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**SUBJECT:** INITIAL READING: PROPOSED AMENDMENTS TO BOARD POLICY 6320.02, SMALL/MICRO AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE PROGRAMS ] REVISED

**COMMITTEE:** FISCAL ACCOUNTABILITY AND GOVERNMENT RELATIONS

**LINK TO STRATEGIC BLUEPRINT:** EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

To strive for greater small business participation and reduce barriers among local businesses, this item requests that the School Board authorize the Superintendent to initiate rulemaking to amend School Board Policy 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*. ] REVISED

The Board policy provides for the implementation, certification, and compliance of the Small/Micro, Minority/Women, and Veteran Enterprise programs. On March 9, 2018, the Superintendent asked the Economic Equity and Diversity Compliance Officer to launch a comprehensive approach soliciting input from various stakeholder groups to enhance the School Board Policy 6320.02. The Office of Economic Opportunity designed its Inaugural Program Assessment and Stakeholder Survey receiving 136 surveys from local businesses and community organizations. Furthermore, after four special meetings providing input and suggestions along with public input, on April 19, 2018, the Small, Micro & M/WBE Advisory Committee unanimously endorsed recommended changes to School Board Policy 6320.02. The updated revisions include clarity on multiple items referenced by the Office of Inspector General in its memo dated February 2, 2018, as well as other changes that respond to Board and stakeholder concerns. In addition, the title the Policy is proposed to be changed to *Small/Micro, Minority/Women-Owned, and Veteran Business Enterprise Programs*, to reflect the broader inclusion of Veteran Business Enterprise Programs from Service-Disabled Veteran Business Enterprise Programs. ] REVISED

Upon approval of the recommended policy amendments at initial reading, the Office of Economic Opportunity will make proposed revisions to the OEO Administrative Procedures Manual so that the policy and Manual are aligned. The Manual will be presented at the June School Board Meeting with the proposed policy changes on final reading. ] REVISED

Attached are the Notice of Intended Action and the proposed Policy Amendments. Changes are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Policy 6320.02, *Small/Micro, Minority/Women-Owned Business Enterprise Programs*. ] REVISED

**REVISED  
E-117**

## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on May 16, 2018, its intention to amend Board Policy 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, at its meeting of June 20, 2018.

REVISED

**PURPOSE AND EFFECT:** It is recommended that Board Policy 6320.02, *Small/Micro and Minority/Women-Owned Business Enterprise Programs*, be amended to allow for greater small business participation, by adding a lower Tier for the Micro Business Enterprise Program, adding definitions, updating the Metropolitan Statistical Area for consistency with all three programs, and expanding the service disabled veteran enterprise program to include all veterans. In addition, the title of the policy is proposed to be changed to *Small/Micro, Minority/Women-Owned, and Veteran Business Enterprise Programs*.

REVISED

**SUMMARY:** This policy creates expanded opportunities for small, micro, minority/women, and veteran business participation in the awarding of contracts in Goods and Services, Construction, Architecture/Engineering Services, and other applicable contracts.

**SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED:** 1001.41(1) (2); and 1001.43(10), F.S.

**LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC:** 287.0943; 288.703; 1001.32(2), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING OF June 20, 2018, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide a proposal for a lower cost regulatory alternative as provided in Section 120.541(1), F.S. must do so in writing by June 12, 2018, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. Section 286.0105, Florida Statutes.

A COPY OF THE PROPOSED AMENDED POLICY is available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.



1 On November 21, 2012, the Board determined that a new disparity study would  
2 need to be conducted in order to continue its M/WBE program. The Board repealed  
3 its Business Development and Assistance Program Policy with the understanding  
4 that it would develop a new M/WBE Program if supported by the results of a newly  
5 commissioned disparity study. At the same time, the Board approved the  
6 Small/Micro Business Enterprise (S/MBE) Program and the continuation of the  
7 M/WBE Certification Program to provide legally permissible race and gender-  
8 neutral participation by small and micro businesses in Board procurement of goods  
9 and services, construction, and professional services and to allow M/WBEs to  
10 participate in Board contracting as small and micro business enterprises while the  
11 study was being conducted. The program continued to certify M/WBEs, to include  
12 aspirational goals for M/WBEs in contracts, and to track and monitor the utilization  
13 of M/WBEs through the S/MBE Program.

14 In February 2013, the Board contracted with MGT of America, a Tallahassee  
15 consulting firm, to conduct Phase I of a Comprehensive Disparity Study (Disparity  
16 Study) to provide data regarding the Board's design and construction-related  
17 professional services procurement activity and race- and gender-neutral remedial  
18 efforts for the study period between July 1, 2006 through June 30, 2012. The  
19 purpose of the Disparity Study was to analyze the utilization of minority and  
20 women-owned business enterprises (M/WBEs) in the Board's procurement of capital  
21 construction and design and construction related professional services. The  
22 Disparity Study was accepted by the Board on November 19, 2014. In  
23 February 2015, the Board commissioned Euquant, Inc., to provide further disparity  
24 analysis of the Board's utilization of African-American subcontractors in  
25 construction (Subcontractor Disparity Study). The Subcontractor Disparity Study  
26 was accepted by the Board on September 9, 2015. The Disparity Study and the  
27 Subcontractor Disparity Study are both incorporated by reference and made a part  
28 of this policy.

1 The Disparity Study addressed (1) whether there is a disparity in the utilization of  
2 M/WBEs in the District's procurement of construction and professional services,  
3 (2) whether any disparity is the product or result of past discrimination or other  
4 factors related to race or gender based discrimination, (3) whether any disparity can  
5 be effectively ameliorated through race and gender neutral programs, and (4) if the  
6 appropriate remedy is a race- or gender-conscious program, how the program  
7 should be narrowly tailored to remedy the current effects of past discrimination and  
8 conform to constitutional guidelines.

9 The Disparity Study and the subsequent Subcontractor Disparity Study reported  
| 10 findings that within the relevant geographic market of the ~~Miami Dade~~-Metropolitan  
11 Statistical Area (Miami/Broward/Palm Beach) there are statistically significant  
12 disparities in the District's utilization of ready, willing, and able M/WBEs in the  
13 following categories of contracts and business owners:

14 A. Prime Construction Contracts (African-American, Asian-American,  
15 Native-American, and Non-Minority Women)

16 B. Construction Subcontracts (African-American, Asian-American, and  
17 Native-American)

18 C. Prime Design and Construction-Related Professional Services  
19 (African-American, Asian-American, Native-American, and  
20 Non-Minority Women)

21 D. Design and Construction-Related Professional Services Subcontracts  
22 (African-American, Asian-American, Native-American, and  
23 Non-Minority Women)

24 Other significant findings in the Disparity Study report include, but are not limited  
25 to, the following:

| 26 A. Non-minority firms received the majority of the public--sector  
27 construction permits for prime contracts.

- 1           B.    Non-minority firms received an even larger percentage of  
2           construction building permits for private sector commercial  
3           construction and subcontracts. MBE primes received only two  
4           percent (2%) of building permits and certified non-minority  
5           women-owned businesses received zero. Of the .27% of  
6           subcontractors who received building permits, nearly all went to  
7           Hispanic-American owned businesses.
- 8           C.    There are significant disparities for entry into self-employment for  
9           African-Americans, Hispanic Americans, Asian Americans, and  
10          Non-minority Women.
- 11          D.    There is a statistically significant positive relationship between the  
12          probability of commercial bank loan denial and African American  
13          business ownership. About fifteen percent (15%) of M/WBE loan  
14          applicants reported being denied commercial bank loans, compared  
15          to 64.7% of African American applicants, 21.6% of Hispanic  
16          American applicants, 0% of Asian American-owned firms, 0% of  
17          Native American applicants, and twenty percent (20%) of  
18          non-minority women applicants.
- 19          E.    Interviews with District staff and M/WBE firms identified various  
20          discriminatory barriers affecting the relevant job market including  
21          unequal access to bonding, finance, and insurance, having to  
22          unfairly compete against large firms in the selection process,  
23          unnecessarily restrictive contract requirements, an informal network  
24          that precluded M/WBE firms from obtaining work in the private  
25          sector, seldom or never being solicited where there were no M/WBE  
26          goals, being dropped from a project after being included to satisfy  
27          good faith effort requirements, contract bundling, slow or  
28          non-payment by contractors, limited time to prepare bid packages,  
29          difficulty obtaining notification of contract/bid opportunities, and  
30          discriminatory experiences in dealing with the District and prime  
31          contractors.

1           F.     The implementation of numerous race and gender-neutral  
2                 assistance efforts and programs throughout the relevant market  
3                 over the past two (2) decades have been unsuccessful in eliminating  
4                 these persistent and significant disparities in the District's ready,  
5                 willing and able M/WBE firms. The efforts have included technical  
6                 assistance, loan guarantee assistance, bonding assistance, business  
7                 development assistance, financial assistance, and mentoring  
8                 programs.

9     Together, these District and private sector disparities currently establish an  
10    inference of discrimination that is adversely affecting the Board's utilization of ready,  
11    willing, and able minority- and women-owned firms.

12   Based upon the totality of the evidence gathered and presented to the Board since  
13   1990, the Board has concluded that there is a strong evidentiary basis establishing  
14   that the District has a compelling interest in remedying the ongoing effects of  
15   discrimination that is occurring in the broader relevant market and adversely affects  
16   the District's utilization of ready, willing and able minority- and women-owned firms  
17   in District construction and construction-related contracts. The Board also  
18   concludes that it needs to take action to avoid becoming a passive participant in  
19   private sector discrimination.

