

## **EXHIBIT F-3: ACDBE and/or M/WBE GOOD FAITH EFFORT PLAN**

Please read these instructions carefully before completing the required Airport Concession Disadvantaged Business Enterprise (ACDBE) and/or Minority/Women Business Enterprise (M/WBE) Good Faith Effort Plan. These instructions are designed to assist proposers prepare the required detailed and complete good faith effort information.

To be eligible to be awarded a concession that has concession specific goals; proposers must make good faith efforts to meet the goals. A proposer may do so either by obtaining enough ACDBE and/or M/WBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. Examples of good faith efforts are found on **Exhibit E-3 Good Faith Effort Factors** page. The Airport treats proposer's compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which concession specific goals have been established will require the proposer to submit support documentation which addresses each of the factors outlined in the **Good Faith Effort Factors** page.

### **Administrative Reconsideration 26.53(a)**

Within two calendar days of being informed by The DFW International Airport that it is not responsive because it has not documented sufficient good faith efforts, a concessionaire may request administrative reconsideration. Concessionaire should make this request in writing and send it via overnight courier to the following reconsideration official:

**Linda Valdez Thompson  
Executive Vice President, Administration and Diversity  
DFW International Airport  
2400 Aviation Drive – 1<sup>st</sup> Floor  
DFW Airport, Texas 75261  
972-973-5600**

The reconsideration official will not have played any role in the original determination that the concessionaire did not document sufficient good faith efforts.

As part of this reconsideration, the concessionaire will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The concessionaire will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. However, the decision shall be made based solely on the entire administrative record submitted with the proposal. No new information will be evaluated.

We will send the concessionaire a written decision on reconsideration, explaining the basis for finding that the concessionaire did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### **Exhibit F-3: ACDBE and/or M/WBE GOOD FAITH EFFORT PLAN (continued)**

While the request is being considered, the airport will suspend its review of proposals for five days for that package. Once a determination is made by the BDDD, or upon the expiration of the five days, the airport will resume evaluation of proposals sent in response to the RFP.

#### **Good Faith Efforts When an ACDBE and/or M/WBE is Replaced on a Concession (23.53(f))**

The DFW International Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease or subcontract with another certified ACDBE and/or M/WBE, to the extent needed to meet the concession specific goal. We will require the Concessionaire to notify the BDDD Vice President immediately of the ACDBE and/or M/WBE's inability or unwillingness to perform and provide reasonable documentation before the ACDBE is terminated or replaced.

In this situation, the Concessionaire will be required to obtain the BDDDs prior approval of the proposed ACDBE and/or M/WBE substitution and to provide copies of new or amended subcontracts, or documentation of good faith efforts. The concessionaire must include the specific reasons for the termination and/or failure to complete its agreement as set forth. The concessionaire must also provide the ACDBE and/or M/WBE with any and all documents and information as may be requested with respect to the termination or substitution of the ACDBE and/or M/WBE.

If the Concessionaire fails or refuses to comply in the time specified, the Concessions Department will notify the concessionaire that it is in default. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

**GOOD FAITH EFFORT (GFE) CRITERIA**

*NOTE: Include a response to GFE criteria and support documentation in bid/proposal only if the D/S/M/WBE goal is not achieved.*

The following factors are taken into account when assessing a Good Faith Effort (GFE) response. These factors are minimally considered as good faith efforts and demonstrate specific initiatives made in attempting to achieve the applicable contract-specific Disadvantaged/Small/Minority/Women Business Enterprise (D/S/M/WBE) goal. These factors should not be considered as a template, checklist or some quantitative formula. Proposers are required to meet all factors outlined below and provide support documentation in order for the good faith effort plan to be assessed. Mere pro forma efforts are not good faith efforts to meet the D/S/M/WBE contract requirements. This means that a bidder/proposer must show that it took all necessary and reasonable steps to achieve a D/S/M/WBE goal or other requirement of this GFE which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient D/S/M/WBE participation, even if they were not fully successful. Dallas Fort Worth International Airport (DFW) will evaluate the GFE on quality, quantity, and intensity of the different kinds of efforts that the bidder/proposer has made, based on the regulations and the guidance in Code of Federal Regulations. **NOT SUBMITTING PROPER SUPPORT DOCUMENTATION IS NOT EVIDENCE OF A PROPER DEMONSTRATION OF GOOD FAITH EFFORT. SUBMITTAL OF THE CRITERIA, WITH NO ADDITIONAL DOCUMENTATION, WILL NOT BE CONSIDERED ADEQUATE DEMONSTRATION OF GOOD FAITH EFFORT.** Proposers are not limited to these particular areas and may include other efforts deemed appropriate. Complete form and attach support documentation only if the D/S/M/WBE goal is not achieved. For additional guidance concerning Good Faith Efforts, please refer to the Electronic Code of Federal Regulations (CFR 49 part 26 Appendix A).

