



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT

Item No.
13

Meeting Date: **JANUARY 6, 2011**

Subject:

Adopt Authority Policy 5.14 Establishing a Small Business, Local Business, Service-Disabled Veteran-Owned Small Business Preference Program and Amend Policies 5.10 – Compliance with Equal Employment Opportunity and Nondiscrimination Policy, 5.11 – Equal Opportunity Contracting Policy, 5.12 – Preference to Small Business, and 5.13 – Local Business Opportunities

Recommendation:

Adopt Resolution No. 2011-0011, adopting Authority Policy 5.14 establishing a Small Business, Local Business and Service-Disabled Veteran-Owned Small Business Goal and Preference Program; and Amending Authority Policies 5.10 - Compliance with Equal Employment Opportunity and Nondiscrimination Policy; 5.11 - Equal Opportunity Contracting Policy; 5.12 - Preference to Small Businesses; and 5.13 - Local Business Opportunities.

Background/Justification:

At its December 2, 2010 meeting the Board gave staff direction to create a small business, local business, and service-disabled veteran-owned small business (SDVOSB) preference program. In response to the Board's direction, staff developed Policy 5.14 (Attachment A) allowing the establishment of goals for Small Business, Local Business and SDVOSB and allowing a preference award for goal achievement. In addition, staff recommends amending Policies 5.10, 5.11, 5.12, and 5.13 to bring them current.

The rationale for establishment of the local business goal and preference is that the Authority is a local governmental entity that operates San Diego International Airport ("Airport"), and as such depends upon infrastructure which is built and maintained by the County of San Diego (the "County") and cities within the County. Local businesses contribute revenue to the County and cities within the county through the payment of taxes, licenses, and fees, all of which help pay for construction and maintenance of the infrastructure. A local preference program will provide an incentive for businesses to move to and remain in the County which would serve the interests of the Airport and the public. Any businesses may qualify for the local preference by meeting the reasonable criteria for a "local business" specified in Policy 5.13(2). Proposed Policy 5.14, as proposed, does not establish any quotas or set-asides nor does the Policy bar any business entity from competing for Authority contract. Instead, it grants a minimal benefit to qualifying local businesses entities participating in the Authority's procurement process.

Policy 5.14 Definitions

Small Business: Under proposed Policy 5.14, a "small business" is defined as a for-profit business concern that (1) is enrolled in the airport's Bonding and Contract Financing Assistance Program, or (2) possesses any certification issued by a California public agency that uses size criteria that fall within the Small Business Administration (SBA) size standards, or (3) is an airport concessionaire that provides evidence that its business size is within standards established under 49 CFR Part 23, Section 23.33.

Local Business: Proposed Policy 5.14, incorporates the definition of a local business from Policy 5.13, which includes (a) a valid business certificate issued by San Diego County, or a valid business license issued by a city within San Diego County, (b) at least twenty-five percent (25%) of the employees based out of the local office must reside in San Diego County as proposed herein; and (c) be headquartered or have a physical commercial address located within the limits of San Diego County for a minimum of 6 months prior to the release of a solicitation for which a business responds as a local business participant.

SDVOSB: Under proposed Policy 5.14, a SDVOSB is a profit-making corporation, sole proprietorship, or partnership in which at least 51 percent of the shares or stock or other equitable securities are owned by one or more persons who are service-disabled veterans and included in the "VetBiz Registry" maintained by the United States Department of Veteran Administration (DVA) or any subsequent database preferred by the DVA.

Policy 5.14 Preference Procedures

Authority staff will determine which contract solicitations are subject to the provisions of Policy 5.14. Factors that will be considered include availability of subcontracting opportunities, specialty requirements such as security issues, or limited availability of businesses or individuals that can perform the work. Should staff determine that Policy 5.14 will not apply to the contract solicitation, then Policy 5.12 will apply.

Request for Bids Process (selection of qualified lowest bidder): Contractors that satisfy the established goal will be afforded a preference affecting their bid price when pricing is the selection criterion. A preference of 3% will be applied for Small Business goal achievement, 2% for Local Business goal achievement, and 2% for SDVOSB goal achievement. The maximum preference allowed is 7% with a cap of \$100,000. The Local Business preference of 2% is only applied if the Authority's overall Local Business participation of eligible, current Authority contracts drops below 60%. Excluded from this 60% will be those contracts utilizing federal funds and The Green Build. If the Authority's Local Business participation is above 60%, a goal may still be implemented, but no preference points will be applied.

When price is the primary selection basis, then the bid amount of current, lowest bidder will be used in determining the adjusted bid amount. The total preference for each contractor is multiplied against the bid of the lowest responsive bidder then subtracted from their original bid to create an "adjusted bid price". The adjusted bid price will determine who is awarded the contract. The contract award will be at the original bid price.

For Example:

Contractor 1 has lowest responsive bid at \$100,000 and achieved the SDVOSB goal for a 2% preference. Contractor 2 had the second lowest bid at \$102,000 and achieved both the Small Business and SDVOSB goals for a total of a 5% preference. Contractor 3 had the highest bid of \$105,500 and met all three goals for a total of a 7% preference.

Contractor 1 will multiply 2% times \$100,000 for a price adjustment of \$2,000 or an adjusted price of \$98,000 ($\$100,000 - \$2,000 = \$98,000$).

Contractor 2 will multiply 5% times \$100,000 for a price adjustment of \$5,000 or an adjusted price of \$97,000 ($\$102,000 - \$5,000 = \$97,000$).

Contractor 3 will multiply 7% times \$100,000 for a price adjustment of \$7,000 or an adjusted price of \$98,500 ($\$105,500 - \$7,000 = \$98,500$).

