

## **POLICY 1200.01: LOCAL DEVELOPING-BUSINESS (LDB) PROGRAM**

### **TABLE OF CONTENTS**

|                                                                                                                   | <u>Page</u> |
|-------------------------------------------------------------------------------------------------------------------|-------------|
| I. Policy Statement.....                                                                                          | 2           |
| II. Definitions.....                                                                                              | 2           |
| III. Establishment Of Goals.....                                                                                  | 5           |
| IV. Designation Of a Small Business Liaison Officer.....                                                          | 5           |
| V. Procedures To Ensure That LDBS Have an Equitable<br>Opportunity To Compete for Contracts and Subcontracts..... | 7           |
| VI. Procedures To Ascertain the Eligibility Of LDBS.....                                                          | 8           |
| VII. LDB Participation; Good Faith Efforts.....                                                                   | 8           |
| VIII. Evaluation Of Good Faith Efforts.....                                                                       | 10          |
| IX. Appeals.....                                                                                                  | 11          |
| X. Procedures By Which the Aviation Authority May<br>Implement LDB Direct Contracts.....                          | 11          |
| XI. Counting LDB Participation Toward Meeting LDB Goals.....                                                      | 12          |
| XII. LDB Joint Ventures.....                                                                                      | 13          |
| XIII. Working Capital Initiatives.....                                                                            | 14          |
| XIV. Other Initiatives for Procurement of Goods and Services.....                                                 | 18          |
| XV. Other Initiatives for Concession Operators.....                                                               | 18          |
| XVI. Effective Date.....                                                                                          | 18          |

## I. POLICY STATEMENT

The Local Developing-Business (“LDB”) Program (“Program”) of the Aviation Authority is designed to promote the development of local businesses and to ensure the availability of firms to compete for work at its facilities. The Program is also designed to promote the economic vitality and employment opportunities in the Orlando Standard Metropolitan Statistical Area (SMSA) in order to sustain the continued growth at Orlando International and Orlando Executive Airports. The Program will seek to provide full and equal business opportunities to all local developing-businesses in the Aviation Authority’s Construction contracting, procurement, and Professional Services activities.

## II. DEFINITIONS

- **Affiliates:** Any entity: 1) having the ability to exercise control over the firm under review, 2) under control by the firm being reviewed, or 3) under the common control with the firm under review. The affiliation rules promulgated by the Small Business Administration under 13 C.F.R. 121.103 may be used as a basis for affiliation analysis under this Program.
- **Aviation Authority Board:** The Greater Orlando Aviation Authority Board that governs the Orlando International Airport and the Orlando Executive Airport.
- **Certification:** The process by which an applicant is determined to be a bona fide local developing business.
- **Standard Metropolitan Statistical Area (SMSA):** This area, according to the United States Department of Census, includes the counties of Orange, Seminole, Osceola, and Lake.
- **Concession:** Any agreement with the Aviation Authority which grants an entity the privilege and obligation to operate facilities for the sale or rental of Goods and Services or food and beverage in the Orlando International Airport.
- **Construction and Construction Administrative Services:** Professional Services to include construction management, bid and proposal administration, OAR or other Services as identified and defined herein.
- **Contract:** Any agreement with the Aviation Authority for non-federally funded construction projects or for the purchase, lease or disposal of supplies or other Goods, or maintenance, installation or other Services, including Professional Services, but not including leases of real property, space use permits, employee benefits,

taxes, judgments, agreements for travel, dues, pensions, utilities, subscriptions, auto allowances, debt service requirements or postage.

