

**HENRY COUNTY WATER AUTHORITY
RESOLUTION NO 2021-10**

RESOLUTION AUTHORIZING THE HENRY COUNTY WATER AUTHORITY (AUTHORITY) TO ESTABLISH A LOCAL SHELTERED MARKET PROGRAM (LSMP) TO RESERVE CERTAIN CONTRACTS FOR GOODS AND SERVICES FOR BIDDING BY LOCAL SMALL BUSINESSES WITHIN THE HENRY COUNTY AND LOCAL GEOGRAPHICAL AREA

WHEREAS, The Henry County Water Authority (the "Authority") desires to promote opportunities for local small businesses to participate in the Authority's supply chain and procurement process; and

WHEREAS, qualified local small businesses are able to provide commercially useful goods and services, and

WHEREAS, the Henry County community will benefit from the Authority's dollars being spent with businesses in Henry County and its statistical geographical area; and

WHEREAS, the Authority is committed to the principles of fair and equitable opportunities for all prospective suppliers in its procurement process;

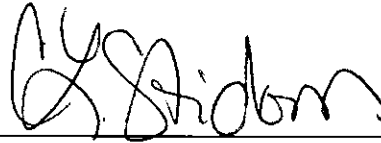
WHEREAS, to ensure that small-market suppliers have the same opportunities as that of large-market suppliers, the Authority wishes to establish the Local Sheltered Market Program ("LSMP").

NOW THEREFORE BE IT RESOLVED:

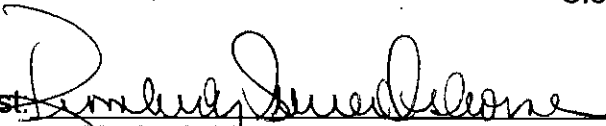
1. The Authority hereby directs the General Manager to establish a Local Sheltered Market Program (LSMP) and develop policies and procedures to implement and administer the LSMP consistent with this Resolution.
2. The LSMP should be a procurement process wherein certain contracts for goods or services are reserved for bidding by businesses certified to participate in the program. Certified participants are those small or veteran-owned businesses geographically based in Henry County or within the local geographical area. The LSMP should identify supply and service contract opportunities, with an estimated annual value less than one hundred thousand dollars (\$100,000.00) and reserve these opportunities for certified participants.
3. That the General Manager, or designee, shall provide the Board with periodic reports regarding the LSMP.

4. This Resolution shall become effective immediately upon its adoption.

APPROVED and ADOPTED this 10th day of June, 2021.



Cletonya Stidom, Chair

Attest: 
Kimberly Turner-Osborne, Clerk

(SEAL)



Henry County Water Authority

Henry County Water Authority Local Sheltered Market Program

I. PURPOSE & DESCRIPTION

The Henry County Water Authority (the "Authority") is committed to the principles of fair and equitable opportunities for all prospective suppliers in its procurement process. To ensure that small-market suppliers have the same opportunities as that of large-market suppliers, the Authority establishes the Local Sheltered Market Program ("LSMP"). The LSMP is a procurement process wherein certain contracts for goods or services are reserved for bidding by businesses certified to participate in the program. Certified participants are those small or veteran-owned businesses geographically based in Henry County or within the local geographical area. The LSMP identifies supply and service contract opportunities, with an estimated annual value less than one hundred thousand dollars (\$100,000.00) and reserve these opportunities for certified participants. The Authority hereby directs and authorizes the General Manager to create, implement, administer, and amend the Authority's Local Sheltered Market Program.

II. LOCAL SHELTERED MARKET PROGRAM

Under the LSMP, the Authority will not award contracts subject to the LSMP unless it receives bids from at least three (3) different certified participants. Any solicitation where the Authority does not receive at least two (2) bids from certified participants, the Authority may solicit bids from other businesses.

