

Raleigh-Durham Airport Authority



Minority and Women-Owned Small Business Program

**Adopted October 2007
Revised April 2013**

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Policy Statement

The Raleigh-Durham Airport Authority (Authority), a public body established by the cities of Raleigh and Durham and the counties of Wake and Durham to operate the Raleigh-Durham International Airport has determined that it is necessary to establish and maintain a Minority and Women-Owned Small Business Program (Program or MWSB Program) to encourage equal opportunity for minority and women small businesses (MWSBs) to compete for employment as contractors, subcontractors, suppliers and service providers.

The Historically Underutilized Business (HUB) Participation Plan was adopted in October 2007 and was effective November 1, 2007. The HUB Participation Plan has been herein amended, restated and renamed as the Minority and Women-Owned Small Business Program which shall be effective as of April 1, 2013.

It is the policy of the Authority that neither the Authority, nor its contractors, service providers, subcontractors nor vendors, shall discriminate on the basis of race, color, religion, national origin, or gender in the award and performance of contracts, subcontracts and purchases. It is also the Authority's policy to remove barriers which may exist for MWSBs to compete for contracts, subcontracts and procurement awarded by the Authority. In furtherance of this policy, Authority staff has implemented the MWSB Program to eliminate any present and ongoing effects of past and present discrimination against minority and women-owned small businesses.

The Authority has implemented the MWSB Program:

- in order to achieve a level of utilization commensurate with the current availability of interested and qualified minority and women-owned small businesses;
- to encourage the development of new minority and women-owned small businesses;
- to facilitate the participation of minority and women-owned small businesses in the selection of Authority and third party contracts for construction, professional services, and procurements;
- to facilitate diversity in the entities with which the Authority does business in order to benefit from the economic value of a diverse providers and shield against the economic volatility of single providers in the marketplace, where appropriate;
- to ensure that minority and women-owned small businesses are afforded an equal opportunity to compete on all Authority contracts; and
- to support the growth and development of minority and women-owned small businesses that can successfully compete, outside of the MWSB Program, for Authority contracting opportunities.

It is the policy of the Authority to promote equal opportunity for MWSBs to participate in all Authority contracts and business relationships. The Authority requires its business partners, including business partners who may not have direct contractual relationships to the Authority (i.e. third-parties), to agree that no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any Authority contract because of race, color, religion, national origin, gender or age. The Authority requires that each business partner make good faith efforts to promote this policy throughout its engagement with the Authority.

Section I. Program Scope, Objectives and Initiatives

A. MWSB Program Scope

The purpose of the MWSB Program is to encourage and foster the inclusion of minority and women-owned small businesses in the Authority's business activities, including the procurement of goods and services as well as leasing and development. The policies and procedures established under the MWSB Program are applicable to contractors, vendors and consultants, contracts and related subcontracts as well as third-party business partners. This Program sets forth the procedures and related guidelines for all Authority procurements, contracts and projects, including those without contract-specific goals. These policies and procedures apply to all such contracts and agreements, unless the provisions herein are in conflict with state or federal law or rules and regulations. This Program does not apply to contracts that are subject to the United States Department of Transportation Federal Aviation Administration Disadvantaged Business Enterprise (DBE) or Airport Concessions Disadvantaged Business Enterprise (ACDBE) Programs.

B. MWSB Program Objectives

The objectives of this Program include:

1. Ensuring nondiscrimination in the award and administration of all Authority contracts and procurements;
2. Ensuring that the MWSB Program is narrowly tailored in accordance with applicable law;
3. Ensuring that only firms that are disadvantaged in the marketplace participate in the MWSB Program;
4. Providing opportunities for qualified new entrants to engage in business opportunities with the Authority;
5. Encouraging diversity in the identity of firms with which the Authority does business; and
6. Providing opportunities for firms to develop increased capacity and compete successfully in the marketplace outside of the MWSB Program.

C. MWSB Program Initiatives

In order to further the objectives of the MWSB Program, the Authority engages in a combination of the initiatives listed below.

1. Strategic Sourcing and Coordination – Authority staff responsible for procuring goods and services identify upcoming opportunities and work with Small Business Officer (SBO) to build professional relationships with potential MWSBs and educate firms on Authority procurement practices.
2. Outreach and Development – The processes, procedures and efforts to identify, solicit and facilitate MWSB participation in Authority contracting opportunities are integral components of the MWSB Program. The MWSB Program outreach efforts are designed to document initiatives and establish procedures which best inform, present, and achieve results for maximum consideration and participation by MWSBs. Key actions to the Authority's outreach efforts are internal and external communication as well as interaction by the SBO and other Authority departments and the MWSB community. Further, the Authority engages in activities which promote MWSB growth and development, including offering technical assistance. The Authority engages in various processes to facilitate the development of qualified new entrants into Authority business activities.

3. Supplier Diversity Initiatives – The Authority actively engages vendors that maintain a formal, written corporate supplier diversity programs. The Authority participates in and supports supplier diversity programs and encourages its suppliers of goods to report the participation of women and minority-owned businesses in Authority procurements. The Authority actively supports the participation of bona fide mentor protégé programs and joint venture arrangements as proposed in the areas of construction, professional services and other services. The Authority evaluates the merits of each mentor protégé relationship and joint venture individually and encourages such relationships where possible.

Section II. Definitions

A. Minority and Women-Owned Small Business (MWSB)

For the purposes of the Authority’s Minority and Women-Owned Small Business Program, a MWSB is a firm which has been certified by an approved agency to meet the following criteria:

1. A small business, as defined by the Small Business Administration (SBA) size standards found in 13 CFR Part 121, that is
2. At least fifty-one percent (51%) owned, and controlled by one or more socially and economically disadvantaged individuals.

The following individuals are presumed to be socially and economically disadvantaged:

- a. Black Americans, which includes persons having origins in any of the Black racial groups of Africa;
- b. Hispanic Americans, which includes persons of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
- c. Asian Americans, which includes persons having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent or the Pacific Islands;
- d. Native Americans, which includes persons having origins in any of the original Indian peoples of North America;
- e. Women.

Firms which are not owned by members of these groups may not be utilized to achieve MWSB Goals in Authority procurements.

B. Other Definitions

1. Bid/ Proposal: Documents that a firm submits in response to a solicitation for the purpose of obtaining a contract (including without limitation, responses to requests for qualifications, requests for quotes, requests for proposals and invitations to bid). The terms *bid* and *proposal* may be used interchangeably throughout the document.
2. Bidder/ Proposer (Respondent): A firm that submits a bid or proposal for a contract. The terms *bidder*, *proposer* and *respondent* may be used interchangeably throughout the document.
3. Building Project: Contracts for the erection, construction, alteration or repair of buildings.
4. Commercially Useful Function: A function performed by a firm when it is responsible for supplying goods or executing a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a firm is performing a Commercially Useful Function, the amount of work subcontracted, industry practices and other relevant factors are evaluated.

