

## EXECUTIVE ORDER NO. 1-03

### BACKGROUND

WHEREAS, it is the policy of the City of Philadelphia to provide equal opportunity for all businesses to participate in all City contracts and to assure that public funds, sourced, administered or authorized by the City, including contracts requiring City Council approval, are not used to promote, reinforce or perpetuate discriminatory practices; and

WHEREAS, there are at present more than 1100 qualified socially and economically disadvantaged minority-owned, female-owned and disabled-owned business enterprises, certified by the City's Minority Business Enterprise Council that are ready, willing and able to participate in all types of City contracts on an equitable basis with other businesses; and

WHEREAS, Article I of the Pennsylvania Constitution, Sections 26 and 28, prohibits the denial or abridgement of any person's enjoyment or exercise of any civil rights; and

WHEREAS, the Pennsylvania General Assembly has expressed its commitment to preventing discrimination by enacting the Pennsylvania Human Relations Act, 43 P.S. § 951 et seq.; and

WHEREAS, the Preamble to The Philadelphia Home Rule Charter provides that the Charter was adopted to establish a form of improved municipal self-government in which all qualified citizens may participate equally without any distinction based on race, color, religion or national origin; and

WHEREAS, Section 10-111(2) of The Philadelphia Home Rule Charter prohibits officers, employees and agencies of the City from using their powers or performing their duties in such a manner that will discriminate against any person because of race, color, religion or national origin; and

WHEREAS, Section 8-200(2)(d) of The Philadelphia Home Rule Charter requires that City contracts contain provisions prohibiting the contractor from discriminating or permitting discrimination against any person because of race, color, religion or national origin; and

WHEREAS, in 1996, the City contracted with D J Miller & Associates, Inc. to conduct a business utilization study ("DJMA Study") for the purpose of investigating the existence of discrimination against minority and women owned businesses in the Philadelphia marketplace and evaluating the need for remedial action; and

WHEREAS, the DJMA Study, which examined City contracting and census data and employed various statistical models, found significant statistical disparities in the utilization of both minority and women owned businesses in City contracts due to past and present day discrimination in both the public and private contracting sectors; and

WHEREAS, in 1993, Mayoral Executive Order 1-93 was enacted as a race neutral program designed to impede present-day discrimination against minority, women and disabled owned businesses by establishing tools and methodologies for evaluating bids and proposals; and

WHEREAS, beginning in 1989 and continuing since the inception of Mayoral Executive Order 1-93, there has been a significant decline in the overall participation of minority and woman owned businesses in City contracts; and

WHEREAS, today less than 10% of all City contract dollars across all categories of City contracts are spent with businesses owned by minorities and women; and

WHEREAS, in response to this steady decline in disadvantaged business participation, the City must take immediate measures to ensure that all businesses are free to participate in City contracts without the impediments of discrimination; and

WHEREAS, the establishment of a revised system for reviewing the contracting activities of contractors who do business with the City will assist in the identification of contractors who discriminate in contravention of State and local non-discrimination mandates and in awarding contracts to contractors that do not so discriminate;

WHEREAS, the establishment of a system for monitoring labor union employee composition and reporting of same to the Administration and City Council will further increase minority and female participation in skilled and semi-skilled trades in City contracts, which increased participation has been hindered by discrimination; and

WHEREAS, the development of a mechanism for monitoring the contracting activities of quasi-public agencies and reporting of same to the Administration and City Council on a semi-annual basis, will further increase minority and female participation in quasi-public development projects; and

WHEREAS, the continued implementation of race neutral measures such as the small business bonding program and the Procurement Department's small order purchase program will enhance the stated objectives of assisting minority, women and disabled owned businesses.

