. NDOT wrote an email to a potential fraudulent DBE firm (Exhibit 35) that won contracts in California, informing them of the complaint they received from (b) (6). That DBE firm wrote (b) (6) an email asking him questions about the DBE complaint while the NDOT staff was laughing at (b) (6) phone call.

The largest DBE Fraud in the US History is in California

As we speak today, the current and the largest DBE fraud the DBE community is experiencing is with a firm named G&C Equipment. A company that has grossed anywhere between \$1B and \$2B as in Billions in the last 10-15 years (Exhibit 36) and utilized as a DBE on almost every federally Transit mega project including EXPO, PurpleLine Transit Extensions. After an extensive and public 3rd party challenge, the firm was decertified on June 20th, 2018. The LAMTA/Caltrans/CUCP filed two "reasons" with the USDOT. On the April 3rd, 2018 filing, they stated "Ownership/Control" which is a false statement, then they had to change it after this reason was challenged (Exhibit 36). A new reason was filed on June 20th stating "Owner exceeds PNW limitation". As an example of CUCP member agencies coverup, almost all web links to public website used to prove the fraud were taken out by the CUCP influence, luckily hard copies were printed as a precaution. Janice Salais and LAMTA wrote letters of good DBE standing to larger Contractors, (Exhibit 20). These letters were sent on behalf of G&C (Exhibit 36) to make sure the larger contractors can still use G&C on federally funded contracts. By following the trail of money, one can't but conclude huge donations to political circles of power in the realm of \$330,000 (Exhibit 37) can

(b) (6)

provide these letters and DBE fraud protection courtesy of these CUCP member agencies funded by the tax payers and FTA.

BART has the same culture, individuals on BART Small Business Council including Eddy Dillard charges \$5000 to guarantee a firm getting shortlisted on BART's contracts and steams all day of his unparallelly access to the General Manager's office. BART senior staff conducted an fundraising disguised as an educational outreach for the passage of Measure RR in November 2016. [REDACTED] attended and was asked to donate and did not, BART staff including the GM and Assistant GM attending the meeting refused to meet with him after that day and until today.

Another example of BART Pay-for-Play in addition to the DOJ case in 2017 is Kal Krishnan Consulting Services "donations" of \$7000 to a BART Board Member just prior to BART \$20M contract award. KKCS violated BART RFP rules and listed Exhibits to certify and declare any contributions to BART Board Members and possibly KKCS committing perjury by not reporting the "Campaign Donations" until it was revealed in public press by The Oakland Tribune (Exhibit 38). The news article quoted KKCS President stating his "*Donation is a form of Free Speech*", "*My friends need to have some money*", "*Political campaigns are expensive, they need money and these people do very good work,*" he said.

BART RFP regulations prohibit Campaign Contribution over \$1000 and did not disqualify KKCS for not adhering to the BART RFP Exhibit 8 Certification Regarding Financial Contributions (Exhibit 39), in a matter of fact, they reward him for breaking BART rules by awarding him a \$20M contract. BART violates its own procurement rules on regular basis. The Oakland Tribune article documents BART culture of political contributions to Board members in exchange of BART Contracts awards including the FBI indictments of two former BART Board members, one for bribery and second for lying to FBI agents. This is a BART policy, Pay-and-Play.

Anytime a concerned individual provides any documentations on Fraud and Briberies in public contracting, it will be suppressed, refuse to provide public documentations, denied even with the overwhelming evidence and the individual will be retaliated against (Exhibit 39). Because of the CUCP criminal conduct there has never been a single prosecution of a fraud DBE in California compared to other larger states like New York, Illinois and Pennsylvania. The Federal Government have abandoned enforcing Federal regulations on the West Coast. BART's letter consist of so many false statements to the point BART is committing perjury. We are looking for the Federal Government to take over the DBE program, clean it up an and expand the current Federal criminal investigation of G&C to the epidemic of DBE fraud in California that is kept protected by the CUCP member agencies.

Until last year, the largest recorded DBE fraud case reached \$130M in Pennsylvania. In April this year, New York State announced a serious of indictments specifically with Front DBE setups and as in California mainly in the Construction Management services similar to this case with BART. (Exhibit 41) is a classic example of DBE fraud in Construction Management and as we are experiencing with BART, mainly setting upfront Construction Management firms by owners of larger firms/and or not individual not qualifying for the DBE status

due to the exceeding PNW, in addition to Caltrans contract managers setting up front DBE companies under their relative's names and feeding them contracts as in Jay Shah and IMS. We can simply replace the local New York firms' names with local California company names, it's the same scam funded by FTA.

It is a fact Peter Lim sold his old company, Lim and Nascimento (LAN Engineering) in 2009 at an estimated \$20-28M and now he is personally operating under his "staff owned certified DBE" company called Prescience with a current new BART award where his name appears on the top of Org Chart in his BART proposal (Exhibit 42), while attending pre-bid meetings and have the full control of his team during interviews and signing contracts as a DBE while keeping his vast investments listed in this letter. This is classic individual exceeding PNW operating as a DBE certified firm in the State of California with the Full Protection of CUCP member agencies funded by the tax payers and USDOT.

