

**The School Board of Broward County, Florida
Procurement and Warehousing Department
7720 W. Oakland Park Blvd., Suite 323
Sunrise, Florida 33351**

(754) 321-0505

Supplier Diversity Outreach Program Guidelines

General:

SBBC's Supplier Diversity Outreach Program is designed to help small, minority, and women business enterprises (S/M/WBE) participate in school district procurement and contract activities. The purpose of the program is to spur economic development and support S/M/WBEs to successfully expand in the tri-county marketplace.

SBBC has adopted School Board Policy 3330 - Supplier Diversity Outreach Program. The provisions of the Policy shall apply to all competitive solicitations for construction, professional services, commodities, and other contractual services, and any resulting contract documents including change orders, and amendments.

Failure to comply with the solicitation requirements or to submit any of the information required herein shall result in a finding that a response to an RFQ is non-responsive and will result in rejection of the response.

Information:

School Board Policy 3330 - Supplier Diversity Outreach Program (SDOP) and the SDOP Standard Operating Procedures established pursuant to that Policy serve the school district's compelling interest to remedy the various ongoing effects of marketplace discrimination against S/M/WBEs that are ready, willing, and able to sell goods and services to SBBC. SBBC encourages each awardee to make every reasonable effort to include S/M/WBE participation on any contract award under the RFQ.

"Notice to Proceed" ("NTP") and "Authorization to Proceed" ("ATP") are used interchangeably for the purposes of this document and other SDOP specific forms and references.

"Subcontractor" and "Subconsultant" are used interchangeably for the purposes of this document and other SDOP forms and documents.

"Firm", "Contractor" and "Consultant" are used interchangeably for the purposes of this document and other SDOP specific forms and references.

Small/Minority/Women Business Enterprise (S/M/WBE) Certifications:

Any participation by firms not certified by SBBC at the time of Qualifications Statement will not count in the RFQ evaluation process in the Contractor S/M/WBE Participation Category. However, firms that are certified by SBBC after the Qualifications Statement's tentative award will count towards the Contractor's S/M/WBE project goal attainment. The Contractor shall contact SDOP to provide the updated information.

For information on S/M/WBE Certification, or to obtain information on locating certified S/M/WBEs, contact SBBC's Supplier Diversity Outreach Programs at 754-321-0505 or <http://www.browardschools.com/sdop>.

A "Minority Business Enterprise (MBE)" is defined as any legal entity, except a joint venture, that is organized to engage in for-profit transactions, which is certified as being at least fifty-one percent (51%) owned, managed, and controlled by one (1) or more minority group members, and that is ready, willing, and able to sell goods or services that are purchased by SBBC. The enterprise annual revenues and number of employees shall be no greater than fifty percent (50%) of the small business size standards for its industry as established by the U.S. Small Business Administration and meet the significant business presence requirements in accordance with School Board Policy 3330.

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A “Women Business Enterprises (WBE)” is defined as any legal entity, except a joint venture, that is organized to engage in for-profit transactions, at least fifty-one percent (51%) owned, managed, and controlled by one (1) or more non-minority, women individuals that are lawfully residing in, or are citizens of, the United States or its territories, that is ready, willing, and able to sell goods or services that are purchased by SBBC and that meets the significant business presence requirements in accordance with School Board Policy 3330. The enterprise annual revenues and number of employees shall be no greater than fifty percent (50%) of the small business size standards for its industry as established by the U.S. Small Business Administration; and meets the significant business presence requirements in accordance with School Board Policy 3330.

A “Minority/Women Business Enterprise (M/WBE)” is defined as a firm that is certified as either a minority business enterprise or as a women business enterprise and which is at least fifty-one percent (51%) owned, managed, and controlled by one (1) or more minority group members and/or women, and that is ready, willing, and able to sell goods or services that are purchased by the school district.

An “Emerging M/WBE” is defined as a certified M/WBE firm whose annual revenues and number of employees are no greater than twenty-five percent (25%) of the small business size standards for its industry as established by the U.S. Small Business Administration and meets the significant business presence requirements in accordance with School Board Policy 3330.

A “Small Business Enterprise (SBE)” is defined as a corporation, partnership, sole proprietorship, or other legal entity for making a profit, which is independently owned and operated by individuals legally residing in, or that are citizens of, the United States or its territories. The enterprise annual revenues and number of employees shall be no greater than fifty percent (50%) of the small business size standards for its industry(ies) as established by the U.S. Small Business Administration, and meets the significant business presence requirements in accordance with School Board Policy 3330.

An “Emerging SBE” is defined as a certified SBE corporation, partnership, sole proprietorship, or other legal entity for the purpose of making a profit, which is independently owned and operated by individuals legally residing in, or that are citizens of, the United States or its territories whose annual revenues and number of employees are no greater than twenty-five percent (25%) of the small business size standards for its industry as established by the U.S. Small Business Administration and meets the Significant Business Presence requirements in accordance with School Board Policy 3330.