NOW, THEREFORE, I, John F. Street, by the powers vested in me in accordance with Sections 1-102 and 4-100 of The Philadelphia Home Rule Charter, do hereby ORDER that:

#### **SECTION 1. Purpose**

The Background is hereby incorporated by reference herein. The City of Philadelphia is committed to the policy of fostering an environment of inclusion in which all businesses are free to participate in business opportunities and to flourish without the impediments of discrimination. Bidders participating in City contracts shall do so on a fair and equitable basis and shall not discriminate against any business because of race, color, religion, national origin, sex or disability or employ business practices which exclude minority, women and disabled owned businesses. Bidders shall not be deemed responsive and responsible bidders unless they give adequate assurances that they do not and will not discriminate. The City Solicitor shall require adequate such assurances in all City contracts. In furtherance of this ORDER, the Minority Business Enterprise Council ("MBEC") is hereby created to implement, monitor and enforce this ORDER, by reviewing procurements to ascertain whether discrimination or exclusion has occurred in the solicitation or selection of contract participants.

#### **SECTION 2. Definitions**

- A. **Bid.** A quotation, solicitation, proposal or offer by a bidder to perform or provide labor, materials, equipment, supplies or services to the City for a price.
- B. **Bidder.** Any business that submits a quotation, bid, or proposal to provide labor, materials, equipment, supplies, or services to the City.
- C. **Certification.** The process by which the MBEC evaluates the eligibility of socially and economically disadvantaged minority, women, and disabled owned small businesses ("DBEs") to participate in the City's contracting program. The certification procedure should assure that businesses participating under this Executive Order are bona fide DBEs and the MBEC shall be guided by Federal Regulation, 49 CFR Part 26, in evaluating eligibility for certification.

D. **City Contract.** All City demolition contracts and all other City contracts estimated at \$100,000 or more and funded in whole or in part by the City or administered by the City, whether competitively bid or negotiated, within the following categories:

1. Vending to include materials, equipment, services and supplies;
2. Construction;
3. Personal and professional services; and
4. Concessions

E. **City Related Special Projects.** Contracts, including those of quasi-public agencies, that require the approval, personnel, financial assistance and services from the City and/or City Council.

F. **Commercially Acceptable Function (“CAF”).** A minority, woman, or disabled owned business is considered to perform a commercially acceptable function when it (1) engages in meaningful work that provides for performance of a distinct element of the contract (as required by the work to be performed in accordance with the bid specifications) where the distinct element is worthy of the dollar amount of the subcontract; and (2) carries out its responsibilities by actually performing, managing, and supervising the work involved. The MBEC may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the minority, woman or disabled owned business is performing a commercially acceptable function. In an effort to increase competitive subcontracting opportunities under this Executive Order, the MBEC shall invoke the “60 percent Material & Supply” rule: The total dollar value of materials and supplies required for a distinct element of the contract that are purchased by a prime contractor from a minority or female “manufacturer” or “regular dealer”, will be counted 60% toward the range for participation.

D. **Compliance Plans.** On or before December 1<sup>st</sup> of each year, or at some other time which the MBEC shall devise, the MBEC shall work with each Department to develop a compliance plan that details how each Department shall meet the DBE program requirements on the eligible aggregate amount of all of its contracts to be awarded in the ensuing fiscal year.

E. **Control.** The power to direct or cause the direction of the management and policies of a business and to make day-to-day as well as major decisions on matters of management, policy and operations. Control shall be active, real, substantial and continuing and shall go beyond the pro forma ownership of the business as reflected in its ownership documents. Control by a socially and economically disadvantaged minority, female or disabled person shall not be deemed to exist if a non-minority, non-female, and non-disabled person is disproportionately responsible for the operation of the business or if the business is subject to any formal or informal restrictions that limit the customary discretion of the socially and economically disadvantaged minority, female or disabled owners. Control shall be exemplified by possession of the requisite capital, knowledge and expertise, including any appropriate licensure, to operate the particular business.

F. **Department.** Any City Department, Agency, Board, Commission, or Quasi-public agency, funded in whole or in part by the City.

G. **Disabled Disadvantaged Business Enterprise or DS-DBE.** A small, for-profit business certified by the MBEC that is:

1. A sole proprietorship, owned and controlled by a socially and economically disadvantaged disabled person; or
2. A partnership controlled by socially and economically disadvantaged disabled persons in which at least 51% of the beneficial ownership interest is held by socially and economically disadvantaged disabled persons; or

3. A corporation or other entity controlled by socially and economically disadvantaged disabled persons in which at least 51% of the interest in such corporation or entity is beneficially owned by socially and economically disadvantaged disabled persons.

