

## APPENDIX 4

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY, GOALS CONDITIONS AND INSTRUCTIONS

#### 1.01 POLICY

It is the official policy of the Jacksonville Aviation Authority (JAA) to recognize the authority and applicability of the United States Department of Transportation's Rules and Regulations governing Disadvantaged Business Enterprise participation. The JAA is also fully committed to the implementation of these rules and regulations through its approved DBE program.

Before the award of a Contract, the term Proposer will be used, and after the award of a Contract, the term Contractor will be used, to denote the Prime Contractor, which is the firm selected by the JAA to perform the services required under the Contract.

#### 1.02 DBE OBLIGATION

Proposers are required to make all efforts reasonably necessary to ensure that Disadvantaged Business Enterprises have a full and fair opportunity to compete for performance on this project. Proposers will not discriminate on the basis of race, color, ethnicity, national origin or gender in the award and performance of the work under this Contract.

#### 1.03 CERTIFICATION and ELECTION OF STATUS

Firms desiring to participate as a Disadvantaged Business Enterprise (DBE) on JAA projects or contracts must be duly certified by a member of the Florida Unified Certification Program (FUCP) and listed in the FUCP DBE Directory of firms, access to which may be obtained by visiting the following link:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

Any DBE firm not duly certified by a FUCP certifying member by proposal closing date may not be used to meet the disadvantaged business participation requirements of the JAA.

#### 1.04 ELIGIBILITY

A. To be considered eligible for a contract award, the Proposer must include with the proposal an original notarized copy of **DBE Form 1** showing:

1. Total percentage of DBE work or procurement that the Proposer intends to award;
2. The identification of the DBE as a subcontractor, service organization, manufacturer, or supplier;

**IT IS THE SOLE RESPONSIBILITY OF THE PROPOSER TO VERIFY THAT A FIRM IS CURRENTLY CERTIFIED AND IS ELIGIBLE TO BE USED TO COMPLY WITH THE PARTICIPATION GOAL. RELIANCE BY THE PROPOSER ON REPRESENTATIONS OF A FIRM IS AT THE SOLE RISK OF THE PROPOSER.**

B. Within 3 working days following the Bid Opening, the apparent low conforming bidder shall submit to the Owner, completed and signed:

1. DBE Form 2 (**CERTIFIED** DBE Participant Identification Affidavit);
2. DBE Form 3 (**CERTIFIED** DBE Letter of Intent To Perform) for each firm listed in the Schedule of DBE Participation (DBE Form 1);
3. Information and commitments presented on the latter forms will be consistent with DBE Form 1, as submitted with the proposal.

C. In the event the Proposer is unable to obtain proposals from DBE subcontractors that equal or exceed the established participation percentage goal, please reference Appendix A of 49 CRF 26.53 which provides detailed guidance on submitting written documentary evidence that satisfies good faith effort criteria. Provide this evidence along with Form 4 (DBE Unavailability Certification).

The JAA may, if it deems advisable, request further information, explanation, or justification from any Proposer. Failure to provide the required information in the manner indicated will constitute an incomplete, unresponsive and ineligible proposal.

### **1.05 COMPLIANCE and PENALTIES**

All Respondents, potential contractors, or subcontractors agree that failure to fully comply with ACDBE/DBE regulations will constitute a material breach of contract that may result in termination of the Contract and such other available legal remedies, such as any, all, or a combination of the following penalties:

- A. Temporary suspension or ineligibility from submitting a bid or proposal on JAA contracting opportunities;
- B. Withholding payments from the Respondent until JAA determines that the Respondent is in compliance;
- C. Debarment or exclusion from the award of any future JAA contracting opportunities until such time as the Respondent demonstrates to JAA that it will comply with the provisions of this part;
- D. Revocation of ACDBE/DBE certification and/or joint venture status, if applicable; and/or
- E. Sanctions permitted under the previously mentioned regulations, including but not limited to those set forth in 49 CFR Part 26.

### **1.06 PARTICIPATION GOALS**

Submission of a proposal by a Proposer will constitute full acceptance of all DBE goals and conditions outlined in this proposal specification.

The attainment of the DBE Participation Goals must be measured as a percentage of the total dollar value of the Proposer's compensation during the Contract term, measured on an annual basis.

**The JAA has determined that DBE participation is 15% for this project.**

Prime contractors should first verify if the **CERTIFIED** DBE firm intends to participate as either a prime or sub contractor, as discussed in Article 1.03. If a certified firm listed by a prime contractor on Form 1 is found violating Article 1.03, the prime contractor will be given an opportunity to substitute another certified firm within 48 hours of proposal opening.

### **1.07 CONTRACT AWARD**

The JAA intends to award the Contract to the most responsible Proposer submitting a responsive Proposal that is most advantageous and in the best interests of the JAA, provided the Proposer has met the goals for DBE participation or, if failing to meet the goals, Proposer made an acceptable good faith effort to meet the DBE participation goals as established in Article 1.10, below. Proposers are advised that the JAA has sole authority to determine if any Proposer has made sufficient effort toward meeting DBE goals to qualify for a contract award. The JAA reserves the right to reject any or all proposals submitted.