After applying the preference, Contractor 2 is the new low bidder and will be awarded the contract at \$102,000

Request for Proposals/Qualifications Process (selection of highest ranked respondent): When evaluation criteria and a scoring matrix are used to determine selection, those companies that meet or exceed the goal will receive points equal to an appropriate percentage of the total points available. So, if 100 points are the maximum number of points allowed, then 3 points will be available for achieving the Small Business goal, 2 points will be available for achieving the Local Business goal, and 2 points will be available for achieving the SDVOSB goal. Because price may be one of many factors considered in RFP/RFQ solicitations, application of the preferences to these solicitations may have significant fiscal impacts. Staff continues to research and consider options and will present updated information at the Board meeting.

Partial Preference Points: Partial preference points can be earned for partial goal achievement provided that the points awarded do not exceed the ratio of goal achievement. When determining partial goal achievement, whole percentage numbers will be used and the numbers will be rounded up. For example, if the Small Business goal on a project is 31%, then 1/3 of the Small Business goal would be 10.33%. Under the Policy, this number will be rounded up to the next whole percentage number or 11%. Therefore, a contractor that achieves at least 11% Small Business participation will receive 1 preference point and 2 preference points will go to the contractor that achieves at least 22% Small Business participation.

Page 4 of 6Policy 5.14 Goal Methodology

Determining the goal for Small Business and Local Business will use the following methodology:

Step 1- Determine the trade assessments needed in order to fulfill the scope of work. (Example: electricians, plumbers, civil engineering).

Step 2 – Estimate the percentage of the total scope of work that will be achieved by the specific trade assessment.

Step 3 – Estimate the percentage of available contractors that meet the Small Business or Local Business criteria compared to the total number of companies in the same trade.

Step 4 – Multiply the scope of work percentage by the availability percentage to provide a weighted factor.

Step 5 – Total all of the weighted percentage factors to determine the overall goal.

EXAMPLE: A solicitation requires the use of an electrician, plumber, drywall & painter

Column A	Column B	Column C	Column D	Column E	Column F
Trade	Estimated Pct. Of Work	Number of Small Businesses that can Perform Work	Total Number of Businesses that can Perform Work	Availability Percentage (C ÷ D)	Weighted Participation (E X B)
Electrician	30%	10	35	29%	8.7%
Plumber	25%	15	31	48%	12.0%
Drywall	25%	5	25	20%	5.0%
Painter	20%	8	50	16%	3.2%
Total					28.9%

In the example above, the small business participation goal will be established at 29% (28.9% rounded to 29%). Some contracts, such as "on-call" contracts may not know how much work will go to each trade, or even identify all trades because the specific services are not known at that time. Staff will work with its best estimate at the time of solicitation based on past experience.

A 3% goal will be established for SDVOSB, which is consistent with the state's program.

Policy 5.14 Exemptions and Exceptions

Due to the airport grant assurances, there are areas where preferences cannot be implemented. This would include federally funded projects and airport concessions.

Policy 5.10 Amendment

Policy 5.10 entitled "Compliance with Equal Employment Opportunity and Nondiscrimination Policy" requires compliance by contractors and lessees to: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the California Fair Employment and Housing Act; and any other applicable federal, state and local law or regulation relating to equal employment opportunity and nondiscrimination, including any such law, regulation and policy hereinafter enacted. The amendment to the policy is needed to eliminate reference to a department that no longer exists within the Authority.

Policy 5.11 Amendment

Policy 5.11 entitled "Equal Opportunity Contracting Policy" requires all businesses, including Disadvantaged Business Enterprises ("**DBEs**"), to have the maximum opportunity to participate in the performance of all Authority and Department of Transportation ("**DOT**") assisted contracts and leasing opportunities. The amendment to Policy 5.11 is required to name the Director of Small Business Development as the DBE Liaison Officer and grant unimpeded access to the President/CEO as it pertains to DBE matters. This amendment is required by 49 CFR Part 26.

Policy 5.12 Amendment

Policy 5.12 entitled "Preference to Small Business" must be amended to address the existence of proposed Policy 5.14. The amendment to Policy 5.12 will result in a new section (1)(b) to exclude the Small Business preference covered under Policy 5.12 in the event the provisions allowed under Policy 5.14 are implemented. This will prevent the use of two different programs on the same procurement opportunity. It will also keep the preference for the Bonding and Contract Financing Assistance Program in place even if Policy 5.14 is in effect. The preference does not adjust the bid price in any way and will not impact the goals or preferences established per proposed Policy 5.14. In addition, the definition of Small Business is expanded to include airport concessions and to make it consistent with proposed Policy 5.14.

Policy 5.13 Amendment

Policy 5.13 entitled "Local Business Opportunities" will be amended to re-define the term "Local Business" to expand the employee residence requirement. Under the current Policy 5.13, a business is considered a "Local Business" if only one employee resides in San Diego County. The proposed amendment requires that a minimum of twenty-five percent (25%) of the workforce based in the local office be San Diego County residents.

Conclusion

Staff is requesting the Board adopt Policy 5.14, Establishing a Small Business, Local Business, Service-Disabled Veteran-Owned Small Business Goal and Preference Program that will establish goals and allow preferences for Small Business, Local Business and SDVOSB participation and approve amendments to Policies 5.10, 5.11, 5.12 and 5.13.

Fiscal Impact:

This program will require additional resources applied to the procurement process and may require additional staff support. When price basis is used in the selection application, the preferences may also lead to higher costs on Authority contracts.