- H. **Disabled Person.** A person who has a physical or mental impairment that substantially limits one or more of his or her major life activities. Major life activities shall mean functions, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- I. **Discrimination.** Any action or pattern of disparate treatment in the solicitation and selection of contract participants because of race, color, religion, sex, national origin, ancestry or disability.
- J. **Exclusion.** The result of business practices that have the effect of barring ready, willing, and able disadvantaged business enterprises from participating in City Contracts or City Related Special Projects.
- K. **Inclusion.** Best practices that yield a fair and equitable participation level of disadvantaged business enterprises in City Contracts and City Related Special Projects.
- L. **Joint Venture.** An association of two or more for-profit businesses carrying out a single purpose by creating a separate and distinct for-profit business entity in which they combine their property, capital, efforts, skills, and knowledge. An "Eligible Joint Venture" is one in which the DBE partner of the joint venture meets the definition of an eligible DBE, and the DBE partner is responsible for a clearly defined element of the work to be performed and shares in the ownership, management, responsibility, risks, and profits of the joint venture commensurate with its ownership and capital contribution to the start-up of the joint venture. The DBE partner(s) must be certified by the MBEC and derive substantial benefit from the joint venture.
- M. **Minority Business Enterprise Council (MBEC).** The Minority Business Enterprise Council (MBEC), a central services unit in the Office of the Director of Finance, will implement, monitor and enforce this Order. The Director of the MBEC shall be a Deputy level position within the Finance Department. The MBEC shall have sufficient administrative staff and support services to carry out the functions listed in Section 4 of this Order.
- N. **Minority Disadvantaged Business Enterprise or M-DBE.** A small, for-profit business certified by the MBEC, that is:
1. A sole proprietorship owned and controlled by a socially and economically disadvantaged minority person; or
  2. A partnership controlled by socially and economically disadvantaged minority persons in which at least 51% of the beneficial ownership interest is held by socially and economically disadvantaged minority persons; or
  3. A corporation or other entity controlled by socially and economically disadvantaged minority persons in which at least 51% of the interest in such corporation or entity are beneficially owned by socially and economically disadvantaged minority persons.
- O. **Minority Person.** A person who is: 1) Black or African-American, a person having origins in any of the black racial groups of Africa. Terms such as Haitian or Negro can be used in addition to Black or African-American; or 2) American Indian, Alaska Native, or a person having origins in any of the original peoples of North and South America, including Central America and who maintains tribal affiliation or community attachment; or 3) Asian, a person having origin in any of the original peoples of Far East, Southeast Asia or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam; or 4) Hispanic, a person having origins in Cuba, Mexico, Puerto Rico, South or Central America or other Spanish cultures or

origin, regardless of race; or 5) Native Hawaiian or other Pacific Islander, a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