### **1.08 SUBCONTRACT CLAUSE**

All Proposers hereby agree to incorporate these DBE participation policy goals, conditions and instructions in all agreements that offer further subcontracting opportunities.

### **1.09 POST AWARD REQUIREMENTS**

After the award of the Contract, failure by the successful Proposer to employ **CERTIFIED** DBE firms at a percentage level equal to or higher than stated on DBE Form 1, will constitute a contractual default and grounds for termination.

### **1.10 EXCLUSIONARY AGREEMENTS**

Agreements between any Proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other Proposers are prohibited.

### **1.11 SUBSTITUTIONS**

If the successful Proposer desires to make a substitution of a **CERTIFIED** DBE subcontractor during the term of the Contract, the Proposer must:

- A. Submit satisfactory written proof of "noncompliance" to the Administrator, Disadvantaged Business Enterprise Program. (The term "noncompliance" is defined as facts and circumstances that substantially demonstrate a material breach by the subcontractor of the contract or oral agreement between it and the successful Proposer).
- B. Not make any substitutions until all information submitted has been reviewed and approved by the Administrator, Disadvantaged Business Enterprise Program;
- C. Substitute a **CERTIFIED** DBE performing the same work as the subcontractor being replaced, and;
- D. Not contract for an amount lower than the amount submitted by the subcontractor who is being replaced.

#### 1.12 **DBE MONTHLY REPORT (FORM 5)**

Contractors will complete and submit a monthly summary to the DBE Program Administrator of actual DBE participation, listing total payments to the Contractor during the month and the total amounts of DBE participation, using **DBE Form 5**. Contractors are required to maintain records of the DBE summaries for three (3) years.

#### 1.13 **PARTICIPATION CATEGORIES**

##### A. SUBCONTRACTOR

Subcontractor means any Disadvantaged Business Enterprise capable of furnishing to the Contractor labor, materials, supplies, equipment, transportation, management or supervision necessary to the accomplishment of the work under this Contract.

##### B. MANUFACTURER

Manufacturer means a firm that operates or maintains a factory or establishment that produces on its premises the materials or supplies obtained by the Contractor for incorporation into the project.

##### C. SUPPLIER

Supplier means a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for this Contract are brought, kept in stock and regularly sold to the public in the usual course of business. To be a supplier, the DBE firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A supplier of such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution of the products. Brokers and packagers will not be regarded as suppliers within the meaning of this section.

##### D. SERVICES

Services mean a business or individual that performs the following. The furnishing of labor, time, or effort to a Contractor, not involving the delivery of a specific end product other than reports, which are merely incidental to the required performance. This term will not include services provided pursuant to employment agreements or collective bargaining agreements.

#### 1.14 **CALCULATION OF DBE PARTICIPATION**

The following percentages will be applied in calculating DBE participation:

- A. Contractor or Subcontractor - 100 percent for work actually performed for this project by **CERTIFIED** DBE firms;
- B. Services - 100 percent for services actually performed by **CERTIFIED** DBE firms, provided the fee is determined by the JAA to be reasonable and not excessive;
- C. Manufacturer - 100 percent of the cost for materials and supplies acquired for this Contract and obtained from a **CERTIFIED** DBE manufacturer;

- D. Supplier - 60 percent of the cost for materials and supplies acquired for this Contract and obtained from a **CERTIFIED** DBE supplier.

When a **certified** DBE performs as a participant in a joint venture, credit toward the DBE goal JAA will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

**DBE FORM 1**

**SCHEDULE OF DBE PARTICIPATION**

NAME OF BIDDER: \_\_\_\_\_

JAA RFQ No. 19-18-42001

CONTRACT: \_\_\_\_\_

TOTAL BASE BID AMOUNT: \$ \_\_\_\_\_

INDICATE DBE TYPE OF BUSINESS BY (✓) CHECK NEXT TO NAME

- SUBCONTRACTOR 100% OF BID PRICE APPLIES TOWARDS DBE PARTICIPATION GOAL
- MANUFACTURERS 100% OF BID PRICE APPLIES TOWARDS DBE PARTICIPATION GOAL
- SUPPLIERS 60% OF BID PRICE APPLIES TOWARDS DBE PARTICIPATION GOAL
- SERVICES 100% OF BID PRICE APPLIES TOWARDS DBE PARTICIPATION GOAL

DBE PARTICIPATION				\$ Amount	\$ Amount Applied to	% of
	Name	Work to Be Performed	Bid by DBE	DBE Goal	Bid	
	DBE Participation – Total \$ Value and %					

Total DBE Participation and %					
-------------------------------	--	--	--	--	--

The undersigned will enter into a Formal Agreement with the DBE Subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with the Jacksonville Aviation Authority.

