

HILLSBOROUGH COUNTY AVIATION AUTHORITY
WOMAN- AND MINORITY-OWNED BUSINESS ENTERPRISE
POLICY AND PROGRAM
REVISED JUNE 2, 2016



HILLSBOROUGH COUNTY AVIATION AUTHORITY

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ATTACHMENTS:

Attachment 1 – W/MBE Assurance and Participation, Letter of Intent and Worksheet

HILLSBOROUGH COUNTY AVIATION AUTHORITY
WOMAN AND MINORITY-OWNED BUSINESS ENTERPRISE POLICY AND PROGRAM

SECTION 1 – POLICY AND OBJECTIVES

Section 1.1 Policy

It is the policy of the Hillsborough County Aviation Authority (Authority) that woman and minority-owned business enterprises, as defined herein, (W/MBEs) will have full and fair opportunities to compete for and participate in the performance of non-federally funded contracts or in the purchase of goods and services procured by the Authority. Contracts containing federal funding will be governed by the Authority's Disadvantaged Business Enterprise Policy and Program for Projects Funded by the United States Department of Transportation (DBE policy and program). Concession-related contracts will be governed by the Authority's Airport Concession Disadvantaged Business Enterprise Policy and Program (ACDBE policy and program).

In reducing race- and gender-based barriers for W/MBEs to participate in Authority prime contracts and subcontracts, neither the Authority nor those companies doing business with the Authority will discriminate on the basis of race, color, national origin or sex in the award and performance of any Authority contract or in the administration of this W/MBE program. The Authority will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of Authority contracts. Under its W/MBE policy and program, the Authority will recognize and encourage W/MBEs to participate as prime contractors or as subcontractors in its construction contracts, architectural and engineering contracts, professional services contracts, and purchases of goods and supplies. The Authority also encourages small businesses, Service-Disabled Veteran-Owned Small Businesses and Veteran-Owned Small Businesses to participate in available Authority contracting opportunities.

Section 1.2 Objectives

The Authority's W/MBE policy and program seeks to achieve several objectives:

- A. To ensure nondiscrimination in the award and administration of Authority contracts and purchases;
- B. To create a level playing field on which W/MBEs can compete fairly for Authority contracts and purchases;
- C. To ensure that the Authority's W/MBE program is narrowly tailored in accordance with applicable law;
- D. To identify and remove barriers to the participation of W/MBEs in Authority contracts and purchases;
- E. To assist in the development of firms so that they can compete successfully in the marketplace outside the W/MBE program; and

- F. To provide appropriate flexibility to the Authority in establishing and providing opportunities for W/MBEs.

Section 1.3 Disparity Study Update

In September 2015, the Authority completed a Disparity Study Update to determine if a significant disparity existed between the availability of ready, willing, and able W/MBE firms and the utilization of such businesses in the Authority's procurement process. The results of the Disparity Study Update included a statistical analysis and evaluation of the procurement of goods and supplies, construction, professional services and non-professional services prime contracts and subcontracts awarded to contractors located in the Authority's market area, which the Study defined as Hillsborough, Pinellas, Pasco, and Hernando counties. The study found that W/MBE firms make up approximately 44.8% of the available construction firms, but received only 14.4% of the non-federally-funded construction dollars. The Study also found substantial underutilization of W/MBE firms in the purchase of professional services, non-professional services, and goods and services. The Disparity Study Update, as well as other relevant evidence, is the evidentiary basis for the remedial actions in this W/MBE policy and program.

SECTION 2 –DEFINITIONS

The following definitions are incorporated in the Authority's W/MBE program:

- A. Business and Supplier Portal Directory means a database or directory of registered companies interested in doing business with the Authority as prime contractors, subcontractors and/or suppliers of goods and services.
- B. Business Diversity Manager means the individual who is responsible for administrating and managing both the W/MBE policy and program on a day-to-day basis; for carrying out technical assistance activities for W/MBEs; and for disseminating information on available business opportunities so that W/MBEs are provided a full and fair opportunity to participate in Authority contracts.
- C. Compliance means correctly implementing the requirements of this policy and program.
- D. Company means a commercial business that provides goods and/or services.
- E. Construction means new construction and renovations.
- F. Construction-related means construction-related design, consulting, specification development, testing and construction management services.
- G. Consultant means a professional who is called on for expert or technical advice or opinions.
- H. Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

- I. Contractor means one who participates, through a contract or subcontract, at any tier, in the supply of materials or the provision of work to the Authority.
- J. Days mean 8:00 a.m. to 5:00 p.m., ET, Monday through Friday, with the exception of Authority holidays.
- K. Disadvantaged Business Enterprise or DBE means a business certified by the Florida Unified Certification Program (FLUCP) in accordance with 49 CFR Part 26.
- L. DBE Liaison Officer or DBELO is the individual responsible for developing and implementing the W/MBE policies and programs.
- M. Goal means a race/gender specific subcontracting goal that is established as an expectation of W/MBE participation on each applicable non-federally funded project and contract.
- N. Good Faith Efforts means efforts undertaken by a contractor to achieve W/MBE participation or other requirements of this policy and program which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program objectives.
- O. Goods mean materials, equipment, supplies and commodities.
- P. Joint Venture means an association of a W/MBE and one or more other persons or firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the W/MBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.
- Q. Noncompliance means the requirements of this policy and program have not been correctly implemented.
- R. National Institute of Governmental Purchasing, Inc. (NIGP) codes, means a proprietary listing of detailed codes that describe a wide variety of products and services and are nationally recognized and used by government purchasing agents.
- S. Non-Professional Services means services that can be performed without specialized education or training.
- T. Policy means the general principles or plan by which the Authority is guided in its management of public affairs.
- U. Professional Services mean work that requires specialized education or training.
- V. Reconsideration Official is an official who did not take part in the original determination that the contractor failed to meet a W/MBE goal or make adequate good faith efforts to do so.
- W. RFP means request for proposals.

