


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Authority Board Members

FROM: Iranetta J. Dennis 
Director of Business Development

DATE: May 14, 2015

RE: Repeal of the Equal Opportunity and Business Development Policy and adoption of the Supplier Diversity Program Policy

Board adoption of the attached resolution repealing the Equal Opportunity and Business Development Policy and adopting the Supplier Diversity Program Policy is requested. The revised policy will enhance our programs and encourage an increase in opportunities for our local small businesses. I have highlighted the significant changes that reflect a comprehensive process for our business community involvement within the Authority programs. The recommended policy changes incorporated are as follows:

- 1) Changing the name of the department from Equal Opportunity and Business Development to the Supplier Diversity Department; which aligns with the overall mission of the program.
- 2) Includes language that ensures participants of the Authority's D/M/WBE participation objective are independently owned and operated (*see Section 3*)
- 3) Integrating the Disadvantaged Business Enterprise (DBE) firm(s) within the Authority's supplier diversity objective; unifying program participants as referenced in Section 3 of the policy to the Authority's participation objective (*see Section 1 & 3*);
- 4) Incorporate DBE program requirements pursuant to 49 CFR 26, US Code as required by US Department of Transportation federally assisted contracts. (*see Section 18*)
- 5) Incorporate the MICRO Contract Initiative into the Small Sustainable Business Enterprise Program. (*see Section 17*);
- 6) Increase the threshold of the Small Sustainable Business Enterprise(s) annual gross sales over three years :
 - Commodities from \$2 MIL to \$5MIL
 - Professional Services from \$5 MIL to \$10MIL
 - Construction from \$15MIL to \$20 MIL

These changes are to afford local business stakeholders with greater opportunities to participate in the SSBE program when at least three (3) businesses are available. (*see Section 17*);

The updated Policy will assist in continuing to provide equal opportunity and equal access to our local business participants in the Authority's procurement and contract activities. I have also attached the Equal Opportunity and Business Development policy for your review.

The revised policy has been reviewed by General Counsel and determined to be legally sufficient.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations,
Construction and Maintenance
Laura Kelley, Deputy Executive Director, Finance and Administration
Contract File

**A RESOLUTION OF THE CENTRAL FLORIDA
EXPRESSWAY AUTHORITY REPEALING THE EQUAL OPPORTUNITY AND BUSINESS
DEVELOPMENT POLICY AND PROVIDING NEW SUPPLIER DIVERSITY PROGRAM
POLICY**

WHEREAS, the Central Florida Expressway Authority ("CFX") has previously adopted an Equal Opportunity and Business Development Policy to provide small, minority and women-owned businesses with an equal opportunity and equal access to participate in CFX's procurement and contracting activities; and

WHEREAS, the governing Board of the CFX wishes to repeal the Policy and provide a new Supplier Diversity Program Policy,

**NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA
EXPRESSWAY AUTHORITY** as follows:

Section 1. Repeal of Existing Policy: The current Equal Opportunity and Business Development Policy is hereby repealed and rescinded.

Section 2. Adoption of new Supplier Diversity Program Policy: In accordance with the recitals set forth above, the Supplier Diversity Program Policy attached hereto as Exhibit "A" is hereby adopted and shall apply as of the Effective Date shown below.

Section 3. This Resolution and Policy shall be codified in the CFX Permanent Rules as part of BD-1.

Section 4. EFFECTIVE DATE. This Resolution shall take effect upon adoption by the CFX governing Board.

ADOPTED this ____ day of _____, 2015.

Welton Cadwell
Chairman

ATTEST: _____
Darleen Mazzillo
Executive Assistant

Approved as to form and legality

Joseph L. Passiatore
General Counsel

Central Florida ~~Orlando-Orange County~~

Expressway Authority

~~Equal Opportunity and Business Development~~Supplier Diversity

Program Policy

Central Florida Expressway~~Orlando-Orange County Express~~ Authority

Equal Opportunity and Business Development~~Supplier Diversity Program~~ Policy

Section 1. Mission of the ~~Equal Opportunity and Business Development Programs~~Supplier Diversity Program

The mission of the Central Florida ~~Orlando-Orange County~~ Expressway Authority (hereinafter referred to as the "Authority") Supplier Diversity ~~Equal Opportunity and Business Development Programs~~ is to provide small, disadvantaged business enterprise (DBE), -minority and women-owned businesses enterprises (M/WBE) with an equal opportunity and equal access to participate in the Authority's procurement ~~and contracting~~ activities.