- **Domicile:** A firm whose Principal Place of Business is in the Orlando SMSA or a firm which is at least 51% owned by a person or persons whose Primary Residence is in the Orlando SMSA.
- **Chief Executive Officer:** The Chief Executive Officer of the Aviation Authority or the person or persons designated by the Chief Executive Officer to act on his behalf with respect to issues delegated to the Chief Executive Officer's authority in this program.
- **Goods:** Any supply, material, equipment, product, article, or thing that is purchased by an Aviation Authority department in the accomplishment of its responsibilities.
- **Gross Profit:** Sales revenue minus sales costs.
- **Local Developing-Business or LDB:** An active operating business that is Domiciled in the Orlando SMSA and that meets the Revenue Limitations or Gross Profit Limitation, and that is owned and controlled by one or more individuals whose personal net worth does not exceed the Net Worth Limitation.
- **LDB Direct Contract:** A request or invitation for bids or proposals which is limited exclusively to LDBs.
- **Net Worth:** The sum of the fair market value of the interest owned in all assets by the individual(s) relied upon in determining LDB status (if an asset is owned jointly as husband and wife, then 50% of the fair market value for that asset will be counted if only one spouse participates in the firm being reviewed) minus the debt of the individual(s) (if debt is attributable to an asset owned jointly as husband and wife then 50% of the debt will be counted if only one spouse participates in the firm being reviewed). For purposes of establishing Net Worth, the following items will be excluded: 1) the equity in the individual's Primary Residence up to \$500,000; and 2) the equity of the individual in any businesses in which the individual is actively involved in the management and day to day operation which may include the business seeking LDB status.
- **Net Worth Limitation:** Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.00), except if the construction delivery method for a construction project is Construction Management ("CM") or Construction Management at Risk ("CMAR") then the Net Worth Limitation shall be One Million Five Hundred Thousand and No/100

Dollars (\$1,500,000.00). The Net Worth Limitation may be reviewed from time to time as deemed appropriate by the Office of Small Business and adjusted accordingly, with approval by the Chief Executive Officer.

- **Ownership and Control:** Individual owners of firms applying for Certification as an LDB must own and control at least 51% of the applicant firm. An individual is considered to control the firm when he/she controls the day-to-day business activities of the firm.
- **Principal Place of Business:** The LDB's headquarters, or the place where the chief or principal affairs and business of the firm are transacted as of the date the Request for Proposal, Request for Bids or Request for Letters of Interest is published. This is the office where the LDB's books are kept and where the partners, directors, officers, or managers assemble to discuss and transact the important day-to-day business of the firm.
- **Revenue Limitations:**
  1. Construction contracting services and consulting services related to planning, design, and construction related improvements and architectural and engineering services - \$5,000,000 in annual gross revenues averaged over the preceding three (3) years. Construction contracting services and consulting services related to planning, design, and construction related improvements and architectural and engineering services in projects utilizing CM or CMAR delivery methods – the Small Business Administration business size standard(s) found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform.
  2. Professional Services - \$2,000,000 annual gross revenues averaged over the preceding three (3) years.
  3. Procurement of Goods and Services not including Professional Services included in 1 and 2 above - \$2,000,000 annual Gross Profit averaged over the preceding three (3) years.
  4. Concessions - \$7,500,000 annual gross revenue averaged over the preceding three (3) years.

The Revenue Limitations and Gross Profit limitation amounts may be reviewed from time to time as deemed appropriate by the Chief Executive Officer and adjusted accordingly.

- **Primary Residence:** A place of abode which is recognized and intended to be maintained as the person's principal residence. Persons maintaining other places of abode in another state, other county within Florida, or outside the U.S. may manifest evidence of their Primary Residence to the Aviation Authority by submitting a certified copy of a sworn statement, filed pursuant to §222.17, Florida Statutes, as to what residence constitutes their predominant and principal residence and that they intend to continue it permanently as such.
- **Professional Services:** Services rendered by an independent contracting individual or firm having experience in a particular industry or subject matter due to specialized education, training, licensure or skill, of advice, reports, conclusions, recommendations or other outputs resulting from the time and effort of the service provider, as opposed to the acquisition of specific commodities or of Services not requiring any specialized education, licensing, training, or skill.
- **Services:** The furnishing of labor, time, expertise or effort, but does not include the rendition of Professional Services, employment or collective bargaining agreements, or the providing of a tangible end product.

