

**POLICY
STATEMENT**

In 1992, the Greater Orlando Aviation Authority, (the “Authority”) along with other local governmental bodies, commissioned a disparity study (the “study”) to determine and quantify the possible existence, and adverse effects, of past discrimination in local government contracting against minorities and other socially and economically disadvantaged individuals. The study was updated in 2000. The Authority is enacting this amended MWBE Participation Program (the “MWBE Policy”) in order to clarify its policy and procedures for establishing and meeting MWBE participation goals for the Authority’s (a) non-federally funded Contracts for construction, (b) procurement of Goods and Services, and (c) Professional Services.

In establishing the MWBE participation goals hereunder, the Authority intends to take reasonable affirmative steps toward remedying the adverse economic effects of actual past discrimination against certain disadvantaged groups and individuals.

Therefore, it is the policy of the Authority that business concerns owned and controlled by socially and economically disadvantaged individuals, referred to by the Authority as Minority and Women Business Enterprises (MWBEs), shall have the maximum opportunity to participate in the performance of contracts lending themselves to MWBE participation. In addition, all entities performing work for the Authority under its MWBE Policy shall take all necessary and reasonable steps to ensure that MWBEs have the maximum opportunity to participate in the performance of contracts without discrimination on the basis of race, color, national origin or sex.

The Authority will use reasonable efforts to award contracts to MWBE contractors, professional consultants, and vendors for all goods and services in order to carry out this program. To ensure that Minority and Women Business Enterprises are informed of current procurement needs and future plans, the Authority will utilize local newspapers, including minority newspapers, newsletters, and direct contact with minority entrepreneurs to advertise and market GOAA’s on-going efforts to achieve the MWBE goals.

The Authority will provide special assistance, when requested, to minority and women business enterprises by providing instruction about the Authority’s bid and proposal specifications, procurement policies and general bidding requirements.

The Office of Small Business Development is assigned responsibility for continuing the development of a MWBE program subject to Authority review and concurrence that includes goals, objectives, initiatives and timetables for achieving positive results.

The Authority will encourage participation by MWBEs to the fullest extent possible, and intends to fully enforce all requirements in this MWBE Policy. Therefore, firms seeking contracts with the Authority are advised to become familiar with the Authority’s MWBE Policy requirements. Copies of this MWBE Policy can be obtained from the Authority’s Office of Small Business Development.

All requests for information or assistance should be directed to:

Greater Orlando Aviation Authority
Office of Small Business Development
Minority and Women Business Enterprise Program
5850 B Cargo Road
Orlando, Florida 32827-4399
dbe@goaa.org

DEFINITIONS

As used in this MWBE Policy, the following terms shall be defined as follows:

“Contract” means: Any agreement with the Authority for construction or for the purchase, lease or disposal of supplies or other Goods, or maintenance, installation or other Services, including Professional Services, but not including leases of real property, space use permits, employee benefits, taxes, judgments, agreements for travel, dues, pensions, utilities, subscriptions, auto allowances, debt service requirements, artistic works, or postage.

(B) **“Executive Director”** means: The Executive Director of the Authority or the person or persons designated by the Executive Director to act on his behalf with respect to issues delegated to the Executive Director’s authority in this policy.

(C) **“Goods”** means: Any supply, material, equipment, product, article or thing that is purchased by an Authority department in the accomplishment of its responsibilities.

(D) **“Minority and Women Business Enterprise”** or **“MWBE”** means: A business concern that is owned and controlled by one or more socially and economically disadvantaged individuals.

(E) **“Ownership and control”** means:

1. At least 51% owned by one or more socially and economically disadvantaged individuals, or, in the case of a publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
2. Whose management and daily business operations are controlled by one or more such individuals.

(F) **“Professional Services”** means: Services rendered by an independent contracting individual or firm having experience in a particular industry or subject matter due to specialized education, training, licensure or skill, of advice, reports, conclusions, recommendations or other outputs resulting from the time and effort of the service provider, as opposed to the acquisition of specific commodities or of services not requiring any specialized education, licensing, training, or skill..