- A. To further stimulate the local economy, it is the intent of the Authority to assist qualified-qualified small disadvantaged, -minority and women-owned business enterprises to bid as prime contractors; to joint venture when necessary with other established non-minority and minority contractors, and to bid as subcontractors. The Authority sets a 15% disadvantaged, minority and women-owned (D/M/WBE) business enterprise participation objective for CFX funded projects in the areas of: eConstruction, maintenance, professional services, and other services commodities.
- B. The ~~Business Development~~Supplier Diversity Director, Procurement Director or designee and an appropriate Department ~~R~~representative shall review each proposed project (bid or request for proposal) to determine the potential for subcontracting and for utilizing D/M/WBEM/WBEs, considering the scope of work and available M/WBEsD/M/WBE's to potentially perform the work.
- C. The D/M/WBE ~~objectivetargets~~ for individual bids/RFPs may be higher or lower than the participation objective stated in ~~s~~Section A: above. ~~and The objective should reflect~~s realistic D/M/WBE availability for the particular project. ~~Individual targets~~The objective placed in a solicitation is ~~are~~ considered to be the minimum level of D/-M/WBE participation expected for a particular procurement. ~~Individual targets are set to achieve participation levels commensurate with available businesses.~~ The Authority may grant an exemption to a particular respondent based upon documented good faith efforts.
- D. ~~Targets shall be reasonable; with consideration given to subcontracting opportunities and the availability of M/WBEs in the market area.~~ In cases where it is not reasonable to set a D/M/WBE ~~objectivetargets~~, the ~~Business Development~~Supplier Diversity Director

may encourage the utilization of D/M/WBE participation through the bidder/respondent's purchase of goods and/ or services.

Section 2. Equal Employment Opportunity

It is the policy of the Authority to encourage equal employment opportunity for minority and women in the work force by contractors and consulting firms. Contractors and consulting firms doing business with the Authority are encouraged to hire local minorities and women as employees when performing on Authority contracts.

Section 3. Program Participants

Minority and women-owned business enterprise(s) shall be independently owned and operated and certified by the City of Orlando or Orange County in order to becomeare eligible to participate in the Authority's program and only these firms will be considered when determining minority and women-owned business participation objective~~objective.s~~. Firm(s) participating in the Unified Certification Program (UCP) identified by certified by the Florida Department of Transportation as a Disadvantaged Business Enterprise (DBE) will also be accepted, but must be independently owned and operated~~minority or women-owned business~~;-

Independently owned and operated is defined as a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit an independent status.

Section 4. Waiver

At any time prior to the solicitation of a bid and after receipt of bids for a contract, the Executive Director may grant a partial or complete waiver of the D/M/WBE objectives for any contract in which it is demonstrated that minority participation cannot reasonably be achieved, or due to consideration of property, public safety, and health, including financial impact to the Authority.

Section 5. Prompt Payment

On initial payment, contractors must assure that all subcontractors and material suppliers having interest in the contract will receive prompt payment. The Authority will not make any

progress payments after the initial payment until the contractor certifies that appropriate funds have been disbursed to all subcontractors and suppliers out of the previous progress payments received by the contractors, unless the contractor demonstrates good cause for not making the required payment and furnishes written notification of any such good cause to both the Authority and the affected subcontractors and suppliers.