### III. ESTABLISHMENT OF GOALS

In order to promote the utilization of LDBs, the Aviation Authority has established annual percentage goals for the dollar value of work to be awarded to LDBs. In addition to the annual overall program goals established by the Aviation Authority, the Chief Executive Officer may establish Contract goals for individual projects. The overall goals may be reviewed from time to time as deemed appropriate by the Chief Executive Officer and adjusted accordingly, upon approval by the Aviation Authority Board.

The initial annual overall goals are as follows:

- a. Non-federally funded Construction 2.5%;
- b. Procurement - 1.7%;
- c. Professional Services - 1.7% - and
- d. Concessions - as designated by the Aviation Authority

### IV. SMALL BUSINESS LIAISON OFFICER

The Aviation Authority has designated a Small Business Liaison Officer. The Office of Small Business Development recommends annual percentage goals to the Chief Executive Officer for the dollar value of work to be awarded to LDBs. The Chief Executive Officer and Small Business Liaison Officer recommend Contract goals for individual projects.

The Small Business Liaison Officer will be responsible for administering the Aviation Authority's LDB Policy, and will conduct periodic surveys to determine whether the Aviation Authority's LDB Policy is achieving its goals and objectives. Annual reports will be used to assist in determining whether the program is reaching its objective to recruit locally owned businesses for opportunities with the Aviation Authority. If corrective action is necessary, the Small Business Liaison Officer will make appropriate recommendations to the Chief Executive Officer.

The Small Business Liaison Officer will also be responsible for:

- Providing information to LDBs on the Aviation Authority's contractual needs and future plans;
- Providing assistance in resolving major procurement and contracting issues affecting LDBs;
- Scheduling seminars to acquaint LDBs with information on Aviation Authority bid specifications, procurement policies, and general bidding requirements;
- Providing bid specifications and plans to entities providing assistance to small businesses;
- Evaluating the effectiveness of the LDB program;
- Ensuring that only LDBs benefit from the LDB program;
- Ensuring that the LDB Directory accurately reflects LDBs available to compete for Contracts;
- Assist in monitoring contractors' and subcontractors' compliance with LDB commitments throughout the performance period of Contracts;
- Attending Pre Bid, Pre-Proposal and Pre Construction Conferences to explain LDB requirements and respond to questions;
- Assist in monitoring mentoring relationships;
- Assist in monitoring the Working Capital Initiatives program;
- Participating on Bid and Proposal Review Panels;
- Evaluate the participation goals and recommend adjustments when appropriate;

- Ensure that advertisements for contracting opportunities are placed in local small business media and in plan rooms designed to assist small businesses, and;
- Performing related duties, as assigned.

## **V. PROCEDURES TO ENSURE THAT LDBS HAVE AN EQUITABLE OPPORTUNITY TO COMPETE FOR CONTRACTS AND SUBCONTRACTS**

In order to ensure that LDBs have an equitable opportunity to compete for Contracts and subcontracts, the Aviation Authority will take affirmative steps to facilitate their involvement. These steps include:

- Notification to small business assistance organizations that Aviation Authority contracting and subcontracting opportunities are available.
- Providing plans and specifications to small business assistance organizations at reduced cost.
- Participating in pre bid/pre-proposal conferences to provide firms with an opportunity to ask questions about LDB requirements; LDB firms will be encouraged to attend these conferences.
- Upon request, providing LDBs with lists of firms bidding as prime contractors.
- Continuing recruitment efforts directed at LDBs.
- Identifying as many trade items as are reasonable and prudently possible into small contractual work elements which will enable small firms to compete effectively.
- Assisting bidders/proposers in efforts to obtain the names and addresses of LDB firms that may be utilized as subcontractors.
- The Aviation Authority will require a Prime contractor to make good faith efforts to replace a LDB that is terminated or has otherwise failed to complete its work on a Contract with another certified LDB. The Aviation Authority will require the contractor to notify the Small Business Liaison Officer immediately of the LDB's inability or unwillingness to perform and provide documentation as to the replacement firm's LDB status or as to the contractor's good faith efforts, when appropriate, to utilize a LDB to replace the non-performing LDB. Acceptance of the proposed replacement LDB subcontractor will require the prior written approval of the Chief Executive Officer.

