

# Metro Board Approved Policy

## Small Business Technical Participation

*Adopted: January 22, 2004*

### Historical Perspective

Prior to the adoption of this policy, proposers can meet a contract goal by utilizing DBE or SBE firms in subcontract areas that are not part of the technical component. Where applicable, DEOD establishes contract goals for DBE or SBE participation. The contract goal is the percentage of the proposed amount that must be satisfied by DBE or SBE prime or subcontract participation. For example, when a goal is established that may include design scope, proposers can meet the goal by utilizing small businesses in administrative tasks such as report writing or delivery services, rather than civil engineering, landscape architecture, or surveying. Once a contract goal has been established, proposers are required to meet the contract goal, or document that Good Faith Efforts (GFE) were made to meet the goal to be responsive. If the proposers do not meet the goal, they must document adequate GFE such as advertisement of subcontract opportunities, outreach and technical assistance they employed to achieve the goal.

The recommended SBTP policy changes the existing DBE/SBE process in which goals are established to ensure small business participation within any areas of work. This will increase the probability that proposers interested in doing business with us will include small businesses to perform core technical work. However, it may also increase the number of GFE determinations that must be made, therefore increasing the overall Procurement cycle time. Although this change will increase the procurement process cycle time, the policy will work towards removing barriers impacting small businesses' ability to grow and develop in technical areas of work on our contracts. It will also strengthen existing DBE and SBE programs to effectively promote greater opportunities for small businesses to demonstrate their technical capability.

In July 2003, the Board, as part of its discussions to adopt the annual DBE goal, directed staff to examine the procurement process and develop

recommendations and written procedures on how to implement a Small Business Technical Participation Initiative in an effort to ensure that small businesses are included in a wide variety of technical work. Staff was directed to report back in January 2004 with recommendations and an implementation plan.



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## Small Business Technical Participation Policy

### Purpose

The purpose of the recommended Small Business Technical Participation (SBTP) policy is to provide greater opportunity for small businesses to compete for and obtain meaningful participation in core work on MTA contracts. The policy will require a technical and non-technical component to Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) contract goals. The two goal components will be established when technical work is identified on competitively negotiated procurements requiring Board approval.

The SBTP policy changes the existing process in which goals are established to ensure small business participation within any areas of work. The policy will work towards removing barriers impacting small businesses to grow and develop in core areas of work on MTA contracts. It will also strengthen existing DBE and SBE programs to effectively promote greater opportunities for small businesses to demonstrate their technical capacity.

As part of the planning process for all competitively negotiated procurements, the Project Manager will need to define core technical work that is available for subcontracting opportunities. Diversity and Economic Opportunities Department (DEOD) in conjunction with the Project Manager will review the technical opportunities in relation to small business capability and recommend technical and non-technical participation goals. Procurement will include the recommended goal(s) in the solicitation package.

The MTA Board of Directors is responsible for adopting an agency-wide Small Business Technical Participation Policy. The Chief Executive Officer is responsible for ensuring that the policy is converted into an action plan and budget and implemented by staff.

### Policy:

1. The SBTP shall apply to all competitively negotiated procurements requiring Board approval that have a DBE or SBE goal recommended.
2. If the solicitation has a technical and non-technical goal established, the proposers shall propose a team with DBE or SBE firms in the core work to meet the technical portion of the goal.
3. The SBTP will not apply under the following conditions:
  - When the core work to be performed is proprietary to the prime contractor.
  - Proprietary work is normally not subcontracted by the prime contractor.
  - To sealed bid procurements. The sealed bid procurement process is not conducive to this policy because of the inflexibility of the selection process required by law.

- When a technical goal is not applicable or feasible based on the statement of work requirements.
4. MTA' s DEOD is responsible for, but not limited to, the following:
- Educating the MTA' s project managers on their roles and responsibilities for this policy
  - Adopting SBTP procedures including the definition of core work and any other definitions required to adopt this policy
  - Revising DEOD certification forms necessary for proposers to complete to determine responsiveness to the SBTP
  - Distributing the program to the business community
  - Setting both technical and non-technical goals for each applicable solicitation in conjunction with the Project Manager
  - Identifying in the solicitation a listing of subcontracting opportunities for both technical work and non-technical work
  - Reviewing proposer' s initial ability to meet the goal for each applicable solicitation
  - Reviewing Good Faith Efforts of proposers that do not initially meet the goal
  - Coordinating with Procurement during discussions with proposers regarding the technical and non-technical goals
  - Ensuring compliance to the SBTP policy and all applicable laws, rules and regulations
5. MTA' s project managers are responsible for, but not limited to, the following:
- Identifying subcontracting opportunities, which include identifying the technical and non-technical components of the work.