



**Hillsborough
County Florida**

**HILLSBOROUGH COUNTY ECONOMIC DEVELOPMENT DEPARTMENT
MINORITY & DISADVANTAGED BUSINESS DEVELOPMENT
OPERATIONAL PROCEDURES**

**SUBJECT: PROCEDURES FOR IMPLEMENTATION OF THE HILLSBOROUGH
COUNTY DISADVANTAGED MINORITY AND DISADVANTAGED
WOMEN BUSINESS ENTERPRISE PROGRAM AND THE SMALL
BUSINESS ENCOURAGEMENT PROGRAM**

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TABLE OF CONTENTS

<u>Section Name</u>	<u>Page #</u>
• Policy Statement	5
• Application	5
• Part I – OVERVIEW OF COUNTY’S DM/DWBE AND SBE PROGRAMS	
Section 1 - General Requirements	6
Section 2 - Definitions	6
Section 3 - Limited Waiver of DM/DWBE Requirements	6
Section 4 - Discrimination Prohibited.....	6
Section 5 - Program Administration	6
Section 6 - DM/DWBE & SBE Program Development	7
Section 7 - Goals and Bonus Points	8
7.1 - DM/DWBE Employment Overall Goal	8
7.2 - DM/DWBE Goal Attainment Credit	8
7.2.1 - DM/DWBE Firms Must be Certified	8
7.2.2 - Additional Credit Toward Goal Attainment	8
Before Contract Award	
7.2.3 - Additional Credit Toward Goal Attainment	8
After Contract Award	
7.3 - Second (2 nd) & Third (3 rd) Tier DM/DWBE Participation.....	9
7.4 - Outreach Activities	9

7.5 - Commodities.....	9
7.5.1 - Overall Goal	9
7.5.2 - Tie Bids	9
7.6 - Contractual Services.....	9
7.6.1 - Overall Goal	9
7.6.2 - Tie Bids	9
7.6.3 - Bonus Points for RFPs Solicitations	9
7.6.4 - Protests	12
7.7 – Consulting Services/CCNA Contracts	12
7.7.1 - Overall Goal	12
7.7.2 - Contracting Opportunities	12
7.7.3 - Bonus Points for Consulting Services/CCNA Contracts ...	12
7.7.4 - Bonus Points for Completing EEO/AA Questionnaire	14
7.7.5 - Additional Contractor/Consultant Requirements	15
7.7.6 - County’s Right to Audit	16
7.7.7 - Protests	16
7.8 - Construction Contracts of \$200,000 and Above	16
7.8.1 - Overall Goal	16
7.8.2 - Project-Specific Goals	16
7.8.3 - DM/DWBE Firms Bidding As Prime Contractors	18
7.8.4 - Application of Goals	18
7.8.5 - Joint Ventures.....	19
7.8.6 - Contracts with no Project-Specific Goal	19
7.8.7 - Contracts with a Project-Specific Goal	19
7.8.8 - Public/Private Affordable Housing Initiatives	19
7.8.9 - Work/Term Contracts.....	19
7.8.10 - Construction Manager At-Risk Construction Contracts ..	20
7.8.11 - Design-Build Construction Contracts - GMP	21
7.8.12 - Design-Build Construction Contracts - Qualifications	22
7.9 - Contract Pre-Award Review for Construction Bids	24
7.9.1 - Subcontractor/Material Suppliers List (MBE-1 Form)	24
7.9.2 - Good Faith Efforts Determination Form	24
7.9.3 - Additional Documentation of Efforts to Meet	24
DM/DWBE Participation Goal	
7.9.4 - Joint Venture Disclosure Affidavit	25
7.9.5 - Compliance Reviews	25
7.9.6 - Additional Documentation Required to be	25
Submitted by Apparent Low Bidder	
7.10 - Good Faith Efforts.....	27
7.11 - Bid Reviews, Responsiveness Determination & Protests	29
7.12 - County Departments’ Responsibilities	29
7.12.1 - Procurements Made Outside of	29
Competitive Procurement Process	
7.12.2 - State Contracts and Cooperative Purchases.....	30
Section 8 - Elimination or Moderation of Race-Conscious Preferences ..	30
Section 9 - County’s Affirmative Action Policy & Commitment	31
Section 10 - Contract Compliance Requirements	32
10.1 - Measuring Compliance	32
10.2 - Compliance Monitoring - General	32
10.3 - Vendor Compliance System (B2GNOW).....	32
10.4 - Compliance Monitoring - By the County.....	33

10.5 - Notification of Non-Compliance	33
10.6 - Non-Compliance	34
Section 11 - Non-Performance & Remedies of County	34
Section 12 - Prompt Payment Policy	36
Section 13 - Contract Renewals	36
Section 14 - Program Certification & Participation	36
Section 15 - DM/DWBE & SBE Advisory Committee	37

- **Part II – DISADVANTAGED MINORITY/DISADVANTAGED WOMEN BUSINESS ENTERPRISE (DM/DWBE) PROGRAM – Eligibility**

Requirements, Certification & Decertification	
Section 1 - Eligibility Requirements	38
1.1 - Disadvantaged Minority/Disadvantaged Women Business Enterprise - Defined	38
1.2 - Applicable Standards	38
1.3 - Commercial Transactions	38
1.4 - Domiciled in Florida	38
1.5 - Minority Ownership	38
1.6 - Managerial Control	40
1.7 - Operational Control	40
1.8 - Licensure	40
1.9 - Transfer of Ownership	40
1.10 - Commercially Useful Business Function.....	41
1.11 - Net Worth/Business Size	41
Section 2 - Certification Review Procedures	41
Section 3 - Recertification	43
Section 4 - Provision Reciprocity	44
Section 5 - Joint Venture	45
Section 6 - Decertification	46
Section 7 - Amended Specialties	48
Section 8 - Administrative Review	48
8.1 - Request for Administrative Review	48
8.2 - Administrative Certification & Registration Review Panel.....	49
8.3 - Duties of the Administrative Certification & Registration Review Panel	49
8.4 - Re-Application for Certification and/or Amended Specialties ...	50
Section 9 - Work Performed by DM/DWBE Subcontractor Firms	50

- **Part III – SMALL BUSINESS ENCOURAGEMENT (SBE) PROGRAM - Eligibility Requirements, Registration & Deregistration**

Section 1 - Eligibility Requirements	52
1.1 - Small Business Enterprise (SBE) - Defined.....	52
1.2 - Principally Domiciled in Other Florida Counties	52
1.3 - Independently Owned and Operated	52
1.4 - Subsidiaries and Affiliates	52
1.5 - Commercially Useful Business Function	53
1.6 - Gross Annual Sales/Business Size	53
1.7 - Service-Disabled Veteran Owned Business	53
Section 2 - Registration Review Procedures	54

Section 3 - Re-Registration	55
Section 4 - De-Registration	56
Section 5 - SBE Set-Aside Committee	58
Section 6 - Commodities (Set-Aside)	58
Section 7 - Contractual Services (Set-Aside)	59
Section 8 - Consultant's Contracts - CCNA (Set-Aside)	59
Section 9 - Construction (Set-Aside)	59
Section 10 - Payment Assistance/Joint Checks	60
Section 11 - Timely Payment by County	61
Section 12 - Adequate Advertisement Time for Bids and Proposals	61
Section 13 - Disqualification/Rejection of Bids/Proposals	62
Section 14 - Establishment of Data Collection System	62
Section 15 - Work Performed by SBE Firms	62
• Appendix A – DEFINITIONS	63

POLICY STATEMENT

- A. It is the policy of the Hillsborough County Board of County Commissioners (“BOCC”) to encourage the participation of all responsible businesses in Hillsborough County’s contracting and procurement activities.
- B. Hillsborough County (“County”) desires to provide incentives for the participation of Disadvantaged Minority/Disadvantaged Women Business Enterprises (“DM/DWBEs”) in the County’s procurement and contracting activities for so long as these businesses are experiencing the effect of past discrimination and encourage the participation of all responsible and eligible small businesses in the County’s procurement and contracting activities.
- C. Pursuant to Administrative Order #13-01, the Hillsborough County Economic Development Department hereby establishes operational procedures (the “Operational Procedures”) for the implementation of the Hillsborough County Disadvantaged Minority/Disadvantaged Women Business Enterprise Program (“DM/DWBE Program”) and the Small Business Encouragement Program (“SBE Program”) (collectively, the “Programs”) in accordance with BOCC Resolution No. R06-264, as amended by Resolution No. R11-020, Resolution No. R12-156, Resolution No. R15-105, Resolution 16-120 and Resolution No. R22-002 (hereinafter, collectively, the “Resolutions”).

APPLICATION

These Operational Procedures shall apply to all Invitations to Bid and Requests for Proposals advertised by the County on or after the Effective Date hereof or advertised prior to the Effective Date but which remain unopened as of the Effective Date. Administrative Order 06-08 shall apply to all Invitations to Bids and Requests for Proposals, which were advertised and opened before the Effective Date of these Procedures.

**PART I
OVERVIEW OF COUNTY'S DM/DWBE AND SBE PROGRAMS**

SECTION 1 - GENERAL REQUIREMENTS

- 1.1 The County's Affirmative Action Program, adopted by the BOCC, provides that contractors and vendors doing business with the County must comply with all applicable civil rights laws and regulations. Failure on the part of a bidder to meet these requirements may result in rejection of their Bid.
- 1.2 Contractors and vendors bear the sole responsibility to immediately review and otherwise familiarize themselves with the requirements of the County's DM/DWBE and SBE Programs. Any questions posed by contractors and vendors with regard to any of the requirements of these Programs should be referred to the Hillsborough County Economic Development Department's Minority and Small Business Enterprises Division.

SECTION 2 - DEFINITIONS

Any term defined in Appendix A, Definitions, attached hereto and incorporated herein by reference, shall have the meaning ascribed therein for purposes of these Operational Procedures.

SECTION 3 - LIMITED WAIVER OF DM/DWBE REQUIREMENTS

At any time prior to the County's solicitation of an Invitation to Bid and/or Request for Proposal, the County Administrator, subject to BOCC approval, or the BOCC at any time, may grant a partial or complete waiver of the DM/DWBE Program requirements for any Contract in which it is demonstrated that minority participation cannot be achieved as required by the DM/DWBE Program without detriment to public health, safety or welfare, including adverse financial impact to the County. The DM/DWBE Program requirements shall not be placed on emergency purchases when said emergency and/or emergency purchase is determined pursuant to any applicable BOCC and/or County Administrator policies, and the provisions set forth in Hillsborough County's Procurement Policy and/or Procurement Procedures.

SECTION 4 - DISCRIMINATION PROHIBITED

Pursuant to Hillsborough County Human Rights Ordinance (#00-37, as amended by #14-30), 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 Hillsborough County Contract or procurement activity, on the grounds of race, color, religion, national origin, sex, age, marital status, disability, sexual orientation, or gender identity or expression. Complaints may be filed with the County's Equal Employment and Opportunity Administrator's Office.

SECTION 5 - PROGRAM ADMINISTRATION

The County Administrator has the general responsibility for administering the DM/DWBE and SBE Programs in accordance with the Resolutions. The Director of the County's Economic Development Department shall be responsible for developing,

managing and implementing the DM/DWBE and SBE Programs on a day-to-day basis, together with such other responsibilities as set forth in the Resolutions. The Director of the County's Economic Development Department has delegated to the Director of the County's Minority and Small Business Enterprises Division, or his or her designee, the responsibility for the day-to-day development, management, and implementation of the DM/DWBE and SBE Programs and such other responsibilities as set forth in the Resolutions.

The Minority and Small Business Enterprises Division (a division of the County's Economic Development Department) shall be responsible for the administration of the DM/DWBE and SBE Programs as set forth in the Resolutions and in accordance with these Operational Procedures.

For those projects that are, in whole or in part, funded by federal grants, these administrative/Operational Procedures shall be amended to be consistent with the pertinent federal grant regulations or laws. Duties assigned to specific departments will be applicable to successor County Departments.

SECTION 6 - DM/DWBE & SBE PROGRAM DEVELOPMENT

- 6.1 The Programs are intended and designed to assist DM/DWBEs and SBE's in overcoming their economic disadvantage by providing such assistance as may be necessary and appropriate to enable these Businesses to secure County contracts, and to strengthen their financial and managerial skills to enable them to compete in the private sector.
- 6.2 For the purpose of developing the Programs, the County has adopted the business development concept referenced in the Business Opportunity Development Reform Act of 1988 (P.L. 100-656, 301 et sec.), which establishes two program stages: (i) Developmental Stage, and (ii) Transitional Stage.
 - 6.2.1 Developmental Stage of Program Participation – An eligible Program participant (i.e., a Business that is Certified and/or Registered in one or more of the County Programs), may receive:
 - a. Training in the County's procurement requirements and information regarding the availability of County contracting work, if applicable;
 - b. Assistance in identifying financial resources;
 - c. Management skills training for the purpose of upgrading performance standards. Such training may be provided through cost-free or cost-subsidized training programs offered by public and private agencies working with programs for economic development, and may include assistance with the development of business plans; and;
 - d. Business activity targeting assistance and training, i.e. Mentor/Protégé, matchmaker and partnering assistance from both Minority and non-Minority Businesses.

- 6.2.2 Transitional Stage of Program Participation – An eligible Program participant in this stage will receive assistance similar to that provided in the Developmental Stage. In addition, such participants will be encouraged to attain the business goals/activities targeted in their business plans, (for example, increased revenues and/or contracts in the public and private sectors). DM/DWBE participants in this stage are expected to transition into the SBE Program which is described in Part III of these Operational Procedures.

SECTION 7 - GOALS AND BONUS POINTS

7.1 DM/DWBE EMPLOYMENT OVERALL GOAL

The County hereby establishes an annual overall goal of 17.9% for Minority group employment and 6.9% for Women employment on County Construction Contracts regardless of the funding source. These goal levels are consistent with the levels established by the U.S. Department of Labor for this Standard Metropolitan Statistical Area (SMSA). Contractors awarded such Construction projects are encouraged to achieve these Minority and Women employment goals when vacancies occur within their workforce.

7.2. DM/DWBE GOAL ATTAINMENT CREDIT

7.2.1 DM/DWBE Firms Must be Certified - Certification as to DM/DWBE status is generally obtained within thirty (30) Days of completion of the application requirements. In order to be counted toward goal attainment and in order to participate in the County's DM/DWBE Program, the applicable DM/DWBE must be certified, pursuant to Part II Section 1 of these Operational Procedures, at the time of Bid opening/Proposal submittal.

7.2.2 Additional Credit Toward Goal Attainment Before Contract Award – If, prior to the County's award of a Contract, a bidder/Prime contractor submits additional DM/DWBE subcontract agreements and/or Letters of Intent that are over and above what is listed on the bidder's Subcontractor/Material Suppliers List (MBE-1 Form), then those additional firms and/or monetary amounts will be credited toward Bidder's DM/DWBE participation goal attainment. However, the bidder must first be deemed to be responsive to the goal either through the MBE-1 Form or the achievement of good faith efforts in order to receive this additional credit toward goal attainment.

7.2.3. Additional Credit Toward Goal Attainment After Contract Award – If, after the County's award of a Contract, regardless of type, a Prime contractor wishes to utilize additional Certified DM/DWBE Subcontractors for the project, then this shall be allowed with the approval by the Minority and Small Business Enterprises Division and will be counted towards the County's overall goal attainment for the applicable project/Contract.

7.3 SECOND (2ND) & THIRD (3RD) TIER DM/DWBE PARTICIPATION

Any County Contract over Twenty Million Dollars (\$20,000,000) will be eligible to utilize 2nd Tier DM/DWBE participation (DM/DWBE Subcontractor of 1st Tier Subcontractor) and 3rd Tier DM/DWBE participation (DM/DWBE Subcontractor of 2nd Tier Subcontractor) toward goal attainment.

7.4 OUTREACH ACTIVITIES

7.4.1 The County shall maximize DM/DWBE and SBE participation by utilizing the following outreach activities, where appropriate:

- a. Solicitation of Certified DM/DWBEs and Registered SBEs - For all purchases, regardless of procedures followed, the County will attempt to maximize opportunities for DM/DWBE and SBE Firms by ensuring that whenever a Certified DM/DWBE or Registered SBE Firm is listed in a particular category, that Firm will be included in the County's broadcast list soliciting the submission of Bids, Proposals or quotes for the particular category.
- b. Advertising - The County may utilize Minority-focused media to inform DM/DWBE and SBE Firms of upcoming contract opportunities.
- c. Specification Development - The Procurement Services Department and the Minority and Small Business Enterprises Division will work with user County departments to make modifications or alterations to procurement specifications to encourage competitive bidding by DM/DWBE and SBE Firms.