Signature \_\_\_\_\_ Title \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_ (SEAL)

**DBE FORM 2**

**DBE PARTICIPANT IDENTIFICATION AFFIDAVIT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I HEREBY DECLARE AND AFFIRM THAT I AM THE \_\_\_\_\_  
(Title – Owner, President-DBE firm)  
and duly authorized representative of \_\_\_\_\_ whose  
(Name of DBE firm)

address is \_\_\_\_\_

I hereby declare and affirm that I am a DBE as defined by the contract documents for RFQ No. 19-18-42001, and that I will provide information to document this fact. This firm is interested in quoting/bidding on the following work being procured by the Jacksonville Aviation Authority under RFQ No. 19-18-42001.

Specify whether participation is as a Subcontractor, Manufacturer, etc. \_\_\_\_\_

\_\_\_\_\_

Specify quote or bid amount \$ \_\_\_\_\_

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED ON BEHALF OF THE FIRM TO MAKE THIS AFFIDAVIT.

\_\_\_\_\_  
(Date) (Affiant)

**ATTACHMENT**

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned officer personally appeared \_\_\_\_\_, known to me to be the person described in the foregoing Affidavit and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary) Commission Expires \_\_\_\_\_ (SEAL)

**DBE FORM 3**

**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR**

TO: \_\_\_\_\_  
(Name of Prime/General Contractor Proposing)

JAA PROJECT: Professional Design Services for the JIA Airfield Wetland Mitigation, RFQ NO.: 19-18-42001

The undersigned intends to perform work in connection with the above Contract as:

Check One:

\_\_\_\_\_ an individual                      \_\_\_\_\_ a corporation  
\_\_\_\_\_ a partnership                      \_\_\_\_\_ a joint venture

The status of the undersigned is confirmed on the attached DBE Contractor identification Affidavit.

Specify in detail, work items or parts thereof to be performed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

at the following price: \$ \_\_\_\_\_.

\_\_\_\_\_ (%) of the total dollar value of this subcontract will be sublet and/or awarded to non-minority Subcontractors.

The undersigned agrees to enter into a contract with you to perform the above work, if you are awarded the prime contract.

_____	_____	_____
(Date)	(Telephone No.)	(Name of DBE Subcontractor)
_____		By: _____
(Firm Address)		(Signature)
_____		Name: _____
(City and State)		(Typed)
		Title: _____
		(Typed)

**DBE FORM 4**

**DBE UNAVAILABILITY CERTIFICATION**

I, \_\_\_\_\_, \_\_\_\_\_  
(Name) (Title)

of \_\_\_\_\_, certify that on the dates below,

I invited the following DBE(s) to bid work items to be performed on JAA project: Professional Design Services for the JIA Airfield Wetland Mitigation; RFQ No. 19-18-42001

<u>DATE OF REQUEST</u>	<u>NAME OF DBE</u>	<u>INDICATE IF SUB, MFG, ETC.</u>	<u>DBE RESPONSE (Y/N)</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The following submitted bids which were not acceptable:

<u>Name of DBE</u>	<u>Reason for Unacceptability</u>
_____	_____
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature)

The foregoing instrument was acknowledged before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ who is personally know to me or has produced \_\_\_\_\_  
\_\_\_\_\_ as identification and who did not take an oath.

Signed: \_\_\_\_\_ (SEAL)  
Notary Public



DBE FORM 5

MONTHLY REPORT

DATE \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_ JAA RFQ NO. 19-18-42001

PROJECT: Professional Design Services for the JIA Airfield Wetland Mitigation

BASE BID AMOUNT: \$ \_\_\_\_\_

DBE GOALS % \_\_\_\_\_ \$ \_\_\_\_\_ TOTAL CONTRACT \$ \_\_\_\_\_

TOTAL DBE CONTRACT \$ \_\_\_\_\_

NAME OF DBE SUBCONTRACTOR	ADDRESS	TYPE OF WORK	EARNED THIS MONTH \$ _____	EARNED TO DATE \$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
SUBTOTAL ALL DBE .....			\$ _____	\$ _____

DBE EARNED TO DATE DIVIDED BY TOTAL CONTRACT EARNED TO DATE \_\_\_\_\_% \_\_\_\_\_  
%

PERCENTAGE OF OVERALL CONTRACT COMPLETE..... \_\_\_\_\_%

The undersigned hereby affirms and declares that the above-listed firms were actually employed in the performance of work/services under this contract and further that each such firm earned and has been paid the stated amount for their respective efforts.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Sworn and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ (Seal)  
NOTARY PUBLIC

NOTES:

1. Contractor shall attach to this form a typewritten explanation of any differences in DBE participation between this form and DBE Form 1 including an accounting for any changes in DBE firms employed.
2. THIS FORM MUST BE COMPLETED AND SUBMITTED WITH CONTRACTORS REQUEST FOR MONTHLY AND FINAL PAYMENTS.