- P. **Participation Range.** For each City contract or City Related Special Project, the range of M-DBE/W-DBE/DS-DBE or SPCM/SPCW/SPCDS participation that should be attained from business opportunities existing in the available market absent discrimination and exclusion in solicitation and selection. The participation range shall be established by the MBEC and will be based upon an analysis of factors such as historical contracting data, the size and scope of the contract and the availability of certified M-DBE/W-DBE/DS-DBEs or SPCM/SPCW/SPCDS to perform the work of the contract.
- Q. **Responsible Bid.** A bid, which in addition to review under any applicable pre-bid or post-bid qualification procedure (including, but not limited to 17-101 of The Philadelphia Code), demonstrates that the Bidder has not engaged in discriminatory or exclusionary conduct. Upon receipt of bids, the bids will be subject to review by the MBEC to determine whether the Bidder has discriminated or excluded businesses as contract participants. If a Bidder's bid reflects participation commensurate with the ranges of M-DBE/W-DBE/DS-DBE participation established by the MBEC for the contract, the Bidder will be rebuttably presumed not to have discriminated or excluded businesses in its selections. Where the participation ranges are not met, the MBEC will initiate an investigation to determine whether discrimination or exclusion of businesses has occurred by evaluating whether the Bidder has made a good faith effort; the MBEC shall use the Good Faith Evaluation Form attached hereto and incorporated herein as Appendix 1 to this Order. If the Bidder fails to cooperate with the MBEC in its review or the MBEC finds that discrimination and/or exclusion has occurred, the MBEC will determine that the Bidder be deemed not responsible and its bid shall be rejected by the contracting Department. Bids rejected for responsibility (due to a determination of discrimination and/or exclusion) may result in the debarment of the Bidder from submitting on and/ or participating in any future City contracts for a period of up to three (3) years.
- R. **Responsiveness.** The Bidder's submission (in addition to the submission of any other required documentation) of documentary evidence of M-DBEs, W-DBEs and DS-DBEs that have been solicited and that are to be used on the contract. Documentation must be submitted in accordance with the written bidding instructions and any failure to submit evidence of such solicitations and commitments will result in rejection of the submittal as nonresponsive.
- S. **Small Business.** A business that is independently owned and operated and that is not dominant in its field of operation as further defined by the Small Business Size Regulations, adopted by the U.S. Small Business Administration and published in the U.S. Code of Federal Regulations, including the industry size standards set forth in the tables contained therein, which regulations are incorporated herein and made a part by reference.
- T. **Socially and Economically Disadvantaged Individuals.** Individuals who have been subjected to racial, sexual or ethnic prejudice because of their identity as a member of a group or differential treatment because of their disability without regard to their individual qualities, and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and competitive market area who are not socially and economically disadvantaged.
- U. **Special Class Minority, (SPCM), Woman (SPCW), and Disabled (SPCDS) Business Enterprises.** Special Class Business Enterprises are firms that do not satisfy the requirements found at 49 CFR Part 26, but are otherwise eligible for certification on a project-by-project basis, based on the ownership and control of the business as determined by the MBEC. This special class of certified firms has the business capacity to compete as a prime, joint venture partner, and/or subcontractor on select City contracts valued in excess of One Million Dollars (\$1,000,000.), where the dollar value of the Special

Class Business Enterprise's contract is Two Hundred And Fifty Thousand Dollars (\$250,000.) or greater.

V. **Women Disadvantaged Business Enterprise or W-DBE.** A small, for-profit business certified by the MBEC that is:

1. A sole proprietorship, owned and controlled by a socially and economically disadvantaged woman; or
2. A partnership controlled by socially and economically disadvantaged women in which at least 51% of the beneficial ownership interest is held by socially and economically disadvantaged women; or
3. A corporation or other entity controlled by socially and economically disadvantaged women in which at least 51% of the interest in such corporation or entity is beneficially owned by socially and economically disadvantaged women.

### SECTION 3. Administration

- A. The MBEC, which is a part of the Office of The Director of Finance, shall perform the functions specified in this ORDER and shall make such findings, recommendations and proposals to the Secretary of Financial Oversight/Director of Finance and issue guidelines as are necessary and appropriate to enforce this ORDER. Each Department shall be responsible for complying with and carrying out the objectives of this ORDER. Any findings of discrimination and/or exclusion that the MBEC shall make in the course of implementing this ORDER will be reported to the Office of The City Solicitor and any other appropriate legal authorities.
- B. In furtherance of this ORDER, an Economic Opportunity Task Force is hereby established in the Office of the Director of Finance for the purpose of developing plans to:
1. increase the employment of minorities, women and disabled persons in the building trades that work on publicly funded construction projects; and
  2. increase contracting with Minority-Owned Businesses, Female-Owned Businesses and Disabled-Owned Businesses in connection with publicly funded construction projects.

The Task Force shall consist of the Finance Director and ten (10) other members appointed by the Mayor, with at least one member selected from each of the following organizations, groups and government agencies:

- (a) neighborhood and community groups;
- (b) the business community;
- (c) building trade training providers;
- (d) construction contractors;
- (e) City Council; and
- (f) such members of the Administration as shall be determined by the Mayor.