7.5 COMMODITIES

7.5.1 Overall Goal - The County hereby establishes an annual overall DM/DWBE participation goal of ten percent (10%) for Commodity Contracts that are procured competitively by the County.

7.5.2 Tie Bids - If a tie bid occurs, Certified DM/DWBE Firms will receive preference as outlined in the Hillsborough County Procurement Policies and Procedures Manual.

7.6 CONTRACTUAL SERVICES

7.6.1 Overall Goal - The County hereby establishes an annual overall DM/DWBE goal of ten percent (10%) for Contractual Services that are procured competitively by the County.

7.6.2 Tie Bids - If a tie bid occurs, Certified DM/DWBE Firms will receive preference as outlined in the Hillsborough County Procurement Policies and Procedures Manual.

7.6.3 Bonus Points for Requests for Proposals (RFPs) Solicitations

- a. The County has established a bonus point system for those Requests for Proposals (“RFPs”) for Contractual Services which contain subcontracting opportunities for Certified DM/DWBE firms in order to promote the participation of DM/DWBE firms.
- b. All RFPs for Contractual Services shall include a provision for bonus points for utilization of Certified DM/DWBE firms.
- c. An amount equal to five percent (5%) of the maximum allowable points applicable to a given RFP shall be awarded as bonus points to any Proposer who issues a written commitment to subcontract a minimum of ten percent (10%) of its contract dollar amount to one or more Certified DM/DWBE firms.
- d. The County’s Minority and Small Business Enterprises Division shall be responsible for reviewing requests for bonus points and for approving the assignment of these bonus points.
- e. Proposer is required to submit its request for bonus points/Letter of Commitment and all supporting documentation with its Proposal.
- f. All DM/DWBE firms identified in proposer’s Proposal must either be certified with the County as a DM/DWBE firm or have provisional reciprocal certification with the County by the Proposal submittal deadline in order for proposer’s Proposal to be considered for the award of DM/DWBE bonus points. Provisional reciprocity shall be consistent with the provisions set forth in Part II, Section 4 of these Operational Procedures.
- g. In the event the proposer receives bonus points for its identification of one or more DM/DWBE firms in its Proposal, then the proposer shall be committed to the utilization of such firm(s) for at least ten percent (10%) of the Contract dollar amount for any Contract resulting from the RFP.
- h. In order to receive bonus points, the proposer must submit a signed Letter of Commitment with its Proposal on the proposer’s letterhead which must include the following information which shall constitute the Letter of Commitment:
 - (i) The RFP number and title of the procurement solicitation;
 - (ii) The name of the DM/DWBE firm(s) to be utilized;
 - (iii) A commitment from the proposer stating that at least ten percent (10%) or more of its ultimate fees will be subcontracted to the named DM/DWBE firm(s); and
 - (iv) The following documents shall be attached to the Letter of Commitment:
 - (A) A letter of intent from the/each DM/DWBE firm on the DM/DWBE firm’s letterhead stating its intent to perform the services and the scope of work. The letter should reference this RFP specifically and

should be signed by the DM/DWBE firm's owner/managing partner; and

- (B) A copy of the/each DM/DWBE firms' current DM/DWBE certification. If the DM/DWBE firm is seeking reciprocal certification with the County, then a letter from the certifying jurisdiction or copy of the certification document evidencing certification by the certifying jurisdiction must be attached.
- i. Failure to comply with any of the above requirements may result in a denial of the proposer's request for bonus points.
- j. If a proposer receives bonus points and is ultimately awarded a Contract pursuant to the RFP, then the proposer/Contractor must submit to the County, using the County's vendor compliance system (B2GNOW), a copy of the fully executed subcontract agreement with each of the DM/DWBE Subcontractor firms listed in its proposal and letters of commitment within thirty (30) days of the County's award of the Contract to the proposer/contractor and/or issuance of a valid task/work order by the County. If the proposer/contractor and the DM/DWBE Subcontractor are unable to successfully negotiate a subcontract agreement within this thirty (30) day timeframe, then the proposer/contractor must notify the County's Minority and Small Business Enterprises Division of the impasse reached in negotiations. Upon review of the facts, if, in the best interest of the County, it is determined that a substitution of the DM/DWBE Subcontractor may be warranted, then the Minority and Small Business Enterprises Division will advise the proposer/contractor to select a substitute DM/DWBE Subcontractor. The purpose of this required substitution will be to ensure proper utilization of DM/DWBE firms in the project consistent with the original award of bonus points in the selection process. The substitute DM/DWBE Subcontractor must meet the same certification requirements as the originally proposed DM/DWBE Subcontractor, and the substitution must be approved by the County's Minority and Small Business Enterprises Division. Approval of such substitution will be provided only upon a showing that it is not reasonable or possible to obtain the services of another Certified DM/DWBE firm to complete the relevant portions of the Contract.
- k. In the event of a change in circumstances that are beyond the control of the proposer/contractor (such as changes made by the County to the scope of work to be performed or the inability of the proposed DM/DWBE Subcontractor to perform the required services), the proposer/contractor shall submit a written explanation of the changed circumstances to the County's Minority and Small Business Enterprises Division and shall request a substitution of the original proposed DM/DWBE Subcontractor with another DM/DWBE firm. A substitute DM/DWBE Subcontractor must meet the same certification requirements as the original proposed DM/DWBE Subcontractor and the substitution must be approved by the

County's Minority and Small Business Enterprises Division. The proposer/contractor cannot substitute the original proposed DM/DWBE Subcontractor with a non-DM/DWBE Subcontractor or complete the work using its own resources without the prior written approval of the County's Minority and Small Business Enterprises Division. Approval of such substitution by the County will be provided only upon a showing that it is not reasonable or possible for the proposer/contractor to obtain the services of another Certified DM/DWBE firm to complete the relevant portions of the Contract.

1. Proposer's/Contractor's failure to comply with any of the requirements in this subsection paragraph 7.6.3 may result in the denial of bonus points to the proposer/Contractor in future County procurements and/or may be considered and treated by the County as a material breach of contract.

7.6.4 Protests - Should a proposer/contractor submit a protest regarding the award/non-award of bonus points, the protest will be handled in strict accordance with Hillsborough County Ordinance No. 13-24 – Hillsborough County Procurement Protest Policy and Procedures Ordinance.

7.7 CONSULTING SERVICES/CCNA CONTRACTS

7.7.1 Overall Goal – The County hereby establishes an annual overall DM/DWBE participation goal of ten percent (10%) for professional Consulting Services Contracts.

7.7.2 Contracting Opportunities - The County will provide contracting opportunities for professional architectural and engineering Consulting Services pursuant to Section 287.055, Florida Statutes, known as the "Consultant's Competitive Negotiation Act" (CCNA).

7.7.3 Bonus Points for Consulting Services/CCNA Contracts

- a. The County has established a bonus point system for those proposals for Consulting Services/CCNA Contracts which contain subcontracting opportunities for Certified DM/DWBE firms in order to promote the participation of DM/DWBE firms.
- b. The County will award bonus points to proposing consultants for their written commitment to utilize Certified DM/DWBE Firms. All proposals for Consulting Services/CCNA Contracts shall include a provision for bonus points for utilization of Certified DM/DWBE firms. Bonus points for DM/DWBE Participation shall be awarded as follows:
 - (i) Level 1 Participation - Five (5) bonus points to a non-DM/DWBE CCNA consultant who proposes as a Prime consultant and who issues a written Letter of Commitment to subcontract a minimum of ten percent (10%) of its ultimate fee/contract dollar amount to one or more Certified DM/DWBE firms.

- (ii) Level 2 Participation – Six (6) bonus points to a Certified DM/DWBE CCNA consultant who proposes as a Prime consultant and who issues a written Letter of Commitment to subcontract a minimum of ten percent (10%) of its ultimate fee/contract dollar amount to one or more Certified DM/DWBE firms that is not the DM/DWBE Prime consultant.
 - (iii) Bonus points are not cumulative.
 - (iv) Only one level of participation can be chosen.
- d. The County’s Minority and Small Business Enterprises Division will be responsible for reviewing requests for bonus points and for approving the assignment of these bonus points.
 - e. Proposer is required to submit its request for bonus points/Letter of Commitment and all supporting documentation with its Proposal.
 - f. All DM/DWBE firms identified in proposer’s Proposal must either be certified with the County as a DM/DWBE firm or have provisional reciprocal certification with the County by the Proposal submittal deadline in order for proposer’s Proposal to be considered for the award of DM/DWBE bonus points. Provisional reciprocity shall be consistent with the provisions set forth in Part II, Section 4 of these Operational Procedures.
 - g. In the event the proposer receives bonus points for its identification of one or more DM/DWBE firms in its Proposal, then the proposer shall be committed to the utilization of such DM/DWBE firm(s) for at least ten percent (10%) of the ultimate fee/contract dollar amount for any resulting Consulting Services/CCNA Contract.
 - h. In order to receive bonus points, the proposer must submit a signed Letter of Commitment with its response/Proposal on the proposer’s letterhead which must include the following information which will constitute the Letter of Commitment:
 - (i) The number and title of the procurement solicitation;
 - (ii) The Level of Participation and number of bonus points being applied for (only one level of participation can be chosen);
 - (iii) The name of the DM/DWBE subconsultant firm(s) to be utilized;
 - (iv) A Certification Statement from the proposing CCNA consultant stating that at least 10% or more of its ultimate fees will be subcontracted to the named DM/DWBE firm(s);
 - (v) The following documents shall be attached to the signed Letter of Commitment:

- (A) A letter of intent from the/each DM/DWBE subconsultant firm on the DM/DWBE subconsultant firm's letterhead stating its intent to perform the services and the scope of work. The letter of intent should reference the solicitation document specifically and should be signed by the DM/DWBE subconsultant firm's owner/managing partner; and
- (B) A copy of the/each DM/DWBE subconsultant firm's current DM/DWBE certification. If applying for Level 2 Participation, then the proposing CCNA consultant must provide a copy of its own current DM/DWBE certification. If the DM/DWBE subconsultant firm is seeking reciprocal certification with the County, then a letter from the certifying jurisdiction or copy of the certification document evidencing certification by the certifying jurisdiction must be attached. Provisional reciprocity shall be consistent with the provisions set forth in Part II, Section 4 of these Operational Procedures.

- i. Failure to comply with any of the above requirements may result in a denial of the proposer's request for bonus points.

7.7.4 Bonus points for completing the County's Equal Opportunity Requirements information (EEO/AA Questionnaire):

- a. Up to four (4) bonus points to a CCNA consultant who proposes as a Prime consultant and who completes the County's EEO/AA Questionnaire. Bonus points shall be awarded as follows:
 - (i) Current Equal Employment Opportunity Policy Statement (0.5 point);
 - (ii) Current Workforce Distribution Matrix (1.0 point);
 - (iii) Current Affirmative Action Plan (2.5 points).
- b. Proposer is required to submit its request for EEO/AA bonus points (EEO/AA Questionnaire) and all supporting documentation with its Proposal.
- c. The County's Minority and Small Business Enterprises Division will be responsible for reviewing requests for EEO/AA bonus points and for approving the assignment of these bonus points.
- d. Failure to comply with any of the above requirements may result in a denial of the proposer's request for EEO/AA bonus points.

7.7.5 Additional Contractor/Consultant Requirements

- a. If the CCNA Prime consultant received bonus points and is ultimately awarded a Contract, then the Prime consultant will be required to utilize the County's Vendor Compliance System (B2GNOW) on a monthly basis to report utilization and payments to all DM/DWBE firms/Subcontractors in that monthly period.
- b. If the CCNA Prime consultant received bonus points and is ultimately awarded a Contract, then the Prime Consultant must submit to the County, using the County's vendor compliance system (B2GNOW), a copy of the fully executed subcontract agreement with each of the DM/DWBE subconsultant firms listed in its proposal and letters of commitment within thirty (30) days of the County's award of the Contract to the CCNA Prime consultant and/or issuance of a valid task/work order by the County. If the CCNA Prime consultant and the DM/DWBE subconsultant are unable to successfully negotiate a subcontract agreement within this thirty (30) day timeframe, then the CCNA Prime consultant must notify the County's Minority and Small Business Enterprises Division of the impasse reached in negotiations. Upon review of the facts, if, in the best interest of the County, it is determined that a substitution of the DM/DWBE subconsultant may be warranted, then the Minority and Small Business Enterprises Division will advise the CCNA Prime consultant to select a substitute DM/DWBE subconsultant. A substitute DM/DWBE subconsultant must meet the same certification requirements as the originally proposed DM/DWBE subconsultant, and the substitution must be approved by the County's Minority and Small Business Enterprises Division. Approval of such substitution will be provided only upon a showing that it is not reasonable or possible to obtain the services of another Certified DM/DWBE firm to complete the relevant portions of the Contract.
- c. In the event of a change in circumstances that are beyond the control of the CCNA Prime consultant (such as changes made by the County in the scope of work to be performed or the inability of the proposed DM/DWBE Subcontractor to perform the required services), the CCNA Prime consultant shall submit a written explanation of the changed circumstances to the County's Minority and Small Business Enterprises Division and shall request a substitution of the original proposed DM/DWBE subconsultant/Supplier with another DM/DWBE firm. The purpose of this required substitution will be to ensure proper utilization of DM/DWBE firms in the project consistent with the original award of bonus points in the selection process. The substitute DM/DWBE firm must meet the same Certification requirements as the original proposed DM/DWBE firm, and the substitution must be approved by the County's Minority and Small Business Enterprises Division. Approval of such substitution will be provided only upon a showing that it is not

reasonable or possible to obtain the services of another Certified DM/DWBE firm to complete the relevant portions of the Contract.

- d. Prime consultant’s failure to comply with any of the requirements in this subsection 7.7.5 may result in the denial of bonus points to the proposer/consultant in future County procurements and/or may be considered and treated by the County as a material breach of contract.

7.7.6 County’s Right to Audit - Pursuant to DM/DWBE requirements outlined in the Agreement for Professional Services, the County reserves the right to audit the CCNA Prime consultant’s records pertaining to the project at any time during the term of the agreement and for a period of five (5) years after the completion of work or termination of the agreement, whichever is later.

7.7.7 Protests - Should a CCNA Prime consultant submit a protest regarding the award/non-award of bonus points, the protest will be handled in strict accordance with Hillsborough County Ordinance No. 13-24 – Hillsborough County Procurement Protest Policy and Procedures Ordinance.

7.8 CONSTRUCTION CONTRACTS OF \$200,000 AND ABOVE

7.8.1 Overall Goal - The County hereby establishes an annual overall DM/DWBE participation goal of twenty percent (20%) for Construction Contracts. This goal applies to all Construction procurements for projects with an estimated value of Two Hundred Thousand Dollars (\$200,000) and above; except when a project is approved for an SBE set-aside. Construction contracts identified and approved under the SBE set-aside provision will be exempt from inclusion of DM/DWBE requirements. Where possible, the desired breakdown of DM/DWBE participation in Construction contracts should reflect fourteen percent (14%) of the Contract price being provided to DMBE firms and six percent (6%) to DWBE firms. Target annual percentages are as follows:

<u>CATEGORY</u>	<u>GOAL*</u>
DM/DWBE Firms	20% <u>(Overall)</u>
Black Owned	6%
Hispanic Owned.....	6%
Women Owned	6%
Other Owned	2%

*These percentages are not requirements (they are goals)

7.8.2 Project-Specific Goals

- a. Specific goals for each Construction project shall be adopted on a project-by-project basis.

- b. Project-specific goals will be established by the County's Goal Setting Committee prior to the Bid/Proposal solicitation being issued by the County.
- c. Goal Limit - The goal on any individual Construction project shall not exceed thirty percent (30%).
- d. Goal Setting Committee – The County's Goal Setting Committee will be responsible for establishing project-specific goals for Construction projects with an estimated value of \$200,000 and above. This Committee shall be composed of the following persons: one (1) representative from the County's Department of Public Works/Capital Programs, one (1) representative from the user Department/agency, one (1) representative from the County's Public Utilities Department/Water Resources, and two (2) representatives from the County's Minority and Small Business Enterprises Division. One of the two representatives from the County's Minority and Small Business Enterprises Division will serve as chair of the Committee.
- e. Factors in setting project-specific goals - When setting project-specific contract goals, the County's Goal Setting Committee shall consider the following factors: (i) the type of work required to be performed under the contract; (ii) the type of subcontracting opportunities available under the contract; (iii) the number of Certified DM/DWBE firms eligible to perform the subcontracting work; (iv) the past experience of the County in meeting its goals; and (v) any special circumstances relating to the project, such as scheduling constraints, constructability requirements, federal and grant requirements, etc. Goals shall not be placed on Federally-funded or grant-funded projects/procurements as these procurements are subject to their own dedicated rules and regulations. The following is the procedure for establishing project-specific goals:
 - (i) The project designer or designated County staff will break down the project and identify the various components of the project to be constructed;
 - (ii) The project designer or designated County staff will submit a scope of work and a breakdown sheet with each component/dollar value to the Minority and Small Business Enterprises Division of the potential subcontracting opportunities in the project and the estimated percentage that each subcontract component bears to the total project using generally accepted construction methods, practices and procedures. The breakdown shall include the scope of the anticipated work for each component to be subcontracted and the qualifications required of the Subcontractor to do the work. The breakdown shall also identify if the project must meet Environmental Protection Agency (EPA) or other Federal grant requirements;

- (iii) The Minority and Small Business Enterprises Division will review the County's list of Certified DM/DWBE firms and determine the availability of Certified DM/DWBE firms qualified to do the work on each possible subcontractable component;
- (iv) Upon completion and review of the breakdown, the Minority and Small Business Enterprises Division will schedule a time for convening the County's Goal Setting Committee;
- (v) The Minority and Small Business Enterprises Division shall provide a recommendation of Certified DM/DWBE firms for each component of work to the County's Goal Setting Committee;
- (vi) The County's Goal Setting Committee shall set the goals for each project based upon the availability of Certified DM/DWBE firms; and
- (vii) Each subcontractable component for which there are at least three (3) Certified DM/DWBE firms may constitute an element for calculating the goals to be established by the County's Goal Setting Committee.