20   The Board has further concluded that race- and gender-neutral remedies, in and of  
21   themselves, may not be sufficient to eliminate the effects of the identified forms of  
22   discrimination, and that a narrowly tailored combination of race- and  
23   gender-neutral and race and gender-conscious remedies are warranted.  
24   Accordingly, this policy specifically authorizes the establishment of a narrowly  
25   tailored combination of race and gender-neutral and race and gender-conscious  
26   programs that address discrimination in the Board's procurement processes and  
27   business operations.

1 **General Policy**

2           A.     The District shall resort to the use of race- and gender-conscious  
3                 means for addressing disparities only when it is apparent that the  
4                 use of neutral means alone will likely be insufficient to remedy the  
5                 effects of identified discrimination. The determination of when to  
6                 use race conscious measures will be made on a project-by-project or  
7                 contract-by-contract basis pursuant to this policy.

8           B.     Having found that it has a compelling governmental interest to  
9                 remedy the effects of identified discrimination in the procurement of  
10                construction and professional services contracts, the Board directs  
11                and authorizes the Superintendent to establish procedures and  
12                implement remedies that are consistent with this policy and are  
13                narrowly tailored to the findings and conclusions of the Disparity  
14                Study.

15          C.     In addition, the Board shall take all necessary, reasonable, and legal  
16                 action to prevent discrimination and to ensure that all businesses,  
17                 including M/WBEs, are afforded the maximum equitable  
18                 opportunity to participate in the District's procurement process.

19          D.     The District shall take all necessary and reasonable steps  
20                 permissible by law to ensure full equitable participation by M/WBEs  
21                 in the procurement of construction and professional services for the  
22                 District, including:

23                 1.     developing programs and services as described in this policy  
24                         that will achieve the Board's diversity objectives in business  
25                         practices and operations in a manner that is consistent with  
26                         this objective;



- 1                   2.     publicizing and enforcing the Board's commercial  
2                   anti-discrimination provisions in Policy 6465 and Policy 6320  
3                   to ensure that District employees and companies doing  
4                   business with the Board do not discriminate in the  
5                   solicitation, selection, or treatment of subcontractors,  
6                   suppliers, vendors, or commercial customers on race, color,  
7                   ethnic or national origin, religion, marital status, disability,  
8                   genetic information, age, political beliefs, sexual orientation,  
9                   gender, gender identification, social and family background,  
10                  linguistic preference, pregnancy, and any other legally  
11                  prohibited basis;
- 12                  3.     developing additional Board policies, administrative  
13                  programs, procedures and affirmative procurement initiatives  
14                  consistent with Policy 6320.06 to directly address inequities  
15                  and disparities related to the underutilization of M/WBE  
16                  subcontractors on Board construction projects;
- 17                  4.     ensuring that the Office of Economic Opportunity (OEO) is  
18                  included on all selection committees for bids, contracts and  
19                  professional services; and
- 20                                 The OEO shall review contract specifications to ensure that  
21                                 they are not unnecessarily restricting the availability and  
22                                 participation of S/MBEs, ~~and M/WBE~~, and VBE firms in the  
23                                 procurement and contracting process.
- 24                  5.     evaluating the levels of availability and utilization in S/MBE  
25                  and M/WBE participation and adjusting the implementation  
26                  of this policy according to changing needs and circumstances  
27                  to ensure that appropriate utilization objectives are  
28                  established and maintained.

1 **Office of Economic Opportunity (OEO)**

2 The OEO shall administer and implement the S/MBE, M/WBE, and Veteran  
3 Business Enterprise (VBE) Program including certification, technical assistance, and  
4 compliance, and:

5 A. enforce the Board's commercial anti-discrimination Policy 6465 in  
6 the award of contracts for construction projects, procurement of  
7 goods and services, and professional services and implement the  
8 measures developed pursuant to Policy 6320.06 to increase  
9 diversity, equity and inclusion in business practices and operations;

10 B. provide maximum legally permissible opportunities for S/MBEs,  
11 M/WBEs, and VBE/VBEs to participate in the award and  
12 performance of all Board contracts, including construction,  
13 professional services including A/E and non-A/E, and goods and  
14 services;

15 C. monitor, track, and certify small/micro businesses, and  
16 minority/women business enterprises, and veteran business  
17 enterprise;

18 D. to develop procedures and processes to enforce compliance with this  
19 policy for all Board vendors, including construction, professional  
20 A/E and non-A/E services, and goods and services and when  
21 applicable, to recommend appropriate sanctions;

22 E. develop and implement necessary administrative procedures to fully  
23 implement these programs;

24 F. establish insurance requirements which, although providing  
25 appropriate protection, are not more restrictive than necessary to  
26 protect the public's interest;

27 G. establish economic incentives that encourage the waiver of bonds,  
28 and enhance the bonding technical assistance program;

- 1 H. establish administrative procedures to expeditiously resolve  
2 monetary disputes and motivate prime contractors to make timely  
3 payments;
- 4 I. establish a comprehensive contract reporting and monitoring system  
5 to evaluate the effectiveness of these programs in increasing  
6 contracting opportunities for small/micro, minority/women-owned,  
7 and veteran businesses;
- 8 J. serve as chair of the Goal-Setting Committee and staff liaison to the  
9 Small/Micro, Minority/Women-Owned, and Veteran Business  
10 Enterprise Advisory Committee;
- 11 K. monitor, coordinate, and provide support for any disparity study  
12 that may be conducted regarding minority/women-owned business  
13 participation in Board procurement for construction, professional  
14 A/E and non-A/E services, and goods and services;
- 15 L. develop and coordinate any recommendations as a result of any  
16 such disparity study findings;
- 17 M. maintain, distribute, and publish a directory of certified SBE, MBE,  
18 M/WBE, and VBEVBE firms;
- 19 N. report annually through the Superintendent to the Board regarding  
20 the effectiveness of these programs; and
- 21 O. monitor local workforce goals as established by the Goal Setting  
22 Committee for construction, professional services and goods and  
23 services; including initiatives through community based agreements  
24 with reputable and reliable referral agencies.

1 **Small/Micro, ~~and~~ Minority/Women-Owned, and Veteran Business Enterprise**  
2 **Advisory Committee**

3 The Small/Micro, Minority/Women-Owned, and Veteran Business Enterprise  
4 Advisory Committee shall be established to:

- 5 A. provide guidance on the implementation of the S/MBE, M/WBE,  
6 and ~~VBE/VBE~~ Programs and to promote the participation and use of  
7 SBEs/MBEs, M/WBEs, and ~~VBE/VBE~~s in all procurement activities  
8 of the Board;
- 9 B. identify and evaluate issues related to economic opportunities within  
10 the Board for S/MBE, M/WBE and VBE ~~small, micro and~~  
11 ~~minority/women owned businesses~~;
- 12 C. provide recommendations to the Board to improve the  
13 S/MBE, M/WBE, and VBE programs;
- 14 D. annually evaluate and report to the Board on the effectiveness of the  
15 S/MBE, M/WBE, and VBE programs in increasing minority and  
16 women owned business participation in the Board's procurement  
17 process;
- 18 E. monitor any disparity study that may be conducted by the Board  
19 and make recommendations based on the results of any such study.

1 The Board and Superintendent shall each appoint a community member who is not  
2 employed by the Board and does not have any direct or indirect business  
3 relationship with the Board. The committee shall have representation from local  
4 S/MBE, M/WBE, VBE~~small, micro, minority, women~~, and majority business interest  
5 organizations, community based organizations and local government entities which  
6 may include professional, construction and trade, business, and socio-economic  
7 organizations. The Board and Superintendent shall approve a list of representative  
8 organizations and the Superintendent shall appoint a member nominated by each  
9 recommended organization from their membership. The term of each Board  
10 appointee shall be coterminous with the appointing Board member and the term of  
11 the Superintendent's appointees shall be at the will and discretion of the  
12 Superintendent. Board members may appoint alternate members in accordance  
13 with Policy 9140, Citizen Advisory Committees. All appointments must comply with  
14 Policy 9140. The committee shall annually elect a chair and vice-chair, meet at least  
15 six (6) times per year, and be governed by the latest edition of *Robert's Rules of*  
16 *Order*. The committee may adopt bylaws, to be recommended by the Superintendent  
17 to the Board for approval, to facilitate the operation of the committee.

18 **Terms and Definitions**

19 A. **Actual Place of Business**– Business whose physical office is  
20 located in the relevant Metropolitan Statistical Area.

21  
22 B. **Affirmative Procurement Initiatives** – any procurement tool to  
23 enhance contracting opportunities for ~~SBE~~/MBE, ~~M/WBE~~, and  
24 ~~VBE~~VBE firms including: bonding waivers, bid incentives, sheltered  
25 market, mandatory subcontracting, competitive business  
26 development demonstration projects, and ~~SBE~~/MBE~~M/WBE~~, and  
27 ~~VBE~~VBE evaluation preference points in the scoring of proposal  
28 evaluations.

29 B. **Available or Availability** – to have, prior to bid submission, the  
30 ability to provide goods or services under a contract by having  
31 (a) reasonably estimated, uncommitted capacity; (b) all necessary  
32 licenses, permits, registrations and certification, including S/MBE,  
33 M/WBE, or ~~VBE~~VBE certification to provide the type of goods or  
34 services being purchased under the contract; (c) ability to obtain  
35 reasonably required financing/insurance that is consistent with  
36 normal industry practice; and (d) ability to otherwise meet bid  
37 specifications.

- 1 C. **Award** – final selection of a bidder or offer or for a specified  
2 contract.
- 3 D. **Award Amount** – the dollar value of the contract when awarded.
- 4 E. **Bid** – quotation, proposal, letter of interest or offer by any bidder in  
5 response to any kind of invitation, solicitation, request or public  
6 announcement to submit such quotation, proposal, letter of interest  
7 or offer for a contract.
- 8 F. **Bidder** – any person, partnership, corporation or other business  
9 entity that submits a bid or proposal.
- 10 G. **Certification** – process by which the OEO determines that a  
11 business meets the criteria for classification as a  
12 S/MBE~~small/micro business enterprise,~~ a M/WBE  
13 minority/women owned business enterprise, and/or a veteran  
14 business enterpriseVBE.
- 15  
16 H. **Certified Directory** - listing of certified S/MBEs, M/WBEs, and  
17 VBEs.

