Small Business Enterprise (SBE) Policy
and Procedures Manual
Business Diversity & Development Department
Art Program

Peter Halley – Untitled

“I hope that my work can play a role similar to the grand transportation murals of airplanes, trains and cars that enhanced air and train terminals around the United States in the 1930’s and 1940’s.”

Each of the eight individual cells represents an abstract urban landscape depicted with intense hues and contrasting textures, which creates a three-dimensional effect.
# SMALL BUSINESS ENTERPRISE (SBE) POLICY AND ADMINISTRATIVE PROCEDURES

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### DEFINITIONS

### ATTACHMENTS

- Attachment 1: Request for Goal Determination Form
- Attachment 2: SBE Contract Provisions (including required Forms)
- Attachment 3: Airport Board Policy – Adoption of Expedited Payment Policy
Small Business Enterprise (SBE) – Minority and Women Business Enterprise (MWBE) Program Policy
Business Diversity & Development Department

Effective: October 1, 2012
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I. PROGRAM PREAMBLE

WHEREAS, on March 27, 2008, Mason Tillman Associates, (MTA) was retained to conduct a Disparity Study for the Dallas/Fort Worth International Airport to determine whether there was a compelling interest for the Airport to establish a narrowly-tailored minority- and women-owned business enterprise (MWBE) program; and

WHEREAS, MTA conducted a Supplemental Study that was completed in August 2010 that examined the extent to which the DFW may have been a passive participant in private discrimination in the construction and architectural and engineering industries;

WHEREAS, MTA’S Disparity Study and Supplemental Study (hereinafter “MTA studies”) established findings from the contracting period between October 1, 2002 and September 30, 2007, that confirm that although the Board’s Disadvantaged Business Enterprise and Minority/Women Business Enterprise programs have significantly improved the participation of small and MWBE firms in Airport contracts beyond the level previously obtained, nevertheless, significant disparities in the Airport’s utilization of MWBE firms continue to persist in a number of industry segments; and

WHEREAS, the MTA studies found, based upon regression analysis and other firm evidence, that private sector discrimination adversely affects MWBE access to small business credit markets, and that such discrimination also contributes to gross patterns of exclusion of MWBE firms from private sector contract opportunities and significantly lowers earnings for MWBE firms as compared to similarly situated non-minority firms; and

WHEREAS, the Board is relying upon a strong basis in evidence in concluding that there are ongoing effects of marketplace discrimination adversely affecting the utilization of MWBE firms in Airport contracts and in the Airport’s relevant marketplace; and

WHEREAS, the MTA studies were reviewed and formally recommended for acceptance by an independent legal expert; and

WHEREAS, on September 1, 2011, the Board voted to formally accept the findings of the MTA studies for purposes of policy formulation; and

WHEREAS, decades of Disadvantaged Business Enterprise and MWBE programs and a variety of race- and gender-neutral remedies have failed to fully eliminate statistically significant underutilization of ready, willing and able MWBE firms; and
WHEREAS, the DFW International Airport has a compelling interest to remedy the ongoing effects of marketplace discrimination against minority- and women-owned businesses and to avoid becoming a passive participant in private sector discrimination; and

WHEREAS, the significant underutilization of available MWBE firms is also a drain on the local economy and undermines the economic vitality and development of the Dallas/Fort Worth region; and

WHEREAS, this Board is fully committed to not only remedying the ongoing effects of marketplace discrimination, but to also using its spending powers in a manner that promotes a robust and inclusive economy that fully utilizes all segments of its business population regardless of race or gender; and

WHEREAS, based upon an extensive factual predicate, the Board has determined that a narrowly-tailored combination of race- and gender-neutral and race- and gender-conscious remedies and programs are necessary to serve these compelling interests and needs of the DFW International Airport; NOW THEREFORE:

The following Small Business Enterprise – Minority Business Enterprise Program Policy is adopted effective October 1, 2012.

________________________  ______________________________
Jeffrey P. Fegan               Date
Chief Executive Officer
Dallas/Fort Worth International Airport
II. POLICY STATEMENT

Dallas/Fort Worth International Airport (DFW) has a long history of supporting businesses owned by minority, women and disadvantaged individuals, including small businesses. This Small Business Enterprise (SBE) – Minority and Women Business Enterprise (MWBE) Policy seeks to foster participation by small and minority businesses in construction, architectural and engineering, professional services and non-professional services contracting and procurement opportunities at DFW by increasing the capacities of such firms to perform as prime vendors and subcontractors and as suppliers. The Policy shall allow DFW to more effectively target small and minority business participation and create opportunities relating to the Airport’s contracting and procurement.

This Policy seeks to promote full and fair opportunities for SBEs and MWBEs certified by an entity recognized by the Airport, and whose place of business is located in the Airport’s relevant market area.

III. SCOPE OF SBE – MWBE PROGRAM

The intent of the SBE-MWBE Program is to provide full and fair opportunities for equal participation by small, minority-, and women-owned businesses in locally-funded Airport contracting and procurement opportunities. This program shall not be applicable to any contracts or procurement opportunities that are federally funded or subject to the Disadvantaged Business Enterprise (DBE) or the Airport Concessions Disadvantaged Business Enterprise (ACDBE) Programs or to contracts or solicitations that have been issued prior to the effective date of this Policy.

The SBE-MWBE Program requires contractors to make good faith efforts to use small, minority-owned, and/or women-owned businesses in certain contracting and procurement opportunities determined by DFW. Compliance with requirements for bidders to exercise good faith efforts shall be measured utilizing guidance provided in 49 C.F.R. Part 26, Appendix A.

Every locally-funded contract will be evaluated by the Airport’s Business Diversity and Development Department (BDDD) to determine the appropriate method for enhancing SBE and/or MWBE participation to be counted towards the achievement of the annual aspirational SBE or MWBE goal and other program objectives. For contracts determined to be appropriate for the application of SBE program elements (i.e., those contracts without MBE or WBE contract goals), various race- and gender-neutral methods may be employed. On other contracts, DFW may determine that a race- or gender-conscious program element is more appropriately applied based upon stated criteria. The criteria used to set a SBE contract goal shall include business capacity, business availability, nature of the contract, past experiences with small and minority- and women-owned business participation in similar contracts, price competitiveness, and subcontracting opportunities.
For those locally-funded contracts that BDDD determines race-neutral remedies alone will likely be insufficient to fully overcome the effects of marketplace discrimination, the BDDD may, pursuant to the criteria stated herein, apply race / gender-conscious MWBE program elements in an effort to assist MWBE firms in overcoming the effects of marketplace discrimination that have adversely affected their ability to compete for DFW subcontracts and prime contracts.

Procedures for implementation, including good faith efforts requirements, information submitted with bid and reporting procedures, etc., shall be consistent with procedures utilized in the Airport’s Administrative Procedures Manual.

IV. SBE – MWBE NON-INDUSTRY-SPECIFIC PROGRAM ELEMENT

The following race- and gender-neutral Program Element shall be applied by the Airport to all appropriate bid solicitations regardless of the industry segment affected:

A. Bidder Outreach Program Element

Pursuant to Board Resolution # 2007-11-306, titled as “Delegation of Expenditure Authority,” whereby the Board approved increasing the CEO’s delegated contracting / expenditure authority up to $50,000 for all contracts, and raised the threshold at which biddable contracts must be competitively bid to those valued above $50,000, for all procurement contracts valued at between $3,000 and $50,000, the Airport shall contact and solicit bids or quotes from at least two Historically Under-utilized Businesses as required by State law, and shall also contact and solicit bids from at least two SBE and/or Minority Women Business Enterprises.

V. SBE – MWBE INDUSTRY-SPECIFIC PROGRAM ELEMENTS

The BDDD shall have the responsibility of evaluating categories of Informal Solicitations and each prospective Formal Solicitation document in advance of posting an advertisement to the public to determine which of the following SBE or MWBE program elements should be applied to a given contract within a particular industry:

A. Race – Neutral Construction Program Elements

The BDDD shall consider the application of one or more of the following Race-Neutral program elements for each solicitation for a DFW Construction contract:

1. SBE Subcontracting Program

The BDDD may, at its discretion and on a contract-by-contract basis, require that a predetermined percentage of a specific contract be subcontracted to eligible SBEs. Factors to be considered by the BDDD in making this determination shall include the relative availability of SBE firms to perform Commercially Useful
Functions on the specific contract.

2. Technical and Business Development Resources

DFW may offer a wide range of technical assistance and business development resources to small businesses, including capital assistance, bonding assistance and support resources which provide guidance with general administrative, personnel management, invoicing, preparation of business plans, change orders and project budgets. In addition, to services offered or funded directly by DFW, numerous assistance programs are offered to small businesses throughout the North Texas Region.

3. Subcontractor Mobilization Payments (BDE)

To account for the preparatory work and operations necessary for the movement of subcontractor personnel, equipment, supplies, and incidentals to the project site and for all other work or operations that must be performed or costs incurred when beginning work approved for subcontracting in accordance with Article 108.01 of Standard Specifications for construction contracts, the prime contractor shall be required to make a mobilization payment to each subcontractor as determined by the Airport.

4. SBE Annual Aspirational Goal

For each fiscal year, the BDDDD may establish an annual aspirational percentage goal for overall SBE prime and subcontract participation on DFW Construction contracts.

This Annual Aspirational Goal is to be established and adjusted by the BDDDD on an annual basis based upon the most accurate and reliable measure of relative SBE availability data that is reasonably available to DFW at that time. The Airport shall also continue to improve the reliability of mandatory automated web-based bidder / vendor registrations for prime contractors and subcontractors so as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the SBE-MBE Program on an annual basis, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and Program Elements being applied pursuant to this Policy.

B. Race – Conscious Construction Program Elements

The BDDDD shall consider establishment of an overall MBE Annual Aspirational Goal in accordance with subsection ‘1’ below and, in addition, shall review each prospective DFW Construction Formal Solicitation in advance of its public release and advertisement, and shall make a determination whether to apply either of the other Race-Conscious Program Elements (‘2’ and ‘3’ below) to those Construction
solicitations based upon the following criteria:

i. Whether the most recent data on MBE utilization in the absence of application of Race-Conscious Program Elements indicate that Construction contracts of this type have exhibited significant disparities in the utilization of MBE Subcontractors and/or MBE Prime Contractors;

ii. Whether race- and/or gender-neutral remedies alone are likely to fully eliminate any such disparities in the utilization of MBE Subcontractors and/or MBE Prime Contractors based upon past contract Award and Payment data;

iii. Whether a particular Program Element is the least burdensome available remedy to non-MBE Respondents that is narrowly-tailored and that can effectively eliminate the disparities in the utilization of MBEs in Construction contracts; and

iv. Whether the particular Program Element is appropriate for the specific type of Construction contract being procured. Whenever the BDDD uses its discretion to apply any of the following Race-Conscious Program Elements to Construction solicitations, it shall provide an explanation in the solicitation documents of its reasons for doing so based upon its determinations pursuant to these criteria. In making such determinations, the BDDD may also take into consideration the experiences of other jurisdictions within the Airport’s Relevant Marketplace for Construction services.

1. MBE Annual Aspirational Goal

For each fiscal year, the BDDD may establish an annual aspirational percentage goal for overall MBE prime and subcontract participation on DFW Construction contracts.

This Annual Aspirational Goal is to be established and adjusted by the BDDD on an annual basis based upon the most accurate and reliable measure of relative MBE availability data that is reasonably available to DFW at that time. The Airport shall also continue to improve the reliability of mandatory automated web-based bidder / vendor registrations for prime contractors and subcontractors so as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the SBE-MBE Program on an annual basis, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and Program Elements being applied pursuant to this Policy.

2. MBE Subcontracting Program

The BDDD may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific Construction contract, be subcontracted to qualified eligible MBEs. Factors to be considered by the BDDD in making this
determination shall include the relative availability of MBE firms to perform Commercially Useful Functions on the specific contract.

3. MBE Prime Contractor Self-Performance Program Element

For those types of construction prime contracts where there has been statistically significant underutilization of MBE prime contractors, the BDDD may specify in bid solicitation documents that SBE subcontracting requirements (as referenced in Section V.A.1. above) and MBE subcontracting requirements (as referenced in Section V.B.2. above) may be modified to count self-performance for those prime bidders that are certified as MBEs. In such instances, the certified MBE prime contractor bidders may self-perform up to 100% of the contract value and shall be entitled to count the entire amount of that portion of the contract that is performed by the MBE’s own forces (inclusive of the cost of supplies and materials obtained by the MBE for completion of the work for the contract, including supplies purchased or equipment leased by the MBE) towards satisfaction of the SBE and MBE subcontracting goal requirements. The airport will use the guidance provided in 49 C.F.R. Part 26.55 for counting purposes.

C. Race – Neutral Architectural & Engineering Program Elements

The BDDD shall consider the application of the Race-Neutral program elements below for each solicitation for a DFW Architectural & Engineering (A&E) contract prior to consideration of application of race-conscious program elements.

1. SBE Subcontracting Program

The BDDD may, at its discretion and on a contract-by-contract basis, require that a predetermined percentage of a specific contract be subcontracted to eligible SBEs. Factors to be considered by the BDDD in making this determination shall include the relative availability of SBE firms to perform Commercially Useful Functions on the specific contract.

2. SBE Annual Aspirational Goals

For each fiscal year, the BDDD may establish an annual aspirational percentage goal for overall SBE prime and subcontract participation on DFW Architectural and Engineering contracts.

This Annual Aspirational Goal is to be established and adjusted by BDDD on an annual basis based upon the most accurate and reliable measure of relative SBE availability data that is reasonably available to DFW at that time. The Airport shall also continue to improve the reliability of mandatory automated web-based bidder/vendor registrations for prime/subcontractors so as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure
the overall effectiveness of the SBE-MBE Program on an annual basis, and to
gauge the need for future adjustments to the mix and aggressiveness of
remedies and Program Elements being applied pursuant to this Policy.

D. Race / Gender – Conscious Architectural & Engineering Program Elements

1. MWBE Subcontracting Program

For a limited period of two years after the effective date of this policy, the BDDD
may, on a contract-by-contract basis, at its discretion, require that a
predetermined percentage of a specific Architectural & Engineering (A&E)
contract be subcontracted to qualified eligible MWBEs. Factors to be considered
by the BDDD in making this determination shall include the relative availability of
MWBE firms to perform Commercially Useful Functions on the specific contract.
In addition, BDDD shall review each prospective DFW A&E Formal Solicitation in
advance of its public release and advertisement, and shall make a determination
whether to apply this race-conscious program element to that contract based
upon the following criteria:

i. Whether the most recent data on MWBE utilization in the absence of
application of Race-Conscious Program Elements indicate that A&E contracts
of this type have exhibited significant disparities in the utilization of MWBE
Subcontractors and/or MWBE Prime Contractors;

ii. Whether race- and/or gender-neutral remedies alone are likely to fully
eliminate any such disparities in the utilization of MWBE Subcontractors
and/or MWBE Prime Contractors based upon past contract Award and
Payment data;

iii. Whether a particular Program Element is the least burdensome available
remedy to non-MWBE Respondents that is narrowly-tailored and that can
effectively eliminate the disparities in the utilization of MWBEs in A&E
contracts; and

iv. Whether the particular Program Element is appropriate for the specific type of
A&E contract being procured. Whenever the BDDD uses its discretion to
apply this Race-Conscious Program Element to A&E solicitations, it shall
provide an explanation in the solicitation documents of its reasons for doing
so based upon its determinations pursuant to these criteria. In making such
determinations, BDDD may also take into consideration the experiences of
other jurisdictions within the Airport’s Relevant Market Area for A&E services.

During this two-year period, BDDD shall carefully monitor MWBE availability,
utilization, and disparity in A&E contracts. By the expiration of this two-year
period, the BDDD shall report to the Board on its findings about the effectiveness
and ongoing need for use of this Program Element, and make a specific
recommendation to the Board regarding the reauthorization of this Program
Element based upon observed trends in using SBE vs. MWBE Program
Elements.
2. MWBE Annual Aspirational Goals

For each fiscal year, the BDDD may establish an annual aspirational percentage goal for overall MWBE prime and subcontract participation on DFW A&E contracts.

This Annual Aspirational Goal is to be established and adjusted by the BDDD on an annual basis based upon the most accurate and reliable measure of relative MWBE availability data that is reasonably available to DFW at that time. The Airport shall also continue to improve the reliability of mandatory automated web-based bidder / vendor registrations for prime contractors and subcontractors so as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the SBE-MBE Program on an annual basis, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and Program Elements being applied pursuant to this Policy.

E. Race – Neutral Professional Services Program Elements

The BDDD shall consider the application of the following Race-Neutral program element for each solicitation for a DFW Professional Services contract:

1. SBE Subcontracting Program

The BDDD may, at its discretion and on a contract-by-contract basis, require that a predetermined percentage of a specific contract be subcontracted to eligible SBEs. Factors to be considered by the BDDD in making this determination shall include the relative availability of SBE firms to perform Commercially Useful Functions on the specific contract.

2. SBE Annual Aspirational Goals

For each fiscal year, the BDDD may establish an annual aspirational percentage goal for overall SBE prime and subcontract participation on DFW Professional Services contracts.

This Annual Aspirational Goal is to be established and adjusted by the BDDD on an annual basis based upon the most accurate and reliable measure of relative SBE availability data that is reasonably available to DFW at that time. The Airport shall also continue to improve the reliability of mandatory automated web-based bidder / vendor registrations for prime contractors and subcontractors so as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure
the overall effectiveness of the SBE-MBE Program on an annual basis, and to
gauge the need for future adjustments to the mix and aggressiveness of
remedies and Program Elements.

F. Race – Neutral Non-Professional Services Program Elements

The BDDD shall consider the application of the following Race-Neutral program
element for each solicitation for a DFW Non-Professional Services contract:

1. SBE Subcontracting Program

The BDDD may, at its discretion and on a contract-by-contract basis, require that
a predetermined percentage of a specific contract be subcontracted to eligible
SBEs. Factors to be considered by the BDDD in making this determination shall
include the relative availability of SBE firms to perform Commercially Useful
Functions on the specific contract.

2. SBE Annual Aspirational Goals

For each fiscal year, the BDDD may establish a annual aspirational percentage
goal for overall SBE prime and subcontract participation on DFW Non-
Professional Services contracts.

This Annual Aspirational Goal is to be established and adjusted by the BDDD on
an annual basis based upon the most accurate and reliable measure of relative
SBE availability data that is reasonably available to DFW at that time. The
Airport shall also continue to improve the reliability of mandatory automated web-
based bidder / vendor registrations for prime contractors and subcontractors so
as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual
solicitations, but are intended to serve as a benchmark against which to measure
the overall effectiveness of the SBE-MBE Program on an annual basis, and to
gauge the need for future adjustments to the mix and aggressiveness of
remedies and Program Elements being applied pursuant to this Policy.

G. Race-Neutral Goods Program Elements

As appropriate, the BDDD shall apply the following Program Element to
procurements of commodities or goods:

1. SBE Annual Aspirational Goals

For each fiscal year, the BDDD may establish an annual aspirational percentage
goal for overall SBE prime and subcontract participation on DFW commodities or
goods contracts.

This Annual Aspirational Goal is to be established and adjusted by the BDDD on
an annual basis based upon the most accurate and reliable measure of relative SBE availability data that is reasonably available to DFW at that time. The Airport shall also continue to improve the reliability of mandatory automated web-based bidder / vendor registrations for prime contractors and subcontractors so as to better facilitate such goal-setting in the future.

Annual Aspirational Goals are not to be routinely applied to individual solicitations, but are intended to serve as a benchmark against which to measure the overall effectiveness of the SBE-MBE Program on an annual basis, and to gauge the need for future adjustments to the mix and aggressiveness of remedies and Program Elements being applied pursuant to this Policy.

VI. ADMINISTRATION OF THE PROGRAM

A. Counting and Tracking SBE and MWBE Participation

Only small businesses that are certified as SBEs and minority-owned or women-owned businesses that are certified as MWBEs shall be counted towards satisfaction of the Airport’s SBE and MWBE goals. DFW shall monitor and track participation by SBEs and MWBEs in locally-funded projects.

B. Role of Business Diversity & Development Department in Program Administration

BDDD is responsible for the establishment, implementation, coordination, and monitoring of the SBE-MBE Policy and Procedures. BDDD will coordinate and cooperate with the Airport operational staff as necessary for effective implementation of the SBE-MBE Policy and Procedures.

BDDD will:

- Be responsible for establishing the administrative procedures in support of the SBE-MWBE Policy, including but not limited to:
  
  - Goal setting
  - Certification Standards and Procedures for SBEs, MBEs, and WBEs
  - Graduation Standards and Procedures for SBEs, MBEs, and WBEs
  - Determining a Commercially Useful Function
  - Determining Good Faith Efforts
  - Counting SBE Participation
  - Counting MBE and WBE Participation
  - Monitoring and Reporting
  - Potential Violations

- Establish, distribute, interpret, and administer the Airport’s SBE-MBE Policy and Procedures Manual’s policies, standards and procedures as well as govern the
implementation, interpretation, and application of this Policy and Procedures Manual.