7.8.3 DM/DWBE Firms Bidding as Prime Contractors – Any Certified DM/DWBE firm that bids as a Prime contractor on a Construction project, shall be subject to the same DM/DWBE Subcontractor participation goals as a non-Certified DM/DWBE firm.

7.8.4 Application of Goals

- a. The established project-specific goal shall be applied to the full monetary value of the contract (excluding the value of possible alternates) and be reflected in the monetary portion spent on subcontracts for Consulting and Construction services awarded to those DM/DWBE firms meeting contract specifications.
- b. Certified DM/DWBE firms that furnish supplies for Construction projects, and manufacture the supplies, will be fully credited at one hundred percent (100%) toward the goal established for the Construction project. Certified DM/DWBE firms that furnish supplies for Construction projects, but do not manufacture the supplies, will be credited at fifty percent (50%) toward the goal established for the Construction project.
- c. Prime contractors will receive credit for DM/DWBE subcontracts toward goal attainment only for Subcontractors who are Certified DM/DWBE firms and licensed, if required, in the specific area of expertise for which credit is sought at the time of the applicable Bid/Proposal submittal deadline. Bidders may use any DM/DWBE firm Certified by Hillsborough County, or other governmental agencies identified pursuant to Part II, Section 4 of these Operational Procedures.

- d. Projects valued over Twenty Million Dollars (\$20,000,000) - Prime contractors will be allowed to utilize second (2nd) tier DM/DWBE participation (DM/DWBE Subcontractor to 1st tier Subcontractor) toward goal attainment in Construction projects valued over \$20,000,000. Online compliance audits will be performed in the County's vendor compliance system (B2GNOW) for both 1st and 2nd tier DM/DWBE Subcontractors.
- e. Emergency purchases, Federally-funded procurements, procurements under the Community Development Block Grant (CDBG) Program, and procurements utilizing grant funds are exempt from the DM/DWBE Program requirements, as these procurements are subject to their own dedicated rules and regulations.

7.8.5 Joint Ventures - A Joint Venture consisting of a Certified DM/DWBE firm and a non-Minority firm, with the Joint Venture business entity functioning as the Prime contractor, will be credited with Minority participation on the basis of the Certified DM/DWBE firm's percentage of participation in the work, risk and profit. Joint Venture Applications must be submitted to the Minority and Small Business Enterprises Division for review and approval prior to submission of the applicable Bids/Proposals. The Joint Venture Application must indicate compliance with Chapter 489, Florida Statutes. The approved Joint Venture Application shall be submitted with the bid.

7.8.6 Contracts with no Project-Specific Goal - For Construction Contracts for which no project-specific goal was set because it was estimated by the County at a price of less than Two Hundred Thousand Dollars (\$200,000), but for which the bid or bids received equals or exceeds Two Hundred Thousand Dollars (\$200,000), the County's annual overall twenty percent (20%) construction goal shall apply.

7.8.7 Contracts with a Project-Specific Goal - For Construction Contracts for which a project-specific goal is established but for which the bid submitted is less than Two Hundred Thousand Dollars (\$200,000), the established goal will not apply in the determination of a bidder's responsiveness to these requirements.

7.8.8 Public / Private Affordable Housing Initiatives - In instances where the BOCC participates with a private developer in a Construction project for the good of the community, (such as in the case of affordable housing projects through the County's Affordable Housing Department), the Minority and Small Business Enterprises Division shall coordinate with the applicable developer to ensure that maximum opportunities for participation are afforded to Certified DM/DWBE firms. These projects shall be monitored by the County's Affordable Housing Department.

7.8.9 Work/Term Contracts:

- a. Work/Term Contracts are term contracts which have miscellaneous tasks periodically assigned and performed on an as-needed basis.

The scope of services needed to complete each task may vary in size and complexity. Therefore, the DM/DWBE firm subcontracting reporting requirements are modified to accommodate the incremental work for these types of Contracts.

- b. The County's Goal Setting Committee shall establish an overall goal for each Work/Term Contract that is valued at Two Hundred Thousand Dollars (\$200,000) and above.
- c. Bidders/Proposers will be required to list their potential Certified DM/DWBE Subcontractors on the bidder's/proposer's Subcontractors/Material Suppliers List (MBE-1 Form) which must be submitted with their Bid/Proposal. Such documentation of compliance shall be the responsibility of the successful bidder (contractor). The apparent low bidder shall provide the County with Letters of Intent from its listed Certified DM/DWBE Subcontractors within five (5) Business Days of notification by the County of low bidder status.
- d. When issuing work orders to the successful bidder (contractor), the County fully expects that such contractor shall be committed to utilization of the Certified DM/DWBE firms on the contractor's list of potential Certified DM/DWBE Subcontractors to participate in providing the goods/services set forth in the work order(s). The contractor shall provide documentation online in the County's vendor compliance system (B2GNOW) on a monthly basis to report utilization and payments to all DM/DWBE Subcontractors in that monthly period or evidence of Good Faith Efforts expended in attempts to utilize DM/DWBE Subcontractors.
- e. The above DM/DWBE requirements are deemed waived when a Work/Term Contract has been identified as an SBE set-aside.
- f. Since the County retains the exclusive option to renew a Work/Term Contract for additional periods, the Minority and Small Business Enterprises Division shall provide the user Department/agency and Procurement Services Department a written report which shows the contractor's compliance with the County's DM/DWBE Program requirements during the first year or prior term of the Contract. If the determination is made that the contractor's actions were not in compliance with the County's DM/DWBE Program requirements, the Minority and Small Business Enterprises Division may recommend that the Contract not be renewed for the additional period.

7.8.10 Construction Manager At-Risk Construction Contracts – For Construction Manager (CM) At-Risk procurements, the following procedures shall apply:

- a. Overall Goal – The County hereby establishes an annual overall DM/DWBE participation goal of twenty percent (20%) for Construction Contracts, including CM At-Risk Contracts.

b. Project-Specific Goals

- (i) Notwithstanding the above, specific goals for each project shall be adopted on a project-by-project basis.
- (ii) Project-specific goals will be established by the County's Goal Setting Committee prior to bid solicitation.
- (iii) Bidders/Proposers will be required to list their potential Certified DM/DWBE Subcontractors on the bidder's/proposer's Subcontractors/Material Suppliers List (MBE-1 Form) which is submitted with their Bid/Proposal. When issuing work orders to the successful bidder, the County fully expects that the successful bidder will utilize the DM/DWBE firms on the bidder's/proposer's list of potential Certified DM/DWBE Subcontractors to participate in providing the goods/services set forth in the work order(s). Such documentation of compliance shall be the responsibility of the successful bidder. The apparent low bidder shall provide the County with letters of intent from its listed Certified DM/DWBE Subcontractors within five (5) Business Days of notification by the County of low bidder status.
- (iv) The CM At-Risk contractor shall be contractually obligated to meet the goal established by the County's Goal Setting Committee or demonstrate that it has made Good Faith Efforts to do so.
- (v) Within thirty (30) Days of the Notice to Proceed with Work date and prior to issuance of the Notice to Proceed with Construction by the County, the CM At-Risk contractor shall submit copies of records and supporting documentation to the Minority and Small Business Enterprises Division that document evidence of its compliance with the County's DM/DWBE requirements, i.e., executed subcontract agreements, purchase order agreements and evidence of Good Faith Efforts.
- (vi) The CM At-Risk contractor shall also submit an Equal Employment Opportunity Questionnaire & Affirmative Action Plan for its Firm as evidence of its compliance with the County's Equal Opportunity requirements.

7.8.11 Design-Build Construction Contracts - Competitive Selection with Guaranteed Maximum Price (GMP) based selection ONLY, the following procedures shall apply:

- a. Overall Goal - The County hereby establishes an annual overall DM/DWBE participation goal of twenty percent (20%) for Design-Build Construction Contracts.
- b. Notwithstanding the above, specific goals for each project shall be adopted on a project-by-project basis.

- c. The project-specific goals will be established by the County's Goal Setting Committee prior to bid solicitation to include both the design and construction.
- d. The Design-Builder shall be contractually obligated to meet the goal established by the County's Goal Setting Committee or demonstrate that it has made Good Faith Efforts to do so.
- e. The Design-Builder shall submit an Equal Opportunity Questionnaire & Affirmative Action Plan for its firm as evidence of its compliance with the County's Equal Opportunity requirements. These documents should be submitted to the County prior to the County's issuance of the Notice to Proceed with Design.
- f. After issuance of the Notice to Proceed with Design and prior to issuance of the Notice to Proceed with Construction by the County, the Design-Builder shall submit copies of records and supporting documentation to the Minority and Small Business Enterprises Division that document evidence of its compliance with the County's DM/DWBE requirements (i.e., Subcontractor/Material Suppliers List (MBE-1 Form), executed subcontract agreements, purchase order agreements, proof of DM/DWBE certification, County-approved Joint Venture Disclosure Affidavit (if applicable), and/or evidence of Good Faith Efforts).
- g. The Design-Builder shall be required to utilize the County's Vendor Compliance System (B2GNOW) on a monthly basis to report utilization and payments to all DM/DWBE firms in that monthly period or evidence of Good Faith Efforts expended in attempts to utilize DM/DWBE Subcontractors.

7.8.12 Design-Build Construction Contracts - Qualifications based selection ONLY - the following procedures shall apply:

- a. Overall Goal - The County hereby establishes an annual overall DM/DWBE participation goal of twenty percent (20%) for Design-Build Construction Contracts.
- b. Notwithstanding the above, specific goals for each project shall be adopted on a project-by-project basis.
- c. The project-specific goals will be established by the County's Goal Setting Committee prior to bid solicitation.
- d. Bonus Points for Design-Build Construction Contracts
 - (i) The County has established a bonus point system for those Design-Build Construction Contracts which contain subcontracting opportunities for Certified DM/DWBE firms in order to promote the participation of DM/DWBE firms.
 - (ii) All Design-Build Construction Contracts shall include a provision for bonus points for DM/DWBE utilization.

(iii) Bonus points shall be awarded as follows:

(A) Five (5) bonus points to a non-DM/DWBE firm who proposes as a Prime consultant and who issues a written commitment to subcontract a minimum of ten percent (10%) of its total Design fee to one or more Certified DM/DWBE firms.

- e. The County's Minority and Small Business Enterprises Division shall be responsible for reviewing requests for bonus points and for the assignment of bonus points.
- f. Proposer is required to submit its request for bonus points and all supporting documentation with its Proposal.
- g. All DM/DWBE firms identified in proposer's Proposal must either be certified with the County as a DM/DWBE or have provisional reciprocal certification with the County by the Proposal submittal deadline in order for proposer's Proposal to be considered for the award of DM/DWBE bonus points. Provisional reciprocity shall be consistent with the provisions set forth in Part II, Section 4 of these Operational Procedures.
- h. In the event the proposer receives bonus points for its identification of one or more DM/DWBE firms in its Proposal, then the proposer shall be committed to the utilization of such firm(s) for at least ten percent (10%) of the total Design fee for any Design-Build Contract resulting from the Proposal.
- i. A firm that receives bonus points shall be contractually obligated to meet the overall DM/DWBE participation goal established for the entire project which is based on the total Design-Build Construction Contract price. Funds expended with Certified DM/DWBE Subconsultants in the Design phase will be counted toward the project's overall established goal. The remainder of the project's overall established goal will be achieved by funds expended with Certified DM/DWBE Subcontractors in the Construction Phase of the project. (i.e., funds expended with Certified DM/DWBE Subconsultants in the Design Phase, plus funds expended with Certified DM/DWBE Subcontractors in the Construction Phase, must total or exceed the dollar value of the overall established goal for the project).
- j. The Design-Builder shall be contractually obligated to meet the goal established by the County's Goal Setting Committee or demonstrate that it has made Good Faith Efforts to do so.
- k. The Design-Builder shall submit an Equal Opportunity Questionnaire & Affirmative Action Plan for its Firm as evidence of its compliance with the County's Equal Opportunity requirements. These documents should be submitted to the County prior to the County's issuance of the Notice to Proceed with Design.

- l. After issue of the Notice to Proceed with Design and prior to issuance of the Notice to Proceed with Construction by the County, the Design-Builder shall submit copies of records and supporting documentation to the Minority and Small Business Enterprises Division that document evidence of its compliance with the County's DM/DWBE requirements (i.e., Subcontractor/Material Suppliers List (MBE-1 Form), executed subcontract/subconsultant agreements, purchase order agreements, proof of DM/DWBE certification, County-approved Joint Venture Disclosure Affidavit (if applicable), and/or evidence of Good Faith Efforts).
- m. The Design-Builder shall be required to utilize the County's vendor compliance system (B2GNOW) on a monthly basis to report utilization and payments to all DM/DWBE firms in that monthly period or evidence of Good Faith Efforts expended in attempts to utilize DM/DWBE Subcontractors.

7.9 CONTRACT PRE-AWARD REVIEW FOR CONSTRUCTION BIDS

7.9.1 Subcontractor/Material Suppliers List (MBE-1 Form) - The bidder is required to provide Procurement Services Department with the Subcontractors/Material Suppliers List (MBE-1 Form) as part of its Bid/Proposal submitted to the County by the Bid submittal deadline.

7.9.2 Good Faith Efforts Determination Form:

- a. All bidders are encouraged (but not required) to complete and submit the Good Faith Efforts Determination Form and all supporting documentation with their Bid/Proposal in the event the DM/DWBE participation goal established for the project is not achieved.
- b. The apparent low bidder shall be required to complete and submit the Good Faith Efforts Determination Form and all supporting documentation within five (5) Business Days after notification of low bidder status by the County's Procurement Services Department in the event the DM/DWBE participation goal established for the project is not achieved.

7.9.3 Additional Documentation of Efforts to Meet DM/DWBE Participation Goal - In addition to the Good Faith Efforts Determination Form described in Section 7.8.2 above, bidders should submit additional documentation of their efforts to meet the established DM/DWBE participation goal. This additional documentation should be submitted at the same time bidders submit their Good Faith Efforts Determination Form to the County. If submitted, such additional documentation shall include:

- a. Evidence of all efforts expended toward meeting the established DM/DWBE participation goal.
- b. A list of each DM/DWBE firm contacted but determined to be unavailable to work on the project.

