

202 FAIR OPPORTUNITIES PURCHASING AND CONTRACTING POLICY

202.1 Purpose. The purpose of this Policy is to set forth TRWD's commitment to promoting full and equal opportunity for all businesses to participate in contracting to supply the goods and services needed to support the mission and operations of the District. TRWD has a continuing goal to encourage the participation and use of Diverse Businesses, as defined below, and involve Diverse Businesses in a meaningful way in all facets of TRWD's contracting and purchasing processes and activities through neutral means.

202.2 Scope. This Policy applies to all TRWD employees and officials involved in the purchasing process and all Contractors, as defined below, and potential Contractors seeking to be engaged or retained by TRWD to provide goods or services of any type or nature to the District.

202.3 Definitions. The following definitions apply to this Policy.

Diverse Business: The term Diverse Business shall mean a business that is minority-owned, woman-owned, socially disadvantaged, economically disadvantaged, small, service-disabled, or historically underutilized that has a certification by an organization identified and listed in Section 202.14 of this Policy.

Contractors: The term Contractors shall mean suppliers, vendors, consultants, and other companies engaged or retained by TRWD to provide services of any type or nature to the District.

Subcontractors: The term Subcontractors shall mean companies engaged by Contractors to provide services of any type or nature to the District.

202.4 Opportunities for Diverse Businesses. TRWD strives to involve certified Diverse Businesses as feasible in the procurement of goods, equipment, services, and construction projects, while maintaining competition, competitive prices, and quality of work standards. TRWD should demonstrate good faith efforts to provide for meaningful participation by Diverse Businesses in the provision of goods and services.

202.5 Prohibition on Discrimination in Procurement and Contracting. TRWD shall not discriminate on the basis of race, color, national origin, age, sex, sexual orientation, gender identity or expression, pregnancy status, religion, disability, genetic information, veteran status, or political affiliation in the award and/or performance of contracts.

202.6 Expectations for Contractors and Subcontractors. TRWD encourages and affirms the good faith efforts of businesses that recognize and practice similar business standards. All Contractors, Subcontractors, and professionals doing business or anticipating doing business with TRWD shall support, encourage, and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses.

TRWD's Contractors and Subcontractors shall not discriminate on the basis of race, color, national origin, age, sex, sexual orientation, gender identity or expression, pregnancy status, religion, disability, genetic information, veteran status, or political affiliation in the award and/or performance of contracts.

202.7 Contractor Reporting Procedures. All Contractors are to report their subcontracting and/or supplying activities with Diverse Businesses on each invoice submitted to TRWD for payment throughout the life of the contract. Contractors must submit to TRWD the Subcontractor's or supplier's verified certification qualifying them as a Diverse Business and both the Diverse Business participation percentage in the total contract and the specific dollar amount spent through Diverse Businesses.

202.8 Contractor Compliance. TRWD reserves the right to review the certification status of any Contractor applying to do business with the District to determine the validity and authenticity of the Contractor's certification as a Diverse Business.

TRWD's Purchasing Department is responsible for communicating to the selected Contractor(s) this Policy and TRWD's commitment to and goals regarding the participation and use of Diverse Businesses. TRWD's Purchasing Department is also responsible for establishing expectations with Contractors to ensure compliance with this Policy. TRWD's Purchasing Department will verify all certifications qualifying a Contractor or Subcontractor as a Diverse Business with the appropriate certifying agency identified and listed in Section 202.14 of this Policy.

TRWD reserves the right to conduct a third-party audit of all documentation and reports submitted in accordance with this Policy by a Contractor and/or any entity awarded a contract by TRWD.

The intentional misrepresentation of facts related to certification as a Diverse Business or use of Diverse Businesses by a Contractor or potential contractor trying to receive a contract award from TRWD may result in the barring of receipt of bids and or quotations from the Contractor or potential Contractor for a specified period of time which may be determined on a case-by-case basis.

202.9 Good Faith Efforts. The following are examples of good faith efforts TRWD can use and encourages its Contractors to use to provide for meaningful participation by Diverse Businesses in the provision of goods and services to the District.