5. Construction-Related Professional Services: A contract to provide services to the Authority that is related to or in conjunction with a construction contract. Examples include but are not limited to contracts for architectural, engineering, surveying and construction management services.
6. Contractor: A firm that enters into a Contract. The term “Contractor” includes consultants, architects, engineers, suppliers and providers of tangible goods and services, in addition to construction contractors.
7. Disadvantaged Business Enterprise (DBE): A DBE is a for-profit small business that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged. In the case of a corporation, 51% of the stock is owned by one or more such individuals; and, whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals. Eligibility requirements for certification as a DBE are stated in 49 CFR, Part 26. Also refers to the program administered by the US Department of Transportation pursuant to 49 CFR, Part 26.
8. Good Faith Efforts (GFEs): The requirements that Bidders and Proposers must meet to show that they actively and aggressively sought to achieve MWSB Goals (including contract-specific and overall goals).
9. Historically Underutilized Business (HUB): Refers to the business certification provided by the North Carolina Department of Administration pursuant to N.C.G.S. §143-128.4.
10. Information Technology/ Information Systems: Electronic data processing goods and services, telecommunications goods and services, security goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes.
11. Manufacturer: 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.
12. Minority Person: Refers to the definition described in N.C.G.S. §143-128.2(g): “The term “minority person” means a person who is a citizen or lawful permanent resident of the United States and who is: Black, that is, a person having origins in any of the black racial groups in Africa; Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race; Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands; American Indian, that is, a person having origins in any of the original Indian peoples of North America; or Female.”
13. MWSB Commitment: MWSB utilization that a contractor/consultant commits to achieve for a contract at contract award. Calculated as a percentage of the total contract, the MWSB Commitment represents the total dollars that will be spent with MWSBs as a portion of the total contract amount, including any contingency. (The MWSB Commitment is the amount stated in the Contractor’s Bid or Proposal unless modified by mutual agreement of the Authority and the Contractor.)
14. MWSB Goal: A goal for MWSB participation determined annually or on an individual contract to be achieved during a fiscal year or the term of a particular contract, based on staff evaluation and determination of the identifiable potential contract opportunities and the availability of minority and women-owned small businesses. For the purposes of MWSB Goals, minority-owned business goals are defined as goals for the participation of all minority persons, excluding females

- (women). Women-owned business goals are goals for the participation of non-minority females (non-minority women).
15. North Carolina Department of Administration (NCDOA): Agency responsible for certifying HUB firms for the State of North Carolina.
 16. North Carolina Department of Transportation (NCDOT): Agency responsible for certifying and maintaining certification databases for DBE firms for the State of North Carolina.
 17. Procurement Advisory Committee (PAC) – a committee made up of the Chief Operating Officer, Chief Information Officer, Chief Financial Officer, Chief Revenue Officer, and General Counsel (or other members as the discretion of the President and CEO) that makes a recommendation to the President and CEO regarding various procurement actions
 18. Prime Contractor: Contractor with a direct contractual relationship to the Authority. Refers to consultants, architects, engineers, suppliers and other providers of goods and services, in addition to construction contractors.
 19. Respondent: A firm that submits a Bid or Proposal for a contract.
 20. Services: Includes without limitation, services such as those of accountants, attorneys, architects, engineers, surveyors, janitorial contractors, landscaping maintenance contractors, vehicle maintenance contractors, cleaning contractors, and other providers of personnel whose contracts do not include substantial tangible elements.
 21. Small Business Program Officer (SBO): Authority staff person charged with implementing MWSB Program policies and procedures as directed by the President & Chief Executive Officer (P&CEO).
 22. Subcontractor/ Subconsultant: A business that directly contracts with a Prime Contractor, Subcontractor or Subconsultant to provide goods or services or perform work in connection with a contract. The term “Subcontractor” also includes Subconsultants.
 23. Supplier: A Manufacturer of the materials or supplies or is a dealer that owns, operates or maintains a store, warehouse, or other establishment which may include distribution systems and equipment for bulk items such as petroleum products, in which the materials, supplies, articles or equipment of the general character described in 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.
 24. Tangible Goods: Refers to goods, apparatus, equipment, materials, supplies and other tangible items, including Information Technology related items.

Section III. Roles and Responsibilities

The Small Business Program Office is responsible for the implementation and coordination of all related Program activities, including outreach, monitoring, tracking and reporting, for the MWSB Program. The Small Business Program Office coordinates all compliance activities with internal and external stakeholders to ensure that the purpose and intent of the MWSB Program are fully implemented.

Specifically, the SBO is responsible for, among other duties:

1. Daily administration of all components of the MWSB Program;
2. Developing such administrative rules and guidelines as may be necessary to effectuate the purposes of the MWSB Program;
3. Advising the Authority Board and P&CEO on MWSB Program issues;
4. Consulting with other Authority staff members on MWSB Program implementation;

5. Recommending revisions to the MWSB Program as needed from time to time to facilitate administration and fulfill Program objectives.

The SBO is also responsible for:

Outreach & Education

1. Providing outreach to MWSBs and community organizations to advise them of opportunities;
2. Providing MWSBs with information and assistance in preparing bids, obtaining bonding and insurance.
3. Planning and participating in MWSB training seminars.
4. Conducting information and communication programs on contracting procedures and specific contracting opportunities.
5. Providing assistance to MWSBs in overcoming barriers in the procurement process such as inability to obtain financing or technical assistance.
6. Maintaining and providing internal customers with a listing of certified MWSBs.

Contract & Procurement Activities

1. Providing information to MWSBs about the Authority, its functions, and the full range of its contractual needs.
2. Providing MWSBs with information on future procurement and contracting schedules.
3. Sending bid notices to MWSB trade associations, technical assistance agencies, MWSB economic development groups, and MWSBs with capabilities relevant to the bid notice, as identified by the MWSB directory.
4. Making bid specifications available to MWSB contractor associations and technical assistance agencies.
5. Holding pre-bid conferences and pre-proposal meetings, where appropriate, to provide firms with an opportunity to inquire about the Authority's MWSB requirements.
6. Explaining the MWSB participation requirements at pre-bid and pre-proposal conferences.

Goal Setting

1. Working with Authority staff to set overall annual goals and contract goals.
2. Analyzing contracts and procurements so that MWSB goals are included in solicitations.

Monitoring & Compliance

1. Monitoring and reporting minority and women business participation as required by North Carolina law, including N.C.G.S. §143-128.3 (Minority Business Enterprise Participation Administration);
2. Reviewing and verifying the certification status of Minority and Women-Owned Small Businesses. Determining MWSB certification eligibility for the purposes of achieving MWSB participation goals.
3. Compiling and reporting statistical data and other information as required by State of North Carolina and Authority Board.
4. Responsible for evaluating and making the Authority's Good Faith Efforts determination for Contractors achieving MWSBs Goals on Authority's procurements.
5. Analyzing the Authority's progress toward attainment and identifies ways to improve progress.

Other Authority personnel have responsibilities for MWSB Program implementation, including:

1. Ensuring MWSB Program compliance within their departments and divisions.

2. Developing and implementing strategies to achieve the annual and project participation goals established by the MWSB Program.
3. Integrating the MWSB Program components into their practices and processes.
4. Reporting MWSB utilization as required by the SBO.
5. Promoting the MWSB Program and MWSB participation in the contracting and procurement activities of their divisions.
6. Providing information to the SBO on contracting and leasing opportunities, together with a breakdown of subcontracting possibilities.
7. Providing sufficient lead time for advertisement of all invitations for bids so that all firms have reasonable time to develop a complete bid package or proposal.
8. Consulting with the SBO on procurement policies and practices, including bonding, licensing, and other requirements.
9. Making available a list of pre-bid conference attendees on the Authority's website.
10. Providing instructions and clarification on bid specifications, the Authority's procurement policy, procedures and general bidding requirements.
11. Providing instructions about contract performance requirements.
12. Upon request and when appropriate, conducting debriefing sessions to explain why certain bids were successful.
13. Participating in MWSB outreach and training workshops.
14. Including MWSBs whenever possible in all informal bid solicitations for contracts within their areas of qualification to ensure a full and fair opportunity to participate in such contracts.
15. Ensuring that solicitations contain the requisite clauses and goals.
16. Participating in MWSB outreach sessions as needed.
17. Reviewing contract provisions to assure that they comply with applicable law.