Caltrans created Prescience as a two man show in February 2013, when they awarded Peter Lim a \$16.5M Contract Number 59A0841 for the San Francisco Bay Bridge Structure Construction Inspection in Northern California using a house located at 24955 Via Denise in Laguna Niguel, 92677, he owns in Orange County in Southern California and rented to another family as the address for the Prescience/AECOM JV as he listed on all of AECOM resumes to conceal the fact Prescience had only two staff him and his son Ben Lim. Once selected he signed the Contract with one signature. Prescience at that time was under his son name Ben Lim and he used it to apply for the DBE status at Caltrans as he claimed in his proposal on page 237. Caltrans knew his PNW was over the limit and knew he was using his 25-year son to conceal the real ownership and denied his DBE application. So, he changed the ownership again to his senior staff and applies for DBE status at LAMTA, we believe it was Tina Giles-Potter that approved his application as she was the DBE file fixer (Exhibit 42). Interestingly enough, Peter Lim used Caltrans contract manager front company IMS as a DBE sub and claimed its DBE was pending in his 59A0841 proposal.

Shortly after, he started hiring AECOM staff and claimed them as his and the following year BART awarded him another \$20M contract. It's simply a club and you have to be a member to get awarded federally funded contracts.

The owners of LAN Engineering started a spree of convoluted financial interest with many other large development and investment corporations under the original LAN owners' names. William Nascimento also use Guilherme Nascimento and Guil Nascimento in addition to Peter Lim former LAN partner also use the alias Chen Leong Lim in various Corporation and LLC registrations. William Nascimento (Exhibit 43) is reporting to be working for NCM as a project manager (owned by his staff) and at the same time as a "Principal, Senior Director for Prescience as a DBE firm in addition to other corporations, real estate development and investment groups among many others owned by him and Peter Lim including:

- NCM Corporation, applied for DBE
- Nascimento Ira LLC
- The Oaks at Hackberry LLC

- Laguna Canyon Investment Group LLC
- Sycamore Group LLC
- 18200 gale Ave LLC
- Cliff Sea View LLC
- 711 North Azusa LLC
- Spectrum Leasing Inc
- 2200 Beacon Newport LLC
- Valley View Ball Rd LLC
- Valley View Lampson LLC
- 22362 Gilberto LLC
- 10011 Valley View Cypress LLC
- Cl2.Pm LLC
- Prescience, DBE certified
- Lance Corporation
- Mbl Global LLC
- Desert Inn – Pecos Plaza LLC
- Bml Management LLC
- Sequoia Building LLC corporate registration included Guilherme J Nascimento (William Nascimento), Chen Lin (Peter Lim) and Priyanga Desilva (Pri Desilva) front owner of Sequoia Consultants, all sharing a common address for 8 corporations listed at 10 Sycamore Canyon Dr., Trabuco Canyon, CA. We believe Sequoia Building LLC is the holding company for Sequoia Consultants occupying the building at 361 W. Grove Avenue Orange, CA 92865 and is used to circumvent the building cost incorporated into the federally audit overhead that does not allow the owner of company to use his own property for calculating overhead and charging the Federal Government as reimbursable cost.

Legalizing The Grand DBE Scams:

Another scam in California used to set up fraud DBE firms owned by larger firms and/or individuals exceeding the PNW federal limits include the use of California lawyers to set up what is called “Shareholder Agreements” that is used for concealment of the true ownership percentages from what is listed as a minimum 51% in the DBE applications. (b) (6) paid a retainer and was able to get a copy of such a contract from Stephanie Kitzes of Orange County, but he never followed up on the agreement (Exhibit 44). To assure (b) (6) that this contract can conceal the identity of non-eligible person applying for the DBE status and allow the “front” to operate without losing the company control by the non-eligible person for the DBE, Stephanie Kitzes brought up Peter Lim as one of her clients and how she used it on several DBE set-up. Records of transactions can be verified once a Federal Investigation started and force this Lawyer to provide the scam DBE scam transactions, contracts and payments details.

It's worth noting that Janice Salais testified in her deposition that she "investigated" an engineering company with the name that start with the letter S, we believe she know well of Peter Lim involvement with Priyanga Desilva (Pri Desilva), Principal at LAN Engineering and front owner of Sequoia Consultants and kept the company certified as a DBE with Caltrans to date.

Although the protest filed with BART named only 3 DBE fraud firms, BART as a form of retaliation, not only failed to investigate the DBE fraud since 2012 but notified ALL 8 firms on this procurement and asked these firms to respond to the allegations. This is a clear violation of the Federal 49CFR Part 26 and intended to inflict more retaliations and physical threats as we have experienced.

(b) (6) filed a series of requests for public information with BART and with at least 3 follow up, BART refuse to provide a simple public document such as proposal, RFP and funding agreements between BART and MTC to show how the timing and relationship between MTC/Andy Fermier and his wife, Connie Preston Fermier named as the PM on the Allen Group/Valley Cooper team being awarded this contract by BART. As Caltrans former Chief Deputy Director in charge of Construction Andy Fermier signed State and Federally funded contracts for his wife company Vali Cooper, (Exhibit 45) in an attempt to conceal their relationship, she used the name Connie Preston. She changed her name to Connie Preston Fermier only after the DGC investigation and her relation to Andy become public. It's worth mentioning using different last names is very common between senior Caltrans staff and their spouses that have contracts with Caltrans as we can document.

BART's refusal to provide public information related to the funding agreements with MTC in Regional Measure 1, 2 and the new one 3 that just passed last month (Exhibit 46) the denials of releasing the files makes it easier for BART to deny they are not receiving funds from Andy Fermier at MTC as they stated in their letter in addition to the COI on these CM contracts. Regional Measure 1, 2 and 3 covered projects funded by MTC Andy Fermier while his wife previous Construction Management Contract covered CM services for these projects.