Section 6. Payment Assistance

On contracts in which D/M/WBEs bid as prime contractors, the Executive Director may allow joint checks payable to a disadvantaged, minority or women-owned business enterprise and its primary material or supply house. Payment assistance is provided as outlined in the program procedures. The utilization of this Policy shall not in any way be construed to create a contractual relationship between the Authority and the supply or material house(s). It is solely for the benefit and assistance to disadvantaged, minority and women-owned businesses. For the purpose of filing IRS form 1099, the total amount of any joint payment shall be considered payment only to the disadvantaged, minority or women-owned business enterprise.

Section 7. ~~Business Development and~~ Supplier Diversity Outreach

The Authority's ~~Equal Opportunity and Business Development~~ Supplier Diversity Program Policy is intended to provide outreach and is designed to assist D/M/WBEs in overcoming their economic disadvantage by providing assistance as may be necessary and appropriate to awarded Authority contractors and to strengthen their ~~financial and managerial~~ skills to compete in the private and public sectors.

Section 8. Commodities and Contractual Services

~~A p~~ Minority and women-owned business enterprise participation objectives may be established in the procurement of commodities and contractual services that are competitively bid awarded. To meet the Authority's participation objectives, departments shall make every reasonable effort to utilize D/M/WBEs when available and reasonable.

Section 9. Maintenance Contracts

The Authority's encourages D/M/WBE participation for all maintenance contracts.

Section 10. Professional Services

The Authority encourages D/M/WBE participation for consultants and professional services contracts. The Authority will provide contracting opportunities for professional services pursuant to Section 287.055 Florida Statutes, known as the "Consultants Competitive

Negotiation Act” pursuant to the award of bonus points in the selection process. Bonus points will be provided for ~~minority and women-owned business~~D/M/WBE participation on professional services contracts.

Section 11. Construction Contracts

The D/M/WBE participation objective may be applied on a project-by-project basis. In construction, the D/M/WBE participation objective will be considered on all construction contracts that are \$100,000 and above unless otherwise specified in the contract.

Section 12. License Requirement

If licensing is required in a specific area, credit for D/M/WBE subcontractors’ participation will be granted only for licensed subcontractors. Contracts for construction of toll plazas or any building incidental to the roadway system must be accomplished by a licensed contractor and/or FDOT prequalification as established in the scope of work. This includes projects for renovation, repair, addition, demolition and asbestos abatement.

Section 13. Good Faith Efforts

A proposing prime consultant or contractor must make a good faith effort to meet participation objectives. All bidders/respondents, including D/M/WBE bidders/respondents shall either meet the participation objectives or demonstrate in their bid or RFP response that good faith efforts were made, such as:

- 1) The bidder/respondent, at least seven days prior to the bid/RFP deadline, provided written notice to certified D/M/WBEs performing the type of work that the bidder/respondent intends to subcontract, advising the D/M/WBEs (a) of the specific work the bidder/respondent intends to subcontract; (b) that their interest in the contract is being solicited; and (c) how to obtain information about and review and inspect the contract plans and specifications;
- 2) The bidder/respondent selected economically feasible portions of the work to be performed by D/M/WBEs, including, where appropriate, breaking down contracts or combining elements of work into economically feasible units. The ability of the bidder/respondent to perform the work with its own work force will not excuse the bidder/respondent’s failure to meet participation objectives;
- 3) The bidder/respondent provided interested D/M/WBEs assistance in reviewing the contract plans and specifications;
- 4) The D/M/WBE objective was not met by other responsive bidders/respondents;

- 5) The bidder/respondent submits all quotations received from D/M/WBEs and for those quotations not accepted, a reasonable explanation of why the D/M/WBE will not be used during the course of the contract;
- 6) The bidder/respondent assisted interested D/M/WBEs in obtaining required bonding, lines of credit, or insurance, etc.;
- 7) The bidder/respondent selected subcontract types of work that match the capabilities of solicited D/M/WBEs.

The above list is not intended to be exclusive or exhaustive and the Authority will look not only at the different kinds of efforts that the bidder/respondent has made but also the quality, quantity and intensity of these efforts.

If a contractor's D/M/WBE participation falls below what has been approved by the Business Development-Supplier Diversity Department, the bidder must submit good faith effort documentation to the Business Development-Supplier Diversity Department for determination as to whether the contractor made a good faith effort to comply with the Authority's participation objectives.