- 7.9.4 Joint Venture Disclosure Affidavit – Where there is a Joint Venture consisting of a Certified DM/DWBE firm and a non-Minority firm, and such Joint Venture business entity functioning as the Prime bidder/contractor or is intended to be used by a Prime contractor as a DM/DWBE Subcontractor for the purpose of meeting the County’s DM/DWBE participation goals, a County-approved Joint Venture Disclosure Affidavit showing the extent of the DM/DWBE participation must be submitted to the Minority and Small Business Enterprises Division no later than ten (10) Business Days *prior* to the Bid submittal deadline for review and approval. Joint Ventures that have been approved pursuant to Part II, Section 5, of these Operational Procedures will be credited with the proportional percentage of DM/DWBE participation in the work, risk, and profits of the Joint Venture for the purpose of meeting the County's DM/DWBE participation goal.
- 7.9.5 Compliance Reviews - The Minority and Small Business Enterprises Division may perform Affirmative Action/Equal Opportunity and DM/DWBE participation compliance reviews on the three (3) apparent low bidders concurrently in order to reduce the County’s Bid review time. Each Bid is reviewed on its own merits.
- 7.9.6 Additional Documentation Required to be Submitted by Apparent Low Bidder - The apparent low bidder shall submit the following documents to the County within the specified time frames:
- a. An executed subcontract agreement or Letter of Intent for each DM/DWBE Firm listed in the apparent low bidder’s Bid (Subcontractors/Material Suppliers List (MBE-1 Form)) must be submitted within five (5) Business Days after notification of low bidder status. The monetary value of the executed subcontract agreement(s) or Letter(s) of Intent must either meet the DM/DWBE participation goal or the bidder must demonstrate good faith efforts to achieve the goal. Failure of the apparent low bidder to submit executed DM/DWBE subcontracts and/or Letters of Intent that are consistent with bidder’s Subcontractor/Material Suppliers List (MBE-1 Form) shall result in the omitted/affected subcontracts not being credited toward DM/DWBE participation goal attainment and may result in a finding of bidder non-responsiveness to the DM/DWBE Program requirements.
 - b. Subcontract agreements and/or Letters of Intent submitted for Certified DM/DWBE firms that are over and above the proposed Certified DM/DWBE firms listed in the apparent low bidder’s Subcontractor/Materials Suppliers List will also be credited towards DM/DWBE participation goal attainment. However, the apparent low bidder must first be deemed to be responsive to the goal either through the bidder’s submitted Subcontractor/Material Suppliers List (MBE-1 Form) or the demonstration of good faith efforts in order to receive this additional credit. Certification of submitted DM/DWBE firms must be verified in order for this additional credit to be received.

- c. Proof of DM/DWBE certification from the certifying jurisdiction(s) for all DM/DWBE Firms for which the bidder is requesting provisional reciprocity pursuant to Part II, Section 4, of these Operational Procedures. The low bidder must submit this documentation to the County within five (5) Business Days after notification of low bidder status has been issued to the apparent low bidder.

- d. A copy of bidder's written Affirmative Action/Equal Employment Opportunity Policy/Program if bidder's firm has fifteen (15) or more employees, or a copy of bidder's written Affirmative Action Policy Statement if bidder's firm has fewer than fifteen (15) employees. A copy of bidder's Affirmative Action and Equal Employment Opportunity Policy or Statement should be submitted to the County within five (5) Business Days after notification of low bidder status has been issued to the apparent low bidder, and must be submitted no later than fifteen (15) Business Days after notification of low bidder status. If the bidder does not have such a policy/program in place, then bidder must complete and submit the forms included in the County's Affirmative Action/Equal Employment Opportunity Packet ("AA/EEO Packet") included in the County's bid solicitation. The County's AA/EEO Packet shall comprise of the following forms/documents:
 - (i) Affirmative Action Policy Statement;
 - (ii) Equal Employment Opportunity Policy;
 - (iii) Affirmative Action Plan Self-Analysis;
 - (iv) Affirmative Action Plan Goals;
 - (v) Affirmative Action Plan Corrective Actions;
 - (vi) Affirmative Action Plan Complaint Procedure;
 - (vii) Statement of Adherence to Regulations Requiring Non-Discrimination in the Employment of Handicapped Persons, Disabled Veterans and Veterans of the Vietnam Era; and
 - (viii) Plan to Provide DM/DWBE Firms with Procurement Opportunities.

- e. If bidder's existing AA/EEO Policy does not contain some of the information outlined in the County's AA/EEO Packet, then the bidder must complete the applicable County form from the County's AA/EEO Packet and submit such form to the County within the time frame set forth above in this subsection. If bidder does not have an existing AA Policy Statement, then bidder may utilize the Affirmative Action Policy Statement included in the County's AA/EEO Packet.

- f. The Affirmative Action Plan Self-Analysis Forms included in the County's AA/EEO Packet must be submitted no later than fifteen (15) Business Days after notification of low bidder status.

7.10 GOOD FAITH EFFORTS

- 7.10.1 Contractors submitting Bids to provide Construction services to the County will be evaluated on their compliance with both Minority and Women group employment levels, as well as the DM/DWBE participation goals as established by the Program.
- 7.10.2 Good Faith Efforts Determination Form: When applicable, a Good Faith Efforts Determination Form will be included in the Bid/Proposal solicitations issued by the County.
 - a. All bidders are encouraged (but not required) to complete and submit the Good Faith Efforts Determination Form and all supporting documentation within five (5) Business Days of the Bid submittal deadline in the event the DM/DWBE participation goal is not achieved in their Bid/Proposal.
 - b. The apparent low bidder shall be required to complete and submit the Good Faith Efforts Determination Form and all supporting documentation within five (5) Business Days after its notification of low bidder status by the County's Procurement Services Department in the event the DM/DWBE participation goal is not achieved in its Bid/Proposal.
- 7.10.3 In order to be viewed as "good faith" efforts, a contractor's efforts should be those that could reasonably be expected from a contractor who was actively and aggressively seeking to obtain participation from DM/DWBE firms. Contractors must solicit quotes in good faith from interested DM/DWBE Firms. Quotes, Proposals and Bids from interested DM/DWBE Firms must not be rejected without reasonable justification. DM/DWBE Subcontractors must also exhibit good faith in their responses to the contractor's solicitations.
- 7.10.4 The submitted Good Faith Efforts will be evaluated and quantified to determine whether participation is in compliance with the County's Good Faith Efforts criteria. Bidders will be deemed in compliance if an overall score of seventy percent (70%) or a minimum of 882 points is achieved. Such an overall score may be inclusive of any bonus point opportunity that is provided in the County's Good Faith Efforts evaluation criteria.
- 7.10.5 The County shall consider the following criteria in determining Good Faith Efforts:
 - a. Attendance at the pre-Bid conference by a senior member of the contractor Firm or project management staff; if no pre-Bid conference is held, then participation by the contractor Firm in online discussions related to the procurement solicitation may be used to evaluate Good Faith Efforts points;

- b. Whether and when the contractor provided written notice, by mail facsimile, e-mail or hand delivery, to all Certified DM/DWBE firms that perform the type of work to be subcontracted, advising the DM/DWBE firm of the following:
 - (i) of the specific work the contractor intends to subcontract;
 - (ii) that their interest in the contract is being solicited; and
 - (iii) how to obtain information for the review and inspection of contract plans and specifications;
- c. Whether the contractor selected economically feasible portions of work to be performed by the DM/DWBE firm including, where appropriate, breaking contracts or combining elements of work into economically feasible units. The ability of the contractor to perform the work with its own work force will not, in itself, excuse a contractor from making positive efforts to meet DM/DWBE contract participation goals;
- d. Whether the contractor submitted to the County all quotations received from DM/DWBE firms; and for those quotations not accepted, an explanation and documentation of why the DM/DWBE firm will not be used during the course of the Contract;

Receipt of a lower quotation from a non-DM/DWBE firm will not, in itself, excuse a contractor's failure to meet DM/DWBE contract participation goals. Price alone does not constitute an acceptable basis for rejecting DM/DWBE Subcontractor bids unless the contractor can demonstrate/document that no reasonable price can be obtained from a DM/DWBE firm;

- e. Whether the contractor submitted documentation that indicates assistance provided to interested DM/DWBE firms in reviewing the Contract plans and specifications;
- f. Whether the contractor submitted documentation that indicates assistance provided to interested DM/DWBE firms in obtaining bonding, insurance and lines of credit;
- g. Whether the contractor's efforts were merely a formality and, given all relevant circumstances, could not reasonably be expected to provide sufficient DM/DWBE firm participation to meet the goals; and
- h. Whether the contractor has utilized DM/DWBE Subcontractors on other County Contracts and/or other government and private sector contracts within the past two (2) years.

This list is not intended to be exclusive or exhaustive. The bidder may also submit documentation of other types of efforts that the bidder has taken which reflect the quality, quantity and intensity of those efforts.

7.10.6 Contractors should contact the Minority and Small Business Enterprises Division immediately for guidance and assistance in the event that:

- a. The contractor anticipates or has difficulty in identifying and/or obtaining DM/DWBE firms for subcontract participation; or
- b. The contractor is unable to identify portions of the work that can be broken down for DM/DWBE firm subcontract participation; or
- c. The contractor determines that breaking down the work is not possible or feasible.

7.11 BID REVIEWS, RESPONSIVENESS DETERMINATION & PROTESTS

7.11.1 For Bids subject to DM/DWBE participation requirements, the Minority and Small Business Enterprises Division shall provide its evaluation of Bids to the Procurement Services Department within five (5) Business Days of the Minority and Small Business Enterprises Division's receipt of the applicable Bids from Procurement Services.

7.11.2 In order to be deemed responsive to the County's DM/DWBE participation goal, bidders must either (a) document goal attainment using the Subcontractor/Material Suppliers List (MBE-1 Form), or (b) achieve the score/points needed to establish the bidder's good faith efforts to achieve the goal using the Good Faith Efforts Determination Form and submitting the required supporting documentation.

7.11.3 The Minority and Small Business Enterprises Division will make a determination as to the responsiveness of bidder(s) to the DM/DWBE Program goals. If the bidder(s) has not achieved the goals but has received the required score/points needed to establish bidder's Good Faith Efforts to achieve the goals, then a recommendation of bidder responsiveness shall be made.

7.11.4 In the event the responsiveness determination is not in favor of a bidder (i.e., the bidder has not achieved the Program goals or demonstrated sufficient Good Faith Efforts to achieve the goals), then the bidder will be notified in writing by the Procurement Services Department. Any objection to a non-responsive determination shall be deemed to be a protest, and the bidder is required to file said protest in strict accordance with Hillsborough County Ordinance No. 13-24 – Hillsborough County Procurement Protest Policy and Procedures Ordinance.

7.12 COUNTY DEPARTMENTS' RESPONSIBILITIES

7.12.1 Procurements Made Outside of Competitive Procurement Process

County departments and offices who obtain goods and services outside of the competitive procurement process, and departments to whom purchasing authority has been delegated including, but not limited to: Facilities Management, the County Attorney's Office, Health and Social Services, and Human Resources, shall make a good faith effort to include DM/DWBE firms in their procurement activities. These efforts should include the following:

- a. Utilizing the County's DM/DWBE & SBE Directory.
- b. Seeking assistance from the Minority and Small Business Enterprises Division.
- c. Seeking quotes from DM/DWBE firms.

7.12.2 State Contracts and Cooperative Purchases - The Minority and Small Business Enterprises Division will request County departments that utilize cooperative procurements and/or state contracts to provide a report specifying the dollar amount of County funds expended on the utilization of DM/DWBE Firms in such contracts for the purpose of assessing the County's achievement of its annual DM/DWBE participation goals.

SECTION 8 - ELIMINATION OR MODERATION OF RACE-CONSCIOUS PREFERENCES

- 8.1 Hillsborough County shall meet the maximum feasible portion of its overall goals by using race-neutral means of facilitating DM/DWBE Subcontracting participation. Race-neutral DM/DWBE Subcontracting participation includes any time a DM/DWBE firm wins a Prime contract through customary competitive procurement procedures, is awarded a subcontract on a Prime contract that did not have a DM/DWBE participation goal, or even if there is a DM/DWBE participation goal, wins a subcontract from a Prime contractor that did not consider its DM/DWBE status in making the award (e.g., a Prime contractor that uses a strict low bid system to award subcontracts).
- 8.2 Race-neutral means include, but are not limited to, the following:
 - 8.2.1 Arranging solicitations, times for presentation of Bids, quantities, specifications, and delivery schedules in a way that facilitate DM/DWBE firm and other Small Business participation (e.g. unbundling large Contracts to make them more accessible to small businesses and encouraging Prime contractors to subcontract portions of work that they might otherwise perform with their own forces).
 - 8.2.2 Providing assistance in overcoming limitations, such as the inability to obtain bonding or financing, by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from Bids, and providing services to help DM/DWBE firms and other Small Businesses obtain bonding and financing.
 - 8.2.3 Providing technical assistance and other services.
 - 8.2.4 Conducting information and communications sessions that address contracting procedures and specific contract opportunities, ensuring the inclusion of DM/DWBE firms and other Small Businesses on mailing lists for bidders, ensuring the dissemination of lists of potential DM/DWBE Subcontractors to bidders on Prime contracts, and providing information in languages other than English, when appropriate.

- 8.2.5 Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DM/DWBE firms and other Small Businesses.
 - 8.2.6 Providing services to help DM/DWBE firms and other Small Businesses improve long-term development, increase opportunities to participate in various of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency.
 - 8.2.7 Establishing a program to assist new, start-up Firms, particularly in fields in which DM/DWBE participation has historically been low.
 - 8.2.8 Assisting DM/DWBE firms and other Small Businesses to develop their capacity to utilize emerging technology and conduct business through electronic media.
- 8.3 Race-preferences such as project-by-project goals and bonus points on Requests for Proposals shall only be used to the extent that the County's overall goals in individual procurement areas or for individual under-utilized race, gender or ethnic groups cannot be achieved by race-neutral means.
 - 8.4 If the County's DM/DWBE Subcontracting participation in any one procurement area or for any one or more underutilized race, gender or ethnic group exceeds the County's overall goal for two (2) consecutive years, the County may reduce its use of contract participation goals or bonus points proportionately in the following year.

SECTION 9 - COUNTY'S AFFIRMATIVE ACTION POLICY & COMMITMENT

- 9.1 Affirmative Action Business Enterprise Policy – DM/DWBE firms will be afforded an equal opportunity to participate in any Contract award by the County and will not be subjected to discrimination on the basis of actual or perceived race, color, religion, sex, national origin, age, marital status, disability, sexual orientation, or gender identity or expression. The County prohibits any person/business involved in County contracting and procurement activities to discriminate on the basis of actual or perceived race, color, religion, sex, national origin, age, marital status, disability, sexual orientation, or gender identity or expression.
- 9.2 If bidder's firm has fifteen (15) or more employees, then bidder must have a written Affirmative Action/Equal Employment Opportunity Policy/Program. If bidder's firm has fewer than fifteen (15) employees, then bidder must have a written Affirmative Action Policy Statement. Bidders are required to submit their AA/EEO Policy or Statement (as applicable) within fifteen (15) Business Day of notification of low bidder status.
- 9.3 Bidders are required to complete and submit the County's Affirmative Action Plan Self-Analysis Forms within fifteen (15) Business Days of notification of low bidder status.

- 9.4. The County, through its Minority and Small Business Enterprises Division, shall provide affirmative steps to assist all bidders in the County's procurement program.
- 9.5 DM/DWBE & SBE Directory - The Minority and Small Business Enterprises Division shall establish and maintain a current directory of Certified Hillsborough County DM/DWBE firms and Registered SBE firms that are able to provide the goods and services typically procured by the County.
- The Directory will be maintained on the County's web site through the Minority and Small Business Enterprises Division's home page and will be hosted by the County's Vendor Compliance System (B2GNow). Searches and copies of the Directory may be exported from the system as deemed appropriate by the user.
- 9.6 Liaison - The County will establish and maintain, through its Minority and Small Business Enterprises Division, a liaison with organizations and agencies working in the area of economic development for Minorities and Women or who are otherwise affected by the DM/DWBE Program.
- 9.7 County Assistance - The County will provide guidance and assistance to any contractor or DM/DWBE firm which seeks assistance in understanding the County's procurement procedures and DM/DWBE Program. It is the sole responsibility of the contractor or DM/DWBE firm to seek necessary assistance well in advance of the need thereof.
- 9.8 Pre-Bid Conference - During pre-bid conferences, the County's representative shall review and explain the County's DM/DWBE Program and associated goals on all Construction Contracts with an estimated value of Two Hundred Thousand Dollars (\$200,000) and above.

SECTION 10 - CONTRACT COMPLIANCE REQUIREMENTS

10.1 MEASURING COMPLIANCE

A Prime contractor/consultant will be deemed to be compliant with its contractual DM/DWBE participation obligation if it has paid seventy three to seventy five percent (73%-75%) of the monetary value of the services and/or work of its contractual DM/DWBE participation goal to the DM/DWBE subcontractors/subconsultants used by the Prime contractor/consultant on the applicable County Contract.

10.2 COMPLIANCE MONITORING - GENERAL

Compliance monitoring is conducted to determine if Prime contractors and/or Subcontractors are complying with the requirements of the County's DM/DWBE Program. Failure of a contractor to comply with its DM/DWBE utilization requirements and/or the requirements of the Programs may result in the County taking remedial action by legal or non-legal means.

10.3 VENDOR COMPLIANCE SYSTEM (B2GNOW)

10.3.1 For awarded Contracts/projects with DM/DWBE participation goals, the Prime contractor is required to utilize the County's Vendor Compliance

System (B2GNOW) on a monthly basis to report utilization and payments made by the Prime contractor to all DM/DWBE Subcontractors in that monthly period. Prime contractors are required to report monthly payments to all DM/DWBE Subcontractors regardless of whether payment has been made to the contractor by the County.

