


MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE POLICY

OFFICE OF
**ECONOMIC
VITALITY** 



BLUEPRINT 
INTERGOVERNMENTAL AGENCY

 **CITY OF
TALLAHASSEE**



MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE POLICY

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I. AUTHORITY

This policy supersedes City of Tallahassee MWSBE Policies 16.5, adopted January 22, 2014, and Leon County Purchasing Policy No. 96-1 Part B, adopted June 20, 2017. The City of Tallahassee, FL (City) adopted this policy on February 26, 2020. Leon County Government (County) adopted this policy on February 25, 2020. The Blueprint Intergovernmental Agency (Blueprint) Board of Directors (IA Board) adopted this policy on January 30, 2020. This consolidated policy will be administered by the Minority, Women, and Small Business Enterprise (MWSBE) Division of the Office of Economic Vitality (OEV). Following approval of all three entities, this policy will become effective on April 1, 2020.

II. SCOPE AND APPLICABILITY

This policy is applicable to solicitations advertised by any and all City, County, and Blueprint officials and departments.¹ All three entities reserve those rights set forth in their respective purchasing and procurement policies to the extent they are not in conflict with this MWSBE Policy.

III. POLICY STATEMENT

Pursuant to City of Tallahassee Administrative Policies and Procedures Manual Section No. 1204 and Leon County Government Policy No. 18-1, the City, County, and Blueprint will not tolerate any form of discrimination in any of their programs, services, or activities.

The Small Business Enterprise (SBE) Program is race- and gender-neutral and intended to promote City, County, and Blueprint utilization of SBE firms. The Minority Women Business Enterprise (MWBE) Program outlined in this policy is narrowly tailored to remedy discrimination documented in the 2019 Disparity Study conducted by MGT of America, Inc., and accepted by the IA Board at its meeting held June 27, 2019. The 2019 Disparity Study identified disparity in City, County, and Blueprint spending sufficient to support a race- and gender-conscious MWBE program for all three entities.

The City, County, and Blueprint intend to institute and maintain an MWBE Program and an SBE Program that provide for:

- A. Representative utilization of MWSBE firms in all aspects of City, County, and Blueprint procurement activity.
- B. Elimination of any institutional and procedural barriers which would prohibit active participation in City, County, and Blueprint procurement opportunities.

¹ Although the City of Tallahassee Procurement Services Division administers solicitations for the Consolidated Dispatch Agency (CDA) and Capital Region Transportation Planning Agency (CRTPA), this policy does not apply to the solicitations of the CDA and does not apply to the solicitations of the CRTPA.

- C. Training, education and technical assistance to enhance opportunities for MWSBE firm participation in the City, County, and Blueprint purchasing and contracting activities.
- D. Public information on the opportunities available for doing business with the City, County, and Blueprint.

IV. OBJECTIVES

- A. To provide minority, women, and small businesses in the Market Area equal access and opportunities to compete and be awarded contracts and purchases.
- B. To remedy any disparate treatment of minority, women, and small businesses attempting to do business with the City, County, and/or Blueprint.
- C. To effectively communicate procurement and contracting opportunities, business and professional development resources for minority, women, and small businesses.

V. BACKGROUND

In 2016, the City and County merged their respective supplier diversity offices into the Office of Economic Vitality (OEV) Minority, Women, and Small Business Enterprise (MWSBE) Division. OEV commissioned the Disparity Study in 2017 to determine whether evidence of disparity existed in the market, and if so, whether that disparity was sufficient to support an MWSBE Program that serves the City, County, and Blueprint.

In 2019 the Disparity Study revealed evidence of disparity sufficient to support the continuation of a race- and gender-conscious MWBE Program, as well as a single, consolidated MWBE Program and aspirational goals that serve all three entities. The IA Board accepted the 2019 Disparity Study at its June 27, 2019 meeting and directed staff to develop this policy with the support of City, County, and Blueprint staff and officials as well as external stakeholders in the contracting community.

VI. DEFINITIONS

The terms and words used in this policy are defined below.

1. “Affiliate” or “Affiliation” – When the owner of a firm either directly or indirectly controls or has the power to control another firm; a third party or parties controls or has the power to control both; or other relationships between or among parties exist such that affiliation may be found between the two firms. A firm is an affiliate of another when the owner of the firm has possession, direct or indirect of either: (i) the ownership of or ability to direct the voting of, as the case may be, more than fifty percent (50%) of the equity interest, value, or voting power of such firm, or (ii) the power to direct or cause the direction of the management and policies of such firm whether through the ownership of voting securities by contract or otherwise. In determining whether a firm is an affiliate with another firm or with an owner of another firm, consideration

will be given to all appropriate factors including but not limited to common ownership, common management, contractual relationship, and shared facilities.

2. "Applicant" – a person who has submitted an application for certification as an MBE, WBE, or SBE to the MWSBE Division of the Office of Economic Vitality.
3. "Apprentice" – Any person who is enrolled in and participating in an apprenticeship program registered with the Florida Department of Education or the United States Department of Labor. If a registered apprenticeship program does not exist for the type of work on the construction project, then apprentice means any person who is participating in a company-sponsored training program for that type of work.
4. "Apprenticeship or externship relationship" – The relationship between a prime or subconsultant or subcontractor and apprentices or externs participating in a qualifying apprenticeship or externship program.
5. "Award" – The final selection of a respondent for offer of a specified prime contract or subcontract dollar amount. Awards are made by the City, County, and Blueprint to prime contractors or consultants or by prime contractors or consultants to subcontractors or subconsultants, usually pursuant to solicitations.
6. "Broker" – A person or firm engaged as a subcontractor or subconsultant whose sole involvement in a contract is for the purpose of collecting a broker's commission or fee, and with the intent of not performing any of the direct labor activities or services by his or her employees, and who subcontracts his or her portion of the work to another firm or firms.
7. "Business days" – Monday through Friday, 8:00am to 5:00pm EST (not including City, County, or Blueprint observed holidays).
8. Business Categories for which the City, County, and Blueprint have established MWBE Aspirational Goals include the following and have the following meaning:
 - a) "Architecture & Engineering" – Architectural or engineering services provided by an appropriately licensed professional architect or engineer or by a professional architectural or engineering firm related to architectural or engineering services.
 - i. "Architecture" - When provided by an appropriately licensed architect or architectural firm that employs appropriately licensed architects, "architecture" will mean the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.
 - ii. "Engineering" – Will include the term "professional engineering" and, when provided by an appropriately licensed professional engineer, licensed engineer, or an engineering firm that employs appropriately licensed professional or licensed engineers, "engineering" will mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special

knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services.

- b) "Construction" – Services that include the building, attaining, repairing, improving, or demolishing any public structure or building, or other public improvement of any kind to any public real property. "Construction" does not include routine operation, routine repair, or routine maintenance of existing buildings or facilities.
 - c) "Professional Services" – Any service provided by a person or firm that is of a professional nature, with special licensing, educational degrees, and unusual or highly specialized expertise. Examples include, but are not limited to Financial Services, Legal Services, Medical Services, and Advertising/Marketing Services. "Professional Services" do not include "Architecture & Engineering," which is separately defined herein.
 - d) "Other Services" – Any service that is labor intensive and not considered professional or construction services as defined above. Examples include, but are not limited to maintenance services, janitorial services, lawn services, employment services, and printing services.
 - e) "Materials and Supplies/Purchases" – Equipment and consumable items purchased in bulk or deliverable products. Examples of such include, but are not limited to equipment and parts, chemicals, and paper products.
9. "Calendar Days" – All days of the week.
10. "Certification" – Verification that a business meets all eligibility criteria for participation in the MWSBE Program as an SBE and/or an MBE or WBE.
11. "Certification Application" – Forms and documents an applicant must complete to be considered for Certification.
12. "Certified Minority Business Enterprise" – A for-profit business which has been certified to be a minority-owned business enterprise by the MWSBE Division of the Office of Economic Vitality.
13. "Certified Women Business Enterprise" – A for-profit business which has been certified to be a woman-owned business enterprise by the MWSBE Division of the Office of Economic Vitality as defined in this policy (not included in a minority group).
14. "Change Order" – Modification to the work scope, cost, or schedule phasing of a capital project contract, as authorized by the appropriate City, County or Blueprint authority. Also, for purposes

of this policy, Change Order will include budget transfers and supplemental appropriations.

15. “Commercially Useful Function” (CUF) - A business performs a “Commercially Useful Function” when the business: (a) is responsible for the execution of a distinct element of work or services; (b) carries out its obligation by actually performing, managing, or supervising the work involved; (c) performs work that is normal for its business, services and function; and (d) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices. A prime contractor or consultant, subcontractor or subconsultant, or supplier will not be considered to perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of MWBE participation.
16. “Consultant” - Any person, firm, or legal entity that provides professional services governed by the Florida Consultants Competitive Negotiation Act and that has entered into a contract with the City, County, or Blueprint, or any of their contracting agencies.
17. “Contract” - Any agreement, regardless of what it may be called, between the City or County and a person, firm or legal entity to provide or procure labor, materials, supplies, or services to, for, or on the behalf of the City or County.
18. “Contractor” - Any person, firm, or legal entity, except those governed by the Consultants Competitive Negotiation Act, that has entered into a contract with the City, County, or Blueprint, or any of their contracting agencies.
19. “Control” – An applicant firm owner exercises control over the firm’s operations, work, management, and policy. Indication of control may include the following:
 - a) Applicant firm owner(s) must demonstrate the ability to make unilateral and independent business decisions as needed to guide the future and destiny of the business, and their business must not be subject to any formal or informal restrictions that limit the customary discretion of such owner(s). There can be no restrictions through corporate provisions, by-law provisions, contracts or any other formal or informal devices that prevent the owner(s) from making any business decision of the firm without the cooperation or vote of another entity or person that is not an owner(s) or who would not be eligible for the MWBE Program.
 - b) Applicant firm owner(s) must control the day-to-day operations of the business in critical area(s). Administrative responsibilities alone are not sufficient to prove control. The owner(s) may delegate various areas of the management or daily operations of the business to other persons, who would not be eligible for the MWBE Program or who are not owners, only if such delegation is typical in the industry for such business and such delegation is revocable.
 - c) Applicant firm owner(s) must have an overall understanding of, and managerial and technical competence, experience, and expertise directly related to the firm’s operations and work.
20. “Director of PLACE” – The Director of the Department of Planning, Land Management, and Community Enhancement (PLACE).
21. “Front” – A business that intentionally and/or falsely holds itself out as a business that is controlled or owned at least 51% by a minority or minorities, or by a woman or women, when in

fact it is not.

