

# STANDARD INSTRUCTIONS TO BIDDERS FOR FEDERALLY ASSISTED CONTRACTS (SIB-AVIATION)

## 1. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

1.1 It is the policy of the City of San Antonio to involve qualified Small, Minority, African-American, Woman-owned, and local business enterprises to the greatest extent feasible in the City's construction, procurement, professional services, and leases and concessions contracting. Per Ordinance #69403, the City of San Antonio, its employees, contractors, and subcontractors shall not discriminate on the basis of race, color, religion, national origin, sex, age, or handicap in the award and performance of contracts. Violation of this ordinance is a criminal offense and subject to penalty.

### 1.2 Requirements for **ALL** bids:

1.2.1 It is the policy of the City of San Antonio that disadvantaged business enterprises (DBEs), as defined under 49 CFR Part 26, shall have "equality of opportunity" to participate in the awarding of federally-assisted Aviation Department contracts and related subcontracts, to include sub-tier subcontracts. This policy supports the position of the U.S. Department of Transportation (DOT) in creating a level playing field and removing barriers by ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with federal funds under this contract. Therefore, on all DOT-assisted projects the DBE program requirements of 49 CFR Part 26 apply to the contract.

1.2.2. The Bidder/Contractor agrees to employ good-faith efforts (as defined in the Aviation Department's DBE Program) to carry out this policy through award of subcontracts to disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of the Aviation Department Contract, and/or the utilization of DBE suppliers where feasible. Aviation Department bidders/contractors are expected to solicit bids from available DBE's on contracts which offer subcontracting opportunities.

1.2.3. Bidder/Contractor specifically agrees to comply with all applicable provisions of the Aviation Department's DBE Program. The DBE Program may be obtained through the airport's DBE Liaison Officer at (210) 207-3505 or by contacting the City's Aviation Department.

**1.2.4 Notification is hereby given that a DBE contract specific goal has been established on this bid/contract. The applicable DBE goal is 9.2% of the total dollar value of this contract.**

1.2.5 The Contractor shall appoint a high-level official to administer and coordinate the Contractor's efforts to carry out the DBE Policy and Program requisites. The Contractor's official should coordinate and ensure approval of the required "Good-Faith Effort Plan" (Attachment 1).

1.2.6 The Contractor shall maintain records, as specified in the audit and records section of the contract, showing: (i) all subcontract/supplier awards, specifically awards to DBE firms; (ii) specific efforts to identify and award such contracts to DBEs; and (iii) submit when requested, copies of executed contracts to establish actual DBE participation.

1.2.7 The Contractor shall agree to submit periodic reports of subcontract and/or supplier awards to DBE firms in such form and manner and at such times as the Aviation Department shall prescribe and shall provide access to books, records, and accounts to authorized officials of the City, Aviation Department, state, and/or federal agencies for the purpose of verifying DBE participation and good-faith efforts to carry out the DBE Policy and Program. All Aviation Department contractors may be subject to a post contract DBE audit. Audit determination(s) may be considered and have a bearing in the evaluation of a Contractor's good-faith efforts on future airport contracts.

- 1.2.8 All construction Bidders/Contractors with contracts subject to formal review and approval shall make good-faith efforts (as defined and approved by the City through the Aviation Department in its DBE Program) to subcontract and achieve the applicable contract specific DBE goal with certified DBEs. Contractors failing to achieve the applicable contract specific DBE goal or contractors failing to maintain the specific DBE goal percentage involvement initially achieved, will be required to provide documentation demonstrating that they have made good-faith efforts in attempting to do so through the submittal of an Aviation Department approved “*DBE Good-Faith Effort Plan*”. *Bidders are required to satisfy applicable DBE program requirements prior to the award of the Aviation Department contract.* Bidders must submit a *DBE Good-Faith Effort Plan* or will be considered non-responsive.
- 1.2.9 A Bidder/Contractor may count towards its DBE goal sixty percent (60%) of its expenditures for materials and supplies required under a contract and obtained from a regular dealer, and one hundred percent (100%) of such expenditures to a DBE manufacturer. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Bidder or Contractor.
- 1.2.10 The City and Aviation Department encourages the Bidder/Contractor to utilize currently approved and certified DBE firms on the contract for DBE goal achievement and credit purposes. The Aviation Department utilizes the services of the South Central Texas Regional Certification Agency (SCTRCA) to certify DBE eligibility status. Please contact the SCTRCA at 305 E. Euclid, Suite 102, San Antonio, Texas 78212 (210/227-4722) for information regarding DBE trade areas or to apply for DBE status. The Aviation Department accepts DBE certification from any one of the five (5) certifying agencies under the Texas Unified Certification Program (TUCP) – Texas Department of Transportation (TxDOT), North Central Texas Regional Certification Agency (NCTRCA), South Central Texas Regional Certification Agency (SCTRCA), City of Houston, and the Corpus Christi Regional Transportation Authority.
- 1.2.11 Submittal of DBE status certification information for **all** DBE firms utilized or proposed to be utilized on the project as subcontractors, sub-consultants, or vendors, to include prime contractors when applicable, in the performance of work on said project. Additionally, prime contractors must submit a “Letter of Intent” form (Attachment 2) for **each** subcontractor prior to award of contract.
- 1.2.12 The following DBE-related contractual clause shall be applicable and is specifically included as part of the construction contract. Contractors shall also include this clause in each subcontract the prime contractor signs with a subcontractor.

“The contractor 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”.

Additionally, Contractors agree to the following prompt payment and retainage payment clause:

“The Prime Contractor agrees to pay each subcontractor under this Prime Contract for satisfactory performance of its Contract no later than thirty (30) days from the receipt of each payment the Prime Contractor receives from the City of San Antonio. The Prime Contractor further agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval from the City of San Antonio. This Clause applies to both DBE and non-DBE subcontractors”.

- 1.2.13 All changes to the list of subcontractors submitted with the bid and approved by the City or Aviation Department, including major vendors, shall be submitted for review and approval by the Aviation Department's DBE Liaison Office. DBE Form 3, *Change of Subcontractors/Suppliers* (Attachment 3) is to be completed and submitted to Aviation Department officials for approval when adding, changing, or deleting subcontractors on airport projects. *Contractors shall make a good-faith effort to replace DBE subcontractors unable to perform on the contract with another DBE.*
- 1.2.14 Failure or refusal by a Bidder or Contractor to comply with the DBE provisions herein or any applicable provisions of the DBE Program, either during the bid process or at any time during the term of the Contract, may constitute a material breach of Contract, whereupon the Contract, at the option of the Aviation Department, may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be debarred from further contracts with the City of San Antonio.