- Develop and maintain procedures to ensure that SBEs and MWBEs are able to compete on all locally-funded Airport and commercial development contracts.

- Develop listings of SBEs and MWBEs for prime and subcontracting opportunities. These listings reflect suppliers or services for which the Airport and/or its contractors have a business use.

- Review and verify the certification status of SBEs and MWBEs. The Vice President of BDDD makes the final determination on appeals regarding SBE and MWBE certification eligibility.

- Review bids and solicitations to ensure that SBEs and MWBEs have an equal opportunity to participate in locally-funded airport and commercial development contracts, including, but not limited to reviewing the scope of work, bonding requirements, insurance requirements and the conditions in which retainage is held, etc.

- Verify the utilization of SBEs and MWBEs by Airport contractors and consultants.

- Prepare and present periodic reports to the Airport Board of Directors on compliance with the SBE-MBE Policy and Procedures Manual.

- Assess and recommend periodically any process changes that may be necessary to improve the overall effectiveness of the SBE-MBE Policy and Procedures.
- Assess the procurement methods that can be applied on individual contracts to implement the SBE-MBE Policy and Procedures.

- Monitor and report the progress of SBE, MBE, WBE, and non-SBE participation in all procurements by Airport departments.
- Determine whether a SBE and/or MWBE is performing a Commercially Useful Function (CUF) on an Airport procurement.

- Determine whether a bidder/proposer made Good Faith Efforts (GFEs) to achieve a SBE or MWBE subcontract goal.

- Promote and educate Airport personnel and contractors about the Expedited Payment Program and identify Airport solicitations for participation per the program requirement.

- Monitor and ensure SBE-MWBE compliance for Airport procurements in the contract closeout process.

- Promote and conduct outreach functions to the SBE-MWBE community and
other stakeholders.

- Assist all Airport departments and contractors with the implementation and/or application of the SBE-MBE Policy and Procedures Manual.

- Participate in pre-solicitation discussions including any design review meetings to take into consideration such factors as including, but not limited, to SBE and MWBE availability, bonding limits, opportunities for unbundling larger contracts into smaller units for bidding purposes, and type of work capabilities available from SBEs and MWBEs in the development of drawing and specifications.

- Attend pre-bid/proposal and pre-construction/design conferences to explain the SBE-MBE Policy and Procedures and respond to pertinent questions.

- Review requests for bids/proposals and other solicitation documentation, including the evaluation criteria to ensure inclusion of SBE-MBE Policy and Procedures and remove artificial barriers to potential SBE-MWBE participation.

- Promote the SBE-MBE Policy and Procedures and its accomplishments through innovative initiatives such as recognition programs and awards as well as annual reports and newsletters.

C. Other Airport Departments' Roles and Responsibilities

Each Airport department that has or shares responsibility for the awarding or monitoring of Airport contracts is responsible for promoting, supporting and assisting in carrying out the SBE-MBE Program Policy and administrative procedures. Such departments are to be held accountable for exercising specific functions in support of the Policy and administrative procedures, as well as any other function(s) deemed necessary by management to implement the goals and objectives of the Board's SBE-MBE Program Policy.

Legal Department

- Provide legal assistance, as necessary, to ensure that the MWBE and the SBE policies and Administrative Procedures and their implementation meet legal standards.

Audit Services Department

- As appropriate, audit and provide other assistance with respect to compliance with the SBE-MBE Program Policy and administrative procedures.

The following Airport departments have specific additional implementation responsibilities outlined in the administrative procedures:

- Risk Management Department
• Airport Development and Engineering Department
• Revenue Management Department
• Procurement and Materials Management Department

D. Periodic Review and Sunset of Policy

Beginning no later than January 1, 2015, and every five years thereafter, the Airport shall issue a Request For Proposals to undertake a comprehensive update of the full disparity study, and upon completion of each disparity study, the BDDD or designee shall present the disparity study findings and recommendations to the Board for review and approval. Following review regarding those study findings and recommendations, the BDDD shall consider any proposed modifications to, or sunset of, this Policy, and shall propose modifications to this Policy and submit any policy amendments to the Board for adoption as appropriate to effectuate the continuation, modification or termination of the SBE and MWBE Program Elements of this Policy. Absent an extension of this SBE-MBE Program Policy by the Board, the provisions of this Policy shall be void and may not be enforced after September 1, 2016.

VII. AUTHORIZATION AND PROMULGATION OF PROCEDURES

The SBE-MWBE Program Policy is promulgated by the Chief Executive Officer pursuant to his powers and duties as defined by the Contract and Agreement between the City of Dallas and the City of Fort Worth dated and effective as of April 15, 1968. The Executive Vice President of Administration and Diversity or the Vice President of Business Diversity and Development is authorized to issue exceptions to this Policy, and to promulgate and enforce procedures and practices necessary to effectuate its objectives.

VIII. DEFINITIONS

Relevant Market Area – for purposes of this Policy, the Airport’s relevant market area, currently consists of the North Texas Commission twelve-county area including Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties.

Minority Business Enterprise – a Minority Business Enterprise (“MBE”) shall be defined as a “for-profit” business concern which is at least 51 percent owned and controlled by one or more minority person(s), or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minorities; and whose management and daily business operations are controlled by one or more of the minority individuals who own it. An MBE is a firm that is certified by an approved Airport certification entity in accordance with the standards and procedures identified in the Certification section of the SBE-MBE Policies and Procedures Manual. BDDD incorporates by reference the NCTRCA Certification Guidelines (http://nctrca.org/docs/MBE-WBE_Manual.pdf) as model certification guidelines and reserves the right to independently certify MBEs.
**Minority Persons** – individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

- “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, Republic of Palau, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

- “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origins, regardless of race;

- “Native Americans,” which includes persons who are American Indians or members of the any of the native tribes of indigenous people of North America recognized by the United States Department of the Interior’s Bureau of Indian Affairs; and

- “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka.

**Small Business Enterprise** – a Small Business Enterprise (SBE) shall be defined as follows:

An SBE, with respect to firms seeking to participate as SBEs in DFW’s Small Business Enterprise Program, is a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in 49 C.F.R. §26.65(b). Only firms that are certified at the time of bid/proposal submission under these size standards as an SBE by an agency recognized by the Airport are eligible for participation in the SBE program elements.

The SBA size standards may be found at: [www.sbaonline.sba.gov/contractingopportunities/officials/size/table/index.html](http://www.sbaonline.sba.gov/contractingopportunities/officials/size/table/index.html)

Eligible certification programs include the U.S. Small Business Administration’s 8(a) Program; the Texas Unified Certification Program for Disadvantaged Business Enterprises; the State of Texas Small Business Enterprise Program; and other programs recognized on a case-by-case basis in the Airport’s discretion. The firm must have its principal place of business in the Airport’s relevant market area, which currently consists of the North Texas Commission twelve-county area including Dallas, Tarrant,
Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties.

**Women Business Enterprise** – Women Business Enterprise ("WBE") shall be defined as for a “for-profit” business concern which is at least 51 percent owned and controlled by one or more non-minority female person(s), or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more non-minority women; and whose management and daily business operations are controlled by one or more of the female individuals who own it. A WBE is a firm that is certified by an approved Airport certification entity in accordance with the standards and procedures identified in the Certification section of the SBE-MBE Policies and Procedures Manual. BDDD incorporates by reference the NCTRCA Certification Guidelines ([http://nctrca.org/docs/MBE-WBE_Manual.pdf](http://nctrca.org/docs/MBE-WBE_Manual.pdf)) as model certification guidelines and reserves the right to independently certify WBEs.

**IX. SEVERABILITY**

If any section, paragraph, sentence, clause, phrase or word of this SBE-MBE Program Policy, or the application thereof, to any person or circumstance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Policy or the application of any other provisions of this Policy which can be given effect without the invalid provision or application, and to this end, all the provisions of this Policy are hereby declared to be severable.
**Dallas Fort Worth International Airport Board**

**Official Board Action/Resolution**

<table>
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<tr>
<th>Date</th>
<th>Committee</th>
<th>Subject</th>
<th>Resolution #</th>
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<tr>
<td>09/06/2012</td>
<td>Finance/Audit</td>
<td>Adoption of Revised Minority/Women Business Enterprise Policy and Small Business Enterprise Policy</td>
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**Action**

That the Chief Executive Officer or designee be authorized to adopt the revisions to the Board's Minority/Women Business Enterprise (M/WBE) Policy and adopt a new Small Business Enterprise (SBE) Policy.

**Description**

- This action requests the adoption of the Board's revised M/WBE Policy and the adoption of a new SBE Policy. In addition, the action requests that the Chief Executive Officer be authorized to develop administrative procedures to implement both policies.
- It is the policy of the DFW Airport Board to use race conscious and race neutral measures to enhance the participation of small, minority and women-owned business in Airport contracts and subcontracts to the extent permitted by law.
- The revised M/WBE Policy outlines the key objectives that will be used to eliminate the present and ongoing effects of past and present discrimination against minority and women-owned business utilization.

**Justification**

- DFW is required to conduct periodic Availability & Disparity Studies to ensure there is a legal basis for continuing race- and gender-conscious programs.

**D/M/WBE Information**

- N/A

**Schedule/Term**

- Effective October 1, 2012.

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**For Information contact**

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Resolution # 2012–09–327

Additional Information

In 2008, the Board partnered with a consortium of public entities to conduct an Availability & Disparity Study. The study found compelling evidence of race and gender discrimination, as well as some evidence indicating that DFW is at least a passive participant in such discrimination in some areas. Key findings included, but were not limited to:

- **Construction**: disparity identified for all ethnic groups; no gender disparity identified
- **Architectural & Engineering**: disparity identified for some ethnic and gender groups; insufficient data available to determine level of disparity for other group
- **Professional & Non–Professional Services**: no ethnic or gender disparity identified

In September 2011, the Board adopted the findings and directed staff to proceed with the development of program recommendations to update and revise the current M/WBE Policy.

Upon adoption of the revised M/WBE Policy and the new SBE Policy, DFW will continue to collect statistics documenting M/WBE participation as needed to determine whether policy adjustments or revisions are needed to further enhance opportunities for M/WBE firms.

The A&D Study findings and the recommended M/WBE and SBE Policies do not apply to the Disadvantaged Business Enterprise (DBE) and the Airport Concessions Disadvantage Business Enterprise (ACDBE) Programs.

BE IT RESOLVED BY THE DALLAS–FORT WORTH INTERNATIONAL AIRPORT BOARD

That the Chief Executive Officer or designee be authorized to adopt the revisions to the Board’s Minority/Women Business Enterprise (M/WBE) Policy and adopt a new Small Business Enterprise (SBE) Policy.

Approved as to Form by

Tomme, Paul  
General Counsel  
Aug 27, 2012 5:21 pm

Approved as to Funding by

Underwood, Max  
VP Finance  
Finance  
Aug 28, 2012 9:44 am

Approved as to M/WBE by

Cruz–Sewell, Suzanne  
AVP Business Diversity & Dev  
Business Diversity and Development  
Aug 27, 2012 4:42 pm

SIGNATURE REQUIRED FOR APPROVAL

Approved by

Cruz–Sewell, Suzanne  
AVP Business Diversity & Dev  
Business Diversity and Development  
Aug 27, 2012 4:42 pm

Chief Executive Officer  
Sep 7, 2012 1:09 pm
DALLAS/FORT WORTH INTERNATIONAL AIRPORT
SMALL BUSINESS ENTERPRISE PROGRAM (SBE)

ADMINISTRATIVE PROCEDURES FOR LOCALLY-FUNDED
CONSTRUCTION CONTRACTS UNDER $1 MILLION, PROFESSIONAL SERVICES
AND NON-PROFESSIONAL SERVICES CONTRACTS

SECTION I. SCOPE AND INTERPRETATION

A. The policies, procedures and contract clause(s) established under this SBE Policy and Administrative Procedures shall be applicable to the Airport Board construction contracts under $1 million, professional services and non-professional services contracts to be paid with local funds. (Professional services, for the purpose of this Program, do not include Architectural and Engineering Services.) These policies, procedures and contract clauses shall apply to all such contracts, subcontracts and agreements, unless the provisions herein are in conflict with state or federal law or rules and regulations promulgated thereunder.

B. For contracts with an estimated value of less than $3,000.00, no Contract Goal shall be applied, but quotations must be solicited from eligible SBEs.

C. For contracts with an estimated value of between $3,000.00 and $50,000.00, the provisions of these Administrative Procedures apply, except that no Contract Goal is required. At least two SBEs and two firms certified as Historically Underutilized Businesses (HUB) by the State of Texas must be solicited. A SBE that is also certified as a HUB may count towards the HUB requirement.

D. For contracts with an estimated value greater than $50,000.00, the provisions of the Administrative Procedures apply, and BDDD will evaluate whether to set a SBE Contract Goal.

E. For each solicitation designated as sole, single or specified source, or brand designations, BDDD may consider setting a Contract Goal or requiring outreach efforts to SBEs.

F. The following categories of expenditures not subject to the SBE Policy, include but are not limited to the following, even if they are related to the procurement of construction contracts under $1 million, professional services and non-professional services contracts to be paid with local funds:

1. Utility payments
2. Payments to non-profit organizations
3. Payments to other government agencies
4. Bank fees
5. Employee conferences and training seminars
6. Board policies and amendments
7. Insurance premiums
8. Reimbursements
9. Terminated contracts
10. Resolutions/Ordinances
11. Disposition depreciated equipment
13. Scope of Work reductions
14. Conveyance/Selling of Board Property or Facilities
15. Goods/Finished Products

SECTION II. DEFINITIONS

A “Glossary of Definitions” for the terms used in Airport Board’s SBE Policy and Administrative Procedures is located in the Appendix of this document.

SECTION III. BUSINESS DIVERSITY & DEVELOPMENT DEPARTMENT’S PROGRAM ROLES AND RESPONSIBILITIES

A. The Airport Board's Business Diversity & Development Department (“BDDD”) is responsible for implementing, coordinating, monitoring and compliance of the SBE Policy and Procedures. BDDD will formulate, propose and implement rules and regulations for the development, implementation, administration and monitoring of the Board’s various programs established by other Board Policy or by federal law. BDDD will coordinate and cooperate with the Airport Board’s operational staff as necessary for effective implementation of the SBE Policy and Procedures.

B. The BDDD Vice President reports directly to the Executive Vice President of Administration and Diversity and has direct, unrestricted access to the Airport
Board’s Chief Executive Officer in matters concerning this SBE Policy and
Administrative Procedures.

C. BDDD will:

1. Review, monitor, and ensure compliance with the Airport Board’s SBE Policy and
Administrative Procedures.

2. Implement and administer the Airport Board’s SBE Policy and
Administrative Procedures as well as govern the implementation, interpretation, and application of this Policy and Administrative Procedures.

3. Develop and maintain procedures to ensure that SBEs are able to
compete on all locally-funded Airport Board construction contracts under
$1 million, professional services and non-professional services contracts.

4. Review contract language with the Legal Department for appropriate
Program language.

5. Develop listings of SBEs for prime and subcontracting opportunities. These listings reflect suppliers or service providers for which the Airport Board and/or its contractors have a business use.

6. Review and verify the certification status of SBEs.

7. Establish an Annual SBE Goal for construction contracts under $1 million
and professional and non-professional services locally-funded contracts.

8. Review bids and solicitations to ensure that SBEs have an equal
opportunity to participate in locally-funded Airport Board construction contracts under $1 million, professional services and non-professional services contracts, including, but not limited to reviewing the scope of work, bonding requirements, insurance requirements, the conditions in which retainage is held, etc.

9. Review requests for bids/proposals and other solicitation documentation,
including the evaluation criteria, to ensure inclusion of the SBE Policy and
Administrative Procedures and remove artificial barriers to potential SBE participation.

10. Participate in pre-solicitation discussions, including any design review
meetings, to consider such factors as SBE availability, bonding limits, and
capabilities in the development of specifications.

11. Develop and implement a Contract Specific Goal setting methodology.
12. Set a Contract Specific SBE Goal on all appropriate contracts, including contract modifications as defined herein.

13. Attend pre-bid/proposal and pre-construction/design conferences to explain the SBE Policy and Administrative Procedures and its requirements as well as respond to pertinent questions.

14. Evaluate Contractors’ achievement of Contract Specific Goals or Good Faith Efforts to meet Contract Specific Goals.

15. Determine whether a SBE is performing a Commercially Useful Function (CUF) on an Airport Board procurement.

16. Monitor and report the progress of SBE and non-SBE participation in all procurements by Airport Board departments.

17. Work with User Departments to monitor Contracts to ensure prompt payments to SBEs and compliance with applicable Contract Specific Goals and commitments.

18. Monitor and ensure SBE compliance for Airport procurements in the contract closeout process.

19. Prepare and present periodic reports to the Airport Board on compliance with the SBE Policy and Administrative Procedures and progress towards meeting the Annual SBE Goal.

20. Assess and recommend periodically any process changes that may be necessary to improve the overall effectiveness of the SBE Administrative Policies and Procedures.

21. Assist all Airport Board departments and Contractors with the implementation and/or application of the SBE Policy and Administrative Procedures.

22. Promote and educate Airport personnel and contractors about the Expedited Payment Program and identify Airport Board solicitations for participation per the program requirement.

23. Promote and conduct outreach functions to the SBE community and other stakeholders.

24. Provide information and assistance to SBEs, and other Business Enterprises relating to Airport Board contracting practices and procedures, and bid specifications, requirements and prerequisites.
25. Determine which contracting affirmative action program applies to the Contract.

26. Encourage and promote joint ventures, partnering and teaming arrangements between SBEs and non-SBEs and between two or more SBEs to enhance innovative approaches to increase SBE participation. Board employees shall not engage in direct referrals, matchmaking, or any practice that gives the appearance of preferential treatment of one contractor over another.

27. Promote the SBE Policy and Procedures and its reporting accomplishments toward the goals through innovative initiatives such as recognition programs and awards as well as annual reports and newsletters.

28. Receive, review and act upon complaints and suggestions concerning the various programs established through Board policy or by federal law.

SECTION IV. OTHER AIRPORT BOARD DEPARTMENTS’ ROLES AND RESPONSIBILITIES

A. Each Airport Board department that has or shares responsibility for the awarding or monitoring of Airport Board contracts is responsible for promoting, supporting, and assisting in carrying out the SBE Policy and Procedures. Such departments are to be held accountable for exercising specific functions in support of the Policy and Administrative Procedures, as well as any other function(s) deemed necessary by management to implement the goals and objectives of the Airport Board’s SBE Policies and Procedures.

B. In an effort to reduce barriers to SBE participation on Airport Board procurements, all departments requesting bids, proposals or any other solicitation on behalf of the Airport Board shall:

1. Notify and provide BDDD upon departmental knowledge of an anticipated solicitation the necessary information to determine whether a Contract Specific Goal should be set including, but not limited to, the scope of work, budget, schedule, bid specifications and any other relevant information no later than (10) business days prior to the procurement announcement.

2. Evaluate anticipated solicitations to unbundle items or services to permit offers on quantities or scopes of work less than the total requirement or the performance of discreet portions of the project where feasible.
3. Limit the contract term to a maximum of three (3) years with no more than two (2) one year extensions. BDDD must be notified in advance about contracts that are expected to be an exception to this limit.

4. At least five (5) business days before a solicitation will be advertised; forward a copy of the advertisement to BDDD to ensure appropriate SBE language has been included.

5. Ensure that all applicable provisions of the SBE Administrative Procedures and the SBE Special Contract Provisions are included in bid specifications/proposals and contracts.

6. Assist BDDD in identifying potential SBEs for participation in particular contracts.

7. Assist in the development, monitoring and implementation of SBE Contract Specific Goals and commitments.

8. Manage contracts in a consistent manner to assure compliance with the utilization of SBEs and the SBE Policies and Procedures.


10. Provide BDDD with a copy of or independent access electronically to the necessary information for each contract including, but not limited to, the contract value, pre-bid/pre-proposal sign in sheets, the bid or proposal results, any contract modifications, the SBE goal commitment and the contracting parties signatures confirming an executed agreement with the Airport Board. This information can be provided to BDDD through a copy of the face (cover) sheet and key pages of the signed executed contract, the Notice of Award, the Notice to Proceed, Change Orders as well as any other relevant documents.

11. Notify BDDD no later than three (3) business days prior to any key post-award contract meetings or issues that could affect the Contractor’s ability to achieve the SBE commitment, such as contract kickoff meetings, monthly meetings or meetings to address contract performance issues affecting SBE commitments.

12. Require that each Contractor submit as part of its pay request process, the required SBE contractual information to ensure an accurate accounting of SBE contractual participation.

13. Assist and support BDDD by ensuring that the contractor provide all necessary documents and information to close out the contract that
provide a final accounting for SBE and all subcontractor participation on the contract.

14. Assist and participate in workshops, trade fairs, outreach seminars, etc., to identify and increase the participation of SBEs on Airport Board projects.

15. Advertise the Airport’s Board’s construction contracts under $1 million, professional services and non-professional services contracts to be paid with local funds via the Airport Board’s web site to maximize SBE participation.

