



Fair Opportunities Purchasing/Contracting Policy

1.0 PURPOSE

The Tarrant Regional Water District (TRWD), which includes TRWD/Dallas Integrated Pipeline Project (IPL) will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in TRWD's procurement processes. For purposes of incorporating these entities, we will refer to TRWD as the District.

The District is committed to promoting full and equal opportunity for all businesses to supply the goods and services needed to support the mission and operations of the District, and seeks to encourage the use of certified Diverse Businesses (DB or DBs) through the use of race, ethnic, and gender neutral means.

It is the Policy of the District to involve certified DBs as feasible in the procurement of goods, equipment, services and construction projects while maintaining competition, competitive prices and quality of work standards.

The District affirms the good faith efforts (GFEs) of firms who recognize and practice similar business standards.

2.0 NOMENCLATURE

The District will refer to certified Diverse Businesses as minority-owned, woman-owned, socially disadvantaged, economically disadvantaged, small, service-disabled, and/or historically underutilized businesses (HUB).

The District will refer to suppliers, vendors, contractors, consultants, and other companies engaged or retained to provide outside services of any nature as "contractors." Similar companies engaged by such contractors will be called "sub-contractors, and/or suppliers."

3.0 Contracting Policy

It is the Policy of the District to demonstrate a good-faith effort (GFE) to provide for meaningful participation by Diverse Businesses. The District, its contractors, their subcontractors and/or suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts.

All vendors, suppliers, professionals and contractors doing business or anticipating doing business with the District shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses.

Such GFEs include the following:

- A. Identify opportunities for DB involvement and encourage businesses to qualify for and submit offers on District requirements for goods and services.
- B. Divide the work to be contracted into smaller portions where technically and economically feasible.
- C. Make plans and specifications for prospective work available to DBs in sufficient time for review.
- D. Ensure that DBs are aware of opportunities to participate in District purchases and contracts. Actively and affirmatively solicit offers for contracts from DBs, including circulation of solicitations to affiliated associations when possible.
- E. The District will use and recognize the State of Texas (Texas Unified Certification Program and all participating entities) certifications in conjunction with the implementation of this policy. Of those aforementioned recognized certifications, the District reserves the right to review the certification status of any vendor applying to do business with the District. This review will be accomplished to determine the validity and authenticity of the vendor's certification as a DB.
- F. Diverse Businesses that are selected as prime contractors will be given credit for the portion of the actual work performed. The DB prime contractor remains responsible for meeting the subcontracting goal requirement, or for making a good faith effort to do so.
- G. Use the services of, and cooperate with those organizations providing technical assistance, and training in connection with DB participation.

H. Encourage the formation of joint ventures, partnerships, or other similar arrangements among contractors where appropriate.

I. Ensure that provision is made to provide payments on a timely basis as specified in individual project contracts.

J. Evaluate projects, in excess of \$50,000 in the planning phase to determine opportunities to set specific DB goals. 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 DBs in the identified areas needed

K. Provide potential contractors a copy of TRWD's *Fair Opportunities Purchasing/Contracting Policy*. Clearly communicate that the District expects all contractors to demonstrate good faith in actively soliciting DB sub-contracting and supplying opportunities, and following the District's outreach policies.

L. The intentional misrepresentation of facts 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 time which may be determined on a case-by-case basis.

NOTE 1: Nothing in this Policy shall be 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 economical completion of TRWD 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 service and 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, the Board of Directors of TRWD will provide direction to determine the award of the contract. In cases of tie bids for service contracts between (i) two or more local businesses, or (ii) two or more non-local businesses, TRWD may consider all factors that will be most advantageous to the District, including the impact on the ability of TRWD to comply with and promote the policies contained herein.

NOTE 2: Tarrant Regional Water District and the City of Dallas Water Utilities (DWU) have partnered to finance, plan, design, construct and operate the IPL Project.

Due to the multiagency participation in this project, please see **Appendix A** for additional Policy requirements related to the IPL Project.

4.0 Reporting Procedures

All contractors are to report sub-contracting and/or supplying activities with DBs with each invoice submitted for payment, during the life of their contract. Verified certifications are to accompany documentation, along with participation percentage of total contract, as well as specific dollar amount spent through DBs. The District reserves the right to conduct a third party audit of all reports prepared by awardees.

The Finance Director shall maintain responsibility for tracking and monitoring DB participation and shall train and advise all departments of the District's Fair Opportunities Purchasing/Contracting Policy.

The department issuing the contract shall maintain responsibility for verifying all certifications with the appropriate certifying agency and for establishing expectations with contractors.

5.0 Review of Policy

The Finance Director for the District shall present a report quarterly and annually to the Board of Directors.

This Policy shall be reviewed by the TRWD Finance Director annually, and amended or ratified as appropriate.

(Appendix A) IPL



Tarrant Regional Water District (TRWD) and the City of Dallas Water Utilities (DWU) have partnered to finance, plan, design, construct and operate the Integrated Pipeline (IPL) Project. The IPL Project is an integrated water delivery transmission system connecting Lake Palestine to Lake Benbrook with connections to Cedar Creek and Richland-Chambers Reservoirs integrating TRWD's existing pipelines and creating flexibility in delivery as well as quick response to fluctuating customer water demands. The IPL Project consists of 150 miles of pipeline, three new lake pump stations, and three new booster pump stations delivering a required capacity of 350 million gallons per day (MGD) of raw water to North Central Texas. TRWD and DWU currently serve over 4.1 million residents and the IPL will allow these agencies to continue supporting regional community and economic growth.

The policies below are in addition to the policies that are discussed under TRWD:

1.0 PURPOSE

The IPL leadership is committed to an active process of Diverse Business and local business development that will strengthen the business community through the construction of the project.

2.0 NOMENCLATURE

Local Business - IPL 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".

Percentage goals are provided as a baseline for inclusion of Diverse Business/Local business participation. It is the intent of IPL to provide DB/Local vendor (business) development through the construction of the project. Both DBs and/or local businesses will be encouraged in the selection criteria to the extent allowed by law.

In an effort to provide DBs the opportunity to provide goods, equipment and services as the prime contractor, the IPL Team has established subcontracting goals of twenty-five percent (25%), and requirements for all prospective bidders to ensure a reasonable degree of DB participation. IPL will exclude the purchase price of all large diameter pipe sizes 120", 108", 96", and 84" from the prime contractor subcontracting goals.

(Appendix A) IPL continued

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

3.0 CONTRACTING POLICIES

Please refer to TRWD's Policy page located on page 2 in addition to the following:

Project Coordination Team: TRWD/Dallas IPL 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.

Minority/Woman Business Enterprise (M/WBE) & HUB/Local (MHL) Business Coordination Team: TRWD/Dallas IPL Project will refer to the representatives who will be responsible for the implementation of this Policy as **MHL** Business Coordinator(s).

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.

4.0 Reporting Procedures

A status report of Diverse Business participation will be submitted quarterly to both TRWD Finance Director and the City of Dallas Executive Manager of Business Development and Procurement Services.

5.0 Review of Policy

This Policy shall be reviewed by the City of Dallas DWU Director and the TRWD Finance Director annually, and amended or ratified as appropriate.

(Appendix A) IPL continued

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.

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/MWBE & 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 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 contract to the prime contractor.

(Appendix A) IPL continued

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 Manager's 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.

Certifications

Acceptable Certifications:

- M/WBE – Minority Woman 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 disadvantage, 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
- Texas Unified Certified Program

TRWD will also recognize the following certifications from Small Business Administration:

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