Compliance:

The school district shall monitor performance and compliance in accordance with School Board Policy 3330. During the term of any subsequent contract, the awardee shall comply with the S/M/WBE Subcontractor Utilization Plan made in its response to the RFQ. Compliance for use of S/M/WBEs shall include tasks and proportionate dollar amounts throughout the term of the contract, including amendments and change orders. After contract execution, the awardee shall maintain the level of utilization as established in the contract’s S/M/WBE Subcontractor Utilization Plan. Failure to comply with the SDOP requirements in the contract will be considered a material breach resulting in debarment pursuant to School Board Policy.

The Subcontractors Utilization Plan shall consist of the following documentation, which must be attached to the Bid:

1. Attachment A.1, S/M/WBE Subcontractor Participation Schedule.
2. Attachment A.2 Statement of Intent to Perform as an S/M/WBE Subcontractor Participation Form for each M/WBE.
3. Attachment B, S/M/WBE Subcontractor Participation Commitment During the Construction Phase
Note: Exact M/WBE or SBE participation during construction phase will not be known until proposals are received, subcontractors are selected, and the GMP is developed. Please state the CM’s commitment for

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M/WBE or SBE participation during the construction phase. The CM will be obligated to meet this commitment as a condition to gain SBBC approval of the GMP.

If percentages vary between Attachment A.1 and A.2, the percentages on Attachment A.2 will be used to determine participation. If Attachment A.2 is not signed by the Subcontractor, participation attributed to the listed vendor will not be included even if they are listed on A.1. If no percentage is listed, Submitting Firm will not receive points. If a percentage range is provided for a particular Subcontractor on the Statement of Intent to Perform as a Certified Business Enterprise Subcontractor Form, the higher determined percentage in the range will be used to calculate participation and therefore, effectively, represents the prime's commitment to the contract goal.

Nondiscrimination:

The respondent hereby certifies and agrees that the following information is correct:

In preparing its response on this project, the respondent has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in School Board Policy 3330 – Supplier Diversity Outreach Program, Section D.1; to wit: discrimination in the solicitation, selection, or commercial treatment of any subcontractor, vendor, supplier, or commercial customer on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation or on the basis of disability or other unlawful forms of discrimination. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation for responses on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for SBBC to reject the response submitted by the respondent on this project, and terminate any contract awarded based on the response. As part of its response, the respondent shall provide to SBBC with a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the respondent discriminated against its subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken. As a condition of submitting a response to SBBC, the respondent agrees to comply with SBBC's Nondiscrimination Policy as described under its School Board Policy 3330 – Supplier Diversity Outreach Program, Section D.1.

Affirmative Procurement Initiatives (APIs) for Professional Services:

"Affirmative Procurement Initiatives (API)" – refers to various SDOP tools and solicitation incentives that are used to encourage greater prime and subcontract participation by S/M/WBE firms, including bonding assistance, evaluation preferences, subcontracting goals, and joint venture incentives. (For full descriptions of these and other SDOP tools, see, Section E of School Board Policy 3330 and the SDOP Standard Operating Procedures.)

Penalties and Sanctions:

Upon recommendation of sanctions by the Superintendent regarding the failure of a contractor, vendor, respondent, or other business representative to comply with any portion of the SDOP policy, SBBC may impose penalties upon the non-complying party, including, but not limited to, suspension of contract, withholding of funds, rescission of contract based upon a material breach of contract pertaining to SDOP policy compliance, refusal to accept a response or proposal, disqualification of a respondent, contractor, or other business entity from eligibility for providing goods or services to the SBBC for a period not to exceed two (2) years (upon SBBC approval), and/or liquidated damages equal to difference in dollar value of S/M/WBE participation as committed to in contract and dollar value of S/MWBE participation as actually achieved.

Any person who violates these provisions shall be subject to penalties and sanctions established by SBBC and to the maximum penalty provided by law.

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Good Faith Efforts:

If the information submitted in the response demonstrates that a Contractor does not meet the S/M/WBE Subcontractor Goal, then the Contractor shall submit information supporting its good faith efforts that is sufficient to satisfy SDOP.

If a respondent is unable to comply with the API requirements imposed by SBBC under the terms of the SDOP policy, as required in the solicitation, such respondent shall complete and submit Attachment A.4, S/M/WBE Good Faith Effort Form at the time the solicitation is due. The Form shall include specified documentation which demonstrates a good faith effort to comply with the requirements as described under the selected API.

In making the required judgment, SDOP will consider some or all of the following good faith efforts. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a Contractor has made good faith efforts, SDOP will evaluate the efforts that a Contractor has made and the quantity and intensity of these efforts.