16. Advertise forecasts of upcoming procurement opportunities.

C. The following Airport Board departments have specific SBE Policy and Administrative Procedures implementation responsibilities as follows:

1. Audit Services Department
   a. As appropriate, audit and provide other assistance with respect to compliance with the SBE Program Policy and Administrative Procedures.

2. Risk Management Department
   a. Review applicable insurance requirements to determine, if prudent and feasible, whether established risk/exposure limits may be changed to allow SBEs and other small firms to bid more competitively on Airport Board contracts.
   b. Evaluate contract insurance requirements, when feasible, to ensure that the risk is commensurate with the size, duration, location and type of service provided for the contract.
   c. Provide technical assistance and programs that support SBEs’ efforts to obtain insurance and bonding.

3. Legal Department
   a. Provide legal assistance, as necessary, to ensure that the SBE Policy and Administrative Procedures and implementation of these policies and procedures meet legal standards.
   b. Review Contract language for appropriate implementation of the SBE Policies and Administrative Procedures.

4. Airport Development and Engineering Department
a. In coordination with BDDD, assist in notifying SBE-related organizations or associations (chambers, trade organizations, non-profit plan rooms) of Airport Board contract opportunities.

b. Make plans and specifications relating to Airport Board contracts available to prospective bidders and organizations, including SBEs, without purchase or a deposit, within five (5) business days from the first public advertisement date for adequate review.

c. In coordination with BDDD, when feasible, include a project design criterion that includes consideration of SBE availability, bonding limits, and type of work capabilities to facilitate maximum competitive participation.

d. Provide for the use of procurement methods, when feasible, that will increase potential SBE participation as well as discourage the use of specifications and plans that unduly impact opportunities for SBE or other small firms or requirements to specify the use of certain restrictive goods and materials.

e. Divide proposed acquisitions into reasonably small scopes or lots (not less than economic production runs or economically feasible projects) to permit offers on scopes of quantities less than the total requirement or discrete portions of the project.

f. Structure procurements such that, if practicable, SBEs and small firms may compete for prime contracts.

g. Ensure that solicitation schedules are advertised 5 business days in advance of the pre-bid or pre-proposal conference to encourage SBE participation to the extent consistent with the actual requirements of the Airport Board.

h. Where practicable, direct contracting shall be used for scopes of work or items that are normally procured through the prime contract. Those services will be provided on a direct contract to the Airport Board or to Commercial Developers.

i. Encourage prime Contractors and Commercial Developers to form contractual relations with SBEs at all levels, including subcontractor and joint venture relationships.

j. If BDDD determines that solicitation requests/specifications prohibit or deter SBE participation, provide an explanation for the prohibitive requirements including, but not limited to, the reason(s):
i. The proposed solicitation cannot be divided into reasonably small scopes or lots (not less than economic production runs) to permit offers on scopes or quantities less than the total requirement;

ii. Solicitation schedules cannot be established that will discourage SBE participation to the extent consistent with the Airport Board’s requirements;

iii. The proposed acquisition cannot be structured so as to make it likely that SBEs can compete for the prime contract; or

iv. The consolidated project cannot be required as separate discrete contracts.

k. BDDD will review the proposed solicitation and any supplemental documentation to make a recommendation to the sponsoring/procuring department regarding the proposed solicitation package.

l. Include BDDD representatives as part of the principal selection and evaluation teams as a voting member to ensure review and consideration of SBE participation on such contracts and compliance with the SBE Policy and Procedures.

m. Require compliance with SBE contractual clauses, including but not limited to, substitution of subcontractors, as well as reporting and counting guidelines on Airport Board projects.

n. Assist and support BDDD by providing relevant contractual information such as, but not limited to, successful low bidder information, project schedules, solicitation notices, etc., to better monitor and ensure compliance with applicable SBE Administrative Procedures.

o. Notify BDDD when delivery orders/scopes of work are issued which may have an adverse impact on the Contractor’s ability to meet its SBE commitment.

p. Notify BDDD when SBE subcontractors or subconsultants are substituted without proper prior BDDD approval.

q. Provide BDDD with proper documentation, including the most current Pay Period Activity Report (“PPAR”) (if applicable) and the
Final Schedule of Subcontractors required to prepare Official Board Action five (5) business days prior to step one approval.

r. Provide BDDD with proper documentation for contract closeout, including the Closeout Notification Memo, the Final Pay Period Activity Report and the Contract Status Report.

s. Assist and participate in workshops, trade fairs, outreach seminars, etc., aimed at identifying and increasing the participation of SBEs on Airport Board projects.

t. Assist as requested in the policy formulation and implementation of the SBE Administrative Procedures.

5. Procurement and Materials Management Department

a. The Procurement and Materials Management Department ("PMM"), in cooperation with BDDD, will inform BDDD of upcoming projects for which bids/proposals will be solicited. Further, PMM will provide support and technical assistance in coordination with BDDD's implementation of the SBE Administrative Procedures.

b. PMM will make available bid specifications to prospective bidders on Airport Board contracts, including SBEs, in sufficient time for review to facilitate the participation of SBEs. Where possible, PMM will attempt to reach SBEs by using Public Service Announcements, social media and other forms of communication in addition to advertising for specific bids.

c. Provide for the use of procurement approaches that will increase potential SBE participation, e.g., using certain types of materials and methods, and breaking down larger contracts into smaller ones when feasible.

d. Review applicable insurance and bonding requirements to determine if the requirements are prudent and feasible, and whether such established risk/exposure limits hinder the ability of SBEs and small firms to bid more competitively on Airport Board contracts.

e. Assist and participate in workshops, trade fairs, outreach seminars, etc., aimed at identifying and increasing the participation of SBEs on Airport projects.

f. Advertise the Airport Board’s opportunities via the Airport Board’s web site to maximize SBE participation.
g. Include BDDD representatives as part of the principal selection and evaluation teams as a voting member to ensure review and consideration of SBE participation and compliance with the SBE Policy and Administrative Procedures.

h. Require compliance with SBE contractual provisions, including but not limited to, prior written BDDD approval of substitution of subcontractors/subconsultants, and reporting and counting guidelines.

i. Require each Contractor to report its SBE utilization as part of the pay request process.

j. Assist and support BDDD by providing relevant contractual information such as, but not limited to, successful low bidder information, project schedules, solicitation notices, etc., to better monitor and ensure compliance with applicable SBE Policy and Administrative Procedures.

k. Provide BDDD with proper documentation required to prepare an Official Board Action and reports in a timely manner.

SECTION V. OVERALL ANNUAL SBE GOAL

A. The DFW Airport Board’s SBE overall, annual goal for professional and non-professional services contracts and for construction contracts under $1 million are goals based on the Airport Board’s current Availability/Disparity Study.

B. However, BDDD may, as appropriate, from time to time recommend the adjustment of the Annual Goal upon review to the Executive Vice President of Administration & Diversity to ensure they are based upon a strong basis in evidence and are narrowly tailored to that evidence. The Goal shall be based on the total dollars spent annually for professional and non-professional services contracts and for construction contracts under $1 million and the availability of SBEs to perform such prime contracts and subcontracts. Work undertaken by SBEs as Contractors, Consultants, Subcontractors, Subconsultants, Suppliers, Manufacturers, Manufacturer’s Representatives, Brokers performing a Commercially Useful function or Joint Venturers, including appropriate portions of work undertaken by Subcontractors, Subconsultants, Suppliers, Manufacturers, Manufacturer’s Representatives, and Brokers on subsidiary tiers under SBEs, whether or not such subsidiary tier firms are SBEs, shall count towards the Goals.
C. BDDD shall conduct inquiries, studies and/or hearings, and utilize information and assistance from such persons, consultants, entities or organizations, including but not limited to the Department Heads, as it deems necessary in its sole discretion, to make such annual recommendation.

D. The Executive Vice President of Administration and Diversity shall review the Annual Goal recommended by BDDD, may undertake such additional inquiries as he or she deems appropriate, and may approve, disapprove or modify the recommended Annual Goal. Until the Executive Vice President approves, disapproves or modifies the Annual Goal, the Annual Goal shall continue in effect.

SECTION VI. CONTRACT SPECIFIC GOALS

A. BDDD shall review each eligible bid or proposal to determine whether to set a Contract Specific Goal. Contract Specific Goals shall be based upon the following factors:

1. The availability of at least three SBEs recognized by the Airport for that industry in the anticipated subcontractable scopes of work in the specific industries and located in the Airport’s Market Area estimated to be necessary to perform the work of the contract, including the prime Contractor’s scopes of self-performance. For this purpose, the Airport’s relevant market area is the Counties of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties;

2. Past SBE utilization on similar contracts;

3. The Airport Board’s progress towards achieving the Annual Goal; and

4. Any other factors deemed relevant by BDDD.

B. BDDD, at its sole discretion, may cause a representative sample of contracts to be bid or otherwise selected without Contract Specific Goals, in order to determine SBE utilization on such contracts in the absence of such Goals.

C. There must be at least three certified SBEs for an industry code to be included in the scope of work upon which the Contract Specific Goal is based. The SBE Contract Specific Goal is not to function as a quota or set-aside.

D. To permit BDDD to set Contract Specific Goals, the Contracting Departments shall provide BDDD the following information at least ten (10) business days before the advertisement for each solicitation, including but not limited to:
1. The type of project or facility being designed and a detailed description of the scope of work to be performed;

2. The estimated dollar amount of the contract;

3. Funding Source

4. The options of a general contractor or prime consultant to break the work out for subcontracting purposes and the estimates in dollar amounts of each sub-trade or scope element appropriate for the particular contract;

5. Past SBE participation on similar Airport Board contracts;

6. The staff’s practical knowledge of the industry, including but not limited to practical awareness of SBE availability and capacity pertaining to the particular project;

7. A projected list of materials that will be needed on the project;

8. Identification of items that may be constructed on the worksite or in remote locations;

9. Transportation needs of the project;

10. Identification of items that will be constructed as integral units or fabricated;

11. Installation skills required

12. The available pool of vendors and contractors; and

13. Other factors, data, report or other information, as appropriate.

E. For each solicitation designated as sole, single or specified source, brand designations, or solicitations not subject to Board approval, the Contracting Department shall provide BDDD the following information five (5) days in advance:

1. The type of project or facility being designed and a description of the work to be performed;

2. The estimated dollar amount of the contract;

3. The justification and documentation for a sole source award; or
4. The justification and documentation for brand or single/specified source designation procurements.

F. BDDD staff shall not disclose costs estimate data to any potential Contractor.

G. Project information shall be submitted to BDDD on a “Goal Determination Form” no later than ten (10) business days prior to Solicitation (time limit may be shortened in the sole discretion of the Vice President or designee of BDDD). Project information not received 10 days prior to solicitation will result in the award not moving forward as an Official Board Action and may lead to withdrawal of the solicitation.

H. BDDD shall determine the final Contract Specific Goal, and will advise the Department of the Goal in writing. The Department is responsible for incorporating the final Contract Specific Goal in the bid/proposal solicitation, contract documents, and specifications.

SECTION VII. SBE CERTIFICATION

A. Only firms that meet the size criteria established by the U.S. Small Business Administration, 13. C.F.R. Part 121, as amended, are eligible to participate in the Program.

B. In order to count the participation of SBEs towards the Contract Specific Goal, the SBE must be certified by the North Central Texas Regional Certification Agency (NCTRCA), Dallas/Fort Worth Minority Supplier Development Council, Women’s Business Council Southwest, U.S. Small Business Administration’s 8(a) Program; or the Texas Department of Transportation Small Business Enterprise Program. A Disadvantaged Business Enterprise (DBE) that is certified by the Texas Unified Certification Program may be counted towards an SBE goal. Other certifications are not acceptable.

C. In addition to having a valid certification from one of the entities listed above, the SBE must have a place of business in the Airport’s market area at the time the bid or proposal is submitted for credit towards meeting the SBE goal, which is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties. The SBE must provide any requested documentation to establish its place of business to the satisfaction of BDDD.

D. In addition, regardless of certification by a recognized agency, the SBE must be an independent business and not an affiliate of a large business. Affiliate means a person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity. In determining affiliation, the Airport shall consider all appropriate factors,
including common ownership, common management, and contractual relationships. The Airport in its sole discretion shall determine whether an applicant is an affiliate of another business. An independent business is one whose viability does not depend on its relationship with another firm. Recognition of an applicant as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is independent and non-affiliated. The Airport in its sole discretion shall determine whether an applicant is an independent business.

E. The Contractor must submit to BDDD a properly completed SBE Certification Certificate or letter, with all required attachments, for all SBEs proposed to be utilized as subcontractors or suppliers to meet the Contract Specific Goal at the time of bid/proposal submission. The Airport Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract Specific Goal, in its sole discretion. Such rejection shall be in writing and state the reason(s) for the rejection. A prime contractor whose proposed certified firm is rejected for goal credit may request reconsideration of the rejection to BDDD in writing. The request for reconsideration must be received by BDDD within five (5) business days of the notification of rejection. BDDD’s decision on the request shall be final.

F. A firm must be certified as a SBE at the time of bid or proposal submission to be counted towards meeting the goal for purposes of determining contract award.

G. Post award, however, the Contractor may count SBEs certified during the performance of the contract towards its SBE contractual commitment once documentation confirming such certification is submitted to BDDD.

H. BDDD maintains a current listing of certified SBEs. Bidders and proposers must use its Directory to assist them in locating SBEs for the work required on the contract. The SBE Directory is located at:

https://dfw.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=dfw&XID=5886

I. SBE certification does not constitute a representation or warranty as to the qualifications or capabilities of any certified firm.

J. BDDD must be notified of any change in the Contractor’s or any identified subcontractor’s company ownership or control that could affect the SBE participation of the project. This notification shall be within 10 business days of the associated change or contractor’s knowledge of a change in ownership or control. If Airport department personnel are aware of any potential change that would affect the achievement of the SBE commitment, the department personnel must notify BDDD within 10 days of receipt of this information.
SECTION VIII. COUNTING SBE PARTICIPATION

A. BDDD will evaluate each bid or proposal to determine the responsiveness of the bid or proposal to the Policy and Procedures and contractual requirements. In determining if a Contractor’s committed levels of participation meet or exceed the solicitation’s or the development agreement’s Contract Specific Goal, BDDD shall base its determination solely on the information provided in the bid or proposal document.

B. Unless otherwise specified in the solicitation, all bids or proposals for the provision of Indefinite Delivery or Job-Order-Contracts for a period of time and with no delineation of the dollar amount for specific on-call projects, the Contractor shall list only the anticipated percentage of SBE contractual commitment for each listed SBE, rather than specific dollar amounts.

C. If a joint venture is proposed to meet the Contract Goal or any portion thereof, the total value of the distinct and clearly defined portions of the work of the contract that the SBE will perform with its own workforce; reflect its capital contribution, control, management and profits; and for which it is at risk will be counted.

E. When calculating participation levels, percentages and dollar amounts for each SBE, the Contractor cannot round up in determining whether or not the total of these amounts meets or exceeds the Contract Specific Goal.

F. A Contractor cannot require a SBE subcontractor to enter into an exclusive arrangement for purposes of submitting its bid or proposal.

G. A SBE must be certified as a SBE by an Airport Board-approved entity and have a place of business in the Airport’s market area at the time of bid or proposal submission to be counted towards meeting the Contract Specific Goal. Other certifications are not acceptable.

H. Post award, the Contractor may count towards its SBE contractual commitment a SBE that is certified during the performance of the contract if the SBE is added to the contract or substituted for a SBE pursuant to the Administrative Procedures.

I. The Contractor may not count toward its SBE contractual commitment the dollar value of work performed by a SBE after it has ceased to be certified as a SBE.

J. SBE prime Contractors can count their self-performance toward meeting the Contract Specific Goal, but only for the scope of work and at the percentage level they will self-perform.
K. When a SBE participates in a contract, the Contractor shall count only the value of the work actually performed by the SBE toward the Contract Specific Goal.

L. A Contractor cannot count toward the Contract Specific Goal amounts paid to an affiliate subcontractor, as defined in 49 C.F.R. § 26.5.

M. The Contractor shall count the entire amount of that portion of a contract (or other contract not covered by this section) that is performed by the SBEs own work forces. The Contractor may count the cost of supplies and materials obtained by the SBE for the work of the contract, including supplies purchased or equipment leased by the SBE (except supplies and equipment the SBE subcontractor purchases or leases from the prime Contractor or its affiliate).

N. The Contractor shall count toward the SBE goals the entire amount of fees or commissions charged by a SBE 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 Airport Board Contract, provided the Airport Board determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

O. When a SBE subcontracts part of the work of its contract to another firm at any tier, the value of the subcontracted work may be counted towards the SBE goal only if the SBE’s subcontractor is itself a SBE. Work that a SBE subcontracts to a non-SBE does not count toward the SBE goal.

P. The Contractor will count expenditures to a SBE subcontractor towards the SBE goal only if the SBE is performing a commercially useful function on the contract.

1. A SBE 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. To perform a commercially useful function, the SBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the materials, and installing (where applicable) and paying for the materials itself. To determine whether a SBE is performing a commercially useful function, the Contractor must evaluate the amount of the 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 SBE credit claimed for its performance of the work, and other relevant factors.

2. A SBE 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 SBE participation. In determining whether a SBE is such an extra participant,
the Contractor must examine, among other relevant factors, similar transaction, particularly those in which SBEs do not participate.

3. If a SBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work forces, or the SBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Contractor must presume that it is not performing a commercially useful function.

4. When a SBE is presumed not to be performing a commercially useful function as provided in this section, the SBE may present evidence to rebut this presumption. BDDD may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

Q. BDDD shall use the following factors in determining whether a SBE trucking company is performing a commercially useful function:

1. The SBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of appearing to meet the SBE goal.

2. The SBE must itself own and operate at least one fully licensed, insured and operational truck used on the contract.

3. The SBE shall receive credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

4. The SBE may lease trucks from another SBE, including a owner-operator who is certified as a SBE. The SBE who leases trucks from another SBE shall receive credit for the total value of the transportation services the lessee SBE provides on the contract.

5. The SBE may also lease trucks from a non-SBE, including from an owner-operator. The SBE who leases trucks from a non-SBE is entitled to a credit only for the fee or commission it receives as a result of the lease arrangement. The SBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a SBE.

6. For purposes of this paragraph, a lease must indicate that the SBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the
consent of the SBE, so long as the lease gives the SBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the SBE.

R. The Contractor shall count expenditures to SBEs for materials or supplies towards the SBE goal as follows:

1. SBE Manufacturer
   a. If the materials or supplies are obtained from a SBE manufacturer, count one hundred percent (100%) of the cost of the materials or supplies towards the SBE goal.
   b. For purposes of this paragraph, 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. SBE Regular Dealer
   a. If the materials or supplies are purchased from a SBE regular dealer, count sixty percent (60%) of the cost of the materials or supplies towards the SBE goal.
   b. For purposes of this section a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which 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. To be a regular dealer, 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.
   c. A person 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 as provided in this paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.
S. With respect to materials or supplies purchased from a SBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commission charges 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, towards the SBE goal, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. However, the Contractor shall not count any portion of the cost of the materials and supplies themselves toward SBE goals.

T. If a SBE subcontractor is not certified at the time of the execution of the contract, supplemental agreement or subcontract, the Contractor may not count the firm’s participation towards the SBE goal until the firm is certified. Additionally, the Contractor shall not count the dollar value of work performed under a contract with a firm after it has ceased to be SBE certified.

U. The Airport Board reserves the right to reject the participation of a certified firm for credit towards meeting the contract goal, in its sole discretion.

V. BDDD will count SBE participation where the SBE or joint venture partner performs a portion of work on the contract and the percentage of ownership or equity of the SBE in a joint venture. BDDD will allow the joint venture to count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the SBE joint venture partner performs with its own forces toward the SBE commitment and for which it is at risk.

W. The Contractor shall not count the participation of a SBE subcontractor towards the Contract Goal until the amount has been actually paid to the SBE.

X. The following expenditures to SBEs may also count toward the SBE Contract Goal:

1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the Airport to be reasonable and not excessive as compared with fees customarily allowed for similar services.

2. The fees charged for delivery of material and supplies required on a job site (but not the cost of materials and supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees of commission charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.

X. The Airport shall encourage where economically feasible joint ventures and teaming arrangements to encourage prime contracting opportunities for SBEs on all eligible contracts, including commercial development agreements. If a contractor engages in a joint venture or teaming arrangement to satisfy its SBE commitment, BDDD shall review all contractual agreements or other pertinent documents regarding:

1. The initial capital investment of each venture partner or team member;
2. The proportional allocation of profits, losses and risks to each venture partner or participation percentage to each team member;
3. The sharing of the right to control the ownership and management of the joint venture or team;
4. Actual participation of the venture partners in the performance of the contract;
5. The method of and responsibility for accounting;
6. The methods by which disputes are resolved; and
7. Other pertinent joint venture or teaming arrangement factors.

Y. The fully executed joint venture or teaming agreement must be submitted with the bid or proposal to BDDD for its approval in writing. BDDD shall determine the degree of SBE participation resulting from the joint venture or teaming arrangement that may be credited towards the Contract Specific Goal.