Environmental Review:

- A. This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA, Pub. Res. Code §21065.

- B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable

Prepared by:

BOB SILVAS
DIRECTOR, SMALL BUSINESS DEVELOPMENT

RESOLUTION NO. 2011-0011

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY ADOPTING AUTHORITY POLICY 5.14 - ESTABLISHING A SMALL BUSINESS, LOCAL BUSINESS, AND SERVICE DISABLED VETERAN OWNED SMALL BUSINESS GOAL AND PREFERENCE PROGRAM AND AMENDING AUTHORITY POLICIES 5.10 - COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION POLICY; 5.11 - EQUAL OPPORTUNITY CONTRACTING POLICY; 5.12 - PREFERENCE TO SMALL BUSINESSES; AND 5.13 - LOCAL BUSINESS OPPORTUNITIES .

WHEREAS, at its December 2, 2010 meeting the Board gave staff direction to create a small business, local business, and service-disabled veteran-owned small business (SDVOSB) preference program. In response to the Board's direction, staff developed Policy 5.14 (Attachment A) allowing the establishment of goals for Small Business, Local Business and SDVOSB and allowing a preference award for goal achievement. In addition, staff recommends amending Policies 5.10, 5.11, 5.12, and 5.13 to bring them current; and

WHEREAS, in response to the Board's direction, staff developed Policy 5.14 allowing the establishment of goals for Small Business, Local Business and Service Disabled Veteran Owned Small Business and allowing a preference award for goal achievement; and

WHEREAS, staff recommends amending policies 5.10, 5.11, 5.12, and 5.13 to bring them current; and

WHEREAS, the Authority is a local governmental entity of regional government with jurisdiction throughout San Diego County; and

WHEREAS, the Authority operates San Diego International Airport ("Airport"), which depends upon infrastructure, including streets and roadways, which are built and maintained by the County of San Diego (the "County") and cities within the County, for the public's access to and use of the Airport; and

WHEREAS, the Airport generates much of its operating revenue through user fees, not taxes, which necessitate the public's ability to readily access the Airport from locations throughout the County; and

WHEREAS, local businesses situated within the County contribute revenue to the County and cities within the County through the payment of taxes, licenses, and fees, all of which help pay for the costs to construct and maintain transportation infrastructure throughout the County and for access to the Airport; and

WHEREAS, a local preference program will provide an incentive for businesses to move to and remain in the County; and

WHEREAS, the Board finds that the interests of the Airport and the public are best served by encouraging businesses to locate and remain in the County through the provision of a minimal preference to local businesses in the awarding of Authority contracts; and

WHEREAS, the preference established by Policy 5.14 is only applicable to those contracts that are within the Authority's jurisdiction and to which the Authority is a party; and

WHEREAS, any businesses may qualify for the local preference by meeting the reasonable criteria for a "local business" specified in Policy 5.13(2); and

WHEREAS, Policy 5.14 does not establish any quotas or set-asides nor does the Policy bar any business entity from competing for Authority's contracts, but simply grants a minimal benefit to qualifying local businesses entities participating in the Authority's procurement process; and

WHEREAS, under proposed Policy 5.14, a small business is defined as a for profit business concern that (1) is enrolled in the airport's Bonding and Contract Financing Assistance Program, or (2) possesses any certification issued by a California public agency that use size criteria that fall within the Small Business Administration (SBA) size standards, or (3) is an airport concessionaire that provides evidence that its business size is within standards established under 49 CFR Part 23, Section 23.33; and

WHEREAS, under proposed Policy 5.14, a local business is defined by Policy 5.13 which includes (a) a valid business certificate issued by San Diego County, or a valid business license issued by a city within San Diego County, (b) at least twenty-five percent (25%) of the employees based out of the local office must reside in San Diego County; and (c) be headquartered or have a physical commercial address located within the limits of San Diego County for a minimum of 6 months prior to the release of a solicitation for which a business responds as a local business participant

WHEREAS, under proposed Policy 5.14, a SDVOSB is a profit-making corporation, sole proprietorship, or partnership in which at least 51 percent of the shares or stock or other equitable securities are owned by one or more persons who are service-disabled veterans and included in the "VetBiz Registry" maintained by the United States Department of Veteran Administration (DVA) or any subsequent database preferred by the DVA; and

WHEREAS, Authority staff will determine which contracts solicitations are subject to the provisions of Policy 5.14. Factors that will be considered include availability of subcontracting opportunities, specialty requirements such as security issues, or limited availability of businesses or individuals that can perform the work. Should the contract owner determine that Policy 5.14 will not apply to the contract solicitation, then Policy 5.12 will apply; and

WHEREAS, contractors that satisfy the established goal will be afforded a preference in their bid price when pricing is the selection criterion. A preference of 3% will be applied for Small Business goal achievement, 2% for Local Business goal achievement, and 2% for SDVOSB goal achievement. The maximum preference allowed is 7% with a cap of \$100,000. The Local Business preference of 2% is only applied if the Authority's overall Local Business participation of eligible, current Authority contracts drops below 60%. Excluded from this 60% will be those contracts utilizing federal funds and The Green Build. If the Authority's Local Business participation is above 60%, a goal may still be implemented, but no preference points will be applied.