The Task Force shall have access to all employment and contract data within the City needed to develop its plans and shall work with the relevant City Departments and agencies to obtain similar information from outside of the City. The Task Force shall be funded by appropriations made to the Office of the Finance Director and shall be provided with a paid consultant, who shall serve as the repository for the collection, analysis and reporting of data and who shall convene all meetings of the Task Force. The Task Force shall meet no less than bi-monthly and shall provide interim reports to the Mayor and City Council no less than quarterly. The Task Force shall provide a final written report within one (1) year of the date this Chapter becomes law. The Task Force shall establish rules for its internal operation but shall not disrupt the operations of any City department or agency.

C. An Economic Opportunity Resource Council is hereby created to:

- (a) assemble and provide contracting and other relevant data as requested by the Economic Opportunity Task Force ("Task Force") needed to produce the Task Force's plans and reports;
- (b) provide procurement and contracting policies and other relevant information to assist the Task Force in developing its plans and reports; and
- (c) provide input and guidance to the Task Force to assist it in understanding the contracting operations of governmental departments and agencies.
- (d) The Resource Council shall consist of the Finance Director and representatives of the following government agencies and departments as determined by the Mayor:
  - (a) The Capital Program Office;
  - (b) The Procurement Department;
  - (c) Minority Business Enterprise Council (MBEC);
  - (d) The Office of Housing and Community Development;
  - (e) The Law Department;
  - (f) The Philadelphia Housing Authority;
  - (g) The Philadelphia Industrial Development Corporation; and
  - (h) City Council.

The Resource Council shall be chaired by the Finance Director, and shall meet as often as deemed necessary to respond to the requests of the Task Force, but no less than quarterly. The Resource Council shall cooperate fully with all requests of the Task Force and shall provide requested data within a reasonable time period, as determined between the Resource Council and the Task Force.

**SECTION 4. Functions of the MBEC**

The MBEC shall:

- A. Certify M-DBEs, W-DBEs, DS-DBEs and Special Class Firms and maintain a directory of such firms for the purpose of identifying the number and business classifications of these firms;
- B. Establish participation ranges of M-DBE/W-DBE/DS-DBE participation for each City contract based upon analysis of the specifications and availability of M-DBE/W-DBE/DS-DBEs to perform various elements of the contract;
- C. Attend pre-bid and pre-proposal meetings to provide information to Bidders;
- D. Review bids for responsiveness and responsibility and forward findings and recommendations to the Procurement Department or agency letting the contract;
- E. Perform investigations, including site visits to the Bidder's firm and/or job site to ascertain whether the bidder has discriminated and/or excluded businesses in the solicitation or award of a subcontract;
- F. Provide City Council and the Administration with information on each trade union's membership as it pertains to the inclusion of minorities and females in the union including union apprenticeship programs;
- G. Provide reports to City Council and the Administration every six months, outlining the participation of M-DBE/W-DBE/DS-DBEs in City Contracts and certifying whether each Department has provided to MBEC within the preceding six months the information necessary to compile the report;
- H. Report findings of discrimination and/or exclusion to the Secretary of Financial Oversight/Director of Finance, City Council and Office of the Mayor and appropriate legal authorities;
- I. Maintain records of M-DBE/W-DBE/DS-DBE participation in City contracts;
- J. Monitor contracts to ensure that discrimination and/or exclusion does not occur in the course of the performance of any contract;
- K. Monitor prime bidders' payments to DBEs;

- L. Provide technical assistance to certified DBEs;
- M. Provide information on contracting opportunities to certified DBEs;
- N. Review City departmental requests for proposals and bid specifications to identify requirements, which unduly restrict participation by M-DBE/W-DBE/DS-DBEs;
- O. Provide training opportunities and seminars for City personnel involved in the implementation of this ORDER. Such training and seminars shall be designed to increase M-DBE/W-DBE/DS-DBE participation in all types of City contracts;
- P. Participate on all selection committees for goods and services contracted by the City;
- Q. Implement small business bonding and insurance program support for professional service and construction contracts requiring performance security;
- R. Recommend to the City Solicitor, contractual assurances to be included in all City Contracts in furtherance of the objectives of this ORDER;
- S. Issue guidelines in interpretation of this ORDER and implement other activities as may be necessary or desirable to achieve the purpose and intent of this ORDER.