- X. RFQ means request for quotes.
- Y. Service-disabled veteran-owned small business or SDVOSB means a business concern certified as a service-disabled veteran-owned small business by:
 1. Office of Supplier Diversity (OSD), or
 2. U.S. Department of Veterans Affairs via <https://www.vip.vetbiz.gov/>.
- Z. Woman or Minority-Owned Business Enterprise or W/MBE means a business concern certified as a woman or minority-owned business by:
 1. City of Tampa,
 2. Hillsborough County,
 3. State of Florida Department of Management Services and Supplier Diversity, or
 4. The Florida Unified Certification Program pursuant to 49 CFR Part 26 as a DBE.
- AA. Veteran-owned small business (VOSB) means a business concern certified as a service-disabled veteran-owned small business by:
 1. Office of Supplier Diversity (OSD) or
 2. U.S. Department of Veterans Affairs via <https://www.vip.vetbiz.gov/>

SECTION 3 – ELIGIBILITY

A business certified as a W/MBE by Hillsborough County, City of Tampa, or the State of Florida Department of Management Services Office of Supplier Diversity, or as a DBE by the Florida Unified Certification Program will be eligible to participate on Authority-funded contracts as a W/MBE pursuant to this policy and program.

SECTION 4 - PROGRAM STRUCTURE AND RESPONSIBILITIES

Section 4.1 Overall Responsibility for Authority’s W/MBE Program

The Chief Executive Officer (CEO) of the Authority will exercise overall responsibility and direction of the Authority’s W/MBE policy and program; direct staff to establish realistic contract goals in Authority contracts with W/MBE opportunities and ensure active participation at all staff levels in support of the program’s objectives.

Section 4.2 Implementation and Management of W/MBE Program

The DBELO will be appointed by the Authority’s CEO and will have direct, independent access to the CEO concerning W/MBE program matters. Implementation of the W/MBE Policy and Program will be the responsibility of the DBELO. The DBELO for the Authority is the:

Director of Ethics, Diversity and Administration
 Hillsborough County Aviation Authority
 Tampa International Airport
 P. O. Box 22287
 Tampa, Florida 33622-2287

The DBELO will advise and consult with Authority staff members as required for the effective and responsive functioning of the W/MBE policy and program. The CEO will assign adequate staff to administer the Authority's W/MBE policy and program. Key departments with significant procurement opportunities, such as Planning and Development, Maintenance and Information Technology (IT), will assign a business coordinator to facilitate the exchange of information about business opportunities for W/MBE companies with the Authority, plan outreach activities for major procurement activities, and to foster administration of the W/MBE policy and program.

Section 4.3 Staff Responsibilities

A. Administration of the W/MBE policy and program will be the responsibility of Business Diversity Managers. Administration responsibilities will include, but not be limited to, the following activities:

1. Act as a resource for W/MBE firms.
2. Maintain files and related record keeping, including literature, forms and reference materials pertaining to W/MBE matters, and generally keep informed of current trends, regulations and rulings affecting other W/MBE and DBE programs.
3. Develop support staff for maintaining the W/MBE policy and program and work with all management/supervisory personnel to implement W/MBE policies and practices.
4. Monitor the performance and actual utilization of W/MBEs as proposed at the time bids/proposals are opened, as well as throughout the term of the contract, including any changes in scope. The Business Diversity Managers will monitor all contracts to ensure that work committed to W/MBEs at contract award is actually performed by the W/MBEs. The Business Diversity Managers will monitor and review W/MBE activity reports from the prime contractor, project inspection reports to ensure that W/MBE participation is legitimate and is credited toward overall or contract goals only when the work is performed and payments are actually made to W/MBE firms, and, if necessary meet with project managers and inspectors. In the event the W/MBE is unable to perform the work, and a substitution is necessary, the Business Diversity Managers will ensure that the contractor makes a good faith effort to replace the W/MBE subcontractor with a qualified W/MBE subcontractor.
5. The Business Diversity Managers will perform random contract performance records inspections, monitor work sites, review monthly progress payments from prime contractor, and analyze project closeout documents to ensure that W/MBE participation is accurately credited toward goals. A written certification will document that compliance requirements have been met by all program participants.
6. The Authority may perform interim audits of contract payments to W/MBEs. The audits will review payments to W/MBE subcontractors to ensure that the actual amount paid to W/MBE subcontractors equals or exceeds the dollar amounts stated in the schedule of W/MBE participation.

7. Track W/MBE participation on projects and contracts in relation to goals for each.
8. Implement and manage the W/MBE policy and program on a day-to-day basis by working with other departments to establish realistic goals and by providing technical assistance to other departments regarding the availability of W/MBE businesses willing, ready and able to participate in Authority contracts.
9. Develop, manage and implement the W/MBE policy and program on a day-to-day basis by carrying out technical assistance activities for W/MBEs and by disseminating information on available business opportunities so that W/MBEs are provided an equitable opportunity to participate in Authority contracts.
10. Conduct presentations with interested groups concerning the W/MBE program.