(G) **“Services”** means: The furnishing of labor, time, expertise or effort, but does not include the rendition of Professional Services, employment or collective bargaining agreements, or the providing of a tangible end product.

(H) **“Socially and economically disadvantaged individual”** means: Persons who are citizens or lawful permanent residents of the United States and who are African Americans (persons having origins in any of the Black racial groups of Africa); Hispanic Americans (persons having origin in any of the following groups: Mexican, Puerto Rican, Cuban, Central or South American, regardless of race); Asian-Pacific Americans (persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); Native Americans (persons having origins in any of the original peoples of that part of North America that has become the United States); women, or such other individuals who are able to establish by a preponderance of the evidence that they are socially and economically disadvantaged.

**ESTABLISHMENT
OF GOALS**

In order to comply with the Disparity Study results and findings, the Authority has set percentage goals for the dollar value of work to be awarded to certain Minority and Women Business Enterprises. In addition to the annual overall MWBE program goals established by the Authority, the Executive Director may set contract goals for individual projects, for which there are known available MWBEs with capabilities

consistent with the requirements of a specific contract. The Authority's overall goals will be reviewed at least annually.

**DESIGNATION OF
A PROGRAM
DIRECTOR FOR
MWBE PROGRAMS**

The Authority has designated the Director of Small Business Development as the Small Business Liaison officer.

The Small Business Liaison Officer will be responsible for managing the Authority's MWBE Policy. The Small Business Liaison Officer will conduct periodic surveys to determine whether the Authority's MWBE Policy is achieving its objectives. Reports of surveys will be the basis for appropriate action to correct deficiencies. Where action is prescribed, the Small Business Liaison Officer will make appropriate recommendations to the Executive Director.

The Small Business Liaison Officer will also be responsible for:

1. Disseminating the Authority's MWBE Policy by notifying and discussing this policy with all firms who seek to be awarded contracts by the Authority;
2. Providing information to MWBEs on the Authority's contractual needs and future plans;
3. Providing assistance in resolving major procurement and contracting issues affecting MWBEs;
4. Scheduling seminars to acquaint MWBEs with information on Authority bid specifications, procurement policies, and general bidding requirements;
5. Providing bid specifications and plans to MWBE contractor associations;
6. Evaluating the effectiveness of the MWBE program;
7. Ensuring that only MWBEs benefit from the MWBE program;
8. Ensuring that the MWBE Directories utilized by the Authority accurately reflect MWBEs available to compete for contracts;
9. Developing, where reasonable, on-the-job technical assistance and participation programs for MWBEs;
10. Assist in monitoring contractors' and subcontractors' compliance with MWBE commitments throughout the performance period of contracts;
11. Attending Pre-Bid, Pre-Proposal and Pre-Construction Conferences to explain MWBE requirements and respond to questions;
12. Assist in monitoring mentoring relationships;
13. Participating on Bid and Proposal Review Panels; and
14. Performing related duties, as assigned.

**PROCEDURES
TO ENSURE THAT
MWBEs HAVE AN
EQUITABLE
OPPORTUNITY TO
COMPETE FOR
CONTRACTS AND
SUBCONTRACTS**

In order to ensure that MWBEs have an equitable opportunity to compete for contracts and subcontracts, the Authority will take affirmative steps to facilitate involvement of minority and women owned firms. These steps include:

1. Notification to MWBE community organizations that Authority contracting and subcontracting opportunities are available;
2. Providing plans and specifications to MWBE contractor organizations at reduced cost;
3. Participating in pre-bid/pre-proposal conferences to provide firms with an opportunity to ask questions about MWBE requirements; MWBE firms will be encouraged to attend these conferences;
4. Upon request, providing MWBE community organizations with lists of firms bidding as prime contractors;
5. Specific and continuing recruitment efforts directed at MWBE contractor organizations, MWBE recruitment organizations and MWBE business assistance organizations;
6. Identifying as many trade items as prudently possible into small contractual work elements which will enable small firms to compete effectively;
7. Initiating arrangements to provide assistance to MWBE firms in the purchase of construction materials in bulk;
8. Reimbursing contractors for bulk purchases of materials and equipment (which have been properly received and satisfactorily stored) in the next succeeding monthly or semi-monthly payment; and
9. Assisting bidders/proposers in efforts to obtain the names and addresses of MWBE firms that may be utilized as subcontractors.