BART conflicts of interest are common and widespread, although it is prohibited and clearly listed in BART RFP and referenced with FTA Circular 4220.1.F, GC 1090 et seq. and Title. 6, Division 6 of CA CR and BART has not acted on them on these FTA funded contracts, violating BART own procurement rules. BART COI cases include having the Engineer of Records provide Construction Management services on the same contract and projects with immunity and in violations of the Federal/FTA COI Regulations and funding agreements. Another clear case involves BART Citizen's Oversight Committee Member Ching L. Wu seated on the Engineering Expert Seat (Exhibit 47). A committee member that should not personally and financially benefit from his oversight duties by providing Engineering services at the same time to BART and BART related projects at VTA as a subconsultant to several larger firms including a clear COI with his role on BART's PGH Wong contract (PGH Wong hold both Engineering and Construction Management contracts at the same time with BART).

Public employees and officials at BART, Caltrans and other Transit and Transportation Authorities using their public power and public covered immunity

to benefit from public and federal funding in California is the norm, another example is Gary Coho, Director of Project Development at San Bernardino Associated Governments. (Exhibit 48) shows Coho getting an Environmental consulting contract with the City of Redlands which sits within San Bernardino County and part of his responsibility as a Director of Project Development with San Bernardino Associated Governments is to advance the same projects within City of Redland that he was also hired to do as a consultant. Ironically, he did not bother to submit a formal proposal like we have to do, just his resume was enough to land him a contract!

Proposals Submitted to BART:

I have started working with BART on the very sensitive and the most complicated project which is the Construction Management for Transbay Tube Seismic Retrofit, the underwater Steel Tube that connect Oakland with San Francisco. The work was done in a short window of operation usually between 1am and 4am to ensure the train services starts without delays. From day one, I encountered the Prime, Jacobs, one of BART favorites trying to hire my staff, my RE that was named in the proposal and when they failed, they limited my work to one staff only for the duration of the contract. Although the BART PM Tony Hicthings was impressed with my staff performance and wrote him a letter of recommendation (Exhibit 49) and that did not sit well with others at BART. In a matter of fact, when I recompeted on the same TBT project 6M8114 in April 2016, I was ranked third and BART did not allow the most knowledgeable staff on the project, Tony Hicthings to sit on the selection panel and replaced him with other BART staff with no knowledge of the project needs and no knowledge of the hard work we did.

I then submitted on the following proposal including SBE set aside:

- 6M8034, September 1, 2009
- 15PR-510, November 2, 2010
- 6M8051, October 4, 2011
- 6M8076, October 21, 2014
- 6M8104, April 7, 2015
- 6M8110, July 7, 2015
- 6M8114, May 17, 2106 in a JV with AECOM for the Transbay Tube
- 6M8132, March 27, 2018

In every one of these large contracts/proposals I was shortlisted and interviewed without selection. I was given reasons as to why I am not selected including your staff is *“too old”*, *“we don’t like HMM that is on your team”* and reasons that have no value except to justify hiring firms owned by ex-Caltrans and ex-BART staff. The same secret criteria as Caltrans selection process works with. In BART Pre-proposal meeting, BART contract staff, Irene Gray went public stating *“we are looking for Caltrans experience”* which is never listed in the RFP and was what the selection reflects.

Please keep in mind BART is a Transit and Caltrans is a Highway agency. In this proposal I included and listed 4 large National firms including an International firm in addition to 6 SBE/DBE and was told by BART I did not make the shortlist. All of my proposals are the same SF330 formats, every year I gain more experience and list more experience. (Exhibit 50) Every large BART RFP I

submitted on got shortlisted but with limited number of awards. This time BART selected 8 out of the 11 submitted and did not shortlists my team at all.

Racial and Religious Discrimination at BART

What has changed between all the previous procurements and this one is a new BART staff Carl Holmes, the new BART Assistant General Manager for Planning, Development and Construction. Not only he worked for TMI but also for Jacobs on the only BART contract I had, and he was involved in attempting to hire my staff on the TBT project to Jacobs. Carl Holmes is a religious fanatic and he is not shy about expressing his views in public meeting and conferences. While managing a Jacobs CM contract with BART, he confronted one of BART's contractors project managers (name withheld for now) in a BART project-related meeting that included him representing Jacobs, in addition to other BART staff and the contractor's staff. Carl Holmes asked the contractor's project manager (with Jewish faith) "why did you kill Jesus Christ?". This incident violated several chapters of Jacobs signed contract with BART including District Contractor Code of Conduct, Section 20-Non-Discrimination and other applicable Federal laws. BART Covered up the incident and did not sanction him or Jacobs. In a matter of fact, they rewarded him in February 2016 by hiring him as group Manager-Engineering Capital Programs and December 2017 got promoted to Assistant General Manager, Planning, Development and Construction. He was effectively in charge of this current CM procurement.