22. “Good faith effort” – Effort made in good faith by a respondent to meet project specific MWBE goals. Respondents may demonstrate good faith effort by meeting the project specific goals, or by demonstrating it has made reasonable effort to do so by submitting documentation of good faith effort.
23. “Graduation” – A firm's ineligibility to be certified as an MWSBE firm with the MWSBE Division of the Office of Economic Vitality because the firm has exceeded the size standards set forth in this policy.
24. “Independent” – A firm whose viability does not depend on its relationship with another firm is independent. Recognition of an applicant firm as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is independent. Indicators that a firm is independent include: (i) relationships with other businesses in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources; (ii) whether present or recent family, or employer/employee relationships compromise the applicant owner(s)' independence; and (iii) whether the applicant owner(s)' exclusive or primary dealings with a prime contractor compromises the applicant owner(s)' independence.
25. “Joint Venture” – As used in this policy is a short-term business association—a separate legal entity like a corporation or LLC—consisting of certified MWBE firm(s) and non-MWBE firm(s) or certified MWBE firms formed to carry on a single business activity which is limited in scope and duration, which the parties jointly undertake for a transaction, for which they combine their property, capital, efforts, skills, and knowledge. Generally, each party will contribute assets and share risks. Joint ventures can involve any type of business transaction and the parties involved can be individuals, groups of individuals, companies, or corporations.
26. “Market Area” – The geographical area consisting of the following Florida counties: Leon, Gadsden, Jefferson, and Wakulla.
27. “Majority Ownership” or “Majority Owner” – Owning no less than 51% of a business enterprise.
28. “Manufacturer” – Will mean a person or firm engaged in the process of making, fabricating, constructing, forming or assembling a product(s) from raw, unfinished, semi-finished, or finished materials through a direct contract/agreement on behalf of the general contractor.
29. “Mentor-Protégé relationship” - A Mentor-Protégé relationship exists when an experienced company, firm, or individual (Mentor) provides assistance and training to an MWBE firm (Protégé).
30. “Minority Business Enterprise” (MBE) – A firm whose MBE Certification is recognized, current, and accepted by the MWSBE Division of the Office of Economic Vitality.
31. “Minority or Women Business Enterprise” (MWBE) – Refers jointly to MBE and WBE firms or the policies and procedures related thereto.
32. “Minority Person” or “Minority” - An individual who is a citizen of the United States, or a lawfully admitted permanent resident, and who identifies himself or herself as being African, Hispanic,

Asian, or Native American.

- a) "African American" – All persons having origins in any of the Black racial groups of Africa.
 - b) "Hispanic American" – All persons having origins from a Hispanic country regardless of race.
 - c) "Asian American" – All persons having origins in the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.
 - d) "Native American" - Persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians.
33. "Minority, Women, or Small Business Enterprise" (MWSBE) – Refers collectively to MBE, WBE, and SBE firms or the policies and procedures related thereto.
34. "MWSBE Director" – The Director of the MWSBE Division of the Office of Economic Vitality.
35. "MWSBE Program" – The programs and efforts under the provisions of this policy, either directly or through partners, to enhance participation in City, County, and Blueprint contracts to achieve parity between spending with MBE, WBE, and SBE firms and their existence in the local market.
36. "NAICS (North American Industry Classification System)" – The standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.
37. "Office of Economic Vitality (OEV) Director" - The Director of the Office of Economic Vitality.
38. "Owner" or "Ownership" – The person(s) who own(s) a business.
39. "Participation Plan" – The portion of a response to a solicitation provided by a respondent giving detailed information regarding respondent's plan to meet the project specific goals contained in the solicitation, intention to comply with this policy, and intention to utilize certified MBE and WBE firms to meet the project specific goals.
40. "Partnership or Association" - A short-term business association—a partnership or association—consisting of certified MWBE firm(s) and non-MWBE firm(s) or certified MWBE firms formed to carry on a single business activity which is limited in scope and duration, which the parties jointly undertake for a transaction, for which they combine their property, capital, efforts, skills, and knowledge. Generally, each party will contribute assets and share risks. Partnerships or Associations can involve any type of business transaction and the parties involved can be individuals, groups of individuals, companies, or corporations. For the purposes of this policy, Partnerships and Associations are held to all the same standards as Joint Ventures with the exception of the requirement that the businesses form a separate legal entity.
41. "Pre-Bid Meetings" or "Pre-Proposal Meetings" – A meeting held for respondents to gather information about a solicitation prior to the respondent due date.
42. "Prime" – A person or firm who is qualified and responsible for the entire project, who may have one or more subcontractors or subconsultants, and with whom the City, County, or Blueprint has

a direct contractual relationship. A prime contractor provides goods or performs a service not governed by section 287.055, Florida Statutes. A prime consultant performs professional architectural, engineering, landscape architectural, or surveying and mapping services governed by section 287.055, Florida Statutes.

43. "Principal Place of Business" – A location wherein a firm maintains a physical office and through which it obtains no less than fifty percent (50%) of its overall customers or sales dollars.
44. "Present Business Relationship" – A shared space, equipment, financing, employees, or both firms having some of the same owners.
45. "Project specific goals" – The percentage of MBE and WBE participation for a particular procurement opportunity.
46. "Purchasing" or "Procurement" - Buying, renting, leasing or otherwise obtaining or acquiring any goods, supplies, materials, equipment, or services.
47. "Regular Dealer" – A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - (a) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment will be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
 - (b) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.
48. "Reserved" – A contracting practice restricting eligibility for the competitive award of a contract solely to SBE firms.
49. "Respondent" – The person or party that responds to a solicitation.
50. "Response" – A bid, proposal, statement of qualifications, or other response to a solicitation.
51. "Small Business Enterprise" (SBE) – A firm whose SBE Certification is recognized, effective, and accepted by the MWSBE Division of the Office of Economic Vitality.
52. "Small Business Enterprise Program" (SBE Program) – Those components of this policy that target increased participation of SBE firms in City, County, and Blueprint procurement, including the coordination with other entities and agencies that assist small businesses through various means such as education and networking.
53. "Solicitation" – Any request for proposals, request for qualifications, invitation for bids, invitation

to bid, or other document issued by the City, County, or Blueprint seeking goods or services.

54. "Solicitation Development Meeting" – An internal staff meeting to create and develop solicitations and discuss potential MWBE goals, SBE reserved or unbundling, or other elements of this policy applicable to the solicitation under development.
55. "Subcontract" - Any agreement, arrangement, or understanding, written or otherwise, between a prime contractor or consultant and any party (in which the parties do not stand in relationship of employer and employee) which assigns some of the obligations of the contract:
 - a) For the furnishing of supplies or services or for the use of real personal property; including lease arrangements which, in whole or in part, are utilized in the performance of one or more contracts with the City, County, or Blueprint; or
 - b) Under which any portion of the prime's obligation under one or more contracts with the City, County, or Blueprint is performed, undertaken, or assumed.
56. "Supplier" - A business that furnishes needed items to a prime contractor or consultant, and (i) is either involved in the manufacture or distribution of the supplies or materials; or (ii) otherwise warehouses and ships the supplies.
57. "Tallahassee-Leon County MWSBE Citizens Advisory Committee" - Consists of eleven members: four appointed by the County Commission, four appointed by the City Commission, and one nominated appointee each from the Big Bend Minority Chamber of Commerce, Capital City Chamber of Commerce, and the Greater Tallahassee Chamber of Commerce. Members serve two-year terms with vacancies being filled for the remainder of a term; and, reappointments will be limited to three consecutive terms. The Committee will be chaired by a Chairperson nominated and elected by the members of the Committee.
58. "Unbundle" – The act of separating projects or large projects into smaller projects which may be more suitable for MWSBE participation.
59. "Woman" or "Women" - An American woman who has not self-identified, within the definition of this policy, as a Minority Person or Minority.
60. "Women Business Enterprise" (WBE) - A business whose WBE Certification is recognized, effective, and accepted by the MWSBE Division of the Office of Economic Vitality.

VII. ORGANIZATION AND RESPONSIBILITY

A. City of Tallahassee City Commission, Leon County Government, and IA Board

The City of Tallahassee City Commission, Leon County Government, and IA Board are responsible for policy decisions as they relate to the MWBE Program and SBE Program.

B. Intergovernmental Management Committee (IMC) and Director of PLACE

The IMC, consisting of the City Manager and County Administrator, and the Director of PLACE are responsible for:

1. The joint administration of the MWBE and SBE Programs.
2. Promulgation of any amendments to this policy to ensure consistency with any law, regulation, or grant requirement.

C. MWSBE Division of the Office of Economic Vitality

The MWSBE Division is responsible for:

1. The administration and management of the MWBE and SBE Programs on a day-to-day basis.
2. Certification of MBE, WBE, SBE, and DBE firms.
3. Scoring of MBE, WBE components of solicitations.
4. Receiving and evaluating quarterly MWSBE Participation Reports and providing a quarterly and annual report on MWSBE participation.
5. Reviewing forthcoming City, County, and Blueprint solicitations to generate an awareness by MWSBE firms of potential opportunities.
6. Providing technical assistance and training to MWSBE firms to facilitate a better understanding of solicitation and contracting procedures.
7. Maintaining communication with minority and non-minority contractor's associations, the construction industry, financial institutions, community organizations, and businesses in general.
8. Monitoring of City, County, and Blueprint contracts with MWSBE participation and assisting in resolution of contract problems.
9. Creating project specific MWBE goals on a case-by-case basis, taking into account the availability of MWBE firms in each contracting and procurement category.
10. Establishing written procedures to implement the MWBE and SBE Programs, including the

certification of businesses as MBE, WBE, and SBE firms.

11. Assessing the certification applications for the MWBE and SBE Program and coordinating certifications with the City, County, and Blueprint.
12. Maintaining a database of MWSBE firms and providing assistance to City and County departments and Blueprint in identifying MWSBE firms for anticipated procurements.
13. Identifying and working to eliminate barriers that inhibit MWSBE participation in City, County, and Blueprint procurement processes.
14. Establishing realistic MBE and WBE project specific goals.
15. Identifying procurement opportunities for competition among SBEs.
16. Monitoring the utilization of MWSBEs and the progress of the MWSBE Program to ensure that MWSBEs have opportunities to participate in City, County, and Blueprint procurement of goods and services, and report on the progress of the MWSBE Program at least annually.
17. Implementing mechanisms and procedures for monitoring utilization of MWSBEs in accordance with contract requirements.
18. Performing outreach by networking with state and local government, nonprofit, professional, and trade organizations and participating in conventions and seminars sponsored and widely-attended by MBE, WBE, and SBE firm owners.
19. Complying with this policy.

D. City Procurement Services Division and County Purchasing Division

The City Procurement Services Division and County Purchasing Division are responsible for:

1. Obtaining project-specific goals for each solicitation from the MWSBE Division before the solicitation is advertised to the public.
2. Organizing solicitation development meetings and pre-bid or pre-proposal meetings
3. Notifying the MWSBE Division of Change Orders and other contract compliance information that affect MBE, WBE, or SBE firms
4. Maintaining accurate data in the contract compliance process and electronic tracking system.
5. Accepting recommendations to initiate debarment procedures for violations of this policy.
6. Complying with this policy.

E. City and County Departments, Blueprint, and Appointed Officials

City and County departments, Blueprint, and appointed officials are responsible for:

1. Assisting in the promotion of the MWBE and SBE Programs and participating in the MWBE and SBE Programs.
2. Coordinating with OEV to improve the utilization of MWSBE firms within each entity.
3. Utilizing the MWSBE Directory and documenting effort to secure MWSBE participation.
4. Reporting MWSBE utilization for entry into the contract compliance process and electronic tracking system.
5. Complying with this policy.

