

201430

September 23, 2020

**WHEREAS**, in 1984, The City Council established the initial Good Faith Effort (GFE) Plan; and

**WHEREAS**, on March 24, 2004, after conducting an Availability and Disparity Study, the City Council authorized renewal and adoption of the Good Faith Effort Program and adoption of the GFE Plan; and

**WHEREAS**, on August 20, 2008, City Council was briefed on the GFE Plan and on the recommended amendments to the plan; and

**WHEREAS**, on August 22, 2008, City Council authorized (1) amendments to the GFE Plan; and (2) renaming the GFE Plan to the Business Inclusion and Development (BID) Plan by Resolution No. 08-2826; and

**WHEREAS**, on November 8, 2017, City Council authorized amendments to the City's BID Plan to Change references to Business Development and Procurement Services to Office of Business Diversity; and establish a sunset date of September 30, 2020 for the existing Minority and Women Owned Business Enterprise (M/WBE) subcontracting goals by Resolution No. 17-1734; and

**WHEREAS**, on September 26, 2018, City Council authorized to sign a service contract with MGT of America Consulting, LLC (VC17775) to perform an availability and disparity study (A&D Study) for the Office of Business Diversity for a term of two years, in an amount not to exceed \$400,568.00, by Resolution No. 18-1391; and

**WHEREAS**, on August 5, 2020, City Council was briefed on A&D Study findings, proposed M/WBE goals, and recommended amendments to the City's BID Plan; and

**WHEREAS**, it is in the best interest of the City of Dallas to adopt the recommended amendments to the City's BID Plan.

**Now, Therefore,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

**SECTION 1.** That the proposed amendments to the City's Business Inclusion and Development Plan, attached hereto as Exhibit A – BID Policy, are hereby adopted.

**SECTION 2.** That the Business Inclusion and Development Plan is hereby renamed the "Business Inclusion and Development (BID) Policy."

**SECTION 3.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.





City of Dallas

## **Exhibit A**

### **Business Inclusion and Development Policy**

#### **Business Inclusion and Development (BID) Policy Statement**

It is the policy of the City of Dallas to involve certified Minority and Women-Owned Business Enterprises (M/WBEs) to the greatest extent feasible on the City's construction, general services, and professional services contracts. It is the policy of the City of Dallas to encourage the growth and development of M/WBEs that can successfully compete for contracting opportunities. The City and its contractors shall not discriminate on the basis of race, age, color, ancestry, national origin, place of birth, religion, sex, sexual orientation, gender identity and expression, military or veteran status, genetic characteristics, or disability unrelated to job performance in the award and performance of contracts. In consideration of this policy, the City of Dallas has adopted the Business Inclusion and Development (BID) Policy for all City of Dallas contracts.

#### **Scope of BID Policy**

The BID Policy shall apply to all contracts for the purchase of goods or services over \$50,000 with special emphasis on those contracts with first tier subcontracting opportunities. The provision of the BID Policy takes precedence over any departmental plans or procedures in conflict herewith, except for specific requirements mandated by the terms or conditions of agreements in force between the City and the Federal Government or the State of Texas that require different procedures than those described in the BID Policy.

#### **BID Policy Objectives**

The objectives of the BID Policy are to:

- promote inclusion of M/WBEs by providing equal opportunity for participating in City construction, general services and professional services contracts
- provide procedures for monitoring, enforcement, and compliance with M/WBE requirements
- provide conditions for growth and development of M/WBEs by providing training and access to business resources and opportunities
- promote diverse competition through marketing initiatives on all City contracts for the purchase of goods or services over \$50,000

#### **Administration of the BID Policy**

The City Manager will take all usual and legal administrative actions necessary to implement the BID Policy and is ultimately responsible for the administration of the BID Policy.

The City Manager is designated to serve as the City's M/WBE Liaison Officer for the BID Policy. The Liaison Officer is responsible for implementing, coordinating, and managing the BID Policy. The M/WBE Liaison Officer has designated the Business and Workforce Inclusion (BWI) division of the Office of Economic Development to be responsible for the following:

- Developing, managing, implementing, and evaluating the BID Policy
- Disseminating information related to business opportunities
- Maintaining and providing a directory of certified\* M/WBE vendors
- Maintaining and providing a directory of registered City of Dallas vendors
- Tracking and monitoring M/WBE participation including subcontractor utilization with emphasis on subcontractor utilization post council award
- Tracking and monitoring payments to prime contractors from the City and payments from prime contractors to subcontractors with emphasis on prompt payment as outlined in Government Code Section 2251.022
- Granting evaluation points to encourage a meaningful inclusion of M/WBE participation in response to proposals estimated to be more than \$250,000.
- Advising prospective contractors/proposers on Business Inclusion and Development compliance requirements
- Communicating M/WBE goals and BID compliance requirements
- Maintaining and submitting accurate and current reports on M/WBE performance
- Providing opportunities for networking among contractors and firms
- Creating programs that build the capacity of M/WBEs
- Creating programs that result in diverse competition on City contracts

\* The City of Dallas is a member of the North Central Texas Regional Certification Agency (NCTRCA), Dallas Fort Worth Minority Supplier Diversity Council (DFWMSSDC), and Women Business Council-Southwest (WBC).