Z. The parties shall provide all records pertaining to the joint venture or teaming arrangement before and after the award of a contract reasonably necessary to access compliance with these requirements, including but not limited to, certification and financial records.

SECTION IX. GOOD FAITH EFFORTS TO MEET CONTRACT SPECIFIC GOALS

A. Determining Good Faith Efforts

1. Each Contractor must comply with the terms and conditions of the Policies in making its bid or proposal and, if awarded the Contract, in performing all work thereunder. A Contractor’s failure to comply with any Rules or
Regulations promulgated pursuant thereto, or any additional requirements contained herein may render a bid or proposal non-responsive and may constitute cause for rejection.

a. **Responsive; compliance with requirements.** If a bid/proposal meets the Contract Specific Goal or shows an adequate good faith effort in accordance with the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as responsive.

b. **Non-Responsive; failure to meet requirements.** If a bid/proposal subject to a Contract Specific Goal does not meet the goal or show an adequate good faith effort, or provide the necessary documentation or forms outlined in the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as non-responsive. Such determination shall result in no further consideration of the bid/proposal by the Airport.

1) **Informal meeting.** If BDDD finds the bid/proposal non-responsive in accordance with the above, the non-responsive bidder/proposer may request an informal meeting with the Vice President or designee within two (2) business days from the date that the Airport notifies the bidder/proposer of the inadequacy of the proposal. Such meeting shall be scheduled by BDDD. All deficiencies in the bid/proposer shall be explained to the bidder or proposer at such meeting after which the bidder/proposer shall be allowed to clarify the original documentation submitted. BDDD will at no time, however, allow additional information, documentation, certification certificates, subcontractors, joint venturers, suppliers, manufacturers, manufacturer’s representatives or brokers that may later be added to the contract or to the original participation submitted at the time of the bid or proposal to be counted toward meeting of the project goal. If after this informal meeting the Vice President still finds the bid or proposal to be non-responsive, the Vice President or designee’s decision shall stand with no further consideration.

2. Under the Policies, BDDD establishes a Contract Specific Goal for each Contract. The Contract Specific Goal is stated in the Advertisement and Invitation to Bid. In order to comply with the bid/proposal requirements of the Policies, a Contractor must either meet the SBE Contract Specific Goal or demonstrate that the Contractor has made sufficient good faith efforts to meet the Contract Specific Goal. If the Contractor will not meet the SBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to BDDD that it has made good faith efforts to meet the SBE goal. This good faith effort documentation must be submitted with the Contractor’s bid or proposal.
3. A Contractor cannot require exclusive subcontracting or teaming arrangements or agreements with subcontractors.

4. For Contracts awarded using the procurement methods of Indefinite Delivery, Construction Management-at-Risk or Design Build, the Vice President of BDDD may determine the requirements to address the Contract goal by means of a Compliance Plan for utilization of SBEs on such Contract, or for alternative demonstration of good faith efforts by the Proposer. The development, scope and utilization of such compliance plans shall be addressed in a separate document.

5. In evaluating a Contractor's good faith effort submission, BDDD will only consider those documented efforts that occurred prior to the good faith efforts submission.

6. The submission of good faith efforts documentation is a matter of responsiveness and shall include a specific response to each of the following criteria with the bid or proposal. Checking the boxes for each criterion on the Good Faith Effort Plan with no additional support documentation is not evidence of a proper good faith effort. A Contractor shall supplement its responses to include any additional information with the bid or proposal the Contractor believes may be relevant. Failure of the Contractor to demonstrate adequate good faith efforts as to any one of the following categories shall render the overall good faith showing insufficient and the bid/proposal non-responsive. The required SBE good faith efforts are set forth below:

a. Whether the Contractor attended any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities for SBE participation (acceptable documentation shall include copies of the meeting sign-in sheets with Contractor name noted as signed-in);

b. Whether the Contractor timely advertised in general circulation, trade association, and/or SBE-focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);

c. Whether the contractor provided written notice via mail or facsimile no fewer than 5 business days before the bid or proposal is due to a reasonable number of SBEs and/or contacted a reasonable number of SBEs via telephone about the subcontracting/supplier opportunities. A "reasonable number of SBEs" is based on the number of SBEs available in the areas of subcontracting or supplier
opportunities (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email);

d. Whether the Contractor solicited the SBEs at least 5 business days prior to bid submission, exclusive of the day the bids are opened, to allow SBEs to participate effectively. Also, whether the Contractor followed up those initial solicitations of interest by contacting SBEs at least three (3) business days prior to bid opening to determine with certainty whether the SBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt);

e. Whether the Contractor selected portions of the work to be performed by SBEs in order to increase the likelihood of meeting the SBE goal, including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate SBE participation. This includes portions of the work to be performed by SBEs the Contractor would otherwise prefer to perform with its own workforce. The ability or desire of a Contractor to perform the services of a contract with its own workforce does not relieve the Contractor of the responsibility to meet the contract goal or demonstrate good faith efforts to do so (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for SBEs to bid/quote);

f. Whether the contractor provided interested SBEs with the adequate information about the plans, specifications, scope of work and requirements of the contract or adequate information about the locations of the plans, specifications, scope of work and requirements of the contract (such access shall be provided at least five (5) business days before bid date or proposal submission);

g. Whether the Contractor fairly investigated and evaluated the interested SBEs’ regarding their capabilities, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation. Also, whether the Contractor provided verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized SBE because the SBE was not qualified. Qualifications must be based on factors other than solely the amount of the SBE’s bid. A Contractor may not reject a SBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the SBE’s
capabilities and expertise (Appropriate steps may be demonstrated with a summary matrix that identifies all bidders/proposers, evaluation criteria, assessments, conclusions and verifications);

h. Whether the Contractor negotiated in good faith with interested SBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested SBEs. Also, whether the Contractor provided written documentation why the Contractor and each of the SBEs contacted did not succeed in negotiating an agreement (Good faith negotiation shall mean scheduled meaningful discussions that demonstrably seek to find reasonable ways to utilize the SBE on the contract);

i. Whether the Contractor made efforts to assist interested SBEs in obtaining Board or Contractor-required bonding, lines of credit, insurance, etc.;

j. Whether the Contractor made efforts to assist interested SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;

k. Whether the Contractor effectively used the services of available small business community organizations; chambers and contractor groups; local, state, and federal business assistance offices; and other organizations that provide assistance in identifying SBEs (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email, list(s) SBE identified, marketing brochure or flyers);

l. Whether the Contractor, if applicable, obtained written documentation from the Board’s approved Surety Support Consultant or a bona fide surety company indicating that bonding was denied prior to the SBEs being rejected as a potential subcontractor for failing to obtain Contractor-required bonding. Documentation furnished by a surety company will be subject to verification by BDDD; and

m. Whether other Contractors have attained a sufficient level of SBE participation to meet the Contract Goal will also be taken into consideration when determining whether the Contractor in question has made a good faith effort.

7. BDDD will review not only the different kinds of efforts the Contractor has made but also the quantity and quality of those efforts. Efforts that are merely pro forma are not good faith efforts to meet the Contract Goal, even if they are sincerely motivated. BDDD will also consider if, given all
relevant circumstances, the Contractor’s efforts could reasonably be expected to produce a level of SBE participation sufficient to meet the Goal.

8. Whether or not the Contract Goal has been met and/or whether there were sufficient good faith efforts is considered a matter of the Contractor’s responsiveness. The requirement to submit documentation that the Goal has been met or good faith efforts documentation has been submitted in the manner prescribed by BDDD is considered a matter of the Contractor’s responsiveness. The Board will only award contracts to Contractors determined to be responsive and responsible. If a Contractor fails to submit good faith efforts documentation with the bid or proposal, it waives the right to appeal the good faith efforts decision. The Vice President of BDDD or designee shall determine whether the Contractor made the required good faith efforts to meet the Contract Goal and, if not, shall recommend that the Contractor be deemed non-responsive.

9. If a contractor desires a review of BDDD’s decision, it must file a written request for final reconsideration within 5 business days after receipt of the decision to the following Reconsideration Official:

   Executive Vice President
   Administration and Diversity
   DFW Airport, 3200 East Airfield Drive
   P.O. Box 619428, DFW Airport
   Texas 75261-9428

10. As part of the reconsideration, the Contractor will have the opportunity to provide written documentation or argument concerning the issue of good faith.

11. The Contractor has a continuing obligation as a covenant of performance to meet the SBE utilization to which it committed at contract award, inclusive of change orders, amendments, and modifications. If the Contractor during contract performance must replace a SBE for any reason, it must follow the provisions herein governing the substitution of SBEs and make documented good faith efforts to meet its original SBE contractual commitment. Such good faith efforts during contract performance must include, but are not limited to:

   a. Solicitation of SBEs that are certified in the applicable area of work or specialty;

   i. Providing interested SBEs with adequate information about the plans, specifications, scopes of work and requirements of the contract;
ii. Fairly investigating and evaluating the interested SBEs’ regarding their capabilities, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation, and providing verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized SBE because the SBE was not qualified;

iii. Negotiating in good faith with interested SBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested SBEs and providing written documentation why the Contractor and any of the SBEs contacted did not succeed in negotiating an agreement; and

iv. Effectively using the services of available small business community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of SBEs.

b. A Contractor determined not to have made good faith efforts to meet its SBE contractual commitments may request administrative review and final reconsideration by the Vice President of BDDD. The Contractor may elect to meet in person to discuss whether the Contractor made good faith efforts in accordance with the Policies. BDDD’s determination shall be final.

SECTION X. PRE-AWARD COMPLIANCE PROCEDURES

A. SBE Utilization Forms and Related Documentation

Each contractor must submit for all solicitations, bids or proposals, completed SBE utilization forms as outlined below.

B. Invitation for Bids (IFB):

- **Commitment to SBE Participation** must be submitted at the time of bid submission.

- **Preliminary Schedule of Subcontractors** must be submitted at the time of bid submission.
• **Certification Certificates** A copy of the certificate for each certified subcontractor must be attached to the Preliminary Schedule of Subcontractors and must be submitted at the time of bid submission.

• **Final Schedule of Subcontractors** must be submitted within three (3) business days from the date of the bid opening or with the bid verification.

• **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors must be submitted within three (3) business days from the date of the bid opening or with the bid verification.

• **Good Faith Efforts Documentation.** If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of bid submission.

C. Request for Proposals or Request for Qualifications:

• **Commitment to SBE Participation** must be submitted at the time of proposal submission.

• **Preliminary Schedule of Subcontractors** shall be submitted at the time of proposal submission.

• **Certification Certificates** A copy of the certificate for each certified subcontractor must be attached to the Preliminary Schedule of Subcontractors and must be submitted at the time of proposal submission.

• **Final Schedule of Subcontractors** must be submitted with the best and final offer.

• **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subconsultant must be submitted with the best and final offer.

• **Good Faith Efforts Documentation.** If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of proposal submission.

D. Request for Price Proposals for a task/delivery order under Indefinite Delivery Contracts:

• **Commitment to SBE Participation** must be submitted at the time of proposal submission.

• **Compliance Plan:** Post Contract award and prior to contract execution, submit to BDDD for review and approval.
• **Final Schedule of Subcontractors** At the time that a delivery order price proposal is requested, the Final Schedule of Subcontractors must be submitted with the price proposal submission.

• **Certification Certificates** A copy of the certificate for each certified subcontractor must be attached to the Final Schedule of Subcontractors.

• **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors must be submitted with the final agreed-upon price proposal for each delivery order.

E. The **Schedule of Subcontractors** form shall list all subcontractors on the project and detail the preliminary percentage and dollar commitment of the contractor to SBE participation. Submission of the **Intent to Perform as a Subcontractor** forms for each SBE firm shall constitute a representation by the contractor to the Airport that it believes such SBE to be certified as a SBE and has a place of business in the Airport’s market area. It shall also represent a commitment by the Contractor that if it is awarded the contract, it will enter into a subcontract with such SBE for the work described at the approximate price and percentage set forth in the **Intent to Perform as a Subcontractor** forms. The winning bidder/proposer shall enter into formal agreements with the SBE firms for work as indicated on the **Final Schedule of Subcontractors** and **Intent to Perform** forms within 10 business days after receipt of the contract executed by the Board or Contractor’s Notice of Award. The contractor, if requested, shall provide the BDDD copies of those agreements within 5 business days of execution.

F. If the SBE subcontractor information or status changes after the forms have been submitted but prior to award of the contract, the contractor must immediately notify BDDD of the changes and a written explanation for the change by submitting a **Request for Approval of Change to Final Schedule of Subcontractors** form. No change in SBE participation after bid submission, but prior to contract award, may change, or be deemed to change, the contractor’s submitted bid amount. The Modification and Substitutions section of the SBE Policy and Administrative Procedures shall govern the modifications and substitutions of the SBEs that occur after contract award.

G. Any commitments to meet the SBE goal must be detailed on the **Commitment to Small Business Enterprise (SBE) Participation** form included with the bid/proposal. This commitment includes the following:

"The Contractor must maintain the SBE participation level to which it committed at contract award throughout the performance of the contract. A Contractor may not terminate for convenience a SBE subcontractor (or an approved substitute SBE firm) and then perform the work of the terminated subcontract with its own
workforces, those of an affiliate, or any other firm without the prior written consent from BDDD. When a SBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the Contractor is required to make good faith efforts to substitute another SBE to fulfill its SBE contractual commitment.”

H. The **Schedule of Subcontractors** form must list all subcontractors the Contractor intends to use in performing the work of the contract, including non-SBEs, and detail the preliminary and/or final percentage and dollar commitment of the Contractor to SBE participation. Only SBEs identified and the levels of participation listed for each at the time of bid submission will be considered in determining whether the Contractor has met the goal. All SBEs must be properly certified under the guidelines of the CERTIFICATION section. Submission of the **Intent to Perform as a Subcontractor** form for each SBE shall constitute a representation by the Contractor to the Board that it believes the SBE to be certified as a SBE to perform the work as designated. It shall also represent a commitment by the Contractor that if it is awarded the contract, it will enter into a subcontract with the SBE for the work described at the approximate price and percentage set forth in the **Intent to Perform as a Subcontractor** form. The winning bidder/proposer shall enter into formal agreements with the SBE for work as indicated on the **Final Schedule of Subcontractors** and **Intent to Perform** forms within 10 business days after receipt of the contract executed by the Board or the Contractor’s Notice of Award. The Contractor, if requested, shall provide BDDD copies of those agreements within 5 business days of execution.

I. If the SBE’s information or status changes after the form has been submitted but prior to award of the contract, the Contractor must immediately notify BDDD of the change and a written explanation for the change by submitting a **Request for Approval of Change to Final Schedule of Subcontractors** form. No change in SBE participation after bid submission, but prior to contract award, may change, or be deemed to change, the Contractor’s submitted bid amount. Any change in the utilization of a SBE shall be governed by the MODIFICATION OR SUBSTITUTION provision below.

J. Except as authorized by BDDD, the Contractor shall enter into formal agreements with the SBEs listed on the **Final Schedule of Subcontractors** and **Intent to Perform as a Subcontractor** forms within ten (10) business days after receipt of the contract executed by the Board. If requested, the Contractor must provide the BDDD copies of those agreements within five (5) business days of the written request.

K. Contractors must appoint and designate to BDDD a high-level official to administer and coordinate its contractual SBE commitments.
SECTION XI. POST AWARD COMPLIANCE PROCEDURES

A. Monitoring Contractual Commitments and Payments to SBEs

1. It is Airport Board policy that all invoices in compliance with contract payment terms and conditions will be paid within 30 days of its receipt.

2. All Contractors must comply with the Texas Prompt Pay Act (Chapter 2251; Texas Government Code) I paying all sums, including retainage withheld from subcontractors, to subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities, including paying such persons or entities within 10 days of receiving payment from the Board their appropriate share of such payment. No Contractor that has received payment of an undisputed amount from the Board may withhold from any subcontractor its undisputed appropriate share of such payment.

3. No Contractor may withhold retainage from any subcontractor at a higher percentage rate than retainage is withheld by the Board from Contractor. Except for the Texas Prompt Pay Act requirement that a Contractor release retainage to a subcontractor within 10 days of that subcontractor’s invoice for retainage, each Contractor must withhold/release retainage from/to each subcontractor in at least the same manner as retainage is withheld/released by the Board from/to Contractor (and must include provisions in its subcontracts ensuring this), including, but not limited to mirroring the Board’s treatment of retainage withheld/released to Contractor concerning the following subjects:

   a. the percentage amount of retainage withheld/released;

   b. the schedule for withholding/releasing retainage;

   c. the phased release of retainage according to any phased completion (substantial/final) of portions of the project;

   d. the optional cessation of withholding retainage prior to substantial/final completion of, or final payment for, the project (e.g. optional cessation when 50% of project is substantially complete, with an owner’s right to resume withholding retainage upon the occurrence of certain events);

   e. the release of retainage prior to final payment, less an amount withheld to cover a percentage of the value of punch-list work required before final completion is certified (e.g. retention of 200% of the value of punch-list work pending certification of final completion).
4. Each Contractor must address (and implement) in its subcontracts the subject of retainage so that each subcontractor is treated by the Contractor in the same manner as Board treats Contractor. Nothing in this provision precludes a Contractor from including in its subcontracts retainage provisions that are more favorable than those contained in the Contract between Board and Contractor, including, but not limited to, provisions withholding retainage at a lesser percentage rate, releasing retainage in part/whole earlier than retainage released by Board and/or withholding less retainage than Board withholds to cover the value of punch-list work required to be completed before final completion certification.

5. DFW encourages all Contractors and their subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities to make payment of invoices submitted to them more expeditiously than required under the Texas Prompt Pay Act.

6. Payment by a Contractor in violation of the terms of the Contract or applicable law will constitute a material breach of this Contract.

7. The Board may withhold progress payments until the Contractor demonstrates compliance with the payment terms of this Contract or applicable law, including withholding progress payments solely relating to monies payable to Contractor for work it self-performs or associated retainage.

8. The Board may also exercise any other rights or remedies available to it under this Contract or applicable law if Contractor fails to comply with the payment terms of this Contract or applicable law.

9. In an effort to remove the obstacle of the length of time for subcontractor payments on Board procurements, the Board has an Expedited Payment Policy for eligible Contractors that may elect to voluntarily participate in. This policy is applicable if a Contractor has been awarded a multi-year Contract for construction and/or maintenance services of at least $10,000,000 in Contract value. The Expedited Payment program requires those eligible Contractors that voluntarily participate in the program to pay their subcontractors within seven (7) calendar days after receipt of the subcontractor’s invoice. The Board would then pay interest and provide other incentives to the Contractor on eligible expedited payments according to the Expedited Payment Process and Policy. The terms for Expedited Payment will be negotiated prior to the issuance of the Notice to Proceed.

10. To ensure that the Contractor meets all its SBE contractual commitments, BDDD will review the Contractor's SBE utilization throughout the term of
the contract, including any term extensions from the original contract period. If a contract includes a SBE contractual commitment, the Contractor must report all SBE payments using the BDDD’s online reporting system and submit a **Pay Period Activity Report (PPAR)** (with verifying information) concurrent with the Contractor’s submission of payment requests with each invoice. The information reflected on the PPAR will be utilized to provide constant monitoring of the payments made to SBE as well as non-SBE subcontractors in relation to the percentage of work performed. Failure to include a required PPAR form with the invoice utilizing the Airport Board online reporting system will result in the invoice being returned to the Contractor.

11. Contract Close Out: to ensure that the Contractor meets all its SBE contractual commitments, BDDD will review the Contractor’s SBE utilization throughout the term of the contract, including any term extensions of the original contract period, prior to receiving final payment. If a contract includes a SBE contractual commitment, the Contractor must report all SBE payments using the BDDD’s online reporting system and submit **Final Pay Period Activity Report** (with verifying information) concurrent with the Contractor’s submission of final payment request. For Commercial Development projects, the Contractor must report all final SBE utilization and payments concurrent with the Contractor’s submission of Tenant Certificate of Occupancy request.

12. BDDD encourages all Contractors that may have a dispute with any subcontractor to attempt to resolve such dispute through appropriate formal or informal alternative dispute resolution procedures, including, but not limited to, negotiation, mediation, collaborative law, arbitration and/or conciliation, prior to seeking BDDD’s assistance in resolving the dispute. If any Contractor or subcontractor does seek BDDD’s assistance, it may require them to first attempt to resolve their dispute through appropriate alternative dispute resolution procedures and to provide BDDD with evidence of their good faith attempts to resolve the dispute as a condition of further assistance from BDDD.

13. BDDD will not permit a Contractor to count the participation of a SBE subcontractor toward the Contractor’s SBE contractual commitment until the amount being counted has been actually paid to the SBE.

14. Compliance monitoring may also include on-site inspections. The Contractor is responsible for providing BDDD, if requested, a project work schedule together with a list of all subcontractors for the scheduled work.

