



TRWD/Dallas Integrated Pipeline Project

Fair Opportunities Purchasing/Contracting Policy

1.0 PURPOSE

The Tarrant Regional Water District (TRWD) and the City of Dallas (Dallas) will strive to ensure that all qualified businesses, regardless of size, economic, social or ethnic status have a fair opportunity to participate in the TRWD/Dallas procurement processes. TRWD/Dallas is committed to promoting full and fair opportunity for all qualified businesses to supply the goods and services needed to support the mission and operations of TRWD/Dallas, and seeks to encourage the use of Minority/Woman Owned Business Enterprise (M/WBE) and Historically Underutilized Business(HUB) businesses through the use of race, ethnic, and gender neutral means.

It is the policy of TRWD/Dallas to involve certified M/WBE & HUB as feasible in TRWD/Dallas Integrated Pipeline Project (IPL PROJECT) procurement of goods, equipment, and services while maintaining competition, competitive prices and quality of work standards. TRWD/Dallas affirms the good faith work of businesses, which recognize and practice a similar commitment to M/WBE & HUB development. The TRWD/DALLAS IPL PROJECT leadership is committed to an active process of M/WBE, HUB and local business development that will strengthen the business community through the construction of the project.

2.0 NOMENCLATURE

Minority Business Enterprise/Women Business Enterprise and Historically Underutilized Business "M/WBE &HUB"-TRWD/Dallas IPL PROJECT will refer to businesses that are minority-owned, women-owned, and/or historically underutilized as "M/WBE &HUB." TRWD/Dallas IPL PROJECT and its contractors shall not discriminate on the basis of race, national origin, or sex in the award and performance of contracts.

Local Business- TRWD/Dallas IPL PROJECT will refer to businesses that maintain an office within the following counties where the majority of the contract activities will be performed or delivered (Tarrant, Dallas, Anderson, Collin, Denton, Ellis, Freestone, Henderson, Jack, Johnson, Kaufman, Navarro, Parker, Rockwall, or Wise) as "local business"; If more than 50% of the

business is owned by individual residents residing within the county where the majority of contract activities will be performed or delivered this would also be considered a "local business".

Contractors-TRWD/Dallas IPL PROJECT will refer to suppliers, vendors, contractors, consultants, and other companies engaged or retained to provide outside services of any nature as "prime contractors." Similar companies engaged by such contractors will be called "sub-contractors."

Dallas – Will refer to City of Dallas Water Utilities and Business Development and Procurement Services Department Directors.

Project Coordination Team- TRWD/Dallas IPL PROJECT will refer to the representatives from both TRWD and Dallas as selected in accordance with the TRWD/Dallas Contract as "Project Coordination Team". The project coordination team will provide guidance to the MHL Business Coordination Team.

MHL Business Coordination Team –TRWD/Dallas IPL PROJECT will refer to the representatives who will be responsible for the implementation of this policy as "M/WBE & HUB/Local (MHL) Business Coordinator-TRWD and City of Dallas Business Inclusion and Development Coordinator-IPL ". The MHL Business Coordination Team will be a liaison to the Project Coordination Team. The MHL Coordination Team will evaluate compliance with this Policy and award the 15 points allowable as applicable.

3.0 DEPARTMENTS AFFECTED

TRWD/Dallas IPL PROJECT and their designees engaging or retaining contractors will reach out to M/WBE & HUB's as intended by this policy.

Designees involved in the solicitation, selection, evaluation, or approval of all such contractors shall support the M/WBE & HUB/local requirements stated in this policy.

4.0 M/WBE & HUB CONTRACTING POLICY

It is the policy of TRWD/Dallas IPL PROJECT to demonstrate a strong effort to meet M/WBE & HUB business utilization goals, including good- faith effort to provide for meaningful participation by M/WBE & HUB's in performance of the TRWD/Dallas IPL PROJECT contracting and subcontracting procedures.

TRWD/Dallas IPL PROJECT, its contractors, their subcontractors and suppliers as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, age, color, sex, sexual orientation or national origin in the award and/or performance of contracts. All vendors, suppliers, professionals and contractors doing business or anticipating doing business with TRWD/Dallas IPL PROJECT shall support, encourage and implement steps toward a common goal of establishing a fair opportunity for all citizens and businesses. Such efforts include the following:

- A. Identify opportunities for M/WBE & HUB involvement and encourage businesses to qualify for and submit offers on TRWD/Dallas IPL PROJECT solicitations. Offers may be issued by TRWD or their designee for goods and services.
- B. Divide the work to be contracted into smaller portions where technically and economically feasible. Provide the maximum amount of opportunities possible to M/WBE & HUB to perform professional services work.
- C. M/WBE & HUB's that are selected as prime contractors will be included toward the plan goals, to enhance the opportunity for M/WBE & HUB business to be prime vendors on the project. Prime contractors that are an M/WBE or HUB have the same commitment as all prime contractors to achieve the subcontracting goals of this policy.
- D. Make plans and specifications for prospective work available to M/WBE & HUB's in sufficient time for review. Pre-bid sessions will be held for outreach and education on contracts over \$50,000.
- E. Ensure that M/WBE & HUB's are aware of opportunities to participate in TRWD/Dallas IPL PROJECT purchases and contracts. Actively solicit offers for contracts from M/WBE & HUB's, including circulation of solicitations to affiliated associations when possible.
- F. TRWD/Dallas IPL PROJECT will use and recognize the North Texas Regional Certification Agency (NCTRCA), DFW Minority Supplier Development Council, Women Business Council-Southwest and HUB certification programs in conjunction with the implementation of this policy. Vendors selected with HUB only certification will be required to submit registration request to NCTRCA. TRWD/Dallas reserves the right to review the certification status of any vendor applying to do business with TRWD/Dallas IPL PROJECT. This review will be accomplished to determine the validity and authenticity of the vendor's certification as a M/WBE & HUB business.
- G. Use the services of, and cooperate with, other M/WBE & HUB and local trade organizations providing technical assistance and training in connection with M/WBE & HUB participation.
- H. Encourage the formation of joint ventures, partnerships or other similar arrangements among contractors where appropriate.
- I. Encourage contractors to strengthen their own Equal Employment Opportunity Programs. Upon request a contractor shall provide a compliance report that includes employment practices, policies, programs, and statistics.
- J. Ensure that contractors pay their sub-contractors in a timely manner as specified in individual project RFPs.
- K. Evaluate projects, in excess of \$50,000, in the planning phase to determine opportunities to set specific M/WBE & HUB goals. This planning phase will be done in conjunction with the

MHL Business Coordination Team. The project goal shall be reasonable, expressed as a percentage of total contract, and shall be based on the following considerations:

- Specific sub-contracting opportunities required to complete the project
- Availability of M/WBE & HUB in the identified areas needed

- L. Provide potential contractors a copy of TRWD/Dallas IPL PROJECT's *Fair Opportunities Purchasing/Contracting Policy*. Clearly communicate that TRWD/Dallas IPL PROJECT expects all contractors to meet specified utilization goals with exception or to demonstrate good faith in actively soliciting M/WBE & HUB sub-contracting opportunities and following the TRWD/Dallas IPL PROJECT outreach policies
- M. The intentional misrepresentation of facts included in a bid to provide goods or services by a firm or bidder may result in the barring of receipt of bids and or quotations from the firm or bidder for a specified period of one year for a first offense, and an additional period for subsequent offenses. Any person, firm, corporation or partnership which intentionally misrepresents its M/WBE & HUB business status may be subject to civil penalty in a district court.

NOTE: Nothing in this policy shall be construed to require TRWD/Dallas IPL PROJECT to award a contract other than in a manner that complies with all applicable law and, in the TRWD Board's judgment, will be most advantageous to TRWD/Dallas and result in the best and most economical completion of TRWD/Dallas proposed projects, improvements, facilities, works, equipment, and appliances. Provided however, in cases of tie bids from responsible bidders, awards will be made according to the following principles:

- a) In cases of tie bids for procurement contracts, local businesses may be awarded contracts over non-local businesses to the extent allowed by law.
- b) If the foregoing principles do not resolve cases of tie bids, a coin flip (or series of coin flips) at the direction of the Board of Directors of TRWD may be utilized to determine the award of the contract.
- c) In cases of tie bids for service contracts, local businesses shall be awarded contracts over non-local businesses to the extent allowed by law. In cases of tie bids for service contracts between (i) two or more local businesses or (ii) two or more non-local businesses, TRWD/Dallas may consider all factors that will be the most advantageous to TRWD/Dallas, including the impact on the ability of TRWD/Dallas to comply with and promote the policies contained herein.

5.0 Reporting Procedures

All contractors are to report sub-contracting activities with M/WBE & HUB's businesses as a part of invoice submission during the life of their contract. For each submitted invoice, certified M/WBE & HUB Business Participation Forms are to accompany documentation, including

percentage of total contract and specific dollar amount spent through M/WBE & HUB. TRWD/Dallas IPL PROJECT reserves the right to conduct a third party audit of all reports prepared by awardees.

The TRWD/Dallas IPL PROJECT MHL Business Coordination Team shall maintain responsibility for tracking and monitoring M/WBE & HUB participation and shall train and advise the TRWD/Dallas IPL PROJECT Coordination Team and all departments of TRWD/Dallas IPL PROJECT's Fair Opportunities Purchasing/Contracting Policy. A status report of M/WBE & HUB participation will be submitted quarterly to both TRWD and Dallas.