F. Tallahassee-Leon County MWSBE Citizens Advisory Committee

The Tallahassee-Leon County MWSBE Citizens Advisory Committee is responsible for:

1. Monitoring the progress of the MWSBE Program toward achieving program performance goals established by the City Commission, Board of County Commissioners, and the IA Board.
2. Reviewing and providing MWSBE policy alternatives, as well as providing programmatic recommendations relative to seeking resolution of disputes regarding Certification.
3. Scheduling and implementing meetings which will be noticed and open to the public; recording and maintaining minutes of any such meetings.

VIII. MWBE PROGRAM

To ensure that MBE and WBE firms in the Market Area have equal opportunity to engage in City, County, and Blueprint business, the MWBE Program encourages respondents to engage MBE and WBE firms as subcontractors or subconsultants in responses to City, County, and Blueprint solicitations. Each solicitation that is capable of being broken down into work that may be sublet will be issued with a project specific MWBE goal set by the MWSBE Division. Respondents are required to meet the project specific goal or provide documentation of their good faith effort to engage MWBE firms.

To ensure the narrow tailoring of the MWBE Program, the City, County, and Blueprint are responsible for maintaining accurate records documenting all spending with prime contractors and consultants and subcontractors and subconsultants. Therefore, uploading accurate and complete data in the City, County, and Blueprint contract compliance process and electronic tracking system is a necessary component of the MWBE Program. Accurate and complete data is necessary for the creation of narrowly tailored MWBE Aspirational Goals.

A. MWBE Aspirational Goals

Each project specific goal is based on both current availability of MWBE firms in the Market Area and an aspirational goal intended to remedy past disparate treatment of MWBE firms identified in the 2019 Disparity Study. The MWBE aspirational goals were developed based on a comparison of two groups of percentages. First, the 2019 Disparity Study identified the percentage dollars spent with MWBE firms out of the total spending for the City, County, and Blueprint. Second, the 2019 Disparity Study identified the actual percentage of MWBE firm availability in the Market Area. Disparity exists when the percentage of MWBE spending is less than MWBE firm availability. The MWBE aspirational goals are intended to lift MWBE spending up to the level of MWBE availability in the Market Area.

TABLE 1
2019 DISPARITY STUDY MWBE ASPIRATIONAL GOALS

2019 Disparity Study Aspirational Goals		
Procurement Category	Aspirational MBE Goal	Aspirational WBE Goal
Construction Prime Contractors	5.00%	4.00%
Construction Subcontractors	14.00%	9.00%
Architecture & Engineering	8.00%	6.00%
Professional Services	5.00%	6.00%
Other Services	6.00%	8.00%
Materials and Supplies	1.00%	6.00%

B. Project Specific Goals

The MWBE Program is intended to ensure utilization of MWBE firms in all aspects of City, County, and Blueprint procurement activity and to award contracts with MWBE participation consistent with the MWBE aspirational goals. In furtherance of that intent, project specific MWBE goals will be established for each solicitation with the goal of achieving overall MWBE participation as outlined in **Table 1**. Only the dollars expended with certified MWBE firms from the local Market Area will be counted towards satisfying the project specific MWBE goals. More details on counting MWBE utilization can be found in

Section XII.

1. City and County Departments and Blueprint will plan their solicitations to provide ample time for the MWSBE Division of OEV to establish project specific goals for inclusion into each solicitation, where feasible, before the City Procurement Services Division and Leon County Purchasing Division advertise the solicitation to the public.
2. City Procurement Services and County Purchasing Divisions will obtain a project specific goal established for each individual solicitation from the MWSBE Division before the solicitations are advertised to the public.
 - a. As part of the creation of a solicitation document, City, County, and Blueprint project managers will make an effort to identify components in the solicitation's scope of work or scope of services that may reasonably be performed or supplied by a subcontractor or subconsultant and the percentage of the total contract value that those components represent. City, County, and Blueprint project managers will promptly notify the purchasing agent—the responsible employee of the City Procurement Services or County Purchasing Division—of the percentage identified above and the type of work included in that percentage.
 - b. City Procurement Services and County Purchasing Divisions may schedule a solicitation development meeting including the MWSBE Division. Solicitation development meetings may occur in person or via teleconference, video conference, email, or other technology. Following solicitation development meetings, the MWSBE Division will report the project specific goals to the City Procurement Services or County Purchasing Divisions. Project specific goals may be lower than the aspirational goals or may be inappropriate for a particular solicitation as described below.
3. The project specific goals for individual solicitations may be higher or lower than the aspirational goals identified in **Table 1** and should reflect realistic MWBE availability for a particular project. The MWSBE Division will determine project specific goals for each solicitation based on contract compliance and supplier diversity industry standards.
4. Project specific goals are considered the minimum level of MBE or WBE participation expected for a particular procurement. Project specific goals are considered targets set to achieve participation levels commensurate with available businesses, and for which there are opportunities for exemptions based upon good faith effort.
5. Project specific goals will be reasonable and give consideration to both subcontracting opportunities and the availability of MBE firms or WBE firms in the Market Area who are capable of performing the work.
6. Project specific goals may not be appropriate when subcontracting is not reasonable or permitted. Where the MWSBE Division has determined that project specific goals are not appropriate for a solicitation, the MWSBE Director will notify the Procurement Services or Purchasing Director that the MWSBE Division has recommended no project specific goals or project specific goals lower than the aspirational goals.
7. In the event of an emergency purchase under the City Purchasing Manual Section 3.12 or County

Purchasing Policy No. 96-1 Section 5.11, project specific goals may be waived.

8. In cases where it is not reasonable to set project specific goals, the MWSBE Director may encourage MWBE participation through respondent's purchase of goods or services from MWBE firms, consistent with the project specific goals, or provide for any combination thereof.
9. Project specific goals will apply to all respondents, including MBE, WBE, and SBE firms. When an MBE or WBE firm is the prime contractor or consultant, the goal is fulfilled for their certification designation and the other portion of the goal must be fulfilled. For example, if a certified MBE firm responds to a solicitation as a prime contractor, the goal for MBE participation is fulfilled. The MBE prime contractor remains responsible for meeting the goal for WBE participation.
10. To meet project specific goals, all City and County departments and Blueprint will cooperate with the MWSBE Division and make every reasonable effort, consistent with this policy, to utilize MWBE firms when available. The MWSBE Director will coordinate and promote the process by taking active steps to encourage full participation of certified, capable, and competitive MBE and WBE businesses and by keeping staff informed of MWSBE availability.
 - a. Each department will be responsible for obtaining MWBE participation at the minimum level identified in **Table 1**. All purchases for goods and services will be made in conformance with the City and County Purchasing Manuals.
 - b. The MWSBE Division will annually evaluate relevant expenditure and contracting data to determine the performance and progress of the MWBE Program with the assistance of the City and County Budget Offices, City Procurement Services Division and County Procurement Division, and any other applicable departments.

C. Good Faith Effort Documentation

In those instances where a respondent has failed to meet the MWBE goals in whole or in part at the time of response submittal, there is a rebuttable presumption that MWBE firms were available for the project. The burden of proof then shifts to the respondent to rebut this presumption through documentation of its good faith effort (GFE). In those cases, the respondent—even a respondent that is a certified MWSBE firm or a non-MWSBE firm participating in a Joint Venture, Partnership, and Association; Mentor-Protégé; or Apprenticeship arrangement—must submit documentation of GFE with the response to the solicitation.

Each of the following activities are worth 10 points towards documentation of GFE. A combination of the following activities reaching a minimum of 50 points will demonstrate GFE:

1. Attendance at pre-bid or pre-proposal meeting, if applicable.
2. Copies of written correspondence sent to the MWSBE Division no later than fifteen (15) business days before the solicitation response deadline seeking help in identifying firms available to meet the project specific goals.
3. Copies of advertisements placed by the respondent in the local newspaper and minority publications in the Market Area announcing the project and seeking MBE or WBE

participation.

4. Copies of written correspondence sent to a certified MBE or WBE firms. The correspondence should include:
 - a. The specific work the contractor intends to subcontract;
 - b. That interest in participation by the MWBE firm on the contract is being solicited; and,
 - c. How to obtain information for the review and inspection of contract plans and specifications.
5. Documentation that the respondent selected economically feasible portions of work to be performed by MWBEs, including, where appropriate, breaking down contracts or combining elements of work into economically feasible units. (The ability of the contractor to perform the work with its own work force will not in itself excuse a contractor from making positive efforts to meet contract goals).
6. Documentation that the respondent negotiated in good faith with interested MWBE firms and did not reject any interested MWBE firms without sound business reasons. Price alone does not constitute a sound business reason unless the respondent can demonstrate that no reasonable price can be obtained from an MWBE firm.
7. Documentation that the respondent reviewed all quotations received from MWBE firms, and for those quotations not accepted, an explanation of why the MWBE will not be used during the course of the contract. (Receipt of a lower quotation from a non-MWBE will not in itself excuse a contractor's failure to meet contract goals).
8. Documentation detailing respondent's effort to contact MBE and WBE firms who provide the services needed for the solicitation and indicating that the respondent provided ample time for potential MWBE firms to respond, including a chart outlining the methods of contact and schedule or time frame in which respondent conducted its good faith effort.
9. Documentation that the respondent offered to provide interested MWBE firms with assistance in reviewing the solicitation plans and specifications at no charge to the MWBE firms.
10. Documentation of follow-up telephone calls with potential MWBE firms encouraging their participation.

Respondents should contact the MWSBE Division immediately for guidance and assistance in any of the following events: (1) the respondent anticipates or has difficulty identifying an MWBE firm to meet project specific goals; (2) the respondent cannot identify portions of the work that can be contracted to MWBE firms; or (3) the respondent determines that contracting portions the work to another entity is not possible.

D. Evaluating MWBE Participation in Solicitations

Every City, County, or Blueprint solicitation issued with project specific goals will contain language and forms describing how respondents must demonstrate their utilization of MWBE firms to meet the project specific goals for MWBE participation.

1. Responsiveness for All Solicitations

The MWSBE Division will review for responsiveness all responses to solicitations that are assigned project specific goals during the solicitation development process. This includes both solicitations that involve the scoring of points and solicitations awarded based primarily on price. The MWSBE Division will deem responses responsive to the MWBE section of the solicitation if they include a completed MWBE Participation Plan that is eligible for points and/or Good Faith Effort documentation. As described below, responses that do not include an MWBE Participation Plan or that include an incomplete MWBE Participation Plan that is not eligible for points may be deemed responsive to the MWBE portion of the solicitation if they include Good Faith Effort documentation.

TABLE 2
MWBE RESPONSE EVALUATION: RESPONSIVENESS

MWBE Response Evaluation: Responsiveness	
Recommendation	Response
RESPONSIVE	<ul style="list-style-type: none"> • Completed MWBE Participation Plan and MWBE Section that is eligible for full points; • Completed MWBE Participation Plan and MWBE Section that is eligible for partial points and completed Good Faith Effort documentation demonstrating why respondent could not meet the full project specific goal; OR • Completed Good Faith Effort documentation.
NON-RESPONSIVE	<ul style="list-style-type: none"> • Completed MWBE Participation Plan and MWBE Section that is eligible for partial points but no Good Faith Effort documentation demonstrating why respondent could not meet the full project-specific goal; • An MWBE Participation Plan that is incomplete, unsigned, or otherwise ineligible for points and no Good Faith Effort documentation; OR • No MWBE Participation Plan or completed Good Faith Effort Documentation.