15. All reports of noncompliance will be referred by BDDD to the contract administrator, and if appropriate, to the Legal Department.
B. Regular Reports

1. In order to monitor the progress of the SBE Policy and Administrative Procedures, BDDD shall maintain a record-keeping system designed to:

   a. Assess quarterly and annually overall SBE utilization on Airport construction contracts under $1 million, professional services and non-professional services contracts and subcontracts.

   b. Identify and monitor monthly the Contractor’s SBE utilization for the contract and on a task-by-task basis.

2. BDDD will prepare other SBE-related internal and external reports as required or requested. If the contract administrator or any other Airport personnel becomes aware of any issues of non-compliance with the SBE Policy and Administrative Procedures, BDDD shall be notified immediately.

SECTION XII. CONTRACT GOAL MODIFICATIONS OR SBE SUBSTITUTIONS

A. If change orders or any other contract modifications are issued under the contract, the Contractor has a continuing obligation to immediately inform BDDD in writing of any agreed upon increase or decrease in the scope of work of such contract, regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

B. If change orders or other contract modifications are issued under the contract that include an increase in the scope of work whether by amendment, change order, force account or otherwise which increases or decreases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by a SBE at the time of contract award, then such amendment, change order or other modification must be contemporaneously submitted to BDDD. The Contractor must make good faith efforts to meet its SBE contractual commitment. If the Contractor is unable to meet its SBE contractual commitment, it must submit a Request for Approval of Change to Final Schedule of Subcontractors, and must be approved in writing by BDDD.

C. The Contractor cannot terminate or otherwise change the terms of its Final Schedule of Subcontractors prior to or after contract award without the prior written consent of BDDD. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a SBE subcontractor with its own forces or those of an affiliate, a non-SBE or another SBE.
D. The Contractor must demonstrate good cause to terminate the SBE to the satisfaction of BDDD. Good cause includes the following circumstances:

1. The listed SBE subcontractor fails or refuses to execute a written contract.
2. The listed SBE subcontractor fails or refuses to meet the Contractor’s reasonable, nondiscriminatory bond requirements.
3. The listed SBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness.
4. The listed SBE is ineligible to work on Airport projects because of suspension and debarment proceedings pursuant to federal or state law or other applicable laws or regulations.
5. BDDD has determined that the listed SBE subcontractor is not a responsible contractor.
6. The listed SBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal.
7. The listed SBE subcontractor is ineligible to receive for the type of work required.
8. The SBE owner dies or becomes disabled with the result that the listed SBE subcontractor is unable to complete its work on the contract.
9. Other good cause as determined in BDDD’s sole discretion.

E. Good cause does not include where the Contractor seeks to terminate a SBE it relied upon to obtain the contract so that the Contractor can self-perform the work or substitute another SBE or non-SBE subcontractor to perform the work for which the SBE was engaged or listed on the Final Schedule of Subcontractors.

F. The Contractor must give the SBE notice in writing, with a copy to BDDD, of its intent to request to terminate and/or substitute, and the detailed reasons for the request. The Contractor and the SBE must attempt to negotiate a resolution of the situation, and if the negotiation is unsuccessful, the Contractor must document this effort before the Contractor seeks BDDD’s approval to substitute the SBE.

G. Contractors must meet the above criteria and process before requesting prior written approval of any material change in the ownership, control, duties, functions and responsibilities of any SBE. The Contractor cannot make any
changes to the **Final Schedule of Subcontractors** without the prior written consent of BDDD.

H. If the Contractor proposes to terminate or substitute a SBE subcontractor for any reason, the Contractor must make good faith efforts as defined herein to find a substitute SBE subcontractor for the original SBE to meet its SBE contractual commitment. Its good faith efforts shall be directed at finding another SBE to perform or provide at least the same amount of work, material or service under the contract as the original SBE to the extent necessary to meet its SBE contractual commitment. The Contractor may also find additional SBEs and/or adjust the current/projected SBE participation to meet its SBE contractual commitment.

I. The Contractor must submit an **Intent to Perform as a Subcontractor** form for each proposed new SBE subcontractor. BDDD will approve or disapprove the substitution based on the Contractor’s documented compliance with these provisions.

J. All changes to the **Schedule of Subcontractor** form must be submitted for review and approval through the **Request for Approval of Change to Final Schedule of Subcontractors** form when adding, changing, or deleting any subcontractor.

K. If the Contractor does not comply with these provisions relating to the modification or termination of, and/or substitution for a SBE subcontractor, the Board may elect to apply contract remedies as described in the SBE Policy and Administrative Procedures. Additionally, the Airport Board may order the Contractor to forfeit the profits from the terminated portion of the SBE subcontract.

**SECTION XIII. COMPLIANCE AND ENFORCEMENT**

A. The Contractor must forward all necessary documents and information during the course of performance and to close out the Contract and must cooperate with BDDD in providing any information, including the final accounting for SBE participation on the Contract.

B. BDDD is empowered to receive and investigate complaints and allegations by SBEs, third parties or Airport personnel, or to initiate its own investigations regarding compliance with the Program requirements. If BDDD determines in its sole discretion that an investigation is warranted, the Contractor must fully cooperate with the investigation and provide complete, truthful information to the Board concerning the investigation and Contractor’s compliance with the Program requirements.
C. The failure of the Contractor to meet the SBE contractual commitment or comply with any other aspect of the Program requirements will constitute a material breach of the Contract entitling the Board to exercise any remedy available in this Contract, the Program requirements or applicable law.

D. The Board may report any suspected false, fraudulent or dishonest conduct relating to the Contractor’s performance of the Program requirements to the Board’s Department of Audit Services or to any applicable enforcement agency, including the State Attorney General’s Office and appropriate federal law enforcement authorities.

E. If Contractor is in breach of any of the Program requirements, the Board may exercise any of following remedies, in addition to any other remedies available to it under this Contract or at law or in equity:

   1. withholding funds payable under this Contract, including, but not limited to, funds payable for work self-performed by the Contractor or applicable retainage;
   2. temporarily suspending, at no cost to DFW, Contractor’s performance under the Agreement/Contract;
   3. termination of the Agreement/Contract;
   4. suspension/debarment, in accordance with applicable law, of Contractor for a period of time from participating in any solicitations issued by DFW for severity of breach of Contract.

F. With respect to SBE firms, a finding of non-compliance could result in a denial of certification or removal of eligibility and/or suspension and debarment.

SECTION XIV. SBE CONTRACT CLAUSES

A. All Airport Board departments having contract administration responsibilities shall ensure that the Small Business Enterprise (SBE) Special Contract Provisions, as amended from time to time, are included in all contracts and related subcontractors subject to BDDD’s approval.

SECTION XV. OUTREACH

A. An integral component of the SBE Program is to identify and solicit SBE participation on the Airport Board’s contracting opportunities. Outreach efforts are designed to document initiatives and establish procedures that best inform, present, and achieve results for maximum consideration and participation by
SBES. Internal and external communication and outreach efforts as well as interaction by BDDD and other Airport departments and the SBE business community are key.

B. Internal Communication

1. As detailed in the OTHER DEPARTMENTS ROLES AND RESPONSIBILITIES Section of this Policy and Administrative Procedures, all Airport departments that have or share the responsibility for the awarding of contracts must support and assist in promoting and implementing the SBE Policy and Administrative Procedures. BDDD has established, in conjunction with appropriate departments, procedures to enhance the qualifications, competitiveness, and opportunities for SBES. Processes have been jointly established to capture, disseminate, analyze, and communicate Airport business opportunities, and address barriers to effective SBE participation.

C. External Communication

1. Communication and support of SBE initiatives by entities that represent or promote SBES' interests are a crucial element to a viable and effective SBE Program. BDDD has also formalized efforts to ensure communication and participation by external SBE-related entities to maximize the Airport Board’s SBE identification and solicitation efforts. Activities with these entities are geared towards establishing a fluid communication process that informs, facilitates networking, and assists in the overall development and management of the SBE Program. BDDD shall participate in SBE-sponsored activities and look to these entities as the principal organizations to generate support and participation by the small business community.

D. SBE Listings

1. As part of the Airport Board's efforts to identity and ensure solicitation of SBES, BDDD shall maintain listings of certified SBES by industry codes. These listings will be used to notify SBES of business opportunities and provide the primary vehicle for Airport Board bidders/proposers and Contractors to satisfy SBE requirements and facilitate joint ventures, partnerships, etc.

SECTION XVI. CONTRACTOR COMPLIANCE ASSISTANCE

A. The Airport Board shall provide technical assistance to bidders, contractors and consultants as necessary in complying with the SBE Policy and Administrative Procedures and SBE Contract Provisions.
SECTION XVII. SEVERABILITY

A. The provisions of this SBE Policy and Administrative Procedures are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of the SBE Policy and Administrative Procedures, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this Policy and Administrative Procedures, or the validity of its application to other persons or circumstances.
GLOSSARY OF DEFINITIONS

A. AFFECTED CLASS – A group of persons, identifiable by name or characteristics, who are the victims of a pattern or practice of discrimination.

B. AFFIRMATIVE ACTION – Actions, policies, and procedures to which a contractor commits itself that are designed to achieve equal employment opportunity. The affirmative action obligation entails (1) thorough, systematic efforts to prevent discrimination from occurring or to detect it and eliminate it as promptly as possible, and (2) recruitment and outreach measures.

C. AFFILIATE – Firms are affiliates of each other when, directly or indirectly, a firm or a third party (or parties) controls or has the power to control both; or there is evidence that a relationship exists between or among parties that produces an affiliation. In determining whether affiliation exists consideration shall be given to such factors as: common ownership, common management and contractual relationships.

D. AVAILABILITY - The calculated estimate of qualified minority/women-owned business enterprises in a particular trade and/or profession.

E. BEST VALUE - A Best Value evaluation allows evaluators to consider other criteria in addition to purchase price and minimum specifications in the award of a competitive sealed bid.

F. BIDDER/PROPOSER – Any person, firm, partnership, corporation, association or joint venture as herein provided seeking to be awarded an Airport contract or lease by a competitive process.

G. BUSINESS ENTERPRISE – Any legal entity which is organized to engage in lawful commercial transactions and is actively engaged in such transactions as means of livelihood, such as a sole proprietorship, partnership or corporation, but not a joint venture except as hereinafter provided.

H. BUSINESS PROCESS – Any undertaking to enhance the participation of Small Businesses by the Airport in contracts/procurements including reimbursement and revenue generating contracts.

I. CERTIFICATION – The certification of a firm as a small business by the Airport’s BDD department or a certification agency approved by the Airport’s BDD department.

J. CHALLENGE – A formal filing by a third party to rebut the presumption that a particular individual is not a small business.

K. COMMERCIAL DEVELOPMENT CONTRACT – An award by a person, corporation, association or other legal entity (excluding the Airport) expending or committing the
expenditure (by direct payment, reimbursement, or otherwise) of the proceeds of Airport revenue bonds or the proceeds of bonds issued by a nonprofit airport facility financing corporation for work, labor, services, supplies, equipment, materials, or any combination of the foregoing, in connection with improvements at the Airport.

L. COMMERCIALY USEFUL FUNCTION – Refers to work performed by a SBE firm in a particular transaction that, in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction i.e., the firm's role is not superfluous in an attempt to obtain credit towards goals. If, in BDDD's judgment, the firm (even though an eligible SBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.

M. COMPLIANCE – Refers to the fact that a Contractor has correctly implemented the requirements of the applicable SBE Business process requirements.

N. CONCESSION – The right to operate a business that sells goods and/or services to the public at a designated location or locations in one of the Airport’s passenger terminals or on Airport premises.

O. CONCESSIONAIRE – The operator of an Airport concession.

P. CONSTRUCTION CONTRACT – Any contract for the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings or highways, or other changes or improvements to real property, including facilities providing utility services.

Q. CONSTRUCTION SITE – The general physical location of any building, highway or real property undergoing construction, rehabilitation, alteration, conversion, extension, demolition repair, or any other change or improvement, and any temporary location or facility at which a contractor or other participating party meets a demand or performs a function relating to the contract or subcontract.

R. CONSTRUCTION WORK – The construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings or highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection and other onsite functions incidental to the actual construction.

S. CONTRACT – An award by the Airport whereby the Airport expends or commits the expenditure of funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing. A legally binding relationship obliging a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.
T. CONTRACT MODIFICATION – Any change (deductive or additive) to the scope of work or dollar amount in any Airport contract including but not exclusive of: supplemental agreements, contract options renewal years and change orders.

U. CONTRACTING OPPORTUNITY – A procurement action to commercially obtain a product or service (as opposed to intergovernmental actions).

V. CONTRACTOR – One who participates, through a contract /subcontract (at any tier) or any other contractual agreement with the Airport. A contractor includes but is not exclusive to a contractor, consultant, commercial development developers, commercial development contractors and vendors.

W. CONTROL - is the primary power to direct the management of a business enterprise - specifically; the small business(s) must possess the power and ability to direct or cause the direction of the management and policies of the firm, and to make the day-to-day, as well as major, decisions on matters of management, policy and operations.

X. DISADVANTAGED BUSINESS ENTERPRISE (DBE) - means a for-profit business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged as defined in the Airport’s DBE Manual or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and,

2. Whose management and daily business are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Y. GOAL – A numerically expressed objective, which contractors and consultants are required to make good faith efforts to achieve. Goals in the SBE Business process are considered aspirational.

Z. GOOD FAITH EFFORTS – steps taken to achieve a SBE goal or other requirements which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the Business process requirement.

AA. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) - A Historically Underutilized Business (HUB) is a corporation, sole proprietorship, partnership or joint venture formed for the purpose of making a profit in which at least 51 percent or more of the business is owned, operated and controlled by a woman and/or ethnic minority in accordance with the Texas Government Code.

BB. INDEFINITE DELIVERY CONTRACT - A contract that has been awarded to one or more vendors to facilitate the delivery of supplies and/or services. Usually a contract for supplies or services that does not procure or specify a firm quantity of
supplies or the amount of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of supplies or services during the period of the contract.

CC. INDIAN TRIBE – Any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Corporation, which is recognized as eligible for the special Business process and services provided by the United States to Indians because of their status or is recognized as such by the State in which the tribe, band, nation, group or “tribally-owned concern” is located.

DD. JOINT VENTURE - An association of a SBE firm and/or one or more other 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 SBE 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.

EE. MANUFACTURER – An individual (or individuals) who owns, operates, or maintains a factory or establishment that produces on the premises the components, materials, or supplies obtained by the Airport, contractor or consultant.

FF. MINORITY BUSINESS ENTERPRISE (MBE) – A for profit business concern which is at least 51 percent owned and controlled by one or more minority person(s), or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minorities; and whose management and daily business operations are controlled by one or more of the minority individuals who own it. An MBE is a firm that is certified by an approved Airport certification entity as noted in the Certification section in this manual.

GG. MINORITY PERSONS - Individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

- "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, Republic of Palau, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

- "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origin, regardless of race;
• "Native Americans," which includes persons who are American Indians; and
• "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka.

HH. MULTI TIER SUBCONTRACTOR- Subcontractors whose work to provide services or supplies is directly related to the performance of an Airport contract with the prime contractor or at any lower tier subcontractor (whether at a first, second, or third tier) to a first-tier subcontractor.

II. MWBE GOAL – A goal as determined annually or on a contract by contract basis by the Airport to be achieved during a fiscal year or the term of a particular contract, based on staff evaluation and determination of the identifiable potential contract opportunities and the availability of minority/women-owned business enterprises in the Dallas/Fort Worth market area to perform work, or in the applicable market area. The MWBE goal shall not be considered or construed as constituting a fixed quota.

JJ. PRIMARY INDUSTRY CLASSIFICATION – The six digits North American Industrial Classification System (NAICS) code designation, which best describes the primary business of a firm. The NAICS code listing is accessible through the NAICS website (www.naics.com).

KK. PRIME CONTRACTOR – Any person, firm, partnership, corporation, association or joint venture as herein provided which has executed a contract with the Airport or Commercial Development contract or agreement.

LL. QUOTA – A contracting practice restricting the eligibility for the competitive award of a contract by the designation of an assigned share or proportion of the contract or procurements to a certain group or class.

MM. REGULAR DEALER – A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this definition.

NN. SET ASIDE – A contracting practice restricting eligibility for the competitive award of a contract to a certain group or class.
OO. SMALL BUSINESS – As defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto except that a small business shall not include any business or group of businesses controlled by the same socially and economically disadvantaged individuals(s) which has annual average gross receipts in excess of the standards established by the Small Business Administration’s regulation under 13 CFR 121 for a consecutive three-year period.

PP. SBE Goal – Annual or contract-specific goal determined by the Airport to be achieved during a fiscal year or the term of a particular contract, based on staff evaluation and determination of the identifiable potential contract opportunities and the availability of small business enterprises in the Dallas/Fort Worth market area to perform work, or in the applicable market area. The SBE goal shall not be considered or construed as constituting a fixed quota.

QQ. SUBCONTRACTOR - Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under contract to a prime contractor on an Airport contract at any tier.

RR. TEXAS UNIFIED CERTIFICATION PROGRAM (TUCP) is a “one stop” certification process for the State of Texas DBE Programs, established October 1, 2002. Certain approved agencies within the State of Texas which have agreed to perform the certification processing for DBE firm (and some MWBE) applications within the state of Texas by specific TUCP regions.

SS. WOMEN BUSINESS ENTERPRISE (WBE) – A for profit business concern which is at least 51 percent owned and controlled by one or more female person(s), or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more of the female individuals who own it. A WBE is a firm that is certified by an approved Airport certification entity as noted in the Certification section herein.
# REQUEST FOR D/S/M/WBE GOAL DETERMINATION

Completed Form is due to BDDD ten (10) business days prior to advertising.

<table>
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<tr>
<th>DATE</th>
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<tr>
<th>ADVERTISING DATES</th>
<th>Solicitation Schedule Attached</th>
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## SOLICITATION HISTORY (To be completed by Requestor)

- [ ] NEW CONTRACT
- [ ] PRIOR CONTRACT(S) List previous similar contract(s) issued and associated contract number(s).

## SCOPE OF WORK SUMMARY (To be completed by Requestor)

[ ] Scope of Work Attached

<table>
<thead>
<tr>
<th>POTENTIAL SUBCONTRACTING OPPORTUNITIES</th>
<th>List potential subcontracting opportunities based on line item cost estimate.</th>
</tr>
</thead>
</table>

## PROJECT ESTIMATE

[ ] Line Item Cost Estimate Attached

## CONTRACT TERMS

<table>
<thead>
<tr>
<th>FUNDING SOURCE</th>
<th>Federal Funds</th>
<th>Percentage of Federal Funds versus Total Contract Value</th>
</tr>
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</table>

## SPECIAL REQUIREMENTS

Provide plans, specifications, other information/materials that will assist BDDD in determining the contract-specific goal.

## D/S/M/WBE AVAILABILITY (To be completed by BDDD)

<table>
<thead>
<tr>
<th>AVAILABILITY</th>
<th>POTENTIAL PRIME CONTRACTORS</th>
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## GOAL DETERMINATION (To be completed by BDDD)

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<tr>
<th>PROGRAM TYPE</th>
<th>□ DBE</th>
<th>□ SBE</th>
<th>□ MBE</th>
<th>□ M/WBE</th>
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<td>□ Professional Services</td>
<td>□ Non-Professional Services</td>
<td>□ Goods</td>
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<tr>
<th>PARTICIPATION GOAL DETERMINED</th>
<th>%</th>
<th>Goal is percentage of contract value, not a subcontracting goal.</th>
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| METHODOLOGY COMMENTS | |
|----------------------| |
REQUEST FOR D/S/M/WBE GOAL DETERMINATION
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<tr>
<td>RECOMMENDATION BY</td>
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<tr>
<td>APPROVED</td>
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</table>
SMALL BUSINESS ENTERPRISE (SBE) SPECIAL CONTRACT PROVISIONS

Notification is hereby given that a SBE contract specific goal has been established for this Contract. The Contractor/vendor has committed to percent (%) SBE participation of the total dollar value of this Contract including any change orders and/or modifications throughout the term of this contract/agreement. The commitment is a contractual commitment upon execution of the contract.

A. GENERAL REQUIREMENTS

1. It is the policy of the Dallas/Fort Worth International Airport Board of Directors ("Board") to support the growth and development of Small Business Enterprises ("SBEs") that can successfully compete for Airport prime contracting and subcontracting opportunities.

2. A “Contractor” is defined as one who participates, through a contract or any other contractual agreement in an Airport-funded contract opportunity. For purposes of these Provisions, a Contractor is one who seeks to do business with the Board by submission of a bid or proposal on any such contract or subcontract. A Contractor includes but is not limited to a Contractor, consultant, or vendor.

3. It is the policy of the Board to ensure non-discrimination in the award and administration of Board Contracts. Consequently, the Contractor must fully comply with the requirements of the Board’s Small Business Enterprise Program Policies and Administrative Procedures in proposing and performing hereunder.

4. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of the Board’s Policies. Failure by the Contractor 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 Board deems appropriate. The Contractor shall insert an Article containing all of the provisions of this Section, including this paragraph, in all subcontracts hereunder, except altered as necessary for the proper identification of the contracting parties and the Board under this Contract.

