

## MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION

When procuring property or services to be paid for in whole or in part with community Development Block Grant funds, all grant recipients must follow procurement policies and procedures that meet federal standards.

Procurement methods are based on full and open competition, with very limited exceptions.

It is the public policy of the City of Allentown to promote the opportunity for full participation by minority and women's business enterprises ("MBE's" and WBE's) in all housing and community development programs receiving funds from the City of Allentown Department of Community and Economic Development.

It is the responsibility of the contractor to complete and report all HUD compliance forms to the City.

To see all guidance on MBE/WBE outreach please see the City's website at <https://www.allentownpa.gov/Portals/0/files/CommunityDevelopment/MinorityAndWomenEnterprisePlan.pdf?ver=2020-06-18-110058-897>

The City of Allentown wants to increase the participation of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in its purchasing activities. This is not a set aside program. Please indicate your MBE/WBE participation in the space provided on page M1 of the Bid Response Form.

Minority Business Enterprise/Women Business Enterprise (MBE/WBE) is defined as follows:

Companies certified as a minority or women owned business by the State of Pennsylvania, member of a **STATE** accredited minority business council, member of a **STATE** accredited women business council and/or member of a **STATE accredited** local regulatory agency or business chamber certification as a minority or women enterprise.

### Additional Requirements:

- a Corporation or other business entity, including but not limited to Sole Proprietorship or a Partnership/joint venture, controlled by minorities or women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities or women.
- Owned by United States citizen or citizens.
- Business must be independent of any other business entity or entities, no franchise location.
- Minority or women owner or owners must hold the highest office in the business (President, CEO, etc.).
- A minority and women business enterprise combined is termed a minority woman business enterprise (MWBE).

- MBE/WBE subcontractors must perform more than 75% of the cost of the subcontract, not including cost of materials, with its own employees.

#### Participation Levels:

- The City of Allentown Department of Finance has established Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) minimum participation levels (MPLs).
- A firm which is both an MBE and a WBE will only receive credit toward MPLs as either an MBE or WBE, but not both. Bidders must indicate on Form DCED-CCD-286, MBE/WBE Contact/Solicitation and Commitment Statement whether the firm is being listed as either an MBE or a WBE.
- MBE/WBE prime contractors are not required to submit MPLs.
- MPLs serve exclusively as a threshold in determining bidder responsiveness. A bidder will not be rejected as not responsive solely because it fails to reach the MPLs.

#### Responsiveness:

- MPLs must be complete and understandable listing whether the subcontracted firm is a MBE, WBE or MWBE.
- Bidder must submit a MBE/WBE Subcontractor and Supplier Solicitation and Commitment Form (Page M1) with the bid. **Failure to submit with Form with the bid will result in the bid being rejected as non-responsive.**
- A bidder should only solicit MBE/WBE subcontractors, vendors, manufacturers, or suppliers whose services, material, or supplies are within the scope of work and which the bidder reasonably believes it will choose to subcontract or purchase.
- Bidders failing to meet the minimum levels of participation must submit concurrently with the bid, an explanation of why the MPLs have not been met. This explanation must demonstrate that the bidder has not engaged in discriminatory practices in solicitation and utilization of qualified **MBE/WBE** to perform as subcontractors or suppliers of goods and services related to the performance of this contract. The evidence submitted by the bidder must demonstrate the following:
  - Indicated whether MBE/WBEs were solicited for each type of work the bidder expects to subcontract for and for all materials which the bidder expects to procure and, if not, the reason(s) why no solicitation was made;
  - Indicate the reason why an MBE/WBE has not been committed to for a type of subcontract work or materials in any area where a quotation was received from a MBE/WBE; and
  - In any case where no quotations were received nor commitments made to MBE or WBE firms, indicate on MBE/WBE Subcontractor and Supplier Solicitation and Commitment Form that no quotations were received.

- **If the bidder fails to submit such evidence, the bid submission shall be considered non-responsive and the bid will be rejected.**
- Information related to the above may be submitted on bidder form or additional paper.

Responsibility:

- The submittals of each bidder are subject to review to determine whether the bidder has discriminated in the selection of manufacturers, subcontractors and suppliers. If a bidder has met the MPLs for MBE/WBE participation, the bidder will be presumed not to have discriminated in their selections. Where the MPLs are not met, the City will determine whether discrimination has occurred. If, after investigation including a review of Form DCED-CCD-286, it is found that discrimination has occurred, the reviewed bidder shall thereby be deemed to be not responsible and the bid will be rejected.
- Documentation submitted by the bidder should meet the following standards for review:
  - The bidder whose actions resulted in a limited or no commitment to MBEs/WBEs was not motivated by consideration of race or gender.
  - MBEs/WBEs were not treated less favorably than other businesses in the contract solicitation and commitment process.
- Solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.
- Commitments to MBE and WBE firms made at the time of bidding must be maintained throughout the term of the contract, unless a change in commitment to these firms is preapproved by the administering agency performing the evaluation of the invitation for bid submitted by the bidder should meet the following standards for review:

The City may obtain documents and information from any bidder, contractor, subcontractor, supplier, or manufacturer that may be required in order to ascertain bidder or contractor responsibility. Failure to provide requested information may result in the contractor being declared not responsible.

If sub-contractors will not be used or the prime contractor is a WBE or MBE check Form M1 in the upper right corner and return with Bid Proposal. If subcontractors are to be used Form 1 must be completed and submitted with the RFP. Non submission of Form M1 may be sufficient cause for rejection of the RFP as not responsive. For a directory of MBE/WBE businesses in Pennsylvania visit:  
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx>.

### Contract Provisions

The following provisions will be included in construction contracts and/or in professional service contracts:

- Construction Contracts
  - The prime contractor must provide the City with a report of MBE/WBE subcontracting activity on a quarterly or per project basis, whichever is sooner. The report shall reflect the names of, and the total dollar amount paid to all MBE/WBE subcontractors (including suppliers) utilized under this contract.
  - MBE/WBE Subcontractors must provide the City with a report reflecting the prime contractors who have purchased their services and/or supplies on a quarterly basis. The report shall reflect the name of the prime contractor and the total dollar amount invoiced and total dollar amount received for payment.
- City Compliance Procedures
  - A letter will be forwarded to the prime contractor by the City informing them of their quarterly or per project reporting requirements. In addition, a letter will be forwarded to all MBE/WBE subcontractors (copy to the prime contractor) informing them of their reporting requirements.
  - The City will review all reports received from the prime contractor and all subcontractors to determine if the commitments made by the prime contractor in his/her bid are being met. If reports are submitted on a per project basis, this review is to be done prior to final payment being made to the contractor and/or subcontractor.

### Records and Reports

- The Contractor will keep such records as are necessary to determine compliance with its minority and women business enterprise commitments. These records must be in sufficient detail to indicate the number of minority and women businesses, the contract work performed, and the percentage of minority and women businesses performing work. Additionally, the contractor is required to maintain an open file for a specified period, during which time the contract compliance person may make periodic reviews of records pertaining to relevant contracts.