Upon evaluation of all responses to a solicitation, the MWSBE Division will inform the Purchasing or Procurement Division of its evaluation of responsiveness to the MWBE portion of the solicitation. Responses that do not meet the above criteria may be deemed non-responsive by the Purchasing or Procurement Division and be ineligible for award. The Purchasing or Procurement Divisions' determinations of responsiveness will be governed by the applicable Purchasing Manual or Procurement Policy of the appropriate entity (City, County, or Blueprint).

2. Point Evaluation for Scored Solicitations (CCNA Professional Services)

For solicitations seeking professional services governed by the Florida Consultants' Competitive Negotiations Act (CCNA)—professional architectural, engineering, landscape architectural, or surveying

and mapping services—that have project specific goals, the MWSBE Division will award points during the solicitation evaluation process. The MWSBE Division may award points for an MWBE Participation Plan and associated documents demonstrating the following: **(1)** committing to utilizing a certified MWBE firm or firms holding an MWBE certification in conformance with the project specific goals, monitoring requirements, and the requirements of this policy; and **(2)** identifying the certified MWBE firm(s). Points will be identified in each solicitation.

3. Point Evaluation for Scored Solicitations (All Other Services)

For solicitations seeking other services not governed by CCNA, for which the solicitation evaluation process involves scoring and has project specific goals, the MWSBE Division will award points during the solicitation evaluation process. Each solicitation will identify the points associated with the MWBE section of each solicitation.

Generally, the maximum number of points available for the MWBE section of solicitation is a total of **12 points**.

A total of **10 points** can be awarded for an **MWBE Participation Plan**:

- a. Submission of an **MWBE Participation Plan** will earn **10 points** for meeting the following requirements: **(1)** utilizing an MWBE firm or firms holding an MWBE Program certification; **(2)** meeting the project specific goal for both MBE and/or WBE utilization based on percentage of the contract value paid to the MWBE firm(s); and **(3)** agreeing to monitor the work of the MWBE firms, provide subcontractor and subconsultant payment information to the MWSBE Division, and abide by this policy.
- b. Submission of an **MWBE Participation Plan** will earn **5 points** if it meets **(1)** and **(3)** above but only meets a portion of the project specific goal for both MBE and/or WBE utilization in **(2)** above. Such responses must include **Good Faith Effort documentation** demonstrating why respondent could not meet the full project specific goal to remain responsive.

Demonstrating one or more of **Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationships** may earn an additional **2 points**.

Table 3 on the next page indicates the points available for an MWBE scoring for non-CCNA solicitations.

Table 4 on the next page lists all possible MWBE score outcomes and how they may be obtained.

TABLE 3
MWBE EVALUATION

MWBE Evaluation: Scoring	
Score	Response
2 Points	MWBE Section demonstrating Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship relationship is eligible to earn 2 points
5 Points	An MWBE Participation Plan that meets the following requirements is eligible for 5 Points: <ol style="list-style-type: none"> 1. Utilizing an MWBE firm or firms holding an MWBE Program certification. 2. Meeting a portion of the project specific goals for MBE and/or WBE utilization based on the percentage of the contract value ultimately paid to MWBE firms. 3. Agreeing to monitor the work of the MWBE firms, provide subcontractor and subconsultant payment information to the MWSBE Division, and abide by this policy.
10 Points	An MWBE Participation Plan that meets the following requirements is eligible for 10 Points: <ol style="list-style-type: none"> 1. Utilizing an MWBE firm or firms holding an MWBE Program certification. 2. Meeting the project specific goals for MBE and/or WBE utilization based on the percentage of the contract value ultimately paid to MWBE firms. 3. Agreeing to monitor the work of the MWBE firms, provide subcontractor and subconsultant payment information to the MWSBE Division, and abide by this policy.

TABLE 4
MWBE SCORE OUTCOMES

MWBE Score Outcomes	
Score	Response
2 Points	MWBE Section demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship, but the MWBE Participation Plan is ineligible for 5 or 10 points. Good Faith Effort documentation demonstrating why respondent could not meet the project specific goal is necessary for responsiveness.
5 Points	Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets a portion of the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Does not demonstrate Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship. Good Faith Effort documentation demonstrating why respondent could not meet the project specific goal is necessary for responsiveness.
7 Points	Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets a portion of the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Also demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship. Good Faith Effort documentation demonstrating why respondent could not meet the project specific goal is necessary for responsiveness.
10 Points	Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Does not demonstrate Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship.
12 Points	Submission of an MWBE Participation Plan that demonstrates (1) utilization of a certified MWBE firm, (2) meets the project specific goals for MBE and/or WBE utilization, (3) agreeing to monitor. Also demonstrates Joint Venture, Partnership, and Association; Mentor-Protégé; or apprenticeship or externship relationship.

E. Substitutions or Replacements

It is the intent of this policy to ensure that MWBE firms identified by respondents in their responses are the firm(s) with which the respondents actually do business as prime contractors or consultants. However, the prime may, under specific circumstances and for good cause, substitute or replace the original certified MWBE firm with another certified MWBE firm. Such substitution will only be made with the prior approval of the MWSBE Division based on a written statement of good cause. The substitution or replacement must not result in MWBE participation lower than provided for in the original response and the substitution will not dramatically affect the percentage distribution by MWBE groups.

A prime that substitutes MWBE firms without the prior written approval of the MWSBE Division may be subject to penalties.

The MWSBE Division will not count dollars spent with an unauthorized MWBE firm towards satisfaction of the MWBE goal. The prime will remain responsible for meeting the MWBE goals as stated in the original contract.

1. For purposes of this policy, good cause includes, but is not limited to the following circumstances:
 - a. The listed MWBE firm fails or refuses to execute a written contract;
 - b. The listed MWBE firm fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards;
 - c. The listed MWBE firm becomes bankrupt or insolvent;
 - d. The listed MWBE firm is ineligible to work on public works projects because of suspension and/or debarment proceedings in accordance with City/County ordinances or applicable state law;
 - e. The City or County has determined that the listed MWSBE firm is not a responsible contractor;
 - f. The listed MWBE firm voluntarily withdraws from the project and provides to you written notice of its withdrawal;
 - g. The listed MWBE firm is ineligible to receive MWSBE credit for the type of work required;
 - h. MWBE firm owner dies or becomes disabled with the result that the listed MWBE firm is unable to complete its work on the contract; or,
 - i. Other documented examples of good cause submitted to MWSBE Director justifying the termination of the MWBE firm.
2. Good cause does not exist if the failure or refusal of an MWBE firm to perform work results from bad faith or discriminatory action of the prime; if the prime seeks to substitute, replace, or terminate the MWSBE to self-perform the MWSBE contractor's portion of work, or to substitute another MWSBE or non-MWSBE after contract award without prior written approval from the MWSBE.

3. Before submitting a request to terminate and/or substitute a MWSBE firm, the prime contractor must

give notice in writing to the MWBE firm, with a copy to the MWSBE Director, of its intent to request to terminate and/or substitute, and the reason for the request.

F. Change Orders

The Procurement Services or Purchasing Division or City, County, or Blueprint project manager responsible for the contract work will notify the MWSBE Division of all change orders on contracts with MWSBE participation that alter payment to and work performed by any MWSBE firm. This information should be recorded through the contract compliance process and electronic tracking system. Notification of the MWSBE Division and record in the contract compliance process and electronic tracking system is necessary to maintain accurate data and accurate reporting. Accurate data and accurate reporting ensure narrow tailoring of the MWBE Program.

G. Bad Faith or Dishonesty in the Response

Bad faith or dishonesty in violation of the MWSBE Program in the response to a solicitation will be grounds for penalty as provided under **section VIII.J** below. Examples of bad faith or dishonesty in the response include but are not limited to the following:

1. Knowingly and willfully submitting an MWBE Participation Plan that includes false or misleading information for the purpose of winning a contract.
2. Knowingly and willfully submitting an MWBE Participation Plan that the respondent has no intention of following once the contract has been awarded.
3. Failure to in fact utilize an MWBE firm that was originally listed in a response to a solicitation to satisfy project specific goals, unless the respondent meets the requirements of **Section VIII.E** above.

H. Contract Compliance

The contract compliance process and electronic tracking system will have the ability to produce compliance, labor, and contract management reports to the City, County, and Blueprint, and to other stakeholders.

1. All prime contractors and consultants, subcontractors and subconsultants, and MWBE subcontractors and subconsultants must maintain records for the period prescribed by Florida law after contract performance. All parties must make these records available for inspection by the MWSBE Division and the City, County, and Blueprint.
2. Prime contractors and consultants are required to maintain records of all progress payments that they have made. The MWSBE Division will periodically review and verify these records by obtaining certified statements from subcontractors or subconsultants.

I. Monitoring and Enforcement Mechanisms

The MWSBE Division will monitor and enforce this policy utilizing the following measures:

1. The designated MWSBE Division staff member will attend the post award project meeting, that is, the preconstruction or kickoff meeting. Note: In some instances of professional services contracts, a post award meeting may not be held. At such a meeting, MWSBE Division staff will discuss any MWSBE questions and/or procedures and ascertain any corrections or adjustments in the project schedule.
2. An MWSBE Division staff member determines, based upon the work that the MWBE firm is to perform and the project schedule, a schedule for random on-site monitoring. This on-site monitoring verifies the work performed by those contracted MWBE firms.
3. On site monitoring will be performed as applicable by MWSBE Division staff, construction inspectors, or project managers or their designees. Observations of the onsite visit will be documented on a monitoring checklist form. The form is to be completed, signed and dated by the staff person conducting the site visit.
4. Upon request of MWSBE Division staff, the prime must provide invoices or other documentation of payment to MWBE firms. MWSBE Division staff review the documentation submitted and check for MWSBE participation. For contract compliance purposes, MWSBE Division staff member may contact the MWSBE subcontractor to verify appropriate work and payment.
5. When a project involving MWSBE participation is completed and closed, the responsible department will notify the MWSBE Division and provide any information regarding changes in the scope or size of the project that affect MWSBE participation.
6. Any additional fact-finding which may be deemed necessary due to a lack of proper recordkeeping; failure of the prime contractor to cooperate; failure of MWSBE(s) to cooperate; or visible evidence of unsatisfactory performance; and may warrant further investigation.

J. Penalties and Remedies for Non-Compliance of Prime Contractors or Consultants

Penalties for non-compliance of prime contractors or consultants may include any and/or all of the following:

1. Withholding payment for work not completed on the project until the MWSBE Director determines that the contractor has complied with this policy as provided by contract. The MWSBE Director will set forth the basis for any such withholding in a written notice of non-compliance.
2. If the prime contractor is an MWBE firm, the prime may lose its MWBE Program certification for a period not to exceed three years at the discretion of the MWSBE Director, as set forth in a written notice of non-compliance.
3. If the MWSBE Director determines that evidence exists indicating a violation in a response as described under Section VIII.G above, the MWSBE Director will issue a written notice of non-compliance and may recommend that the City Procurement Services Division or County

Purchasing Division disqualify a respondent from further consideration for award.