10.3.2 Prime contractors are required to update their contact information in the Vendor Compliance System (B2GNOW) to ensure that contractor maintains compliance with the County's Contract compliance program.

10.4 COMPLIANCE MONITORING - BY THE COUNTY

The County may utilize the following tools to determine if Prime contractors and/or Subcontractors are complying with their DM/DWBE utilization requirements and/or other requirements of the County's DM/DWBE Program:

10.4.1 Information generated by the County's Vendor Compliance System (B2GNOW) based on the required monthly utilization/payment reporting requirements of the County's DM/DWBE Program.

10.4.2 The Minority and Small Business Enterprises Division may make scheduled and/or unannounced project site visits to assess contractor(s) and/or Subcontractor(s) performance and/or compliance.

10.4.3 The Minority and Small Business Enterprises Division may require Prime contractors and/or Subcontractors to furnish the County with additional documentation (separate from those generated by the County's Vendor Compliance System (B2GNOW)).

10.4.4 Communications, meetings and/or interviews with Prime contractors and/or Subcontractors, including their employees and/or agents, to identify and discuss other project-related matters or concerns such as performance and reporting relationships.

10.4.5 The Minority and Small Business Enterprises Division may review subcontract agreements, purchase orders and other related and relevant documents for the purpose of verifying that Subcontractors are performing and receiving payment for the work specified therein.

10.5 NOTIFICATION OF NON-COMPLIANCE

10.5.1 The County shall issue a non-compliance and/or "failure to meet goal" notification to the contractor if the County determines that the contractor is not in compliance with its DM/DWBE utilization requirements and/or the DM/DWBE Program requirements ("Non-Compliance Notice").

10.5.2 The Non-Compliance Notice shall specify the following:

- a. Identify the compliance deficiencies;
- b. Instruct the contractor to take the following actions ((i) or (ii) below) to ensure its compliance with its DM/DWBE utilization requirements and/or the DM/DWBE Program requirements:

- (i) A. Immediately take action to correct the compliance deficiency; **and** B. Submit a written commitment to the County, within five (5) business days of the date of the notice, specifying the corrective actions to be taken to remedy the compliance deficiencies. Such written commitment must include the specific actions to be taken and the date for completion.

OR

- (ii) Contact the County within five (5) business days of the date of the notice to discuss any issues preventing the contractor's compliance with the DM/DWBE Program requirements and to identify a resolution to such issues. Such resolution will be in writing and must be approved by the County's Minority and Small Business Enterprises Division.

10.5.3 The Minority and Small Business Enterprises Division shall have the right to approve the contractor's written commitment and/or request modifications/adjustments to the contractor's written commitment.

10.5.4 Any commitments made by the contractor to remedy its compliance deficiencies will not preclude future determinations of non-compliance based on the County's finding that the contractor's commitments were not faithfully performed.

10.6 NON-COMPLIANCE

If the County issues a Non-Compliance Notice to a contractor and the contractor subsequently fails to address and/or remedy the compliance deficiencies as specified in the Non-Compliance Notice, then this failure by the contractor (i) may be deemed by the County to be a material breach of the Contract, and (ii) shall entitle the County to exercise any or all of the remedies set forth in Section 11 (Non-Performance and Remedies of the County) below.

SECTION 11 - NON-PERFORMANCE AND REMEDIES OF COUNTY

11.1 Failure by the contractor to comply with its DM/DWBE utilization requirements and/or comply with the requirements of the County's DM/DWBE Program may be considered by the County to be a material breach of contract.

11.2 Hillsborough County reserves the right to exercise any available remedy in the event of a contractor's failure to comply with its DM/DWBE utilization requirements and/or comply with the requirements of the County's DM/DWBE Program.

11.3 Failure to perform under the terms of a contract with regard to the DM/DWBE Program, includes, but is not limited to, the following:

11.3.1 Failure of the contractor to utilize the services of a DM/DWBE firm pursuant to a subcontract submitted to the County and utilized by the County in a determination of the contractor's responsiveness to the DM/DWBE Program. If a contractor or Subcontractor is unable to

perform pursuant to such a Contract, the contractor shall substitute the affected Subcontractor with another Certified DM/DWBE Subcontractor. The contractor shall not substitute with a non-DM/DWBE Subcontractor or complete the work using its own forces without the prior written approval of the County. Approval shall be provided only upon a showing by the contractor that it is not reasonable or possible to obtain the services of another Certified DM/DWBE firm to complete the relevant portions of the Contract.

11.3.2 Failure of a contractor to address the compliance deficiencies as specified in a Non-Compliance Notice issued to the contractor by the County.

11.3.3 Knowingly using a front company (i.e. a Firm/Business which is not, in fact, owned and Controlled by Minority individuals or Women, but poses as such in order to participate in the County's Program) to achieve DM/DWBE participation on a County Contract.

11.3.4 Making any false statement(s) or using deceit for the purpose of influencing, in any way, any action of the County.

11.3.5 Unethical or other serious lack of business integrity with regard to DM/DWBE Contract performance.

11.3.6 Failure to report utilization and payments made to all DM/DWBE Subcontractors in the County's Vendor Compliance System (B2GNOW).

11.4 Remedies available to the County include, but are not limited to, the following:

11.4.1 Termination of the applicable Contract with the County.

11.4.2 The exercise of any and/or all available legal remedies for breach of Contract.

11.4.3 Either the total amount (or a percentage thereof as deemed appropriate by the County) paid to a contractor or Firm under a Contract intended for expenditure with a DM/DWBE Firm and not so expended may be forfeited and recoverable by the County.

11.4.4 Any violations under this section or any applicable local, state or federal law or rule shall be referred to the applicable law enforcement or regulatory agency for investigation and/or prosecution.

11.4.5 The Director of the County's Minority and Small Business Enterprises Division may recommend to the County's Director of Procurement Services that the Firm be suspended or debarred from bidding on and/or working on County Contracts pursuant to the criteria set forth in the County's Procurement Policy.

11.4.6 Failure of a contractor to comply with its DM/DWBE utilization requirements and/or reporting requirements may result in a non-responsibility determination of Bids/offers by the contractor on future procurement solicitations issued by the County.

11.4.7 Any contractor or Firm that falsely represents to the County, pursuant to a County Contract, that it will use the commodities or services of a DM/DWBE Firm and fails to do so, may be in breach of contract; whereupon, the County may exercise all available remedies for breach of contract.

SECTION 12 - PROMPT PAYMENT POLICY

12.1 Every Construction Contract let by the County for the performance of work shall contain a provision requiring the Prime Construction Contractor to certify, in writing, that all Subcontractors and Suppliers have been paid for acceptable work and materials from previous progress payments received by the Prime contractor (less any retainage) prior to the County's disbursement of any further progress payments.

12.2 During the Contract the County may, and upon completion of the contract the County shall, require documentation to certify that payments to such Subcontractors or Suppliers have been made. This provision in no way creates any contractual relationship between any Subcontractor and the County or any liability on the County for the contractor's failure to make timely payments to the Subcontractor. However, the County will consider the contractor's failure to comply with this provision a breach of contract.

SECTION 13 – CONTRACT RENEWALS

For all Contracts with a DM/DWBE participation goal, regardless of type, that contain Contract renewal provisions, the Minority and Small Business Enterprises Division shall provide the user Department/agency and Procurement Services Department a written report which shows the Contractor's compliance with the County's DM/DWBE Program requirements during the previous year and/or initial term of the Contract. If the determination is made that the Contractor's actions were not in compliance with the County's DM/DWBE Program requirements, the Minority and Small Business Enterprises Division may recommend that the Contract not be renewed.

SECTION 14 - PROGRAM CERTIFICATION & PARTICIPATION

14.1 Only Firms Certified with Hillsborough County as a DM/DWBE firm, or have provisional reciprocal certification with the County consistent with Part II, Section 4 of these Operational Procedures will be used in determining goal attainment.

14.2 Firms that no longer meet eligibility requirements as defined in Part II, Section 1 of these Operational Procedures, shall be graduated from the DM/DWBE Program and shall not be counted toward goal attainment through reciprocal certification.

- 14.3 In the event that a graduated DM/DWBE Firm should again become eligible as defined in Part II of these Operational Procedures, then that Firm may reapply for certification.

SECTION 15 – DM/DWBE & SBE ADVISORY COMMITTEE

- 15.1 The County’s DM/DWBE & SBE Advisory Committee (“Advisory Committee”) is responsible for relaying concerns of Minority contractors, Women contractors, non-Minority contractors, small business contractors and citizens at large to the County about the operation of the DM/DWBE & SBE Programs.
- 15.2 The Advisory Committee shall meet at least quarterly.
- 15.3 The Advisory Committee shall be composed of nine (9) members which shall include: three (3) Hillsborough County Certified DM/DWBE contractors/Firms, three (3) Non-DM/DWBE contractors/Firms and, three (3) citizens-at-large, and two (2) alternates. Members will be appointed by the County Administrator and shall serve two-year terms.
- 15.4 The Advisory Committee shall formulate written procedures governing the conduct of its meetings, to include rules pertaining to selection of the Chair of the Committee and meeting attendance requirements for its members.
- 15.5 In addition to its regular quarterly meetings, the Advisory Committee may conduct periodic workshops per year with DM/DWBE firms and SBE firms to ascertain their thoughts, concerns and recommendations regarding the Programs. The Advisory Committee shall also identify and research other problem areas and present recommended solutions as the Advisory Committee deems appropriate. The recommendations shall be provided to the Director of the County’s Minority and Small Business Enterprises Division for appropriate presentation to the County Administrator.

PART II
DISADVANTAGED MINORITY /DISADVANTAGED WOMEN BUSINESS
ENTERPRISE (DM/DWBE) PROGRAM -
ELIGIBILITY REQUIREMENTS, CERTIFICATION AND
DECERTIFICATION

SECTION 1 - ELIGIBILITY REQUIREMENTS

**1.1 DISADVANTAGED MINORITY/DISADVANTAGED WOMEN
BUSINESS ENTERPRISE (DM/DWBE) - DEFINED**

An eligible DM/DWBE firm is a Business that meets all of the following criteria: (i) is organized under the laws of the State of Florida to engage in commercial transactions, (ii) is principally domiciled in the State of Florida, (iii) is at least fifty one percent (51%) owned by Minority persons and/or Women, (iv) whose management and daily operations are controlled by Minorities and/or Women, (v) fulfills a Commercially Useful Business Function; (vi) employs fifty (50) or fewer permanent full-time employees averaged over a two year period, and (vii) has a net worth of not more than Four Million Dollars (\$4,000,000) for businesses that are not in the construction industry or not more than Five Million Dollars (\$5,000,000) for businesses that are in the construction industry. In the case of sole proprietorships, the above referenced net worth requirement shall include both personal and business assets.

1.2 APPLICABLE STANDARDS

Hillsborough County may refer to the standards and criteria established in the Florida Administrative Code and the judicial and administrative interpretations thereof in applying substantially equivalent certification criteria.

1.3 COMMERCIAL TRANSACTIONS

An eligible DM/DWBE firm is a Business which is currently licensed and engaging in commercial transactions in each specialty area in which Certification is being requested.

1.4 PRINCIPALLY DOMICILED IN FLORIDA

The DM/DWBE firm shall be principally domiciled in the State of Florida. If a corporation, it shall be organized under the laws of Florida; if a partnership or sole proprietorship, the owners shall be residents of Florida. In all cases the principal business office shall be located and organized in the State of Florida.

The principle location of the business must have a correct street number, street name, suite number (if applicable) and zip code. A post office box, virtual office, or UPS store will not be acceptable absent a street address.

1.5 MINORITY OWNERSHIP

At least fifty-one percent (51%) of the DM/DWBE Firm shall be owned by eligible Minorities or Women. Minority or Woman owners share of income

earnings and risk shall be commensurate with the percentage of their ownership interest. Contributions of capital by the Minority or Woman owner must be real and substantial. Merely holding nominal title to corporate shares would not accord the "Minority owner" the customary incidents of ownership. The County, at its sole discretion, has the right to visit the site(s) of Firms that have a 51% ownership by Minorities or Women for the purpose of determining certification eligibility.

1.5.1 Holding Companies - Businesses that are owned by a holding company that is majority-owned by eligible Minorities and/or Women may satisfy the minority ownership requirement for certification provided that all other certification requirements are met. However, the holding company's financials and tax returns can be used in place of the subsidiary's for the purpose of determining certification eligibility. Specifically, the total, consolidated financial and tax reporting of the holding company must meet all DM/DWBE certification requirements and thresholds. A subsidiary cannot be singled out of the tax filings or financial statements of the holding company in an attempt to qualify under the threshold amounts. In addition, to ensure that the DM/DWBE firm has cumulative control, the ownership of both subsidiary and holding company will be evaluated to ensure cumulative control by the DM/DWBE firm of at least fifty one percent (51%).

Example 1: If socially and economically disadvantaged individuals own 100% of a holding company which has a 100% wholly-owned subsidiary, then the subsidiary may be certified if it meets all other certification eligibility requirements.

Example 2: If socially and economically disadvantaged individuals own 100% of the holding company which, in turn, owns 51% of a subsidiary, then the subsidiary may be certified if it meets all other certification eligibility requirements.

Example 3: If socially and economically disadvantaged individuals own 80% of the holding company which, in turn, owns 70% of a subsidiary, then the subsidiary may be certified if it meets all other certification eligibility requirements. (This is because the cumulative ownership of the subsidiary by disadvantaged individuals is 56% (80% of the 70%), resulting in more than 51% ownership).

Example 4: Same as Examples 2 and 3 above, however, if someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary, then the subsidiary cannot be certified. (This is because although the subsidiary is owned by socially and economically disadvantaged individuals through the holding or parent company, this ownership fails to meet the "control" requirement for certification eligibility).

Example 5: If socially and economically disadvantaged individuals own 60% of the holding company which, in turn, owns 51% of a subsidiary, then the subsidiary cannot be certified. (This is because the

cumulative ownership of the subsidiary by socially and economically disadvantaged individuals is approximately 30%, which is less than the 51% ownership requirement for certification eligibility.)

Example 6: If the holding company, in addition to the subsidiary seeking certification, owns several other companies and the combined number of employees and/or net worth of the holding company and its subsidiaries are greater than the employee and/or net worth thresholds set forth in the certification eligibility requirements, then the subsidiary cannot be certified.

1.5.2 Subsidiaries and Affiliates – Subsidiaries and affiliates shall not be eligible for the DM/DWBE Program, with the exception of holding companies and/or subsidiaries under a holding company structure wherein the Minority Group Member(s) have majority ownership and cumulative control of a majority of the holding company/subsidiaries as more specifically set forth in subsection 1.5.1 above.

1.6 MANAGERIAL CONTROL

Control in this instance shall mean that the Minority/Minorities or Woman/Women demonstrate the ability to make unilateral and independent business decisions as needed to guide the future and destiny of the Business.

1.7 OPERATIONAL CONTROL

The primary consideration in determining operational Control and the extent to which the Minority/Minorities or Woman/Women actually operates the Business will rest upon the unique characteristics of the industry of which the Business is a part. The Minority/Minorities or Woman/Women owner must oversee the daily operation of the Business and be perceived by the industry as being in Control of the Firm.

1.8 LICENSURE

For Businesses that cannot operate without a qualifying agent registration, the following criteria must be followed:

1. A Minority individual must be the license holder and qualifying agent for the Business with or without an ownership interest in the Business.
2. The license holder/qualifying agent must qualify the company to conduct the line of Business.
3. The Business and the license holder/qualifying agent shall obtain and hold any licenses as required by applicable municipal, county or state law.

1.9 TRANSFER OF OWNERSHIP

If the DM/DWBE applicant firms' current ownership was obtained by a transfer from a non-Minority owner, employer or relative, the current Minority owner

must have owned at least fifty-one (51%) of the DM/DWBE applicant firm for a minimum of two (2) consecutive years prior to application. This applies to any transfer of ownership.

1.10 COMMERCIALY USEFUL BUSINESS FUNCTION

An applicant business shall be currently performing a commercially useful business function in each specialty area(s) being requested for certification, as well as provide good/services to customers other than governmental agencies. The applicant business will also be deemed to be performing a commercially useful business function when it is responsible for the execution of a distinct element of work contained in a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. Acting as a conduit to transfer funds to a non-minority business does not constitute a commercially-useful business function unless it is standard business practice in the applicable industry.

1.11 NET WORTH / BUSINESS SIZE

The applicant shall demonstrate that the net worth of the Business does not exceed Four Million Dollars (\$4,000,000) for businesses that are not in the construction industry or Five Million Dollars (\$5,000,000) for businesses that are in the construction industry. To determine the net worth of the applicant Business, the County shall consider the most recent annual financial statement for the Business or, in the case of sole proprietorships, annual financial statements for the Business and the Business Owner. The applicant must provide documentation to demonstrate that the Business employs fifty (50) or fewer permanent full-time employees averaged over a two-year period.