Section 4.4 Activities to Reduce Barriers

- A. The following activities are designed to ensure that W/MBEs, Service-Disabled Veteran-Owned Small Businesses, Veteran-Owned Small Businesses, and other small and local firms have fair and full opportunities to compete for Authority contracts through race neutral means whenever possible. It is the responsibility of the Business Diversity Managers to ensure the following activities are performed:
 1. Inform and communicate the Authority's contracting procedures and specific bid/proposal opportunities; plan and participate in business development training seminars; plan and participate in networking events and community outreach activities for the purpose of conveying information about various Authority business and development opportunities to potential contractors and suppliers and to bring potential prime and subcontractor companies together.
 2. Coordinate with the Procurement Department to ensure that solicitations with significant W/MBE, Service-Disabled Veteran-Owned Small Businesses or Veteran-Owned Small Businesses contracting opportunities are posted, in relevant publications.
 3. Assist in identifying race- and gender-based barriers confronting businesses and work diligently to arrive at acceptable solutions.
 4. Assist in facilitating the receipt of timely payments to W/MBEs, Service-Disabled Veteran-Owned Small Businesses or Veteran-Owned Small Businesses for work completed, following such requests for payment.
 5. Encourage attendance at pre-bid/pre-proposal meetings.
 6. Maintain a system of records and reports documenting:
 - a. Specific efforts made to identify and award contracts to W/MBEs, Service-Disabled Veteran-Owned Small Businesses or Veteran-Owned Small Businesses; and

- b. Specific awards made to W/MBEs, Service-Disabled Veteran-Owned Small Businesses or Veteran-Owned Small Businesses.
All contract advertising prepared in accordance with procedures established by the Authority.
- 7. Conduct presentations with interested groups concerning the W/MBE program.
- 8. Coordinate with the Procurement Department to identify opportunities to establish rotation lists of pre-qualified businesses to provide segmented portions of work on a rotating basis for a defined period of time.
- B. The Authority's Development Committee will review all capital projects for unbundling and outreach opportunities to facilitate competition by W/MBEs, Service-Disabled Veteran-Owned Small Businesses, Veteran-Owned Small Businesses, and small and local firms to participate as prime contractors. For each capital project selected for inclusion in the annual capital budget, the Project Director will evaluate the project for unbundling using the Project Management Plan (PMP). At a minimum, the following will be reviewed and considered:
 - 1. Whether the project takes place in more than one location;
 - 2. The size and complexity of the project;
 - 3. The similarity to the types of work involved;
 - 4. The types of work involved;
 - 5. Difficulty in segmenting the project;
 - 6. Public safety and convenience;
 - 7. Additional costs associated with segmentation;
 - 8. Risk to the Authority in dividing the project;
 - 9. Time constraints of the project; and
 - 10. Constraints in staffing and managing multiple projects.

Section 4.5 Business and Supplier Portal Directory

- A. The Business and Supplier Portal Directory (Portal) is a database of registered companies interested in contracting opportunities with Authority contracts as suppliers, primes and/or subcontractors. The Portal serves as a resource to the Authority for identifying companies interested in doing business with the Authority. Companies registered in the Portal have the opportunity to receive automatic bid and proposal notices via email on upcoming Authority bids and projects.
- B. All businesses registered in the Supplier Portal Directory are self-entered by the company and should be updated as often as necessary depending on company's need.
- C. All company registrations include, at a minimum the following information:
 - 1. Company Name;
 - 2. NAICS/NIGP Code;
 - 3. Address;
 - 4. Work Phone Number;
 - 5. E-mail Address;

6. W/MBE Certification Status;
 7. Small Business Certification Status;
 8. Service-Disabled Veteran-Owned Small Business Certification Status;
 9. Veteran-Owned Small Business Certification Status;
 10. Services, products and materials supplied;
- D. Companies are required to register in the Portal prior to submitting a response to an invitation to bid; request for qualifications; request for proposal or request for quotes.

SECTION 5 – RACE-NEUTRAL MEASURES TO ENSURE EQUAL CONTRACTING OPPORTUNITIES

The Authority shall develop and use race and gender neutral measures to the maximum feasible extent to facilitate the participation of small business in non-federally funded contracting activities. These measures may include, but are not limited to:

- A. Providing assistance to businesses in overcoming barriers such as difficulty in obtaining bonding and financing;
- B. Providing timely information on contracting procedures, bid preparation, and specific contracting opportunities;
- C. Encouraging attendance at pre-bid and pre-proposal conferences, where appropriate, to explain the project(s) and to encourage contractors to use small business as subcontractors;
- D. Encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces;
- E. Adopting prompt payment procedures, including requiring that prime contractors pay subcontractors within specified days of receipt of payment from the Authority;
- F. Requiring payment of mobilization to subcontractors by the prime contractor, if mobilization is paid to the prime contractor;
- G. Expediting payments and advancing payments to cover start-up and mobilization costs, where appropriate;
- H. Collecting information from prime contractors on the payments to all subcontractors at major project milestones and/or at project closeout;
- I. Letting a “representative” sample of Authority construction and professional services contracts without goals, to determine W/MBE utilization in the absence of goals;
- J. Limiting the self-performance of prime contractors, where appropriate; and
- K. Investigating complaints of discrimination in the Authority’s contracting activities or contracts.

SECTION 6 – W/MBE OPPORTUNITIES

A function of the W/MBE program is to identify opportunities for W/MBEs to participate as prime contractors as well as subcontractors on projects and purchases that are not federally-funded; to ensure the participation of qualified W/MBEs who are ready, willing and able to provide services on such projects; and to measure the success of the program based on part participation.