4. If the MWSBE Director determines that evidence exists indicating that fraud or other unlawful activity has been committed by a certified MWSBE or majority prime contractor, such as falsely reporting the utilization of MWBE firms; or by an individual or firm attempting to benefit from or participate in the MWSBE Program, through fronting activity, false representation of a commercially useful function (CUF), or other fraudulent or unlawful activity, the matter will be referred to the appropriate legal authorities for prosecution and the City, County, or Blueprint Attorney's Office will be notified as appropriate. In the event that a conviction or guilty plea is obtained stemming from such criminal prosecution, the MWSBE Director will issue a written notice of non-compliance and recommend that the Procurement Services Manager or Purchasing Director initiate procedures to bar or suspend the entity from participation in City, County, or Blueprint contracts.
5. If the MWSBE Director determines that evidence exists indicating non-compliance that does not rise to the level of fraud or other unlawful activity by a certified MWSBE or majority prime contractor, the MWSBE Director will issue written notice of the non-compliance and make a recommendation to the Procurement Services Manager and/or Purchasing Director to initiate procedures to bar the firm and its principals from participation in City, County, or Blueprint contracts.

K. Notice of Non-compliance Right of Appeal

1. A prime contractor or consultant in receipt of a written notice of non-compliance will have the right to appeal. Prime must file an appeal in writing to the Office of Economic Vitality Director within seven (7) business days of receipt of the written notice of non-compliance from the MWSBE Director. Failure to file a timely appeal will be considered a waiver of the contractor or consultant's right to appeal the decision of the MWSBE Director.
2. The written appeal will indicate reason(s) and provide additional information, if appropriate, as to why the business believes the notice of non-compliance was issued in error.
3. The MWSBE Division will provide a written response acknowledging receipt of the correspondence to the business within seven (7) business days upon receipt of the formal appeal.
4. The Office of Economic Vitality Director will review the appeal and render a written final decision within thirty (30) calendar days of receipt of the formal appeal. This review by the Office of Economic Vitality Director is the final step available in the administrative process for an appeal of a notice of non-compliance.

IX. SBE PROGRAM

A. Objective

The City, County, and Blueprint intend to afford maximum utilization of MWSBE firms in all aspects of procurement activity and to award contracts with MWSBE participation consistent with the goals contained herein. A race- and gender-neutral program promotes the utilization of all SBEs, including MBE/SBE, and WBE/SBE firms in City, County, and Blueprint contracts.

This Small Business Enterprise Program benefits the City, County, and Blueprint by: (a) promoting competition in City, County, and Blueprint contracting; and (b) promoting economic growth and development in the Market Area. The small business standards set at 200 or fewer employees and a firm net worth of under \$5 million are reasonably reflective of business size in the Tallahassee Market Area.

The program will meet its objectives using a combination of the methods below. City Procurement Services and County Purchasing Divisions may schedule a solicitation development meeting including the MWSBE Division to identify whether a particular solicitation may be advertised as an SBE, including MBE/SBE, and WBE/SBE reserved solicitation or unbundled and advertised as multiple solicitations.

B. Reserved Projects

1. Where feasible, the City, County, and Blueprint may reserve contracts valued at \$150,000 or less for competition among only certified SBE firms.
2. If no SBE firms respond to a solicitation for reserved projects or the responses submitted are deemed too high or unreasonable based upon the nature of the service or prices for similar services in the local Market Area, then all responses will be rejected, and the project will be re-advertised in the normal manner to all prospective respondents.

C. Unbundling

The City, County, and Blueprint, where feasible, may “unbundle” projects or separate large projects into smaller projects which may be more suitable for small business participation. The MWSBE Division will review selected solicitations to determine whether portions of the project could be unbundled and advertised separately as part of the solicitation development meetings arranged by the City Procurement Services and County Purchasing Divisions. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. The MWSBE Division will also monitor whether federally funded projects may be unbundled and advertised through separate solicitations. Similarly, the MWSBE Division will encourage prime contractors or consultants to subcontract to facilitate participation by small businesses. The MWSBE Division will assist the prime contractors or consultants in identifying portions of work which may be unbundled and subcontracted to SBE firms, including MBE/SBE and WBE/SBE

X. MENTOR-PROTÉGÉ AND JOINT VENTURE, PARTNERSHIP, AND ASSOCIATION

The City, County, and Blueprint encourage Mentor-Protégé relationships and Joint Venture, Partnership, and Association to afford prime contracting and consulting opportunities for MWBE firms on City, County, and Blueprint projects. Where applicable, Mentor-Protégé relationships and Joint Ventures, Partnerships, and Associations will be worth 2 points towards a respondent's MWBE Score.

A. Mentor-Protégé Relationship

A Mentor-Protégé relationship exists when an experienced company, firm, or individual (Mentor) provides assistance and training to an MWBE firm (Protégé). The Mentor-Protégé relationship can range from technical or management assistance to the creation of a new agreement or jointly owned firm. No firm will be penalized based upon its participation or nonparticipation in a Mentor-Protégé Program.

1. The Protégé in any proposed Mentor-Protégé relationship must be a certified MWBE firm before application for MWSBE Division approval of the Mentor-Protégé relationship.
2. For purposes of making determinations of business size under this section, the MWSBE Division will not treat Protégé firms as affiliates of Mentor firms, when both firms are participating in an approved Mentor-Protégé Program.
3. The common forms of assistance that a Mentor may provide a Protégé include:

Business Planning	Financial Counseling
Record Keeping	Bonding Technical Assistance
Equipment Utilization	Capital Formation

B. Mentor-Protégé Requirements

The MWSBE Division may approve a Mentor-Protégé relationship in all applicable industries in which Mentor assistance is needed to develop capacity in the Protégé MWSBE firm. A Mentor and Protégé may request MWSBE Division approval of their Mentor-Protégé relationship by submitting annually the Mentor Protégé development plan form. The Mentor-Protégé relationship will initially be limited to three (3) years, with two possible one (1) year extensions, for a maximum of five (5) years. The MWSBE Division will approve in writing for a period of one (1) year from the date of approval Mentor-Protégé relationships that have demonstrated the following requirements:

1. The Protégé must be certified with the MWSBE Division as an MBE, WBE, or SBE firm before entering into a Mentor-Protégée relationship. The Protégé must continue to meet all MWSBE certification criteria to remain eligible for Mentor-Protégé relationship approval.
2. The Mentor and Protégé must be separate firms. Compensation to the Protégé should be relative to the amount of work accomplished rather than an hourly basis.

3. In general, a Mentor may be involved in up to three Mentor-Protégé relationships. A Protégé can only be involved in one Mentor-Protégé relationship.
4. Each year, the Mentor and Protégé will prepare a three-year development plan using the form approved by the MWSBE Division. The development plan will include the following information about the Mentor and Protégé:
 - (a) information on the background and experience of the Protégé owners;
 - (b) the number of and types of personnel;
 - (c) the amount of capital;
 - (d) the number, types and values of equipment;
 - (e) and the amount and types of projects to be pursued
5. The Mentor and Protégé will annually update and submit the Mentor-Protégé development plan to the MWSBE Division, documenting progress of the Protégé in each category and summarize the work accomplished.

C. Monitoring of Mentor-Protégé Relationships

The MWSBE Division will conduct an annual review of each Mentor-Protégé relationship. If the MWSBE Division determines that the Mentor and/or Protégé are not complying with this policy or if the Mentor and Protégé have not submitted their annual Mentor-Protégé development plan form, the MWSBE Division will issue a written notice of noncompliance and the Mentor and Protégé will have seven (7) business days to cure. If the Mentor and Protégé fail to respond to the notice of noncompliance or fail to cure noncompliance, the MWSBE Division will issue written notice of ineligibility to respond to City, County, and Blueprint solicitations as having a Mentor-Protégé relationship.

D. Joint Venture, Partnership, and Association

A Joint Venture is a joint business association—a separate legal entity like a corporation or LLC—consisting of one certified MWBE firm and one non-MWBE firm or two certified MWBE firms formed to carry on a single business activity which is limited in scope and duration. A Joint Venture must include at least one MWBE firm.

A Partnership or Association is a joint business partnership or association that does not require formation of a legal entity separate from its component firms and that consists of one certified MWBE firm and one non-MWBE firm or two certified MWBE firms formed to carry on a single business activity which is limited in scope and duration. A Partnership or Association must include at least one MWBE firm.

E. Joint Venture, Partnership, and Association Requirements

1. In the case of a Joint Venture, Partnership, or Association consisting of one MWBE firm and one non-MWBE firm, as used in this policy, the smaller firm will comprise a minimum of ten (10%) of the association and will receive a share of contract dollars proportionate to the percentage of participation that the smaller firm represents in the Joint Venture, Partnership, or Association. In the case of a Joint Venture, Partnership, or Association consisting only of certified MWBE firms, the ten percent (10%) participation requirement will also apply.
2. When a Joint Venture, Partnership, or Association is proposed, the MWSBE Director will review and approve a signed and completed Joint Venture, Partnership, and Association Affidavit and all contractual agreements regarding a proposed Joint Venture, Partnership, or Association. The MWSBE Director will determine the degree of MWBE participation resulting from the Joint Venture, Partnership, and Association Affidavit and all agreements, which may be credited toward the evaluation of its response to a solicitation. This determination will be based on the clearly defined roles of the Joint Venture, Partnership, or Association partners, sharing of real economic interest, and proportionate control of the ownership and management of the Joint Venture, Partnership, or Association.
3. The Joint Venture, Partnership, or Association will be responsible for meeting project specific goals and complying with all applicable state and local laws, rules, and regulations governing Joint Venture creation, certification, and bidding.
4. The Joint Venture, Partnership, or Association responses to solicitations will include an MWBE section identifying all firms, the percentage ownership of each firm, and clearly defined scopes of services to be provided by each firm in the Joint Venture on the project.
5. For the MWSBE firm to remain eligible for Joint Venture, Partnership, and Association participation, it must continue to meet all MWSBE eligibility criteria contained in this policy.

F. Monitoring of Joint Venture, Partnership, and Association

The MWSBE Division will conduct an annual review of each Joint Venture, Partnership, and Association agreement. If the MWSBE Division determines that the Joint Venture, Partnership, or Association is not following the requirements of this policy, the MWSBE Division will issue a written notice of noncompliance and the Joint Venture, Partnership, or Association will have twelve (12) business days to respond. If the Joint Venture, Partnership, or Association fails to respond to the notice of noncompliance or fails to cure noncompliance, the MWSBE Division will issue written notice of ineligibility to the Joint Venture, Partnership, or Association that it is no longer eligible to respond to City, County, and Blueprint solicitations as a Joint Venture, Partnership, or Association.

G. Notice of Ineligibility Right of Appeal

5. A Mentor and Protégé or Joint Venture, Partnership, or Association in receipt of an MWSBE Division written notice of ineligibility will have the right to appeal. The Mentor and Protégé or Joint Venture, Partnership, or Association must file an appeal in writing to the MWSBE Director

within seven (7) business days of receipt of the notice of ineligibility from the MWSBE Division.