WHEREAS, when price is the primary selection basis, then the bid amount of lowest bidder will be used in determining the adjusted bid amount. The total preference for each contractor is multiplied against the bid of the lowest responsive bidder then subtracted from their original bid to create an "adjusted bid price". The adjusted bid price will determine who is awarded the contract. The contract award will be at the original bid price; and

WHEREAS, when evaluation criteria and a scoring matrix are used to determine selection, those companies that meet or exceed the goal will receive points equal to an appropriate percentage of the total points available. So, if 100 points are the maximum number of points allowed, then 3 points will be available for achieving the Small Business goal, 2 points will be available for achieving the Local Business goal, and 2 points will be available for achieving the SDVOSB goal. Because price may be one of many factors considered in RFP/RFQ solicitations, application of the preferences to these solicitations may have significant fiscal impacts. Staff continues to research and consider options and will present updated information at the Board meeting.

WHEREAS, partial preference points can be earned for partial goal achievement provided that the points awarded do not exceed the ratio of goal achievement. When determining partial goal achievement, whole percentage numbers will be used and the numbers will be rounded up. For example, if the Small Business goal on a project is 31%, then 1/3 of the Small Business goal would be 10.33%. Under the Policy, this number will be rounded up to the next whole percentage number or 11%. Therefore, a contractor that achieves at least 11% Small Business participation will receive 1 preference point and 2 preference points will go to the contractor that achieves at least 22% Small Business participation; and

WHEREAS, determining the goal for Small Business and Local Business will use the following methodology: Step 1- Determine the trade assessments needed in order to fulfill the scope of work. (Example: electricians, plumbers, civil engineering). Step 2 – Estimate the percentage of the total scope of work that will be achieved by the specific trade assessment. Step 3 – Estimate the percentage of available contractors that meet the Small Business or Local Business criteria compared to the total number of companies in the same trade. Step 4 – Multiply the scope of work percentage by the availability percentage to provide a weighted factor. Step 5 – Total all of the weighted percentage factors to determine the overall goal; and

WHEREAS, due to the airport grant assurances, there are solicitations where the preferences will not be implemented. This would include federally funded projects and airport concessions; and

WHEREAS, Policy 5.10 entitled “Compliance with Equal Employment Opportunity and Nondiscrimination Policy” requires compliance by contractors and lessees to: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the California Fair Employment and Housing Act; and any other applicable federal, state and local law or regulation relating to equal employment opportunity and nondiscrimination, including any such law, regulation and policy hereinafter enacted. The amendment to the policy is needed to eliminate reference to a department that no longer exists within the Authority; and

WHEREAS, Policy 5.11 entitled “Equal Opportunity Contracting Policy” requires all businesses, including Disadvantaged Business Enterprises (“DBEs”), to have the maximum opportunity to participate in the performance of all Authority and Department of Transportation (“DOT”) assisted contracts and leasing opportunities. The amendment to Policy 5.11 is required to name the Director of Small Business Development as the DBE Liaison Officer and grant unimpeded access to the President/CEO as it pertains to DBE matters. This amendment is required by 49 CFR Part 26; and

WHEREAS, Policy 5.12 entitled "Preference to Small Business" must be amended to address the existence of proposed Policy 5.14. The amendment to Policy 5.12 will result in a new section (1)(b) to exclude the Small Business preference covered under Policy 5.12 in the event the provisions allowed under Policy 5.14 are implemented. This will prevent the use of two different programs on the same procurement opportunity. It will also keep the preference for the Bonding and Contract Financing Assistance Program in place even if Policy 5.14 is in effect. The preference does not adjust the bid price in any way and will not impact the goals or preferences established per proposed Policy 5.14. In addition, the definition of Small Business is expanded to include airport concessions and to make it consistent with proposed Policy 5.14.; and

WHEREAS, Policy 5.13 entitled "Local Business Opportunities" will be amended to re-define the term "Local Business" to expand the employee residence requirement. Under the current Policy 5.13, a business is considered a "Local Business" if only one employee resides in San Diego County. The proposed amendment requires that a minimum of twenty-five percent (25%) of the workforce based in the local office are San Diego residents; and

NOW, THEREFORE, BE IT RESOLVED, the Board adopts Policy 5.14 (Attachment A) Small Business, Local Business and Service Disabled Veteran Owned Small Business Goal and Preference Program;

BE IT FURTHER RESOLVED that the Board amends Policy 5.10 (Attachment B) Compliance with Equal Employment Opportunity and Nondiscrimination Policy;

BE IT FURTHER RESOLVED that the Board amends Policy 5.11 (Attachment C) Equal Opportunity Contracting Policy;

BE IT FURTHER RESOLVED that the Board amends Policy 5.12 (Attachment D) Preference to Small Businesses;

BE IT FURTHER RESOLVED that the Board amends Policy 5.13 (Attachment E) Local Business Opportunities;

BE IT FURTHER RESOLVED, that this Board action is not a "project" as defined by the California Environmental Quality Act (CEQA), Pub. Res. Code Section 21065; and is not a "development" as defined by the California Coastal Act, Pub. Res. Code Section 30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 6th day of January, 2011, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
**DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK**

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
POLICIES

ARTICLE 5 - CONTRACTING AND DEBARMENT
PART 5.1 - EQUAL OPPORTUNITY
**SECTION 5.14 - SMALL BUSINESS, LOCAL BUSINESS AND SERVICE
DISABLED VETERAN OWNED SMALL BUSINESS GOAL AND
PREFERENCE PROGRAM**

PURPOSE: To establish a program of goals and incentives benefiting small businesses, local businesses, and/or service disabled veteran owned small businesses in the contract procurement process of the San Diego County Regional Airport Authority (“**Authority**”).

POLICY STATEMENT:

In the procurement of contracts, the Authority’s President/Chief Executive Officer or his or her designee (“**President/CEO**”) shall be responsible for following all procedures required by (1) the Board, (2) the San Diego County Regional Airport Authority Act, as amended, and (3) all other applicable federal, state, and local laws.