**PROCEDURES TO
ASCERTAIN THE
ELIGIBILITY OF
MWBEs AND
JOINT VENTURES**

The Authority is concerned about infiltration of MWBE programs by firms alleging to be owned and controlled by socially and economically disadvantaged individuals, when in fact, they are not. In order to ensure that only bona fide MWBEs, and joint ventures involving MWBEs, benefit from the Authority's program, certain information must be provided to the Authority prior to award of the contract, and updated upon request during contract performance. This information will be used to certify the eligibility of MWBEs who are named by the apparent successful bidder/proposer, and joint ventures involving MWBEs who are the apparent successful bidders/proposers.

The Authority's Small Business Liaison Officer will determine prior to the award of each non-federally funded contract which is subject to the procedures set forth in this Policy, whether each firm claiming MWBE status for a bid, proposal, or quotation submitted to the Authority is certified as an MWBE and therefore eligible for award. Firms who enter into contracts with the Authority should note that the Authority reserves the right to approve all substitutions of subcontractors before and during contract performance.

Certification

Firms seeking certification of eligibility as an MWBE may submit a completed application to the Authority's Office of Small Business Development. Certification of eligibility should be completed prior to submission of a bid, proposal, or quotation that includes participation of the firm seeking eligibility. Additionally, the Authority's Small

Business Liaison Officer will accept an unexpired MWBE certification issued by the Authority, the City of Orlando, Orange County, any agency of the State of Florida which regularly certifies MWBEs or the National Minority Suppliers Development Council, provided that the MWBE firm certifies to the Authority that since the date of its MWBE certification it has not experienced a change which would affect the firm's eligibility as a MWBE. If a firm has been certified by one of the agencies listed above, but has been denied certification by another, the Authority's Small Business Liaison Officer shall make a separate determination of eligibility for certification.

A denial of MWBE certification by the Authority's Small Business Liaison Officer shall be communicated in writing, via certified mail, to the firm being denied certification.

Any firm which believes that it has been wrongfully denied certification as an MWBE or joint venture involving MWBEs, may file an appeal in accordance with the "Appeals" Section of this Policy.

**PERCENTAGE
GOALS FOR
DOLLAR VALUE
OF MWBE
PARTICIPATION**

By adoption of this Policy, the Authority will set overall percentage goals for the dollar value of work to be awarded to MWBEs. In setting overall program goals, the Authority considered the availability of MWBEs in the relevant market, the capacity of MWBE firms to complete the job, the past results of efforts to contract with MWBEs, and MWBE firms that indicated they were ready, willing and able to perform work on GOAA projects. These goals may be amended from time to time, as provided in the "Periodic Review of Goals" section of this policy. Specific goals may be recommended to the Executive Director on a project by project basis.

A. Establishment of MWBE Goals for Non-Federally Funded Construction Projects.

After analyzing the above factors, the Authority hereby establishes a twenty-five percent (25%) MWBE participation goal for all non-federally funded construction projects, including continuing service contracts.

B. Establishment of MWBE Goals for procurement Contracts for Goods and Services.

After analyzing the above factors, the Authority hereby establishes a seventeen percent (17%) MWBE participation goal for the procurement of Goods and Services excluding Professional Services. The goal shall be established considering all purchases of goods and services except the following:

1. Leases of Real Property
2. Space Use Permits
3. Employee Benefits
4. Taxes
5. Judgments
6. Agreements for Travel
7. Dues
8. Pensions
9. Utilities
10. Subscriptions
11. Auto Allowances
12. Debt Service Requirements
13. Artistic Works
14. Postage

C. Establishment of MWBE Goals for Professional Services.

After analyzing the above factors, the Authority hereby establishes a seventeen percent (17%) MWBE participation goal for the procurement of Professional Services.