- 1 H. **Commercially Useful Function** – an S/MBE, ~~or~~ M/WBE, or VBE  
2 performs a commercially useful function when it is responsible for  
3 execution of the work of the contract and is carrying out its  
4 responsibilities by actually performing, managing, and supervising  
5 the work involved. To perform a commercially useful function, the  
6 S/MBE, ~~or~~ M/WBE, or VBE must also be responsible for negotiating  
7 the price of contract materials and supplies, determining the  
8 quantity and quality of materials, ordering and installing materials if  
9 applicable, and paying for the materials. To determine whether an  
10 S/MBE, ~~or~~ M/WBE, or VBE is performing a commercially useful  
11 function, an evaluation must be performed of the amount of work  
12 subcontracted, normal industry practices, whether the amount the  
13 S/MBE, ~~or~~ M/WBE, VBE is to be paid under the contract is  
14 commensurate with the work it is actually performing and the  
15 S/MBE, ~~or~~ M/WBE, VBE credit claimed for its performance of the  
16 work, and other relevant factors. Specifically, an S/MBE, ~~or~~  
17 M/WBE, or VBE does not perform a commercially useful function if  
18 its role is limited to that of an extra participant in a transaction,  
19 contract, or project through which funds are passed in order to  
20 obtain the appearance of meaningful and useful S/MBE, ~~or~~ M/WBE,  
21 VBE participation, when in similar transactions in which S/MBE,  
22 ~~or~~ M/WBE, or VBE firms do not participate, there is no such role  
23 performed.
- 24 I. **Construction Services and Specialty Trades** - means all labor,  
25 services, and materials provided in connection with the  
26 construction, renovation, alteration, repair, demolition,  
27 reconstruction, or any other improvements to real property.
- 28 J. **Contract** – an agreement for purchase of goods or services,  
29 including professional services and construction. It does not  
30 include agreements to purchase, lease, or rent real property, or a  
31 grant, license, permit, franchise, or concession.

1           K.     **Goal** – The annual or contract-specific goals for contract  
2 participation that express the anticipated level or proportion of  
3 contract dollars in a given time frame that would be expected to be  
4 received by a particular segment of the total population of Ready,  
5 Willing, and Able ~~(RWA)~~ firms. These goals are based upon  
6 availability analysis derived from a database established by the OEO  
7 and Purchasing. Upon completion of availability analysis, such  
8 goals for specific contract participation may, under certain  
9 circumstances, be set and narrowly tailored by race, gender, and  
10 industry codes. Annual goals are intended as an administrative  
11 guide only to assist the District in its annual policy review to  
12 determine whether the use of more aggressive or less aggressive  
13 remedies are warranted in the future. Annual goals shall not be  
14 routinely applied to specific contracts absent independent  
15 availability analysis demonstrating that they are appropriate for  
16 application to a specific contract.

17           L.     **Goal Setting Committee** – committee established by the  
18 Superintendent that is chaired by the OEO and is responsible for  
19 establishing S/MBE, ~~and~~ M/WBE, and VBE Program goals and  
20 selecting appropriate Affirmative Procurement Initiatives for  
21 application to specific Board contracts based upon industry  
22 categories, vendor availability, and project-specific characteristics.



1 M. **Good Faith Efforts** – documentation (evidence) of the bidder’s  
2 intent to comply with S/MBE, ~~and~~ M/WBE, and VBE Program goals  
3 and procedures, including, but not limited to the following: (1)  
4 documentation within a bid submission or proposal reflecting the  
5 bidder’s commitment to comply with program goals as established  
6 by the Goal Setting Committee for a particular contract; or (2)  
7 documentation of efforts made towards achieving the program goals,  
8 including but not limited to, timely posting of S/MBE, ~~or~~ M/WBE, or  
9 VBE subcontract opportunities on the Board web site; solicitations  
10 of bids from all qualified S/MBE, ~~or~~ M/WBE, or VBE firms listed in  
11 OEO’s directory of certified firms; correspondence from qualified  
12 S/MBE, ~~or~~ M/WBE, or VBE firms documenting their unavailability  
13 to perform S/MBE, ~~or~~ M/WBE, or VBE contracts; documentation of  
14 efforts to subdivide work into smaller quantities for subcontracting  
15 purposes to S/MBE, ~~or~~ M/WBE, or VBE firms; documentation of  
16 efforts to assist S/MBE and M/WBE firms with obtaining financing,  
17 bonding, or insurance required by the bidder; and documentation of  
18 consultations with trade associations and consultants that  
19 represent the interests of small and local businesses in order to  
20 identify qualified and available S/MBE, ~~and~~ M/WBE, and VBE  
21 subcontractors.

22 N. **Goods and Services** - all items, supplies, materials, and general  
23 support services, except consulting services and infrastructure  
24 capital projects, which may be needed in the transaction of public  
25 business or in the pursuit of any government undertaking, project,  
26 or activity. The term refers to, among other subjects, equipment,  
27 furniture, food, information technology, materials for construction,  
28 or personal property, or any kind, including non-personal or  
29 contractual services such as the repair and maintenance of  
30 equipment and furniture. It also refers to trucking, hauling,  
31 janitorial, security, and related services as well as procurement of  
32 material and supplies provided by the procuring entity for such  
33 services. The term "related" shall include but not be limited to, lease  
34 or purchase of office space, media advertisements, health  
35 maintenance services, and other services essential to the operation  
36 of the procuring entity.

- 1           O.     **Gross Revenue** – all revenue in whatever form received or accrued  
2           from whatever source, including sales of products or services,  
3           interest, dividends, rents, royalties, fees or commissions, reduced by  
4           returns and allowances. Gross revenue does not include proceeds  
5           from sales of capital assets, and investments, proceeds from  
6           transaction between a firm and its domestic and foreign affiliates.
- 7           P.     **Independently Owned, Managed, and Operated** – ownership of  
8           an S/MBE, ~~M~~/WBE, or VBE firm must be direct, independent,  
9           and by individuals only. Business firms that are owned by other  
10          businesses or by the principals or owners of other businesses that  
11          cannot themselves qualify under the eligibility requirements shall  
12          not be eligible to participate in the program. The day-to-day  
13          management of the firm must also be direct and independent of the  
14          influence of any other businesses that cannot themselves qualify  
15          under the eligibility requirements.
- 16          Q.     **Industry Categories** – procurement groupings of Board contracts  
17          for administering the Affirmative Procurement Initiatives that shall  
18          include construction, professional services, and goods and services  
19          procurement. Industry categories may also be referred to as  
20          “business categories”.
- 21          R.     **Joint Venture** - an association of two (2) or more persons or  
22          businesses under a contract conducting a single business enterprise  
23          in which they combine –capital, efforts, skills, knowledge and/or  
24          property and share profits and losses equally. A joint venture  
25          composed of qualified business organizations is itself a separate and  
26          distinct organization that must be qualified according to Board  
27          policies and F.S. 489.119(2)(c).
- 28  
29          S.     **Metropolitan Statistical Area (MSA)** – Geographical region within  
30          the relevant geographic market of the Miami-Dade Metropolitan  
31          Statistical Area (Miami-Dade/Broward/Palm Beach Counties).

- 1           TS.    **Micro-Business Enterprise (MBE)** - any contractor, subcontractor,  
2           manufacturer or service company (a) that has been doing business  
3           under the same ownership or management and has maintained its  
4           ~~principal-actual~~ place of business in ~~the MSA Miami Dade County,~~  
5           ~~Florida,~~ for a period of at least one (1) year immediately prior to the  
6           date of application for certification under this section, (b) that had  
7           annual gross revenues not exceeding the thresholds for a Micro-  
8           Business Enterprise as identified in this policy for each industry,  
9           and (c) at least fifty-one percent (51%) of the ownership of which is  
10          held by a person or persons who exercise operational authority over  
11          the daily affairs of the business and have the power to direct the  
12          management and policies and receive the beneficial interests of the  
13          company. Representations regarding average gross revenue and  
14          payroll are subject to audit. If a business has not existed for three  
15          (3) years, the employment and gross revenue limits shall be applied  
16          based upon the annual averages over the course of the existence of  
17          the business.
- 18          UT.    **Minority/Women-Owned Business Enterprise (M/WBE)** – see the  
19          definitions under the Minority/Women Business Enterprise Program  
20          section of this policy.
- 21          VU.    **Points** – the quantitative assignment of value for specific evaluation  
22          criteria in the vendor or consultant selection process.
- 23          WV.    **Prime Contractor** – the vendor or contractor to whom a purchase  
24          order or contract is awarded by the Board for purposes of providing  
25          goods or services to the Board.

