

## **LOS ANGELES WORLD AIRPORTS SMALL BUSINESS ENTERPRISE PILOT PROGRAM RULES AND REGULATIONS**

The City of Los Angeles, Los Angeles World Airports (LAWA) is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at LAWA. LAWA's Small Business Enterprise (SBE) Program was created to provide additional opportunities for small businesses to participate in LAWA contracts.

### **APPLICABILITY**

LAWA's Procurement Services Division (PSD) will establish the mandatory SBE participation levels for construction, non-professional and personal services including professional services projects, and sole source contracts valued over \$150,000. Failure to meet those mandatory SBE participation levels may disqualify bidding/proposing firms from being considered for award of the contract. LAWA's SBE Program requires Prime Contractors who receive contracts from LAWA to utilize certified small businesses at the levels promised and may impose penalties for the failure to meet those levels if changes to the proposed levels were not previously approved by LAWA in writing. (Federally-funded projects, and projects for the procurement of goods, equipment, and materials are not subject to the SBE Program.)

LAWA defines an SBE as an independently-owned and operated business that meets the criteria set forth by:

- The Federal Small Business Administration (SBA) 8(a) Business Development Program
- or**
- The State of California Small Business (SB) Program

LAWA will apply the *larger* of the Federal SBA 8(a) Program or the State of California SB Program size standard for businesses applying for LAWA's SBE status.

For information regarding the size standards used by the Federal SBA 8(a) Business Development Program, see [www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table.pdf](http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf).

For information regarding the size standards used by the State of California SB program, see <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx>

LAWA will grant SBE recognition to firms that have other specific certifications from recognized agencies. The following chart shows which agency certifications will be accepted by LAWA as an SBE:

CERTIFYING AGENCY	CERTIFICATION	ACCEPTED BY LAWA AS SBE?
<a href="#">Federal Small Business Administration (SBA)</a>	SBA 8(a) Business Devpt. Program	Yes
<a href="#">State of California Department of General Services (DGS)</a>	SB, MB (micro)	Yes
<a href="#">California Department of Transportation (CALTRANS)</a>	SMBE, SWBE, DBE	Yes
<a href="#">L.A. County Metropolitan Transportation Authority (METRO)</a>	SBE, DBE	Yes
California Unified Certification Program (CUCP) Agencies: <ul style="list-style-type: none"> <li>• <a href="#">Central Contra Costa Transit Authority (CCCTA)</a></li> <li>• <a href="#">City of Fresno</a></li> <li>• <a href="#">City of Los Angeles</a></li> <li>• <a href="#">San Diego County Regional Airport Authority (SAN)</a></li> <li>• <a href="#">San Francisco Bay Area Rapid Transit District (BART)</a></li> <li>• <a href="#">San Francisco International Airport (SFO)</a></li> <li>• <a href="#">San Francisco Municipal Transportation Agency (SFMTA)</a></li> <li>• <a href="#">San Mateo County Transit District (SAMTRANS)</a></li> <li>• <a href="#">Santa Clara Valley Transportation Authority (VTA)</a></li> </ul>	DBE*	Yes
<a href="#">US Women's Chamber of Commerce (USWCC)</a>	WOSB, EDWOSB	Yes
<a href="#">Women's Business Enterprise National Council (WBENC)</a>	WOSB	Yes
<a href="#">National Women Business Owners Corporation (NWBOC)</a>	WOSB, EDWOSB	Yes
<a href="#">City of Los Angeles</a>	SBE (Proprietary), SLB	Yes

\*DBE-certified companies for all of the bulleted agencies can be found in one central database: <http://californiaucp.org/>

If a business does not have an acceptable certification from one of the agencies listed above, it can apply for the City of Los Angeles SBE (Proprietary) certification by filling out an SBE (Proprietary) Application and meeting the eligibility criteria. A firm's SBE (Proprietary) status is good for two years.

Prime contractors will be responsible for determining the SBE status of its subcontractors at the time of bid/proposal submission for purposes of meeting the mandatory SBE requirement. The SBE participation level will be determined by the percentage of the total amount of compensation under the project paid to SBEs.

The specific categories of work that the SBE-certified prime contractor or SBE-certified subcontractors will perform on the project must be relevant to the North American Industry Classification System (NAICS) codes for which the prime or subcontractors were certified in order for them to receive SBE participation credit from LAWA.

If an SBE firm (Prime or subcontractor) becomes ineligible as an SBE by exceeding the size standard during the performance of a contract, LAWA will continue to count its participation on that contract until the contract terminates or is amended. If the contract is amended, the firm's participation in the contract will no longer count towards the SBE goal. An SBE firm can also become ineligible if its certification expires or it is removed for not meeting other certification requirements.

LAWA also encourages Prime Contractors to utilize Emerging Business Enterprises (EBEs). LAWA defines an Emerging Business Enterprise (EBE) based on the State of California's Micro-business definition, which is (1) a small business that has average annual gross receipts of \$3,500,000 or less within the previous three years, or (2) a small business manufacturer with 25 or fewer employees. A firm that is certified with the State of California as a Micro-business will be recognized by LAWA as an EBE. Additionally, LAWA encourages Prime Contractors to utilize Disabled Veterans Business Enterprises (DVBEs). A firm that is certified with the State of California as a DVBE will be recognized by LAWA as a DVBE.

## LAWA'S GOALS

While the use of SBEs is mandatory for those projects that have been identified by PSD as having mandatory SBE participation levels, LAWA additionally has overall departmental goals. The specific mandatory SBE participation level for each project may be higher or lower than LAWA's department goal based on the scope of work and the availability of the SBEs to perform the work.

LAWA's current overall departmental goal is 25% SBE participation. As additional data becomes available, LAWA will analyze and adjust as appropriate its overall SBE achievement goals.