Another similar incident with (b) (6) while attending a BART Small Business Council meeting that was also attended by Robert Raburn, one of BART's Board of Directors. Since this was the first time he met the BART Director, (b) (6) introduced himself as (b) (6) and Robert Raburn immediately asked him, "how did you pass security?", A flat-out discrimination and profiling at the highest levels of the BART organization continues to go unchecked in violations of FTA funding agreements and BART's own RFP stipulating Non-Discrimination on BART contracts. I am protesting BART (despite their letter denials) limiting DBE participation to only DBEs located within the five Bay Area Counties. This is effectively a Zip Code limitation on a federal funded contract. BART letter denied it and BART RFP on page 11 of 27 is defining DBE participation to be limited to ones certified by CUCP and within "THE BART MARKET AREA". On page 12 of 27 of the RFP (Exhibit 52) BART is asking for "evidence that the DBE has done business or attempted to do business in five counties", referencing the Five Bay Area Counties that is the same as the BART Market/Service Area. Primes we reached out to confirmed that they will only include DBEs within the five Bay Area Counties as instructed by BART. We believe this limitation is similar to "Zip Code Specific" and is in violation of the federal requirements by limiting what DBEs can participate on these FTA funded BART projects.

I am protesting BART RFP instruction on page 12 of 27 of the RFP (Exhibit 52), "BART is limiting the number of subconsultants to be included in as part of the team" and then stating, "the prime will have the ability to add team members in accordance with the terms of the agreement". This have insured only privileged subs large and small are added without the competitive or qualification-based selection process mandated by the Federal agreement. We asked to be added to the TBT team that I was working on; my request was rejected. (Exhibit 51).

I am protesting BART RFP instruction if a DBE attempts to prime these contracts, they would not be allowed to be a sub on the larger team. This limitation is detrimental and specifically target DBEs and effectively discouraged DBE from priming these federally funded contracts.

I am protesting BART RFP instruction that BART will not count DBE Prime toward the DBE subcontracting goals. This limitation is also detrimental and specifically target DBEs and effectively discouraged Joint Ventures between the larger firms and DBEs. In a matter of fact BART adopted this ruling in mid-stream and after the GEC RFP was issued and JV team were formed and later dissolved, harming the DBE from getting JV contracts.

I am protesting BART continue to put restrictions on Prime DBE in the RFP by stating all staff listed by the DBE proposer must be employed at the time of submittal. No DBE will have all 20-key staff available on payroll while BART may or may not use them since the RFP is for On-Call services. The larger firms will use key staff from all over the nation, bait and switch after award of the contract.

I am protesting BART discussion and account for it as a form of retaliation against myself and (b) (6) for pointing out the chronic, grand scale DBE fraud protected by BART staff including Ruby Smith, the chronic conflicts of interest, violations of BART own RFP requirements, BART own RFP Exhibits regarding Nondiscrimination and limiting financial contributions all part of the RFP and the selection process/criteria. It's all ignored or selectively applied in a discriminatory manner.

I am protesting BART discussion for allowing and deeming non-licensed DBE to be more qualified in a federally mandated Qualification Based Selection QBS process while ignoring the fundamental pillar of the Brooks Act and State Statues including GC-4525 and the CSLB ruling in 2015 requiring a license for these professional services funded by the FTA.

I am protesting BART discussion for allowing only PE to perform construction management in violation of the State of California GC-4525 and the CSLB rules. In addition to favoring the current selection dominated by a secret criteria of former Caltrans and BART staff and must have a Caltrans experience.

I am protesting BART, a signatory to the CUCP membership agreement for ignoring since April 25, 2017 the CUCP Executive Committee directive (Exhibit 26) to not issue DBE certifications without a State license. Despite BART denials and as we claimed, BART participated in the CUCP meetings is well documented, BART is well aware of the CUF, State of California requirements and Statutes but have chosen to ignore it and have failed to allow fair competitions allowing unlicensed firms to be awarded CM contracts while denying licensed firms and claiming to be a scoring issue. BART has refused to issue letters for well over a year to unlicensed DBE as aggregated by the CUCP effectively protecting and promoting unlicensed DBEs to provide professional services while denying legitimate, duly licensed DBE firms from BART's federally funded contracts.

I am protesting BART for adding on a grand scale large and small firms to existing GEC and CM contracts and took additional steps by adding unlicensed DBEs to provide professional services while denying the same access to contracts to duly licensed DBE firms. When I asked to be added to the new TBT contract 6M8114, my request was denied. (Exhibit 51)

Request to the USDOT, IG:

We ask the FTA and USDOT IG office to force BART to release these public project and contract related documents in order for us to amend this filing with new information that was already requested. This information was needed to make the case for the following BART federal violations:

- Good faith effort violations on BARTs contracts and allowing larger GC completing the projects without DBE participation
- CUF violations and allowing any DBE to do any work and account for it regardless of the NAICS code listed in the DBE certification
- BART accounting for non CUF participation as part of reaching the GFE goals
- Lack of investigating prompt payment issues with DBEs at BART contracts.
- BART does not staff enough FTEs if any to look and audit the CUF on its projects including the Warm Spring D-B project as required by Federal regulations.

As apparent from the larger firms response on the BART July 23rd, 2018 letter, the larger firms depend on the CUCP certifications and they lack conducting their own due diligence on the credibility of the DBEs they use and listed in their proposals as in the case of G&C where both Caltrans and LAMTA wrote letters to major contractors confirming the DBE legitimacy, fully knowing the company exceeded the gross revenue by hundreds of millions of Dollars when the limit can't exceed \$33M.

The CUCP member agencies own DBE tracker reports and signed contracts will show the exact amount exceeding the federal limits, yet they don't provide it as a request of public information and stopped publishing the tracker reports.