- | 1            XW.    **Professional Services** - those services within the scope of the  
2            practice of architecture, professional engineering, landscape  
3            architecture, or registered surveying and mapping, as defined by the  
4            laws of the State, or those performed by any architect, professional  
5            engineer, landscape architect, or registered surveyor and mapper in  
6            connection with his/her professional employment or practice;  
7            Professional Services A/E shall not include job order contracting  
8            consultants, asbestos consultants, program management,  
9            geotechnical, construction materials testing, and environmental  
10           assessment services.
- 11           Professional services also includes services rendered by members of  
12           a recognized profession or possessing a special skill. Such services  
13           are generally acquired to obtain information, advice, training, or  
14           direct assistance.
- | 15           YX.    **Ready, Willing and Able** – any vendor who has registered an  
16           interest in doing business with the Board and has the technical  
17           expertise, training, and licenses to perform in accordance with the  
18           contract document. S/MBEs, ~~and~~ M/WBEs, and VBEs must also  
19           be certified pursuant to this policy.
- | 20           ZY.    **Responsible** – means that a firm is capable in all respects of fully  
21           performing the contract requirements and has the integrity and  
22           reliability to assure good faith performance.
- | 23           AAZ.    **Responsive** – description of a firm’s bid or proposal that conforms in  
24           all material respects to the invitation to bid or request for proposal  
25           and shall include compliance with S/MBE, M/WBE, and VBE  
26           Program requirements.
- | 27           AABB. **School Board** – The School Board of Miami-Dade County, Florida,  
28           which is the legal entity with authority to enter contracts on behalf  
29           of the District school system under F.S. 1001.41(4).

1            CCBB.    **Service-Disabled Veteran** - a veteran who is a permanent  
2            Florida resident with a service-connected disability as determined by  
3            the United States Department of Veteran Affairs or who has been  
4            terminated from military service by reason of disability by the United  
5            States Department of Defense.

6            DDCC.    **Sheltered Market** - an affirmative procurement initiative  
7            designed to set aside an M-DCPS Board contract/project bid for  
8            bidding or selection exclusively among S/MBE, M/WBE, and/or  
9            VBE firms.

10          EEDD.    **Significant Employee Presence** - no less than twenty-five  
11          percent (25%) of a firm's total number of employees are domiciled in  
12          Miami-Dade County, Florida.

13          FFEE.    ~~**Certified Directory** - listing of certified SMBEs and M/WBEs.~~

14          GGFF.    **State Appropriated Funds** - all funds appropriated in the General  
15          Appropriations Act, excluding Federal funds. This does not include  
16          funds that derive from local sources, including but not limited to,  
17          general obligation bond funds for capital construction or funds  
18          raised through local capital outlay millage and local sales taxes.

1 HHGG. **Small Business Enterprise (SBE)** - any contractor,  
2 subcontractor, manufacturer or service company (a) that has been  
3 doing business under the same ownership or management and has  
4 maintained its principal-actual place of business in the MSA Miami-  
5 Dade County, Florida, for a period of at least one (1) year  
6 immediately prior to the date of application for certification under  
7 this section, (b) that had annual gross revenues not exceeding the  
8 thresholds identified in this policy for each industry, and (c) at least  
9 fifty-one percent (51%) of the ownership of which is held by a person  
10 or persons who exercise operational authority over the daily affairs  
11 of the business and have the power to direct the management and  
12 policies and receive the beneficial interests of the company.  
13 Representations regarding average gross revenue and payroll are  
14 subject to audit. If a business has not existed for three (3) years,  
15 the employment and gross revenue limits shall be applied based  
16 upon the annual averages over the course of the existence of the  
17 business.

18 IHHH. **Spend Dollars** - dollars actually paid to prime and/or  
19 subcontractors and vendors for Board contracted goods and/or  
20 services.

21 JJH. **Subcontractor** - any vendor or contractor that is providing goods or  
22 services to a prime contractor in furtherance of the prime  
23 contractor's performance under a contract or purchase order with  
24 the Board.

25 KKJJ. **Subcontractor Goal** - a proportion of a total contract value stated  
26 as a percentage to be subcontracted to S/MBEs, ~~M~~/WBEs, or  
27 VBEs to perform a commercially useful function.

28 LLKK. **Suspension** - the temporary stoppage of an S/MBE, ~~M~~/WBE or  
29 VBE firm's participation in the Board's contracting process for a  
30 finite period of time.

31  
32 MM. **Veteran Business Enterprise** - The management and daily business  
33 operations of which are controlled by one or more wartime veterans  
34 or service-disabled veterans or, for a service-disabled veteran having  
35 a permanent and total disability, by the spouse or permanent  
36 caregiver of the veteran. (Florida Statute 295.187)

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1 **Application**

2 These programs apply to Board contracts funded in whole or in part by Board funds  
3 except where Federal or State laws or regulations prohibit its application. The  
4 Superintendent has the discretion to identify classes of contracts or parts of  
5 contracts that are subject to either the S/MBE, ~~or~~ M/WBE, or VBE program and are  
6 legally permissible. The Superintendent shall also prepare necessary procedures,  
7 bid and contract documents to implement these programs.

8 **Subcontractor Goals and Incentives**

9 Subcontractor goals may be applied to a contract based on estimates made prior to  
10 bid advertisement of the quality, quantity, and type of subcontracting opportunities  
11 provided by the contract and the availability of either S/MBEs, ~~or~~ M/WBEs, or VBEs  
12 to perform the work. The Superintendent may also develop affirmative initiatives  
13 and/or incentive programs that can be applied to identified contracts in the  
14 selection and contract award process to increase the utilization of S/MBE, ~~and~~  
15 M/WBE, and VBE subcontractors pursuant to Policy 6320.06 *Diversity, Equity, and*  
16 *Inclusion in Business Operations and Practices*.

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18 **Goal Setting Committee**

19 The Superintendent shall create and staff a Goal Setting Committee (GSC) to  
20 establish S/MBE, ~~and~~ M/WBE, and VBE Program goals and select appropriate  
21 incentives to apply to specific contracts based upon industry categories, vendor  
22 availability, and project-specific characteristics. The Superintendent shall  
23 determine the size of the GSC that is to be chaired by the OEO who shall serve as a  
24 voting member. The Superintendent shall also appoint the remaining members of  
25 the GSC from the Board's procurement personnel and other Board departments  
26 affected by this program. The GSC shall meet as often as it determines necessary,  
27 but not less than twice annually, to develop the goal setting methodologies to be  
28 implemented by the OEO on a project-by-project or contract-by-contract basis, and  
29 monitor and support the implementation of this policy.

1 **Small/Micro Business Enterprise Program**

2 The S/MBE Program is a race and gender-neutral program to provide greater  
3 S/MBE availability, capacity development and contract participation in Board  
4 contracts, to advance the Board's compelling interest in ensuring that it is neither  
5 an active nor passive participant in private sector marketplace discrimination, and  
6 to promote equal opportunity for all segments of the contracting community to  
7 participate in Board contracts.

8 **Small/Micro Business Enterprise MBE Eligibility and Certification**

9 A. The OEO shall certify a company or other business entity (excluding  
10 non-profits) as a Small Business Enterprise (SBE) or a Micro  
11 Business Enterprise (MBE) upon its submission of a completed  
12 District required online certification form, supporting  
13 documentation, and a signed affidavit stating that it meets all of the  
14 following criteria:

- 15 1. Is an independently owned and operated business that is not  
16 dominant in its field of operation and is performing a  
17 commercially useful function.
- 18 2. The business must have an actual place of business in  
19 Miami Dade County the Miami-Dade Metropolitan Statistical  
20 Area (Miami-Dade County, Broward County, and Palm Beach  
21 County, Florida) —for at least one (1) year preceding the  
22 application and be registered as a vendor with the District.
- 23 3. The business has been established for at least one (1) year or  
24 the principals of the business have at least three (3) years of  
25 relevant experience prior to forming or joining the business.
- 26 4. The business has an applicable local business tax receipt and  
27 all required professional licenses, ~~contractor~~ qualifier  
28 licenses, and/or Certificate of Competency.
- 29 5. An The owner of the business must have the required  
30 professional license(s).



- 1                   6.     The Board may honor a valid ~~SBE Small Business Enterprise~~  
2                   ~~Certification~~—and/or ~~MBE Micro Business Enterprise~~  
3                   Certification granted by another agency if the agency's  
4                   requirements are consistent with the District's SBE/MBE  
5                   certification criteria. The Superintendent shall develop  
6                   procedures to implement this policy.
- 7                   B.     Additionally, the requirements for SBE/MBE Program eligibility  
8                   based on industry are:
- 9                   1.     **Micro Business Enterprise**
- 10                  a.     **Professional Services A/E:** The annual gross revenue  
11                  averaged over the previous three (3) years shall not  
12                  exceed \$300,000 (Tier 1) or \$500,000 (Tier 2).
- 13                  b.     **Professional Services non-A/E:** The annual gross  
14                  revenue averaged over the previous three (3) years  
15                  shall not exceed \$300,000 (Tier 1) or \$1,000,000 (Tier  
16                  2).
- 17                  c.     **Goods and Services (Procurement Program):** The  
18                  annual gross revenue averaged over the previous  
19                  three (3) year period shall not exceed \$300,000 (Tier 1)  
20                  or \$1,000,000 (Tier 2).
- 21                  d.     **Construction and Construction-Related Specialty**  
22                  **Trades:** The annual gross revenue averaged over the  
23                  previous three (3) years shall not exceed \$300,000 (Tier  
24                  1) or \$1,000,000 (Tier 2).
- 25                  2.     **Small Business Enterprise**
- 26                  a.     **Professional Services A/E:** The annual gross revenue  
27                  averaged over the previous three (3) years shall be  
28                  greater than \$500,000 and not exceed \$1,000,000 (Tier  
29                  1) or \$2,000,000 (Tier 2).



1 E. Applicants determined eligible to participate in the program shall  
2 complete re-certification every three (3) years to the OEO for review  
3 and continued certification. However, upon application for re-  
4 certification, an SBE/MBE firm must be an independently owned  
5 and operated business concern, and maintain its actual place of  
6 business or have a significant employment presence in Miami-Dade  
7 County in accordance with this policy. To qualify for re-certification,  
8 a firm must comply with the thresholds established and published  
9 in its *OEO Administrative Procedure Manual*.