## **VI. PROCEDURES TO ASCERTAIN THE ELIGIBILITY OF LDBS**

In order to ensure that only bona fide LDBs benefit from this Program, certain information must be provided to the Aviation Authority prior to award of the Contract, and updated upon request during Contract performance. This information will be used to certify the eligibility of firms seeking LDB status. Specifically, proposed firms must submit to the Aviation Authority a completed application for Certification promulgated by the Aviation Authority's Office of Small Business Development and upon request, submit such additional information and documentation as the Aviation Authority may request. Certification of eligibility as an LDB should be obtained prior to submission of a bid, proposal, or quotation that includes participation of the firm seeking eligibility. Financial information to verify personal Net Worth Limitation compliance will be required to assess eligibility for Certification. Denial of Certification by the Aviation Authority's Small Business Liaison Officer shall be communicated in writing via certified mail to the firm being denied Certification. Firms who enter into Contracts with the Aviation Authority should note that the Aviation Authority reserves the right to approve all substitutions of subcontractors before award and during Contract performance.

After the Bids are opened and prior to an award of the Contract, the Aviation Authority may request, receive and consider omitted and supplemental information from the Bidders as to the Certification status of LDB firms, if applicable, and of any subcontractor, supplier or joint venture in order to determine LDB status.

Prior to the award of each non-federally funded Contract which is subject to the procedures set forth in this Program, the Aviation Authority's Small Business Liaison Officer will determine whether each firm claiming LDB status and submitting its bid, proposal or quotation to the Aviation Authority shall be recognized as a LDB.

Any firm or joint venture which believes that it has been wrongfully denied Certification as a LDB may file an appeal in accordance with Section IX below.

## **VII. LDB PARTICIPATION; GOOD FAITH EFFORTS**

- A bidder/proposer must submit to the Aviation Authority at bid/proposal opening all LDB information requested by the Aviation Authority in the bid/proposal documents in order to be eligible for Contract award. Continuing service contractors will be required to submit a statement or plan to indicate how the continuing contractor plans to meet LDB goals throughout the term of the Contract.
- Contractors meeting the LDB participation Contract goal need not submit good faith documentation. If the bidder/proposer fails to

meet the LDB goal, the Aviation Authority will require bidder/proposer to submit evidence of good faith efforts to reach the goal, which evidence includes, but is not limited to, the following;

1. The name and title of the person responsible for the Contractor's good faith efforts to reach the goal;
2. Providing evidence of attendance at pre-bid/proposal meeting, if any, scheduled by the Aviation Authority to inform LDBs of subcontracting opportunities under a given Contract;
3. Providing a list of LDB firms contacted;
4. Providing copies of written correspondence to LDBs that their bid is being solicited, as well as certified return receipts to prove receipt or the reason for non-delivery; fax cover sheets indicating to whom the document was faxed, fax date, and whether the transmission was successful; or copies of email transmissions;
5. Providing evidence of information provided to the LDB firms about the specific work the contractor intends to subcontract. Prime contractors shall identify commercially useful portions of the work which are consistent with normal industry practice, which may be performed by LDBs. Prime contractors shall make reasonable efforts to divide the work elements into bid packages which are well-suited to LDB participation;
6. Providing evidence of information provided to LDBs on bonding and insurance requirements;
7. Providing copies of advertisements in general circulation media, trade association publications, and minority focus media at least 14 days before bids or proposals are due. If 14 days are not available, publication for a shorter reasonable time is acceptable;
8. Providing evidence that bidder/proposer provided interested LDBs with assistance in reviewing the Contract plans, specifications, and the terms and conditions of the general Contract, subcontract, and addenda;
9. Providing evidence that the bidder/proposer provided LDBs prompt notice of addenda affecting specific trade contractors;
10. Provide evidence that bidder/proposer made follow-up inquiries after initial solicitations of interest from LDBs.