In violating the Federal 49CFR, BART and the CUCP have allowed a CPA to provide survey, geotechnical instrumentation and CM as a DBE. This is not in compliance with CUF stipulated in the 49CFR Part 26. Actual case and example, Morgner, File No. 34375.

49CFR Part 26 also don't not allow a Yoga Instructor to provide Transit System Design on federally funded projects. BART and the CUCP have allowed it and it took place. Actual case and example, Togo, file No 37664.

At best BART and the CUCP is conducting a despair treatment of whom the CUCP, Caltrans and Janice Salais want to decertify or whom they want to certify especially if they are former Caltrans staff like this President/CEO and Owner since 2001 of Ghirardelli without following the certification criteria stipulated by the 49 CFR Part 26.

(b) (6)

Despite BART denials, BART own documents show The Allen Group still taking a DBE credit on its books for the last 10 years on the Bechtel contract. BART refused to release the supportive documentations.

Despite BART denials, GC4525 does not limit a CM License requirement to PE, it actually stipulates a CSLB Contractor License or AIA. BART statement that only a PE is required mimic Caltrans long standing PE requirement as a way to disqualify both me and (b) (6) on Caltrans contracts since 2005 as they went on record and confirmed by Raja Mitwasi (Exhibit 17). deposition of Caltrans illegally and unconstitutional debarments. These requirements are selective and part of secret selection criteria. Additionally, the CUCP provided minutes are clear with the issue. No License no DBE certification. The fact the Allen Group and Valley Cooper signed and submitted as a JV, that created a totally new legal entity that requires a State License for the newly created JV entity. BART is being selective in reading the Statute.

Again, we are asking the FTA to force BART to release the request for public documents and grant us the opportunity to amend this filing. Additionally, we ask the FTA to suspend the federal funding for BART until a full investigation of BART continuing Civil Rights violations and until BART provides an even playing field to DBEs on its contracts.

As you might be aware of BART has a history of Title 6 complaints filed in the past and they continue in the same path.

Should you have any questions or need any additional information, please feel free to reach me via email, (b) (6).

Respectfully submitted for your consideration and action.

Sincerely,

(b) (6)

(b) (6)

Mr. Jeff Cazeau, Esq.
Ms. Maria Fox, FTA Regional Council
Ms. Lynette Sweet, FTA Civil Right
Ms. Lynett Babet, USDOT OCR
FTA, Chief Counsel
FTA, Deputy Chief Council
USDOT Office of Civil Rights
USDOJ OIG, Assistant Inspector General for Investigations
USDOJ, OIG, Fraud Detection Office

(b) (6)

(b) (6)

USDOJ, OIG, Council
USDOJ, OIG, Los Angeles Field Office
USDOT, OIG, San Francisco Area Office
USDOT, Southwest Region Director

(b) (6)

August 2, 2016

Skanska-Traylor-Shea
Attention: Lawrence Martocci
5055 Wilshire Boulevard, Suite 700
Los Angeles, CA 90036

Subject: Response to STS Letter dated August 2, 2016

Dear Mr. Martocci:

The following letter serves as partial (b) (6) response to STS letter received on August 2, 2016.

I was hoping the STS letter would have had outlined solutions and remedies that are overdue, unfortunately it did not. The letter clearly shifts the bulk of responsibility to STS (b) (6). The fact STS holds the prime contract with LA Metro, STS is ultimately and solely responsible for fair treatment of any DBE and SBE performing work under the (b) (6) Contract.

I want to remind you of Ali's text to you on August 1, 2016 that read, "Lawrence, Skanska has all the power to correct the situation, just correct it, no more or less" in which it was ignored and relayed to LA Metro.

(b) (6) respectfully requests STS and Skanska staff to abstain from any unprofessional, unfounded and bias characterization of (b) (6) as "only capable of submitting correct invoices" as STS/Skanska staff Al Hodge directed his comments to (b) (6) in their last meeting in June, 2016. In addition, a similar degrading comment was made toward another legitimate DBE firm TEC where Mr. Hodge stated to (b) (6) while discussing potential teaming partners, "Don't bring TEC's President, Tim Coffey to my office."

C²PM respectfully requests STS to direct its staff to stop the bias and unfair treatment of C²PM as well as interfering with C²PM's business as an independent DBE firm.

(b) (6) respectfully requests (b) (6) to not direct (b) (6) staff to continue performing functions that are impairing (b) (6) financially and immediately take corrective actions to undo and reimburse all the harm inflicted on (b) (6).

(b) (6) respectfully requests STS starts looking into the eligibility and Commercial Useful Function beyond the 1st tier subs as clearly stated as the limits of STS responsibility in the STS letter dated August 2, 2016 and refrain from using unfit companies that do not comply with CUF on this federally funded contract.

(b) (6) respectfully requests Skanska takes immediate corrective action for not providing work for (b) (6) on the RCC and the \$700M VTA Berryessa D-B project, in which Al Hodge and his group are responsible for shutting down (b) (6) from the Quality Control work since 2011.

(b) (6) respectfully requests Skanska set aside the bias and continuous unfair treatment in considering (b) (6) submitted lowest bid on the OCTA 405 D-B project and not reject it as it did with many other bids including the 6th Street Bridge, RCC, MCTC Midcoast Quality bids in addition to the STS Parking Lot low bid.