Section 6.1 W/MBE Contract Goals

- A. For capital projects, opportunities for participation by W/MBEs will be identified when the project scope is developed. Both race-neutral and race-conscious measures will be utilized to achieve W/MBE participation. To estimate contract goals, the Business Diversity Manager, in conjunction with the applicable department, will review proposed contracts for construction, engineering, architecture, and professional and management services. The level of participation will be determined on the basis of W/MBE participation on previous projects, the type of work involved and the availability of certified W/MBEs for the work of the particular project. The procedure for determining such participation will be as follows:
1. As 90 percent design review or during the development of an RFP/RFQ, the Business Diversity Manager will meet with project staff to review the proposed scope of work for the project and identify potential areas of subcontracting.
 2. Once the final scope has been determined, the scope will be submitted to the Business Diversity Manager with a detailed assessment of all subcontracting opportunities including suggestions for participation by W/MBEs on the project.
- B. For non-capital purchases exceeding \$100,000, the Procurement Department will review proposed purchases with the Business Diversity Manager in order to identify opportunities for participation by W/MBEs. When soliciting quotes for goods and services from \$15,000 to \$100,000, the Procurement Department will endeavor to contact relevant certified WMBEs, Service-Disabled Veteran-Owned Small Business and Veteran-Owned Small Businesses listed in the Portal, when possible.
- C. Contract goals will be based upon the availability of W/MBEs and the anticipated sub-contractible elements of the project. Whenever possible, race-neutral means will be utilized to facilitate W/MBE participation.
- D. The Authority will express a contract goal as a percentage of the total dollar amount of the contract.
- E. The Authority will establish contract goals only on those projects that have subcontracting possibilities. The Authority may not establish a contract goal on every contract, and the size of contract goals will be adapted to the circumstances of each such contract, such as the location of the work and the availability of W/MBEs to perform the particular type of work.

SECTION 7 - PROCEDURES TO ENSURE GOOD FAITH EFFORTS

Section 7.1 Bid/Proposal Information

- A. On all contracts for which contract goals have been established, the Authority will inform all competitors that they will be required to submit documentation to the Authority as part of their bid or proposal indicating either that the bidder or proposer has obtained enough W/MBE participation to meet the goal or that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough W/MBE participation to do so. Pertinent information regarding skills and services of certified W/MBEs will be available to prime contractors but will, in no way, relieve contractors of their responsibility to use any and all sources of information available to them in locating certified W/MBEs. Failure of a contractor to submit all of the W/MBE information stated below as part of their bid or proposal may render the bid or proposal non-responsive:
1. The names and addresses of W/MBEs that will participate in the contract;
 2. A description of the work each certified W/MBE will perform to count toward meeting the contract goal. The W/MBE must be certified in a NAICS/NIGP codes applicable to the kind of work the firm would perform on the contract;
 3. The dollar amount of participation by each W/MBE;
 4. Written documentation of the bidder/offeree's commitment to use a W/MBE subcontractor whose participation it submits to meet a contract goal;
 5. Written confirmation from each W/MBE that is proposed to meet the contract goal indicating the kind and amount of work the W/MBE is to perform and a commitment to participate in the prime's bid or proposal;
 6. If the contract goal is not met, evidence of good faith efforts (see Section 7.2). The documentation of good faith efforts must include copies of each W/MBE and non-W/MBE subcontractor quote submitted to the bidder when a non-W/MBE subcontractor was selected over a W/MBE for work on the contract; and
 7. A copy of each W/MBE's certification letter from the certifying agency.
- B. If a firm is not certified as a W/MBE in accordance with the Authority's W/MBE policy and program at the time a bid or proposal submission, the Authority will not count the firm's participation toward the W/MBE goal.

Section 7.2 Good Faith Efforts

- A In all Authority contracts, the apparent successful bidder or proposer will satisfy the Authority that it has made good faith efforts to utilize W/MBEs in meeting the established W/MBE goal. Good faith efforts are those efforts that could reasonably be expected to result in W/MBE goal attainment by a contractor who aggressively and actively seeks to maintain W/MBE participation. Efforts that are merely pro forma are not good faith efforts to meet W/MBE goals. Bidders or proposers will be required to submit the W/MBE Subcontractor Bid/Proposal

Solicitation Worksheet, contained in Attachment 1, with their bid if they fail to meet the contract goal

- B. Within 48 hours following receipt of bids or proposals, the Business Diversity Manager will evaluate the good faith efforts of the apparent successful bidder or proposer. In determining whether or not the apparent successful contractor has made such good faith efforts, the Authority will review the W/MBE Subcontractor Bid/Proposal Solicitation Worksheet to consider the following factors:
1. Whether the bidder or proposer advertised in newspapers of general circulation, websites, trade associations, and minority-focus media concerning subcontracting opportunities prior to the bid or proposal submission date.
 2. Whether the bidder or proposer provided written notice via mail, facsimile or electronic mail prior to the bid or proposal submission date to a reasonable number of W/MBEs that their interest in the contract was being solicited and giving W/MBEs sufficient time to prepare a response to the request.
 3. Whether the bidder or proposer followed up initial solicitations of interest by contacting W/MBEs to determine with certainty whether the W/MBEs were interested.
 4. Whether the bidder or proposer selected portions of the work to be performed by W/MBEs in order to increase the likelihood of meeting the W/MBE goal including, where appropriate, breaking down contracts into economically feasible units to facilitate W/MBE participation.
 5. Whether the bidder or proposer provided interested W/MBEs with adequate information about the plans, specifications or requirements of the contract.
 6. Whether the bidder or proposer negotiated in good faith with interested W/MBEs, not rejecting W/MBEs as unqualified without sound reasons after a thorough investigation of their capabilities.
 7. Whether the bidder or proposer made efforts to assist interested W/MBEs in obtaining bonding, lines of credit, or insurance required by the Authority or the bidder or proposer.
 8. Whether the bidder or proposer effectively used the services of available minority community organizations; minority trade or business groups; local, state and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of W/MBEs.
 9. Whether the scope of work submitted by the bidder or proposer to any W/MBE subcontractor, W/MBE sub-subcontractor, W/MBE supplier, W/MBE sub-supplier and so on, either directly or indirectly, was intended to achieve, in whole or in part, the specified W/MBE participation.