5. The Business Diversity & Development Department ("BDDD") is responsible to ensure compliance with the Board’s SBE Policy and Administrative Procedures. BDDD has the mission to proactively facilitate and maximize business and capacity building opportunities for SBEs by collaborating with internal customers and implementing effective innovative programs and approaches for prime and subcontracting opportunities.

6. The Contractor specifically agrees to comply with all applicable provisions of the Board’s SBE Policy and Administrative Procedures and any amendments thereto. SBE and Non-SBE subcontractors also agree to comply with all applicable provisions of the Board’s SBE Policy and Administrative Procedures ("Policies").

7. The Contractor shall maintain records, as specified in the Audit and Records Section of the Special Provisions in the contract, showing:
a. Subcontract/supplier awards, including awards to SBEs;

b. Specific efforts to identify and award such Contracts to SBEs, such as when requested, copies of executed contracts with SBEs to establish actual SBE project participation.

B. ADMINISTRATIVE REQUIREMENTS

1. All Contractors are charged with knowledge of and are solely responsible for complying with each requirement of the Policies making a bid and, if awarded a contract, in performing the work described in the contract documents. These instructions are intended only to generally assist the Contractor in preparing and submitting a compliant bid. Should any questions arise regarding specific circumstances, Contractors must consult with the BDDD office at 972-973-5500.

2. The Contractor shall appoint a high-level official to administer and coordinate the Contractor’s efforts to carry out its SBE contractual commitments.

3. The Contractor agrees to submit monthly reports of payments and subcontract and/or supplier awards to SBEs and Non-SBEs in such form and manner and at such times as the Board shall prescribe.

4. The Contractor shall provide BDDD access to all books, records, accounts and personnel in accordance with the Audit and Records section of these Special Provisions. Such access will be used for, among other purposes, determining SBE participation and compliance with the Policies. All Contractors may be subject to interim and post-contract SBE audits. Audit determination(s) regarding Contractor’s compliance with the SBE Policies may be considered and have a bearing on consideration of the Contractor for award of future Contracts.

C. GOALS AND GOOD FAITH EFFORTS

1. Each Contractor must comply with the terms and conditions of the Policies in making its bid or proposal and, if awarded the Contract, in performing all work thereunder. A Contractor’s failure to comply with any Rules or Regulations promulgated pursuant thereto, or any additional requirements contained herein may render a bid or proposal non-responsive and may constitute cause for rejection.

a. Responsive; compliance with requirements. If a bid/proposal meets the contract-specific goal or shows an adequate good faith effort in accordance with the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as responsive.

b. Non-Responsive; failure to meet requirements. If a bid/proposal subject to a contract-specific goal does not meet the goal or show an adequate good faith effort, or provide the necessary documentation or forms outlined in the Policies, then BDDD shall notify the procuring department to regard the bid/proposal as non-responsive. Such determination shall result in no further consideration of the bid/proposal by the Airport.

1) Informal meeting. If BDDD finds the bid/proposal non-responsive in accordance with the above, the non-responsive bidder/proposer may request an informal meeting with the Vice President or designee within
two (2) business days from the date that the Airport notifies the bidder/proposer of the inadequacy of the proposal. Such meeting shall be scheduled by BDDD. All deficiencies in the bid/proposer shall be explained to the bidder or proposer at such meeting after which the bidder/proposer shall be allowed to clarify the original documentation submitted. BDDD will at no time, however, allow additional information, documentation, certification certificates, subcontractors, joint venturers, suppliers, manufacturers, manufacturer’s representatives or brokers that may later be added to the contract or to the original participation submitted at the time of the bid or proposal to be counted toward meeting of the project goal. If after this informal meeting the Vice President still finds the bid or proposal to be non-responsive, the Vice President or designee’s decision shall stand with no further consideration.

2. Under the Policies, BDDD has established a contract-specific goal for this Contract. The specific goal for this Contract is stated in the Advertisement and Invitation to Bid. In order to comply with the proposal requirements, a Contractor must either meet the SBE contract-specific goal or demonstrate that the Contractor has made sufficient good faith efforts to meet the Contract goal. If the Contractor will not meet the SBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to BDDD that it has made good faith efforts to meet the SBE goal. This good faith effort documentation must be submitted with the Contractor’s bid or proposal.

3. A Contractor cannot require exclusive subcontracting or teaming arrangements or agreements with subcontractors.

4. For Contracts awarded using the procurement methods of Indefinite Delivery, Job-Order-Contract, Construction Management-at-Risk or Design Build, the Vice President of BDDD may determine the requirements to address the Contract goal by means of a Compliance Plan for utilization of SBEs on such Contract, or for alternative demonstration of good faith efforts by the Proposer. The development, scope and utilization of such compliance plans shall be addressed in a separate document.

5. In evaluating a Contractor’s good faith efforts submission, BDDD will only consider those documented efforts that occurred prior to the good faith effort submission.

6. The submission of good faith efforts documentation is a matter of responsiveness and shall include a specific response to each of the following factors with the bid or proposal. In addition, a Contractor may supplement its responses to include any additional information with the bid or proposal the Contractor believes may be relevant. Failure of the Contractor to demonstrate adequate good faith efforts as to any one of the following categories shall render the overall good faith showing insufficient and the bid/proposal non-responsive. The required SBE good faith efforts are set forth below:

a. Whether the Contractor attended any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities for SBE participation (acceptable documentation shall include copies of the meeting sign-in sheets with Contractor name noted as signed-in);
b. Whether the Contractor advertised in general circulation, trade association, and/or SBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);

c. Whether the Contractor provided written notice via email or facsimile to a reasonable number of SBEs and/or contacted a reasonable number of SBEs via telephone about the subcontracting/supplier opportunities. A “reasonable number of SBEs” is based on the number of all SBEs available in the areas of subcontracting or supplier opportunities (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email);

d. Whether the Contractor solicited the SBEs at least five (5) business days prior to bid submission, exclusive of the day the bids are opened, to allow SBEs to participate effectively. Also, whether the Contractor followed up those initial solicitations of interest by contacting SBEs at least three (3) business days prior to bid opening to determine with certainty whether the SBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt);

e. Whether the Contractor selected portions of the work to be performed by SBEs in order to increase the likelihood of meeting the SBE goals including, where appropriate, breaking down the Contract into economically feasible subcontracts to facilitate SBE participation. This includes portions of the work to be performed by SBEs the Contractor would otherwise prefer to perform with its own workforce. The ability or desire of a Contractor to perform the services of a Contract with its own workforce does not relieve the Contractor of the responsibility to meet the Contract goal or demonstrate good faith efforts to do so (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for SBEs to bid/quote);

f. Whether the Contractor provided interested SBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract or adequate information about the locations of the plans, specifications, scope of work and requirements of the Contract (such access shall be provided at least five (5) business days before bid date or proposal submission);

g. Whether the Contractor fairly investigated and evaluated the interested SBEs’ regarding their capabilities, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation. Also, whether the Contractor provided verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized SBE because the SBE was not qualified. Qualifications must be based on factors other than solely the amount of the SBE’s bid. A Contractor may not reject a SBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the SBE’s capabilities and expertise. (Appropriate steps may be demonstrated with a summary matrix that identifies all bidders/proposers, evaluation criteria, assessments, conclusions and verifications);
h. Whether the Contractor negotiated in good faith with interested SBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested SBE firms. Also, whether the Contractor provided written documentation why the Contractor and each of the SBEs contacted did not succeed in negotiating an agreement (Good faith negotiation shall mean scheduled meaningful discussions that demonstrably seek to find reasonable ways to utilize the SBE on the Contract);

i. Whether the Contractor made efforts to assist interested SBEs in obtaining Board or Contractor-required bonding, lines of credit, insurance, etc.;

j. Whether the Contractor made efforts to assist interested SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;

k. Whether the Contractor effectively used the services of available minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of SBEs (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email, list(s) of SBEs identified, marketing brochure or flyers);

l. Whether the Contractor obtained written documentation from the Board’s approved Surety Support Consultant, if applicable, or from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the SBE being rejected as a potential subcontractor for failing to obtain Contractor-required bonding. Documentation furnished by a surety company will be subject to verification by BDDD; and

m. Whether other Contractors have attained a sufficient level of SBE participation to meet the Contract goals will also be taken into consideration in determining whether the Contractor has made a good faith effort.

7. BDDD will review not only at the different kinds of efforts that the Contractor has made but also the quantity and intensity of those efforts. Efforts that are merely pro-forma are not good faith efforts to meet the goal, even if they are sincerely motivated. BDDD will also consider if, given all relevant circumstances, the Contractor’s efforts could reasonably be expected to produce a level of SBE participation sufficient to meet the goal.

8. Whether or not the contract-specific goal has been met and/or whether there were sufficient good faith efforts is considered a matter of the Contractor’s responsiveness. The requirement to submit documentation that the goal has been met or good faith documentation in the manner prescribed by BDDD is considered a matter of the Contractor’s responsiveness. The Board will only award Contracts to Contractors determined to be responsive and responsible. If a Contractor fails to submit good faith efforts documentation with the bid or proposal, it waives the right to appeal the good faith efforts decision. The Vice President of BDDD or designee shall be responsible for determining whether the Contractor made the required good faith effort to meet the SBE Contract goal and, if not, shall recommend that the Contractor be deemed non-responsive.

9. If a Contractor desires a review of the Vice President of BDDD’s decision, it shall file a written request for final reconsideration within five (5) business days after receipt of the decision to the Reconsideration Official:
As part of the reconsideration, the Contractor will have the opportunity to provide written documentation or argument concerning the issue of good faith.

10. The Contractor has a continuing obligation as a covenant of performance to meet the SBE utilization to which it committed at Contract award, inclusive of change orders, amendments, and modifications. If the Contractor during Contract performance must replace a SBE for any reason, it must follow the provisions herein governing the substitution of SBEs and make documented good faith efforts to meet its original SBE contractual commitment.

a. Such good faith efforts during Contract performance must include, but are not limited to:

1) Solicitation of SBEs that are certified in the applicable area of work or specialty;

2) Providing interested SBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract;

3) Fairly investigating and evaluating the interested SBEs’ regarding their capabilities, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation, and providing verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized SBE because the SBE was not qualified. Qualifications must be based on factors other than solely the amount of the SBEs bid;

4) Negotiating in good faith with interested SBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested SBEs and providing written documentation why the Contractor and any of the SBEs contacted did not succeed in negotiating an agreement; and

5) Effectively using the services of available small, minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of SBEs

b. A Contractor determined not to have made continuing good faith efforts to meet its SBE contractual commitments may request an administrative review and final reconsideration by the Vice President of BDDD. The Contractor may elect to meet in person to discuss whether the Contractor made continuing good faith efforts in accordance with the Policies. BDDD’s determination shall be final.

D. COUNTING SBE PARTICIPATION

1. BDDD will evaluate each bid or proposal to determine the responsiveness of the bid or proposal to the SBE requirements. In determining if a Contractor’s committed levels of participation meet or exceed the solicitation’s SBE goal,
BDDD shall base its determination solely on the information provided in the bid or proposal document.

2. Unless otherwise specified in the solicitation, all bids or proposals for the provision of Indefinite Delivery or Job-Order-Contracts for a period of time and with no delineation of the dollar amount for specific on-call projects, the Contractor shall submit only the anticipated overall percentage of SBE contractual commitment and post award, submit a completed Compliance Plan for review and approval by the Vice President of BDDD.

3. If a joint venture is proposed to meet the contract-specific goal or any portion thereof, the total value of the distinct and clearly defined portions of the work of the Contract that the SBE will perform with its own workforce; reflect its capital contribution, control, management and profits; and for which it is at risk will be counted.

4. When calculating participation levels, percentages and dollar amounts for each SBE, the Contractor cannot round up in determining whether or not the total of these amounts meets or exceeds the contract-specific goal.

5. An SBE must be certified as an SBE by a Board-approved entity and have a place of business in the Airport's market area at the time of bid or proposal submission to be counted towards meeting the contract-specific goal. Other certifications are not acceptable.

6. Post award, the Contractor may count towards its SBE contractual commitment a SBE that is certified during the performance of the Contract if the SBE is added to the Contract or substituted for a SBE pursuant to section herein.

7. The Contractor may not count toward its SBE contractual commitment the dollar value of work performed by a SBE after it has ceased to be certified as a SBE, except where the SBE is no longer certified because it has exceeded the size standard per the SBE Policies.

8. SBE prime Contractors can count their self-performance toward meeting the contract-specific goal, but only for the scope of work and at the percentage level they will self-perform.

9. When a SBE participates in a Contract, the Contractor shall count only the value of the work actually performed by the SBE toward SBE goals.

10. A Contractor cannot count toward the SBE contractual commitment amounts paid to an affiliate subcontractor, as defined in 49 C.F.R. Part 16.5

11. The Contractor shall count the entire amount of that portion of a Contract (or other Contract not covered by this section) that is performed by the SBEs own work forces. The Contractor may count the cost of supplies and materials obtained by the SBE for the work of the Contract, including supplies purchased or equipment leased by the SBE (except supplies and equipment the SBE subcontractor purchases or leases from the prime Contractor or its affiliate).

12. The Contractor shall count toward the SBE goals the entire amount of fees or commissions charged by a SBE 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 Board Contract,
provided it determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

13. When a SBE subcontracts part of the work of its Contract to another firm, the value of the subcontracted work may be counted towards the SBE goal only if the SBE’s subcontractor is itself a SBE. Work that a SBE subcontracts to a non-SBE firm does not count toward SBE goals.

14. The Contractor will count expenditures to a SBE subcontractor towards the SBE goal only if the SBE is performing a commercially useful function on the Contract.

a. A SBE 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. To perform a commercially useful function, the SBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the materials, and installing (where applicable) and paying for the materials itself. To determine whether a SBE is performing a commercially useful function, the Contractor must evaluate the amount of the 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 SBE credit claimed for its performance of the work, and other relevant factors.

b. A SBE 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 SBE participation. In determining whether a SBE is such an extra participant, the Contractor must examine, among other relevant factors, similar transaction, particularly those in which SBEs do not participate.

c. If a SBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Contract with its own work forces, or the SBE subcontracts a greater portion of the work of a Contract than would be expected on the basis of normal industry practice for the type of work involved, the Contractor must presume that it is not performing a commercially useful function.

d. When a SBE is presumed not to be performing a commercially useful function as provided in this section, the SBE may present evidence to rebut this presumption. BDDD may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

15. The Contractor shall use the following factors in determining whether a SBE trucking company is performing a commercially useful function:

a. The SBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract, and there cannot be a contrived arrangement for the purpose of appearing to meet the SBE goal.

b. The SBE must itself own and operate at least one fully licensed, insured and operational truck used on the Contract.
c. The SBE shall receive credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.

d. The SBE may lease trucks from another SBE, including a owner-operator who is certified as a SBE. The SBE who leases trucks from another SBE shall receive credit for the total value of the transportation services the lessee SBE provides on the Contract.

e. The SBE may also lease trucks from a non-SBE, including from an owner-operator. The SBE who leases trucks from a non-SBE is entitled to a credit only for the fee or commission it receives as a result of the lease arrangement. The SBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a SBE.

f. For purposes of this paragraph, a lease must indicate that the SBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the SBE, so long as the lease gives the SBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the SBE.

16. The Contractor shall count expenditures to SBEs for materials or supplies towards the SBE goal as follows:

a. SBE Manufacturer

  1) If the materials or supplies are obtained from a SBE manufacturer, count one hundred percent (100%) of the cost of the materials or supplies towards the SBE goal.

  2) For purposes of this paragraph, 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.

b. SBE Regular Dealer

  1) If the materials or supplies are purchased from a SBE regular dealer, count sixty percent (60%) of the cost of the materials or supplies towards the SBE goal.

  2) For purposes of this section a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which 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. To be a regular dealer, 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.

  3) A person 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 as provided in this

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paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers’ own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.

17. With respect to materials or supplies purchased from a SBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commission charges 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, towards the SBE goal, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. However, the Contractor shall not count any portion of the cost of the materials and supplies themselves toward SBE goals.

18. If a SBE subcontractor is not certified at the time of the execution of the Contract, supplemental agreement or subcontract, the Contractor may not count the firm’s participation towards the SBE goal until the firm is certified. Additionally, the Contractor shall not count the dollar value of work performed under a Contract with a firm after it has ceased to be SBE certified, except where the SBE is no longer certified because it has exceeded the size standard per the SBE Policy and administrative procedures.

19. The Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract goal, in its sole discretion.

20. BDDD will count SBE participation where the SBE or joint venture partner performs a portion of work on the Contract and the percentage of ownership or equity of the SBE in joint venture. BDDD will allow the joint venture to count the portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the work of the Contract that the SBE joint venture partner performs with its own forces toward the SBE commitment and for which it is at risk.

21. The Contractor shall not count the participation of a SBE subcontractor toward the goal until the amount has been actually paid to the SBE.

22. The following expenditures to SBE firms may also count toward the SBE goal:

a. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Board to be reasonable and not excessive as compared with fees customarily allowed for similar services.

b. The fees charged for delivery of material and supplies required on a job site (but not the cost of materials and supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.

c. The fees of commission charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the
fee or commission is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.

E. CERTIFICATION

1. In order to count the participation of SBEs towards the Contract goal, the SBE must be certified by the Small Business Administration 8(a) Program, Texas Department of Transportation (TxDOT), North Central Texas Regional Certification Agency, D/FW Minority Supplier Development Council or the Women’s Business Council Southwest. Other certifications are not acceptable.

2. In addition to having a valid certification from one of the entities listed above, the SBE must have a place of business in the Airport’s market area at the time the firm is submitted for credit towards meet the SBE goal, which is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties. The SBE must provide any requested documentation to establish its place of business to the satisfaction of BDDD.

3. The Contractor must submit to BDDD a properly completed SBE certificate or letter, with all required attachments, for all SBE participation (self-performance, subcontractors or suppliers) proposed to meet the Contract goal at the time of bid/proposal submission. The Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract goal, in its sole discretion. Such rejection shall be in writing and state the reason(s) for the rejection. A Contractor whose proposed certified firm is rejected for goal credit may request reconsideration of the rejection to BDDD in writing. The request for reconsideration must be received by BDDD within five (5) business days of the notification of rejection. BDDD’s decision on the request shall be final.

4. A firm must be certified as a SBE by an agency accepted by BDDD at the time of bid or proposal submission to be counted towards meeting the goal for purposes of determining Contract award.

5. Post award, a Contractor may count SBEs certified during the performance of the Contract towards its SBE contractual commitment once documentation confirming such certification is submitted to BDDD.

6. BDDD and the Texas Department of Transportation maintain a current listing of certified SBEs. Bidders and proposers must utilize these Directories to assist them in locating SBEs for the work required on the Contract. The SBE Directories are located at:
   - [http://www.dot.state.tx.us/business/sbeinfo.htm](http://www.dot.state.tx.us/business/sbeinfo.htm)
   - [https://dfw.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=dfw&XID=5886](https://dfw.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=dfw&XID=5886)

7. SBE certification does not constitute a representation or warranty as to the qualifications or capabilities of any certified firm.

F. SBE UTILIZATION FORMS AND RELATED DOCUMENTATION

1. Each Contractor must submit for all solicitations, bids or proposals, completed SBE utilization forms as outlined below.

   a. Invitation for Bid (IFB) for Construction Projects:
• **Commitment to SBE Participation** must be submitted at the time of bid submission.

• **Preliminary Schedule of Subcontractors** must be submitted at the time of bid submission.

• **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Preliminary Schedule of Subcontractors.

• **Good Faith Effort Documentation.** If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of bid submission.

• **Final Schedule of Subcontractors** shall be submitted within three (3) business days from the date of the bid opening or with the bid verification.

• **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors, shall be submitted within three (3) business days from the date of the bid opening or with the bid verification.

OR

b. Invitation for Bid (IFB) for General Goods and Services Projects:

• **Commitment to SBE Participation** must be submitted at the time of bid submission.

• **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Final Schedule of Subcontractors.

• **Good Faith Effort Documentation.** If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of bid submission.

• **Final Schedule of Subcontractors** shall be submitted at the time of bid submission.

• **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor should be submitted at bid time.

c. Request for Proposals (RFP) or Request for Qualifications (RFQ):

• **Commitment to SBE Participation** must be submitted at the time of proposal submission.

• **Preliminary Schedule of Subcontractors** must be submitted at the time of proposal submission.

• **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Preliminary Schedule of Subcontractors.

• **Good Faith Effort Documentation.** If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of proposal submission.

• **Final Schedule of Subcontractors** shall be submitted with the best and final offer.

• **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors, shall be submitted with the best and final offer.

OR

d. Request for Price Proposal for a task/delivery order under an Indefinite Delivery Contract:
- **Commitment to SBE Participation** must be submitted at the time of proposal submission.
- **Compliance Plan**: Post Contract award, submit to BDDD for review and approval.
- **Final Schedule of Subcontractors**: At the time that a delivery order price proposal is requested, the Final Schedule of Subcontractors must be submitted with the price proposal submission.
- **Certification Certificates**: Copies of corresponding certification certificates must be attached to the Final Schedule of Subcontractors.
- **Intent to Perform as a Subcontractor**: A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors must be submitted with the final agreed-upon price proposal for each delivery order.