**MWBE
PARTICIPATION;
GOOD FAITH
EFFORTS**

- A. A bidder/proposer must submit to the Authority at bid/proposal opening all MWBE information requested by the Authority in the bid/proposal documents.. Continuing service contractors will be required to submit a statement or a plan to indicate how the continuing contractor plans to meet the MWBE goals throughout the term of its contract.
- B. Contractors meeting the MWBE participation contract goal need not submit good faith documentation. If the bidder/proposer fails to meet the MWBE goal, the Authority will require bidder/proposer to submit evidence of good faith efforts to reach the goal. Evidence may include, but is not limited to, the following.
1. The name and title of the person responsible for the Contractor's good faith efforts to reach the goal;
 2. Providing evidence of attendance at pre-bid/proposal meeting, if any, scheduled by the Authority to inform MWBEs of subcontracting opportunities under a given contract;
 3. Providing a list of MWBE firms contacted;
 4. Providing copies of written correspondence provided to MWBEs to solicit their bids, as well as certified return receipts to prove receipt or the reason for non-delivery; fax cover sheets indicating to whom the document was faxed, fax date, and whether the transmission was successful; or, copies of email transmissions;
 5. Providing evidence of information provided to the MWBE firms regarding the specific work the contractor intends to subcontract. Prime Contractors shall identify commercially useful portions of the work, which are consistent with normal industry practice, which may be performed by MWBEs. Prime Contractors shall make reasonable efforts to divide the work elements into smaller packages which are well suited to MWBE participation;
 6. Providing evidence of information provided to MWBEs on bonding and insurance requirements;
 7. Providing copies of advertisements in general circulation media, trade association publications, and minority-focused media at least fourteen (14) days before bids or proposals are due. If fourteen (14) days are not available, publication for a shorter reasonable time is acceptable;
 8. Providing evidence that bidder/proposer provided interested MWBEs with assistance in reviewing the contract plans, specifications, and the terms and conditions of the general contract, subcontract, and addenda;
 9. Providing evidence that the bidder/proposer provided MWBEs prompt notice of addenda affecting specific trade contractors;
 10. Provide evidence that Prime Contractor made follow-up inquiries after

initial solicitations of interest from MWBEs. Prime Contractors shall maintain documentation of the date, time and name of individuals contacted. A telephone log is acceptable documentation of this activity;

11. Providing a list of quotes submitted by MWBE firms contacted;
12. Providing documentation as to why MWBEs were not utilized;
13. In those instances where a majority subcontractor is selected for a scope of work for which MWBE bids were submitted, the prime contractor shall submit documentation to evidence "good faith" negotiations with MWBE subcontractors. Documentation shall include but not be limited to records of all quotations received from MWBEs and from the selected majority subcontractor, and an explanation of the reasons why the MWBEs will not be used during the course of the contract. It is the responsibility of the prime contractor to demonstrate that MWBEs were not rejected as unqualified without a thorough and documented investigation of their capabilities and capacity

**EVALUATION OF
GOOD FAITH
EFFORTS**

- A. In order to assure that competitors comply with the Authority's MWBE Policy, successful contractors must either meet the MWBE Participation goal for a specific contract or demonstrate good faith efforts to meet those goals. Within two (2) business days after receipt of a request from the Authority, competitors failing to meet the MWBE contract goal must submit documentation of the good faith effort they made before submission of their bid/proposal. In evaluating good faith efforts, the Authority determines whether the competitor made reasonable efforts, prior to submission of the bid/proposal, to achieve MWBE contract goals. The Authority may evaluate not only the different kinds of efforts made by a bidder, but also the quantity and intensity of those efforts. Efforts made by the competitor after submission of the bid/proposal to meet the MWBE contract goal will not be considered by the Authority.
- B. In addition to the documentation listed in the "MWBE Participation; Good Faith Efforts" Section of this Policy, the Authority may consider the following information in evaluation of the bidder's/proposer's good faith efforts:
 - (i) Efforts made by bidder/proposer to select portions of the work proposed to be performed by MWBEs in order to increase the likelihood of achieving the stated goal;
 - (ii) Whether other bidders/proposers met the contract goals relating to the utilization of MWBE subcontractors; and
 - (iii) The extent to which a bidder/proposer utilizes MWBE firms in private sector work;
- C. Bids/proposals submitted which do not meet the MWBE contract goals and which do not show that a good faith effort was made to achieve the stated goals may be considered non-responsive and the bidder/proposer may not be eligible for award of the contract.