10. Whether the replies or quotes from W/MBEs submitted in response to a scope of work provided to them by a bidder or proposer, either directly or indirectly, were fair and responsive.
 11. Whether the bidder or proposer fairly represented the W/MBE quotations in the formulation of its bid or proposal as shown on the bid tabulation or other work documents to support the bid or proposal.
 12. Whether all other bidders or proposers met the W/MBE goal but the apparent low bidder or most qualified proposer did not.
- C. Bidders or proposers who fail to meet the W/MBE contract goal or make good faith efforts to do so will be determined to be non-responsive. Any bidder or proposer found to be non-responsive by the Authority will be entitled, at their option, to the administrative reconsideration process.
- D. The Authority reserves the right to request any additional and supplemental information it deems necessary for the purpose of clarifying the W/MBE information submitted. The individual responsible for making initial good faith effort determinations for the Authority will be the Business Diversity Manager for the category of contract being procured.

Section 7.3 Contractor's Bid or Proposal Documents

- A. All invitations to bid, RFPs, or RFQs for non-federally funded projects for construction, engineering, architectural, professional services and management contracts, prepared by contractors and/or subcontractors on Authority projects that have W/MBE contract goal will comply with the W/MBE requirements of the Authority's W/MBE policy and program and all elements of the solicitation.
- B. All invitations to bid, RFPs or RFQs for non-federally funded projects will state that...“Failure to comply with the requirements for participation by W/MBEs may disqualify the contractor from award of the contract.” Any precondition applicable to the project will be fully explained in the bid specifications, RFP, or RFQ.

Section 7.4 Reconsideration of Lack of Good Faith Efforts

Within five days of being informed by the Business Diversity Manager that the bidder or proposer is found to be non-responsive because it has not documented sufficient good faith efforts, the bidder or proposer may request administrative reconsideration. The bidder or proposer must make this request in writing to the following Reconsideration Official:

Vice President of Facilities and Administration
Hillsborough County Aviation Authority
Tampa International Airport
P. O. Box 22287
Tampa, Florida 33622
Telephone (813) 870-8761

The Reconsideration Official will not have a role in the original determination that a bidder or proposer failed to meet the W/MBE goal or to document good faith efforts.

As part of the reconsideration process, the bidder or proposer will provide written documentation supporting whether it met the W/MBE goal or its good faith efforts to do so. The bidder or proposer may be asked to meet with the Reconsideration Official to discuss its documentation. The Reconsideration Official will send the bidder or proposer a written decision on reconsideration no later than five days after receipt of the written documentation or meeting, whichever occurs later, explaining the basis for finding that the bidder or proposer did or did not meet the W/MBE goal or make adequate good faith effort. In the event a bidder or proposer protests the decision of the Reconsideration Official, the bidder or proposer must submit a formal bid protest in accordance with the Authority's Policy P512, Procurement Protests which is available on the Authority's website.

SECTION 8 – CONTRACTOR AND SUPPLIER/VENDOR COMPLIANCE REQUIREMENTS

Section 8.1 Required Contract Provisions

The Authority will ensure that the elements of the W/MBE policy and program are implemented and monitored on each non-federally funded contract and purchase order as indicated.

- A. **Bidder's, Contractor's or Supplier/Vendor's or Subcontractor's Duty to Comply with Authority's W/MBE Policy and Program.** In all Authority contracts and purchase orders signed by a bidder or proposer and each subcontract signed with a subcontractor, the bidder or proposer must assure the Authority that:

"The bidder/proposer, contractor, supplier/vendor and subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The bidder/proposer, contractor, supplier/vendor or subcontractor will carry out applicable requirements of the Authority's W/M/DBE policies and programs in the award and administration of Authority contracts. Failure by the bidder/proposer, contractor, supplier/vendor or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate which may include, but not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible."

- B. **Authority Payment Mechanism.** In accordance with the Authority's W/MBE policy and program, all contractors must promptly pay all their sub-contractors regardless of certification status who have submitted invoices for work already performed within 10 calendar days of being paid by the Authority. The following prompt payment clause is required in each Authority contract and the contractor will require all subcontractors to have this clause in their subcontracts:

“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 calendar days from the receipt of each payment the contractor receives from the Authority. The contractor agrees further to release retainage payments to each subcontractor within 10 calendar days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written notice to the Authority. This clause applies to both W/M/DBE and non-W/M/DBE subcontractors.”

- C. Retainage. In addition to promptly paying all sub-contractors within 10 calendar days, contractors must also release their retainage to those sub-contractors who have submitted an invoice for completed work accepted by the contractor and the Authority within 10 calendar days after the contractor has received from the Authority its release of retainage.
- D. Prompt Payment of Retainage. On Authority contracts, prompt payment and prompt payment of retainage requirements apply to all sub-contractors on the prime contract, whether W/MBE or non-W/MBE. The contractor shall ensure that all subcontractors comply with this part's provisions.
- E. Tracking Payments. The Authority will require the contractor awarded the contract to make available upon request a copy of all W/MBE subcontracts. The contractor shall submit payment information to the Authority as directed. The subcontractor shall ensure that all subcontracts or agreements with W/MBEs to supply labor or materials require that the subcontractor and all lower tier subcontractors be performed in accordance with this part's provisions.