(1) Definitions.

- (a) *Bonding and Contract Financing Assistance Program* – The program offered by the Authority intended to aide small and local businesses in obtaining first time bonding or increasing bonding capacity.
- (b) *Contracts* – Instrument used for the procurement of services and consulting agreements and the purchase of supplies, material, and equipment as outlined in Policy 5.01 and the procurement of contracts for Public Projects as outlined in Policy 5.02
- (c) *Contract Owner* – A department within the Authority having responsibility for oversight and management of the contract to which the bid or proposal solicitation applies.
- (d) *Disadvantaged Business Enterprise (DBE)* – A small business concern that has been certified by the California Unified Certification Program (UCP) in compliance with 49 CFR Parts 23 or 26.
- (e) *Good Faith Effort* - The demonstration of a sustained and deliberate effort by a contractor responding to a bid or proposal solicitation issued by the Authority for the purpose of achieving meaningful participation by small businesses, local businesses and/or service disabled veteran owned small businesses.
- (f) *Local Business* – A business as defined under Policy 5.13.
- (g) *Prime Contractor* – A party or entity with whom the Authority enters into a legally binding agreement.

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- (h) *Small Business* - A profit-making corporation, sole proprietorship, or partnership that (1) is enrolled in the Authority's Bonding and Contract Financing Assistance Program which requires verification by staff that the firm meets Small Business Administration (SBA) size standards, or (2) possesses any certification issued by a California public agency that use size criteria that fall within the SBA size standards; or (3) is an airport concessionaire that provides evidence that its business size is within standards established under 49 CFR Part 23, Section 23.33.
- (i) *Subcontractor* – A party or entity that enters into a legally binding agreement with a Prime Contractor.
- (j) *Service Disabled Veteran Owned Small Business (SDVOSB)* – A profit-making corporation, sole proprietorship, or partnership in which at least 51 percent of the shares or stock or other equitable securities are owned by one or more persons who are service-disabled veterans and included in the "VetBiz Registry" maintained by the United States Department of Veteran Administration (DVA) or any subsequent database preferred by the DVA.
- (k) *Small Business Development* – A department within the Authority, or any subsequent department identified by the President/CEO, that oversees and monitors compliance with this Policy 5.14.
- (l) *Trade Assessment* – An estimated breakdown of specific trades needed to complete a defined scope of work.
- (m) *Vendor Management System* – The registration system used by the Authority for business concerns to express interest in a particular trade and/or business opportunity.

(2) Application

This policy shall be applied to designated projects at the discretion of the Contract Owner, that will promote participation by small, local or SDVOSB business concerns.

When a small business goal is not established under this Policy, Policy 5.12 will apply.

(3) Methodology Used to Establish Small Business, Local Business, and/or Service Disabled Veteran Owned Small Business Goals

- (a) Small Business Goal - A small business goal shall be established by the following methodology:
 - i. The Trade Assessment categories needed to fulfill the scope of work will be developed based on the contract owner's estimate.
 - ii. A Trade Assessment Scope Percentage (Scope%) will be calculated by taking the estimated value of the scope to be performed in each specific Trade Assessment category divided by the total estimated value of the contract.
 - iii. A Trade Assessment Availability Percentage (Availability%) will be calculated by taking the total number of registered businesses within the Authority's vendor management system that (1) meet the Small Business criteria as defined by Policy

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5.14; and (2) are capable to perform the specific Trade Assessment category. This number is divided by the total number of businesses in the same specific Trade Assessment categories from the same source.

- iv. A weighted goal percentage is calculated by multiplying the Trade Assessment Scope% by the Trade Assessment Availability% for each applicable Trade Assessment category. Each trade assessment category is added up which will result in the applicable goal.
- v. The total small business goal cannot exceed fifty percent (50%) for each contract.
- vi. The Trade Assessment Availability% can be calculated in advance provided that the Trade Assessment Availability% used is not older than 24 months.

(b) Local Business Goal – A local business goal shall be established by the following methodology:

- i. Identify the Trade Assessment categories needed to fulfill the scope of work.
- ii. A Trade Assessment Scope Percentage (Scope%) will be calculated by taking the estimated value of the scope to be performed in each specific Trade Assessment category divided by the total estimated value of the contract.
- iii. A Trade Assessment Availability Percentage (Availability%) will be calculated by taking the total number of registered businesses within the Authority's vendor management system that (1) meet the Local Business criteria as defined by Policy 5.14; and (2) are capable to perform the specific Trade Assessment category. This number is divided by the total number of businesses in the same Trade Assessment categories from the Authority's vendor management system.
- iv. A weighted goal percentage is calculated by multiplying the Trade Assessment Scope% by the Trade Assessment Availability% for each applicable Trade Assessment category. Then each Trade Assessment category is added up which will result in the applicable goal.
- v. The total local business goal cannot exceed sixty percent (60%) for each contract.
- vi. The Trade Assessment Availability% can be calculated in advance provided that the Trade Assessment Availability% used is not older than 24 months.

(c) A Service Disabled Veteran Owned Small Business (SDVOSB) Goal – A SDVOSB goal shall be established at three percent (3%).

(4) Goal Application When Price is Primary Selection Criteria for public projects or purchase of supplies, materials or equipment.

- (a) A Small Business participation goal will be established for each identified project based on the methodology set forth in section (3) above. For those bids that meet or exceed the established goal, a price preference equal to three percent (3%) shall be

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awarded. For those businesses that have some participation, but do not meet the goal, a partial preference point will be provided for every full third of the goal achieved.