**COUNTING MWBE
PARTICIPATION
TOWARD MEETING
MWBE GOALS**

- A. All bidders/proposers including MWBE bidders/proposers, but excluding MWBE joint ventures, shall meet the MWBE participation goal through first tier participation unless otherwise stated in the bid/proposal documents.
- B. However, in the procurement of Goods, Services, and Professional Services, the MWBE bidder/proposer may not subcontract more than thirty percent (30%) of the total dollar amount of the contract to a firm or firms that are not MWBEs.

- C. In construction contracts, bidders will receive credit toward the MWBE goal of sixty percent (60%) of the dollar amount purchased from MWBE suppliers; e.g. where a bidder proposes to purchase \$100,000 worth of construction materials from an MWBE supplier, \$60,000 will be credited toward the bidder's MWBE participation goal. However, where the supplier is the manufacturer of the product supplied, bidders will receive credit for one hundred percent (100%) of the dollar amount of the supply contract. The bidder shall cooperate with the MWBE Officer and the Authority studies and survey of the bidder's MWBE business procedures and practices.
- D. In procurement of Goods, MWBE participation shall be counted as 100% of the dollar amount of the Goods, providing that the MWBE supplier is a manufacturer of the materials or supplies or is a dealer that owns, operates or maintains a store, warehouse, or other establishment which may include distribution systems and equipment for bulk items such as petroleum products, in which the materials, supplies, articles or equipment of the general character described in 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.
- E. The degree of goal attainment by joint ventures between MWBE firms and between MWBE and majority firms shall be calculated as follows:
 - 1. A joint venture consisting of a MWBE and majority firm functioning as a prime contractor, will be credited with MWBE participation on the basis of the percentage of the dollar value of the work to be performed by the MWBE;
 - 2. In joint venture bids/proposals in which all joint venture participants are MWBEs, the joint venture will be credited with MWBE participation for that portion of the dollar amount of the contract which they perform and that portion subcontracted to MWBE firms.

**CALCULATING
PERCENTAGE OF
PARTICIPATION**

Participation goals and compliance with goals shall be determined as a percentage of the entire contract value or as a percentage of the portion of the contract for which participation is likely available at the Executive Director's option, based on the type of Contract to be awarded.

APPEALS

- A. In the event the Authority's Small Business Liaison Officer recommends that a bid be rejected for failing to meet the Authority's participation goals and failing to demonstrate a good faith effort, the Authority's Small Business Liaison Officer shall promptly provide a written explanation of the basis for rejection. A bidder/proposer may appeal the Office of Small Business Development's determination to the Executive Director. The appeal must be filed within five (5) working days after receipt of the written explanation of the basis for rejection. The appeal shall be submitted in writing to the Executive Director.
- B. In the event a firm is denied MWBE certification, the Authority's Office of Small Business Development shall promptly provide a written explanation of the basis for denial. A firm denied certification may appeal the denial to the Executive Director within five (5) working days after receipt of the written explanation of the basis for denial. The appeal shall be submitted in writing to the Small Business Liaison Officer of the Authority for consideration by the Executive Director..

**PERIODIC REVIEW
OF GOALS**

The Authority will periodically review the percentages of minority and women business enterprises participating in the Authority's non-federally funded contracts for

construction and for procurement of Goods, Services, and Professional Services. Based on review of the actual level of participation, the Authority in its discretion may adjust the participation goals to maximize opportunities for minority and women business enterprises with respect to these contracts awarded by the Authority.

**APPROVAL AND
UPDATE HISTORY**

Last Approval Authority Board: November 18, 2009
Executive Director: November 10, 2009

Supersedes All Previous