10 F. SBE/MBEs must notify the OEO within fifteen (15) business days of  
11 any material changes to the company's ownership and/or  
12 management of the firm. Any misrepresentation by a company of its  
13 MBE/SBE status shall be grounds for termination of any contract  
14 awarded based on the misrepresentation and subject to signatories  
15 to any other penalties provided by law and/or Board policies.

16 G. In considering certification or re-certification status of any- firm, the  
17 OEO shall periodically conduct audits and inspect the office, job  
18 site, records, and documents of the firm, and shall interview the  
19 firm's employees, subcontractors, and vendors as reasonably  
20 necessary to ensure that all eligibility standards are satisfied and  
21 that the integrity of this program is maintained.

22 **SME/MBESmall/Micro Business Enterprise Program Graduation**

23 A bidder may not count towards its SBE/MBE participation the amount  
24 subcontracted to an SBE/MBE firm that has graduated from the SBE/MBE program  
25 as follows:

26 A. An SBE shall be permanently graduated after its three (3) fiscal year  
27 average gross revenue exceeds \$~~69~~ million for construction and  
28 construction-related specialty trades, \$~~47~~ million for goods and  
29 services, \$~~25~~ million for professional services (architectural and  
30 engineering), and \$~~47~~ million for professional services  
31 (non-architectural and non-engineering).  
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B. When an MBE exceeds the eligibility certification thresholds, it automatically graduates ~~and is subject~~ to the SBE small business criteria and restrictions.

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C. If an SBE exceeds the size standards for the Small Business Program during any fiscal year, it shall be allowed to complete any pending contractual obligation(s), and its participation can be counted in the goals.

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D. Upon graduation from the SBE/MBE program, the OEO shall provide the SBE/MBE with written notice that includes the basis for graduation.

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**Small Business Enterprise/Micro Business Enterprise Program Suspension, Certification Revocation, and/or Debarment**

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A. The OEO may revoke SBE/MBE eligibility if it fails to perform a commercially useful function under a contract, or if it allows its SBE/MBE status to be fraudulently used for the benefit of a non-SBE/MBE firm or the owners of a non-SBE/MBE firm ~~so as~~ to provide the non-SBE/MBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SBE/MBE firm and its owners would not otherwise be entitled.

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B. Upon suspension from the SBE/MBE program, the OEO shall provide written notice to the SBE/MBE including specific findings constituting the basis for suspension, certification revocation, and/or debarment. The notice must also provide the applicable sanctions and the process to appeal the decision.

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**Small Business Enterprise/Micro Business Enterprise Certification Appeals**

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A business that is denied eligibility, whose eligibility is revoked, or who has been denied a waiver request, may appeal the decision to the Superintendent. A written notice of appeal must be received by the Superintendent within fifteen (15) business days of the date of the written notice. Timely appeals will be reviewed pursuant to procedures developed and implemented by the Superintendent. The Superintendent shall make a recommendation on the appeal to the Board which shall make a final determination.

1 **Veteran Business Enterprise Program**

2 The Veteran Business Enterprise (VBE) Program is a race and gender--neutral  
3 program designed to benefit service-disabled-all veteran businesses (excluding non-  
4 profits). The OEO shall certify VBEVBE businesses in accordance with State  
5 guidelines and law. Vendor-Vendor preferences for VBEVBEs are governed by Policy  
6 6320. In addition, the Superintendent is authorized to develop and implement  
7 affirmative procurement initiatives to increase participation by VBEVBEs in al-1\_-of  
8 the Board's procurement processes to the extent allowed by law.

9 **Veteran Business Eligibility Criteria**

10 According to Florida Statute §295.187 - VBE means an independently owned and  
11 operated business that:

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- 13 1. Employs 200 or fewer permanent full-time employees;
- 14 2. Together with its affiliates has a net worth of \$5 million or less or, if a sole  
15 proprietorship, has a net worth of \$5 million or less including both personal and  
16 business investments;
- 17 3. Is organized to engage in commercial transactions;
- 18 4. Is domiciled in this state; and,
- 19 5. Is at least fifty-one (51%) owned and controlled by one or more veterans.
- 20 6. The business must have an actual place of business in the MSA for at least one (1)  
21 year preceding the application and be registered as a vendor with the District;
- 22 7. The business has an applicable local business tax receipt in the MSA and all  
23 required licenses;
- 24 8. An owner of the business must have the required professional license(s); and,
- 25 9. An owner of the business must submit a DD-214 form issued by the United States  
26 Department of Veteran Affairs or the United States Department of Defense or evidence of  
27 veteran status.
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29 **Minority/Women Business Enterprise Program**

30 The Minority/Women Business Enterprise (M/WBE) Program is established to  
31 enhance the bidding and selection opportunities for M/WBEs on certain contracts  
32 and to address findings in the 2014 Disparity Study and 2015 Subcontractor  
33 Disparity Study pursuant to this policy and as provided in Policy 6610 and  
34 Policy 6320.06.

35 A. **Terms and Definitions**

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1. **Minority Ownership** – minority ownership means that for:
  - a. Sole Proprietorship - a sole proprietor must be a minority person or woman.
  - b. Partnership - ~~a~~ minority/wome~~an~~ ~~individual's~~ interest must include at least fifty-one percent (51%) of the ownership, profit/loss, voting control, and capital of the partnership.
  - c. Corporation - minority/women must own at least fifty-one percent (51%) of all voting stock, issued by a corporation. No stock held in trust, or by any guardian for a minor, shall be considered held by the minority/woman individual, in determining ownership and control.

1 d. Limited Liability Company (LLC) – minority/women  
2 must control the management and operations, as well  
3 as hold at least fifty-one percent (51%) of the  
4 company’s ownership interest.

5 A minority owner(s) also has voting rights to elect the board of  
6 directors, chief executive officer, and all other management  
7 personnel.

8 2. **Minority Person** - is a person born or naturalized in the  
9 United States. Resident aliens and holders of permanent  
10 visas are not considered to be citizens. The following groups  
11 are considered:

12 a. An African American, a person having origins in any of  
13 the black racial groups of the African Diaspora,  
14 regardless of cultural origin. (The African diaspora  
15 refers to the communities throughout the world that  
16 have resulted from the movement in historic times of  
17 people from Africa, predominantly to the Americas and  
18 among other areas around the globe. The term has  
19 been historically applied in particular to the  
20 descendants of West and Central Africans between the  
21 16th and 19th centuries, with their largest populations  
22 in Brazil, the United States, and Haiti. For purposes of  
23 this category, African diaspora populations include:  
24 African Americans, Black Caribbeans and Black  
25 Canadians (descendants of West Africans brought to  
26 the United States, the Caribbean, and South America),  
27 Zanj (descendants from Southeast Africa, primarily the  
28 Swahili Coast, whose ancestors were brought to  
29 Western Asia and other parts of Asia) and Siddis  
30 (descendants from Southeast Africa, primarily the  
31 Swahili Coast, whose ancestors were brought to the  
32 Indian subcontinent (Pakistan and India)).  
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34 b. A Hispanic American, a person of Spanish or  
35 Portuguese culture with origins in Spain, Portugal,  
36 Mexico, South America, Central America, or the  
37 Caribbean, ~~regardless of race~~ not in the African  
38 Diaspora.

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- 1 c. An Asian American, a person having origins of the Far  
2 East, Southeast Asia, the Indian Subcontinent, or the  
3 Pacific Islands, including the Hawaiian Islands before  
4 1778.
  
- 5 d. A Native American, a person who has origins in any of  
6 the Indian Tribes of North America before 1835, upon  
7 presentation of proper documentation as established  
8 by rule of the Department of Management Services.
  
- 9 e. An American born or naturalized non-minority woman.  
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1 B. Minority/Women Business Enterprise Eligibility and  
2 Certification

3 1. The OEO shall certify a company or other business entity  
4 (excluding non-profits) as a M/WBE upon its submission of a  
5 completed certification form and supporting documentation.  
6 The applicant may self-identify as a minority person pursuant  
7 to the definitions above. The Board recognizes that there is a  
8 clear distinction between race and ethnicity. The OEO may  
9 request additional documentation on the applicant's minority  
10 status only if it suspects fraud or misrepresentation and  
11 provides the reasons in writing to the applicant. In addition,  
12 the applicant must submit a signed affidavit stating that it  
13 meets the following criteria:

14 a. it employs 200 or fewer permanent full-time employees  
15 and that, together with its affiliates, has a net worth of  
16 not more than \$5 million.

17 For sole proprietorships, the \$5 million net worth  
18 requirement shall include both personal and business  
19 investments.

20 b. it is owned and controlled by at least fifty-one  
21 percent (51%) by a minority person/s who are  
22 members of an insular group that is of a specific racial,  
23 ethnic, or gender makeup or national origin which has  
24 been subjected historically to disparate treatment due  
25 to identification in and with that group resulting in an  
26 underrepresentation of commercial enterprises under  
27 the group's control, and whose management and daily  
28 operations are controlled by such persons.

29 A minority business enterprise may primarily involve  
30 the practice of a profession.

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- c. the business must have an actual place of business in the ~~Miami Dade~~ Metropolitan Statistical Area (Miami-Dade County, Broward County, and Palm Beach County, Florida) for at least one (1) year preceding the application and be registered as a vendor with the District.
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- d. the business has an applicable local business tax receipt and all required ~~professional licenses, contractor qualifier licenses, and/or Certificate of Competency.~~
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- e. ~~an the~~ owner of the business must have the required professional license(s).
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2. Other factors in determining ownership that will be considered shall include, but are not limited to the following:
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- a. Whether minority/women owners are entitled to share in the profits of the business, through salaries, bonuses, profit sharing, dividends, and all other benefits, commensurate their ownership.
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- b. Whether minority/women owners share in all the risks of business, including, but not limited to, third party agreements, bonding and financial arrangements.

