



Board of Water and Sewer Commissioners

Policy No: Supplier Diversity 18-01

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**CONTRACTOR DIVERSITY POLICY FOR CONTRACTS FOR SMALL PUBLIC WORKS
AND OTHER GOODS AND SERVICES LESS THAN \$15,000 (Excluding Goods less than \$5,000)**

PURPOSE:

The purpose of this Policy is to increase meaningful participation of Diverse Contractors/Suppliers in all MAWSS contracts valued at less than \$15,000 (Excluding Goods less than \$5,000) not covered by Supplier Diversity Policy 16-01 and Supplier Diversity Policy 17-01, to establish MAWSS's goals for Diverse Contractors' participation, and to set forth requirements for the MAWSS Contractor/Supplier Diversity Program.

SCOPE:

This Policy will apply to all MAWSS contracts with total value of less than \$15,000 (Excluding Goods less than \$5,000) and which do not meet the requirements for Supplier Diversity Policy 16-01 and Supplier Diversity Policy 17-01. If a contract is to be paid all or in part with non-MAWSS funds, and a funding entity has Contractor/Supplier Diversity program requirements that exceed or are more stringent than those of this Policy, then the additional Contractor/Supplier Diversity policy provisions of the funding entity or entities will also apply as contract requirements.

In the event that MAWSS must enter into a contract for a project, supplies, goods, or services on an emergency basis, MAWSS will still seek competitive bids for the contract and will declare the nature of the emergency in writing. MAWSS reserves the right to waive or modify the requirements of this Policy if the emergency is adversely affecting or presents an immediate threat to public health, safety, or the environment.

DEFINITIONS:

Bid - For purposes of this Policy, a price quote offered for a contract. The contracts which are the subject of this Policy do not meet the dollar threshold to fall under Alabama's competitive bid laws. However, MAWSS employees will seek competitive prices for these contracts. The term "bid" is used in this Policy for convenience.

Contractor - For purposes of this Policy, an individual or business entity seeking to contract with MAWSS for a small public works project or for provision of supplies, goods, or services to MAWSS. Also includes the term “Supplier.”

Diverse Contractor/Supplier - A for profit small business entity for which socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations, certified as such on one or more of the lists of Diverse Contractors/Suppliers referenced in this Policy. A Diverse Contractor/Supplier may also be a sole proprietorship.

MAWSS - Mobile Area Water and Sewer System.

Supplier - For purposes of this Policy, this term is a contractor or vendor who provides materials, equipment, or other products or items to MAWSS.

Supplies - For purposes of this Policy, this term may include materials, equipment, supplies, or other products or items.

Goods - For purposes of this Policy, items that are tangible, such as books, pens, shoes, hats, folders, chemicals, equipment and any other tangible items.

Services - For purposes of this Policy, activities provided by other people such as consultants, consulting engineers, lawn care workers, custodial workers, repair or maintenance entities, caterers, lawyers, information technology personnel, or online services.

Commercially Useful Function – As used in this Policy, refers to the role of a for-profit business which is itself responsible for execution of the contract or a distinct element of the work; refers to a company or individual who actually performs, manages, or supervises the work involved, or who itself furnishes supplies, goods, or services directly to MAWSS. It is the intent of this Policy that contracts shall be awarded only to entities which perform commercially useful functions, as opposed to entities that only serve a “pass-through” function.

POLICY:

It is MAWSS policy that Diverse Contractors/Suppliers be given ample and fair opportunities to do business with MAWSS, by ensuring that MAWSS employees responsible for soliciting prices and handling contracts subject to this Policy make earnest and diligent efforts to include Diverse Contractors/Suppliers. MAWSS employees shall take all necessary and reasonable steps in accordance with this Policy to ensure that Diverse Contractors/Suppliers have the maximum allowable opportunity to compete for contracts.

This Policy shall be race and gender-neutral. MAWSS employees shall not discriminate on the basis of race, color, national origin, ethnicity, or sex, during the bid process as well as during performance of a MAWSS contract subject to this Policy.

Each MAWSS employee requesting bids for a contract subject to this Policy shall make a good faith effort to obtain bids from MAWSS-Certified Diverse Contractors. At a minimum, MAWSS employees are required to solicit and obtain at least as many bids from Diverse Contractors/Suppliers as they solicit from Non-Diverse Contractors/Suppliers. Example: If an employee solicits and obtains a bid from one Non-Diverse Contractor/Supplier, the employee must solicit and obtain one from a Diverse

Contractor/Supplier. If two Non-Diverse Contractor/Supplier bids are obtained, two Diverse Contractor/Supplier bids must be obtained.

If it is determined that the MAWSS Diverse Supplier Certification list cannot accommodate the minimum requirement above, the employee shall contact the MAWSS Diverse Supplier Office for assistance. If the employee still is unable to obtain enough Diverse Contractor/Supplier names to meet the minimum requirements, the employee shall document all efforts to do so, including the names and dates of all Diverse Contractors/Suppliers solicited for bids and a description of all efforts to obtain additional names to solicit for bids.