Bidder/proposer shall maintain documentation of the date, time and name of individuals contacted. A telephone log is acceptable documentation of this activity;

11. Providing a list of quotes submitted by LDB firms contacted;
12. Providing documentation as to why LDBs were not utilized;
13. For those instances where a non-LDB subcontractor is selected for a scope of work for which LDB bids were submitted, the bidder/proposer shall submit records of all quotations received from LDBs and from the selected non-LDB subcontractor, documentation to evidence "good faith" negotiations with LDBs, and provide an explanation of the reasons why the LDBs will not be used during the course of the Contract. It is incumbent upon the bidder/proposer to demonstrate that LDBs were not rejected as unqualified without a thorough and documented investigation of their capabilities and capacity.

#### **VIII. EVALUATION OF GOOD FAITH EFFORTS**

- In order to assure that bidders/proposers comply with the Aviation Authority's LDB Program, successful contractors must either meet the LDB goal for a specific Contract or demonstrate good faith efforts to meet those goals. Within two (2) business days after receipt of a request from the Aviation Authority, bidders/proposers failing to meet the LDB Contract goal must submit documentation of the good faith effort they made before submission of their bid/proposal. In evaluating good faith efforts, the Aviation Authority determines whether the bidder/proposer made reasonable efforts, prior to submission of the bid/proposal, to achieve LDB Contract goals. The Aviation Authority may evaluate not only the different kinds of efforts made by a bidder/proposer, but also the quantity and intensity of those efforts. However, efforts made by the bidder/proposer after submission of the bid/proposal to meet the LDB Contract goal will not be considered by the Aviation Authority.
- In addition to the documentation listed in Section VII above, the Aviation Authority may consider the following information in evaluation of the bidder's/proposer's good faith efforts:
  1. Efforts made by bidder/proposer to select portions of the work proposed to be performed by LDBs in order to increase the likelihood of achieving the stated goal.
  2. Whether other bidders/proposers met the Contract goals relating to the utilization of LDB subcontractors.

3. Whether the bidder/proposer has established a bona fide program to assist LDB firms in acquiring skills and experience which will foster the managed growth of LDB firms.
  4. The extent to which a bidder/proposer utilizes LDB firms in private sector work.
- Bids/proposals submitted which do not meet the LDB Contract goals and for which the bidder/proposer does not show that, prior to the submission of the bid/proposal good faith efforts were made to achieve the stated goals will be recommended for consideration as non-responsive and the bidder/proposer will not be eligible for award of the Contract. In the event that a bid or proposal is deemed non-responsive, the Office of Small Business Development will notify the bidder/proposer that the bid/proposal is being recommended for consideration as a non-responsive bid or proposal.

## **IX. APPEALS**

- In the event the Aviation Authority's Office of Small Business Development recommends that a bid/proposal be rejected for failing to meet the Aviation Authority's participation goals and failing to demonstrate a good faith effort, upon concurrence with such determination by the Committee making the evaluation, recommendation or selection (Concessions Procurement Committee, Professional Services Committee, Construction Committee, or such other ad hoc Committee as may be established by the Chief Executive Officer), such bidder/proposer may appeal the recommendation to the Chief Executive Officer in the manner designated by the Committee.
- In the event a firm is denied LDB Certification, the Aviation Authority's Office of Small Business Development shall promptly provide a written explanation of the basis for denial. A firm denied Certification may appeal the determination to the Chief Executive Officer. The appeal must be filed in writing and within five (5) business days after receipt of the written explanation of the basis for rejection.

## **X. PROCEDURES BY WHICH THE AVIATION AUTHORITY MAY IMPLEMENT LDB DIRECT CONTRACTS**

The Aviation Authority may endeavor to increase LDB participation by direct Contracts exclusively for LDB participation for Concessions and non-federally funded Construction, Goods and Services procurement and Professional Services. The Aviation Authority's Small Business Liaison Officer may recommend which non-federally funded construction Contracts, Goods and Services procurement Contracts, Professional Services, and Concessions will, or are likely to, attract

meaningful competition from LDB firms capable of meeting the Contract specifications. Consequently, the Aviation Authority may use direct contracting techniques when necessary to meet LDB goals and/or stimulate the LDB Program provided that the following conditions exist:

1. At least three LDBs capable of performing the Contract are available;
2. The Aviation Authority has determined that the Contract should be a direct Contract in order to meet LDB goals and/or stimulate the LDB Program, and;
3. Consultation with the appropriate department (e.g. Purchasing, Engineering, Construction, Commercial Properties, Concessions, etc.) is conducted to determine if a direct Contract will be appropriate.