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c. Ownership by a minority person does not include ownership that is the result of a transfer from a non-minority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million. The term “related immediate family group” means one (1) or more children under sixteen (16) years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

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d. Minority/Women owners must also demonstrate control over the affairs, management, and operations of the business. The discretion of minority/women owners shall not be subject to any formal or informal restrictions (including, but not limited to, bylaw provisions, partnership agreements, trust agreements, or requirements for cumulative voting) that would impact or usurp the minority/women owners' managerial and operational discretion.

1 Documents that establish control include but are not  
2 limited to: corporate bylaws, operating agreements,  
3 partnership agreements, management agreements, or  
4 other agreements. Such documents should be free of  
5 restrictive language which dilutes a minority/woman  
6 owner(s)' control and prohibits him/her from making  
7 decisions.

8 1) The minority/woman owner(s) must submit  
9 documentation demonstrating control through  
10 the authority and responsibility to sign company  
11 checks, for all bank accounts, and letters of  
12 credit, negotiate contracts on behalf of the  
13 business, signature responsibility for insurance,  
14 bid bonds, and performance and payment  
15 bonds, negotiate bank transactions, and  
16 guarantee all instruments which indebt the  
17 business.

18 2) Unless a business is a franchise, agreements for  
19 contractual support services that usurp a  
20 minority/woman owner's authority to control a  
21 company are not allowed.

22 3) Minority/Women owners shall control or  
23 supervise the hiring, firing, and supervision of  
24 employees, and establishment of employment  
25 policies, wages, benefits, and other employment  
26 conditions.

27 4) Minority/Women owners shall have knowledge  
28 and control of all financial matters of the  
29 business.

- 1                   3.     Applicants shall submit a verified declaration that the  
2                   information provided for certification and re-certification is  
3                   truthful and accurate. Any applicant who knowingly makes a  
4                   false statement on the application and/or in writing with the  
5                   intent to mislead the OEO and/or its representatives in the  
6                   performance of their official duties of reviewing and/or  
7                   approving an application is guilty of a second-degree  
8                   misdemeanor under F.S. 837.06. In addition, anyone who  
9                   knowingly makes a false verified declaration is guilty of  
10                  perjury, a third-degree felony under F.S. 92.525.
- 11                  4.     Upon receipt of M/WBE certification or re-certification  
12                  applications, the OEO shall review all enclosed forms,  
13                  affidavits and documentation, and determine whether the  
14                  applicant satisfies the eligibility requirements. All applicants  
15                  shall be notified in writing as to whether they are eligible.  
16                  The OEO shall also provide to ineligible applicants in writing  
17                  the basis for the denial of eligibility and the right to request  
18                  an appeal in accordance with this policy. Applicants  
19                  determined ineligible shall not be eligible to submit a new  
20                  application for at least one (1) year after the date of the notice  
21                  of denial of eligibility.
- 22                  5.     All certified M/WBEs will be included in the District's [online](#)  
23                  Directory which will be regularly updated and available to  
24                  school sites.
- 25                  6.     M/WBEs must notify the OEO within fifteen (15) business  
26                  days, of any material changes to the company's ownership  
27                  and/or management of the firm. Any misrepresentation by a  
28                  company of its M/WBE status shall be grounds for  
29                  termination of any contract awarded based on the  
30                  misrepresentation. Violations may also subject the  
31                  signatories to any other statutory penalties and Board  
32                  policies.

- 1                   7.     M/WBE certification shall be valid for a three (3) year period.  
2                   Certified M/WBEs shall not request a change in their  
3                   minority/woman designation, to another minority designation  
4                   during the certification period, unless changes are due to  
5                   extenuating circumstances.
- 6                   8.     The Board may honor a valid minority business certification  
7                   granted by another agency if the agency's requirements are  
8                   consistent with the District's M/WBE certification criteria.  
9                   The Superintendent may develop procedures to implement  
10                  this policy.
- 11                  9.     An M/WBE must apply for recertification at least thirty (30)  
12                  days prior to the certification expiration. A Board M/WBE  
13                  Recertification Form may be submitted only if an M/WBE's  
14                  certificate has not expired and no material changes have  
15                  occurred in the ownership and control of the M/WBE. If  
16                  certification has expired, the M/WBE must submit a new  
17                  application.
- 18                  10.    An M/WBE may be decertified if the firm no longer meets the  
19                  certification requirements; for failure to comply with the  
20                  Board's M/WBE policies and procedures regarding requests  
21                  for information or documents pertaining to ownership,  
22                  control, or operation of the business; failure to submit a  
23                  complete M/WBE Recertification Application; debarment; or  
24                  by written request from the firm's minority/women owners for  
25                  voluntary removal from the M/WBE Directory.

26     **Minority/Women Business Enterprise Certification Appeals**

27     Applicants denied certification or recertification as an M/WBE may appeal to the  
28     Superintendent or his/her designee. A written request to appeal must be received  
29     by the Superintendent within fifteen (15) business days of the date of the written  
30     notice. Timely appeals will be reviewed pursuant to procedures developed and  
31     implemented by the Superintendent. The Superintendent shall make a  
32     recommendation on the appeal to the Board which shall make the final  
33     determination.

1 **Industry Specific Programs**

2 Remedial programs for the purpose of eliminating the disparities in M/WBE contract  
3 participation in District and private contracts caused by discrimination will be  
4 developed and implemented. The following industry-specific programs are to be  
5 established and implemented in a narrowly tailored manner consistent with the  
6 factual predicate established in the 2014 Disparity Study, the 2015 Subcontractor  
7 Disparity Study, and consistent with the terms of this policy.

8 A. **Construction Programs**

- 9 1. A Small/Micro Business Enterprise Program permitting the  
10 use of set asides of small prime contracts that are below  
11 competitive dollar thresholds for bidding exclusively among  
12 certified S/~~B~~MBE firms and also establishing mandatory  
13 subcontracting goals for the participation of certified S/MBE  
14 subcontractors or those construction contracts that are above  
15 the competitive bidding threshold and that have commercially  
16 useful subcontract opportunities.
- 17 2. A Minority/Women-Owned Business Enterprise Program  
18 establishing bid preferences on certain construction and  
19 construction-related contracts on behalf of certified M/WBE  
20 African-American, Non-Minority Women Owned,  
21 Asian-American and Native-American businesses, including  
22 the use of contract-specific subcontracting goals on selected  
23 contracts with genuine opportunities for commercially useful  
24 subcontracting pursuant to this policy.

1           B.     **Non-Professional Services Program**

2                   1.     A Small/Micro Business Enterprise Program permitting the  
3                   use of set asides of small prime contracts that are below  
4                   competitive dollar thresholds for bidding exclusively among  
5                   certified S/MBME firms and also establishing mandatory  
6                   subcontracting goals for the participation of certified S/MBE  
7                   subcontractors or those contracts that are above the  
8                   competitive bidding threshold and that have commercially  
9                   useful subcontract opportunities pursuant to this policy.

10                  2.     A Minority/Women Business Enterprise Program for  
11                  non-professional services contracts may be established if  
12                  future studies establish disparities that may be legally  
13                  addressed through such a program. If disparities are found,  
14                  this policy will be amended to allow a legally permissible  
15                  M/WBE program.

16           C.     **Professional Services Program**

17                  1.     A Small/Micro Business Enterprise Program to establish bid  
18                  preferences, joint venture [/teaming/partnership](#) incentives,  
19                  and evaluation preferences on behalf of certified S/MBE  
20                  firms.

21                  2.     A Minority/Women Business Enterprise Program permitting  
22                  the use of bid preferences, joint venture [/teaming/partnership](#)  
23                  incentives, and evaluation preferences on construction-  
24                  related professional services contracts among certified  
25                  M/WBE firms that are owned by African-Americans, Asian-  
26                  Americans, Native Americans and Non-Minority Women and  
27                  also establishing contract-specific subcontracting goals for  
28                  the participation of certified M/WBE subcontractors on those  
29                  construction-related professional services contracts that are  
30                  above the competitive bidding thresholds and that have  
31                  commercially useful subcontract opportunities.





1 3. M/WBE Availability – The proportion of overall availability of  
2 the ready, willing, and able ~~(RWA)~~ vendors that are certified  
3 within the M/WBE program, categorized by race, gender,  
4 industry codes, and relevant market.

5 4. Race-Neutral S/MBE Contract Goals – Availability analysis  
6 shall be used to set contract participation goals on an annual  
7 basis and on a contract-specific basis. The contract  
8 participation goals shall be set based on the relevant  
9 measures of S/MBE availability as compared to all ~~RWA~~ready  
10 willing and able vendors within the specific industry code of  
11 the contract in the relevant market.

12 5. M/WBE Contract Goals – Availability analysis shall be used  
13 whenever setting contract participation goals on an annual  
14 basis or on a contract-specific basis. The contract  
15 participation goals shall be set based on the relevant  
16 measures of M/WBE availability as compared to all ~~RWA~~ready  
17 willing and able vendors within the specific industry  
18 code of the contract in the relevant market.

19 **B. Utilization Analysis**

20 The utilization analysis shall be based on the total dollar amount  
21 paid in a given year to the vendors and contractors that were  
22 registered in the automated and mandatory centralized bidder  
23 registration system. This analysis reflects the proportion of contract  
24 dollars that are spent, by industry code, and within S/~~B~~MBE~~, or~~  
25 M/WBE, or VBE vendor categories, as compared to the total  
26 contract dollars spent with the overall vendor population within  
27 those industries.

1           C.     **Disparity Analysis**

2                   1.     The disparity analysis shall be based on the eighty  
3                   percent (80%) statistical significance rule adopted under  
4                   *Croson v. Richmond*, which is defined as two (2) standard  
5                   deviations between utilization and availability. Utilization of  
6                   RWA—ready willing and able M/WBE firms that is eighty  
7                   percent (80%) or less of the level of availability or M/WBE  
8                   firms in a particular market is considered statistically  
9                   significant under-utilization. Utilization that is above 100%  
10                  of the level of availability is considered over-utilization.