Section 8.2 Sanctions for Non-Compliance

In the event of the contractor’s non-compliance with the Authority’s W/MBE policy and program, the Authority, after due process, will impose such contract sanctions as the Authority may determine to be appropriate, including but not limited to:

- A. Withholding of payments to the contractor under the contract until the contractor complies; and/or
- B. Assessing sanctions; and/or
- C. Liquidated damages; and/or
- D. Cancellation, termination or suspension of the contract in whole or in part; and/or
- E. Suspension or debarment of contractor from eligibility to contract with the Authority in the future or to receive bid packages or Request for Proposal (RFP)/Request for Qualifications (RFQ) packages, pursuant to the Authority’s Policy P414, Suspension/Debarment of Contractors.

Section 8.3 Counting W/MBE Participation toward Goals

- A. The Authority will count W/MBE participation toward overall contract goals, as provided in the Authority's W/MBE policy and program. The Authority will count only the value of the work actually performed by the W/MBE toward W/MBE contract goals on a contract in accordance with the following:
1. One hundred percent of that portion of a construction contract that is performed by the W/MBE's own forces, including the cost of supplies and materials obtained by the W/MBE for the work of the contract, including supplies purchased or equipment leased by the W/MBE, except supplies and equipment the W/MBE subcontractor purchases or leases from the contractor or its affiliate.
 2. One hundred percent of the value of the work subcontracted by one W/MBE subcontractor to another W/MBE subcontractor. Work that a W/MBE subcontracts to a non-W/MBE firm does not count toward W/MBE goals.
 3. One hundred percent of fees or commissions charged by a W/MBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of an Authority contract, toward W/MBE goals, provided the Authority determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- B. Expenditures by a W/MBE contractor will count toward W/MBE goals only if the W/MBE is performing a commercially useful function on that contract. The following factors are considered in determining commercially useful function:
1. A W/MBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. With respect to materials and supplies used on a contract, the W/MBE must also be responsible for; negotiating price; determining quality and quantity; ordering the material; installing (where applicable) and paying for the material itself. To determine whether a W/MBE is performing a commercially useful function, the Authority will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, the W/MBE credit claimed for its performance of the work, and other relevant factors.
 2. A W/MBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of W/MBE participation. In determining whether a W/MBE is such an extra participant, the Authority will examine similar transactions, particularly those in which W/MBEs do not participate.
 3. If a W/MBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the W/MBE subcontracts a greater portion of the work of a contract than would be expected based on normal industry practice for the type of work involved, the Authority will presume that it is not performing a commercially useful function.

4. When a W/MBE is presumed not to be performing a commercially useful function, the W/MBE may present evidence to rebut this presumption. The Authority may determine whether the firm is performing a commercially useful function given the type of work involved and normal industry practices.
 5. The Authority's decisions on commercially useful function matters are administratively final.
- C. Expenditures with W/MBE manufacturers or regular dealers for materials or supplies will be counted at 100 percent toward W/MBE goals.
1. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 2. A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 3. The firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 4. A firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment will be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
 5. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers. With respect to materials or supplies purchased from a W/MBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward W/MBE goals, provided the Authority determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward W/MBE goals, however.
 6. Purchases of equipment, materials and/or supplies required in a project directly from certified W/MBEs under the Owner Direct Purchase Program will be reported to the Business Diversity Manager in accordance with Standard Procedure S410.19.
- D. The Authority will not count the participation of a W/MBE subcontractor toward the W/MBE goal until the amount being counted has been paid to the W/MBE.

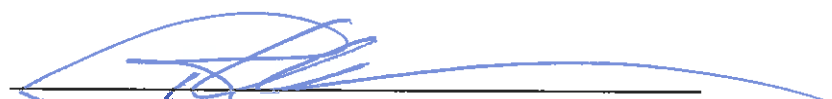
Section 8.4 Procedures Relating to W/MBE Terminations or Changes to W/MBE Commitments during Contract Performance

- A. Should the prime contractor, or any of its subcontractors or suppliers desire to alter or change the scope of work of a W/MBE subcontractor or supplier, or if the W/MBE subcontractor is unable to perform the work, the prime contractor will immediately notify the Authority, prior to taking any action and request written approval for the remedial steps which the contractor proposes to take to comply with the W/MBE goal.
- B. A prime contractor will be prohibited from terminating for convenience a W/MBE subcontractor and then perform the work of the terminated subcontractor with its own forces or those of an affiliate, without the Authority's prior written consent.
- C. When a W/MBE subcontractor is terminated, or fails to complete its work for any reason, the Authority will require the prime contractor to make good faith efforts to find another W/MBE subcontractor to substitute for the original W/MBE. These good faith efforts will be directed at finding another W/MBE to perform at least the same amount of work under the contract as the W/MBE that was terminated, to the extent needed to meet the contract goal.
- D. The Authority will include a provision for appropriate administrative remedies that it will invoke if the contractor fails to comply with the requirements of this section. Failure to comply with the procedure relating to W/MBE terminations or changes during the contract will be a material violation of the contract and will invoke the sanctions for non-compliance specified in this policy and program.