2. Any commitments to meet the SBE goal must be detailed on the **Commitment to Small Business Enterprise (SBE) Participation** form included with the bid/proposal. This commitment includes the following:

   "The Contractor must maintain the SBE participation level to which it committed at contract award throughout the performance of the Contract. A Contractor may not terminate for convenience a SBE subcontractor (or an approved substitute SBE) and then perform the work of the terminated subcontract with its own workforces, those of an affiliate or any other firm, without the prior written consent from BDDD. When a SBE subcontractor is terminated, or fails to complete its work on the Contract for any reason, the Contractor is required to make good faith efforts to substitute another SBE to fulfill its SBE contractual commitment."

3. The **Schedule of Subcontractors** form must list all subcontractors the Contractor intends to use in performing the work of the project, including non-SBEs, and detail the preliminary and/or final percentage and dollar commitment of the Contractor to SBE participation. Only SBEs identified and the levels of participation listed for each at the time of bid submission will be considered in determining whether the Contractor has met the goal. All SBEs must be properly certified under the guidelines of the CERTIFICATION section. Submission of the **Intent to Perform as a Subcontractor** form for each SBE shall constitute a representation by the Contractor to the Board that it believes the SBE to be certified as a SBE to perform the work as designated. It shall also represent a commitment by the Contractor that if it is awarded the Contract, it will enter into a subcontract with the SBE for the work described at the approximate price and percentage set forth in the **Intent to Perform as a Subcontractor** form.

4. If the SBE's information or status changes after the form has been submitted but prior to award of the Contract, the Contractor must immediately notify BDDD of the change and a written explanation for the change by submitting a **Request for Approval of Change to Final Schedule of Subcontractors** form. No change in SBE participation after bid submission, but prior to Contract award, may change, or be deemed to change, the Contractor's submitted bid amount. The Modification and Substitutions section of the Policies shall govern the modifications and substitutions of the SBEs that occur after Contract award.

5. Except as authorized by BDDD, the Contractor shall enter into formal agreements with the SBEs listed on the **Final Schedule of Subcontractors** and **Intent to Perform as a Subcontractor** forms within ten (10) business days after receipt of the Contract executed by the Board. If requested, the Contractor must
provide the BDDD copies of those agreements within five (5) business days of the written request.

6. **Alternative Compliance Plan**

a. When the project design is not complete or at a level of completeness allowing for final competitive pricing proposals, BDDD’s may, in its sole discretion, require bidders or proposers for a construction or construction-related professional services Contract to submit a Compliance Plan in lieu of the above forms. The Compliance Plan shall be developed in accordance with the following requirements:

1) BDDD may require separate goals for project professional services and for project construction services, or a project aggregate goal. The Compliance Plan may be required to address the project professional services goal and project the construction goal, only the project construction goal or any project aggregate goal in BDDD’s discretion.

2) The construction goal shall be expressed as a percentage of either the total amount of any lump sum construction Contract awarded to complete a project, or in the alternative, the total estimated “cost of the work” as that term is defined in any guaranteed maximum price Contract awarded to complete a project.

3) The Airport department head shall provide a good faith estimate of the construction cost upon which a construction goal shall be set and the bidder or proposer must provide a refined estimate at the time of the submission of a proposed Compliance Plan, if the amount is not reflected in an executed Contract.

4) After consultation with the Department head or a designated representative, BDDD shall establish a timetable for submittal and review of the proposed Compliance Plan.

5) At BDDD’s sole discretion, it may require submission and review of a proposed Compliance Plan during the solicitation process as a solicitation submittal requirement or after the conclusion of the solicitation process as a component of Contract negotiations and award. Failure to comply with the submittal timetable may, at BDDD’s sole discretion, result in no further consideration of the proposed Compliance Plan and rejection of the proposal.

b. At a minimum, a proposed Compliance Plan must:

1) Comply with the Policies, including affirming that BDDD shall have prompt, full and complete access to all bidder or proposer and subcontractor personnel, books and records required to monitor and assure performance of the approved Compliance Plan and acknowledging the Board’s right to withhold payment in the event of non-compliance and subject the Contractor to other sanctions pursuant to the Policies.

2) Provide a detailed program for community outreach and support to enhance SBE opportunities.
3) Provide a detailed program describing how the bidders or proposers will divide up the anticipated work into economically feasible units calculated to enhance SBE opportunities.

4) Describe in detail how the bidders or proposers will make good faith efforts to meet the project goal, including work that the bidders or proposers would normally self-perform, and provide for review, reconciliation milestones and audit opportunities for BDDD.

5) If the proposed Compliance Plan is based upon a phased or packaged buy out of the project construction work, the bidders or proposers will describe the process by which the bidders or proposers will address the project goal on a phased/ package or cumulative basis.

6) Describe how the bidders or proposers will comply with the requirements herein as part of the subcontractor buyout of the construction work, including use of commitment forms, Schedule of Subcontractors, Intent to Perform and joint venture forms to adequately document committed participation attained.

7) Contain a specific acknowledgement of the bidder’s or proposer’s continuing duty to meet the requirements of the Policies. The Compliance Plan must detail how the proposer will make good faith efforts to maintain its SBE commitments.

8) Set forth how the bidders or proposers will comply with BDDD’s online reporting system for tabulation of participation performance and plan administration and for monitoring and reporting progress and participation performance to BDDD.

9) Recommend methods for supporting BDDD administration and oversight of the Compliance Plan.

10) Set forth a detailed methodology for issuance of notice(s) of non-compliance to the bidder’s or proposer’s subcontractors with the Compliance Plan and a reasonable opportunity to cure.

11) Set forth a detailed methodology for final reconciliation of participation performance, measured against the established goal and plan close out.

7. BDDD shall approve or initially reject, with comments, the proposed Compliance Plan. If the proposed Compliance Plan is rejected, the bidder or proposer may submit a revised Compliance Plan by a date set by BDDD. BDDD in its sole discretion may meet with the proposer to discuss any deficiencies that must be addressed in the revised Compliance Plan. If BDDD determines the revised Compliance Plan is insufficient to meet the requirements of the Policies, it shall notify the department head in writing of the rejection and the reasons for the rejection. BDDD’s determination shall be final and result in no further consideration of the proposal or, in the event a Contract has been awarded, in withdrawal of the award for cause. In no event shall a Contract to construct a project be executed or continue without an approved Compliance Plan.
G. PAYMENT

1. It is Board policy that all Contractor invoices submitted to it in compliance with the Contract will be paid by it within 30 days of its receipt.

2. All Contractors must comply with the Texas Prompt Pay Act (Chapter 2251; Texas Government Code) in paying all sums, including retainage withheld from subcontractors, to subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities, including paying such persons or entities within 10 days of receiving payment from the Board their appropriate share of such payment. No Contractor that has received payment of an undisputed amount from the Board may withhold from any subcontractor its undisputed appropriate share of such payment.

3. No Contractor may withhold retainage from any subcontractor at a higher percentage rate than retainage is withheld by the Board from Contractor. Except for the Texas Prompt Pay Act requirement that a Contractor release retainage to a subcontractor within 10 days of that subcontractor’s invoice for retainage, each Contractor must withhold/release retainage from/to each subcontractor in at least the same manner as retainage is withheld/released by the Board from/to Contractor (and must include provisions in its subcontracts ensuring this), including, but not limited to mirroring the Board’s treatment of retainage withheld/released to Contractor concerning the following subjects:

   a. the percentage amount of retainage withheld/released;
   b. the schedule for withholding/releasing retainage;
   c. the phased release of retainage according to any phased completion (substantial/final) of portions of the project;
   d. the optional cessation of withholding retainage prior to substantial/final completion of, or final payment for, the project (e.g. optional cessation when 50% of project is substantially complete, with an owner’s right to resume withholding retainage upon the occurrence of certain events);
   e. the release of retainage prior to final payment, less an amount withheld to cover a percentage of the value of punch-list work required before final completion is certified (e.g. retention of 200% of the value of punch-list work pending certification of final completion).

4. Each Contractor must address (and implement) in its subcontracts the subject of retainage so that each subcontractor is treated by the Contractor in the same manner as Board treats Contractor. Nothing in this provision precludes a Contractor from including in its subcontracts retainage provisions that are more favorable than those contained in the Contract between Board and Contractor, including, but not limited to, provisions withholding retainage at a lesser percentage rate, releasing retainage in part/whole earlier than retainage released by Board and/or withholding less retainage than Board withholds to cover the value of punch-list work required to be completed before final completion certification.

5. DFW encourages all Contractors and their subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities to make payment of invoices submitted to them more expeditiously than required under the Texas Prompt Pay Act.
6. Payment by a Contractor in violation of the terms of the Contract or applicable law will constitute a material breach of this Contract.

7. The Board may withhold progress payments until the Contractor demonstrates compliance with the payment terms of this Contract or applicable law, including withholding progress payments solely relating to monies payable to Contractor for work it self-performs or associated retainage.

8. The Board may also exercise any other rights or remedies available to it under this Contract or applicable law if Contractor fails to comply with the payment terms of this Contract or applicable law.

9. In an effort to remove the obstacle of the length of time for subcontractor payments on Board procurements, the Board has an Expedited Payment Policy for eligible Contractors that may elect to voluntarily participate in. This policy is applicable if a Contractor has been awarded a multi-year Contract for construction and/or maintenance services of at least $10,000,000 in Contract value. The Expedited Payment program requires those eligible Contractors that voluntarily participate in the program to pay their subcontractors within seven (7) calendar days after receipt of the subcontractor’s invoice. The Board would then pay interest and provide other incentives to the Contractor on eligible expedited payments according to the Expedited Payment Process and Policy. The terms for Expedited Payment will be negotiated prior to the issuance of the Notice to Proceed.

10. To ensure that the Contractor meets all its SBE contractual commitments, BDDD will review the Contractor’s SBE utilization throughout the term of the Contract, including any term extensions of the original Contract period. If a Contract includes a SBE contractual commitment, the Contractor must report all SBE payments using the BDDD’s online reporting system and submit a Pay Period Activity Report (PPAR) (with verifying information) concurrent with the Contractor’s submission of payment requests with each invoice. The information reflected on the PPAR will be utilized to provide constant monitoring of the payments made to the SBE as well as non-SBE subcontractors in relation to the percentage of work performed. Failure to include a required PPAR form with the invoice utilizing the Board’s online reporting system will result in the invoice being returned to the Contractor.

11. Contract Close Out: To ensure that the Contractor meets all its SBE contractual commitments, BDDD will review the Contractor’s SBE utilization throughout the term of the Contract, prior to receiving final payment. If a Contract includes a SBE contractual commitment, the Contractor must report all SBE payments using BDDD’s online reporting system and submit Final Pay Period Activity Report (with verifying information) concurrent with the Contractor’s submission of final payment request.

12. BDDD encourages all Contractors that may have a dispute with any subcontractor to attempt to resolve such dispute through appropriate formal or informal alternative dispute resolution procedures, including, but not limited to, negotiation, mediation, collaborative law, arbitration and/or conciliation, prior to seeking BDDD’s assistance in resolving the dispute. If any Contractor or subcontractor does seek BDDD’s assistance, it may require them to first attempt to resolve their dispute through appropriate alternative dispute resolution
procedures and to provide BDDD with evidence of their good faith attempts to resolve the dispute as a condition of further assistance from BDDD.

H. MODIFICATIONS OR SUBSTITUTIONS

1. This Section applies to all subcontractor modifications, changes and substitutions under this Contract. The Contractor shall comply with this Section to the extent needed to achieve its SBE contractual commitment stated in its Commitment to Small Business Enterprise (SBE) Participation form.

2. The Contractor understands that if change orders or any other Contract modifications are issued under the Contract, the Contractor shall have a continuing obligation to immediately inform BDDD in writing of any agreed upon increase or decrease in the scope of work of such Contract, regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

3. The Contractor agrees that if change orders or other Contract modifications are issued under the Contract that include an increase in the scope of work whether by amendment, change order, force account or otherwise which increases or decreases the dollar value of the Contract, whether or not such change is within the scope of work designated for performance by a SBE at the time of Contract award, then such amendment, change order or other modification shall be contemporaneously submitted to BDDD. The Contractor must make good faith efforts to meet its SBE contractual commitment. If the Contractor is unable to meet its SBE contractual commitment, it must submit a Request for Approval of Change to Final Schedule of Subcontractors, must be approved in writing by BDDD.

4. The Contractor cannot terminate or otherwise change the terms of its Final Schedule of Subcontractors prior to or after Contract award without the prior written consent of BDDD. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a SBE subcontractor with its own forces or those of an affiliate, a non-SBE or another SBE.

5. The Contractor must demonstrate good cause to terminate the SBE to the satisfaction of BDDD. Good cause includes the following circumstances:

   a. The listed SBE subcontractor fails or refuses to execute a written Contract.

   b. The listed SBE subcontractor fails or refuses to meet the Contractor’s reasonable, nondiscriminatory bond requirements.

   c. The listed SBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness.

   d. The listed SBE is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to federal or state law.

   e. BDDD has determined that the listed SBE subcontractor is not a responsible contractor.

   f. The listed SBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal.
g. The listed SBE subcontractor is ineligible to receive credit for the type of work required.

h. The SBE owner dies or becomes disabled with the result that the listed SBE subcontractor is unable to complete its work on the Contract.

i. Other good cause as determined in BDDD’s sole discretion,

Good cause does not include where the Contractor seeks to terminate a SBE it relied upon to obtain the Contract so that the Contractor can self-perform the work or substitute another SBE or non-SBE subcontractor to perform the work for which the SBE was engaged or listed on the Final Schedule of Subcontractors.

6. The Contractor must give the SBE notice in writing, with a copy to BDDD, of its intent to request to terminate and/or substitute, and the detailed reasons for the request. The Contractor and the SBE must attempt to negotiate a resolution of the situation, and if the negotiation is unsuccessful, the Contractor must document this effort before the Contractor seeks BDDD’s approval to substitute the SBE.

7. Contractors must meet the above criteria and process before requesting prior written approval of any material change in the ownership, control, duties, functions and responsibilities of any SBE. The Contractor cannot make any changes to the Final Schedule of Subcontractors without the prior written consent of BDDD.

8. If the Contractor proposes to terminate or substitute a SBE subcontractor for any reason, the Contractor must make good faith efforts as defined herein to find a substitute SBE subcontractor for the original SBE to meet its SBE contractual commitment. Its good faith efforts shall be directed at finding another SBE to perform or provide at least the same amount of work, material or service under the Contract as the original SBE to the extent necessary to meet its SBE contractual commitment. The Contractor may also find additional SBEs and/or adjust the current/projected SBE participation to meet its SBE contractual commitment.

9. The Contractor must submit an Intent to Perform as a Subcontractor form for each proposed new SBE subcontractor. BDDD will approve or disapprove the substitution based on the Contractor’s documented compliance with these provisions.

10. All changes to the Intent to Perform As A Subcontractor form must be submitted for review and approval through the Request for Approval of Change to Final Schedule of Subcontractors form when adding, changing, or deleting any subcontractor.

11. If the Contractor does not comply with these provisions relating to the modification or termination of, and/or substitution for a SBE subcontractor, the Board may elect to apply Contract remedies as described in the Board’s Policies. Additionally, the Board may order the Contractor to forfeit the profits from the terminated portion of the SBE subcontract.

I. COMPLIANCE AND ENFORCEMENT
1. These Compliance and Enforcement Provisions address the additional contractual remedies available to Board as a result of Contractor’s failure to comply with the obligations set forth in the SBE Program requirements. The contractual remedies set forth in the SBE Program are also applicable to the Contractor’s failure to comply with the Program requirements, as well as any remedies available at law or in equity. These remedies are not intended to apply to Contractor’s failure to comply with other obligations under the Contract unrelated to the Program requirements or preclude Board’s recovery of its actual damages for such unrelated breaches.

2. The Contractor must forward all necessary documents and information during the course of performance under this Contract and to close out the Contract and must cooperate with BDDD in providing any information, including the final accounting for SBE participation on the Contract.

3. BDDD is empowered to receive and investigate complaints and allegations by SBEs, third parties or Board Staff, or to initiate its own investigations, regarding Contractor’s compliance with the Program requirements. If BDDD determines that an investigation is warranted, the Contractor must fully cooperate with the investigation and provide complete, truthful information to the Board concerning the investigation and Contractor’s compliance with the Program requirements.

4. The failure of the Contractor to meet the SBE contractual commitment or comply with any other aspect of the Program requirements will constitute a material breach of the Contract entitling the Board to exercise any remedy available in this Contract, the Program requirements or applicable law.

5. The Board may report any suspected false, fraudulent or dishonest conduct relating to the Contractor’s performance of the Program requirements to the Board’s Department of Audit Services or to any applicable enforcement agency, including the State Attorney General’s Office and appropriate federal law enforcement authorities.

6. If Contractor is in breach of any of the Program requirements, the Board may exercise any of following remedies, in addition to any other remedies available to it under this Contract or at law or in equity:

   a. withholding funds payable under this Contract, including, but not limited to, funds payable for work self-performed by the Contractor or applicable retainage;

   b. temporarily suspending, at no cost to DFW, Contractor’s performance under the Agreement/Contract;

   c. termination of the Agreement/Contract;

   d. suspension/debarment, in accordance with applicable law, of Contractor for a period of time from participating in any solicitations issued by DFW for severity of breach of Contract.

7. With respect to SBE firms, a finding of non-compliance could result in a denial of certification or removal of eligibility and/or suspension and debarment.
Commitment to Small
Business Enterprise (SBE) Participation Form
(This form is required as part of the bid/proposal submission.)

The SBE goal for Solicitation/Contract #__________________ is_______%.

NOTE: The BDDD will only credit SBE participation that is certified by an approved certification entity at the time of bid/proposal submission. Certification certificates must be included with bid submission or bid will be deemed non-responsive. Effective 10/1/12, in addition to having a valid certification, SBEs must also have a place of business in the Airport’s market area¹ at the time of bid/proposal submission for credit towards meeting a contract goal.

The undersigned Contractor has satisfied the requirements of the bid/proposal specifications in the following manner (Please check (✓) the appropriate space):

___ The Contractor is committed to meeting the SBE goal by self-performing as an SBE-certified Prime Contractor.

___ The Contractor is committed to a minimum of ____% SBE utilization on this Contract utilizing subcontractor participation.

___ The Contractor is unable to meet the SBE goal of _____% and is committed to a minimum of ____% SBE utilization on this Contract and submits documentation demonstrating good faith efforts.

___ The Contractor is unable to meet the SBE goal of ____% and submits documentation demonstrating good faith efforts.

Name of Prime Contractor:__________________________________

Signature     Title

¹ The Airport’s market area is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties.
### SCHEDULE OF SUBCONTRACTORS

**Prime Bidder/Contractor:**

[ ] DBE  [ ] SBE  [ ] MBE  [ ] WBE  [ ] NON-D/S/M/WBE

**Contract Name:**

**Contract/Solicitation Number:**

As part of the procedures for the submission of a completed bid/proposal, all bidders/proposers are required to identify ALL participating subcontractors applicable to the above project and include this form as part of the bid. Check all Certification Status categories that apply to each subcontractor; however, only the shaded category shall be credited towards the established diversity goal. The submission of this information is considered an issue of responsiveness, and the Airport Board will not award a Contract to any Contractor who has not supplied this documentation. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>Name of Subcontractor(s)</th>
<th>Certification Status (check the applicable)</th>
<th>Description of Material or Service Being Provided or Performed</th>
<th>Dollar Amount ($) and Percentage (%) of Work</th>
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Dollar Amount & Percentage of Work to be completed by Non-SBE Subcontractors

Dollar Amount & Percentage of Work to be completed by SBE Subcontractors

Dollar Amount & Percentage of Work to be self-performed by the Prime

Total Dollar Amount & Percentage of Work

(The Total Amount shall equal the amount proposed on summary of bid/proposal page).

**NOTE:** Certification certificate or letter MUST be attached to this form or it will be deemed non-responsive

### PRIME CONTRACTOR’S CERTIFICATION

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that if awarded the Contract, this certification shall be attached thereto and become a part thereof. Failure to provide accurate and complete information or exercise positive, good faith efforts (as defined by the Board’s D/S/M/WBE Program) in support of the Board’s disadvantaged/small/minority/woman-owned business intent and objective may result in being considered non-responsive to the Board’s requirements. Furthermore, it is understood and agreed that, if awarded a Contract by the Airport Board, the Contractor will not make additions, deletions or substitutions to this certified list of D/S/M/WBE subcontractors without the consent of the Board’s Vice President of Business Diversity & Development Department (BDDD) or designee through the submittal of the D/S/M/WBE Form 102, Request for Approval of Change to Final Schedule of Subcontractors if this is determined to be the final schedule. The BDDD reserves the right to ensure compliance with the Board’s D/S/M/WBE programs as deemed necessary including but not limited to audits of submitted D/S/M/WBE information applicable to the Contractor/subcontractors participating on the Contract.

**Name and Title of Authorized Representative:**

(Please print or type)

**Signature:**

(Date)

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1 Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under Contract to a prime Contractor on an Airport Contract at any tier.