SECTION 2 - CERTIFICATION REVIEW PROCEDURES

- 2.1 All applicants seeking Certification as a Hillsborough County DM/DWBE firm are required to complete the application process and must supply all required documentation as outlined in the application. The application may be completed online at: <https://hillsboroughcounty.diversitycompliance.com>.
- 2.2 All applicants must submit their application to the County's Minority and Small Business Enterprises Division along with the following documentation, when applicable:
 - 2.2.1 All licenses to do business in the State of Florida and Hillsborough County (as applicable) and/or verification of authority to do business under an assumed name for sole proprietorships, if required;
 - 2.2.2 Prior three (3) years federal tax returns, including all schedules. If the applicant has been in business for less than three (3) years, a personal tax return may be required. **IRS form 941** and payroll records may also be required.
 - 2.2.3 Proof that the Business has been organized under the laws of the State of Florida.

- 2.2.4 Proof that the Business is currently principally domiciled in the State of Florida (for example, business tax receipts, utility bills, lease/rental agreements, property tax receipts, etc.).
- 2.2.4 Business resume(s) of all principal(s) and key personnel of the Business.
- 2.3 Upon receipt, all applications shall be given an initial screening to ensure completeness. The application's Affidavit form must bear the original signature of the Minority/Woman owner who is submitting the application for review.
- 2.4 Within ten (10) Days of the initial receipt of the application, the County's Minority and Small Business Enterprises Division shall notify the applicant, via electronic mail (e-mail), of the need for any additional documentation deemed necessary to facilitate the County's review of the application. If the requested information or items are not received by the County's Minority and Small Business Enterprises Division within twenty (20) Days from the date of the request, the County's Minority and Small Business Enterprises Division will deem the application abandoned.
- 2.5 Within thirty (30) Days of receipt of a completed application and all required supporting documentation, a desk audit will be conducted which may include an on-site visit. Failure of the applicant Business to cooperate with the scheduling of the visit or to cooperate during the course of the visit may result in no further action being taken by the County with regard to the application.
- 2.6 Applicants determined to be eligible shall be assigned a certification number and shall be notified, via electronic mail (e-mail), of the approval and the approved lines of business and the Minority status category in which the Business is Certified. Once Certified, the Business shall remain Certified for a period of two (2) years.
 - 2.6.1 A Certified DM/DWBE firm shall notify the County's Minority and Small Business Enterprises Division of any change in its ownership, address and/or telephone number within ten (10) Days of such change.
- 2.7 Certified DM/DWBE firms shall be listed in the Hillsborough County DM/DWBE & SBE Directory.
- 2.8 Applicants determined to be ineligible shall be notified, via electronic mail (e-mail), of the basis for the denial of Certification. Applicants denied Certification may request an administrative review of the decision pursuant to Part II, Section 8 of these Operational procedures.
- 2.9 An applicant may reapply for Certification no earlier than six (6) months after the date of the County's notice of denial of Certification or the County's final order denying Certification.

SECTION 3 - RE-CERTIFICATION

- 3.1 Every two (2) years, all Certified DM/DWBE firms are required to complete and submit a Recertification Update Application in order to facilitate the review of the Certified DM/DWBE firm's continued program eligibility status.
- 3.2 The County's Minority and Small Business Enterprises Division will send Recertification Update alerts ninety (90), forty-five (45), and thirty (30) Days prior to the DM/DWBE firms' certification expiration date. If there have been changes in the applicant's Business, i.e. ownership interest, Control, size, etc., then these changes must be indicated on the Recertification Update Application
- 3.3 Upon receipt, the Recertification Update Application shall be given an initial screening to ensure appropriate signature and completeness. Within ten (10) Days following initial receipt of the applicant's Recertification Update Application, the County's Minority and Small Business Enterprises Division will request additional information if necessary to substantiate continued eligibility. If the requested information is not received within twenty (20) Days from the date of the request, the DM/DWBE firms' participation in the County's DM/DWBE Program will be suspended and their application for recertification shall be deemed abandoned.
- 3.4 A verification review (site visit) may be conducted by the County's Minority and Small Business Enterprises Division upon receipt and review of the Recertification Update Application. Failure of the applicant Business to cooperate with the scheduling of the review (site visit) or to cooperate during the review (site visit) may result in the denial of recertification.
- 3.5 Recertification shall be granted when the applicant has fully complied with all requirements as set forth in these rules. Applicants determined eligible shall receive a Recertification letter and certificate which will list the approved lines of business and the Minority status category in which the Business is Certified. Once Recertified, the Business shall remain Certified for a period of two (2) years.
- 3.6 Applicants determined ineligible for recertification shall receive a letter detailing the reasons for the denial of recertification. Applicants denied recertification may request an administrative review of that action pursuant to Part II, Section 8 of these Operational Procedures.
- 3.7 If an application for recertification is timely submitted, a Certified DM/DWBE firm shall remain Certified until the County's Minority and Small Business Enterprises Division has made a determination of continued eligibility.
- 3.8 Applicants failing to submit their application within six (6) months after the expiration of their previous Certification shall no longer be considered Certified.

SECTION 4 - PROVISIONAL RECIPROCITY

- 4.1 Reciprocity shall be granted to Minority, Women, and disadvantaged Businesses that are principally domiciled in the State of Florida and certified by other local city, county, or state jurisdictions located within the State of Florida.
- 4.2 Minority, Women and disadvantaged Businesses who are certified by other jurisdictions and seek to participate on a Hillsborough County project shall be granted provisional reciprocal certification for ~~one~~ (1) six (6) month period and shall be eligible to Bid and/or to be counted toward goal attainment on any County project during that six-month period. If added to a project/Contract during this time frame, the Business will be allowed to remain on said project/Contract for its duration.
- 4.3 In order to be granted provisional reciprocal Certification and be counted toward goal attainment, verification of certification by County staff, a letter of certification from the certifying jurisdiction, or a copy of documentation indicating certification by the certifying jurisdiction must be submitted by the apparent low bidder within five (5) Business Days after notification by the County of apparent low Bidder status.
- 4.4 Professional consulting Firms requesting bonus points for utilization of a Minority, Woman, or disadvantaged Business must submit that Business' certification letter and/or documentation of certification with the request for bonus points.
- 4.5 The reciprocal certification will be issued to the Minority, Woman or disadvantaged Business upon the County's award of the Contract to the low bidder or successful consultant on a CCNA project. The reciprocal certification effective date shall be the date of Contract award and shall conclude six (6) months from that date. In the event the Business is added to a project/Contract during the six-month reciprocal time frame, then the Business will be allowed to complete the project/Contract.
- 4.6 All Firms granted reciprocal certification who would like to continue to participate in the County's DM/DWBE Program after the expiration of its reciprocal certification will be required to complete an application for Certification to Hillsborough County prior to the expiration of the six (6) month reciprocal certification period. The application must be completed online.
 - 4.6.1 If an application for Certification is timely submitted it shall be reviewed by the County's Minority and Small Business Enterprises Division to determine the applicant's Program eligibility. DM/DWBE Certification shall be granted when the applicant has complied with the County's requirements as set forth in Part II, Section 2 of these Operational Procedures.
 - 4.6.2 Applicants who fail to submit their application within the stated time period or who fail to meet the Certification standards of Hillsborough County shall no longer be counted toward goal attainment for any future County projects.

- 4.6.3 Applicants previously denied Certification by Hillsborough County or that have graduated from the MBE/DWBE Program will not be granted reciprocal certification. These applicants must re-apply to Hillsborough County for Certification.

SECTION 5 - JOINT VENTURE

- 5.1 As required by Section 489.119 Florida Statutes, a Joint Venture shall be qualified in accordance with the rules of the Construction Industry Licensing Board.
- 5.2 A Joint Venture with Minority and Woman-owned component(s) must be pre-approved by the County's Minority and Small Business Enterprises Division if the Minority/Woman-owned component's involvement is to be credited toward fulfilling Hillsborough County's DM/DWBE participation goals. Since a Joint Venture consists of Businesses temporarily brought together, the Joint Venture itself cannot be deemed to be a DM/DWBE firm. However, in order for a Joint Venture with a Minority/Woman-owned component to satisfy Hillsborough County's DM/DWBE Program requirements, the Minority/Woman-owned component must be a Certified DM/DWBE entity.
- 5.3 In order to calculate credit towards Program participation, the extent to which the DM/DWBE firm participates in the work, risk, and profits of the Joint Venture must be documented to Hillsborough County.
- 5.4 A Joint Venture wishing to have its DM/DWBE component count toward satisfying DM/DWBE participation goals must submit the following documentation to the County's Minority and Small Business Enterprises Division no later than ten (10) Business Days *prior* to the Bid submittal deadline for the purpose of review and approval of the Joint Venture:
 - 5.4.1 A fully-executed Joint Venture Disclosure Affidavit. The Joint Venture Disclosure Affidavit must state that the Joint Venture complies with Chapter 489 of the Florida Statutes.
 - 5.4.2 Proof of County DM/DWBE Certification for each Minority/Woman-owned component of the Joint Venture. A Minority/Woman-owned joint venturer must be Certified before the Joint Venture can be approved.
 - 5.4.3 Business resume for each party/member of the Joint Venture.
 - 5.4.4 A copy of the Joint Venture Agreement, which must reflect the scope of the Minority/Woman venturer's managerial and financial responsibilities. It must be demonstrated that the DM/DWBE venturer has the opportunity to make and exercise his/her independent judgment as a joint venturer.

- 5.5 A Joint Venture wishing to have its DM/DWBE component count toward satisfying DM/DWBE participation goals must submit the following documentation *with its Bid/Proposal*:
- a. A copy of the *County-approved* Joint Venture Disclosure Affidavit.
 - b. The Bid/Proposal submitted by the Joint Venture must be signed by all parties to the Joint Venture.

SECTION 6 - DECERTIFICATION

- 6.1 The County shall, in its sole discretion, decertify any DM/DWBE firm, including those firms certified by other units of government, from participation in the County's DM/DWBE Program based upon one (1) or more of the following findings stemming from an investigation by the County's Minority and Small Business Enterprises Division:
- 6.1.1 The Business no longer meets the County's DM/DWBE Program eligibility standards set forth in Part II, Section 1 of these Operational Procedures; or
 - 6.1.2 The DM/DWBE firm cannot be contacted at the address listed in the County's DM/DWBE & SBE Directory; or
 - 6.1.3 The DM/DWBE firm is no longer in business; or
 - 6.1.4 The DM/DWBE firm is no longer licensed in the specialty area for which Certification was approved; or
 - 6.1.5 The DM/DWBE firm obtained its original Certification through false representation or deceit; or
 - 6.1.6 The DM/DWBE firm has experienced such a substantial change in ownership or Control that continued Certification would be contrary to the policy of the Hillsborough County DM/DWBE Program; or
 - 6.1.7 The DM/DWBE firms' performance with regard to Hillsborough County contracting and procurement is contrary to the standards and purpose of Hillsborough County's DM/DWBE Program, including, *but not limited to*, the following:
 - a. The DM/DWBE firm has failed to perform or has unsatisfactorily performed work on one (1) or more County projects, provided that such failure to perform and/or unsatisfactory performance is not caused by Acts of God or acts beyond the control of the DM/DWBE firm; or
 - b. The DM/DWBE firm has failed, without good cause, to perform in accordance with Contract specifications or within the time limit provided for in the Contract related to a County project, provided that such failure to perform is not caused by Acts of God or acts or events beyond the control of the DM/DWBE firm; or

- c. The DM/DWBE firm has without just cause neglected the payments of bills or otherwise disregarded its obligations to Subcontractors, materialmen or employees; or
- 6.1.8 Wherein any other actions by the DM/DWBE firm and/or its owner(s), co-owner(s) or controlling corporate officer(s) are determined, by the County's Minority and Small Business Enterprises Division, to be so serious and compelling as to affect the Business's responsibility as a County Certified DM/DWBE firm.
- 6.2 The County may, in its sole discretion, decertify any DM/DWBE firm, including those certified by other units of government, from participation in the County's DM/DWBE Program based upon one (1) or more of the following findings stemming from an investigation by the County's Minority and Small Business Enterprises Division:
 - 6.2.1 Conviction of the DM/DWBE firms' owner, co-owner, President, Vice President or other controlling officer of a crime(s) involving moral turpitude; or
 - 6.2.2 Conviction of the DM/DWBE firms' owner, co-owner, President, Vice President or other controlling officer for crime(s) involving the operation of its Business, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects the DM/DWBE firm's responsibility as a County Certified DM/DWBE firm; or
 - 6.2.3 Conviction of the DM/DWBE firm and/or its owner, co-owner, President, Vice President or other controlling officer for the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or
 - 6.2.4 The DM/DWBE firm has failed to perform or has unsatisfactorily performed work on a County project, provided that such failure to perform and/or unsatisfactory performance is not caused by Acts of God or acts beyond the control of the DM/DWBE firm; or
 - 6.2.5 The DM/DWBE firm has failed, without good cause, to perform in accordance with Contract specifications or within the time limit provided for in the Contract related to a County project, provided that such failure to perform is not caused by Acts of God or acts beyond the control of the DM/DWBE firm; or
 - 6.2.6 The DM/DWBE **subcontractor** has a non-DM/DWBE business/firm perform a majority (51% or more) of the work the DM/DWBE subcontractor was contracted to perform for a particular project/Contract.
- 6.3 The DM/DWBE firm shall be advised of the allegations warranting its decertification and shall be required to cooperate with any investigation conducted with regard to the allegations. The County's Minority and Small

Business Enterprises Division staff may use any of the investigative tools set forth in this Part II and may require the DM/DWBE firm to provide some or all of the documentation set forth in Part II of these Operational Procedures.

- 6.4 When a DM/DWBE firm has been decertified from the County's DM/DWBE Program, the County's Minority and Small Business Enterprises Division shall send such Business a letter detailing the reasons for decertification.
- 6.5 A DM/DWBE firm that has been decertified from the County's DM/DWBE Program may request an administrative review of the decertification decision pursuant to Part II, Section 8 of these Operational Procedures.
- 6.6 Should a DM/DWBE firm that has been given provisional reciprocity pursuant to Part II, Section 4 of these Operational Procedures be decertified from participating in Hillsborough County's DM/DWBE Program, then notice of such decertification will also be provided to the original certifying governmental agency.

SECTION 7 - AMENDED SPECIALTIES

- 7.1 Any Certified DM/DWBE firm requesting Certification in additional specialty areas must complete an Amended Specialties Application. The Amended Specialties Application may be obtained on the DM/DWBE firms' dashboard in the County's vendor compliance system (B2GNOW).
- 7.2 Upon receipt by the County's Minority and Small Business Enterprises Division, all Amended Specialty Application and supporting licenses, if required, will be reviewed for determination of eligibility in the requested specialty.
- 7.3 Applicants determined eligible for additional specialty areas shall receive an amended certification letter which shall list the newly Certified specialty area(s) of the DM/DWBE firm. The expiration date of the initial DM/DWBE Certification will not be affected.
- 7.4 An applicant determined ineligible for the requested additional specialty areas will receive a letter indicating the reasons for the ineligibility. The applicant may appeal the County's Minority and Small Business Enterprises Division's decision pursuant to Part II, Section 8 of these Operational Procedures.

SECTION 8 - ADMINISTRATIVE REVIEW

8.1 REQUEST FOR ADMINISTRATIVE REVIEW

A Firm that has received an adverse decision from the County's Minority and Small Business Enterprises Division regarding Certification, recertification, decertification or amended specialties may request an administrative review of that decision. A request for administrative review must be in writing and contain the specific grounds for contesting the staff decision. The request for administrative review shall be mailed or delivered to the County's Minority and Small Business Enterprises Division within ten (10) Business Days of the

Firm's notification of the adverse decision. The request shall be mailed or electronically mailed (e-mailed) to:

DM/DWBE Certification & Registration Review Panel
c/o Minority and Small Business Enterprises Division
P.O. Box 1110
Tampa, Florida 33601
E-mail: mwsbe@hcflgov.net

Upon receipt of a request for administrative review, the County's Minority and Small Business Enterprises Division shall review the grounds stated in the request and may either grant Certification or schedule a hearing before the Administrative Certification & Registration Review Panel.

8.2 ADMINISTRATIVE CERTIFICATION & REGISTRATION REVIEW PANEL

8.2.1 The County's Administrative Certification & Registration Review Panel ("Review Panel") is established to review contested decisions regarding DM/DWBE Certifications and/or SBE Registrations.