The Aviation Authority will state in its solicitation if a particular Contract will be a direct Contract with LDBs.

LDBs interested in bidding or proposing on Aviation Authority direct Contracts must submit LDB status verification in accordance with the instructions provided in the Contract documents.

## **XI. COUNTING LDB PARTICIPATION TOWARD MEETING LDB GOALS**

- In non-direct, non-federally funded Construction, Professional Service, and Goods and Services bids/proposals which carry an LDB goal, all bidders/proposers including LDB bidders/proposers, shall meet the LDB participation goal through first tier participation unless otherwise stated in the bid/proposal documents. Participation can be achieved in the following manner: subcontracts, purchase orders for Goods and joint ventures (see specific requirements below). The successful bidder/proposer will be credited with the dollar value of the actual work performed by the LDB.

If the LDB provides materials or supplies to the prime contractor in a construction Contract, the participation credited will be the dollar amount equal to 60% of the dollar value of the Goods unless the LDB is the manufacturer of the product supplied; in which case, bidders should receive credit for 100% of the dollar amount of the product supplied.

If the LDB provides Goods, LDB participation shall be counted at 100% if the supplier is a manufacturer of the supplies or a dealer that owns, operates, or maintains a store, warehouse, or other establishment which may include distribution systems for bulk items, in which supplies, articles, or equipment of the general

character described in the specifications required under Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. If prime contractor is an LDB, and the firm's primary core competencies are within the scope of the RFP/IFB, LDB participation is not required.

- In direct Contracts, no first tier LDB participation shall be required. However, in the procurement of Goods and Services and Professional Services, the LDB bidder/proposer may not subcontract more than 30% of the total dollar amount of the Contract to a firm or firms that are not LDBs.
- For projects in which the Aviation Authority participates in the selection of subconsultants to the lead architectural and/or engineering services firm, then for satisfying the LDB goals established for that project, the participation to be counted shall include participation at the first and second tier subconsultant levels.
- Additionally, in projects utilizing a Construction Manager at Risk (CMAR) method of delivery, the LDB participation goals shall be established by the Chief Executive Officer or his designee for each division or portion of work. For satisfying the goals established at each division or portion of work, the participation to be counted shall include participation at the first and second tier subcontract levels.

## **XII. LDB JOINT VENTURES**

- An LDB subcontractor/subconsultant or provider of Goods may be a joint venture, however the following will apply: an LDB must own at least 51% of the joint venture and the individual's personal Net Worth must not exceed the Personal Net Worth Limitation and they must exercise control and manage the operations of the business on a daily basis.
- The Small Business Liaison Officer or its designee will determine on a case by case basis if joint ventures will be allowed to bid/propose on LDB procurements. Such determination will be clearly stated in bid/proposal documents. In the event joint ventures are permitted, the following will apply:

Joint Venture partners must be certified as LDBs. For a joint venture to be certified as an LDB, both partner firms must be certified as LDBs.

### **XIII. WORKING CAPITAL INITIATIVES**

The Aviation Authority recognizes that LDBs may experience limited access to working capital. In order to further promote the development of LDBs, the Aviation Authority will make available certain retainers to LDB Professional Services firms and Designated Mobilization Payments to LDB Professional Services and LDB Contractors.

- Retainer Initiative for Professional Services - The Aviation Authority has identified certain "Professional Services" that are expected to be utilized. These services include, but are not limited to, consulting services related to planning, design, and construction related improvements, architectural and engineering services, accounting services, legal services and other services which, at the discretion of the Chief Executive Officer, require inclusion in this Program.