11                  2.     Statistically significant underutilization creates an inference  
12                  of discrimination, and in combination with other factors,  
13                  permits consideration of the use of narrowly tailored race-  
14                  and gender-conscious remedies to ameliorate the effects of  
15                  such discrimination.

16           D.     **Remedy Analysis**

17                  1.     If disparity is shown in the disparity analysis above, the  
18                  District shall review the findings and recommendations from  
19                  the 2014 Disparity Study, the 2015 Subcontractor Disparity  
20                  Study, or from the District's most recent independent  
21                  disparity study to determine the most appropriate and  
22                  effective remedies to apply to a given set of contracts to  
23                  eliminate barriers and overcome the effects of various forms  
24                  of discrimination identified through the 2014 Disparity Study,  
25                  the 2015 Subcontractor Disparity Study, or any subsequent  
26                  studies.

27                  2.     In selecting a remedial approach for any given contract, the  
28                  District shall seek to identify the remedy that is most likely to  
29                  be effective in promoting fair and equitable contract  
30                  participation by all segments of the relevant vendor  
31                  population, yet does not impose any undue burden on  
32                  innocent third parties.

1           E.     **Periodic Review of Factual Predicate**

2                   1.     At least once every four (4) years, the OEO and  
3                   Superintendent shall recommend a contract with an  
4                   independent disparity study consultant to the Board to  
5                   conduct an updated review of the factual predicate for the  
6                   District's M/WBE programs to determine whether there is  
7                   any ongoing need for the use of race- and gender-conscious  
8                   remedies.

9                   2.     Each successive disparity study update shall use  
10                  methodologies and data sources that are preferred or  
11                  consistent with the most recent controlling legal precedents.

12                  3.     Each successive disparity study update shall make specific  
13                  findings and recommendations regarding the ongoing need for  
14                  race- and gender- neutral and race- and gender-conscious  
15                  remedies for certain categories of contracts. Study  
16                  recommendations should also suggest appropriate  
17                  modifications to existing District procurement procedures,  
18                  S/MBE programs, and M/WBE programs to promote fair and  
19                  equitable participation in District contracting opportunities in  
20                  the most effective but least restrictive and least burdensome  
21                  manner.

22                  4.     In the event that the District determines that there is no  
23                  ongoing need for any race- and gender-conscious remedies,  
24                  the M/WBE programs shall be gradually phased out and  
25                  shall sunset within two (2) years after such determination is  
26                  made.

1 **Affirmative Procurement Initiatives**

2 The following Affirmative Procurement Initiatives may be used in awarding Board  
3 contracts to ~~SBE/MBEs, or M/WBEs,~~ or VBEs according to the industry-specific  
4 programs identified in this policy. However, pursuant to State law and Policy  
5 6320.05, no local vendor or employment preference for ~~SBE/MBEs, or M/WBEs,~~ or  
6 VBEs may be applied to competitive solicitations for construction services in which  
7 fifty percent (50%) or more of the cost will be paid from State-appropriated funds  
8 which have been appropriated at the time of the competitive solicitation. The  
9 solicitation documents for construction services in this event must disclose that no  
10 SBE/MBE or M/WBE will be awarded based upon the State restriction regarding the  
11 utilization of local vendor preference.

12 A. ***Bonding Waiver.*** The District's Purchasing and OEO Directors are  
13 authorized, in accordance with F.S. 255.05, to waive the  
14 requirements for performance and payment bonds for projects  
15 having a dollar value up to \$200,000 or less, at their discretion.  
16 This exemption from bonding requirements may be made on a  
17 project-by project or contract-by-contract basis depending on the  
18 type of contract and whether the bonding requirements would deny  
19 the ~~S/MBE, or M/WBE,~~ or VBE an opportunity to perform the  
20 contract which the ~~S/MBE, or M/WBE,~~ or VBE has shown itself  
21 otherwise capable of performing. If the exemption is granted,  
22 neither the Board, the District, or its officers and officials shall be  
23 personally liable to persons suffering loss because of granting this  
24 exemption.

25 B. ***Bid Preferences:***

26 ***Bid Preference:*** Specific goals for each project or contract may be  
27 adopted on a project-by-project, or contract-by contract basis, in  
28 which the contract award shall be made to the lowest responsive,  
29 responsible bidder meeting the ~~S/MBE, or M/WBE,~~ or VBE  
30 subcontracting goals for the contract/project, when that bidder's  
31 price does not exceed the lowest bidder's price by an amount greater  
32 than the dollar or percentage amount set by the Goal Setting  
33 Committee.

1                   **Evaluation Preference** – In ranking and evaluating proposals for  
2 “best value” contracts in which factors other than price are relevant  
3 to the selection process, the Board may award up to twenty  
4 percent (20%) of the total points available to a S/MBE, ~~or~~ M/WBE,   
5 or VBE or a joint venture/teaming/partnership with an S/MBE, ~~or~~  
6 M/WBE, or VBE partner in response to a request for proposal.

7                   **Professional Services Evaluation**

8                   1. In the selection process for the award of certain professional  
9 services contracts, the District may include as one (1) of its  
10 evaluation criteria the level of S/MBE, ~~or~~ M/WBE, or VBE  
11 participation on the team or in subcontract participation.  
12 Under this remedial approach, the maximum number of  
13 evaluation points is available to an S/MBE, ~~or~~ M/WBE, or  
14 VBE proposer.

15                   2. A summary of any applicable S/MBE, ~~or~~ M/WBE, or VBE  
16 Program procedures shall be plainly stated in each  
17 solicitation. For competitive professional services contracts, a  
18 point system of evaluation will be used by an evaluation  
19 committee to determine the recipient of the contract award  
20 recommendation. Businesses submitting proposals to  
21 provide professional services to the District will be eligible to  
22 receive on a sliding scale a designated number of the total  
23 possible points based upon their S/MBE, ~~or~~ M/WBE, or VBE  
24 participation. The distribution of points allocated to the  
25 evaluation criteria shall be stated in the request for proposal.  
26 S/MBE, ~~or~~ M/WBE, or VBE participation shall be only one of  
27 several criteria used to evaluate each proposal. Maximum  
28 points shall be awarded when the proposer is a certified  
29 S/MBE, ~~or~~ M/WBE, or VBE. The provisions within this  
30 section pertaining to the procurement of professional services  
31 are not intended to be used to the exclusion of other  
32 provisions of this policy.

1 C. **Mandatory Subcontracting:**

2 1. The GSC may at its discretion and on a contract-by-contract  
3 basis, require that a predetermined percentage up to forty  
4 percent (40%) of a specific contract be subcontracted to  
5 eligible S/MBEs, ~~or~~ M/WBEs, or VBEs.

6 2. An S/MBE, ~~or~~ M/WBE, or VBE prime contractor may not  
7 subcontract more than forty-nine percent (49%) of the  
8 contract value to a non-S/MBE, ~~or~~ M/WBE, or VBE.

9 3. A prospective bidder on a Board contract shall submit ~~at the~~  
10 ~~time of bid Form S providing~~ the name of the S/MBE, ~~or~~  
11 M/WBE, or VBE subcontractor or subcontractors and  
12 describing both the percentage of subcontracting by the  
13 S/MBE, ~~or~~ M/WBE, or VBE and the work to be performed by  
14 the S/MBE, ~~or~~ M/WBE, or VBE. A bidder may request a full  
15 or partial waiver of this mandatory subcontracting  
16 requirement from the OEO for good cause by submitting the  
17 Unavailability Certification Form to the OEO prior to bid  
18 opening. Under no circumstances shall a waiver of a  
19 mandatory subcontracting requirement be granted without  
20 submission of adequate documentation of good faith efforts  
21 by the bidder and careful review by the OEO. The OEO shall  
22 determine a waiver request upon the following criteria:

23 a. whether the requestor of the waiver has made good  
24 faith efforts to subcontract with qualified and available  
25 S/MBEs, ~~or~~ M/WBEs, or VBEs;

26 b. whether subcontracting would be inappropriate and/or  
27 not provide a “commercially useful function” under the  
28 circumstances of the contract; or

29 c. whether there are no certified S/MBEs, ~~or~~ M/WBEs, or  
30 VBEs that are qualified and available to provide the  
31 goods or services required.

- 1                                   4.     In the absence of a waiver granted by the OEO, failure of a  
2                                   prime contractor to commit in its bid or proposal to satisfying  
3                                   the mandatory S/MBE, ~~or~~ M/WBE, or VBE subcontracting  
4                                   goal shall render its bid or proposal non-responsive.
- 5                                   5.     In the absence of a waiver granted by the OEO, failure of a  
6                                   prime contractor to attain a mandatory subcontracting goal  
7                                   for S/MBE, ~~or~~ M/WBE, or VBE participation in the  
8                                   performance of its awarded contract shall be grounds for  
9                                   termination of existing contracts with the Board, debarment  
10                                  from performing future Board contracts, and/or any other  
11                                  remedies available under the terms of its contract with the  
12                                  Board or under the law.
- 13                                 6.     A prime contractor is required to notify and obtain written  
14                                 approval from the OEO in advance of any reduction in  
15                                 subcontract scope, termination, or substitution for a  
16                                 designated S/MBE, ~~or~~ M/WBE, or VBE Subcontractor.  
17                                 Failure to do so shall constitute a material breach of its  
18                                 contract with the Board.
- 19                                 D.     **Sheltered Market:**
- 20                                 1.     The OEO and GSC may select certain contracts for award to a  
21                                 S/MBE, ~~or~~ M/WBE, or VBE or a joint venture with a S/MBE,  
22                                 ~~or~~ M/WBE, or VBE through the Sheltered Market Program.
- 23                                 2.     In determining whether a particular contract is eligible for the  
24                                 Sheltered Market Program, the OEO and GSC shall consider  
25                                 whether there are at least three (3) S/MBEs, ~~or~~ M/WBEs, or  
26                                 VBEs that are capable and available to participate in the  
27                                 Sheltered Market Program for that contract; the degree of  
28                                 underutilization of the S/MBE, ~~or~~ M/WBE, or VBE prime  
29                                 contractors in the specific industry categories; and the extent  
30                                 to which the Board's S/MBE, ~~or~~ M/WBE, or VBE prime  
31                                 contractor utilization goals are being achieved.