8.2.2 The Review Panel shall be composed of five (5) members which shall include: one (1) representative from the County's Procurement Services Department, one (1) representative from the County's Affordable Housing Department, one (1) representative from the County's Public Utilities Department/Water Resources, and two (2) representatives from the County's Public Works Department/Capital Programs. The representative from the County's Procurement Services Department will serve as chair of the Committee.

8.2.3 The Director of the County's Minority and Small Business Enterprises Division shall appoint all members of the Review Panel upon recommendation from the applicable Department Directors. Each Department Director shall concurrently recommend an alternate Review Panel member to the Director of the County's Minority and Small Business Enterprises Division to serve as a substitute in the event an originally appointed Panel member is unavailable.

8.3 DUTIES OF THE ADMINISTRATIVE CERTIFICATION & REGISTRATION REVIEW PANEL

8.3.1 The Administrative Certification & Registration Review Panel ("Review Panel") shall convene upon request(s) from applicants who have been denied Certification, recertification, decertified or denied amended specialties.

8.3.2 An applicant may be accompanied to the Review Panel by legal counsel; however, the applicant's legal counsel may not address the Review Panel, but may advise the applicant. Applicants that are accompanied

by legal counsel to the Review Panel choose to do so at their own expense and bear full responsibility for their legal counsel costs.

- 8.3.3 The Review Panel shall review all documentation prepared by the County's Minority and Small Business Enterprises Division and submitted by the applicant in relation to the application prior to the time that the Review Panel convenes. The Review Panel shall not receive any new evidence once the Review Panel convenes.
- 8.3.4 The Review Panel shall hear oral presentations from the County's Minority and Small Business Enterprises Division staff and the applicant regarding the merits of the applicant's application.
- 8.3.5 Review Panel members may ask the applicant and/or County staff questions at any time during or after the presentations.
- 8.3.6 An applicant seeking to appeal any decisions made by the County may desire to arrange for a verbatim transcript of the Review Panel hearing at his/her own expense.
- 8.3.7 Upon the conclusion of the presentations by the applicant and County staff, the Review Panel shall vote in open session whether to uphold or reverse County staff's recommendation. The Review Panel's decision will be submitted to the County Administrator and will contain findings of fact and/or of law.
- 8.3.8 The County Administrator may accept, reject or modify the Review Panel's decision. The County Administrator's action shall constitute the final agency action with regard to that particular matter.

8.4 RE-APPLICATION FOR CERTIFICATION AND/OR AMENDED SPECIALTIES

A Firm whose application for DM/DWBE Certification or recertification has been denied by the County, who has been decertified, or who has been denied amended specialties may reapply for Certification six (6) months after the final denial notice by the County.

SECTION 9 – WORK PERFORMED BY DM/DWBE SUBCONTRACTOR FIRMS

At least fifty percent (50%) of the cost of the work subcontracted to a County-certified DM/DWBE Firm under a Contract let by the County must be performed by said DM/DWBE Firm's existing employees/workforce, not including the cost of materials. The DM/DWBE Firm's employees/workforce must be responsible for executing the work in said subcontract or executing a distinct element of the work by actually performing, managing and supervising the work. Failure of a DM/DWBE Firm to comply with this requirement will be considered a violation of the County's DM/DWBE Program because the County shall presume that the DM/DWBE Firm is not performing a commercially-useful business function. In the event a DM/DWBE Subcontractor subcontracts its work to another Firm, such work must be subcontracted to and performed by another certified DM/DWBE Firm in order for such work to be

credited toward DM/DWBE participation goal attainment for the applicable County Contract.

PART III
SMALL BUSINESS ENCOURAGEMENT (SBE) PROGRAM-
ELIGIBILITY REQUIREMENTS, REGISTRATION & DEREGISTRATION

SECTION 1 - ELIGIBILITY REQUIREMENTS

1.1 SMALL BUSINESS ENTERPRISE (SBE) - DEFINED

An eligible Small Business Enterprise (SBE) firm is a Business that meets all of the following criteria: (i) has been organized under the laws of the State of Florida for a period of at least one (1) year, (ii) has been principally domiciled in Hillsborough County, Pinellas County, Pasco County, or Hernando County (Florida) for a period of at least one (1) year, (iii) is independently owned and operated, (iv) fulfills a Commercially Useful Business Function, (v) employs fifty (50) or fewer permanent full-time employees, and (vi) whose gross annual sales in Consulting Services, Contractual Services, and/or commodities does not exceed Five Million Dollars (\$5,000,000) averaged over the previous three (3) year period or whose gross annual sales in construction does not exceed Eight Million Dollars (\$8,000,000) averaged over the previous three (3) year period. Franchises, subsidiaries and affiliates shall not be eligible for the SBE Program.

1.2 PRINCIPALLY DOMICILED IN OTHER FLORIDA COUNTIES

1.2.1 In an attempt to broaden contracting opportunities for small Businesses, the County shall accept and deem eligible for participation in its SBE Program, small Businesses that have been organized under the laws of the State of Florida for a period of at least one (1) year and that have been principally domiciled within the following other Florida counties for a period of at least one (1) year: Pinellas, Pasco and Hernando.

1.2.2 If a corporation, it shall be organized under the laws of Florida. In all cases the principal business office shall be organized in the State of Florida and located in one of the above-mentioned Counties.

1.2.3 The principle location of the business must have a correct street number, street name, suite number (if applicable) and zip code. A post office box, virtual office, or UPS store will not be acceptable absent a street address.

1.3 INDEPENDENTLY OWNED AND OPERATED

The SBE firm shall be independent (i.e., a free standing Business), and recognized as a separate entity for tax purposes. Businesses which share space, employees or other facilities may be considered a single Business for this Program without reference to tax status.

1.4 SUBSIDIARIES AND AFFILIATES

Subsidiaries and affiliates shall not be eligible for the County's SBE Program, with the exception of holding companies and/or subsidiaries under a holding company structure wherein the small business owner has majority ownership and cumulative control of a majority of the holding company/subsidiaries. The

holding company's financials and tax returns can be used in place of the subsidiary's for the purpose of determining the SBE firms' registration eligibility. Specifically, the total, consolidated financial and tax reporting of the holding company must meet all SBE Program registration requirements and thresholds. A subsidiary cannot be singled out of the tax filings or financial statements of the holding company in an attempt to qualify under the threshold amounts. If the holding company, in addition to the subsidiary seeking registration as an SBE firm, owns several other companies and the combined number of employees and/or gross annual sales of the holding company and its subsidiaries are greater than the employee and/or gross annual sales thresholds set forth in the registration eligibility requirements, then the subsidiary cannot be registered as an SBE firm.

1.5 COMMERCIALY USEFUL BUSINESS FUNCTION

An applicant business shall be currently performing a commercially useful business function in each specialty area(s) being requested for registration, as well as provide good/services to customers other than governmental agencies. The applicant business will also be deemed to be performing a commercially useful business function when it is responsible for the execution of a distinct element of work contained in a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. Acting as a conduit to transfer funds to another business does not constitute a commercially-useful business function unless it is standard business practice in the applicable industry.

1.6 GROSS ANNUAL SALES / BUSINESS SIZE

The applicant shall demonstrate that the gross annual sales of the Business does not exceed Five Million Dollars (\$5,000,000) averaged over the previous three (3) year period for businesses that are not in the Construction industry or Eight Million Dollars (\$8,000,000) averaged over the previous three (3) year period for businesses that are in the construction industry. To determine the gross annual sales of the applicant Business, the County shall consider the most recent income tax returns for the Business or, in the case of sole proprietorships, income tax returns for the Business and the Business Owner. The applicant must provide documentation to demonstrate that the Business employs fifty (50) or fewer permanent full-time employees.

1.7 SERVICE-DISABLED VETERAN OWNED BUSINESSES

Service-Disabled Veteran Owned Businesses are eligible for registration as an SBE firm under the Small Business Encouragement Program pursuant to the requirements and eligibility requirements as outlined in this Part III of the Operational Procedures.

1.7.1 "Service-Disabled Veteran" as defined in Florida Statutes 295.187(3)(b) means a veteran who is a permanent Florida resident with a service-connected disability as determined by the United States Department of Veterans Affairs or who has been discharged from military service by reason of disability by the United States Department of Defense.

- 1.7.2 “Service-Disabled Veteran Owned Business” means a Business that is organized to engage in commercial transactions and which is at least fifty-one percent (51%) owned by one or more Service-Disabled Veterans as outlined in this Part III of the Operational Procedures.

SECTION 2 - REGISTRATION REVIEW PROCEDURES

- 2.1 All applicants seeking Registration as a Hillsborough County SBE firm are required to complete the application process and must supply all required documentation as outlined in the application. The application may be completed online at: <https://hillsboroughcounty.diversitycompliance.com/>.
- 2.2 Upon receipt, all applications shall be given an initial screening to ensure completeness. The application’s Affidavit form must bear the original signature of the owner who is submitting the application for review.
- 2.3 All applicants must submit their application to the County’s Minority and Small Business Enterprises Division along with the following documentation, when applicable:
- 2.3.1 All licenses to do business in the State of Florida and Hillsborough, Pinellas, Pasco or Hernando Counties (as applicable) and/or verification of authority to do business under an assumed name for sole proprietorships, if required;
- 2.3.2 Prior three (3) years federal tax returns, including all schedules. If the applicant has been in business for less than three (3) years, a personal tax return may be required. **IRS form 941** and payroll records may also be required.
- 2.3.3 Proof that the Business has been organized under the laws of the State of Florida for a period of at least one (1) year.
- 2.3.4 Proof that the Business is currently principally domiciled in Hillsborough, Pinellas, Pasco or Hernando County (Florida) and that the Business has been principally domiciled in such county for a period of at least one (1) year, (for example, business tax receipts, utility bills, lease/rental agreements, property tax receipts, etc.).
- 2.3.5 Business resume(s) of all principal(s) and key personnel of the Business.
- 2.3.6 Provide official documentation from the United States Department of Veterans Affairs and/or the United States Department of Defense as proof of the Business owner’s service-connected disability and/or discharge from military service for reason(s) of disability – this documentation is required only if the applicant is applying as a Service-Disabled Veteran Owned Business.
- 2.4 The County’s Minority and Small Business Enterprises Division shall notify the applicant, via electronic mail (e-mail), of the need for any additional documentation deemed necessary to facilitate the County’s review of the

application. Failure of the applicant to provide the requested documentation within the time period specified shall be deemed an abandonment of the application.

- 2.5 Within thirty (30) Days of receipt of the completed application and all required supporting documentation, the County's Minority and Small Business Enterprises Division staff will determine the applicant businesses eligibility for the SBE Program.
- 2.7 Applicants determined to be eligible shall be assigned a registration number and shall be notified, via electronic mail (e-mail), of their approval and the approved lines of business in which the Business is Registered. Once Registered, the Business shall remain Registered for a period of two (2) years.
 - 2.7.1 A Registered SBE firm shall notify the County's Minority and Small Business Enterprises Division of any change in its address and/or telephone number within ten (10) Days of such change.
- 2.8 Registered SBE firms shall be listed in the Hillsborough County DM/DWBE & SBE Directory.
- 2.9 Applicants determined to be ineligible shall be notified, via electronic mail (e-mail), of the basis for the denial of Registration. Applicants denied Registration may request an administrative review of the decision pursuant to Part II, Section 8 of these Operational Procedures.
- 2.8 An applicant may reapply for Registration no earlier than six (6) months after the date of the County's notice of denial of Registration or the County's final order denying Registration.

SECTION 3 – RE-REGISTRATION

- 3.1 Every two (2) years, all Registered SBE firms are required to complete and submit a Re-Registration Update Application in order to facilitate the review of the Registered SBE firm's continued program eligibility status.
- 3.2 The County's Minority and Small Business Enterprises Division will send Re-Registration Update alerts ninety (90), forty-five (45), and thirty (30) Days prior to the SBE firms' registration expiration date.
- 3.4 Upon receipt, the Re-Registration Update Application shall be given an initial screening to ensure completeness. Within ten (10) Days following initial receipt of the applicant's Re-Registration Update Application, the County's Minority and Small Business Enterprises Division will request additional information if necessary to substantiate continued eligibility. If the requested information is not received within fifteen (15) Days from the date of the request, the SBE firms' participation in the County's SBE Program will be suspended and their application for re-registration shall be deemed abandoned.
- 3.5 Re-Registration shall be granted when the applicant has fully complied with all requirements as set forth in these rules. Applicants determined eligible shall be

notified of their approval via electronic mail (e-mail). Once Re-Registered, the Business shall remain Registered for a period of two (2) years.

- 3.6 Applicants determined ineligible for Re-Registration shall receive a letter detailing the reasons for the denial of Re-registration. Applicants denied Re-Registration may request an administrative review of that action pursuant to Part II, Section 8 of these Operational Procedures.
- 3.7 If an application for Re-Registration is timely submitted, a Registered SBE firm shall remain Registered until the County's Minority and Small Business Enterprises Division has made a determination of continued eligibility.
- 3.8 Applicants failing to submit their application within six (6) months after the expiration of their previous Registration shall no longer be considered Registered.

SECTION 4 – DE-REGISTRATION

- 4.1 The County shall, in its sole discretion, de-Register any SBE firm from participation in the County's SBE Program based upon one (1) or more of the following findings stemming from an investigation by the County's Minority and Small Business Enterprises Division:
 - a. The Business no longer meets the County's SBE eligibility requirements set forth in Part III, Section 1 of these Operational Procedures; or
 - b. The SBE firm cannot be contacted at the address in the County's DM/DWBE & SBE Directory; or
 - c. The SBE firm is no longer in business; or
 - d. The SBE firm obtained its original Registration through false representation or deceit; or
 - e. The SBE firm has experienced such a substantial change in ownership or Control that continued Registration would be contrary to the policy of the Hillsborough County SBE Program; or
 - f. The Business's performance with regard to Hillsborough County contracting and procurement is contrary to the requirements and purpose of Hillsborough County's SBE Program, including, *but not limited to*, the following:
 - (i) The SBE firm has failed to perform or has unsatisfactorily performed work on a County project, provided that such failure to perform and/or unsatisfactory performance is not caused by Acts of God or acts beyond the control of the SBE firm; or
 - (ii) The SBE firm has failed, without good cause, to perform in accordance with Contract specifications or within the time limit provided for in the Contract related to the County project on at County project, provided that such failure to perform is not caused by Acts of God or acts beyond the control of the SBE firm; or

- (iii) The SBE firm has without just cause neglected the payments of bills or otherwise disregarded its obligations to Subcontractors, materialmen or employees; or
- (iv) Wherein any other actions by the SBE firm and/or its owner(s), co-owner(s) or controlling corporate officer(s) are determined, by the County's Minority and Small Business Enterprises Division, to be so serious and compelling as to affect the Business's responsibility as a County SBE firm.

4.2 The County may, in its sole discretion, de-Register any SBE firm from participation in the County's SBE Program based upon one (1) or more of the following findings stemming from an investigation by the County's Minority and Small Business Enterprises Division:

- a. Conviction of the SBE firm's owner, co-owner, President, Vice President or other controlling officer of a crime(s) involving moral turpitude; or
- b. Conviction of the SBE firm's owner, co-owner, President, Vice President or other controlling officer for crime(s) involving the operation of its' Business, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects the SBE firm's responsibility as a County SBE firm; or
- c. Conviction of the SBE firm and/or its owner, co-owner, President, Vice President or other controlling officer for the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or
- d. The SBE firm has failed to perform or has unsatisfactorily performed work on a County project/Contract, provided that such failure to perform and/or unsatisfactory performance is not caused by Acts of God or acts beyond the control of the SBE firm; or
- e. The SBE Firm has failed, without good cause, to perform in accordance with contract specifications or within the time limit provided for in the Contract related to a County project, provided that such failure to perform is not caused by Acts of God or acts beyond the control of the SBE firm; or
- f. The SBE firm has failed to perform at least fifty percent (50%) of the cost of the work contracted to it under a County Contract, unless it is standard business practice in the applicable industry.

4.3 The SBE firm shall be advised of the allegations warranting its de-Registration and shall be required to cooperate with any investigation conducted with regard to the allegations. The County's Minority and Small Business Enterprises Division staff may use any of the investigative tools set forth in Part II of these Operational Procedures and may require the SBE firm to provide some or all of the documentation set forth in Part II of these Operational Procedures.

- 4.4 When a Business has been de-Registered from the County’s SBE Program, the County’s Minority and Small Business Enterprises Division shall send such Business a letter detailing the reasons for de-Registration.
- 4.5 A Business that has been de-Registered from the County’s SBE Program may request an administrative review of the de-Registration decision by the Administrative Certification & Registration Review Panel pursuant to the procedures listed in Part II, Section 8 of these Operational Procedures.