- (b) A Local Business participation goal will be established for each identified project based on the methodology set forth in Section (3) above. For those bids that meet or exceed the established goal, a price preference equal to two percent (2%) shall be awarded. For those businesses that have some participation, but do not meet the goal, a single preference point will be provided if bid exceeds one-half of the goal. However, there will be no preference points awarded if the Authority's overall Local Business participation is at a level above sixty percent (60%) of current contract participation excluding those contracts that utilize federal funds and The Green Build terminal expansion project. A Local Business participation goal shall only be applied to contracts in excess of twenty-five thousand dollars (\$25,000).
 - (c) A Service Disabled Veteran Owned Small Business (SDVOSB) participation goal of three percent (3%) shall be established for each identified project. For those bids that meet or exceed the 3% goal, a price preference equal to two percent (2%) shall be awarded. For those businesses that have at least 1% participation, but less than the 3% goal, a single preference point will be provided.
 - (d) Partial goal achievement will be determined by dividing the goal percentage by the available preference points. All goals shall be expressed in whole percentage numbers and rounding for partial goals shall always be up to the next whole percentage number. (EXAMPLE: Goal is 32% and there are three preference points available $31\% \div 3 = 10.33\%$ shall be rounded up to 11%)
 - (e) The maximum allowable combined participation preference shall not exceed seven percent (7%) or a combined price preference of \$100,000 on any single bid.
 - (f) The bid amount of the lowest responsive and responsible bidder (low bidder) shall be multiplied by the combined percentage points attributed to the eligible preferences identified in (4)(a), (4)(b), & (4)(c) above, for each responsive and responsible bidder (bidder). This will result in a unique bid adjustment amount specific to each bidder. (For example, a bidder that meets two of the three criteria for a combined preference of 5% will be awarded the contract if their bid price is within 5% or less of the lowest bid). The corresponding bid adjustment amount will be subtracted from each bidders' original bid price, including the low bidder, to create the adjusted bid price. The adjusted bid price is used in determining the award of contract.
 - (g) The final contract award shall be in the amount set forth in the original bid.
- (5) Goal Application for Qualification Based Selection Criteria
- (a) A Small Business participation goal will be established for each identified project based on the methodology set forth in section (3) above. For those submittals that meet or exceed the established goal, a scoring preference equal to three percent (3%)

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of the total available points shall be awarded as part of the overall scoring matrix used in determining selection. . For those submittals that have some participation, but do not meet the goal, a partial points can be awarded provided it is limited to one point for every full third of the goal achieved.

- (b) A Local Business participation goal will be established for each identified project based on the methodology set forth in section (3) above. For those submittals that meet or exceed the established goal, a scoring preference equal to two percent (2%) of the total available points shall be awarded as part of the overall scoring matrix used in determining selection. For those submittals that have some participation, but do not meet the goal, one (1) point will be awarded provided submittal achieves one-half of the goal. A local goal is not permitted in awarding airport concessions under Federal regulations as long as the airport is recipient of federal grant monies.
- (c) A SDVOSB participation goal of three percent (3%) will be established for each identified project. For those submittals that meet or exceed the established goal, a scoring preference equal to two percent (2%) of the total available points shall be awarded as part of the overall scoring matrix used in determining selection. For those businesses that have at least 1% participation, but less than the 3% goal, a single preference point will be provided.
- (d) Partial goal achievement will be determined by dividing the goal percentage by the available preference points. All goals shall be expressed in whole percentage numbers and rounding for partial goals shall always be up to the next whole percentage number. (EXAMPLE: Goal is 32% and there are three preference points available $31\% \div 3 = 10.33\%$ shall be rounded up to 11%)
- (e) The points awarded shall not exceed seven percent (7%) of the total allowable points used in the overall recommendation.
- (f) The Prime Contractor must provide a distinct and clearly defined portion of work for all subcontractors whose participation is submitted in response to the corresponding goal. Any substitution in performance of said work without the Authority's prior written consent may be grounds for contract termination, at which time the Authority may negotiate a new contract to the next highest ranked proposer without need to re-compete, provided there is no less than 50% of the contract term remaining.

(6) Exemptions

- (a) Federally funded projects require conformance with grant assurance requirements as established pursuant to 49 CFR Part 18.36.
- (b) Concession contracts pursuant to 49 CFR Part 23 prohibit the use of local participation in the award of contracts.
- (c) This Policy shall not apply if it conflicts with applicable federal, state or local laws of regulations.

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

POLICIES

ARTICLE 5 - CONTRACTING AND DEBARMENT

PART 5.1 - EQUAL OPPORTUNITY

**SECTION 5.10 - COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY AND
NONDISCRIMINATION POLICY**

PURPOSE: To establish a formal policy statement of the Board of Directors (the “**Board**”) of the San Diego County Regional Airport Authority (the “**Authority**”) to ensure that contractors and lessees adhere to: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the California Fair Employment and Housing Act; and any other applicable federal, state and local law or regulation relating to equal employment opportunity and nondiscrimination, including any such law, regulation and policy hereinafter enacted.

POLICY STATEMENT:

It is the policy of the Authority that all contractors and lessees interested in conducting business with the Authority shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, veteran status, medical condition, marital status, age (40 years and older), sexual orientation, pregnancy or other non-job related criteria and shall take action to assure applicants are employed and that employees are treated during employment, without regard to race, color, religion, sex, national origin, ancestry, physical or mental disability, veteran status, medical condition, marital status, age (40 years and older), sexual orientation, pregnancy or other non-job related criteria.