SBBC has developed concise, detailed, and quantifiable good faith effort requirements for prime contractors to ensure they are making a legitimate attempt to meet the APIs. Meeting the goal, or making good faith efforts to meet the goal, is a condition of being issued a NTP or ATP.

The listing of S/M/WBE Subcontractors by a Contractor shall constitute a representation by the Contractor that such entity is qualified and available, and a commitment by the Contractor that, if it is issued a NTP or ATP, it will enter into a subcontract in the amount set forth in its submission, subject to the terms of these Guidelines.

Respondents must obtain a total of **seventy (70) or more points** in order to pass, indicating that good faith efforts were sufficient.

The following actions outline evidence of the minimum good faith effort to meet the SDOP S/M/WBE subcontracting goal and describe the criteria to quantify good faith efforts.

Advertising Effort (5 points)

Effort: Contractors must advertise opportunities for SBBC-certified S/M/WBEs a minimum of three (3) times in print and/or digital media outlets at least two (2) weeks prior to the bid opening. Contractors are required to publish these opportunities in the general circulation media, minority-focused media, trade association publications, or trade-related publications, unless SBBC waives this requirement due to time constraints.

Documentation: The advertisement should include the name and location of the project, the location where plans and specifications can be viewed, the subcontractor proposal due date, and the items of work or specialties being solicited. (i.e. Newspaper Tear Sheet).

Outreach to Identify S/M/WBEs (15 points)

Effort: The Contractor should attempt to reach out to S/M/WBEs by utilizing the SDOP approved online databases of certified firms. The scope of work required should be identified, and the contractor needs to seek out relevant companies to perform the specified work.

Documentation: The Contractor should retain dated documentation of any correspondence targeting S/M/WBE and/or outreach to SDOP-approved online database listings of certified firms.

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Pre-Bid Meeting Attendance (5 points)

Effort: Attendance at the pre-bid meeting is mandatory to comply with the good faith effort requirement. If a pre-bid meeting is not offered, five (5) points will be deducted from the seventy (70) point minimum score.

Documentation: The Contractor's name should appear on SBBC's pre-bid meeting sign-in sheet to document the company presence.

Timely Written Notification Effort (20 points)

Effort: The contractor will solicit subcontract bids and material quotes from relevant individual S/M/WBEs in writing and in a timely manner to reasonably result in the S/M/WBE goal being met. Relevant S/M/WBEs are firms that could feasibly provide services or supplies required for completing the scope of services provided in the bid document.

Documentation: Written correspondence with the subcontractor's name, address, contact person, and the date of the written notice should be documented. Written notification must be dated and transmitted at least ten business days prior to the bid due date and include verification of transmission date. Such verification may include emails and copies of certified mail return receipts.

Initial Contact Follow-up (15 points)

Effort: The contractor should follow-up on initial solicitations by contacting S/M/WBE subcontractors prior to the bid opening to determine with certainty whether the subcontractors are interested in performing the specific items of work on the project. Such contact shall be within a reasonable amount of time to allow the prospective S/M/WBE subcontractor an opportunity to submit a competitive sub-bid. The content of the initial letter, email, or facsimile should be different for the follow-up correspondence to indicate the additional effort expended to secure bidders.

Documentation: The list of subcontractors that were contacted, including results of that contact, documented by a telephone log, e-mail printout, automated facsimile journal, or fax transmittal documents, is required. The record should include the S/M/WBE's name, telephone number, contacted person, dates of contact, and the outcome.

Identify Items of Work (15 points)

Effort: The contractor should identify specific items of the work to be performed by subcontractors. Portions of work or other assistance that could reasonably be expected to produce a level of S/M/WBE participation sufficient to meet the goals should be offered to prospective S/M/WBE subcontractors.

Documentation: The list utilized to define the specific items of work solicited, including the identification process for S/M/WBE firms from which such work was solicited, is required. Documents should be reviewed to determine if the work is specific to that listed in the goal-setting document for the specific work item.

Negotiate in Good Faith (15 points)

Effort: The contractor should negotiate in good faith with the S/M/WBE, and not unjustifiably reject bids, quotes, and proposals prepared by the S/M/WBE as unsatisfactory.

Documentation: Written statements of the names, addresses, and telephone numbers of subcontractors contacted by the contractor to negotiate price or services should be submitted. Dates of the negotiations and the results should be included, as well as documentation of the quotes and/or proposals received from S/M/WBEs.

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Bonding Requirements Effort (5 points)

Effort: Waive or reduce bonding requirements for subcontractors.

Documentation: Copies of Respondent’s commitment to waive or reduce bond requirements.

Assist in Financing, Bonding, and Insurance Effort (5 points)

Effort: Where applicable, the contractor should advise and make efforts to assist interested S/M/WBEs in obtaining bonds, lines of credit, or insurance that SBBC requires.