SECTION 5 - SMALL BUSINESS ENTERPRISE SET-ASIDE COMMITTEE

- 5.1 A Small Business Enterprise Set-Aside Committee (“SBE Set-Aside Committee”) is established to identify and designate County projects to be set-aside for participation exclusively by Registered SBE Firms; to identify and designate larger projects which lend themselves to downsizing into smaller projects; and to identify and designate projects for waiver of performance and payment bonds. The SBE Set-Aside Committee meetings' place, time and date shall be arranged by the chair of the Committee.
- 5.2 The SBE Set-Aside Committee shall consist of five (5) members and shall be composed of Department Directors, or their designees, from the following County Departments: 1) Minority and Small Business Enterprises Division, 2) Public Works/Capital Programs, 3) Procurement Services, 4) Public Utilities/Water Resources, and 5) Engineering & Operations Department. The Director of the County’s Minority and Small Business Enterprises Division, or their designee, will serve as chair of the Committee.

SECTION 6 – COMMODITIES (SET-ASIDE)

- 6.1 Purchases of competitively procured Commodities and Services may be set-aside for participation exclusively by Registered SBE firms.
- 6.2 Set-asides shall be economically feasible Contracts or portions of Contracts that are within the capability of Registered SBE firms to perform.
- 6.3 In order to assure necessary competition, at least three (3) Registered SBE firms must be available to provide the applicable Commodity before the procurement may be set-aside exclusively for Registered SBE firms.
- 6.4 Commodities or Services may be placed under the set-aside provision based on the recommendation of the SBE Set-Aside Committee.
- 6.5 If, in the judgment of the SBE Set-Aside Committee or the Procurement Services Department, Bids/Proposals received under this set-aside provision are deemed to be excessive and unreasonable based on the nature of the purchase prices of similar purchases in the market area, a recommendation shall be made to the County Administrator that all Bids/Proposals be rejected and that a second call for Bids/Proposals be issued by the County. If a second call for Bids/Proposals are required, the SBE set-aside provision will be abandoned and bidding will be open to all qualified bidders.

SECTION 7 – CONTRACTUAL SERVICES (SET-ASIDE)

- 7.1 Purchases of competitively procured Contractual Services may be set-aside for participation exclusively by Registered SBE firms.
- 7.2 Set-asides shall be economically feasible Contracts or portions of Contracts that are within the capability of Registered SBE firms to perform.
- 7.3 In order to assure necessary competition, at least three (3) Registered SBE firms must be available to perform the applicable Contractual Service before the procurement may be set-aside exclusively for Registered SBE firms.
- 7.4 Contractual Services may be placed under the set-aside provision based on the recommendation of the SBE Set-Aside Committee.
- 7.5 If, in the judgment of the SBE Set-Aside Committee or the Procurement Services Department, Bids/Proposals received under this set-aside provision are deemed to be excessive and unreasonable based on the nature of the purchase prices of similar purchases in the market area, a recommendation shall be made to the County Administrator that all Bids/Proposals be rejected and that a second call for Bids/Proposals be issued by the County. If a second call for Bids/Proposals is required, the SBE set-aside provision will be abandoned and bidding will be open to all qualified bidders.

SECTION 8 - CONSULTANT’S CONTRACTS - CCNA (SET-ASIDE)

The SBE Set-Aside Committee may identify projects to be set-aside for Registered SBE firms pursuant to Section 287.055 Florida Statutes, known as the "Consultant's Competitive Negotiation Act" (CCNA). The SBE Set-Aside Committee shall consider projects such as miscellaneous professional services for the SBE set-aside provision pursuant to this section.

SECTION 9 - CONSTRUCTION (SET-ASIDE)

- 9.1 When deemed appropriate, the County may set aside specific Construction projects with an estimated amount of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) or less to be bid upon exclusively by Registered SBE Firms only.
- 9.2 In order to assure necessary competition, at least three (3) Registered SBEs firms must be available to perform the applicable Construction before the procurement may be set-aside exclusively for Registered SBE firms.
- 9.3 The SBE Set-Aside Committee shall select the projects to be included in this set-aside Program.
 - 9.3.1 The applicable County user department/agency shall identify all projects with an estimated cost of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) or less and shall make recommendations to the SBE Set-Aside Committee regarding the selection of a project for a set-aside

opportunity at least thirty (30) Days prior to the County's bid solicitation of the applicable project.

9.3.2 User departments/agencies are directed to present Work Order Contracts valued at Seven Hundred and Fifty Thousand Dollars (\$750,000.00) or less to the SBE Set-Aside Committee for consideration as a set-aside.

9.3.3 The County's Minority and Small Business Enterprises Division shall review the County's DM/DWBE & SBE Directory to ensure that there are at least (3) three Registered SBE Firms that are qualified to perform the applicable work.

9.3.4 The SBE Set-Aside Committee shall receive the qualified projects and shall review the type and scope of the projects to determine the feasibility of designating the qualified projects as SBE set-asides.

9.4 BID BONDS

9.4.1 The Bid Bond for SBE Construction set-asides, if applicable, may be waived at the discretion of the Director of the County's Procurement Services Department.

9.4.2 Bid Bonds for SBE Construction set-asides shall not exceed 2.5% of the Bid amount.

9.5 REJECTION OF BIDS

In instances where Board of County Commission Policy No. 03.02.01.00 is not applicable, the SBE Set-Aside Committee shall determine whether the Bids/Proposals submitted under this provision are excessive and unreasonable. If it has been determined that all Bids/Proposals submitted on a particular project under this provision are excessive and unreasonable, then the County Administrator may recommend that all Bids/Proposals be rejected and a second call for Bids/Proposals may be issued by the County. If a second call for Bids/Proposals is required, the SBE set-aside provision of this particular project will be abandoned and bidding will be open to all qualified bidders.

SECTION 10 - PAYMENT ASSISTANCE/JOINT CHECKS

10.1 When a Registered SBE firm is awarded a County project as a **Prime contractor**, the County may permit the issuance of joint checks for the purpose of assisting the SBE Firm with payments to material or supply house(s) used by the SBE Firm for the project.

10.2 The SBE Prime contractor Firm will qualify for payment assistance if:

10.2.1 The SBE Prime contractor Firm has clearly stated in its Bid, its desire to utilize the Payment Assistance/Joint Checks procedure; and

10.2.2 The SBE Prime contractor Firm has specifically identified the supply or material house(s) to be used for the project in its Bid; and

- 10.2.3 The SBE Prime contractor Firm has authorized/consented to its participation in the Payment Assistance/Joint Checks procedure.
- 10.3 All payment requests utilizing the Payment Assistance/Joint Checks procedure must clearly stipulate the following:
 - 10.3.1 The materials/supplies included in the payment request; and
 - 10.3.2 That the SBE Prime contractor Firm has certified that those materials/supplies were received for and used for the County project.
- 10.4 Joint checks shall be made payable to the SBE Prime contractor Firm and its primary material or supply house subject to the procedures of the Clerk of the Circuit Court.
- 10.5 For the purpose of filing IRS Form 1099, the total amount of any joint payment shall be considered payment to the SBE Prime contractor Firm only.
- 10.6 The utilization of this Payment Assistance/Joint Check procedure by a SBE Prime contractor Firm shall in no way be construed to create a contractual relationship between the County and the supply or material house(s). The Payment Assistance/Joint Check procedure is intended solely for the benefit and assistance of the SBE Prime contractor Firm.

SECTION 11 - TIMELY PAYMENT BY COUNTY

- 11.1 All payments accruing to SBE firms under Contracts awarded pursuant to a Construction set-aside shall be made in accordance with Florida's Prompt Payment Act.
- 11.2 All payments accruing to SBE firms under Contracts awarded pursuant to a Non-Construction set-aside shall be made in accordance with Florida's Prompt Payment Act.
- 11.3 Upon the County's receipt of invoices for payment, processing will be completed promptly so that payment may be made in accordance with Florida's Prompt Payment Act; except when there are documented reasons that payment should not be made.

SECTION 12 - ADEQUATE ADVERTISEMENT TIME FOR BIDS AND PROPOSALS

- 12.1 The advertisement period for an SBE set-aside Construction project with an estimated value of One Hundred Thousand Dollars (\$100,000.00) or more shall be a minimum of twenty-one (21) Days.
- 12.2 The advertisement period for all other SBE set-asides for Commodities and Contractual Services shall be in accordance with the County's Procurement Policy and Procedures Manual.
- 12.3 Advertisements for SBE set-asides shall clearly state that Bids will be accepted only from Registered SBE firms.

12.4 Addenda to an Invitation to Bid and/or Request for Proposal that is issued less than five (5) Business Days prior to a scheduled Bid or Proposal opening shall include an extension of the Bid/Proposal opening date in order to comply with this 5-day requirement.

SECTION 13 - DISQUALIFICATION/REJECTION OF BIDS/PROPOSALS

The BOCC reserves the right to reject any Bids or Proposals from bidders who have previously failed to perform properly on any County or non-County Contract and who have done so by commission or omission of an act of such serious or compelling nature that the act indicates a serious lack of business integrity or honesty.

SECTION 14 - ESTABLISHMENT OF DATA COLLECTION SYSTEM

The County’s Minority and Small Business Enterprises Division shall continue to maintain and improve a computerized monitoring system to assess the effectiveness of the SBE Program.

SECTION 15 – WORK PERFORMED BY SBE FIRMS

At least fifty percent (50%) of the cost of the work contracted to a County-registered SBE Firm under a Contract let by the County must be performed by said SBE Firm’s existing employees/workforce, not including the cost of materials, unless the SBE Firm is the awarded Prime contractor on the County Contract. The SBE Firm’s employees/workforce must be responsible for executing the work in said Contract or executing a distinct element of the work by actually performing, managing and supervising the work. Failure of an SBE Firm to comply with this requirement will be considered a violation of the County’s SBE Program because the County shall presume that the Firm is not performing a commercially-useful business function.

Approved by: *Kenneth Jones*
Kenneth Jones, Director
Hillsborough County
Minority and Small Business
Enterprises Division

Appendix A **DEFINITIONS**

Any term defined in this Appendix A shall have the meaning ascribed herein for purposes of these Operational Procedures.

1. Affirmative Action - Remedial steps taken to correct past and present practices of discrimination and their current effects in order to attain equal opportunity.
2. Bid(s) - The offer and/or quote received from a Business in response to a procurement solicitation issued by the County.
3. BOCC/Board - Board of County Commissioners of Hillsborough County, Florida.
4. Business/Business Enterprise - Any legal entity, other than a "Joint Venture," which is organized in any form (i.e., sole proprietorship, partnership, corporation, LLC, etc.) to engage in lawful commercial transactions for profit.
5. Business Day(s) - Monday through Friday excluding public holidays.
6. Certification/Certified - The verification of the authenticity of a Minority or Woman-owned Business Enterprise to determine eligibility for participation under the County's DM/DWBE Program and approval of such enterprise for participation in the County's Program..
7. Commercially Useful Business Function - A Business that is currently performing a commercially useful business function in each specialty area(s) being requested for certification and/or registration, as well as providing goods/services to customers other than governmental agencies. The Business will also be deemed to be performing a commercially useful business function when it is responsible for the execution of a distinct element of work contained in a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. Acting as a conduit to transfer funds to a non-Minority Business does not constitute a commercially-useful business function unless it is standard business practice in the applicable industry.
8. Commodity/Commodities - Any of the various supplies, materials, goods, merchandise, equipment, and other personal property contracted for by the County. However, commodities purchased for resale are excluded from this definition. Printing of publications shall be considered a commodity when let upon a contract.
9. Construction - The process of building, altering, repairing, improving, or demolishing any public structure, building, roadway, or other public improvements of any kind to public real property.
10. Consulting Services - Those "professional services," as defined in Florida Statutes, Section 287.055, "Consultant's Competitive Negotiation Act" (CCNA).
11. Contract - All types of County agreements, regardless of what they may be called, for the purchase of Commodities, Consulting Services, Contractual Services, or Construction.

12. Contract Manager at Risk (CM/GC) - A sole proprietorship, partnership, corporation or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at a contracted price as a general contractor and provides consultation to the owner regarding construction during and after the design of the facility.
13. Contractual Service(s)/Services - The rendering by a contractor of its time and effort rather than the furnishing of specific Commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations (not covered by the Consultant's Competitive Negotiation Act); maintenance; accounting; legal; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services. "Contractual Service" does not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property.
14. Construction Contractor - Any person, firm, partnership, corporation, agency or other organization, who in any capacity undertakes or offers to undertake or purports to have the capacity to undertake, or accepts an order or contract to construct, alter, repair, add to, subtract from, or improve any building or other structure, project or improvement or to do any part thereof, including building, plumbing, electrical, mechanical and gas system work, but shall not include an authorized representative of the United States Government or the State, or any political subdivision thereof. Further, the term "Construction Contractor" shall include an individual who undertakes alone to perform a Construction contract.
15. Control - Shall mean that the Minority/Minorities or Woman/Women demonstrate the ability to make unilateral and independent business decisions as needed to guide the future and destiny of the Business enterprise. Additionally, the primary consideration in determining the operational control of the business and the extent to which the Minority/Minorities or Woman/Women actually operates the business will rest upon the unique characteristics of the industry of which the business is a part. The Minority/Minorities or Woman/Women owner must oversee the daily operation of the Business and be perceived by the industry as being in Control of the Firm.
16. County - All references to County or Hillsborough County relate only to functions and responsibilities of the BOCC.
17. Day(s) - One calendar day.
18. Design-Build - A system of contracting under which one entity performs both the architectural/engineering design and Construction. The design-builder has the responsibility for and warrants the design to the owner of the applicable building/structure.
19. DM/DWBE & SBE Directory - A compilation of Certified DM/DWBE Businesses and Registered SBE Businesses retained and published by the County and made available to contractors for use in identifying Subcontractors, material Suppliers, etc.

20. Firm(s) - Any legal entity, other than a "Joint Venture," which is organized in any form (i.e., sole proprietorship, partnership, corporation, LLC, etc.) to engage in lawful commercial transactions for profit.
21. Invitation to Bid - A written solicitation issued by the County for competitive sealed Bids with the title, date, and hour of the public bid opening designated and specifically defining the Commodity, group of Commodities, or services for which Bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is used when the County is capable of specifically defining the scope of work for which a Contractual Service or Construction is required or when the agency is capable of establishing precise specifications defining the actual Commodity or group of Commodities required.
22. Joint Venture - An association of two (2) or more persons, partnerships, corporations, or any combination thereof formed to carry on a single business activity which is limited in scope and duration and has complied with all statutory requirements. For the purpose of this Program, only that portion of the services actually performed by Certified DM/DWBE Joint Venturers shall be considered toward DM/DWBE goal attainment.
23. Licensee - A holder of a certificate issued pursuant to Florida Statutes or local Hillsborough County Ordinance, or a person registered pursuant to Florida or local law.
24. Minority Group Members/Minority/Minorities - A lawful, permanent resident of Florida who is:
 - a. An African-American - a person having origins in any of the indigenous racial groups of Africa.
 - b. An Hispanic-American - a person of Spanish or Portuguese heritage with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
 - c. An Asian-American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778.
 - d. A Native-American - a person who has origins in any of the Indian Tribes of North American prior to 1835 upon presentation of proper documentation thereof.
 - e. A Woman.

*** The above definition of Minority Group Members/Minority/Minorities shall be used and applied for the purpose of certification by the County.
25. Minority & Small Business Enterprises Division - the Minority & Small Business Enterprises Division is a division of the County's Economic Development Department.
26. Prime - the person, consultant, business, and/or entity that directly contracts with the County to perform and/or provide the Contractual Services and/or Commodities and has full responsibility for completing and/or providing the Contractual Services and/or Commodities.

27. Proposal(s) - The offer and/or quote received from a Business in response to a procurement solicitation issued by the County.
28. Registration/Registered - The verification and approval of an application for participation in the County's Small Business Encouragement Program.
29. Request for Proposal(s) - A written solicitation issued by the County for competitive sealed Proposals with the title, date, and hour of the public opening designated. The request for proposals is used when the County is capable of specifically defining the scope of work for which the Commodity, group of Commodities, Construction, Consulting Services, or Contractual Services are required and when the County is requesting that a qualified offeror propose to meet the specifications of the solicitation document. A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.
30. Shall/May - "shall" is mandatory, whereas "may" is permissive.
31. Subcontractor(s) - A Business Enterprise that contracts to fulfill a part or the whole of a contract made by a principal contractor.
32. Supplier(s) - A Business that performs a Commercially-Useful Business Function within normal industry practices. A bona fide supplier is an established Business that maintains a store and an inventory, sells goods to the public or a number of contractors, and carries, packages, and ships goods manufactured by a number of different companies. To be a "supplier" or "regular dealer," the Business must engage in, as its principal business, and in its own name, the purchases and sale of the products in question. A supplier of bulk items such as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or suppliers within the meaning of this Section.
33. Woman/Women - an adult female human.