Please note, the STS letter raises additional disturbing facts that supports (b) (6) conclusion that it was subjected to extreme unfair conditions. A summary is listed below:

1. STS Statement (Responses no. 8, Conclusion): “*STS makes best efforts to ensure the firms it and its 1st tier subcontractors select for the project are reputable and capable*” The issue of fraudulent DBE working on these projects is now well known and no longer a secret. The STS statement doesn’t explain how STS and some of its members managed to contract all the meaningful Inspection work with DBE firms with shady history including the following examples:

A - Seville Construction Services (decertified and fraud DBE with ties to the Sweetwater School District pay for play scandal and claiming to be on ENR top 100 CM firms.

B - Morgner and the perceived owner with a Bachelor of Science, Business Administration/Accounting, and an Executive Management Programs in Real Estate providing Instrumentation and Inspection on this and many other contracts. While Skanska and Al Hodge stonewalled (b) (6) to the point where there was no work for me since 2011. Morgner was hired without a complete bid to provide the pre-construction survey for the same project. The following statement from public DBE site report record supports the facts stated above: “*The firm (Morgner) provides construction management, pre-construction surveying, and building inspections. Monique Morgner (now Monique Morgner Lukeman) 51% owner background and education is finance/accounting. Monique spends one week per month in the*

Sherman Oaks office (actually lives and works in NY and not CA), and shares office space with the controller. Carlos Morgner, the 24% owner background and education is finance/accounting, but focuses his energies on marketing. Neither minority owners have the skill set or license required to provide the services under the NAICS requested by the firm. The firm relies heavily upon Andrea D'Alfonso, 25% non-minority owner to provide and manage the services of the firm. Andrea Alfonso developed the pre-construction survey utilized by the firm. He also holds a C-10 electrical and general contractor licenses. The firm does not meet the requirements under control". The fact these companies continue to game the DBE system and provided to work on federally funded projects while other legitimate DBE firms are denied work speaks for itself with the FTA.

C - The third example is the company (not to be named yet) contracted to provide Quality with a front minority owner and 4 non-minority partners to the VTA Berryessa D-B deeming ownership control to less than 51%.

2. All these companies were given meaningful work while denying (b) (6) on the same projects. Commercial Useful Function supersedes any "reputable and capable" referenced in the STS letter dated August 2, 2016 in federally funded projects and STS/Skanska is responsible for hiring these companies.
3. STS Statement (Responses no. 1): "STS staff informed Mr. Aparicio that STS has been taking the appropriate steps to address the concerns raised by (b) (6) and that (b) (6) has been made aware of this through communication with (b) (6)." I did not see any appropriate steps taking place for the last 3-4 months dealing with this issue until it reached conclusion on June 24, 2016. If there is, please provide documentation to support this statement.
4. STS Statement (Responses no. 4): "STS reminds (b) (6) that permitted work days and hours are most often dictated by the agency having jurisdiction." This is completely irrelevant, the issue is not "permitted work days and hours are most often dictated by the agency have jurisdiction" as the STS letter is claiming. The issue is STS Quality Control Manger on the (b) (6) contract identified as Matthew Worland (and not Al Hodge who was approved by LA Metro for this contract) refuses to address understaffing the project with inspectors and opting to direct and allow (b) (6) senior inspector to log in OT and DT to the point its reaching almost 50% over the RT. Mr. Worland also directed another inspector to log in excessive hours to take

advantage of the so called competitive rates mentioned in your letter. When you combine the two inspectors total OT and DT hours, a conclusion could be reached to justify a 3rd full time position that could have been permitted by STS to work at the RT rates and would not have caused any financial burden on (b) (6). Additionally, it was STS and its designated Quality Control Manager Matthew Worland's sole decision to reject all 9 (b) (6) inspectors submitted since 2015, some completed the mandatory Skanska Safety Orientation and were approved by LA Metro, yet not allowed to work by STS for the sole reason of taking advantage of the rates.

5. On June 23/24, 2016 and as you can see from the same email referenced and included in your letter, I directed my staff, Mike Heil not to work OT and DT only to be told by Mr. Heil that "I take direction from the client (STS, Mathew Worland) on work hours and schedule." Mr. Heil also informed me that STS Quality Control Manager Mathew Worland has personally reminded him on June 23, 2016 of the contract and that he needs to continue working the excessive DT and OT as directed by STS and to leave (b) (6) on June 24, 2016. On June 24, 2016 at 4:59pm Mike Heil submitted his resignation to (b) (6) effective immediately and at 5:00pm on the same day Mike Heil started working the same project as a (b) (6) employee with the full approval and acceptance of STS and knowledge of Mathew Worland in addition to STS allowing him access to the job site. This is a direct interference with my business by a larger corporation.
6. STS Statement (Responses no. 8): The recovery plan was the subject of numerus in person meetings and discussions as early as March 2016 with STS. STS has contributed to the current situation and STS holds the key to resolve this issue.
7. STS Statement (Responses no. 5), the denial of (b) (6) last submitted inspector (b) (6) who has 3 valid certifications and 25 years of experience came directly as "Menes does not appear to have inspection experience," via email from STS Quality Control Manager. Please see email below. STS's statement, as it requested (b) (6) to respond to this item clearly show STS continues not taking responsibility for its unfair actions. A summary of all 47 inspectors excel sheet submitted by (b) (6) is included as an attachment.

(b) (6)

From: Worland, Matthew [<mailto:Matthew.Worland@stsv.com>]
Sent: Wednesday, July 13, 2016 8:40 AM **To:** Richard Howland
Subject: Submitted Resumes

Rick

The following comments were received on the resumes submitted previously.