Section 14. Responsibility/Monitoring

Monitoring will be conducted to ensure that contractors are complying with the objectives of the Authority's Business Development-Supplier Diversity Program Policy. The Director of Business Development-Supplier Diversity has the responsibility for providing guidance, technical assistance, and monitoring good faith efforts and. Authority contract managers are responsible for monitoring contract performance and compliance in respect to those project(s) with a D/M/WBE objective.

- A. The D/M/WBE utilization summary shall be completed and submitted with the contractor's proposal. The D/M/WBE subcontractor(s) listed on the form shall not be changed without the prior written authorization from the Business Development-Supplier Diversity Director or designee.
- B. Unless approved in advance by the Authority, the contractor shall not perform work with its forces that has been identified on the utilization form to be performed by D/M/WBE firm(s). If an D/M/WBE subcontractor is unable to successfully perform the work, the contractor shall make a good faith effort to replace that firm with another D/M/WBE firm and provide an updated utilization form prior to starting or proceeding with the subject item of work. The

Authority reserves the right to withhold or deny payment for work performed that does not comply with this article.

Section 15. Non-Performance and Remedies

Consultants and contractors found in non-compliance with their participation commitments may be suspended from bidding with the Authority for one (1) year if their good faith effort support documentation is not accepted by the ~~Business Development~~Supplier Diversity Director or designee.

The ~~Orlando-Orange County~~Central Florida Expressway Authority reserves the right to exercise any available remedy in the event of a contractor's failure to perform any of its obligations pursuant of the ~~Business Development~~Supplier Diversity Program Policy.

Section 16. Program Review

The ~~Business Development~~Supplier Diversity Director will review and evaluate the policy and procedures on an annual basis and will update the policy and related procedures as needed. Any policy change will be approved by the Authority's Board prior to implementation of such change.

Section 17. Sheltered Market Initiative for ~~Micro Contracts~~Small Sustainable Business Enterprise Program

A. The Small Sustainable Business Enterprise (SSBE) Program provides the Authority with the opportunity to utilize a sheltered market; when at least three (3) businesses are available and capable of performing the scope of work identified within the solicitation. Only firms registered in the SSBE program are eligible to participate in the shelter market opportunity. Firm(s) participating in this program must perform at least fifty percent of the work designated within the scope of work unless approved by the Supplier Diversity Director or designee.

A.—

B. The SSBE Program allows the Authority to provide increased direct contracting opportunities to small businesses and will assist in the development of these businesses to become prime contractors and consultants. The Authority may designate specific

projects estimated up to \$5,000,000 for the SSBE Program. The primary objective of this policy is to enable small businesses to transition to the next level.

B.C. The SSBE Program Micro-Contracts Program is established in the Procurement Policy ~~as a procurement method to expedite the bidding and award process~~ for small contracts between \$50,000.00 and \$200,000.00; ~~f~~ For solicitations under the SSBE Micro-Contracts Program, ~~t~~ The Executive Director can authorize advertisement and award of these contracts in order to expedite the bidding and award process. ~~To assist in the development of local small minority and women-owned business enterprises, t~~ The Executive Director, in consultation with the Director ~~of Business Development of Supplier Diversity~~, may identify certain projects as appropriate for bidding and award under a sheltered market initiative for the SSBE program Micro-Contracts.

To qualify for the Sheltered Market Initiative for the Micro-Contracts SSBE program, firm(s) must be registered with the Authority and meet the following eligibility requirements:

- ~~1) Be a local small business enterprise which is defined as an independent business that is domiciled within Orange County Standard Metropolitan Statistical Area (SMSA). The SMSA includes Orange, Lake, Osceola and Seminole Counties.~~
- ~~2) Be independently owned and operated and employ 25 or fewer permanent full-time employees.~~
- ~~3) The firm's annual gross sales, averaged over the previous three years, cannot exceed the following:~~