6. The written appeal will indicate reason(s) and provide additional information, if appropriate, as to why the business believes the notice of ineligibility was error.
7. The MWSBE Director will provide a written response acknowledging receipt of the correspondence to the business within seven (7) business days upon receipt of the formal appeal.
8. Failure to file with the MWSBE Director within the prescribed time frame will constitute a waiver of proceedings under this section. The MWSBE Director will schedule a review within thirty (30) calendar days of receipt of the appeal. This review by the MWSBE Director is the final step available in the administrative process for an appeal of a notice of ineligibility.
9. A firm whose appeal has been denied may re-apply six months after final denial notice.

XI. APPRENTICESHIP OR EXTERNSHIP

An apprenticeship or externship program is a tried-and-true approach for preparing workers for jobs – and meeting the business needs for a highly-skilled workforce that continues to innovate and adapt to meet the needs of the 21st century. The City, County, and Blueprint will encourage businesses to use apprenticeships and externships to reduce worker turnover by fostering greater employee loyalty, increasing productivity, and improving the bottom line. Apprenticeships and externships offer workers a way to start new careers with good wages.

Registered apprenticeship programs and externship programs enable employers to develop and apply industry standards to training programs for registered apprentices that can increase productivity and improve the quality of the workforce. Apprentices who complete registered apprenticeship programs are accepted by the industry as journey workers. By providing on-the-job training, related classroom instruction, and guaranteed wage structures, employers who sponsor apprentices provide incentives to attract and retain more highly qualified employees and improve productivity. Apprenticeships and externships can be flexible training strategies and can be integrated into current training and human resource development strategies. Apprentices and externs can be new hires – or businesses can select current employees to join an existing program. Apprenticeships and externships are a good way to reward high-performing entry-level employees and move them up the career ladder within the business.

Significant talent shortages and skill gaps are slowing companies' efforts to expand, innovate, and thrive. Among these challenges:

- An aging workforce of highly-skilled and experienced workers;
- Attracting new and more diverse talent pools;
- Closing gaps in workers' skills and credentials;
- Investing in talent that can keep pace with the latest industry advances; and
- Implementing workforce training models that effectively develop and “up-skill” talent.

The success of this program requires collaboration among partners – businesses, workforce development intermediaries (such as industry associations or labor organizations), educational institutions, the public workforce system, and other key community organizations. The collaboration requires partners to work together to identify the resources needed, design a program, and recruit apprentices and externs.

A. The Role of Partners

Business Partners – construction and construction-related firms:

1. Identify the skills and knowledge that apprentices and externs must learn
2. Hire new workers, or select current employees, to be apprentices or externs
3. Provide on-the-job training
4. Identify an experienced mentor to work with apprentices and/or externs
5. Pay progressively higher wages as skills increase

6. Can provide related instruction in-house or in partnership with others

Workforce Development Intermediaries - industry association, labor and joint labor-management organization, community-based organization <https://nabtu.org/apprenticeship-and-training/>:

1. Provide industry and/or workforce specific expertise (e.g. curriculum development) to support employers in a particular industry sector
2. Can serve as sponsor of an apprenticeship or externship program, taking responsibility for the administration of the program, thereby reducing the burden on employers
3. Aggregate demand for apprentices, particularly with small- and medium-size employers, that may not have the capacity to develop an apprenticeship program on their own
4. Can be the provider of related instruction and supportive services as appropriate

Educational Institutions - 4-year college, community college, career and technical education, such as Lively Technical College and Tallahassee Community College:

1. Develop curriculum for related instruction.
2. Can serve as sponsor of an apprenticeship or externship program, taking responsibility for the administration of the program, thereby reducing the burden on employers
3. Deliver related instruction to apprentices and externs
4. Can provide college credit for courses successfully completed
5. Aggregate demand for apprentices and externs

State Apprenticeship Agency – Florida Department of Education
<https://www.doleta.gov/OA/occupations.cfm>:

1. Provide technical assistance and support to new sponsors
2. Answer questions about the apprenticeship model
3. Guide the partners through the steps to develop and register a program
4. Connect businesses with training providers
5. Advise partners on sources of funding to support apprenticeships

B. Core Components

Business Involvement.

Employers are the foundation of every apprenticeship or externship program and the skills needed by their workforce are at the core. Businesses must play an active role in building the program and be involved in every step in designing the apprenticeship or externship.

On-the-Job Training.

Every program includes structured on-the-job training. Apprentices and externs receive hands-on training from an experienced mentor at the job site for typically not less than one year. On-the-job training is developed through mapping the skills and knowledge that the apprentice or extern must learn over the course of the program in order to be fully proficient at the job.

C. Apprenticeship or Externship Requirements and Exceptions

When responding to a solicitation for a construction, design-build, or similar project, in order to receive 2 points as described in section VIII.D, respondent must certify that:

1. The respondent or its subcontractors or subconsultants participate or will participate in an apprenticeship program that is registered with the Florida Department of Education or the United States Department of Labor; or
2. Respondent or its subcontractors or subconsultants participate or will participate in an externship program offered by an educational institution or workforce development intermediary; or
3. The respondent avers that at the time the respondent executes a construction contract, respondent or its subcontractors or subconsultants will be participating in an apprenticeship program that is approved by the Florida Department of Education or the United States Department of Labor.

This program will not apply to a subcontractor or subconsultant that is an MWBE firm if the compensation to be paid under the applicable subcontract for labor costs is less than \$1,000,000

D. Required Documentation, Noncompliance, and Reporting

1. *Required documentation.* The prime contractor or consultant must prepare and submit, on a quarterly basis for the duration of the construction contract, accurate and timely records identifying the name, address, trade classification, whether the worker is an apprentice or extern, the labor hours of all workers used by the prime and each subcontractor or subconsultant on the construction project, and the cumulative number of hours worked on the project to date by apprentices. If the apprentice or extern is participating in an apprenticeship or externship program offered by qualified workforce development intermediary or educational institution, quarterly documentation must include documentation required by the workforce development intermediary or educational institution. The prime must require that each of its subcontractors or subconsultants prepare and maintain, for submittal by the prime to the City, County, or Blueprint, accurate and timely records identifying the name, address, trade classification, and labor hours for apprentices and externs used by the subcontractors or subconsultants on the construction project.
2. *Noncompliance.* Failure of a prime contractor or consultant to comply with the requirements of this policy may subject the contractor to all remedies available to the City, County, or Blueprint at

law, including but not limited to debarment or suspension of the contractor from consideration for the award of future contracts.

3. *Reporting.* With the help of City, County, and Blueprint staff, the MWSBE Division will annually prepare a report that includes the total dollar value of awards of construction projects, the number of apprentices hired for the construction projects, the number of apprentices or externs working on construction projects, the number of hours worked by apprentices on the construction projects, and the total labor hours expended on the construction projects.

XII. COUNTING MWSBE UTILIZATION

The following guidelines clarify how to count SBE utilization and how to count MBE and WBE utilization for both project specific goals and overall aspirational MBE and WBE goals for various goods and services.

A. Counting MWSBE Utilization Generally (Construction, Architecture & Engineering, Professional Services, and Other Services)

1. When an MWSBE firm participates in a contract, the City, County, and Blueprint will count only the value of the work actually performed by the MWSBE firm.
2. When an MBE or WBE firm is the prime contractor or consultant, the goal is fulfilled for its certification designation. However, the other project specific goal must also be fulfilled. For example, if a certified MBE firm responds to a solicitation as a prime contractor or consultant, the MBE goal is fulfilled. The MBE prime remains responsible for meeting the remaining WBE goal.
3. The MWSBE Division will count the entire portion of a contract that is performed by an MWSBE firm itself. The MWSBE Division will include the cost of supplies and materials obtained by the MWSBE firm for the work of the contract, including supplies purchased or equipment leased by the MWSBE firm (except supplies and equipment the MWSBE firm purchases or leases from a prime contractor or its affiliate).
4. The MWSBE Division will count the entire amount of fees or commissions that an MWSBE firm charges for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided the MWSBE Division determines that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
5. The MWSBE Division will count payments to an MWSBE firm only if the MWSBE is performing a commercially useful function (CUF) on that contract.
6. MBE and WBE prime contractors must perform a CUF of 30 percent of the total cost of the contract with their own forces to meet an applicable MBE or WBE goal.
7. If an MWSBE firm does not perform or exercise responsibility for at least 51 percent of the total cost of its subcontract with its own work force, or 30 percent if the firm is an MBE or WBE firm acting as a prime contractor, or the MWSBE subcontracts a greater portion of the work of a

contract than would be expected on the basis of normal industry practice for the type of work involved, the MWSBE Division must presume that the firm is not performing a CUF.

8. MWSBE firms are discouraged from subcontracting all or a majority of their work to another firm or firms. The MWSBE Division will not count the work of an MWSBE firm whose sole intent is collection of a broker's fee or commission and whose employees perform none of the direct labor or service activities specified in the contract.
9. The MWSBE Division will not count any work that an MWSBE firm subcontracts back to:
 - a. The prime contractor or consultant, either directly or through any other company or firm owned and/or controlled by the prime contractor, or;
 - b. Any firm with which the MWSBE firm has a present business.
10. In the event that a first tier MWSBE firm acting as a subcontractor or subconsultant (in a direct contractual relationship with a prime) contract work to a second tier subcontractor or subconsultant (sub-sub), the MWSBE Division will only count the work if the first tier subcontractor or subconsultant must perform a CUF with 51 percent of its own workforce.
11. When an MBE or WBE firm subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward MWBE project specific or aspirational goals only if the subcontractor is itself an MWBE firm.
12. When an MBE or WBE firm performs as a participant in a Joint Venture, Partnership, or Association, the MWSBE Division 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 MBE or WBE firm performs with its own forces.
13. In calculating overall utilization, the MWSBE Division will not count the participation of an MWSBE firm toward until the MWSBE firm has been actually paid for the work.

B. Counting Materials & Supplies

1. If the materials or supplies are directly obtained from a MWSBE manufacturer, the MWSBE Division will count 100 percent of the cost of the materials or supplies. For purposes of this paragraph, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. If the materials or supplies are purchased from an MWSBE regular dealer, the MWSBE Division will count 60 percent of the cost of the materials or supplies. However, this amount cannot be used to satisfy more than 60 percent of any applicable MWBE goal.
2. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this policy.
3. With respect to materials or supplies purchased from an MWSBE firm which is neither a manufacturer nor a regular dealer, the MWSBE Division will count the entire amount of fees or

commissions charged for assistance in the procurement of the materials and supplies or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the MWSBE Division determines that the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. The MWSBE Division will not count any portion of the cost of the materials and supplies themselves.

C. Counting Trucking/Transport

1. The MWSBE firm must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement.
2. The MWSBE firm must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
3. The MWSBE firm receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
4. The MWSBE firm may lease trucks from another MWSBE firm, including an owner-operator who is certified as a MWSBE. The MWSBE firm who leases trucks from another MWSBE firm receives credit for the total value of the transportation services the lessee MWSBE firm provides on the contract.
5. The MWSBE firm may also lease trucks from a non-MWSBE firm, including from an owner-operator. The MWSBE firm who leases trucks from a non-MWSBE firm is entitled to credit for the total value of transportation services provided by non-MWSBE lessees not to exceed the value of transportation services provided by MWBE-owned trucks on the contract. Additional participation by non-MWBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.
6. A lease must indicate that the MWSBE firm has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the MSWBE firm, so long as the lease gives the MWSBE firm absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the MWSBE firm.