For each contract subject to this Policy, the MAWSS employee handling it shall list all Diverse Contractors/Suppliers who were sent an invitation to bid and note whether or not a bid was received from each. The employee shall include any information obtained regarding the reasons a Diverse Contractor/Supplier who was sent a solicitation did not submit a bid.

Written bid specifications must accompany all solicitations for bids and must be sent to prospective bidders by e-mail. MAWSS employees must retain all solicitations for bids in the contract file. Prior to the opening of all sealed bids and award of the contract, MAWSS employees shall not relay information about one bidder's prices to another potential bidder. Each bid must be returned to MAWSS via email using the bid portal email address assigned to the bid.

Once the bid end date is reached, the requesting employee may open all of the sealed bids. Employees will use the 10% rule when selecting the lowest responsive and responsible bidder. If the Diverse Contractor's/Supplier's bid is within 10% of the lowest bid, and the bidder is responsive and responsible in all other respects, the Diverse Contractor/Supplier will be selected as the low bidder. If the Diverse Contractor's/Supplier's bid exceeds 10% of the lower bid, then the lower responsive and responsible bidder will be selected.

All bids received must be attached to the requisition sent to Purchasing.

Copies of all documents relative to compliance with this Policy shall be retained by the MAWSS employee handling the contract in the contract's electronic file.

The MAWSS Executive Staff, Supplier Diversity Manager, and its Consulting Engineers may determine that a contract does not meet the criteria for this Policy.

IMPLEMENTATION - THE MAWSS CONTRACTOR/SUPPLIER DIVERSITY PROGRAM:

A. Lists of Certified Diverse Contractors/Suppliers:

MAWSS employees soliciting bids for contracts subject to this Policy are required to utilize MAWSS's most recent list of certified Diverse Suppliers in their efforts to meet Policy requirements.

MAWSS's list of certified Diverse Suppliers includes a description of the areas for which each Diverse Contractor/Supplier can provide work, services, goods, or supplies. MAWSS employees are required to use Diverse Contractors/Suppliers only in the areas for which they are certified.

Diverse Contractors/Suppliers for Policy 18-01 may be selected from the following list:

MAWSS List of Certified Diverse Suppliers - www.mawss.com

MAWSS employees may contact MAWSS's Supplier Diversity Office if they need additional names of Diverse Contractors/Suppliers, or if they know of a Diverse Contractor/Supplier who would like to be added to the MAWSS certified list. The MAWSS Supplier Diversity Office will work with the Diverse Contractor/Supplier to determine if the Diverse Contractor/Supplier meets certification requirements.

The current listings of Diverse Contractors/Suppliers certified by MAWSS are available on MAWSS's website at www.mawss.com or by contacting MAWSS's Supplier Diversity Office at (251) 694-3194.

B. Continuing Compliance with the MAWSS Supplier Diversity Program during Performance of the Contract:

The MAWSS Supplier Diversity Office will monitor continuing compliance with the Supplier Diversity Program requirements as contracts are performed.

If a contract with a Diverse Contractor/Supplier is terminated prior to its termination date, the MAWSS employee handling the contract must notify MAWSS's Supplier Diversity Office. This notification must include the reasons for the early termination as well as a description of efforts made by the MAWSS employee to solicit other certified Diverse Contractors/Suppliers as a replacement contractor.

Each MAWSS employee handling contracts being performed by a Diverse Contractor/Supplier subject to this Policy must file a written report with MAWSS's Supplier Diversity Office once a month documenting continuing compliance with the Supplier Diversity Program. This report will list each such contract being handled by that employee along with the total dollar value of the contract. The report must confirm that the Diverse Contractor/Supplier is currently performing work or providing services, goods, or supplies pursuant to the contract. The report must be dated and signed by the MAWSS employee.

Information and data requested by the Supplier Diversity Office regarding compliance with the Supplier Diversity Program must be promptly provided by the MAWSS employee. MAWSS employees shall make available to MAWSS's Supplier Diversity Office all records pertaining to use of Diverse Contractors/Suppliers.

MAWSS reserves the right to make site visits to project locations to confirm compliance with Supplier Diversity Program requirements.

An Employee's failure to comply with this Policy and MAWSS's Supplier Diversity program requirements may result in disciplinary action.

C. MAWSS Tracking of Supplier Diversity Program Achievements:

MAWSS's Supplier Diversity Manager will report to the MAWSS Board semi-annually on Diverse Supplier utilization and on other efforts by MAWSS's Supplier Diversity Office to enhance Diverse Supplier participation in all spending at MAWSS for small public works contracts and other goods and services below \$15,000 (Excluding goods less than \$5,000).

MAWSS may also contract for Disparity Studies as determined by the Board, to provide further information to enhance MAWSS's Supplier Diversity Program.