



Los Angeles County
Metropolitan Transportation Authority

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GENERAL MANAGEMENT Construction Careers Policy

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POLICY STATEMENT

The Los Angeles County Metropolitan Transportation Authority’s (LACMTA) Construction Careers Policy (CCP) encourages construction employment and training opportunities in ways calculated to mitigate the harms caused by geographically concentrated poverty and unemployment in economically disadvantaged areas and among disadvantaged workers throughout the United States. This policy identifies the minimum efforts contractors performing on covered LACMTA construction projects must make to comply with this policy.

PURPOSE

To set forth procedures for providing training and employment opportunities on covered LACMTA construction projects.

APPLICATION

This policy applies to all contractors performing on a covered LACMTA construction project.

Department Head

APPROVED: County Counsel or N/A

ADOPTED: CEO

Effective Date: _____



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1.0 GENERAL

The Diversity and Economic Opportunity Department (DEOD) will administer this policy, and will work closely with the Construction and Procurement departments to enforce this policy.

2.0 PROCEDURES

2.1 Coverage of Projects

- 2.1.1 Except as provided otherwise herein, this Policy applies to all construction projects with a life-of-project budget greater than \$2.5 million and awarded by the LACMTA, including but not limited to, all Measure R Transit and Highway projects.
- 2.1.2 The project list will be updated annually or whenever the Board adopts a new construction project with a life-of-project budget greater than \$2.5 million.
- 2.1.3 In the event that the LACMTA determines that a project to which this Policy applies is an FHWA project, the LACMTA shall modify or not enforce any aspect of the Policy in accordance with a valid and binding instruction from the U.S. Department of Transportation.

2.2 Implementation

- 2.2.1 All Requests for Proposal/Invitations for Bid (RFP/IFB) specifications shall require all contractors submitting bids or proposals to agree to the terms of the LACMTA-PLA and Policy.
- 2.2.2 All construction project prime contracts shall include a provision obligating the Prime Contractor and all its Contractors/Subcontractors/Employers (C/S/Es) to comply with the terms of the LACMTA-PLA and Policy through a Letter of Assent to the LACMTA.
- 2.2.3 The construction contract shall include provisions establishing liquidated damages amounts as described in Section 2.6.1 of this Policy.



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2.3 Exclusions and/or Modifications

- 2.3.1 This policy shall only apply to construction contracts, as defined in Section 3.0 (Definition of Terms).
- 2.3.2 This policy shall not apply to, or impact in any way, service contracts or operation, inspection or maintenance contracts entered into by the LACMTA including, but not limited to, said contract relating to the project, services provided at any LACMTA facility, building and/or the operation or maintenance of any LACMTA owned and operated facilities.
- 2.3.3 This policy shall not apply to a C/S/Es non-manual employees including, but not limited to, superintendents, supervisors, staff engineers, quality control and quality assurance personnel, time keepers, mail carriers, clerk, office workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other engineering, administrative, supervisory, and management employees (except those covered by existing building and construction trades collective bargaining agreements).
- 2.3.4 This policy shall not apply to material suppliers of raw materials, manufactured products, offsite hauling or delivery by any means of material, supplies, or equipment required to any point of delivery, except an offsite prefabrication facility dedicated solely to project work.
- 2.3.5 This policy shall not apply to officers and employees of the LACMTA, nor to work performed by or on behalf of other governmental entities and public utilities.
- 2.3.6 This policy shall not apply to the work of persons, firms and other entities that perform consulting, planning, scheduling, design, environmental, geological, management, or other supervisory services on any LACMTA project including, but not limited to, consultants, engineers, architects, geologists, construction managers, and other professionals hired by the LACMTA or any other governmental entity.
- 2.3.7 This policy shall not apply to the common division of work recognized through local practice for systems integration and testing, as-built documentation, including, but not limited to, those items excluded by the National Electrical Code (NFPA70) identified projects as "Not Covered" under Article 90.