- | | |
|--|---------------------------|
| a. Professional Consulting and Contractual Services | \$ 500,000.00 |
| b. Commodities | \$1,000,000.00 |
| c. Construction | \$3,000,000.00 |

~~To be considered an M/WBE, the contractor must be certified as an M/WBE by Orange County, the City of Orlando or a DBE by the Florida Department of Transportation and must be a minority or women-owned business.~~

~~The Procurement Procedures Manual includes the process and guidelines for administering the Micro-Contracts Program.~~

~~Section 18. Small Sustainable Business Enterprise Program~~

~~The Small Sustainable Business Enterprise (SSBE) Program provides the Authority the opportunity to identify projects for a sheltered market procurement to provide local, small M/WBE businesses with more prime contract opportunities. To accomplish this objective, the Authority may annually establish participation objectives.~~

~~The SSBE Program allows the Authority to provide increased direct contracting opportunities to small businesses and will assist in the development of these businesses to become prime contractors and consultants. The Authority may designate specific projects estimated up to \$5,000,000 for the SSBE Program. The primary objective of this policy is to enable small businesses to transition to the next level for sustainability.~~

~~In order to participate in the Authority's Small Sustainable Business Enterprise Program a firm must meet the following eligibility criteria:~~

1) The business must be locally domiciled within Orange County SMSA (Orange, Lake, Osceola and Seminole Counties);

2) The firm must be independently owned and operated and providing a commercially useful function for one (1) year prior to submittal.

3) The Business employs 50 or fewer employees

~~1) The firm must be independently owned~~

~~2)4) Owner(s) must be a legal residents of the State of Florida.;~~

~~3)5) The firm's annual gross sales, averaged over the previous three years, cannot exceed the following:~~

a. Commodities

~~\$52,000,000.00~~

b. Professional ~~Consulting and Contractual~~ Services _____

~~\$105,000,000.00~~

c. Construction
\$~~2015~~,000,000.00

- 6) Obtain all required state/local licenses, certificate of business etc.. required to perform lines of business. Section 12 of this policy defines License Requirements.

Firm(s) participating in the SSBE program must resubmit annually in order to stay active in the program.

- ~~4) For M/WBE applicants, in addition to meeting the three criteria above, the firm must be certified as M/WBE by Orange County government, the City of Orlando or as a DBE by FDOT (Florida Department of Transportation) and be a minority or woman-owned business.~~

D. Graduation

Firm(s) that no longer meet the eligibility requirements stated in the Section 17 C above shall graduate from the SSBE program. Firm(s) shall be allowed to remain eligible to participate in contract(s) and bids/RFP's submitted prior to graduation.

Section 18 Disadvantaged Business Enterprise (DBE) Program Requirements

It is the policy of the Central Florida Expressway Authority (CFX) that a disadvantaged program be established as defined by 49 Code of the Federal Regulations (CFR) Part 26, which shall have an opportunity for DBE firm(s) to participate in the performance of CFX. The objectives of the United States Department of Transportation (DOT) DBE program are to ensure non-discrimination in the award and administration of contracts, ensure firms fully meet eligibility standards help remove barriers to participate, create a level playing field, assist in development of a firm so it can compete successfully outside of the program, provide flexibility and ensure narrow tailoring of the program. CFX has received approval from Federal Highway Administration to adopt and use the Florida Department of Transportation (FDOT) race neutral program goal and DBE contract specifications, as applicable

CFX and its contractors shall take all necessary and reasonable steps to ensure that disadvantaged businesses have an opportunity to compete for and perform on DOT federally funded contracts in a non-discriminatory environment

CFX shall require its contractors to not discriminate on the basis of race, color, national origin, and sex in the award and performance of federally funded contracts. Each DOT federally funded

contract CFX signs with a contractor and each subsequent subcontract the prime signs with lower tier contractors will include the following assurance:

- a. The contractor, sub recipient or subcontractor 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 49 CFR part 26 in the award and administration of DOT assisted contracts. 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 recipient deems appropriate.