<b>GOOD FAITH EFFORT FACTORS</b>
Whether the contractor/vendor/bidder conducted market research to identify small business contractors and suppliers and solicit through all reasonable and available means the interest of all certified D/S/M/WBEs that have the capability to perform the work of the contract. This may include attendance at any pre-bid or pre-proposal meetings to discuss subcontracting and supplier opportunities (acceptable documentation shall include copies of the meeting sign-in sheets with contractor name noted as signed-in) and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all D/S/M/WBEs listed in the State and/or Local respective directories of firms that specialize in the areas of work desired (as noted in the D/S/M/WBE directory) and which are located in the area or surrounding areas of the project.
Whether the contractor/vendor/bidder advertised in general circulation, trade association, and/or D/S/M/WBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);
Whether the contractor/vendor/bidder solicited the interest as early in the acquisition process being at least five (5) business days prior to bid opening as practicable to allow the D/S/M/WBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder/proposer should determine with certainty if the D/S/M/WBEs are interested by taking appropriate steps to follow up initial solicitations at least three (3) business days prior to bid opening to determine with certainty whether the D/S/M/WBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if bidder/proposer failed to make contact on its first attempt).
Whether the contractor/vendor/bidder selected portions of the work to be performed by D/S/M/WBEs in order to increase the likelihood that the D/S/M/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate D/S/M/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates D/S/M/WBE participation.
Whether the contractor/vendor/bidder provided interested D/S/M/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract. The ability or desire of a contractor/vendor/bidder to perform the services of a contract with its own workforce does not relieve the contractor/vendor/bidder of the responsibility to meet the contract goal or demonstrate good faith efforts to do so (The bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for D/S/M/WBEs to bid/quote).
Whether the contractor/vendor/bidder negotiated in good faith with interested D/S/M/WBEs. It is the bidder's/proposer's responsibility to make a portion of the work available to D/S/M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available D/S/M/WBE subcontractors and suppliers, so as to facilitate D/S/M/WBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of D/S/M/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for D/S/M/WBEs to perform the work.

<p>Whether the contractor/vendor/bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including D/S/M/WBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using D/S/M/WBEs is not in itself sufficient reason for a bidder's/proposer's failure to meet the contract D/S/M/WBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder/proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from D/S/M/WBEs if the price difference is excessive or unreasonable.</p>
<p>Whether the contractor/vendor/bidder did not reject D/S/M/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the D/S/M/WBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder/proposer or prime contractor to accept unreasonable quotes in order to satisfy contract goals.</p>
<p>Whether the contractor/vendor/bidder prime contractor's inability to find a replacement D/S/M/WBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original D/S/M/WBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement D/S/M/WBE, and it is not a sound basis for rejecting a prospective replacement D/S/M/WBE's reasonable quote.</p>
<p>Whether the contractor/vendor/bidder make efforts to assist interested D/S/M/WBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.</p>
<p>Whether the contractor/vendor/bidder make efforts to assist interested D/S/M/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.</p>
<p>Whether the contractor/vendor/bidder effectively uses the services of available minority/women community organizations; minority/women contractors' groups; Local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of D/S/M/WBEs.</p>
<p>Whether the contractor/vendor/bidder in determining whether a bidder/proposer has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, DFW will review the performance of other bidders/proposers in meeting the contract goal. For example, when the apparent successful bidder/proposer fails to meet the contract goal, but others meet it, DFW may reasonably raise the question of whether, with additional efforts, the apparent successful bidder/proposer could have met the goal. As provided in §26.53(b)(2)(vi), the bidder must submit copies of each D/S/M/WBE and non-D/S/M/WBE subcontractor quote submitted to the bidder when a non-D/S/M/WBE subcontractor was selected over a D/S/M/WBE for work on the contract to review whether D/S/M/WBE prices were substantially higher; and contact the D/S/M/WBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to D/S/M/WBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.</p>
<p>Whether the contractor/vendor/bidder promise to use D/S/M/WBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.</p>

**FOR DFW BUSINESS DIVERSITY & DEVELOPMENT USE ONLY:**

Plan Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of D/S/M/WBE Liaison: \_\_\_\_\_

Recommendation: Approval: \_\_\_\_\_ Denial: \_\_\_\_\_