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2.4 Targeted Hiring

2.4.1 Hiring Requirements for Non-Federally Funded Projects.

The Prime Contractor shall ensure that the following targeted hiring requirements are met for each non-federally funded project:

- A minimum of 40% of all hours of project work shall be performed by Local Targeted Workers, with priority given to Community Area Residents. For any hour of Project Work for which the C/S/E seeks to meet this requirement, the C/S/E and Unions must first refer Community Area Residents. After Unions and C/S/Es have exhausted the available pool of Community Area Residents, they shall refer any Local Residents from Extremely Economically Disadvantaged areas; when the C/S/Es have exhausted the available pool, they shall refer Local Residents from low Economically Disadvantaged areas.
- A minimum of 10% of all hours of Project Work shall be performed by Disadvantaged Workers whose primary place of residence is within Los Angeles County.
- At least 20% of total work hours on each project will be performed by apprentices, but the hours performed by apprentices in each individual craft shall not exceed the ratio to journeyman established by the applicable craft union's Division of Apprenticeship Standards (DAS) approved apprenticeship standards. Local Targeted Workers will perform 50% of all apprenticeship hours worked on the Project.

2.4.2 Hiring Requirements for Federally Funded Projects

The Prime Contractor shall ensure that the following targeted hiring requirements are met for each federally funded project:

- A minimum of 40% of all hours of Project Work shall be performed by National Targeted Workers, with priority given to residents of National Extremely Economically Disadvantaged areas. For any hour of Project Work for which the C/S/E seeks to meet this requirement, the C/S/E and Unions must first refer residents of National Extremely Economically Disadvantaged areas. After Unions and C/S/Es have exhausted the available pool of residents of National Extremely



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Economically Disadvantaged areas, they may refer any National Targeted Worker.

- A minimum of 10% of all hours of Project Work shall be performed by Disadvantaged Workers.
- At least 20% of total work hours on each project will be performed by apprentices, but the hours performed by apprentices in each individual craft shall not exceed the ratio to journeyman established by the applicable craft union's DAS approved apprenticeship standards. National Targeted Workers will perform 50% of all apprenticeship hours worked on the Project.

2.5 Compliance

LACMTA or its authorized representatives shall determine whether a Prime Contractor and its C/S/Es have complied with the requirements of the LACMTA-PLA and the Policy. The Prime Contractor is ultimately responsible for it and its C/S/Es compliance with the LACMTA-PLA and Policy requirements.

- 2.5.1** If, after taking into account all hours of project work performed up to that point in time of the Reporting Period, the targeted hiring requirements of the LACMTA-PLA and Policy have been satisfied for a Project, then the Prime Contractor and its subcontractors working on that Project shall be deemed to be in compliance.
- 2.5.2** If the targeted hiring requirements of the LACMTA-PLA and the Policy have not been satisfied for a Project, the Prime Contractor nonetheless may be deemed to be in compliance if it demonstrates both (a) that it and each of its C/S/Es have complied with all other requirements of the LACMTA-PLA and the Policy, and (b) that it and each C/S/E have either (i) satisfied the targeted hiring requirements of the LACMTA-PLA and this Policy with regard to the project work that it has performed or (ii) satisfactorily demonstrated the following:
- Adherence to procedures contained in its Employment Hiring Plan (EHP) as approved by the LACMTA.
 - Requests to Unions, through Craft Request Forms, of sufficient numbers of Targeted Workers and Disadvantaged Workers to meet the targeted hiring percentages set forth in Section 2.4 of the Policy for that C/S/E's Project Work.



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- Documented contact with the Jobs Coordinator in each instance when the relevant Union did not refer qualified Targeted Workers within the 48 hours following the C/S/E's request and the C/S/E's fair consideration of any Targeted Worker or Disadvantaged Worker subsequently referred by the Jobs Coordinator.
- Accurate records documenting the C/S/E's compliance efforts that include (but not limited to) the following:
 - A listing by name and address of all local recruitment sources contacted by the C/S/E;
 - The date of the local recruitment contact and the identity of the person contacted, the trade and classification and number of hire referrals requested;
 - The number of Targeted Worker hires made as a result of the contact;
 - The identity and address of the worker(s) hired pursuant to the contact;
 - Documentation when a referral was not hired (reason for non-hire) and/or premature termination.