Section 19 Management and Technical Assistance

The Authority may provide management guidance, technical assistance, training and mentorship to participants of the ~~_Sheltered Market Initiative for Micro Contracts and the~~ SSBE Program. The Authority may also refer participants to financial and bond assistance providers. In addition, the Authority may assist participating firms with reasonable up-front costs as determined on a project by project basis.

Central Florida Expressway Authority

Supplier Diversity Program Policy

Central Florida Expressway Authority

Supplier Diversity Program Policy

Section 1. Mission of the Supplier Diversity Program

The mission of the Central Florida Expressway Authority (hereinafter referred to as the "Authority") Supplier Diversity Program is to provide small, disadvantaged business enterprise (DBE), minority and women-owned business enterprises (M/WBE) with an equal opportunity and equal access to participate in the Authority's procurement activities.

- A. To further stimulate the local economy, it is the intent of the Authority to assist qualified small disadvantaged, minority and women-owned business enterprises to bid as prime contractors; to joint venture when necessary with other established non-minority and minority contractors, and to bid as subcontractors. The Authority sets a 15% disadvantaged, minority and women-owned (D/M/WBE) business enterprise participation objective for CFX funded projects in the areas of: Construction, maintenance, professional services, and commodities.
- B. The Supplier Diversity Director, Procurement Director or designee and an appropriate Department Representative shall review each proposed project (bid or request for proposal) to determine the potential for subcontracting and for utilizing D/M/WBEs, considering the scope of work and available D/M/WBE's to potentially perform the work.
- C. The D/M/WBE objective for individual bids/RFPs may be higher or lower than the participation objective stated in Section A above. The objective reflects realistic D/M/WBE availability for the particular project. The objective placed in a solicitation is considered to be the minimum level of D/M/WBE participation expected for a particular procurement. The Authority may grant an exemption to a particular respondent based upon documented good faith efforts.
- D. In cases where it is not reasonable to set a D/M/WBE objective, the Supplier Diversity Director may encourage the utilization of D/M/WBE through the bidder/respondent's purchase of goods and/ or services.

Section 2. Equal Employment Opportunity

It is the policy of the Authority to encourage equal employment opportunity for minority and women in the work force by contractors and consulting firms. Contractors and consulting firms doing business with the Authority are encouraged to hire local minorities and women as employees when performing on Authority contracts.

Section 3. Program Participants

Minority and women-owned business enterprise(s) shall be independently owned and operated and certified by the City of Orlando or Orange County in order to become eligible to participate in the Authority's program objective. Firm(s) participating in the Unified Certification Program (UCP) identified by Florida Department of Transportation as a Disadvantaged Business Enterprise (DBE) will also be accepted, but must be independently owned and operated;

Independently owned and operated is defined as a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit an independent status.

Section 4. Waiver

At any time prior to the solicitation of a bid and after receipt of bids for a contract, the Executive Director may grant a partial or complete waiver of the D/M/WBE objective for any contract in which it is demonstrated that participation cannot reasonably be achieved, or due to consideration of property, public safety, and health, including financial impact to the Authority.

Section 5. Prompt Payment

On initial payment, contractors must assure that all subcontractors and material suppliers having interest in the contract will receive prompt payment. The Authority will not make any progress payments after the initial payment until the contractor certifies that appropriate funds have been disbursed to all subcontractors and suppliers out of the previous progress payments received by the contractors, unless the contractor demonstrates good cause for not making the required payment and furnishes written notification of any such good cause to both the Authority and the affected subcontractors and suppliers.

Section 6. Payment Assistance

On contracts in which D/M/WBEs bid as prime contractors, the Executive Director may allow joint checks payable to a disadvantaged, minority or women-owned business enterprise and its primary material or supply house. Payment assistance is provided as outlined in the program procedures. The utilization of this Policy shall not in any way be construed to create a contractual relationship between the Authority and the supply or material house(s). It is solely for the benefit and assistance to disadvantaged, minority and women-owned businesses. For the purpose of filing IRS form 1099, the total amount of any joint payment shall be considered payment only to the disadvantaged, minority or women-owned business enterprise.