(b) (6)

Matthew Worland
Quality Control Manager



5055 Wilshire Blvd., Suite 700
Los Angeles, CA 90036, United States
Direct 323 852 4251
Mobile 310 913 2119

8. The question should be whether Matthew Worland (who has been omitted from the recipients list of this email by STS to possibly conceal his involvement) has formally been approved by LA Metro as the STS Quality Control Manager? His public record does not seem to support experience requirements as a Quality Control Manager, graduating in 2010 from Cal State Chino and working as a "Discipline Superintendent" for Kiewit and then Skanska. STS submitted Al Hodge as the designated Quality Control Manager in their proposal and bid.
9. STS Statement (Responses no. 5, Conclusion): The fact "To date the MTA has accepted all work installed by STS and its subcontractors" does not change the other fact, LA Metro will accept what is only known and has been provided to LA Metro and LA Metro accepting it does not release STS responsibility if it is not correct.

Again, the STS letter is disregarding key facts, the unfairness endured, avoidable financial impact and more importantly short of solutions. All of this could have been avoidable as we stated so many times.

Sincerely,

(b) (6)

(b) (6)

Via Email @ 4:00pm on

June 8, 2020

Ms. Tashai Smith
Deputy Executive Officer,
Diversity & Economic Opportunity Department
Los Angeles County
Metropolitan Metro Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952

Ms. Elke B. Campbell
Director, Contract Compliance – Small Business Programs
Diversity & Economic Opportunity Department
Los Angeles County
Metropolitan Metro Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952

Subject: Official Request for Documents from LA Metro

Dear Ms. Smith & Ms. Campbell:

This is the second letter for substitution of my company, (b) (6) a duly licensed contractor and legitimate DBE firm on Federally funded contracts with Skanska. Your letter dated June 3, 2020 is an indication that this process is consistent with DEOD favoring Skanska in its unfair treatment and abuse with a list of DBEs and will follow the same older substitution results in favor of Skanska.

- Please note Skanska has a proven history of mistreating DBEs and was fined a record \$19M by the Federal Government over DBE fraud issues.
- Please note Skanska is publicly known to have lost over \$700M and they have to recuperate their own financial losses somehow.
- Please note this DEOD substitution process is allowing Skanska/Twining to bid shop the same items that have been bided allowing them to gain huge profits.
- Please note that DEOD Sanctioning process is allowing Skanska to pay pennies on the dollar in favor of reducing their bid cost by replacing the original DBE submitted and approved contracts allowing them to gain huge profits.

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Letter dated June 3, 2020 states “*formal rules of evidence do not apply*”. Then how are we supposed to get to a fair resolution that would protect the DBEs and if DEOD own documentations and evidence deliberately suppressed and not provided to me, how would this process be fair and what would the results be based on? Personal Interpretation and/or the continuing retaliations I endured by DEOD including the illegal decertification that was turned over by the USDOT in 2013.

I have also objected on a virtual hearing and insisting on an in-person hearing to face Skanska Executives that have spared no moment of mistreating DBEs on Metro Federally Funded contracts.

Contrary to your letter stating, “*formal rules of evidence do not apply*”. DEOD held documentation that is needed as evidence to support my case, to support the abuse and mistreatment trend by Skanska, this is a result of DEOD siding with Skanska on my case and many other DBE mistreatments on Federally funded contracts and trying to keep Skanska financially afloat while hurting DBEs.

For the record, on various Metro/DEOD retaliation attempts, (b) (6) have requested DEOD’s own documentation to support my case and was either ignored or rejected while DEOD has put in writing that they have provided relevant documentation to Skanska and when (b) (6) asked 3 times for that documentation during the previous substitution, it was completely ignored.

In order to be fair and objecting, I am requesting the following:

- A. Involving the USDOT Office of Civil Rights in this process;
- B. The Substitution Panel should not include anyone with affiliation with the CUCP that spearheaded and participated in my previous DBE illegal decertification;
- C. DEOD to provide the previously requested documentation critical to my case. Additional documentation is needed as a true, correct and comprehensive related items to Skanska and (b) (6) as in letters, emails, phone records, phone notes of the following:
 - 1. All Twining Invoices submitted to Skanska and Metro for all items related to Quality Control, Quality Assurance, Quality Management and Inspection for this Federally Funded Project Contract No.

(b) (6)

(b) (6)

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2. DEOD latest detailed and itemized DBE participation on both the STSJV/Twining and RCC Skanska contracts;
3. List of all DBE's hired by Skanska/Twining STSJV and RCC to provide any Quality function including, but not limited to, Quality Control, Quality Assurance, Office Engineering, Gas Inspection, Quality Management and inspection;
4. Metro DEOD approval of all DBE hired by Skanska/Twining STSJV to provide any Quality function including, but not limited to, Quality Control, Quality Assurance, Gas Inspection, Quality Management and Inspection;
5. All public hearing letters issued by DEOD on DBE and SBE substitution for both the Skanska/Twining STSJV and RCC Skanska contracts;
6. Skanska/Twining STSJV documentation of advertising any DBE contracting opportunity of the following Project Controls, Scheduling, Document Control, Office Engineering, Quality function including, but not limited to, Quality Control, Quality Assurance, Gas Inspection, Quality Management and Inspection on both Skanska/Twining STSJV and RCC contracts;
7. All written decisions rendered as a result of DBE and SBE substitution for both Skanska/Twining STSJV and RCC Skanska contracts;
8. All complaints sent to Metro and DEOD by SBEs and DBEs related to Skanska mistreatment of SBE and DBE including, but not limited to, late payments, holding payment, stealing and pouching DBE staff and hiring them directly by Skanska, bid shopping, bribery, pay-for-play with Skanska contract managers;
9. All sanctions imposed by Metro DEOD on Skanska for both Skanska/Twining STSJV and RCC Skanska contracts;
10. All letters issued by Metro and DEOD addressed to Skanska/Twining STSJV that contained information and (b) (6) complaints against Skanska;
11. Audio recording of the previous Substitution Hearing on (b) (6) on Regional Connector Construction (RCC);