III. CERTIFIED PARTICIPANT VERIFICATION PROCESS

- A. **Application Required.** Interested businesses shall apply and submit proof of eligibility, expertise and licensure. To avoid the verification of a business which serves merely as a front for an entity which would not otherwise meet the certification standards under the LSMP, all subcontractors or affiliated entities with a business seeking certification under the LSMP shall make application and comply with the verification process.
- B. **Verification Required.** Verification is a prerequisite to become a certified participant. Only certified participants may participate in the LSMP program. Determination of certified participant is made by the Procurement Officer, or General Manager on appeal, at his or her discretion but based on the eligibility criteria of the LSMP. A failure to complete, attempts to evade, or any misrepresentations, falsification or omissions of information required by the LSMP or requested by the Procurement

Officer, or General Manager on appeal, shall result in immediate disqualification for or removal from the LSMP. Once disqualified or removed, no application to become a certified participant under the LSMP shall be accepted, reviewed or verified by the Procurement Officer or the Authority for a period of two (2) years from issuance of written notice of disqualification or removal.

C. Eligibility Criteria. To be eligible for the LSMP, the applying business must satisfy all of the following criteria.

1. Meet the definition of business under the LSMP.
2. Must have been licensed and in business for at least two (2) years in the State of Georgia.
3. Verifiable experience performing in the applicant's specific commodity codes, services or selling of its specific supplies.
4. Ability to perform a commercially useful function – which includes, but not limited to, performing at a least sixty (60%) percent of the contracted work.
5. Must not broker nor utilize pass-through contracting or associations to qualify for LSMP.
6. Comply with all state and local procurement and contracting statutes, laws, rules, and regulations.
7. Satisfy the full terms of the Authority's bid requirements, documents, contracts including, but not limited to, insurance and bonding.
8. Meet the definition of a Small Business Enterprise (SBE) or a Veteran-Owned Business (VBE).
9. Provide any additional information requested by the Procurement Officer.

D. Appeals of a Decision by the Procurement Officer. An applicant may appeal any written decision of the Procurement Officer to the General Manager. Furthermore, as an administrative remedy, any challenge whatsoever to the LSMP must be first presented in writing to the Procurement Office and, if necessary, appealed to the General Manager in accordance with this paragraph. Any such appeal must be made in writing and filed with the General Manager within ten (10) days of the date of delivery the written decision made by the Procurement Officer. The scope of the appeal will be limited to the grounds stated in the written appeal and will not be expanded. Ambiguous or vague appeals are disfavored and presumptively unfounded. The General Manager must provide notice of and hold a hearing on the appeal within twenty (20) days of receiving the appeal. The burden of proof is on the appealing party. Within ten (10) days, the General Manager must issue a final written decision affirming, reversing or modifying the decision of the Procurement Officer or take such other action as the General Manager is authorized by the LSMP. If an appeal is filed, the duration of a time-based penalty imposed by the Procurement Officer must be tolled until the issuance of written decision by the General Manager after the appeal and will not otherwise be tolled.

IV. CONTRACTS EXEMPT FROM THE LSMP

The following contracts or services are exempt from the Local Sheltered Market Program.

- A. Public Works Construction contracts greater than \$100,000.00 as defined by O.C.G.A. § 36-91.

- B. Professional Services of a highly specialized, complex or technical manner, including but not limited to professional engineering services, architectural services, legal services, accounting/auditing services, bond placement/underwriting services, insurance brokerage services, administration of employee benefit plans, banking services, project management services, construction administration services, informational technology ("IT") systems administrator services, IT data-base administrator services, IT business analyst services, IT programmer services, and IT network administrator services.
- C. Emergency purchases and providers of goods or services which can legally or practically only be provided by a sole source (i.e., a "sole source provider").
- D. Maintenance, supply, support, repair, extended warranties, and licenses provided by the original equipment manufacturer (OEM) or one the OEM's distributors, value added resellers or authorized service providers.