The department issuing the contract shall maintain responsibility for verifying all M/WBE & HUB business certifications with the appropriate certifying agency and for establishing expectations with contractors.

6.0 Policy Compliance and Disputes

The MHL Business Coordination Team shall be responsible to determine compliance with the policy. To ensure that the prime has complied with the *TRWD/Dallas IPL Project Fair Opportunities Purchasing/Contracting Policy* throughout the performance of the contract, MHL Business Coordination Team will be responsible for reviewing and approving M/WBE & HUB participation levels prior to final payment to the prime contractor. The MHL Business Coordination Team must be able to reconcile the final report with appropriate documentation on file. If the difference cannot be reconciled, the MHL Business Coordination Team will convene a review committee with the prime contractor and request additional documentation to explain the discrepancy. Once all issues are resolved, the MHL Business Coordinator-TRWD will contact the project manager to recommend final payment.

Failure to Comply

The failure of a contractor to adequately comply with the *TRWD/Dallas IPL Project Fair Opportunities Purchasing/Contracting Policy* shall be considered in the award of contracts.

A contractor who fails to adequately document a subcontract with M/WBE & HUB firms to purchase significant material supplies from M/WBE and/or HUB firms may be denied award of the contract on the grounds of non responsibility.

If, during the performance of the contract, the contractor is found not to be fulfilling commitments to utilize M/WBE & HUB subcontractors and no acceptable justification has been offered by the prime, this failure to fulfill commitments may be considered in the award of future contracts and may result in the denial of such future contracts to the prime contractor.

A prime contractor may be disqualified for contract awards for a three year period upon the determination that the contractor:

- a. is non-responsible based upon poor performance

- b. is engaged in pass-through brokering
- c. is engaged in pay-rolling
- d. has been deficient in regards to other integrity issues

Disputes

All disputes regarding the administration of or compliance with the *TRWD/Dallas IPL Project Fair Opportunities Purchasing/Contracting Policy* will be directed to MHL Business Coordination Team. If resolution cannot be achieved, the prime contractor or subcontractor may file a formal complaint. The TRWD General Managers Office will conduct a thorough investigation of the formal complaint.

In a timely manner, the General Manager's office will notify, in writing, all concerned parties, including: the Director of DWU, MHL Business Coordination Team, and the Project Coordination Team, of the resolution to each complaint.

7.0 Review of Policy

The TRWD/Dallas IPL PROJECT MHL Business Coordination Team for TRWD/Dallas IPL PROJECT shall present a report quarterly to the TRWD/Dallas IPL PROJECT Coordination Team for the TRWD/Dallas IPL PROJECT with a detailed recap of all M/WBE & HUB contracts and sub-contracts, including the number, types, and value of contracts awarded to M/WBE & HUB's in the reporting period. The report shall detail the status of all prime contracts/contractors related to M/WBE & HUB utilization. The TRWD/Dallas IPL PROJECT MHL Business Coordination Team shall be vested with authority to initiate oversight actions and provide recommended mitigation plans when necessary for the success of the project and the M/WBE & HUB/local business.

This policy shall be reviewed by the TRWD/Dallas IPL PROJECT Coordination Team no less than every five years and amended or ratified as appropriate. The TRWD/Dallas IPL PROJECT MHL Business Coordination Team shall be responsible for placing the review on the agenda and offering suggestions for updating and improving the policy. TRWD and Dallas, as partners in the policy, reserve the right to jointly waive, modify, amend or withdraw all or any part of this Policy at any time. This Policy is not contractual and creates no rights in any prospective contracting party.

8.0 TRWD/Dallas IPL PROJECT M/WBE & HUB /Local Business Plan Goals

Percentage goals are provided as a baseline for inclusion of M/WBE & HUB/local business participation. It is the intent of TRWD/Dallas to provide M/WBE & HUB/local vendor development through the construction of the project. Both M/WBE & HUB and/or local businesses will be encouraged in the selection criteria to the extent allowed by law.

In an effort to provide M/WBE & HUB the opportunity to provide goods, equipment and services as the prime contractor, the TRWD/Dallas IPL PROJECT team has established subcontracting

goals of 25 percent and requirements for all prospective bidders to ensure a reasonable degree of M/WBE & HUB business participation.

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TRWD/DALLAS IPL PROJECT will purchase directly from the manufacturer major material items of the project including, but not limited to: pipe, mains, valves and pumps, where the opportunity to satisfy the overall M/WBE & HUB project goals are limited. However, a Good Faith Effort will be made to encourage M/WBE & HUB participation in the handling, distribution and delivery of such major material items to the project's construction sites. This supports the TRWD/DALLAS IPL PROJECT'S commitment to provide development opportunities for M/WBE & HUB/local business to complete work of substance that is sustainable.