LDB Professional Services firms shall be selected in accordance with Aviation Authority policies and procedures for selection of Professional Services firms and shall be eligible for payment of a one-time retainer in the amount of five percent (5%) of the basic Services portion of the Contract award, or as otherwise approved by the Chief Executive Officer. The retainer shall be credited against periodic Contract billings based upon the proportion of the periodic billing to the basic Services portion of the Contract award, or as otherwise required by the Chief Executive Officer.

LDB Professional Services firms may reject the retainer and alternatively participate in the Designated Mobilization Program for LDB Professional Services and Contractors established in subsection B, providing the LDB firm has engaged a bank to participate with the terms and conditions below.

- Designated Mobilization Program Initiative - Unless stated otherwise, the following procedures will apply for prime Contracts and subcontracts performed by LDBs in Construction, procurement of Goods and Services, and Professional Services:
  1. Upon receipt of an award of a prime Contract or subcontract, a LDB may seek to obtain working capital financing from a lending institution. The LDB must complete all application requirements with the lending institution.
  2. The lending institution shall be committed to extending a line of credit to the qualified LDB in the amount of not less than 125% and not to exceed a maximum of 200% of the collateral described below. Individual loans shall be a minimum of \$5,000 and a maximum of \$250,000.

3. Upon execution of Aviation Authority Contract documents and satisfaction of the Aviation Authority's requirements for documentation, a designated mobilization payment equal to the following, or as otherwise approved by the Chief Executive Officer, shall be issued under the Contract or subcontract:
  - five percent (5%) of a prime Contract between a LDB and the Aviation Authority or, if approved by the Chief Executive Officer, such greater amount not to exceed 10% of the total contract price awarded; or
  - five percent (5%) of the subcontract amount between the LDB subcontractor and a prime contractor in privy with the Aviation Authority or, if approved by the Chief Executive Officer, such greater amount not to exceed 10% of the total Contract or subcontract.
4. A LDB shall only be entitled to receive the designated mobilization payment if a working capital line of credit agreement ("Working Capital Agreement") is established by the LDB with a lending institution.
5. The designated mobilization payment shall be made by the Aviation Authority directly to the lending institution on behalf of the LDB, and shall be pledged as collateral by the LDB. Upon disbursement, the Aviation Authority shall retain no interest in the designated mobilization payment.
6. Disbursement of designated mobilization payments shall be as follows:

LDB Prime Contractors:

- The LDB prime contractor may request payment of the designated mobilization payment in the first application for payment, or in the event of non-construction Contracts, by letter delivered to the Aviation Authority after award of the Contract but prior to the date of commencement of the Contract; provided, however, such application or letter request must be accompanied by an approved Working Capital Agreement with a participating lending institution, conditioned only on receipt by the participating lending institution of the designated mobilization payment.

- The designated mobilization payment shall be released in accordance with the following:
  - 1) after issuance of a notice to proceed, which constitutes notification that the Contract is fully executed; and
  - 2) within 10 business days after Aviation Authority approval of the prime contractor's initial application for payment, or in the event of non-construction Contracts within 10 days after Aviation Authority approval of the prime contractor's letter request for designated mobilization payment.
- Further, the designated mobilization payment may be paid by the Aviation Authority or a lending institution prior to the commencement of work. In order to assure that the Contract time does not commence until the LDB prime contractor has adequate working capital, the Aviation Authority's Contract documents may provide that the Contract time for a LDB prime contractor shall not commence immediately upon issuance of the notice to proceed, but rather at such time as the Aviation Authority releases the designated mobilization payment to the LDB prime contractor and participating lending institution pursuant to the Working Capital Agreement.

Subcontractors:

1. Prior to the release of a designated mobilization payment to the LDB subcontractor, the LDB subcontractor must submit to the Aviation Authority a letter request, an approved Working Capital Agreement conditioned only on receipt by the participating lending institution of the designated mobilization payment, and a copy of its subcontract or other documentation acceptable to the Aviation Authority evidencing the subcontract amount.
2. The term subcontractors, as used in these policies and procedures, shall include second tier subcontractors and suppliers to prime contractors.
3. Prime contractors shall retain no more than five percent (5%) of the amount earned by LDB subcontractors participating in the designated mobilization payment procedure. Prime contractor retainage shall remain at 10% of the Contract amount, except for LDB primes who shall be eligible for reduced retainage under this program.