The Authority shall require all prospective contractors and lessees to complete and file with the Authority an Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance for the promotion of equal employment opportunities and nondiscrimination.

Further, the Authority believes that diversity in the workforce provides a variety of perspectives, promotes the exchange of ideas and provides an ability to respond to a diverse community. This statement is provided to reaffirm the Authority’s commitment to equal employment opportunity and nondiscrimination and to require its contractors and lessees to ensure that all employment actions shall be administered in a manner to further the principle of equal employment opportunity and nondiscrimination.

PROVISIONS:

(1) The Board hereby declares that from the effective date of this policy, there shall be included in contract and lease documents covering services or lands under the control of the Authority, a provision requiring the contractor or lessee to formulate and file with the Authority

an Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance for the promotion of equal employment opportunities and nondiscrimination. The contract or lease provision shall be included in all new, renewed and substantially amended contracts or leases. A sublessee who is the prime operator on leased premises shall be considered the lessee for the purposes and provisions of this policy.

(2) The contract or lease provision incorporating the Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance requirement shall provide that the Authority may, upon reasonable notice and at reasonable times, have access to employment records so that the effectiveness of the Equal Employment Opportunity and Nondiscrimination Program may be evaluated. Contractor or lessee shall further be required to file the Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance annually with the Authority for approval and make such progress reports as required by the Authority.

(3) Prior to final Board action on a new, renewed or a substantially amended contract or lease, contractor or lessee shall file with the ~~office of Equal Opportunity Management~~ Authority an Equal Employment Opportunity and Nondiscrimination Program and Statement of Compliance for review and approval.

(4) Currently exempt from the requirements of this policy are:

(a) Any lessee granted a lease for a term of five years or less;

(b) Any lessee with an average annual employment operating from the premises of 50 or less employees; provided, however, that said policy shall be applicable at any time said annual employment level exceeds 50 employees; and

(c) Any contractor or lessee who is subject to a federally mandated affirmative action program for employees, provided such contractor or lessee shall annually certify to the Authority that it is subject to such a program, and, upon request of the Authority, shall furnish evidence thereof.

(5) This policy shall be reviewed and updated annually and when required by law.

[Resolution No. 2002-02 dated September 20, 2002.]

[Superceded by Resolution No. _____ dated _____.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

POLICIES

ARTICLE 5 - CONTRACTING AND DEBARMENT

PART 5.1 - EQUAL OPPORTUNITY

SECTION 5.11 - EQUAL OPPORTUNITY CONTRACTING POLICY

PURPOSE: To promulgate a formal policy statement of the Board of Directors (the “**Board**”) of the San Diego County Regional Airport Authority (the “**Authority**”) to ensure that all businesses, including Disadvantaged Business Enterprises (“**DBEs**”), shall have the maximum opportunity to participate in the performance of all Authority and Department of Transportation (“**DOT**”) assisted contracts and leasing opportunities.

POLICY STATEMENT:

(1) Definitions: DBEs are for-profit, small business concerns that are at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Socially and economically disadvantaged individuals means any individual who is a citizen or lawfully admitted permanent resident of the United States and who is:

(a) Any individual found to be socially and economically disadvantaged on a case-by-case basis;

(b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) Black Americans;

(ii) Hispanic Americans;

(iii) Native Americans;

(iv) Asian-Pacific Americans;

(v) Subcontinent Asian Americans;

(vi) Women; and/or

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration.

(2) It is the policy of the Authority that all businesses, including those that meet the definition of socially and economically disadvantaged, as defined in 49 Code of Federal Regulations (“CFR”) Part 26, be provided equal access to participate in the performance of all Authority and in DOT-assisted contract and leasing opportunities.

(3) The Authority further has committed to take all necessary and reasonable steps to increase its utilization of DBEs to the extent feasible and legally permissible. It is also the Authority’s policy to prohibit discrimination against any person because of race, color, religion, sex, national origin, ancestry, physical or mental disability, veteran status, medical condition, marital status, age (40 years and older), sexual orientation, pregnancy or other non-job related criteria, in the award or performance of Authority and DOT-assisted contracts or leases.

(4) The Authority will create a level playing field on which DBEs can compete fairly for Authority and DOT-assisted contracts and ensure that the DBE program is narrowly tailored in accordance with applicable law. The Authority will strive to ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs. This policy will help remove barriers to the participation of DBEs in Authority and DOT-assisted contracts and assist in the development of firms to compete successfully in the marketplace outside the DBE program.

(5) The Authority will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10% of all businesses at the airport(s) under the Authority’s control that sell food, beverages, printed materials or other consumer products to the public, are small business concerns (as defined by the U.S. Secretary of Transportation by regulation), owned and controlled by socially and economically disadvantaged individuals.

(6) The Director of ~~Equal Opportunity Management~~ Small Business Development shall be designated as the DBE Liaison Officer (DBELO) and shall have unimpeded access to the President CEO of the Authority regarding DBE matters. The DBELO shall be responsible for implementation of the Authority’s DBE program and ensuring that the Authority’s employees, agents, lessees and contractors adhere to the provisions of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Authority.

(7) This policy shall be reviewed and updated annually and when required by law.

[Resolution No. 2002-02 dated September 20, 2002.]

[Superceded by Resolution No. _____ dated _____.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
POLICIES

- ARTICLE 5 - CONTRACTING AND DEBARMENT**
PART 5.1 - EQUAL OPPORTUNITY
SECTION 5.12 - PREFERENCE TO SMALL BUSINESSES
-

PURPOSE: To establish a policy allowing a preference to small businesses in the award of construction and non-construction contracts for the San Diego County Regional Airport Authority (the “Authority”).