Section IV. Certification

A. Acceptable Certifications

In order to credit the participation of MWSBs on Authority procurements towards the Authority's MWSB Goals, the Authority requires that minority and woman-owned small businesses be certified as such. The Authority therefore accepts certifications which verify that a business is:

1. Small, as defined by the Small Business Administration, and;
2. Owned, controlled and operated by a Black American, Hispanic American, Asian American, Native American or Woman.

Currently, the following certifications may be used to meet the standards described above:

1. North Carolina Department of Transportation: Disadvantaged Business Enterprise (NCDOT DBE)
2. Small Business Administration: SBA 8(a) Business Development Certification (SBA 8(a)).
3. Women's Business Enterprise National Council: Small Women Business Enterprise (SWBE).

This list is subject to change; a current list is available from the SBO.

B. Additional Certifications

For the purposes of the Authority's MWSB Program, only small businesses which are owned by socially and economically disadvantaged individuals may be used towards the achievement of the

MWSB Goals. Therefore, the Authority accepts the following certifications with appropriate supplemental documentation:

1. North Carolina Department of Administration: Historically Underutilized Businesses (NCDOA HUB)
 - Submit prior three (3) years Federal business taxes which indicate that the firm is a small business, as defined by SBA standards
2. Carolinas Minority Supplier Development Council (CMSDC), or any affiliate council of the National Minority Supplier Development Council (NMSDC)
 - Submit prior three (3) years Federal business taxes which indicate that the firm is a small business, as defined by SBA standards
3. National Association of Women Business Owners (NAWBO)
 - Submit prior three (3) years Federal business taxes which indicate that the firm is a small business, as defined by SBA standards.

This list is subject to change; a current list is available from the SBO. The Authority may accept additional certifications for credit towards MWSB Commitments. The Authority retains the right and ability to review a MWSB's certification qualifications and to reject certification of any MWSB on all Authority procurements and contracts.

In the event that a business has been in existence for less than three years, the business will supply all available Federal business taxes and a notarized statement affirming business size.

Per N.C.G.S. §143-128.2, MWSBs are not be required to verify business size when participating in Building Projects. In this case, *all* of the certifications listed above are accepted without regard to business size, provided that the business is owned and operated by a "Minority Person", as described in N.C.G.S. §143-128.2.

C. MWSB Certification Eligibility

If a firm is not certified as a MWSB by an approved certification entity at the time of contract award, the Authority does not allow the participation to count towards the MWSB Commitment. However, the Authority allows the Contractor to utilize MWSBs certified during the performance of the contract towards the MWSB Commitment once documentation confirming such certification is submitted to the Authority. The Authority shall be notified of any change in the Contractor's or any identified Subcontractor's company ownership or control which could affect the MWSB participation of the project. This notification shall be within 10 business days of the associated change or Contractor's knowledge of a change in ownership or control. If the Authority staff is aware of any potential change that would affect the certification status of a MWSB Contractor or Subcontractor, the staff is responsible to notify the SBO within five days of receipt of this information.

In the case of joint ventures, the MWSB joint venture partner(s) must have completed certification prior to submitting a Bid or Proposal.

D. Counting MWSB Participation of Ineligible MWSBs

If the certification status of a MWSB subcontractor/subconsultant becomes ineligible during the course of a contract due to circumstances beyond the control of the Contractor, the Authority will determine whether the firm's participation can continue to be counted, based on the length of contract remaining and the basis of ineligibility. If appropriate, Contractor will be notified by the SBO that the firm is ineligible to participate as an MWSB. Payments to MWSB firms based on work prior to

notification will count towards the MWSB goals. Any payments based on work performed after the notification is received will not be counted towards the participation goal unless the firm subsequently becomes eligible. Further, the Contractor shall make Good Faith Efforts to replace MWSB participation lost due to the loss of eligibility of an MWSB firm.

E. Removal of MWSB Eligibility

If there is a challenge to the eligibility of a MWSB, the Authority reserves the right not to count that participation towards the goal. If the Authority determines based on evidence received, that a currently certified MWSB is ineligible as a certified firm, the Authority will begin a review of eligibility:

1. The Authority will provide written notification to the MWSB that eligibility is being challenged and request supporting documentation of eligibility.
2. Within ten (10) days after receiving the notice, the MWSB will have an opportunity to respond and submit documentation to the Authority.
3. Based on a review of the information submitted and other pertinent information regarding certification, the SBO will make a determination regarding eligibility. The SBO will make a determination within 15 business days of receipt of documentation from the MWSB firm. The SBO will then notify the MWSB of its determination as well as notify any Prime Contractors, and internal staff as appropriate.

If an MWSB is determined to be ineligible due to fraudulent actions, further participation of that MWSB on Authority contracts or procurements will not count towards MWSB participation. In any case, the Authority will only count the actual dollars paid to the ineligible MWSB for one month after the ineligibility determination or at the conclusion of the current payment cycle, whichever occurs first.

Section V. Procurement

A. Policy – Tangible Goods

It is the policy of the Authority that MWSBs shall have the maximum opportunity to compete for award of the Authority’s procurement and contracting activities for Tangible Goods, including those related to Information Technology. Tangible Goods include apparatus, supplies, materials, and equipment.

The Authority’s procurements and contracts are subject to the requirements of North Carolina law generally, and specifically Article 8 of Chapter 143 of the General Statutes and the MWSB Program is construed in accordance therewith. The Authority will award contracts without regard to race, religion, color, creed, national origin, gender, age or handicapping condition. The Authority will not, nor will it require its Contractors to, award contracts or subcontracts to or to make purchases or procurements of services, materials, or equipment, etc. from MWSB Suppliers, Contractors or Subcontractors who do not submit the lowest responsible bid or proposal. Further, the Authority notifies its vendors of its MWSB Program during the solicitation process and actively engages vendors which maintain a formal, written corporate supplier diversity program.

B. Policy – Services

It is the policy of the Authority that MWSBs shall have the maximum opportunity to compete for the award of contracts as professional, technical and non-technical service providers by the Authority. Services include the award of contracts as professional, technical and non-technical service providers. The Authority awards service contracts without regard to race, religion, color, creed, national origin, gender, age or handicapping condition. The Authority will not, nor will it require its Contractors to, award contracts or subcontracts to or to make purchases or procurements of services, materials, or equipment, etc. from MWSBs who are not best qualified or do not submit the lowest responsible bid or proposal. Further, the Authority notifies its vendors of its MWSB Program during the solicitation process and actively engages vendors which maintain a formal, written corporate supplier diversity program.