## SETTING CONTRACT SPECIFIC MANDATORY SBE PARTICIPATION LEVELS

PSD will review each Request for Bid/Request for Proposal (project) estimated to be in excess of \$150,000 to determine whether a mandatory SBE participation level should be set on the project. Setting the mandatory SBE participation level consists of the following steps:

- PSD and the requesting division will discuss the project to determine whether there are reasonable subcontracting opportunities
- PSD will review various databases to determine the availability of SBE subcontractors in the identified subcontracting work areas
- PSD will review the historical achievement of subcontractor utilization on the same/similar projects

If PSD determines that there are sufficient SBEs available in the identified work areas, PSD will set a mandatory SBE participation level for the project by establishing the percentage of the total contract amount for which SBEs must be utilized. PSD will confer with the requesting division and Executive staff to thoroughly analyze the project and ensure that the established mandatory SBE participation level is valid and attainable. A committee comprised of Executive staff will review PSD's recommendations.

LAWA reserves the right to review cooperative agreements with other governmental agencies ("Piggy Back") to determine if subcontracting opportunities exist and to set mandatory SBE participation levels, if appropriate.

Since the SBE Program is a mandatory program, Bidders/Proposers are strongly encouraged to attend pre-bid and pre-proposal meetings for projects with mandatory SBE participation levels so that they will understand the requirements of the SBE Program. PSD will verify the SBE status of the proposed subcontractors, regardless of the dollar amount of work to be performed. It is important to note that if a Prime Contractor is itself an SBE, their participation in the contract will count as 100% SBE. If the Prime Contractor is a Joint Venture (JV), and a JV partner is a certified SBE, LAWA will give SBE credit to the JV equal to the percent ownership of the SBE-certified JV partner.

LAWA's Board of Airport Commissioners (BOAC) may at any time before the award of a Contract, determine that it is in LAWA's best interest to award away from firms that have met the SBE requirement.

## SUBCONTRACTORS

Contractors are required to comply with California's "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Sections 4100 et seq.) ([www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20](http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pcc&codebody=&hits=20)).

Any reduction, increase, or other change to any SBE Subcontract amount without prior written approval of PSD is considered an Unauthorized Subcontractor Substitution, and the Contractor may be subject to a penalty. A subcontract dollar value increased or reduced as the result of a Change Order issued by

LAWA to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.

Only PSD is authorized to grant either initial approval of SBE Subcontractor(s) or SBE Subcontractor substitution(s).

Contractors must list all Subcontractors on LAWA's Subcontractor Participation Plan and include all requested information.

### PENALTIES

A Contractor violating any provision(s) of this section shall, subject to prior notice of the alleged violations and an opportunity to be heard and to present evidence in its own defense, be deemed in violation of the Contract, and LAWA, subject to BOAC approval, may:

1. Cancel the contract.
2. Assess the Contractor a penalty of not more than ten percent (10%) of the amount of the unpaid/underpaid amount of the Subcontract(s) involved.

At the end of each project, before calculation of any actual final subcontracting penalties, LAWA may withhold as disputed funds 15% of all subcontract(s) that appear to be in violation of any subcontracting provision of the project, and 15% of all subcontract(s) where work was performed on the project without, or prior to, approval by LAWA.

### SUB-AGREEMENT FALSIFICATION

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subcontractor may result in sanctions set forth under Penalties.

### MONTHLY REPORT SUBMITTAL

The Contractor shall submit to LAWA, on a monthly basis, together with its invoice the Subcontractor Utilization Report listing the SBE subcontractors utilized during the reporting period. Contractor shall cooperate with LAWA personnel in providing such information as requested by LAWA in order to ensure compliance. LAWA will not process or pay Contractor's subsequent invoices if the Subcontractor Utilization Reports are not timely submitted or if the Contractor fails to cooperate with LAWA personnel by promptly providing any and all information related to SBE participation requested by LAWA.

### FINAL SUBCONTRACTING REPORT SUBMITTAL

The Contractor must submit the Final Subcontracting Report to PSD within fifteen (15) calendar days after a request for the report by PSD. Failure to comply may result in the assessment of liquidated damages in the amount of \$100.00 per day by LAWA.

### FINAL CONTRACTOR PERFORMANCE GRADES

Upon completion of the Contract, PSD will issue a letter to the Contractor confirming their final performance grade under the SBE Program. For the purposes of this Program, completion may include permanent suspension, cancellation and/or termination of the contract. The grades are based upon the following grade point system:

Possible Points: 10

Grade A or 10 points	Met or exceeded SBE Pledge OR Contractor provided an explanation (supported by task orders) approved by the Board or Chief Executive Officer (or designee) which justified their not meeting the pledge and complied with LAWA reporting instructions
Grade B or 8 points	Did not meet their SBE Pledge but they met between 80-99% of the pledged amount AND Contractor voluntarily paid the penalty amount and complied with LAWA reporting instructions
Grade C or 4 points	Did not meet their SBE Pledge but they met between 70-79% of the pledged amount AND Contractor voluntarily paid the penalty amount and complied with LAWA reporting instructions
Grade D or 2 points	Did not meet their SBE Pledge but they met between 60-69% of the pledged amount AND Contractor voluntarily paid the penalty amount and complied with LAWA reporting instructions
Grade F or 0 points	Did not meet their SBE Pledge and their performance was 59% or less of the pledged amount AND/OR Contractor did not voluntarily pay the penalty amount and/or failed to comply with LAWA reporting instructions

### FUTURE REVISIONS TO RULES AND REGULATIONS

The **Chief Executive Officer (or designee)** is authorized to make modifications to these Rules and Regulations as necessary from time to time.

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities.