Small, Minority, and Woman-owned Business (SMWB) Policy

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SMWB Policy Overview

Policy Similarities:

- Goal Setting
- SBE, MBE, and WBE
- South Central Texas Regional Certification Agency, Texas HUB, and federal certification

Policy Improvements:

- Contract-by-contract Goal Setting
- SBE-only or M/WBE-only Disparity Remedies
- Significant Business Presence
- Local Preference
- Commercial Non-Discrimination Policy
- Penalties and Sanctions
- Graduation & Suspension
Non-industry-specific Disparity Remedies

- Commercial Nondiscrimination Policy
- Vendor Registration and Notification System (VRN)
- Solicitation Debriefings
- Business Development Assistance
- SAWS Staff Performance Recognition
- Subcontractor Payment & Utilization Reporting (S.P.U.R.) System
Industry-specific Disparity Remedies (DRs)

• Each industry has SBE (Race-neutral) Disparity Remedies DRs, and M/WBE (Race-conscious) DRs

• Industries in the Disparity Study:
  ➢ Construction
  ➢ Architecture & Engineering (A&E)
  ➢ Professional Services
  ➢ General Services/Commodities
SBE and M/WBE Disparity Remedies

**SBE Program**
- Theory: All SMWBs are “SBEs”
- SBE Program: flexibility
- Evaluation Preferences
- Vendor Rotation

**M/WBE Program**
- MBEs: male & female Minority-owned
- WBEs: non-minority Woman-owned
- M/WBEs must meet SBA small business standards
- Contract-by-contract goals based upon availability
- Exclusive to M/WBEs with significant disparity
Construction

SBE Disparity Remedies:

- $50K - $200K Contracts: May be reserved for SBEs
- ≥ $250K Contracts: May have mandatory subcontracting goals up to 40%
- Waivers
- ≤ $1.5 Million Alternative Delivery Contracts: May have up to 10% evaluation preference

M/WBE Disparity Remedies:

- Annual Aspirational Goals
  - Prime Contractors: 16%.
  - Subcontractors: 25%
- May have up to 10% evaluation preference: African American, Asian, Hispanic MBEs, and non-minority WBEs

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- Waivers
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M/WBE Disparity Remedies:

- Annual Aspirational Goals
  - Prime Contractors: 16%.
  - Subcontractors: 25%
- May have up to 10% evaluation preference: African American, Asian, Hispanic MBEs, and non-minority WBEs
SBE Disparity Remedies:

• ≤ $250K Contracts: May be awarded on a rotating basis
• May have up to 15% evaluation points

M/WBE Disparity Remedies:

• Annual Aspirational Goal: 28%.
• ≤ $50,000 Contracts: May be awarded to African American and/or Hispanic MBEs
• May have up to 15% evaluation points: African American and/or Hispanic MBEs
Professional Services

SBE Disparity Remedies:
- $\leq 50K$ contracts: May be reserved for SBEs
- $\geq 250K$ Contracts: May have mandatory subcontracting goals up to 40%
- $\leq 250K$ Contracts: May be awarded on a rotating basis

M/WBE Disparity Remedies:
- Annual Aspirational Goal: 14%
- $\leq 250K$ Contracts: May be awarded to Hispanic MBEs & non-minority WBES on a rotating basis
Commodities and General Services

**SBE Disparity Remedies:**
- ≤$50K Contracts: May be awarded on a rotating basis
- May have up to 10% of evaluation points on Best Value Bids

**M/WBE Disparity Remedies:**
- Annual Aspirational Goal: 4%
- May have up to 10% evaluation points on Best Value Bids: Asian and Hispanic MBEs
Local Preference: Texas Local Government Code

• §271.905
  Local governments that receive a bid from a bidder whose principal place of business is in the local government and whose bid price is within 3% of the lowest bid price received from the lowest (non-local) bidder may enter into a contract with:
  ➢ The lowest bidder, or, the local bidder.

• §271.9051
  Local governments that receive competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid price is within 5% of the lowest bid price received from the lowest (non-local) bidder may enter into a contract for construction services in an amount of less than $100K, or a contract for other purchases in an amount of less than $500K with:
  ➢ The lowest bidder, or, the local bidder.
  ➢ Not applicable to telecommunications or information services.
Graduation & Suspension

SBEs:
• Graduation: exceeding SBA size standards for a small business

M/WBEs:
• Temporary Suspension:
  - ≥ $20 million in a calendar year

• Graduation:
  - ≥ $20 million for 2 consecutive years
  - Exceeding SBA size standards for a small business
Penalties and Sanctions

- Suspension
- Withholding of funds
- Rescission of contract
- Refusal to accept a response or proposal
Next Steps

• Next Disparity Study – July 31, 2013
• Policy may be modified by the Board as-needed
• A Sunset provision requires policy extension by November 30, 2015
• If any section of this policy is legally challenged, the remainder of the Policy will be unaffected
SMWB Policy Timeline

- **December 19, 2011** – Policy & Planning Meeting
- **December 19 – March 30, 2012** – Public Commentary Period
  - Two Public Meetings at SAWS
  - Public Hearing at the April 3, 2012 Board Meeting
  - Meetings with Community Organizations
- **May 1, 2012** – Final Public Hearing & Consideration for Approval
Questions or Comments?

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