The Authority's Information Technology contracts are subject to the requirements of North Carolina law generally, and specifically N.C.G.S §143-129.8 and 135.9, and the MWSB Program is construed in accordance therewith. The Authority will not, nor will it require its Contractors to, award contracts or subcontracts to or to make purchases of Information Technology from MWSB Suppliers, Contractors or Subcontractors who do not offer the "best value". Best value means the selection of a Contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.

C. MWSB Workshops and Pre-Proposal Conferences

The Authority may conduct an MWSB workshop in conjunction with each proposed contract or project which may be attended by the Authority's project manager and the SBO or designated representative. Such persons will be available to Respondents, including MWSBs to provide assistance and to encourage participation by qualified MWSBs in the contract.

D. Strategic Sourcing and Coordination

The Authority staff actively engages in various activities and techniques to encourage MWSB utilization in purchasing and procuring goods and services. These techniques include, but are not limited to:

1. Identifying and cataloging its requirements for professional, technical and non-technical services, goods, apparatus, equipment, materials, and supplies (including those related to Information Technology).
2. Reviewing expected purchases and procurements as a part of its annual budgeting process and MWSB Goal setting, and developing an approximate calendar associated with those purchases and procurements.
3. Notifying potential MWSB Bidders of upcoming opportunities in a timely manner.
4. Documenting the solicitation methods and utilization of MWSB Contractors for all procurement and contracting opportunities having a value greater than \$5,000 using reporting forms and/or software approved by the Procurement director and the SBO.

5. Establishing cooperative relationships with business organizations and community stakeholders through consistent participation in business expos, trade associations, professional conferences and meetings to source (identify) interested MWSBs.
6. Encouraging all service providers, suppliers, vendors or manufacturers seeking to provide services, materials, equipment or products to register with the Authority utilizing the method provided by the SBO and/or procurement staff.

The SBO distributes a list of interested MWSB vendors internally to Authority staff. Further, the SBO monitors purchasing activity on a department and Authority-wide basis to support the inclusion and utilization of MWSB vendors in Authority opportunities.

Procurement staff and the SBO develop reports and information regarding the efforts of MWSBs to obtain Authority contracts, including quote/bid/proposal results and feedback from Authority staff. The SBO may provide this information to MWSBs upon request, or as necessary to assist in business development.

E. Annual Participation Goals – Tangible Goods

MWSB Goals for the purchase and procurement of Tangible Goods are established by the SBO in conjunction with the PAC and other Authority staff. During the annual budgeting process, the PAC and appropriate staff will provide the SBO with his/her requested budget items for the upcoming year, including technical specifications of each request (if known) and MWSBs available to provide the requested Tangible Goods (if known). The SBO will review the budget requests and compare the requested purchase to past participation of MWSBs in similar procurements and contracts. Further, the SBO will determine MWSB availability and recommend annual MWSB goals based on upcoming opportunities to the P&CEO, Senior Vice Presidents and Authority staff. The annual goals will indicate separate participation goals for minority-owned business participation and women-owned business participation. The SBO will present the annual goals to the Authority Board at or before the start of each fiscal year.

F. Annual Participation Goals – Services

MWSB participation goals for purchase and procurement of services are established by the SBO in conjunction with the P&CEO, Senior Vice Presidents and other Authority staff. During the annual budgeting process, each Senior Vice President and appropriate staff will provide the SBO with his/her requested budget items for the upcoming year, including technical specifications of each request (if known) and MWSBs available to provide the requested services (if known). The SBO will review the budget requests and compare the opportunities to past participation of MWSBs in similar procurements and contracts. Further, the SBO will determine MWSB availability and recommend annual MWSB goals based on upcoming opportunities to the P&CEO, Senior Vice Presidents and the Purchasing Officer. The annual goals will indicate separate participation goals for minority-owned business participation and women-owned business participation. Annual MWSB Goals and MWSB Program compliance information will be listed in each service-related request for quotes/proposals greater than \$30,000. The SBO will present the annual goals to the Authority Board at or before the start of each fiscal year.

G. Purchasing Procedures

Per the Authority's anticipated purchasing procedures, Authority staff responsible for purchasing and contracting coordinates with the SBO to identify and solicit MWSBs in the following manner:

Thresholds	Competition	MWSB Coordination
0-\$5,000	Price fair and reasonable, no competition	- Strategic sourcing and identification of MWSBs
\$5,001-\$30,000	Three verbal or written quotes	- Solicit at least one MWSB, if available - Notify SBO of results and/or MWSB response
\$30,001-Up	Three Requests for Quotes (Services)	- Notify SBO 2-3 weeks in advance of upcoming bid or proposal - Include MWSB Goal in solicitation - Contact SBO to assist in identifying MWSBs
\$30,001-\$90,000	Three Requests for Quotes (Tangible Goods)	- Solicit at least one MWSB, if available - Notify SBO of results and/or MWSB response
\$90,001-Up	Formal Bids (Tangible Goods)	- Notify SBO in 2-3 weeks in advance of upcoming bid or proposal - Include MWSB Goal in solicitation - Contact SBO to assist in identifying MWSBs

Section VI. Construction Contracts

A. Policy

It is the policy of the Raleigh-Durham Airport Authority that minority businesses as defined in N.C.G.S. §143-128.2(g) shall have the maximum opportunity to compete for contracts and subcontracts related to construction projects advertised for bids by the Authority under N.C.G.S. §143-129 or awarded by means of informal bids under N.C.G.S. §143-131. Pursuant to N.C.G.S. §143-128.2, minority business are not required to verify business size when participating in Building Projects. Further, it is the policy of the Raleigh-Durham Airport Authority that minority business shall have the maximum opportunity to compete for contracts and subcontracts related to construction projects advertised for bids by the Authority under N.C.G.S. §143-129 or awarded by means of informal bids under N.C.G.S. §143-131, regardless of funding source.

The Authority will award contracts without regard to race, religion, color, creed, national origin, sex, age or handicapping condition as defined in N.C.G.S. §168A-3. The Authority will not award, nor will it require its Contractors to award, contracts or subcontracts to or to make purchases of materials or equipment from Contractors or Subcontractors who do not submit the lowest responsible Bid or Bids.

B. Construction-Related Professional Services

It is the policy of the Authority that MWSBs shall have the maximum opportunity to compete for the award of contracts as professional and technical service providers by the Authority. The Authority awards services contracts without regard to race, religion, color, creed, national origin, gender, age or handicapping condition. The Authority's service contracts are subject to the requirements of North Carolina law, and this Program shall be construed in accordance therewith. The Authority has adopted a "Policy for Retention of Professional and Other Services", effective September 12, 2007, as amended, which is incorporated herein by reference. In the event of any conflict between the terms and conditions of said Policy and this Program, the terms of this Program shall govern.