2.6 Enforcement

2.6.1 The Prime Contractor for every project agrees to the following:

- The Prime Contractor and its C/S/E's commitment to comply with the targeted hiring requirements of LACMTA-PLA and Policy is a material element of the contract.
- The Prime Contractor will be liable to the LACMTA for Liquidated Damages as provided in this section.
- The failure of the Prime Contractor and its C/S/Es to comply with the targeted hiring requirements will cause harm to the LACMTA and the public which is significant and substantial but extremely difficult to quantify. The harm to the LACMTA includes the difficult-to-quantify harm that the community and its families suffer as a result of high unemployment and concentrated poverty.



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- Due to the difficulty of estimation of damages for violation(s) of requirements of this Policy, construction contracts shall have provisions establishing liquidated damages to be assessed as follows:
 - The Prime Contractor shall pay liquidated damages equal to the average journey person project wage for each hour the Project fell short of the targeted hiring, or \$500 per day, whichever is greater.
 - If the project's targeted hiring requirements are out of compliance during any Reporting Period, the Prime Contractor shall meet with the LACMTA to develop a plan for compliance. The Prime Contractor has until the next Reporting Period to effectuate compliance or Liquidated Damages shall be withheld.
 - Before Liquidated Damages are sought, the Prime Contractor shall be notified of the proposed Liquidated Damages and served with a summary of the information upon which the Liquidated Damages are based.
 - Liquidated Damages shall be withheld from all subsequent monthly progress payment request(s) as disputed funds until such time as Prime Contractor is found to be in compliance, the project contract is terminated, or the project is completed.
 - Should the project be terminated or completed before the Prime Contractor is found to be in compliance, recommendation may be made to the LACMTA's CEO to assess Liquidated Damages to be withheld from the contractor's retention.

2.6.2 Liquidated Damages Appeal

- 2.6.2.1 The Prime Contractor may appeal the assessment of Liquidated Damages before the LACMTA's CEO. Prior to the hearing, the Prime Contractor shall be provided a summary of the information upon which the recommendation assessment is based.



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2.6.2.2 The Prime Contractor must request an appeal in writing within 10-calendar days of receipt of the Liquidated Damages assessment summary. At the hearing, the Prime Contractor will be allowed to provide evidence that it has made all of the showings required under Section 2.5 of the Policy. Failure to submit a written request for an appeal within the time frame stipulated in this Section will be deemed a waiver of the right to appeal and the recommendation for assessment of Liquidated Damages will be implemented.

2.6.3 Consistent, substantial violations of the LACMTA-PLA and/or Policy by any Prime Contractor may result in contract termination.

The provisions of this Policy shall not be applicable where prohibited by federal or state law, or where the application would violate or be inconsistent with the terms and conditions of a grant or a contract with an agency of the United States or the State of California, or the valid instructions of an authorized representative of any of these agencies with respect to any grant or contract. If enforcement of any provision of this Policy is enjoined by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

3.0 DEFINITION OF TERMS

- 3.1 Apprentice, as used in this Agreement, shall mean those apprentices registered and participating in Joint Labor/Management Apprenticeship Programs approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards (DAS), or in the case of Projects with federal funding, approved by the US Department of Labor (DOL) and California DAS.
- 3.2 Board means the Los Angeles County Metropolitan Transportation Authority (LACMTA) Board of Directors.
- 3.3 Community Area Resident means a Local Resident whose primary place of residence is within an Economically Disadvantaged or Extremely Economically Disadvantaged area and is within a 5-mile radius of the covered project in question.
- 3.4 Construction Contract means a contract to perform construction work on a LACMTA Project.
- 3.5 Contractor/Subcontractor/Employer (C/S/E) means any individual firm,



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partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a contract with the LACMTA or any of its contractors or subcontractors or owner/operators of any tier, with respect to the construction of any part of the Project(s) under contract terms and conditions approved by the LACMTA and which incorporate this Agreement.