D. Counting Joint Venture, Partnership, and Association

1. Joint Venture, Partnership, and Association respondents will demonstrate that at least one partner to the Joint Venture Partnership, and Association is an MBE or WBE firm, as applicable to the project specific goal, and that such partner is responsible for a clearly defined portion of the work to be performed, will be performing a commercially useful function under the contract, and shares in the ownership, control, management, responsibilities, risks, and profits of the Joint Venture, Partnership, and Association.
2. This demonstration must be verified by pertinent documents and sworn statements. The MWSBE

Division may review the demonstration at the time a response to a solicitation is submitted or before the contract award.

3. For the purpose of tentatively awarding credit towards a respondent meeting project specific goals, the MWSBE Division may consider a proposed partnership, that is not yet legally formed, and which appears in all matters except legal formation as a Joint Venture. However, such partnership will become a legal organization before the Joint Venture enters a contract with the City, County, or Blueprint. Partnerships or Associations need not form a separate legal entity to receive credit.
4. The MWSBE Division may award credit towards a respondent meeting project specific goals calculated as the portion of the total dollar amount of a proposed contract equal to the percentage of the ownership and control held by the qualifying MBE or WBE firm as applicable to the project specific goals in the solicitation.

E. Counting Mentor-Protégé

1. Respondents in a Mentor-Protégé relationship will demonstrate that the Protégé is an MBE or WBE firm, as applicable to the project specific goal, and that the Protégé is responsible for a clearly defined portion of the work to be performed in terms of a percentage of the contract value, will be performing a commercially useful function under the contract, and is receiving training and education in the respondent's industry standards through the Mentor-Protégé relationship.
2. This demonstration must be verified by submission of an MWBE Participation Plan and sworn statements. The MWSBE Division may review the demonstration at the time a response to a solicitation is submitted or before the contract award.
3. The MWSBE Division may award credit towards a respondent meeting project specific goals calculated as the portion of the total dollar amount of a proposed contract equal to the clearly defined portion of the work to be performed.

XIII. REPORTING

The effectiveness of the MWBE Program and SBE Program will be measured by a review of data indicating dollars spent with MWSBE firms as a percentage of the total spending of the City, County, and Blueprint. Program effectiveness will also be measured by efforts of City, County, and Blueprint staff to provide prime contracting opportunities for MWSBE firms. The following activities will be completed to ensure the effective tracking of these efforts:

A. Prime Contractor and Consultant Responsibility

Each prime contractor or consultant will continuously maintain, compile, and make available to the MWSBE Division each month during the life of a contract data relating to its use of subcontractors or suppliers, both MWSBE firms and non-MWSBE firms, on City, County, Blueprint, and federally funded projects. This information will include without limitation the following information for each of the subcontractors and suppliers utilized by the Contractor on the project:

1. A description of the type of work, by applicable code(s), of contracts awarded to subcontractors and/or suppliers;
2. The dollar value of contracts paid to MWSBE or DBE firms;
3. Contact information for the subcontractors, subconsultants, and suppliers; and
4. A description of progress towards fulfilling any project specific MWBE goal.

B. Project Closeout

At the close of every project, all prime contractors and consultants will be asked to provide a Final Pay Affidavit documenting all information relating to its use of subcontractors, subconsultants, or suppliers.

C. Purchasing Card Data

The purchasing card vendor will supply expenditure data with both MWSBE certified firms and non-MWSBE certified firms. This data will automatically populate into the contract compliance process and electronic tracking system. City and County information technology or procurement employees will develop a method of securing an import file that extracts the data from City and County servers and uploads the data into the contract compliance process and electronic tracking system. Dollars spent with MWSBE firms will be counted in accordance with Section XII above.

D. Annual Report

The MWSBE Division will prepare an annual report based on the information submitted by each prime contractor or consultant and information from the City Procurement Services Division and County Purchasing Division regarding the use of MWSBE firms as prime contractors or consultants. The annual report will identify awards of City, County, and Blueprint contracts to MWSBE firms, prime use of MWSBE firms, prime progress in achieving project specific goals, and other MWSBE information.

XIV. MBE, WBE, AND SBE FIRM CERTIFICATION

An eligible MBE firm is a business concern that is both owned and controlled by minorities. An eligible WBE firm is a business concern that is both owned and controlled by women. This means that minorities or women must own at least fifty-one percent (51%) of the business and that they must control the management and daily operations of that business. An eligible SBE firm is a business concern owned by a person who is neither a minority nor a woman meeting the criteria in **Section XIV.C** below.

A. Minority and Women Eligibility Standards

1. Minority Group Membership

Bona fide minority group membership will be established on the basis of the individual's documented claim that they are a member of a minority group as defined in these procedures and is so regarded by that particular minority community and is a United States citizen or lawfully admitted resident alien. However, the MWSBE Division is not required to accept this claim if it determines the claim to be invalid as discussed below.

2. Controlled by Minorities or Women

An eligible minority or woman owned business enterprise will be an independent business. The ownership and control by minorities or women will be real, substantial, and continuing, and will continue beyond the pro forma ownership of the firm as reflected in its ownership documents. The minority or women owners will enjoy the customary incidences of ownership and will share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance of the firm rather than form or arrangements.

Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as an MWBE. In determining whether a potential MWBE is an independent business, the Minority, Women, and Small Business Enterprise Division will consider all relevant factors, including the date the business was established, the adequacy of its resources for the type of work specified, and the degree to which financial, equipment leasing, and other relationships with non-minority firms vary from established industry practice.

3. Operational Control

The primary consideration in determining operational control and the extent to which the minority person or woman actually operates the business will rest upon the peculiarities of the industry of which the business is a part.

Accordingly, in order to clarify the level of operational involvement of the minority person or woman in the business to be deemed as an MWBE firm, the following examples are not all inclusive:

- a. The minority person or woman will have experience in the industry for which certification is sought.
- b. The minority person or woman will demonstrate that basic decisions pertaining to the daily

operation of the business are independently made.

- c. The minority person or woman will technical competence in the industry for which certification is sought. Technical competence in this sense does not mean expert knowledge. It does mean the minority person or woman should have a working knowledge of the technical requirements of the business needed to operate in the industry.

4. Managerial Control

Control in this instance means that the minority person or woman has the demonstrable ability to make independent and unilateral business decisions necessary to guide the future and destiny of the business. Corporate bylaws and partnership agreements or other agreements should be free of restrictive language diluting the control of the minority person or woman, thus preventing or restricting him or her from making those decisions that affect the destiny of the business. Agreements for support services are permitted as long as the owner's power to manage the company or firm is not restrictive or impaired.

A minority person or woman must produce documentation demonstrating managerial control. A minority person or woman can demonstrate managerial control in any number of ways. This list below is not exhaustive; the MWSBE Division may accept documents demonstrating managerial control that are not on the list below. The MWSBE Division will accept the following examples of documentation of managerial control:

- a. Authority and responsibility to sign payroll checks and letters of credit.
- b. Authority for negotiations and signature responsibility for insurance and/or bonds.
- c. Authority for negotiations and signature services, and/or
- d. Authority for contractual negotiations with signature responsibility.

5. Non-Minority Management

If the owners of the firm who are not minorities or women are disproportionately responsible for the operation of the firm, then the firm is not an MBE or WBE firm within the meaning of this policy. Where the actual management of the firm is contracted out to individuals who are not minorities or women, those persons who have, for example, the ultimate power to hire and fire, for the purpose of this program, will be considered as controlling the business. Therefore, a firm with non-minority management is ineligible for MBE or WBE certification. Such a firm may be considered an SBE firm.

B. Certification Process Procedures

1. The MWSBE Division will be solely responsible for certification of minority, women and small businesses. This certification will include but is not limited to:
 - a. Documentation of property and business income.

- b. Documentation of appropriate professional certification and/or registrations.
 - c. Documentation of minority status claimed, which may include copies of Driver's License, Voter Registration Card, Birth Certificate, etc. The appropriate department's engineering staff will be responsible for pre-qualifying construction contractors, if applicable.
 - d. City/County business licenses/business tax certificate, if applicable.
 - e. Bank/credit references for the company or firm.
 - f. Last two years federal income and state sales tax returns and/or current Financial Statement.
 - g. Copy of incorporation articles/list of officers.
 - h. Notarized affidavit attesting to minority or non-minority female status.
 - i. Inventory of major equipment, if applicable
 - j. Presence on State of Florida or other MWBE lists, if applicable.
2. Once an applicant has submitted the application and all appropriate supporting documentation, certification review will be completed within forty-five (45) days and the appeal procedures as outlined in Section XI.H below will apply.

C. Certification Criteria

For Certification as an MBE, WBE, or SBE firm, the applicant must meet all of the criteria indicated in the chart below. Businesses may be Certified as follows: (1) MBE firm; (2) WBE firm; (3) SBE firm; (4) MBE/SBE firm; or (5) WBE/SBE firm. Businesses that qualify for certification as an MBE or WBE firm will be certified as an MBE firm.

Table 5 on the next page lists MBE, WBE, and SBE Certification Eligibility Criteria.

TABLE 5
MBE, WBE AND SBE CERTIFICATION ELIGIBILITY CRITERIA

MBE, WBE and SBE Certification Eligibility Criteria				
		Type of Certification (must meet ALL criteria marked X)		
		MBE	WBE	SBE
1.	Majority Owner(s) must be a Minority or Minorities who manage and control the business. In the case of a publicly owned business, at least 51% of all classes of the stock, which is owned, will be owned by one or more of such persons.	X		
2.	Majority Owner(s) must be a Woman or Women who manage and control the business. In the case of a publicly owned business, at least 51% of all classes of the stock, which is owned, will be owned by one or more of such persons.		X	
3.	Majority Ownership in the business will not have been transferred to a woman or minority, except by descent or a bona fide sale within the previous 2 years.	X	X	
4.	Majority Owner(s) must reside in the four-county Market Area of Leon, Gadsden, Jefferson, or Wakulla Counties.	X	X	X
5.	Majority Owner(s) must be a United States citizen or lawfully admitted permanent resident of the United States.	X	X	X
6.	Business must be legally structured either as a corporation, organized under the laws of Florida, or a partnership, sole proprietorship, limited liability, or any other business or professional entity as required by Florida law.	X	X	X
7.	Business must be Independent and not an Affiliate, Front, façade, broker, or pass through company or firm.	X	X	X
8.	Business must be a for-profit business concern.	X	X	X
9.	Business must be currently located within the four-county Market Area of Leon, Gadsden, Jefferson, or Wakulla Counties.	X	X	X
10.	Business must have all licenses required by local, state, and federal law.	X	X	X
11.	Business must currently be licensed and engaging in commercial transactions typical of the field, with customers in the Local Market Area other than state or government agencies, for each specialty area in which Certification is sought. Further, if a Supplier, business must be making sales regularly from goods maintained in stock.	X	X	X
12.	Business must have expertise normally required by the industry for the field for which Certification is requested.	X	X	X
13.	Business must have a business net worth no more than \$5 million.	X	X	X
14.	Business must employ 200 or fewer full- or part-time employees, including leased employees.	X	X	X
15.	Business must have been established for a period of one (1) calendar year prior to submitting its application for MWSBE certification.	X	X	X
16.	Business must have a record of satisfactory performance on no less than three (3) projects, in the business area for which it seeks certification, during the past 12 calendar months.	X	X	X

D. Reciprocity

Upon written request and submission of required documentation, the MWSBE Division will grant reciprocal MBE, WBE, or SBE certification to qualifying applicant firms. The MWSBE Division will grant reciprocal MBE or WBE certification to applicant firms domiciled in the Market Area (Leon, Gadsden,

Jefferson, and Wakulla) that hold current MBE or WBE certification with the Florida Department of Management Services Office of Supplier Diversity (OSD). The MWSBE Division will grant reciprocal SBE certification to applicant firms domiciled in the Market Area that hold current Veteran-owned (VBE) certification with OSD. The term of reciprocal MBE, WBE, or SBE certification will follow the term of the applicant firm's certification with OSD.