C. Strategic Sourcing and Coordination

The Authority engages in various activities and techniques to recruit and include MWSBs in construction and construction-related professional services contracts. These techniques may include, but not be limited to:

1. Providing the maximum reasonable time for the initial advertisement of all invitations for bids so that all firms have ample time to develop a complete bid package or proposal and secure necessary assistance.
2. Providing assistance to MWSBs in overcoming barriers in the procurement process such as inability to obtain bonding, financing or technical assistance.
3. Conducting outreach programs on contracting procedures and specific contracting opportunities.
4. Providing information to MWSBs about the Authority, its functions and the full range of its contractual needs.
5. Offering instructions and clarification on bid specifications, the Authority's procurement policy, procedures, job performance requirements and general bidding requirements.
6. Maintaining a file of successful past bid documents and permitting MWSBs to review and evaluate these documents unless otherwise prohibited.
7. Upon written request, where appropriate, conducting debriefing sessions to explain why certain bids were successful.
8. Providing MWSBs with information on future procurement and contracting schedules.
9. Providing information on certification procedures, subcontracting and bonding requirements.
10. Placing bid notices on the Authority's website, minority business trade association publications and minority focused periodicals as well as general circulation newspapers, if required by applicable law.
11. Sending bid notices to minority trade associations, technical assistance agencies, minority economic development groups and MWSBs with capabilities relevant to the bid notice, as identified by the Authority's directory, the NCDOT DBE directory and the NCDOA HUB directory.
12. Making bid specifications available to minority contractor associations and technical assistance agencies.
13. Including MWSBs whenever possible in all informal bid solicitations for contracts within their areas of qualification to ensure a full and fair opportunity to participate in such contracts.
14. Holding pre-bid conferences to provide firms with an opportunity to inquire about the Authority's MWSB requirements.
15. Making available a list of pre-bid conference attendees on the Authority's website.

D. MWSB Workshops and Pre-Proposal Conferences

The Authority conducts at least one MWSB workshop in conjunction with each proposed contract or project subject to the requirements of N.C.G.S. §143-129, which may be attended by the Authority's project manager and the SBO or designated representative. Such persons will be available to Respondents and MWSBs to provide assistance and to encourage participation by qualified MWSBs in the contract.

E. Annual Participation Goals

MWSB Goals for construction and construction-related activities are developed by the SBO and the Senior Vice Presidents as well as other Authority staff. During the annual budgeting process, the Chief Operating Officer and appropriate staff will provide the SBO with his/her budget requests for the upcoming year, including technical specifications of each project (if known) and MWSBs available to provide the requested construction services (if known). The SBO will review the budget requests and compare the opportunities to past participation of MWSBs in similar projects. Further, the SBO will recommend annual MWSB Goals based on upcoming opportunities to the P&CEO,

Senior Vice Presidents and other Authority staff. The annual goal will indicate separate MWSB participation goals for minority-owned business participation and women-owned business participation. Solicitation documents for construction services will contain overall goals for minority-owned business and women-owned business participation; or contract specific goals (described below) for minority-owned business and women-owned business participation as well as MWSB Program compliance information. The SBO will present the annual goals to the Authority Board at or before the start of each fiscal year.

F. Contract-specific goals (contract goals)

The Authority employs a contract-specific MWSB Goal process to establish contract goals on individual contracts for construction services. Contract-specific goals are established to allow the Authority to give consideration to actual project contract and subcontracting opportunities, and therefore, narrowly tailoring the Authority's implementation of the MWSB participation process. Separate contract goals are established for the participation of women-owned firms and the participation of minority-owned firms in construction services.

Contract goals are established by dividing the total dollar value of potential subcontract awards to MWSBs by the total estimated dollar value of the prime contract and considering the scope of work to be accomplished, the availability of MWSBs to perform necessary work, and past experience on similar contracts. The SBO and the project manager jointly establish each contract goal. Prior to advertising a construction project, the project manager and SBO will recommend an appropriate contract goal for each separate contract to be bid as a part thereof.

G. Contract Award

The Authority awards each construction contract to the lowest responsible Bidder submitting a responsive bid in accordance with the requirements of N.C.G.S. §143-129.

H. Proposed MWSB Participation

All proposed MWSB participation must be identified and included in the sealed bid. Any increase in MWSB participation that occurs after the bids are opened are not be considered in determining the Respondent's achievement of the MWSB Goal or its Good Faith Effort to achieve the MWSB Goal, but will be recognized as MWSB participation in the contract. Each MWSB included in a bid must have its certification verified by the SBO and must be identified by name, address, telephone number, MWSB category, type of work and dollar amount of subcontract. Each of the Authority's Contractors shall document the participation of MWSBs as Subcontractors (suppliers, sub-subcontractors, etc.) under the MWSB Program by listing separately each MWSB and the qualifying category of Minority Person.

I. Informally Bid Contracts

Construction contracts of more than \$30,000, which are subject to the requirements of N.C.G.S. §143-131, but less than the limits described in N.C.G.S. §143-129, are informally Bid, pursuant to applicable statutes. For all such contracts, the size of the contract and the likelihood of successful MWSB contracting opportunities will be taken into account in determining the MWSB Goal. The notice and/or instructions to Bidders for such projects will include a statement regarding such requirements. The Authority includes prospective MWSBs in its solicitations for informally Bid contracts.

Section VII. Counting MWSB Participation

A. Counting MWSB Participation – Tangible Goods

In the purchase of goods, apparatus, equipment, materials or supplies (i.e. Tangible Goods), the Authority will count 100% of all expenditures obtained from an MWSB Manufacturer or Supplier toward the MWSB Goal, provided that the MWSB Supplier or Manufacturer performs a Commercially Useful Function in the supply process. To perform a Commercially Useful Function, the MWSB must be responsible for negotiating price, determining quality and quantity, ordering the materials, and installing (where applicable) and paying for the materials. A MWSB does not 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 produce the appearance of MWSB participation.

B. Counting MWSB Participation – Services, Construction and Construction-Related Professional Service Contracts

For the purposes of MWSB participation, MWSB firms are counted as either minority-owned businesses (MB) or women-owned businesses (WB).

1. MWSB Prime Contractors and Consultants

If a MWSB is the Prime Contractor, the participation of the MWSB Prime which is not subcontracted to another firm or firms is counted towards one portion (i.e. MB or WB) of the MWSB commitment. Prime Contractors (including MWSB Prime Contractors) are responsible for meeting both portions the MWSB commitment.

2. MWSB Subcontractors and Subconsultants

If the Prime Contractor, consultant or service provider utilizes an MWSB as a Subcontractor or Subconsultant to perform services, the Authority counts 100% of the value of the Commercially Useful Function the MWSB performs toward satisfaction of the MWSB Commitment. References to “Contractor” and “Subcontractor” in this section are inclusive of consultants, vendors or other providers. A MWSB performs a Commercially Useful Function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved. The Authority will allow the Prime Contractor to count only the value of the work actually performed by the MWSB toward MWSB Commitment.

The Contractor may count the entire amount of that portion of a contract that is performed by the MWSBs own workforces. This amount should include the cost of supplies and materials obtained by the MWSB for the work of the contract, including supplies purchased or equipment leased by the MWSB (except supplies and equipment the MWSB Subcontractor purchases or leases from the Prime). The Prime Contractor may count the entire amount of fees or commissions charged by a MWSB for providing bona fide services, such as professional, technical, contractor, or managerial services, or for providing bonds or insurance, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

A MWSB Subcontractor is not be permitted to further subcontract the work specified in the Bid or Proposal as MWSB participation without the Authority’s prior written permission, which shall be given or withheld in the Authority’s sole discretion. If a MWSB subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward

MWSB Commitment only if the MWSB's Subcontractor is itself a MWSB. Work that a MWSB subcontracts to a non-MWSB does not count toward MWSB Commitment.