- Identify opportunities for involvement of Diverse Businesses and encourage Diverse Businesses to qualify for and submit offers on TRWD's solicitations for goods and services.
- Divide work to be contracted into smaller portions where technically and economically feasible to further facilitate the use of Diverse Businesses.
- Make plans and specifications for prospective work available to Diverse Businesses in sufficient time for review.
- Ensure that Diverse Businesses are aware of opportunities to participate in TRWD's procurement and contracting processes.
- Actively and affirmatively solicit bids and offers from Diverse Businesses, including circulation of solicitations to affiliated associations.
- TRWD will use and recognize the Texas Unified Certification Program (TUCP) and all certifications received from any TUCP member in conjunction with the implementation of this Policy.
- Diverse Businesses that are selected as prime contractors will be given credit for the portion of the actual work performed. The Diverse Business prime contractor remains responsible for complying with this Policy with respect to subcontracting and taking good faith efforts to provide for meaningful participation by Diverse Businesses in the subcontracting for the provision of goods and services to TRWD.
- Use the services of and cooperate with organizations that provide technical assistance and training in connection with ensuring participation of Diverse Businesses in public procurement and contracting.
- Encourage the formation of joint ventures, partnerships, or other similar arrangements among Contractors where appropriate to enhance the participation of Diverse Businesses.
- Ensure that provision is made to provide payments on a timely basis as specified in individual project contracts.
- Evaluate projects in excess of \$50,000 in the planning phase to determine opportunities to set project-specific Diverse Business goals. The project goals shall be reasonable, expressed as a percentage of the total contract, and based on the specific subcontracting opportunities required to complete

the project and the availability of Diverse Businesses in the identified areas needed.

- Provide potential Contractors a copy of this Policy and clearly communicate TRWD's expectation that all Contractors demonstrate good faith efforts in actively soliciting and supplying Diverse Businesses opportunities as Subcontractors and follow TRWD's expectations regarding outreach to Diverse Businesses.

202.10 Monitoring and Training Regarding Use of Diverse Businesses. The General Manager or designee is responsible for tracking and monitoring Diverse Business participation in TRWD's purchasing and contracting processes. The General Manager or designee shall ensure all TRWD Departments are aware of this Policy and receive training regarding this Policy, as well as training about TRWD's expectations and goals regarding the participation and use of Diverse Businesses.

202.11 Development of Procedures. The General Manager or designee shall establish and implement administrative procedures and strategies, that comply with all applicable law, that identify the good faith efforts TRWD will take to provide equal opportunity to Diverse Businesses and how this Policy will be effectuated throughout the District.

202.12 Reporting to Board. The General Manager or designee shall present a report mid-year and annually to the Board regarding TRWD's good faith efforts and successes in the provision of equal opportunity to Diverse Businesses.

202.13 Legal Compliance. Nothing in this Policy shall be interpreted or construed to require TRWD to award a contract other than in a manner that complies with all applicable law and, in the Board's judgment, will be most advantageous to TRWD and result in the best and most fiscally prudent completion of proposed projects, improvements, facilities, works, equipment, and appliances for the District.

202.14 Recognized Certifications and Certification Agencies. TRWD accepts and recognizes the following Diverse Business certifications from the agencies listed below.

Acceptable Certifications

- M/WBE – Minority or Women-Owned Business Enterprise
- HUB – Historically Underutilized Business

- SBE – Small Business Enterprise
- WBE – Woman Business Enterprise
- DBE – Disadvantaged Business Enterprise
- Diverse Business – minority-owned, woman-owned, socially disadvantaged, economically disadvantaged, small, service-disabled, and/or historically underutilized business
- TUCP – Texas Unified Certification Program

Acceptable Certification Agencies

- North Central Texas Regional Certification Agency (NCTRCA)
- South Central Texas Regional Certification Agency (SCTRCA)
- TxDot DBE Certification
- DFW Minority Supplier Development Council (DFWMSDC)
- Woman’s Business Council – Southwest (WBCS)
- State of Texas HUB
- TUCP – Texas Unified Certification Program

Certification from Small Business Administration (SBA)

TRWD will also recognize the following certifications from the SBA:

- Small Disadvantaged Business
- 8(a) Business Development Program
- HUB Zone Program
- Service-Disabled Veteran-Owned Businesses
- Woman-Owned Small Businesses

202.15 The TRWD/Dallas Integrated Pipeline Project (IPL). TRWD and the City of Dallas Water Utilities (DWU) have partnered to finance, plan, design, construct, and

Adopted 03/22/2022
Effective 04/01/2022

operate the IPL Project. Appendix A to this Policy contains additional requirements, adopted by the Board with this Policy, related to the IPL Project.