Section 7. Supplier Diversity Outreach

The Authority's Supplier Diversity Program is intended to provide outreach and is designed to assist D/M/WBEs in overcoming their economic disadvantage by providing assistance as may be necessary and appropriate to awarded Authority contractors and to strengthen their skills to compete in the private and public sectors.

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A participation objective may be established in the procurement of commodities and contractual services that are competitively bid. To meet the Authority's participation objective, departments shall make every reasonable effort to utilize D/M/WBEs when available and reasonable.

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Section 13. Good Faith Efforts

A proposing prime consultant or contractor must make a good faith effort to meet participation objectives. All bidders/respondents, including D/M/WBE bidders/respondents shall either meet the participation objective or demonstrate in their bid or RFP response that good faith efforts were made, such as:

- 1) The bidder/respondent, at least seven days prior to the bid/RFP deadline, provided written notice to certified D/M/WBEs performing the type of work that the bidder/respondent intends to subcontract, advising the D/M/WBEs (a) of the specific work the bidder/respondent intends to subcontract; (b) that their interest in the contract is being solicited; and (c) how to obtain information about and review and inspect the contract plans and specifications;
- 2) The bidder/respondent selected economically feasible portions of the work to be performed by D/M/WBEs, including, where appropriate, breaking down contracts or combining elements of work into economically feasible units. The ability of the bidder/respondent to perform the work with its own work force will not excuse the bidder/respondent's failure to meet participation objectives;
- 3) The bidder/respondent provided interested D/M/WBEs assistance in reviewing the contract plans and specifications;
- 4) The D/M/WBE objective was not met by other responsive bidders/respondents;
- 5) The bidder/respondent submits all quotations received from D/M/WBEs and for those quotations not accepted, a reasonable explanation of why the D/M/WBE will not be used during the course of the contract;
- 6) The bidder/respondent assisted interested D/M/WBEs in obtaining required bonding, lines of credit, or insurance, etc.;
- 7) The bidder/respondent selected subcontract types of work that match the capabilities of solicited D/M/WBEs.

The above list is not intended to be exclusive or exhaustive and the Authority will look not only at the different kinds of efforts that the bidder/respondent has made but also the quality, quantity and intensity of these efforts.

If a contractor's D/M/WBE participation falls below what has been approved by the Supplier Diversity Department, the bidder must submit good faith effort documentation to the Supplier Diversity Department for determination as to whether the contractor made a good faith effort to comply with the Authority's participation objectives.

Section 14. Responsibility/Monitoring

Monitoring will be conducted to ensure that contractors are complying with the objective of the Authority's Supplier Diversity Program Policy. The Supplier Diversity Director has the responsibility for providing guidance, technical assistance, monitoring good faith efforts and monitoring contract performance and compliance in respect to those project(s) with a D/M/WBE objective.

- A. The D/M/WBE utilization summary shall be completed and submitted with the contractor's proposal. The D/M/WBE subcontractor(s) listed on the form shall not be changed without the prior written authorization from the Supplier Diversity Director or designee.
- B. Unless approved in advance by the Authority, the contractor shall not perform work with its forces that has been identified on the utilization form to be performed by D/M/WBE firm(s). If a D/M/WBE subcontractor is unable to successfully perform the work, the contractor shall make a good faith effort to replace that firm with another D/M/WBE firm and provide an updated utilization form prior to starting or proceeding with the subject item of work. The Authority reserves the right to withhold or deny payment for work performed that does not comply with this article.

Section 15. Non-Performance and Remedies

Consultants and contractors found in non-compliance with their participation commitments may be suspended from bidding with the Authority for one (1) year if their good faith effort support documentation is not accepted by the Supplier Diversity Director or designee.

The Central Florida Expressway Authority reserves the right to exercise any available remedy in the event of a contractor's failure to perform any of its obligations pursuant of the Supplier Diversity Program Policy.

Section 16. Program Review

The Supplier Diversity Director will review and evaluate the policy and procedures on an annual basis and will update the policy and related procedures as needed. Any policy change will be approved by the Authority's Board prior to implementation of such change.