POLICY STATEMENT:

In the procurement of contracts, the Authority’s Executive Director or his or her designee (the “**Executive Director**”) shall be responsible for following all procedures required by (1) the Authority, (2) the San Diego County Regional Airport Authority Act, as amended from time to time, and (3) other applicable federal, state, and local laws.

(1) Applications and Definitions.

(a) This policy relates to the Authority’s procurement of service and consulting agreements and the purchase of supplies, materials and equipment as defined in Article 5, Part 5.0, Section 5.01, and procurement of contracts for public projects as defined in Article 5, Part 5.0, Section 5.02 on a selected basis.

(b) In the event policy 5.14 is implemented in the procurement of service and consulting agreements and the purchase of supplies, materials and equipment, sections (2), (3), (4) and (6) of this policy will not apply

(bc) For the purpose of this policy, a small business shall be a firm that (1) is enrolled in the Authority’s Bonding and Contract Financing Assistance Program which requires verification by staff that the firm meets Small Business Administration (SBA) size standards, or (2) possesses any certification issued by a California public agency that verifies the firm is within the SBA size standards or (3) is an airport concessionaire that provides evidence that its business size is within standards established under 49 CFR Part 23, Section 23.33..

(2) Objectives. The objectives of this policy are to:

(a) Establish principles and practices to facilitate a small business preference program that will provide full disclosure and transparency of the Authority’s commitment, and

(b) Provide a preference of up to five percent (5%) to small businesses in the award of selected Authority contracts.

POLICY SECTION NO. 5.12

(3) Preference for Procurement When Bid Price is Primary Selection Criteria. As provided under Policy Section 5.01 and Policy Section 5.02; the contractor is selected based on being the lowest responsive and responsible bidder. In the event of a contract award where the pricing is primary selection criteria, the following shall apply;

(a) The bid amount of the lowest responsive and responsible bidder that is not a small business shall be multiplied by five percent (5%). The resulting five percent (5%) amount shall be considered as the small business preference.

(b) The lowest responsive and responsible bidder that is a small business shall have their bid adjusted by subtracting the amount of the small business preference from the small business's original bid. The adjusted bid is used in determining the award of contract. If the small business's adjusted bid is lower than the lowest non-small business bid amount, the contract shall be awarded to the small business.

(c) The maximum amount of the adjustment cannot exceed \$100,000.

(d) The final contract award should be in the amount of the original bid.

(4) Preference for Procurement on Qualification Based Selection Criteria. When a contractor is selected based on a scoring matrix that includes multiple criteria, points can be included for being a small business provided that the maximum points allowed for being a small business do not exceed five percent (5%) of the total allowable points used in the recommendation.

(5) Preference for Bonding and Contract Financing Program ("**Program**"). The Authority may allow an additional preference in a bid under this policy for a Public Project only when all of the following are present:

(a) The bidder is a participating small business contractor formally enrolled in the Authority's Program, and

(b) The bidder is the apparent low bidder for the Public Project contract, or the bidder will be the successful bidder under one of the scenarios listed above, and

(c) The amount of the additional preference does not exceed five percent (5%) of the contract price; and

(d) The total amount of the additional preference allowed bidder is only administrative costs incurred or to be incurred under the Program and are solely related to the specific bid under consideration by the Authority; and

(e) As a result of the additional preference extended under this policy, the bidder's contract bid amount is not altered or increased.

(6) When applicable, the combined preference for sections (3) and (5) above shall not exceed 5% or \$100,000, whichever is less.

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[Amended by Resolution No. 2009-0141 R dated November 5, 2009.]
[Adopted by Resolution No. 2009-0057 dated April 2, 2009.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

POLICIES

- ARTICLE 5 - CONTRACTING AND DEPARTMENT**
PART 5.1 - EQUAL OPPORTUNITY
SECTION 5.13 - LOCAL BUSINESS OPPORTUNITIES
-

PURPOSE: To promulgate a formal policy statement of the San Diego County Regional Airport Authority (the "Authority") aimed at maximizing opportunities for local businesses to participate in the performance of all Authority contracts.

POLICY STATEMENT:

- (1) It is the policy of the Authority to encourage the purchase of products, services and equipment from businesses located within the boundaries of San Diego County. The Authority is committed to maximizing opportunities for local businesses to the highest extent possible, while complying with applicable codes, statutes, regulations, laws and prudent purchasing practices.
- (2) Definition: A "Local Business" must meet all of the following criteria:
 - (a) Have a valid business certificate issued by San Diego County, or a valid business license issued by a city within San Diego County, and
 - (b) ~~Employ at least one full-time San Diego County Resident or qualify as a sole proprietor~~ Twenty-five percent (25%) of the workforce based in the local office must reside in San Diego County; and
 - (c) Be headquartered or have a physical commercial address located within the limits of San Diego County for a minimum of 6 months prior to the release of a solicitation for which a business responds as a local business participant. (U.S. Post Office boxes are not verifiable and shall not be considered for the purpose of this definition).
- (3) The Authority commits to take reasonable steps to increase its utilization of local businesses to the extent feasible and legally permissible through the following:
 - (a) Adhering to an ethical and transparent procurement process;
 - (b) Promoting upcoming opportunities to local businesses;
 - (c) Providing local businesses with resources and education.
- (4) This policy shall be periodically reviewed for consistency with the Authority's operations and applicable federal, state and local laws. In the event of any inconsistency between this policy and applicable federal, state and local laws, such laws shall govern.

[Adopted by Resolution No. 2009-0126 dated October 1, 2009.]