- 3.6 Core Worker means an employee whose name appeared on the C/S/E active payroll for sixty (60) of the one hundred days immediately before the award of the Project Work to the C/S/E and meets all standards required by applicable local, state or federal law or regulation.
- 3.7 Craft Request Form means a document provided by the LACMTA through which Contractors shall request workers from Unions.
- 3.8 Criminal justice system involvement occurs when a person has direct involvement through having an arrest record or indirect involvement through affiliation or residency in an area with high levels of gang activity as identified/verified by a law enforcement agency.
- 3.9 Disadvantaged Worker means an individual who, prior to commencing work on the project, meets the income requirements of a Targeted Worker and faces at least two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran of the Iraq/Afghanistan war; or (9) being an apprentice with less than 15% of the required graduating apprenticeship hours in a program.
- 3.10 Division of Apprenticeship Standards (DAS) verifies the apprentice registration and status and enforces requirements of Labor Code Section 1777.5 mandating employment of apprentices on all public works projects.
- 3.11 Economically Disadvantaged Area means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.
- 3.12 Employment Hiring Plan (EHP) is the plan presented by the Contractor and approved by the Chief Executive Officer, or his designee, as described in



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Section 4.0 of this Policy.

- 3.13 Extremely Economically Disadvantaged Area means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$32,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.
- 3.14 Jobs Coordinator means an independent third-party individual, entity or employee with whom the Prime Contractor or LACMTA enters into a contract or employs to facilitate implementation of the Targeted Hiring Requirements of this Agreement and the Policy. The Jobs Coordinator must be able to demonstrate or document to the LACMTA the requisite qualifications and/or experience to fulfill the duties and responsibilities as outlined in the Construction Careers Policy.
- 3.15 LACMTA means Los Angeles County Metropolitan Transportation Authority, also known as MTA or Metro.
- 3.16 Letter of Assent means the document which formally binds each C/S/E to adherence to all the forms, requirements and conditions of this Agreement that each C/S/E (of any tier) must sign and submit to the LACMTA's designated office prior to beginning any work covered by this Agreement, and a copy of which will be provided by the designated LACMTA office to the Council.
- 3.17 Local Resident means an individual whose primary place of residence is within an Economically Disadvantaged or Extremely Economically Disadvantaged area in Los Angeles County.
- 3.18 Local Targeted Worker means a Local Resident, Community Area Resident or a Disadvantaged Worker whose primary place of residence is within Los Angeles County.
- 3.19 National Targeted Worker means an individual whose primary place of residence is within an Economically Disadvantaged Area or an Extremely Economically Disadvantaged Area in the United States, or a Disadvantaged Worker.
- 3.20 Policy means this Construction Careers Policy (CCP). This Policy shall govern covered construction projects as defined herein.



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- 3.21 Prime Contract means a contract entered into by a Contractor and the LACMTA for construction of the Project Work.
- 3.22 Prime Contractor means a Contractor that has entered into a Prime Contract with the LACMTA.
- 3.23 Project or Covered Project means the capital improvement construction projects, including, but not limited to, Measure R Transit Projects and Highway Projects, with a life-of-project budget greater than \$2.5 million and awarded by the LACMTA.
- 3.24 Project Labor Agreement (PLA) means an agreement entered into between the Los Angeles/Orange County Building and Construction Trades Council, Unions and the LACMTA.
- 3.25 Project Work means construction work performed in the construction of a project.
- 3.26 Reporting Period means the indicated reporting period for measuring the targeted hiring efforts of the C/S/Es'. These reporting periods shall be defined by the LACMTA and will continue until construction of the project has been completed.
- 3.27 Targeted workers means an individual whose primary place of residence is (1) within an extremely economically disadvantaged area, which is a zip code that includes a census tract, or portion thereof, in which the median annual household income is less than \$32,000 per year; or, (2) within an economically disadvantaged area, which is a zip code that includes a census tract, or portion thereof, in which the median annual household income is less than \$40,000 per year.
- 3.28 Unemployment means, in accordance with the Bureau of Labor Statistics definition, a situation in which a person does not have a job, has actively looked for work in the prior 4 weeks, and is currently available for work. Chronic unemployment means unemployment lasting 27 weeks or longer.
- 3.29 Union or Unions or Signatory Unions means the Los Angeles/Orange Counties Building and Construction Trades Council (Council) affiliated with the Building & Construction Trades Department (AFL/CIO), Craft International Unions and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have, through their officers, executed this Agreement.