2 In order to credit the participation of disadvantaged/small/minority and woman-owned businesses, firms must be certified as D/S/M/WBEs by a certification agency approved by the Airport Board as defined in the D/S/M/WBE Policies and Administrative Procedures.

Form 90 Updated 10/1/2012
SCHEDULE OF SUBCONTRACTORS¹ (FINAL)

Prime Bidder/Contractor: ____________________________________________________________

☐ DBE ☐ SBE ☐ MBE ☐ WBE ☐ NON-D/S/M/WBE

Contract Name: ________________________________________________________________

Contract/Solicitation Number: ________________________________

As part of the procedures for the submission of a completed bid/proposal, all bidders/proposers are required to identify ALL participating subcontractors applicable to the above project and include this form as part of the bid. Check all Certification Status categories that apply to each subcontractor; however, **only the shaded category shall be credited towards the established diversity goal**. The submission of this information is considered an issue of responsiveness, and the Airport Board will not award a Contract to any Contractor who has not supplied this documentation. Use additional sheets if necessary.

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Dollar Amount & Percentage of Work to be completed by Non-SBE Subcontractors

Dollar Amount & Percentage of Work to be completed by SBE Subcontractors

Dollar Amount & Percentage of Work to be self-performed by the Prime

Total Dollar Amount & Percentage of Work
(The Total Amount shall equal the amount proposed on summary of bid/proposal page).

**NOTE:** Certification certificate or letter MUST be attached to this form or it will be deemed non-responsive

PRIME CONTRACTOR’S CERTIFICATION

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that if awarded the Contract, this certification shall be attached thereto and become a part thereof. Failure to provide accurate and complete information or exercise positive, good faith efforts (as defined by the Board’s D/S/M/WBE Program) in support of the Board’s disadvantaged/small/minority/woman-owned business intent and objective may result in being considered non-responsive to the Board’s requirements. Furthermore, it is understood and agreed that, if awarded a Contract by the Airport Board, the Contractor will not make additions, deletions or substitutions to this certified list of D/S/M/WBE subcontractors without the consent of the Board’s Vice President of Business Diversity & Development Department (BDDD) or designee through the submittal of the D/S/M/WBE Form 102, **Request for Approval of Change to Final Schedule of Subcontractors** if this is determined to be the final schedule. The BDDD reserves the right to ensure compliance with the Board’s D/S/M/WBE programs as deemed necessary including but not limited to audits of submitted D/S/M/WBE information applicable to the Contractor/subcontractors participating on the Contract.

Name and Title of Authorized Representative ____________________________________________

(Please print or type)

Signature: ____________________________ Date: ________________________________

¹ Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under Contract to a prime Contractor on an Airport contract at any tier.

² In order to credit the participation of disadvantaged/small/minority and woman-owned businesses, firms must be certified as D/S/M/WBEs by a certification agency approved by the Airport Board as defined in the D/S/M/WBE Policies and Administrative Procedures.

Form 90_Updated 10/1/2012

(rev 11/1/2013) SBE Page 23 of 30
INTENT TO PERFORM CONTRACT AS A D/S/M/WBE SUBCONTRACTOR  

The Airport requires that disadvantaged, small, minority and woman-owned businesses be certified as D/S/M/WBEs by an approved certification agency as defined in the DBE, SBE, and M/WBE Policy and Administrative Procedures. Effective 10/1/12, in addition to having a valid certification, MBEs, WBEs and SBEs must have a place of business in the Airport’s market area at the time of bid/proposal submission for credit towards meeting a contract goal.

1. Contract / Solicitation Number: _______________________________________________________

2. Name of Prime Contractor:___________________________________________________________

3. Address, City, State and Zip: _________________________________________________________

4. E-Mail Address:___________________________  Telephone:________________________

5. The Prime Contractor designates the following person as their high-level official designated to administer and coordinate the efforts to carry out the D/S/M/WBE policy on behalf of the Prime Contractor:  ____________________________________________________(Name and Title)

The undersigned D/S/M/WBE subcontractor is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify “supply” or “install” or both):

☐ The undersigned D/S/M/WBE subcontractor has a place of business in the Airport’s market area (✓ if applicable)

1. Name of D/S/M/WBE Subcontractor: __________________________________________________

2. Address, City, State and Zip: _________________________________________________________

3. E-Mail Address:___________________________  Telephone:________________________

4. Scope of Work: ___________________________________________________________________

5. Price:  $_____________________________ ____________________________________________

6. D/S/M/WBE Certification #:___________________ Certification Agency:_________________

7. 2nd Tier Subcontracting: _____% of the proposed subcontract described above will be sublet and/or awarded to Non-D/S/M/WBE contractor(s).

____________________________________________________  _____________________________    ______
(Signature of Owner, President or Authorized Agent)      (Name)                   (Date)

DECLARATION OF PRIME CONTRACTOR
I HEREBY DECLARE AND AFFIRM that as a duly authorized representative of the Prime Contractor stated above, I have personally reviewed the material and facts set forth in this form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true and the owner or authorized agent of the D/S/M/WBE firm stated above signed this form in the place indicated, and no material facts have been omitted. The undersigned affirms that the Prime Contractor has no ownership or financial interest in the D/S/M/WBE subcontracting firm stated above. Except as authorized by the Vice President of Business Diversity & Development Department or his designee, the undersigned shall enter into a formal agreement with the listed D/S/M/WBE firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by the Airport. The undersigned will, if requested, provide said Vice President or his designee a copy of that agreement within five (5) business days of the written request. Pursuant to State Law, any person [entity] who makes a false or fraudulent statement in connection with the participation of a D/S/M/WBE in any locally funded project or otherwise violates applicable program requirements may be referred for prosecution.

____________________________________________________  _____________________________    ______
(Signature of Owner, President or Authorized Agent)      (Name)                   (Date)

---

1 Any named person, firm, partnership, corporation, association or joint venture, as herein provided, identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under Contract to a Prime Contractor on an Airport Contract at any tier.

2 The Airport’s market area is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties.
GOOD FAITH EFFORT PLAN

NOTE: Complete form and attach support documentation only if the SBE goal is not achieved.

The following factors are taken into account when assessing a good faith effort response. These factors are minimally considered as good faith efforts and demonstrate specific initiatives made in attempting to achieve the contract-specific SBE goal. These factors should not be considered as a template, checklist or some quantitative formula. Proposers are required to meet all factors outlined below and provide support documentation in order for the good faith effort plan to be assessed. CHECKING THE BOXES ONLY AND NOT SUBMITTING PROPER SUPPORT DOCUMENTATION IS NOT EVIDENCE OF A PROPER DEMONSTRATION OF GOOD FAITH EFFORT. SUBMITTAL OF THE CHECKLIST, WITH NO ADDITIONAL DOCUMENTATION, WILL NOT BE CONSIDERED ADEQUATE DEMONSTRATION OF GOOD FAITH EFFORT. Proposers are not limited to these particular areas and may include other efforts deemed appropriate.

<table>
<thead>
<tr>
<th>GOOD FAITH EFFORT FACTORS</th>
<th>Yes (√) No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whether the Contractor attended any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities for SBE participation (acceptable documentation shall include copies of the meeting sign-in sheets with Contractor name noted as signed-in)</td>
<td></td>
</tr>
<tr>
<td>Whether the Contractor advertised in general circulation, trade association, and/or SBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);</td>
<td></td>
</tr>
<tr>
<td>Whether the Contractor provided written notice via email or facsimile to a reasonable number of SBEs and/or contacted a reasonable number of SBEs via telephone about the subcontracting/supplier opportunities. (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email);</td>
<td></td>
</tr>
<tr>
<td>Whether the Contractor solicited SBEs at least five (5) business days prior to bid opening and whether the Contractor followed up those initial solicitations of interest by contacting SBEs at least three (3) business days prior to bid opening to determine with certainty whether the SBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt);</td>
<td></td>
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<tr>
<td>Whether the Contractor selected portions of the work to be performed by SBEs in order to increase the likelihood of meeting the SBE goals including, where appropriate, breaking down the Contract into economically feasible subcontracts to facilitate SBE participation. (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for SBEs to bid/quote);</td>
<td></td>
</tr>
<tr>
<td>Whether the Contractor provided interested SBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract or adequate information about the locations of the plans, specifications, scope of work and requirements of the Contract (such access shall be provided at least five (5) business days before bid date or proposal submission);</td>
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<tr>
<td>Whether the Contractor fairly investigated and evaluated the interested SBEs’ regarding their capabilities, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation. Also, whether the Contractor provided verification, including a statement giving the Contractor’s reasons for its conclusion, that it rejected each non-utilized SBE because the SBE was not qualified. (Appropriate steps may be demonstrated with a summary matrix that identifies all bidders/proposers, evaluation criteria, assessments, conclusions and verifications);</td>
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<tr>
<td>Whether the Contractor negotiated in good faith with interested SBEs regarding price, using</td>
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</table>
good business judgment and not rejecting reasonable quotes from interested SBE firms. Also, whether the Contractor provided written documentation why the Contractor and each of the SBEs contacted did not succeed in negotiating an agreement (Good faith negotiation shall mean scheduled meaningful discussions that demonstrably seek to find reasonable ways to utilize the SBE on the Contract);

<table>
<thead>
<tr>
<th>Whether the Contractor made efforts to assist interested SBEs in obtaining Board or Contractor-required bonding, lines of credit, insurance, etc.;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whether the Contractor made efforts to assist interested SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;</td>
</tr>
<tr>
<td>Whether the Contractor effectively used the services of available minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of SBEs (acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communications and email, list(s) of SBEs identified, marketing brochure or flyers);</td>
</tr>
<tr>
<td>Whether the Contractor obtained written documentation from the Board’s approved Surety Support Consultant, if applicable, or from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the SBE being rejected as a potential subcontractor for failing to obtain Contractor-required bonding. Documentation furnished by a surety company will be subject to verification by BDDD.</td>
</tr>
</tbody>
</table>

Whether other Contractors have attained a sufficient level of SBE participation to meet the Contract goals will also be taken into consideration in determining whether the Contractor has made a good faith effort.

**AFFIRMATION**

I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I FURTHER UNDERSTAND AND AGREE THAT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONCESSION CONTRACT.

**NAME AND TITLE OF AUTHORIZED OFFICIAL:**

<table>
<thead>
<tr>
<th>SIGNATURE:</th>
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<tr>
<td>DATE:</td>
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</table>

**FOR DFW BUSINESS DIVERSITY & DEVELOPMENT USE ONLY:**

Plan Reviewed by:  

Date:  

Signature of D/S/M/WBE Liaison:  

Recommendation: Approval: Denial:  

(rev 11/1/2013) SBE Page 26 of 30
REQUEST FOR APPROVAL OF CHANGE TO ORIGINAL SCHEDULE OF SUBCONTRACTORS

Contract/Solicitation Number

Project Name

Contractor Name . requests approval of the following addition(s) and/or deletion(s) on the SCHEDULE OF SUBCONTRACTORS (D/S/M/WBE Form No. 90), as originally submitted as part of the bid on the above named project.

CHANGE

Check (X) block for each transaction.

<table>
<thead>
<tr>
<th>ADD</th>
<th>DELETE</th>
<th>COMPANY NAME</th>
<th>TRADE</th>
<th>D/S/M/WBE STATUS</th>
<th>DOLLAR AMOUNT</th>
<th>INTENT TO PERFORM</th>
</tr>
</thead>
<tbody>
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JUSTIFICATION

Note: the proposed change(s) must be based on good cause. The Contractor must list and explain in detail its good cause for the change. Attach additional sheets as necessary. Good cause is limited to the following circumstances: 1. The listed D/S/M/WBE subcontractor fails or refuses to execute a written contract. 2. The listed D/S/M/WBE subcontractor fails or refuses to meet the Contractor’s reasonable, nondiscriminatory bond requirements. 3. The listed D/S/M/WBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness. 4. The listed D/S/M/WBE is ineligible to work on Airport projects because of suspension and debarment proceedings pursuant to federal or state law or other applicable laws or regulations. 5. BDDD has determined that the listed D/S/M/WBE subcontractor is not a responsible contractor. 6. The listed D/S/M/WBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal. 7. The listed D/S/M/WBE subcontractor is ineligible to receive credit for the type of work required. 8. The D/S/M/WBE owner dies or becomes disabled with the result that the listed D/S/M/WBE subcontractor is unable to complete its work on the contract.

CERTIFICATION OF AFFIDAVIT

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that this certification shall become a part of my contract with the Dallas/Fort Worth International Airport Board.

Name and Title of Signer: ____________________________________________(Please print or type)

Signature __________________________ Date: ______________

Routed To: Approved by:

(________) Airport Development & Engineering Dept. (_______) Procurement & Materials Management Dept.

Vice President or Designee Business Diversity & Development Dept.

Form 102_Updated 10/1/12

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Note: Two (2) original copies of the PPAR must be attached to each invoice submitted for payment. Failure to attach a PPAR may result in a delayed payment process.

**DISADVANTAGED/SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE (D/S/M/WBE) PROGRAM**

**Pay Period Activity Report (PPAR)**

<table>
<thead>
<tr>
<th>Prime Contractor/Consultant Name:</th>
<th>Current Contract Value:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Address:</strong></td>
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<table>
<thead>
<tr>
<th><strong>Contract Number:</strong></th>
<th><strong>Project Title:</strong></th>
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<th><strong>Supplemental Agreement No.:</strong></th>
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<tr>
<th><strong>Pay Request Number:</strong></th>
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List all Subcontractor/Subconsultant/Award and/or Purchases Made on this Project as of this Reporting Period

<table>
<thead>
<tr>
<th>Subcontractor/Subconsultant/Vendor Name</th>
<th>Certified D/S/M/WBE</th>
<th>Certified Non-M/WBE</th>
<th>Description of Services</th>
<th>Committed $</th>
<th>Amount</th>
<th>$ Paid Through</th>
<th>Monthly Payments</th>
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(Use additional sheets if necessary)

**TOTALS**

<table>
<thead>
<tr>
<th>Prime Contractor/Consultant MONTHLY Summary</th>
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<tbody>
<tr>
<td>A. Prime Participation</td>
</tr>
<tr>
<td>B. D/S/M/WBE Subs Participation &amp; Percentage</td>
</tr>
<tr>
<td>C. Non-D/S/M/WBE Subs Participation &amp; Percentage</td>
</tr>
<tr>
<td>D. Total Paid to Date this Month</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Prime Contractor/Consultant CUMULATIVE Dollar Amount Paid Through Reporting Period</th>
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<tbody>
<tr>
<td>E. Prime Participation</td>
</tr>
<tr>
<td>F. D/S/M/WBE Subs Participation &amp; Percentage</td>
</tr>
<tr>
<td>G. Non-D/S/M/WBE Subs Participation &amp; Percentage Paid</td>
</tr>
<tr>
<td>H. Total Paid to Date &amp; Percentage</td>
</tr>
</tbody>
</table>

Authorized Signature: ________________  Title: ________________  Date: ________________

Telephone No.: ________________  Fax No.: ________________  E-Mail: ________________

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Note: Two (2) original copies of the FINAL PPAR must be attached to the FINAL INVOICE submitted for payment. Failure to attach this document may result in a delayed payment process.

**DISADVANTAGED/SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE (D/S/M/WBE) PROGRAM**

**FINAL Pay Period Activity Report (PPAR)**

**Reporting Period for the Month** 20

**Invoice Date**

**Prime Contractor/Consultant Name:**

**Address:**

**Contract Number:**

**Project Title:**

**Supplemental Agreement No.:**

**Pay Request Number:**

List all Subcontractors/Subconsultants Awards and/or Purchases Made on this Project as of this Reporting Period

<table>
<thead>
<tr>
<th>Subcontractor/Subconsultant/Vendor Name</th>
<th>Certified</th>
<th>Description of Services</th>
<th>Committed $ Amount</th>
<th>$ Paid Through Reporting Date</th>
<th>$ Projected Final Payment (Cumulative Total)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>D/S/M/WBE</td>
<td>NON</td>
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</tbody>
</table>

(Use additional sheets if necessary)

**TOTALS**

**Prime Contractor/Consultant CUMULATIVE TOTALS**

**Dollar Amount Paid To Date**

<table>
<thead>
<tr>
<th>A. Prime Participation (Inclusive of Final Payment)</th>
<th>Cumulative $</th>
<th>Cumulative %</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. D/S/M/WBE Subs Participation &amp; Percentage (Inclusive of Final Payment)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Non-D/S/M/WBE Subs Participation &amp; Percentage (Inclusive of Final Payment)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Project Contract Total Upon Receipt of Final Payment</td>
<td>100.00%</td>
<td></td>
</tr>
</tbody>
</table>

Authorized Signature

Title

Date

Telephone No.: Fax No.: E-Mail

(rev 11/1/2013) SBE Page 29 of 30
DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD
OFFICIAL BOARD ACTION/RESOLUTION

Date 10/04/2007  Committee Finance/Audit  Subject Adoption of Expedited Payment Policy  Resolution # 2007−10−288

Action
That the Airport Board does hereby adopt an Expedited Payment Policy.

Description

• The Airport Board recognizes that typically the standard work/pay cycle could approach up to ninety (90) days for a subcontractor to receive payment, once it begins work and submits an invoice to a prime contractor. The standard work/payment cycle for payment of subcontractor’s invoices can be a barrier to participation.

• To remove this obstacle, the Airport Board endorses a policy supporting prompt payment of invoices to first tier subcontractors under an expedited payment program. The goal of this policy is to reduce the standard work/payment cycle for such first tier subcontractors to thirty seven (37) days.

• It is the Airport Board’s policy that maintenance and construction prime contractors that have a direct contractual relationship with the Airport may participate in an expedited payment program to pay first tier subcontractors, including small, minority and women−owned businesses, within seven (7) days of receipt of an invoice for services or labor performed under a fixed price subcontract.

• It is the policy of the Airport Board that a prime contractor that voluntarily agrees to participate in the expedited payment program shall as a condition to such participation, agree to provide such administrative support as is necessary to properly administer the program. A prime contractor shall be eligible to participate in the expedited payment program if awarded a multi−year contract for construction and/or maintenance services of at least $10,000,000 in contract value.

• The Airport Board’s policy is to pay interest to the prime contractor on eligible expedited payments from the date the payment is made to the subcontractor for work performed during the billing period through the date that the Prime Contractor submits its invoice to the Airport. This period shall not, under any circumstance, exceed 30 days. The Airport Board’s Chief Executive Officer is directed to develop procedures for the implementation of this Policy, including a standard method for calculating the interest payment to be made to the prime contractor and an annualized escalation, as appropriate.

D/M/WBE Information

• N/A

Schedule/Term

• N/A

Contract # Agreement # Purchase Order # Action Amount Revised Amount
$0.00 $0.00

For Information contact
Don O’Bannon
3−5502

Fund Project # External Funding Source Amount
$0.00

Fund Project # External Funding Source Amount
$0.00
As a condition to participation in the expedited payment program established by this Policy, the first tier subcontractor shall agree to pay any lower tier subcontractors in a direct contractual relationship with it within (7) days of receipt of the invoice payment. The Prime Contractor also, as a condition to participation, agrees to submit invoices to DFW Airport on a monthly basis.

The Airport Board will pay interest to the prime contractor at an interest rate that equates to the federal funds rate plus 100 basis points. Currently, this equates to an interest rate of 5.75%. The rate would be determined annually and would be subject to a minimum rate of 6% and a maximum rate of 8%. This interest rate would be applied to the subcontractor payment amounts and only from the time that the subcontractors were paid until the prime submits its invoice to the Airport or approximately 30 days maximum.

The estimated maximum interest paid to primes, should all eligible primes volunteer for the expedited payment program, would be approximately $60,000 in FY 2008 and $200,000 in FY 2009. This represents approximately .25% of eligible contracts amounts for these years.

The implementation of this policy will be contingent on the availability of funding.

**Justification**

- Expedited payments will alleviate some of the typical cash flow constraints experienced by small, minority and/or women-owned subcontractors on large multi-year projects.
- Expedited payments will improve the ability of all subcontractors, including small, minority and/or women-owned businesses, to do business with the Airport Board. It will enhance the Airport Board's business environment for subcontractors and ultimately contribute to a stronger pool of businesses that can provide goods and services to the Board and contribute the North Texas economy.

Additional Attachments: N

**BE IT RESOLVED BY THE DALLAS–FORT WORTH INTERNATIONAL AIRPORT BOARD**

That the Airport Board does hereby adopt an Expedited Payment Policy.

**Approved as to Form by**

Gary Keane  
General Counsel  
Oct 3, 2007 10:53 am

**Approved as to Funding by**

Max Underwood  
Vice President  
Finance  
Oct 3, 2007 11:54 am

**Approved as to M/WBE by**

Don O'Bannon  
Vice President  
Small & Emerging Business  
Oct 3, 2007 10:49 am

**SIGNATURE REQUIRED FOR APPROVAL**

Approved by

Oct 3, 2007 10:49 am

Chief Executive Officer  
Oct 4, 2007 1:26 pm  
Date