- 1                           3.     If a responsive and responsible bid or response is not received  
2                                     for a contract that has been designated for the Sheltered  
3                                     Market Program, or the apparent low bid is determined to be  
4                                     too high in price, the contract shall be removed from the  
5                                     Sheltered Market Program.

6     **Contract Solicitation and Award**

- 7                   A.     The OEO shall preview all solicitations for construction,  
8                             procurement, and professional services prior to public dissemination  
9                             for compliance with the objectives stated in this policy and to ensure  
10                            that bid specifications do not unnecessarily restrict the ability of  
11                            S/MBE, ~~and~~ M/WBE, VBE firms to compete and bid. All District  
12                            award recommendations shall bear the review signature of the OEO  
13                            Director.
- 14                   B.     Disqualification/Rejection – The District and Board may reject any  
15                            proposals from bidders who have previously failed to perform  
16                            properly and who have done so by commission or omission of an act  
17                            of such serious and compelling nature that the act indicates a  
18                            serious lack of business integrity or honesty.
- 19                   C.     Contract Compliance – As the Superintendent’s designee, the OEO  
20                            will establish procedures for monitoring and evaluating program  
21                            performance and compliance.
- 22                   D.     The District and Board may reject any proposal deemed  
23                            non-responsive for failing to meet the diversity requirements.
- 24                   E.     A firm’s failure to comply with the contract may constitute a  
25                            violation of the anti-discrimination provisions of Policy 6465 and  
26                            result in suspension or debarment pursuant to Policy 6320.04.

1 **Pre-Award Waiver**

2 At any time prior to the award of a contract for a purchase of goods and supplies,  
3 the Superintendent or designee may grant a partial or complete waiver of diversity  
4 requirements for reasons such as (1) emergency procurement; (2) where a  
5 non-M/WBE is the sole source of the needed goods or services and there are no  
6 apparent commercially useful functions available to be performed by ready, willing,  
7 and able S/MBE, ~~or~~ M/WBE, or VBE subcontractors; or (3) good faith efforts to meet  
8 the contract goal have proven unsuccessful. The department making an emergency  
9 procurement shall consider the availability of S/MBEs, ~~or~~ M/WBEs, or VBEs from  
10 which to make the purchases. The Purchasing Director shall make available a  
11 report of procurement activities, including at a minimum, project name, project  
12 number, project description, awarded vendor, advertisement date, waivers, and  
13 reasons for the waiver, and an estimated dollar value to include change orders.

14 **Fair Subcontracting Practices**

15 The Board is committed to promoting diversity, equity, and inclusion in the use of  
16 subcontractors on Board contracts pursuant to Policy 6320.06. Bidders are  
17 encouraged to adopt policies and procedures that (a) notify the broadest number of  
18 local subcontractors of the opportunity to be awarded a subcontract, (2) invite local  
19 subcontractors to submit bids in a practical, expedient manner, (3) provide local  
20 subcontractors access to the information necessary to prepare and formulate a  
21 subcontracting bid, (4) allow local subcontractors to meet with the bidder to discuss  
22 the bidder's requirements, and (5) award subcontracts based on full and complete  
23 consideration of all submitted proposals and in accordance with the bidder's stated  
24 objectives.

1 **Prompt Payment**

2 It is the Board's policy that payment for all purchases by the Board be made in a  
3 timely manner. The Superintendent is authorized to develop and implement  
4 administrative directives and procedures to provide that contractors and vendors  
5 will receive prompt payment from the Board, upon receipt of proper documentation,  
6 including an approved invoice for the amount due and confirmation that the goods  
7 or services have been received and accepted by the appropriate District staff.  
8 Prompt payment provisions may be waived or suspended if the Superintendent has  
9 made a determination, after consultation with the Chief Financial Officer, that an  
10 urgent situation, crisis, or other compelling condition exists that seriously impacts  
11 normal business operations. The Board may also provide for expedited payments to  
12 prime S/MBE, ~~and~~ M/WBE, and VBEs. Late-penalty interest payments will only be  
13 made by the Board pursuant to the Florida Prompt Payment Act, F.S. 218.735.

14 In addition, the Superintendent shall develop and include appropriate language in  
15 Board contracts to require the prime vendor to issue prompt payment to S/MBEs,  
16 ~~and~~ M/WBEs, and VBEs. Prime vendors must have dispute resolution procedures  
17 in place to address disputed payments to subcontractors.

18 **Violations and Sanctions**

19 A. Violations of this policy, include but are not limited to:

- 20 1. fraudulently obtain, retain, or attempt to obtain, or aid  
21 another in fraudulently obtaining, retaining, or attempting to  
22 obtain or retain certification status as an S/MBE, M/WBE, or  
23 ~~VBE~~VBE for purposes of this policy;
- 24 2. willfully falsify, conceal or cover up by a trick, scheme or  
25 device, a material fact or make any false, fictitious or  
26 fraudulent statements or representations, or make use of any  
27 false writing or document, knowing it contains any false,  
28 fictitious, or fraudulent statements or entry pursuant to this  
29 policy;

- 1                   3.     willfully obstruct, impede, or attempt to obstruct or impede  
2                   any authorized official or employee who is investigating the  
3                   qualifications of a business entity that has requested  
4                   certification as an S/MBE, M/WBE, or ~~VBE~~VBE;  
5                   4.     fraudulently obtain, attempt to obtain or aid another person  
6                   fraudulently obtaining, or attempting to obtain public monies  
7                   to which the person is not entitled under this policy;  
8                   5.     failing to cooperate in any investigation of violations of this  
9                   policy or Policy 6465;  
10                  6.     making false statements to any entity that any other entity is  
11                  or is not certified as an S/MBE, ~~or~~ M/WBE, VBE for purposes  
12                  of this policy.  
13                  B.     Sanctions – Any person or business entity that violates this policy  
14                  shall be subject to suspension, contract cancellation, or debarment  
15                  pursuant to Policy 6320 and Policy 6320.04 and any other penalty  
16                  provided by law.  
17                  C.     The Superintendent shall apply appropriate sanctions for violations  
18                  of this policy upon recommendation of the OEO.

19     **Anti-Discrimination Complaints**

20     Complaints alleging discrimination maybe filed according to Policy 6465 against  
21     employees and companies doing business with the Board in the solicitation,  
22     selection or treatment of subcontractors, suppliers, vendors, or commercial  
23     customers on the basis of race, color, ethnic or national origin, religion, marital  
24     status, disability, genetic information, age, political beliefs, sexual orientation,  
25     gender, gender identification, social and family background, linguistic preference,  
26     pregnancy, and any other legally prohibited basis. The anti-discrimination  
27     prohibitions must be included in every contract under this policy and each  
28     contractor must certify that it will comply with anti-discrimination provisions. A  
29     violation of this policy may constitute a violation of Policy 6465.

1 Small/Minority Business Enterprise, ~~and~~ Minority/Women Business  
2 Enterprise, and Veterans Business Enterprise Program Performance Review

3 A. The OEO shall monitor the implementation of this policy and the  
4 progress of these programs. On an annual basis, the OEO shall  
5 report to the Superintendent and Board on the progress of achieving  
6 the goals and objectives established for awards to certified S/MBE,  
7 ~~and~~ M/WBE, and VBE firms, reporting both dollars awarded and  
8 expended. In addition, the OEO shall annually report on the  
9 progress in achieving the stated program objectives, including, but  
10 not limited to, enhancing competition, establishing and building new  
11 business capacity, and removing barriers to and eliminating  
12 disparities in the utilization of available minority business  
13 enterprises and women business enterprises on Board contracts.

14 B. The Board shall annually review these programs to determine  
15 whether the various contracting procedures used to enhance  
16 S/MBE, ~~or~~ M/WBE, or VBE contract participation needs to be  
17 adjusted or used more or less aggressively in future years to achieve  
18 the stated program objectives.

19 **Policy Review**

20 As required by F.S. 120.74, the Board shall review and revise this policy as often as  
21 necessary to ensure that it complies with legal requirements such as applicable  
22 current standards of binding decisions of the Eleventh Circuit Court of Appeals and  
23 the United State Supreme Court. In addition, at least every (4) years, the Board will  
24 review the successes and failures of the M/WBE program and make a determination  
25 as to the need for a continuing M/WBE program.

26 **Severability**

27 If any section, paragraph, sentence, clause, phrase, or word of this policy is for any  
28 reason held by a court to be unconstitutional, inoperative, or void, it is intended that  
29 to the maximum extent practicable, such holding shall not affect the remainder of  
30 this policy.

1 **Statutory Citations**

2 Citations in this policy refer to the statute in place at the time this policy is adopted  
3 or as amended from time to time.

4 F.S. 218.735  
5 F.S. 287.093  
6 F.S. 607.11  
7 F.S. 1001.41(2)  
8 F.S. 1013.46(1)(b)

9 Revised 11/21/12  
10 Revised 1/16/13  
11 Revised 9/3/13  
12 Revised 6/18/14  
13 Revised 1/14/15  
14 Revised 10/14/15  
15 Revised 3/9/16  
16 Revised 11/15/17

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