A MWSB Subcontractor must perform at least fifty percent (50%) of the actual labor related to the work specified in the Bid or Proposal as MWSB participation with its own workforce unless it is within the applicable industry's normal course of business to perform less than fifty percent (50%). In the event that a MWSB sub-subcontractor is unable to perform successfully, the MWSB Subcontractor shall make a reasonable effort to replace that MWSB sub-subcontractor with another MWSB sub-subcontractor. Any substitutions shall be pre-approved in writing by and coordinated with the SBO and the project manager.

3. MWSB Suppliers

In service, construction and construction-related professional service contracts, a Contractor may count 60% of its expenditures to MWSB Suppliers that are not Manufacturers toward achievement of the contract goals, provided that the MWSB Supplier performs a Commercially Useful Function in the supply process.

4. MWSB Manufacturers

The Contractor may count 100% of all expenditures for materials, supplies and equipment obtained from an MWSB Manufacturer toward the MWSB Goal. A MWSB Manufacturer is a Supplier that produces goods from raw materials or substantially alters them before resale.

Section VIII. Good Faith Efforts

If a Respondent, including MWSB firms, does not meet the MWSB Goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to the Authority that it has made a substantial Good Faith Effort to meet the MWSB Goal. This Good Faith Effort documentation should be submitted when the initial response to the Authority's solicitation is due. The term Bids includes Proposals. Both are used interchangeably throughout this section.

Bids or Proposals submitted which do not meet the MWSB Goals and which do not show that a substantial Good Faith Effort was made to achieve the stated goals may be considered non-responsive and the Respondent may not be eligible for award of the contract. Good faith efforts to meet or exceed the MWSB Goal must continue throughout the contract.

A. Good faith effort documentation criteria

In evaluating a Respondent's Good Faith Effort submission, the Authority will only consider those documented efforts that occurred prior to the Good Faith Effort submission. In making a determination that the Contractor has made a Good Faith Effort to meet the MWSB goals, the Authority shall consider specific documentation concerning the steps taken to obtain MWSB participation.

The Authority is the sole arbiter to determine if a Respondent has made a reasonable Good Faith Effort to include MWSB participation in its Bid or Proposal on any project. The Authority reserves the right to reject any and all Bid or Proposal submitted, and to reject the Bid or Proposal of any Respondent who fails to make Good Faith Effort or to submit timely, satisfactory evidence of its Good Faith Effort as provided herein. All Respondents shall agree, by the submission of a Bid or Proposal for work on a project for which a contract is to be awarded by the Authority, to ensure that

MWSBs have the maximum opportunity to participate in the performance of contracts and subcontracts. All Respondents shall be required to take all steps reasonably necessary in accordance with this Program to ensure that MWSBs have the maximum opportunity to participate in the work. Failure to make Good Faith Efforts and to adequately document such efforts to the Authority is grounds for disqualifying a Bid or Proposal as non-responsive. Respondents shall not discriminate on the basis of race, color, national origin or gender in preparation of a Bid or Proposal or the eventual performance of a contract.

Each Bid or Proposal shall contain documentation that demonstrates the Respondent's Good Faith Effort to meet the applicable contract goals. A Respondent will have an opportunity to provide additional evidence of its Good Faith Effort within three (3) business days after submission of a Bid or Proposal. A Bid or Proposal that does not provide satisfactory evidence of the Respondent's Good Faith Effort may be deemed nonresponsive in the Authority's sole discretion. The following criteria will be considered and should be addressed point by point in the Respondent's submission:

1. Did the Respondent attend the pre-bid, pre-proposal and/or MWSB conferences? Describes whether or not the Contractor attended any pre-bid or pre-proposal meetings scheduled by the Authority to discuss subcontracting and supplier opportunities for MWSB participation;
2. Did the Respondent advertise contractual opportunities in general circulation, trade association, or minority-focus media concerning opportunities?
 - a. Was advertising specific to the project in question?
 - b. Was the advertising published at least 21 days before bids or proposals are due? If 21 days are not available, publication for a shorter reasonable time is acceptable;
3. Did the Respondent provide timely written solicitations (via e-mail, fax or mail) requesting participation of MWSBs which reasonably could have been expected to submit a quote that were known to the Respondent or from lists maintained by the Authority, the NCDOT or the NCDOA, no later than 10 days prior to the bid opening?
 - a. Provide copies of written correspondence provided to MWSBs to solicit their bids, as well as certified return receipts to prove receipt or the reason for non-delivery; fax cover sheets indicating to whom the document was faxed, fax date, and whether the transmission was successful; or, copies of email transmissions;
4. Did the Respondent provide MWSBs with:
 - a. an adequate description of all work to be contracted;
 - b. adequate information about the location of the plans, specifications, and requirements of the contract; and
 - c. the date the quotation was due to the Respondent?
5. Did the Respondent follow-up initial solicitations of interest in person or by telephone to determine if the MWSB was interested in participation?
6. Did the Respondent break down or combine elements of work to be performed by MWSBs into economically feasible units in order to facilitate minority participation
7. Did the Respondent make available to or provide prospective MWSBs with plans, specifications and requirements for the work to be subcontracted at least 10 days before bids or proposals were due?
8. Did the Respondent negotiate in good faith with interested MWSBs, not rejecting MWSBs as unqualified without sound reasons based on a thorough investigation of their capabilities? The Prime Contractor shall submit documentation to evidence "good faith" negotiations with MWSB

subcontractors. Documentation shall include but not be limited to records of all quotations received from MWSB and from non-MWSB Subcontractor, and an explanation of the reasons why the MWSBs will not be used during the course of the contract. It is the responsibility of the Prime Contractor to demonstrate that MWSBs were not rejected as unqualified without a thorough and documented investigation of their capabilities and capacity

9. Did the Respondent negotiate in good faith with interested MWSBs whose initial responses were not the lowest bids for the work to be subcontracted?
10. Did the Respondent make efforts to assist interested MWSBs in obtaining necessary equipment, supplies, materials, bonding or insurance required by the Authority or by the Respondent?
 - a. Did the Respondent participate in or initiate mentor protégé-type relationships which could support interested MWSBs in securing supplies, materials, bonding or insurance or technical assistance?
11. Did the Respondent work with minority trade, community or contractor organizations identified by the NCDOA Office of Historically Underutilized Businesses or the NCDOT included in the Bid or Proposal documents that provide assistance in the recruitment and placement of MWSBs?
12. Did the Respondent specifically negotiate with subcontractors to assume part of the responsibility to meet the contract goal when the work to be sublet includes potential for MWSB participation?
13. Did the Respondent provide assistance to otherwise qualified MWSBs in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans or letters of credit, including waiving credit that is ordinarily required, or assist MWSBs in obtaining the same unit pricing with Respondent's suppliers in order to help MWSBs in establishing credit?
14. Did the Respondent provide quick pay agreements and policies to enable MWSBs to meet cash flow demands?

B. Compliance

Failure to comply with the obligations of the Program constitutes a breach of good faith in dealing with the Authority, and the Authority will take any and all actions permitted by law to ensure compliance by all its contractors. Any Respondent who fails to meet or exceed the applicable contract goals without providing satisfactory written evidence of its Good Faith Effort as required by this Program is deemed to have submitted an incomplete or non-responsive Bid and may be disqualified.