The applicant firm will provide the MWSBE Division with documentation authenticating its OSD certification and expiration dates. The MWSBE Division reserves the right to request any additional documentation to verify or clarify the authenticity of the information provided.

An applicant firm that is currently under suspension or debarment by any governmental entity or that has been denied certification by the MWSBE Division in the six (6) months preceding its request for reciprocal certification may not use this reciprocity policy to circumvent the imposed sanctions or actions of the governmental entity.

E. Certification Review

Within forty-five (45) days of the completed application affidavit and required supporting documentation MWSBE Division staff will notify the applicant of approval or denial of certification. Applicants approved for certification will be assigned a certification number and notified by email. Certified MWBEs will be listed in the Online MWSBE Directory.

F. Recertification

1. The MWSBE Division will send a Recertification Application link via email from B2GNow to the appropriate MWSBE firm at least thirty (30) days prior to the certification expiration date. The MWSBE Recertification Application link will be accompanied by appropriate instructions.
2. When the online Recertification Application is received by OEV, it is reviewed for comparison with the content of the original application. All appropriate changes are noted in the online MWSBE Directory. MWSBE Recertification is valid for two years.
3. If there has been a change in ownership interest and/or control, appropriate supporting documentation will be required for continued certification.

A company or firm that fails to submit all appropriate information by the anniversary date of certification will be deemed to have abandoned its application for recertification.

G. Denial of Recertification

If the review by the MWBE Division indicates that the previously certified MWSBE firm no longer meets eligibility standards as defined in these procedures for recertification as a MWSBE firm the application for recertification will be denied.

The MWSBE Division will notify the MWSBE firm by certified mail that the staff review has indicated that the business is no longer eligible for certification, and that the applicant will have the right to appeal such

recertification denial in accordance with **Section XIV.H** below.

H. Decertification

The MWSBE Division reserves the right to revoke the certification of a business at any time such action is deemed necessary. Grounds for revocation of certification will include but are not limited to the following:

1. Submission of fraudulent information as part of the certification process.
2. Failure to promptly report any change in ownership or control of the firm.
3. Failure to promptly report any name, address or phone number changes of the firm.
4. Failure to respond to request for information from the MWSBE Division.
5. Fraudulent representation or participation on City or County projects or contracts.
6. Submittal of fraudulent information or documentation to the MWSBE Division as may be requested or as part of the normal procurement process.
7. Revocation of certification by the State of Florida, Department of Management Services or the State of Florida Department of Transportation.

I. Certification Denial Right of Appeal

1. Any business denied certification, recertification, or decertified by the MWSBE Division will have the right to appeal such denial. Notice of appeal will be filed in writing to the MWSBE Director within seven (7) business days of receipt of the notice of denial from the MWSBE Division.
2. The Notice of Appeal will indicate the reason(s) and provide additional information, if appropriate, as to why the business believes the denial was in error.
3. The MWSBE Director will provide a written response acknowledging receipt of the correspondence to the business within seven (7) business days upon receipt of the formal appeal.
4. Failure to file with the MWSBE Director within the prescribed time frame will constitute a waiver of proceedings under this section. The MWSBE Director will schedule a review within thirty (30) calendar days of receipt of request for appeal and issue a final written decision. This review by the MWSBE Director is the final step available in the administrative process for an appeal of denial of original certification, recertification, or decertification.
5. A firm whose application has been denied may re-apply six months after final denial notice.

J. Review

The policies promulgated under this regulation will be reviewed and evaluated on an annual basis. A full sunset review will be conducted within five (5) years of the adoption of these policies.

XV. MBE, WBE AND SBE FIRM GRADUATION

- A. Certified MWSBE firms will graduate from MWSBE certification when the firm net worth exceeds \$5 million or they exceed 200 employees.
- B. Any interested party may request an evaluation of an MWSBE firm. The MWSBE Division will evaluate the firm at the time of its recertification. If the MWSBE Division determines that the firm has exceeded the size standards described above, the following provisions will apply:
 1. Notification. The MWSBE Division will issue a letter of notification to the firm notifying the firm of its graduation. The letter of notification will set forth findings for every material issue relating to the basis of the program graduation with specific reasons for each finding based on facts and in accordance with law, regulations, and this policy.
 2. Appeal. The firm will be allowed 45 days from the date of the letter to appeal the decision. To appeal the decision, the company or firm must submit in writing to the MWSBE Division information explaining why the graduation is not warranted. Upon receipt of the appeal, the MWSBE Division will notify the firm in writing of the receipt of the appeal.
 3. Review. If the firm appeals its graduation within the requisite 45 days, the Director of PLACE will review the appeal. The Director of PLACE will issue a written decision within 15 days of receipt of the appeal via USPS or certified mail.
 4. After the effective date of a firm's graduation as provided for herein, a firm is no longer a certified MWSBE firm. However, the firm remains obligated to complete previously-awarded contracts and/or subcontracts, including any priced bids that may be exercised.

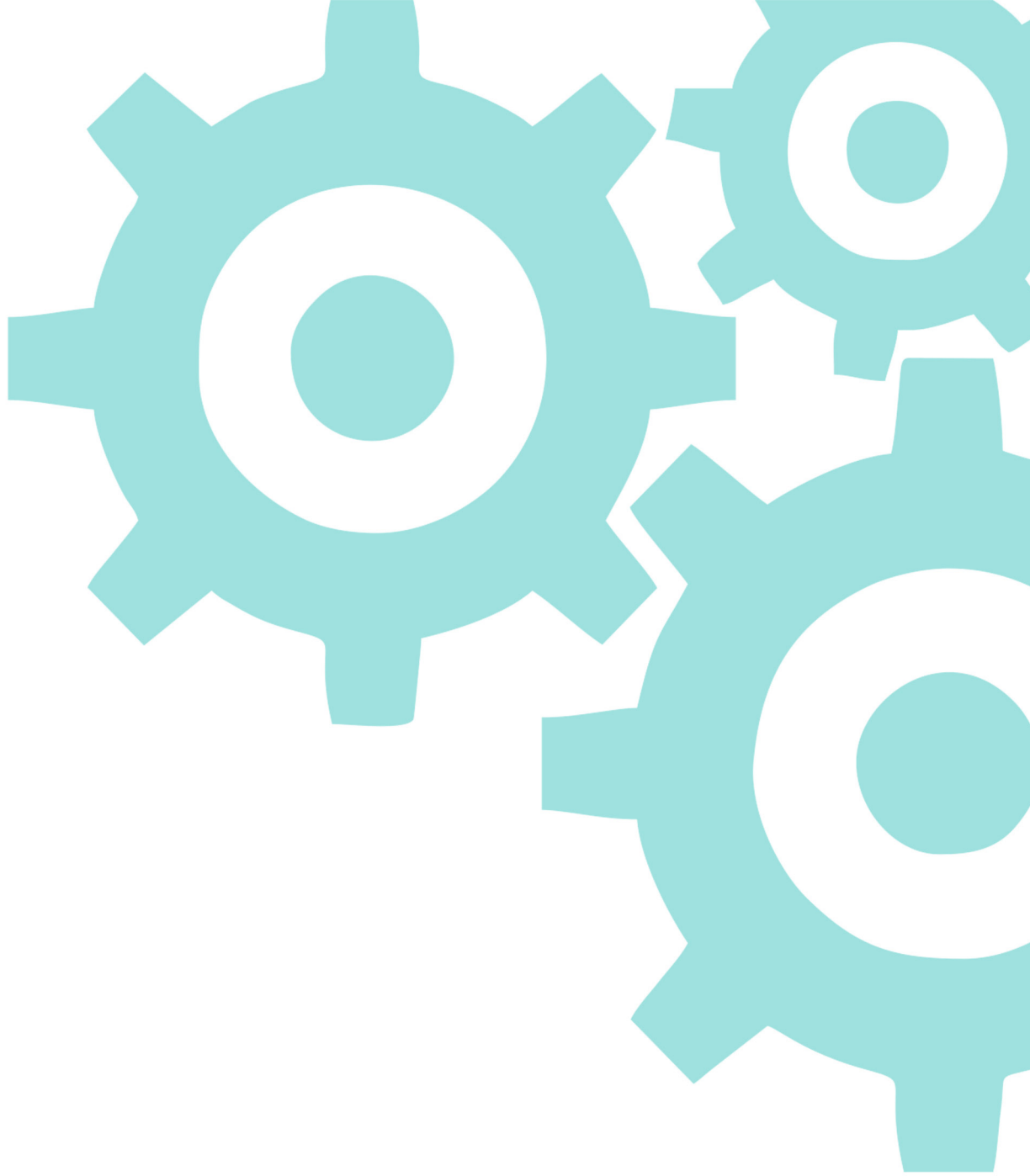
XVI. CAPACITY BUILDING COMPONENT

To ensure that opportunities to participate are available to the maximum number of interested, available, and qualified businesses, the MWSBE Division will develop and implement a comprehensive capacity building component (CBC) that includes outreach and technical assistance. The CBC is aimed at increasing business participation in the City's, County's, and Blueprint's contracting and procurement process. This program may include, without limitation, any or all of the following:

- A. Outreach and information dissemination;
- B. Technical assistance program to prepare MBE, WBE, and SBE firms to compete for specific contracts;
- C. Implement and monitor a supportive services program to develop and improve immediate and long-term business management, record keeping and financial and accounting capability for businesses;
- D. Develop and provide services to help businesses improve their long-term development, increase their opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve self-sufficiency;
- E. Establish a program to assist new, start-up or emerging businesses; and assist businesses in developing their capability to utilize emerging technology and conduct business through electronic media.
- F. Establish a method of evaluating MBE, WBE, and SBE firms and prime contractors and consultants in coordination with the City Procurement Services Division, County Purchasing Division and City, County, and Blueprint project managers to provide feedback on performance and evaluate firm capacity.

XVII. FORMS

OEV will work with the City Procurement Services Division and County Purchasing Division to standardize all bid solicitation forms, requests for proposals, construction contracts, work order agreements and professional service contracts to include a statement referring to the MWSBE policy and the expected level of MWSBE participation.



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