Section 17. Sheltered Market Initiative for Small Sustainable Business Enterprise Program

- A. The Small Sustainable Business Enterprise (SSBE) Program provides the Authority with the opportunity to utilize a sheltered market; when at least three (3) businesses are available and capable of performing the scope of work identified within the solicitation. Only firms registered in the SSBE program are eligible to participate in the shelter market opportunity. Firm(s) participating in this program must perform at least fifty percent of the work designated within the scope of work unless approved by the Supplier Diversity Director or designee.
- B. The SSBE Program allows the Authority to provide increased direct contracting opportunities to small businesses and will assist in the development of these businesses to become prime contractors and consultants. The Authority may designate specific projects estimated up to \$5,000,000 for the SSBE Program. The primary objective of this policy is to enable small businesses to transition to the next level.
- C. The SSBE Program is established in the Procurement Policy for small contracts between \$50,000.00 and \$200,000.00; for solicitations under the SSBE Program. The Executive Director can authorize advertisement and award of these contracts in order to expedite the bidding and award process. The Executive Director, in consultation with the Director of Supplier Diversity, may identify certain projects as appropriate for bidding and award under a sheltered market initiative for the SSBE program.

To qualify for the Sheltered Market Initiative for the SSBE program, firm(s) must be registered with the Authority and meet the following eligibility requirements:

- 1) The business must be locally domiciled within Orange County SMSA (Orange, Lake, Osceola and Seminole Counties)
- 2) The firm must be independently owned and operated and providing a commercially useful function for one (1) year prior to submittal.
- 3) The Business employs 50 or fewer employees

4) Owner(s) must be a legal resident of the State of Florida.

5) The firm's annual gross sales averaged over the previous three years, cannot exceed the following:

- | | |
|--------------------------|-----------------|
| a. Commodities | \$5,000,000.00 |
| b. Professional Services | \$10,000,000.00 |
| c. Construction | \$20,000,000.00 |

6) Obtain all required state/local licenses, certificate of business etc.. required to perform lines of business. Section 12 of this policy defines License Requirements.

Firm(s) participating in the SSBE program must resubmit annually in order to stay active in the program.

D. Graduation

Firm(s) that no longer meet the eligibility requirements stated in the Section 17 C above shall graduate from the SSBE program. Firm(s) shall be allowed to remain eligible to participate in contract(s) and bids/RFP's submitted prior to graduation.

Section 18 Disadvantaged Business Enterprise (DBE) Program Requirements

It is the policy of the Central Florida Expressway Authority (CFX) that a disadvantaged program be established as defined by 49 Code of the Federal Regulations (CFR) Part 26, which shall have an opportunity for DBE firm(s) to participate in the performance of CFX. The objectives of the United States Department of Transportation (DOT) DBE program are to ensure non-discrimination in the award and administration of contracts, ensure firms fully meet eligibility standards help remove barriers to participate, create a level playing field, assist in development of a firm so it can compete successfully outside of the program, provide flexibility and ensure narrow tailoring of the program. CFX has received approval from Federal Highway Administration to adopt and use the Florida Department of Transportation (FDOT) race neutral program goal and DBE contract specifications, as applicable

CFX and its contractors shall take all necessary and reasonable steps to ensure that disadvantaged businesses have an opportunity to compete for and perform on DOT federally funded contracts in a non-discriminatory environment

CFX shall require its contractors to not discriminate on the basis of race, color, national origin, and sex in the award and performance of federally funded contracts. Each DOT federally funded

contract CFX signs with a contractor and each subsequent subcontract the prime signs with lower tier contractors will include the following assurance:

- a. The contractor, sub recipient or subcontractor 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 49 CFR part 26 in the award and administration of DOT assisted contracts. 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 recipient deems appropriate.

Section 19 Management and Technical Assistance

The Authority may provide management guidance, technical assistance, training and mentorship to participants of the SSBE Program. The Authority may also refer participants to financial and bond assistance providers. In addition, the Authority may assist participating firms with reasonable up-front costs as determined on a project by project basis.