Section IX. Contract Compliance

A. General Requirements/ Assurances

1. Each Respondent for a service contract, construction or construction-related professional service contract must either: (a) meet or exceed the MWSB Goal(s) – both minority-owned and women-owned business portions of the MWSB Goal, or (b) comply with the Good Faith Efforts requirements set forth in Section VIII. Failure to do so constitutes grounds for rejection of the Bid. The Authority bid documentation will contain certain forms that Respondents must complete to document having met these requirements.
2. All Respondents shall ensure that the MWSBs have the maximum opportunity to participate in the performance of contracts and subcontracts for work to be performed for the Authority. All Respondents shall take all necessary and reasonable steps to ensure that MWSBs have the maximum opportunity to compete for and perform such contracts and subcontracts. Contractors

and Respondents shall not discriminate on the basis of race, color, national origin, or gender in selecting subcontractors for work to be performed for the Authority.

3. All proposed MWSB participation must be identified and included in the sealed bid. Any increase in MWSB participation that occurs after the bids are opened will not be considered in determining the Respondent achievement of the contract goal or its Good Faith Effort to achieve the goal, but may be recognized as MWSB participation in the contract at the discretion of the SBO and project manager.
4. Agreements between a Respondent and a MWSB in which the MWSB promises not to provide subcontracting quotations to other Respondents are prohibited.
5. Failure of a Contractor to comply with the MWSB Program may constitute a breach of contract and could result in termination of the contract for default or such remedy as the Authority may deem appropriate. The Authority reserves the right to pursue all remedies available under applicable federal, state and local laws.

B. Self-Performance

Self-performance does not exempt Respondents from MWSB Program requirements.

Notwithstanding the fact that a Respondent may have the capability to complete a total project with its own work force, and without the use of Subcontractors/Subconsultants, all Authority contractors are required to demonstrate sufficient Good Faith Efforts to subcontract with and/or procure supplies/services with MWSBs in its Subcontractor/ Subconsultant or supplier service area.

Respondents that do not meet the MWSB Goal for a construction or service contract and desire to self-perform all or part of the contract must comply with each of the following Good Faith Effort provisions. Failure to do so shall constitute grounds for rejection of the Bid or Proposal:

The Respondent must certify in its Bid or Proposal that:

- i. it is a normal and necessary practice of the Respondent to perform all such elements of a contract without the use of subcontractors, and shall provide substantial documentation satisfactory to the Authority of other similar contracts within the past three (3) years on which they have done so.*
- ii. the Proposer was unable to locate MWSBs which could provide significant goods or materials for use in conjunction with this contract (provide supporting documentation).*
- iii. it has a valid business reason for self-performing all work on the Contract as opposed to subcontracting with a MWSB. The Bid or Proposal must describe the valid business reason for self-performing, and the Respondent must submit with its Bid or Proposal documentation sufficient to demonstrate to the Authority reasonable satisfaction the validity of such assertions.*

Each prospective Contractor who proposes to perform contracts with its own workforce shall provide documentation satisfactory to the Authority as described above and utilize forms as included in Bid or Proposal documents.

C. Required Documentation

Each Respondent shall include in its Bid or Proposal the following information, utilizing the forms included in Bid or Proposal documents:

1. Name and contact information for all proposed MWSB and non-MWSB (to the extent required by applicable law) subcontractors, sub-subcontractors and suppliers, description of the ethnic group

of proposed MWSB subcontractors, sub-subcontractors and suppliers, a description and monetary value of the work to be performed by the proposed subcontractors, sub-subcontractors and suppliers, and the certification status of the proposed MWSB subcontractors, sub-subcontractors and;

2. Written documentation of its Good Faith Efforts to involve MWSB subcontractors, which shall be submitted and delivered to the Authority within three (3) business days after submission of the Bid or Proposal;
3. Self-Performance – described in detail in the section above

D. Incomplete and/or Inaccurate Information

The misrepresentation of any information requested by or submitted to the Authority as a part of the Program in response to a request for proposals or bids or at the Authority’s request is a violation of the MWSB Program. If said misrepresentation is discovered during the Bid or Proposal process, the Bid or Proposal will be considered nonresponsive and may be rejected. If the misrepresentation is discovered after the award of the contract, it may be grounds for termination of the contract, or in the alternative, the Contractor may be required to correct the misrepresentation and to take all necessary steps to comply with the requirements of the MWSB Program and to perform in a manner consistent with the representations included in the proposal at no additional cost to the Authority.

Section X. Post Selection Compliance

The Authority will not allow the Prime Contractor to count the participation of a MWSB Subcontractor toward the Prime Contractor’s MWSB Commitment until the committed amount has been paid to the MWSB. The reference to “Contractor” in this section is inclusive of consultants, vendors or other providers.

A. Prompt Payment

1. The Prime Contractor agrees to pay each Subcontractor under any prime contract for satisfactory performance of its contract no later than five days from the receipt of each payment the Prime Contractor receives from the Authority.
2. The Prime Contractor also agrees to promptly request the release of any retainage withheld from subcontractors within 30 days after the Subcontractor’s work is satisfactorily completed and receives partial acceptance (substantial completion or final completion/final acceptance as defined in the general provisions of the contract).
3. A finding of non-payment shall be a material breach of the contract. The Authority may, withhold progress payments until the Contractor demonstrates timely payment of sums due Subcontractors. The Authority also reserves the right to exercise other breach of contract remedies.
4. Failure of a Contractor to comply with the MWSB Program may constitute a breach of contract and could result in termination of the contract for default or such remedy as the Authority may deem appropriate. The Authority reserves the right to pursue all remedies available under applicable federal, state and local laws.

B. Payment Monitoring

To ensure that the Prime Contractor meets all its MWSB obligations under contract, the Authority will review the Contractor's MWSB participation throughout the term of the contract including any term extensions from the original contract period. Each Contractor must submit appropriate forms, as

supplied by the project manager (with verifying information as requested) concurrent with the Contractor's submission of payment requests with each invoice. The information reflected on this report is utilized to provide constant monitoring of the payments made to MWSBs as well. Failure to include required MWSB payment forms with the invoice may result in the invoice being returned to the Contractor.

The Authority will not permit a Contractor to count the participation of a MWSB Subcontractor toward the prime Contractor's MWSB Commitment until the associated amount being counted toward the goal has been actually paid to the MWSB.

Upon the Authority's request, Contractors shall provide the Authority access to all books, records, accounts and personnel records needed for MWSB compliance review. Such access is used for, among other purposes, determining MWSB participation and compliance with the MWSB Program. Contractors are subject to interim and post-contract MWSB audits. Audit determination(s) regarding a Contractor's compliance with the Program may be considered and have a bearing on consideration of the Contractor for award of future contracts. Contractors shall forward all documents and information requested by the Authority and shall cooperate with the Authority in providing the final accounting for MWSB participation in a contract. The Authority may withhold payment of retainage pending compliance with the final accounting or audit requirements.

The Authority staff will document the solicitation and utilization of MWSB Service providers using report forms and/or software approved by the Purchasing Officer and the SBO.

C. Modifications or Substitutions

If there is a modification or substitution or if a Prime Contractor proposes to terminate a MWSB Subcontractor for any reason after submission of the Bid or Proposal either prior to or after contract award, it must submit written documentation to the Authority outlining the reasons for the substitution prior to the termination of the original MWSB. The Contractor must notify the Authority about any additions, modifications or deductions that would affect the contract's MWSB participation.