Prime contractors shall be required to incorporate the designated mobilization payment procedures in subcontract agreements or purchase orders with LDB firms and cooperate in the release of designated mobilization payments to achieve the objective of providing working capital for LDB subcontractors.

The Aviation Authority will encourage prime contractors to make weekly or bi-weekly payments to LDB subcontractors to assist in the LDBs cash flow needs.

- In all prime Contracts to which the LDB designated mobilization payment procedure applies, prime contractors shall be permitted to substitute securities for retainage to be earned by the prime contractor. All interest accruing on the deposited securities shall accrue to the benefit of the prime contractor. The substitution of securities for retainage shall be governed by Florida Statute § 255.052, or such other procedures as may be approved by the Chief Executive Officer. The purpose of this section is to encourage prime contractors to participate in Aviation Authority Contracts by providing a mechanism to minimize any risk to which the contractor might be exposed as a result of reduction in the amount of subcontract retainage permitted to be withheld by the prime contractor for LDBs.
- The Aviation Authority shall monitor compliance with and effectiveness of the procedures set forth herein. Nothing contained herein, however, shall be construed to limit the Aviation Authority's right to insist upon strict compliance with the requirements of the Contract documents.
- The Aviation Authority shall not be a party to the Working Capital Agreement between the participating lending institution and the LDB contractor or subcontractor or provider of Professional Services. The Aviation Authority's obligations shall be limited to disbursing the designated mobilization payment directly to the participating lending institution, as authorized by the Working Capital Agreement. The lending institution(s) shall notify the Aviation Authority's Director-Office of Small Business Development when a LDB firm has submitted an application to participate in a Working Capital Agreement.
- Nothing contained in this policy shall prevent the Aviation Authority from consenting to a disbursement procedure pursuant to which a LDB or non-LDB agrees to an assignment of Contract proceeds in order to induce a non-participating lending institution to extend a line of credit or other credit facility based upon a prime or subcontract for an Aviation Authority project. However, the designated mobilization payment procedure shall not apply.

#### **XIV. OTHER INITIATIVES FOR PROCUREMENT OF GOODS AND SERVICES**

- Discretionary purchasing limits shall be increased to permit small purchases of Goods and Services in an amount up to a maximum of \$12,000 from LDB without requiring competitive bidding by the Purchasing Manager or his designee. The Purchasing Manager or designee shall have the authority to issue purchase orders to LDB firms through this non-competitive method when the dollar value of the purchase order does not exceed \$12,000 and a properly executed and authorized requisition is received. All such requisitions and purchase orders must be clearly marked as being non-competitive to facilitate audit and good record keeping practices.
- At the discretion of the Chief Executive Officer or his designee, direct Contracts may be utilized to increase LDB participation in the procurement of Goods and Services.

#### **XV. OTHER INITIATIVES FOR CONCESSIONS**

In order to reduce working capital requirements for LDBs, the Aviation Authority may fund initial build-out costs for concessionaires that qualify for participation in the ACDBE program. The funds expended by the Aviation Authority for build-out shall be repaid by the concessionaires to the Aviation Authority over the initial term of the Concession on terms approved by the Chief Executive Officer. At the discretion of the Chief Executive Officer, the Aviation Authority will utilize other initiatives to increase LDB participation in the area of Concessions.

#### **XVI. EFFECTIVE DATE**

This Program shall become effective upon adoption by the Aviation Authority Board.

#### **INFORMATION FOR DETERMINING LDB ELIGIBILITY**

If a firm wishes to be considered a Local Developing Business (LDB) under the Aviation Authority's LDB Program, the firm must complete and submit an LDB application to the Office of Small Business Development. LDB applications may be found on the Aviation Authority's website at [www.orlandoairports.net](http://www.orlandoairports.net).

## **APPROVAL AND UPDATE HISTORY**

**LAST APPROVAL**      Aviation Authority Board: August 15, 2012  
Chief Executive Officer: March 7, 2014

**SUPERSEDES**      All Previous