V. REMOVAL OR SUSPENSION

A certified participant may be removed or suspended from the program for violating a federal, state or local statute, laws, rules, regulations material to the contract with the Authority, or breaching the terms of the contract with the Authority or providing deficient goods and services and a failure to timely cure the breach or deficiencies of the goods or services as specified by the contract or the Procurement Officer in writing to the certified participant. Removal shall preclude application, review or verification for certified participant status for a period of two years after written notice from the Procurement Officer of removal. The Procurement Officer may suspend a certified participant from participating in the LSMP for a period of not less than three (3) months and not longer than six (6) months from the date of issuing written notice of suspension. Appeal of a decision to remove or suspend a certified participant shall follow the procedures set forth for appeals of a decision by the Procurement Officer.

VI. DEFINITIONS

The following definitions apply to the LSMP.

- A. "Authority" means the Henry County Water Authority.
- B. "Bid" means a written offer to provide goods or services to the Authority submitted in response to competitive bidding solicitation by the Authority.
- C. "Business" means (a) a legal entity existing for the purpose of engaging in business for profit, including but not limited to a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private, legally recognized entity; (b) which is authorized to provide goods or services to the Authority; and (c) which maintains a current business tax certificate within the geographical statistical area.
- D. "Certified Participant" means a business that has completed the verification process by the Authority and is therefore certified to participate in the LSMP.
- E. "Commercially useful function" means an essential, value element, as determined by the Authority's specifications, of the goods or services required by the solicitation.

- F. "Compliance" means the condition of a contractor or subcontractor whose bid demonstrates that it meets the standard of the LSMP contracting goals.
- G. "Contract" means any agreement, regardless of how titled, for the procurement of goods, labor, materials, services, or supplies or for construction with the Authority.
- H. "General Manager" means the General Manager of the Authority.
- I. "Local geographical area" means the geographical boundaries of the following counties: Henry, Butts, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Newton, Rockdale, and Spalding Counties. The General Manager has the discretion to add or delete other Counties that do not have a geographic boarder with Henry County.
- J. "Goods or services" means goods, labor, materials, supplies or services to be provided to the Authority in response to competitive bidding solicitation by the Authority under the LSMP.
- K. "Gross receipts" means the total income or, in the case of sole proprietorship, gross income plus "cost of goods sold" as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms; Form 1120f corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for sole proprietorships.
- L. "Procurement Officer" means the person designated by the General Manager to administer the LSMP.
- M. "Small business enterprise" or "SBE" means a legal entity existing for the purpose of engaging in business for profit, including but not limited to a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture(s), or any other private, legally recognized entity. The small business enterprise must be certified as such based upon size standards promulgated by the U.S. Small Business Administration and show that over the three (3) years immediately preceding the application for certification, the annual mean of gross receipts must not exceed ten million dollars (\$10,000,000.00) and must have less than one hundred (100) full-time employees. For the LSMP, the Authority will accept and recognize a certification or designation meeting this SBE definition issued by an appropriate federal or state agency or a water authority, board of commissioners or city council located within the local geographical area.
- N. "Verification" means the process by which the Procurement Officer determines that the business seeking certified business status under the LSMP meets the eligibility requirements of the LSMP and meets the definitions of business under the LSMP and Small Business Enterprises (SBE) or Veteran Owned Business Enterprise (VBE) under the LSMP. Verification is a prerequisite for participation in the LSMP program and is determined at the discretion of the Procurement Officer.
- O. "Veteran-Owned Business" or "VBE" means a business enterprise verified as at least 51% owned and controlled by one or more retired member(s) honorably or generally discharged of the U.S. Armed Forces including the Air Force, Army, Coast Guard, Marine Corp., and Navy. In the case of a publicly owned business enterprise, at least 51% of the stock is owned by one or more or retired member(s). The ownership interest must be real, and continuous, and not created solely to meet the veteran-owned business or contractor provisions of the LSMP program.

VII. PERIODIC REPORTING

The General Manager shall report the results of the program to the Board on a bi-annual basis.