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4.0 RESPONSIBILITIES

LACMTA or its designee shall ensure that the following responsibilities are met for each project affected by this policy:

- LACMTA shall ensure that each construction contract includes the detailed requirements of the PLA and the CCP guidelines and has been agreed to by the Prime Contractor and all C/S/Es.
- LACMTA shall collect a Letter of Assent from each C/S/E and ensure that the letters are distributed to all required parties.
- LACMTA shall review, approve or disapprove submitted EHP prior to a C/S/E(s)' estimated start of work. Approval of a C/S/E to work on a Project is contingent upon the C/S/E(s)' submittal of an approved EHP plan.
- LACMTA shall monitor and enforce the targeted hiring measures of the LACMTA-PLA and Policy and issue Notices of Non-Compliance, where appropriate.
- LACMTA shall assess Liquidated Damages in accordance with Section 2.6.1 of this Policy.
- LACMTA shall report the status of all projects covered by this policy as determined by the CEO or his designee.

Prime Contractor and it's C/S/Es shall perform the following responsibilities:

- The Prime Contractor shall ensure that its C/S/Es submit their EHP to the LACMTA for approval by the LACMTA project manager or his/her designee, at least 20 business days prior to starting their work on the project. Each C/S/E shall include in its EHP a description of how it will meet the targeted hiring requirements set forth in the LACMTA-PLA and Policy. No C/S/E shall be approved to work on a project without an approved EHP.
- Prior to the start of work, the prime contractor shall ensure that its C/S/Es, adhere to the following:
 - The prime contractor shall read and understand the requirements of the LACMTA-PLA and Policy.
 - The prime contractor shall sign and submit their Letters of Assent prior to the start of work. No C/S/E shall be approved to work on a project without submitting a signed Letter of Assent.



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- The prime contractor shall submit their EHP at least 20 business days prior to their subcontractor's start of work.
- Prior to start of work on the project, the Prime Contractor shall perform the following:
 - The prime contractor shall recommend a Jobs Coordinator for approval by the LACMTA.
 - The prime contractor shall provide documentation of the Jobs Coordinator's qualifications to the LACMTA within 10 days upon request by the LACMTA or its designee.
 - Upon LACMTA's approval of its Jobs Coordinator, the prime contractor shall ensure that all its subcontractors know the Jobs Coordinator and understand the Job Coordinator's role.
- The Prime Contractor and its C/S/Es shall coordinate with the Jobs Coordinator for services to support their efforts in meeting the targeted hiring percentages as described in Section 2.4 of this Policy.
- Each C/S/E shall conduct a pre-job conference with the appropriate affected Union(s) and the Council prior to commencing work. The C/S/E shall notify the Council ten (10) days in advance of all such conferences. Subcontractors of all tiers will be advised in advance of all such conferences and shall participate. All work assignments should be disclosed by the C/S/E at a pre-job conference held in accordance with industry practice. Any formal jurisdictional dispute raised under Article XI of the LACMTA-PLA must be raised at the pre-job conference upon disclosure of the work assignments. Should there be any formal jurisdictional dispute raised, the Prime Contractor shall be promptly notified. If the C/S/E intends to change the work assignment after the pre-job conference or to make an assignment of work not previously known, the C/S/E must notify the appropriate affected craft union(s) prior to the commencement of work.
- The Prime Contractor and its C/S/Es shall only use the Craft Request Form (Attachment "B" of the LACMTA-PLA) and the procedures written therein to request workers from the affected Union(s) and Job Coordinator.
- The Craft Request Form shall be submitted to the Jobs Coordinator and the Union(s) simultaneously. If the Union(s) cannot provide the requested worker in 48 hours, the Jobs Coordinator will seek to fill the job request form from other sources.
- The Prime Contractor and its C/S/Es shall maintain proof of transmittal of the Craft Request forms to the Union hiring halls and Jobs Coordinator. Upon request by the



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LACMTA, or its designated representative, copies shall be provided within 10-calendar days of request.