Documentation: Written statements of the type of assistance offered to S/M/WBEs are required. The contractor should provide the name, contact person, and telephone number of the bonding company or financial institution offering assistance.

Acceptability of S/M/WBE Subcontractor Good Faith Efforts Submission:

1. If the SDOP questions the acceptability of the Firm’s S/M/WBE subcontractor submissions, the Contractor shall present information to substantiate its compliance with the applicable requirements to SDOP within three (3) consecutive business days.
2. Not later than seven (7) calendar days after the communication with the Contractor, SDOP shall make a written recommendation. Recommendations to reject the Firm’s Good Faith Efforts Submission may be submitted to the Director of Procurement & Warehousing Services for review and acceptance. The rejection will result in the Firm’s response being deemed nonresponsive.
 - a. In the event, the highest ranked firm or lowest bidder is deemed nonresponsive, district staff will evaluate and/or negotiate with the next responsive / responsible bidder

Calculation of S/M/WBE Subcontractor Participation toward Contract Goal:

S/M/WBE subcontractor participation shall be calculated as follows:

1. Once the SBBC has determined that a firm is an eligible S/M/WBE subcontractor, the total dollar value of the contract awarded to the S/M/WBE subcontractor is counted toward the goal.
2. The SBBC shall count toward the goal only expenditures to S/M/WBE Subcontractors that perform a commercially useful contractual function in the work. An S/M/WBE Subcontractor is considered to perform a useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out the responsibilities by actually performing and supervising the work involved.
3. Consistent with normal industry practices, an S/M/WBE subcontractor may enter into subcontracts. If such an entity subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices to non-S/M/WBE subcontractors, the entity shall not be considered as an S/M/WBE subcontractor.

Issuance of an NTP or ATP:

Provided the Firm submitted the completed forms and information as required by these Guidelines, and submitted information sufficient to satisfy SDOP that it has met the API or has made good faith efforts to meet the API, an NTP or ATP may be issued.

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Requirements and Procedures Subsequent to the Issuance of a NTP or an ATP:

Subcontracts:

After issuance of an NTP or an ATP, the Firm shall submit, executed subcontract agreements corresponding in all respects to its S/M/WBE Subcontractor Utilization Plan (including authorized substitutions).

If there is a change to the S/M/WBE Subcontractor Utilization Plan, the Contractor shall submit a request for change to SDOP.

Substitution of S/M/WBE Subcontractors:

If after award of a contract, the contractor is unable to meet the participation requirements for S/M/WBEs specified at response submittal, the contractor must seek substitute S/M/WBEs to fulfill the requirements. The requested substitution must be approved in writing by SDOP. If after reasonable good faith efforts, the contractor is unable to find a substitute S/M/WBE, a post-award waiver may be requested, which documents the reasons for the contractor's inability to meet the goal requirement. In the event the contractor is found not to have performed good faith efforts to find a suitable substitute for the initial S/M/WBE Subcontractor Utilization Plan (Attachment A.1 and A.2), the contract may, in the District's sole discretion, be terminated for material breach.

1. Reasons to request a substitution of S/M/WBEs in a Contractor's S/M/WBE Subcontractor Utilization Plan include, but are not limited to the following:

Subcontractor is no longer qualified, Subcontractor has unreasonably refused to execute the subcontract agreement, Subcontractor is no longer able to perform the work, Subcontractor materially breaches its subcontract agreement with the contractor.

2. Alternative The Firm shall make every reasonable effort to propose and enter into an alternative subcontract agreement or agreements for the same work to be performed by other certified S/M/WBE subcontractor(s) for a contract price for such work equal to or less than the price originally scheduled for such work (less all amounts previously paid thereof).

3. Compliance with Contract Goal:

The Contractor shall be deemed to be in continued compliance with the established goal for the S/M/WBE Subcontractor Utilization Plan if the Contractor meets or exceeds the goal established in the S/M/WBE Subcontractor Utilization Plan or if the Contractor's good faith efforts are approved.

4. Monthly Monitoring Report:

- a. The Contractor shall submit a S/M/WBE Monthly Subcontractor Utilization Report (Attachment A.3) when the Contractor's agreement with SBBC includes an S/M/WBE Subcontractor Utilization Plan. The S/M/WBE Monthly Subcontractor Utilization Report can be obtained from SDOP.
- b. Should the Contractor fail to comply with the provisions required for monthly reporting requirements, it shall be considered in default of its contract.

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Non-Compliance with Contract Goal:

1. Should the Contractor fail to comply with the provisions required by its S/M/WBE Subcontractor Utilization Plan, this shall be considered a material breach and therefore the Contractor shall be considered in default of its Contract.