SECTION 9 – NOTICE OF INELIGIBILITY AND MISREPRESENTATION

- A. If, based on information that comes to the Authority's attention, there is reasonable cause to believe that a currently certified firm is no longer eligible to participate as a W/MBE, including but not limited to death or incarceration of the individual owner whose ownership and control of the firm are necessary to the firm's certification, the Authority will request written verification from the certifying agency confirming the company's status and the reasons for the proposed determination. If the Authority is unable to confirm a company's status from the certifying agency within 90 days, the Authority may remove the firm's eligibility to participate as a W/MBE. Thereafter, the Authority shall immediately notify the W/MBE of its ineligibility status by certified mail, return receipt requested, to the last known address of the owner(s) of the W/MBE. The Authority reserves the right to make its own decision whether to recognize a company as a W/MBE for credit towards meeting a W/M/BE contract goal.
- B. When a company's W/MBE eligibility is removed, the Authority will take the following action:
 - 1. If a prime contractor has made a commitment to use the ineligible firm, but a subcontract has not been executed at the time the Authority notifies the W/MBE and the prime contractor of the W/MBE's ineligibility, the ineligible company will not count toward the contract goal or overall goal. The Authority will direct the prime contractor to meet the contract goal with an eligible W/MBE firm or demonstrate to the Authority that it has made a good faith effort to do so.

2. If a prime contractor has executed a subcontract with the W/MBE before the Authority has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its W/MBE contract goal for the firm's work. In this case, or in a case where the Authority has awarded a prime contract to the W/MBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the Authority issued the notice of its ineligibility will not count toward the Authority's overall goal, but may count toward the contract goal.
 3. Exception: If the W/MBE's ineligibility is caused solely by having exceeded the size standard during the performance of the contract, the Authority may continue to count its participation towards the contract goal and the Authority's overall goal.
- C. If a W/MBE no longer meets the eligibility criteria and has been determined ineligible by the certifying agency, and attempts to participate in the Authority's W/MBE program as a W/MBE on the basis of false, fraudulent, or deceitful statements or misrepresentations or otherwise demonstrates a serious lack of business integrity or honesty, the Authority may suspend doing any further business with the company, pursuant to the Authority's Policy P414, Suspension/Debarment of Contractors.
- D. If a prime, in order to meet a W/MBE contract goal or other W/MBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or misrepresentations, another company that does not meet the eligibility criteria of the Authority's W/MBE policy and program, or otherwise demonstrates a serious lack of business integrity or honesty in meeting the requirements of the Authority's W/MBE policy and program, the Authority may suspend doing any further business with the company, pursuant to the Authority's Policy P414, Suspension/Debarment of Contractors.



Robert I. Watkins, Chairman
Hillsborough County Aviation Authority
6/2/16

Date

Attachment 1

SECTION 00417 - WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE (W/MBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE AUTHORITY PROJECT NO. _____ _____ AIRPORT

Select one of the responses below. Failure to complete this section may be grounds for rejection of the Bid.

Yes - Bidder Assures Prescribed W/MBE Expectancy.

The Bidder assures that it will meet the W/MBE requirements stated in this Solicitation and the Hillsborough County Aviation Authority's W/MBE Policy and Program, and will subcontract with W/MBE firms certified as a woman-owned or minority-owned business by the City of Tampa, Hillsborough County, State of Florida Department of Management Services, Office of Supplier Diversity (OSD), or as a Disadvantaged Business Enterprise (DBE) under the Florida Unified Certification Program (FLUCP), in an amount equal to at least ____% of the total dollar amount of the awarded Contract. The W/MBE expectancy stated above is the minimum prescribed expectancy; however, additional W/MBE participation is encouraged. The Bidder is required to submit a Letter of Intent for each W/MBE that will participate in the awarded Contract at the time the Bid is submitted to the Owner. The actual W/MBE contractual commitment will be the total amount of participation shown on the validated Letter(s) of Intent submitted by the Bidder. It is understood that the amounts shown on the Letter(s) of Intent are estimates and that actual amounts paid to W/MBE subcontractors may vary depending on the final adjustments of the estimated quantities; however, the W/MBE contractual commitment can only be modified by an amendment or change order.

OR

No - Bidder Does NOT Assure Prescribed W/MBE Expectancy.

The Bidder is unable to assure W/MBE participation of the prescribed expectancy of ____%, but will subcontract with W/MBE firms in an amount equal to at least ____% of the total dollar amount of the awarded Contract. The Bidder must submit with its Bid a completed W/MBE Good Faith Effort Worksheet documenting Bidder's good faith efforts to meet the prescribed expectancy. In determining whether or not the Bidder made sufficient good faith efforts to meet the expectancy, the Owner will consider the factors listed in the W/MBE Policy and Program.

By: Name of Bidder: _____

Date: _____

Bidder Representative's Name: _____

Title: _____

(Bidder Representative's Signature)

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Authority No. _____

WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE
ASSURANCE AND PARTICIPATION

00417-1

SECTION 00417 - WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE (W/MBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE AUTHORITY PROJECT NO. _____ _____ AIRPORT

Letter of Intent Instructions Checklist

Follow this checklist when completing the Letter of Intent.

- A separate Letter of Intent has been completed for each proposed W/MBE firm.
- The Bidder's name, address, telephone number, FAX number and e-mail address has been entered.
- The proposed W/MBE firm's name, address, telephone number, FAX number and e-mail address has been entered.
- The description of the work to be performed by the W/MBE firm has been entered.
- The amount of the proposed W/MBE firm's subcontract has been entered.
- The Bidder has completed and signed the Commitment section.
- The W/MBE firm has completed and signed the Affirmation section.
- A copy of the W/MBE firm's certification letter by the City of Tampa, Hillsborough County, State of Florida Department of Management Services, Office of Supplier Diversity (OSD) or DBE certification letter under the Florida Unified Certification Program (FLUCP) is attached to the Letter of Intent.