### **BID Policy Procedures to Ensure Equal Opportunity**

BWI will facilitate participation of M/WBEs in construction, general services and professional services contracts. To ensure compliance with the BID Policy, at a minimum, BWI will:

- Conduct outreach functions to communicate contracting and procurement opportunities and procedures
- Provide education and assistance services related to starting, maintaining, and growing a business through the Broadening Urban Investment to Leverage Dallas (B.U.I.L.D.) ecosystem

- Explain Business Inclusion and Development compliance procedures
- Encourage prime and subcontracting relationships
- Encourage joint ventures and teaming agreements
- Communicate the City's M/WBE goals and Business Inclusion and Development requirements
- Maintain and distribute a directory of certified and registered M/WBEs
- Review Business Inclusion and Development documentation to ensure compliance with the BID Policy
- Review specifications for large contracts prior to the issuance of a request for proposal or request for a bid to determine and/or identify unbundling opportunities to increase M/WBE participation
- Review project specifications for opportunities to remove barriers and restrictive language
- Perform regular site visits based on project type, award amount or stakeholder concerns to ensure compliance with BID Policy
- Monitor compliance of prime contractors and subcontractors and recommend measures to deal with prime and sub-contractors deemed to be non-compliant with BID Policy criteria
- Develop an owner-controlled insurance policy owned by the City of Dallas
- Maintain a public sector group to provide recommendations on industry best practices focusing on new programs, small business resources, and contracting opportunities that have historically been overlooked

### **BID Policy Certification of M/WBEs**

The City of Dallas is a member of the North Central Texas Regional Certification Agency (NCTRCA), Dallas Fort Worth Minority Supplier Diversity Council (DFWMSDC), and Women Business Council-Southwest (WBC). These agencies certify M/WBE ownership and control and provide M/WBE certification services for the City of Dallas. The City reserves the right to accept M/WBE certifications issued by other certifying organizations or agencies that use the same or similar certification criteria as the certification agencies listed above. Self-certification does not meet the City's M/WBE certification requirements. Dallas also recognizes Native American-owned businesses with tribal cards associated with that business as M/WBE.

### **BID Policy Other Provisions**

In addition to this goal-based policy, it is the preference of the City of Dallas for the workforce of its contractors to be reflective of the diversity of the residents of the City of Dallas. In accordance with Chapter 15B of the Dallas City Code, awardees of construction contracts involving the expenditure of more than \$10,000 and awardees for the procurement of goods and services involving an expenditure of more than \$50,000 are required to incorporate an equal employment opportunity clause which provides that the contractor shall not discriminate against any employer or applicant for employees because of race, age, color, ancestry, national origin, place of birth, religion, sex, sexual orientation, gender identity and expression, military or veteran status, genetic characteristics, or disability unrelated to job performance. The City reserves the right to request

a contractor's affirmative action plan or equal opportunity plan. In addition, if the contractor plans to hire additional staff to complete the contract, the City reserves the right to request a local hiring plan.

The BID Policy or the diverse workforce preference is not to be construed to require the City of Dallas to award a contract to anyone other than the lowest responsible bidder or most advantageous proposer. The BID Policy is also not to be construed to require contractors/proposers to award subcontracts/sub-proposals to or make significant material purchases from M/WBEs who do not submit the lowest responsible sub-bid.

Before award of a contract, the City of Dallas will require bidders/proposers to document good faith efforts to meet established goals.

Failure to adequately document a good faith effort to obtain M/WBE participation may result in award to the next-lowest bidder or advantageous proposer.

Failure to utilize M/WBEs listed in Business Inclusion and Development forms without properly documenting and explaining the change will be deemed as non-compliant and will result in non-compliance actions and will be considered in future awards.

Upon receipt of each payment from the City of Dallas, the awarded vendor is required to report payment data in the City's contract compliance system. Sub-contractors will be prompted to confirm payment data as reported by the prime in the City's contract compliance system.

The City of Dallas maintains the option to waive BID Policy criteria where there is no opportunity or availability for M/WBE inclusion.

The City Manager's Office is responsible for procedures and processes related to the administration of this Policy.

#### **BID Policy Goals**

|                             |        |
|-----------------------------|--------|
| Construction                | 32.00% |
| Architectural & Engineering | 34.00% |
| Professional Services       | 38.00% |
| Other Services              | N/A    |
| Goods                       | 32.00% |