(b) (6)

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12. Copies of all (b) (6) Inspectors resumes submitted and approved by Metro;
13. Any record of Skanska employing any of the previously (b) (6) Metro approved Inspectors listed in item 12.
14. Any Letters and Emails from Metro addressing and monitoring Skanska/Twining STSJV Recovery Plan on utilizing (b) (6). Metro have received at least 2 Recovery Plans from Skanska/Twining STSJV
 - (1) February 6, 2017 – (b) (6) was listed for at least 21 employees on various positions on this contact
 - (2) August 22, 2018 – (b) (6) was listed at least 16 employees on various positions on this contact

Thank you for your attention in this matter.

(b) (6)

Cc: Debra Avila, Chief Vendor/Contract Management, LA Metro
Miguel Cabral, Executive Officer, DEOD, LA Metro

(b) (6)

(b) (6)



(b) (6)



From: (b) (6)
To: Title.VI@DOT
Cc: [Tellis.Ray \(FTA\)](mailto:Tellis.Ray@FTA); marita.fox@dot.gov; [Lacayo, Erik \(FHWA\)](mailto:Lacayo.Erik@FHWA); (b) (6); Singh.Sanjay@DOT; [Collins, Glenda@DOT](mailto:Collins.Glenda@DOT)
Subject: Re: A CUCP, LA Metro, Caltrans, BART, AC Transit Title VI complaint
Date: Wednesday, March 10, 2021 1:14:42 PM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)
[image006.png](#)

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi Loi,

This email is to acknowledge your email and to bring to your attention in case it was missed, that this Title VI complaint also includes the contractors named **Skanska and Twining** working on the FTA funded LA Metro Westside Phase I.

Additional filings will be submitted shortly to include other CUCP member agencies including the Port of Oakland, City and County of San Francisco, all recipients of Federal funds and City of Rialto.

Their conduct is the exact same and has been going on for years in direct violations of the Federal guidelines including and not limited to contracts collusion, uneven playing field, fixing contracts selection to the few and withholding and refusal to respond to PRAs to cover up the corruption and fraud in the federal DBE program.

As an example, Caltrans D8 contract manager Masud Zahedi, D7 former and disgraced contract manager Jay Shah and Michael Tahan has been fixing contracts, setting up front companies and fraud DBEs and intimidating other smaller firms' staff for the last 15 years with the full knowledge of both D7 and D8 current and former Directors as Ali Altaha has interviewed them, and they concurred with his findings.

(b) (6)

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From: "Title VI@DOT" <Title.VI@dot.ca.gov>

Date: Friday, March 5, 2021 at 10:43 AM

To: (b) (6)

Cc: "ray.tellis@dot.gov" <ray.tellis@dot.gov>, "marita.fox@dot.gov" <marita.fox@dot.gov>, "erik.lacayo@dot.gov" <erik.lacayo@dot.gov>, (b) (6) "Title VI@DOT" <Title.VI@dot.ca.gov>, "Singh, Sanjay@DOT" <sanjay.singh@dot.ca.gov>, "Collins, Glenda@DOT" <Glenda.Collins@dot.ca.gov>

Subject: RE: A CUCP, LA Metro, Caltrans, BART, AC Transit Title VI complaint

Dear (b) (6):

Please find the attached letter acknowledging your discrimination complaint dated March 1, 2021, on the basis of race (b) (6) against Caltrans, LA Metro, California Unified Certification Program (CUCP), LA Metro, BART, and AC Transit. A hard copy of the letter will be sent to you via mail.

The Title VI Branch will forward your complaint to the Federal Highway Administration (FHWA), per the memorandum entitled *Processing of Title VI Complaints* dated June 13, 2018.

If you have any questions or need assistance, please do not hesitate to contact Glenda Collins at 916-324-8379 or at 916-639-6392 or me at 916-324-0420.

Have a great day/weekend and stay safe.

Thank you.

Loi

Loi Tran

Title VI/Compliance Specialist (AGPA)
Caltrans – Office of Civil Rights
(916) 324-0420

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From: (b) (6)

Sent: Monday, March 1, 2021 7:35 PM

To: Title VI@DOT <Title.VI@dot.ca.gov>

Cc: ray.tellis@dot.gov; marita.fox@dot.gov; erik.lacayo@dot.gov; (b) (6)

Subject: A CUCP, LA Metro, Caltrans, BART, AC Transit Title VI complaint

EXTERNAL EMAIL. Links/attachments may not be safe.

Please see the attached Title VI complaint letter that was mailed to your Washington DC including three relevant attachments.

Please confirm the receipt of this email and I look forward hearing back from you.

Regards,

(b) (6)

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