SECTION 00417 - WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE (W/MBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE AUTHORITY PROJECT NO. _____ _____ AIRPORT

Letter of Intent

NOTE: Failure to complete this statement may be grounds for rejection of the Bid.

Name of Bidder's firm: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____ Fax number: _____
E-mail: _____

Name of W/MBE firm: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____ Fax number: _____
E-mail: _____

Description of work to be performed by W/MBE firm: _____

Amount of the W/MBE firm's subcontract \$ _____

Commitment

The Bidder is committed to utilizing the above-named W/MBE firm for the work described above.

By: Name of Bidder: _____ Date: _____

Bidder Representative's Name: _____ Title: _____

(Bidder Representative's Signature)

Affirmation

By: Name of W/MBE Firm: _____ Date: _____

W/MBE Representative's Name: _____ Title: _____

(W/MBE Representative's Signature)

TPA / Master WMBE-Goal

Authority No. _____

**WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE
ASSURANCE AND PARTICIPATION**

00417-3

SECTION 00417 - WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE (W/MBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE AUTHORITY PROJECT NO. _____ AIRPORT

Letter of Intent

If the Bidder does not receive award of the Contract, any and all representations in this Letter of Intent will be null and void.

NOTE: The cost of materials and/or supplies obtained and/or equipment leased by the W/MBE to perform the subcontract work (except supplies and equipment the W/MBE subcontractor purchases or leases from the prime contractor or its affiliate) may be included in the subcontract amount. In addition, the Owner will count 100% of the expenditures on materials and/or supplies obtained from a W/MBE manufacturer or regular dealer. With respect to materials or supplies purchased from a W/MBE which is neither a manufacturer nor a regular dealer, the Owner will count only the amount of fees or commissions charged for assistance with the procurement of the material or supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site.

SECTION 00417 - WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE (W/MBE) ASSURANCE AND PARTICIPATION

PROJECT TITLE _____

AUTHORITY PROJECT NO. _____ AIRPORT

W/MBE GOOD FAITH EFFORT WORKSHEET

W/MBE

Name of Bidder:

In determining if the Bidder made sufficient good faith efforts to meet the prescribed W/MBE contract expectancy, the Owner will consider the factors listed in the W/MBE Policy and Program. If the Bidder is unable to meet the prescribed W/MBE contract expectancy, this Worksheet must be completed and submitted with the Bid. Bidders must attach to this form sufficient documentation to enable the Owner to verify the information provided. Failure to complete this Worksheet form or provide sufficient supporting documentation may be grounds for rejection of the Bid. The Owner reserves the right to conduct further investigation concerning the Good Faith Efforts indicated and reserves the right to find that the Bidder did not make a Good Faith Effort even if this form is filled out.

Name of W/MBE Firm	Date of contact with W/MBE Firm	How W/MBE Firm contacted	Follow-Up (Telephone calls, e-mails, other contact)	Response to Follow-Up	Did W/MBE Firm submit a quote?		Explain
					Yes	No	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
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					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	

(Continue on another page if necessary)

SECTION 00417 - WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE (W/MBE) ASSURANCE AND PARTICIPATION

TPA / Master-W/MBE Goal

Authority No. _____

WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE ASSURANCE AND PARTICIPATION

PROJECT TITLE

AUTHORITY PROJECT NO. AIRPORT

The following is a list of types of actions which the Owner will consider as part of the Bidder's good faith efforts to obtain W/MBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases. The Owner reserves the right to conduct further investigation concerning the Good Faith Efforts indicated and reserves the right to find that the Bidder did not make a Good Faith Effort even if this form is filled out.

Good Faith Efforts: (Check Yes or No for each statement below)	Yes	No	Explain
1. Advertised in newspapers of general circulation, websites, trade associations, and minority-focus media concerning subcontracting opportunities prior to the Bid Due Date.	<input type="checkbox"/>	<input type="checkbox"/>	
2. Selected portions of the work to be performed by W/MBEs in order to increase the likelihood of meeting the prescribed W/MBE expectancy including, where appropriate, breaking down contracts into economically feasible units to facilitate W/MBE participation.	<input type="checkbox"/>	<input type="checkbox"/>	
3. Provided interested W/MBEs with adequate information about the plans, specifications or requirements of the Contract.	<input type="checkbox"/>	<input type="checkbox"/>	
4. Negotiated in good faith with interested W/MBEs, not rejecting W/MBEs as unqualified without sound reasons after a thorough investigation of their capabilities.	<input type="checkbox"/>	<input type="checkbox"/>	
5. Made efforts to assist interested W/MBEs in obtaining bonding, lines of credit, or insurance required by the Owner or the Bidder.	<input type="checkbox"/>	<input type="checkbox"/>	
6. Effectively used the services of available minority community organizations; minority trade or business groups; local, state and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of W/MBEs.	<input type="checkbox"/>	<input type="checkbox"/>	
7. Submitted a scope of work to W/MBE subcontractors, W/MBE sub-subcontractors, W/MBE suppliers, W/MBE sub-suppliers and so on, either directly or indirectly, with the intention of achieving, in whole or in part, the specified W/MBE expectancy.	<input type="checkbox"/>	<input type="checkbox"/>	
8. Fairly represented the W/MBE quotations in the formulation of its Bid.	<input type="checkbox"/>	<input type="checkbox"/>	
9. Conducted Outreach Meeting(s).	<input type="checkbox"/>	<input type="checkbox"/>	

END OF SECTION

TPA / Master-W/MBE Goal

Authority No.

WOMAN AND MINORITY OWNED BUSINESS ENTERPRISE
ASSURANCE AND PARTICIPATION

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