If the Prime Contractor wishes to terminate a MWSB Subcontractor listed as fulfilling its MWSB Commitment and substitute the original MWSB Subcontractor with another MWSB Subcontractor, the Prime Contractor is required to make Good Faith Efforts as defined above to find a substitute MWSB Subcontractor. The Good Faith Effort shall be directed at finding another MWSB to perform or provide at least the same amount of work, material or service under the contract as the original MWSB contractor. This section and its requirements are applicable to MWSB Prime Contractors as well as non-MWSB Prime Contractors.

A request to substitute, add or modify MWSB participation must be submitted to the project manager and SBO for review and approval using forms supplied by the project manager in accordance with Authority procedures when adding, changing or deleting subcontractors on Authority projects. The Contractor's documentation to the Authority should include the specific justification for the proposed substitution. The Prime Contractor must also submit information to verify that the new MWSB is certified by an approved certifying agency. The Authority will approve or disapprove the substitution based on the submitted documentation. The Contractor should also submit appropriate forms and documentation, as provided by the project manager for each new MWSB Subcontractor. The Contractor must provide the Authority with any and all documents and information as may be

requested with respect to the modification. Prior to submitting a request for substitution based on non-performance, the Contractor shall provide notice to the Subcontractor of the performance issue and provide the Subcontractor an opportunity to correct the situation. Then, the Contractor must submit documentation detailing the notice and the efforts made by the Prime Contractor and the MWSB Subcontractor to cure the non-performance situation to the Authority. This section does not apply in an emergency situation or contracts directly related to passenger safety, security and health.

The Authority will notify the Prime Contractor, in writing, of the decision as expeditiously as possible. If the proposed substitution is approved, the contractor will provide to the Authority, upon request, within five (5) business days of its receipt of the request for the substitution, a copy of the executed subcontract agreement with the new MWSB.

If the Prime Contractor does not comply with the modifications and substitutions requirement outlined in this section, the Authority may elect to apply contract remedies as described herein. At no time should a MWSB receive a termination notice prior to the receipt of the Authority granting approval for the substitution or modification.

If there is any MWSB participation performed by a firm that replaced a MWSB through a substitution or modification without prior approval by the Authority, that participation will not be credited towards the contract's MWSB Commitment.

D. Contract Amendments

The Project Manager will inform the SBO of changes to the scope of work that may affect the MWSB Participation Commitment by as much as five percent or more of the committed amount. Good faith effort requirements extend to any contract amendments or change orders. The MWSB Commitment made at the time of contract award is applied to the final contract value including any contract amendments or change orders.

E. MWSB Compliance Monitoring

The SBO:

1. Identifies and monitors MWSB utilization by Contractors for individual projects and/or contracts.
2. Monitors Authority contracts for Contractor's achievements of the MWSB Goal on a quarterly basis.

MWSB Program compliance monitoring also includes on-site inspections. This provides the opportunity to confirm that MWSB subcontractors as listed in the MWSB forms at contract award are actually providing the contracted services. The Contractor is responsible for providing the Authority, if requested, a project work schedule together with a list of all subcontractors for the scheduled work. This will also assist in scheduling on-site compliance reviews.

The Authority may withhold all or part of any progress payments otherwise due a Contractor if the contractor fails to make payments as defined in the section herein to its Subcontractors, Suppliers, or laborers or fails to comply with the Authority's MWSB policy and requirements.

F. Good Faith Efforts – Post Award

Post-award, the SBO will continuously monitor MWSB participation. Contractors must meet or exceed contract goals, inclusive of change orders and contract modifications. In determining whether the contractor made Good Faith Efforts to ensure full participation and achievement of the MWSB Goal, the SBO will consider:

1. Whether the Contractor furnished prompt MWSB participation reports in a timely and accurate;
2. Whether the Contractor responded to efforts to resolve disputes with MWSBEs, and genuinely attempted to resolve these issues;
3. Whether the Contractor disclosed payment discrepancies timely and within the reporting period;
4. Whether the Contractor furnished prompt written responses to written inquiries from the Authority regarding the MWSB's performance or information germane to the MWSB's certification status;
5. Whether the Contractor ensured that at all times during the performance of any contract or subcontract the MWSBE firm is engaging in a Commercially Useful Function;
6. Whether the contractor provided the Authority with information, or other material, that was factually accurate and free of material misrepresentation; and
7. Whether the Contractor furnished prompt responses to requests for information, books and records needed to verify compliance;
8. Whether the Contractor attended all meetings and mediation hearings as requested by the Authority; and
9. How the Contractor may be affected by change orders, with consideration given to the size and scope of the change orders.

Section XI. MWSB Program Reporting

In order to monitor the progress of its MWSB Program, the Authority maintains a record-keeping system designed to:

1. Assess overall MWSB utilization on Authority procurements, contracts and subcontracts.
2. Review and report the overall Authority's progress and performance in achieving the MWSB utilization goals on a quarterly and annual basis.
3. Provide other MWSB-related internal and external reports as required or requested.

Under the supervision of the P&CEO, the SBO will prepare quarterly reports to the Authority regarding the utilization of MWSBs and the activities of the MWSB Program.

Section XII. Joint Venture and Teaming Programs

Where economically feasible, the Authority encourages joint ventures, teaming arrangements and mentor protégé programs to ensure prime contracting opportunities for MWSBs on all eligible projects, subject to North Carolina statutes regarding contracting licensure and other requirements.

If a Contractor engages in a joint venture or teaming arrangement to satisfy its MWSB Commitment, the Authority will review all contractual agreements or other pertinent documents regarding:

1. The initial capital investment of each venture partner or team member;
2. The proportional allocation of profits and losses to each venture partner or participation percentage to each team member;
3. The sharing of the right to control the ownership and management of the joint venture or team;
4. Actual participation of the venture partners in the performance of the contract;
5. The method of and responsibility for accounting;
6. The methods by which disputes are resolved; and
7. Other pertinent joint venture or teaming arrangement factors.

On the basis of these factors, the Authority will determine the degree of MWSB participation resulting from the joint venture or teaming arrangement which may be credited towards the applicable goals of the project.

The Contractor shall provide the Authority access to review all records pertaining to the joint venture or teaming arrangement before and after the award of a contract reasonably necessary to access compliance with this section including, but not limited to, certification and financial records. Prior to Board approval, the joint venture partners shall submit a final joint venture or other agreement documenting and reflecting the parties' agreement on the terms and/or material terms of the parties' legal relationship. The Authority Board shall not execute a written lease, contract or issue a notice to proceed including a limited notice to proceed until a fully executed copy of the joint venture agreement has been submitted to the procuring Authority department as well as the SBO. Failure of the parties to reach an agreement on the terms of the Joint Venture as well as failure to submit a fully executed agreement may result in rejection of the solicitation.

Section XIII. Adoption

The Historically Underutilized Business Participation Plan was adopted by action of the Raleigh-Durham Airport Authority duly taken on the 18th day of October, 2007 and was effective for all contracts advertised for bids or, if not required to be advertised, entered into on or after the 1st day of November, 2007. The Historically Underutilized Business Participation Plan has been herein amended, restated and renamed as the Minority and Women-Owned Small Business Program was adopted by action of the Raleigh-Durham Airport Authority and shall be effective as of April 1, 2013.