- The Prime Contractor and its C/S/Es shall make available to the LACMTA, or its designated representatives, records and information that are deemed relevant to monitoring and enforcement of the provisions of the LACMTA-PLA and the Policy.
- The Prime Contractor and its C/S/Es shall cooperate fully and promptly with any inquiry or investigation the LACMTA or its designated representatives deem necessary in order to monitor compliance with the provisions of the LACMTA-PLA and the Policy.
- The Prime Contractor and its C/S/Es shall submit to the LACMTA a verified statement of the number of journeypersons and apprentices who worked on the project, their classifications and the hours worked (Per California Labor Code 1777.5(e)) within 60 calendar days after concluding work on the project.

The Jobs Coordinator shall perform the following responsibilities:

- Play an integral part in the success of its partners in obtaining the targeted hiring percentages. It is the responsibility of the Prime Contractor to designate a Jobs Coordinator who will effectively perform the following:
 - The Jobs Coordinator shall develop, create, design and market specific programs to attract Targeted Workers and/or Disadvantaged Workers for construction opportunities at the project (e.g. handouts and fliers for “walk-ins” demonstrating program entrance procedures).
 - The Jobs Coordinator shall coordinate services for contractors to use in the recruitment of Targeted Workers.
 - The Jobs Coordinator shall educate and assist contractors on incentives provided by state or federal programs for on-the-job training and employer tax credits.
 - The Jobs Coordinator shall conduct orientations, job fairs and community outreach meetings in the local community.
 - The Jobs Coordinator shall screen and certify the disadvantaged status of workers.
 - The Jobs Coordinator shall establish a referral and retention tracking mechanism for placed local and/or disadvantaged workers and apprentices.
 - The Jobs Coordinator shall network with the various work source centers, community and faith-based organizations and other non-profit entities that provide qualified local workers and/or disadvantaged workers.



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- The Jobs Coordinator shall coordinate with the various building trades crafts for referral and placement of Targeted Workers.
- The Jobs Coordinator shall maintain a database of pre-qualified Targeted Workers for referral to work on a project and/or indentureship into a bona fide labor/management apprenticeship program.
- The Jobs Coordinator shall be the point of contact to provide information about available job opportunities on projects.
- The Jobs Coordinator shall assist the C/S/Es with their documentation effort and other reports as it relates to their Targeted Worker hiring requirements.
- The Jobs Coordinator shall work closely with LACMTA staff, the building trades and C/S/Es in achieving the targeted hiring goals.

Unions shall perform the following responsibilities:

- The Unions shall ensure that its dispatchers properly adhere to the use of the Craft Request Form and the procedures written therein.
- The Unions shall refer Targeted Workers requested through the Craft Request Form, regardless of their place on the hiring hall list and normal referral procedures.
- The Unions shall exert their best efforts to recruit and identify Targeted Workers residing in Local Extremely Economically Disadvantaged areas and Economically Disadvantaged areas or in the case of federal funding, National Extremely Economically Disadvantaged areas or Nationally Economically Disadvantaged areas, Disadvantaged Workers, as well as those referred by the Jobs Coordinator for entrance, indentureship into a union apprenticeship program, and assisting such individuals in graduating into journeypersons.
- The Unions shall track retention of Targeted Workers/ apprentices participating in joint Labor/Management apprenticeship programs and provide LACMTA with the necessary information as requested.

5.0 FLOWCHART

Not Applicable

6.0 REFERENCES

- Zip Code Area Tables



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7.0 ATTACHMENTS

Attachment A - Los Angeles County Metropolitan Transportation Authority Project Labor Agreement (LACMTA-PLA)

Attachment B – Craft Request Form

8.0 PROCEDURE HISTORY

12/15/11 New policy 01/26/12 Board Adopted



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Attachment A



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Attachement B