**SECTION 5. Enforcement**

The MBEC shall make such findings, recommendations and proposals to the Secretary of Financial Oversight/Director of Finance as are necessary and appropriate to enforce this Order. If, as a result of its monitoring activities, the MBEC determines that the objectives set forth in this Order are not being met by any Department or any Bidder, the MBEC may recommend any or all of the following actions:

- A. If the MBEC determines that a Bidder under contract with the City has failed to comply with contractual provisions requiring DBE participation, the MBEC may recommend that the City exercise its legal remedies, including, if appropriate, the termination of the contract involved and debarment of the Bidder.
- B. In the event that the MBEC determines that a Department is not achieving the levels of DBE participation identified in its Compliance Plan, the MBEC will establish goals for the Department and require that the Department revise its Compliance Plan to provide additional opportunities for DBE participation commensurate with the goals. In creating the Department goals, MBEC shall consider the availability of DBEs in various industry classifications that are ready, willing, and able to provide goods, expertise and services for the Department, the level of utilization of DBE firms in past contracts awarded by the Department, the Department's contract specifications and solicitations whether by bid, RFP or direct solicitation. The revised Department Compliance Plan shall include, without limitation, the following:
  - 1. Assurance of stronger and better focused solicitation efforts to obtain more DBEs as potential prime contractors;
  - 2. Division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of DBEs;
  - 3. Elimination, when feasible, of extended experience requirements, bid or performance security, or capitalization requirements to permit increased participation of DBEs;
  - 4. Identification of proposed contracts as particularly attractive or appropriate for participation by DBEs, such identification to result from, and be coupled with, the efforts of (1) through (3) above.

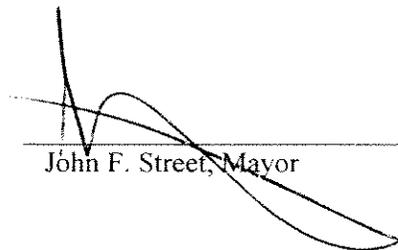
**SECTION 6. Repeal of Executive Order 1-93**

Executive Order 1-93 is hereby repealed in its entirety.

**SECTION 7. Effective Date**

This ORDER shall take effect immediately and shall apply to all City Contracts for which bids or proposals are solicited on or after the effective date of this ORDER. Said Order shall continue in effect for 180 days, at which time, the MBEC shall submit to the Mayor a report delineating the levels of M-DBE/W-DBE/DS-DBE and SPCM/SPCW/SPCDS-BE participation achieved for the 180 day period along with an evaluation of the necessity for further remedial action.

Date: 4-24-03

  
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John F. Street, Mayor

**APPENDIX 1  
EXECUTIVE ORDER 04-03**

**GOOD FAITH EVALUATION**

<b>BIDDER COMPLIED (Y/N)</b>		<b>POINTS</b>
_____	(1) Contacting DBEs that reasonably could have been expected to submit a quote and that were available in the MBEC Directory of Certified Firms at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.	<u>10</u>
_____	(2) Making the construction plans, specifications and requirements available for review by prospective DBEs businesses or providing these documents to them at least 10 days before the bid or proposals are due.*	<u>10</u>
_____	(3) Breaking down or combining elements of work into economically feasible units to facilitate DBE participation.	<u>10</u>
_____	(4) Working with trade, community, or contractor organizations that provide assistance in recruitment of DBEs.	<u>10</u>
_____	(5) Attending any pre-bid meetings scheduled by the City.	<u>10</u>
_____	(6) Providing assistance in acquiring required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.	<u>10</u>
_____	(7) Negotiating in good faith with interested DBEs and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of DBEs based on lack of qualifications should have the reasons documented writing.	<u>10</u>
_____	(8) Providing assistance to an otherwise qualified DBE in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies or letters of credit, including waiving credit that is ordinarily required. Assisting DBEs in obtaining the same unit pricing with the Bidder's suppliers in order to help DBEs in establishing credit.	<u>10</u>
_____	(9) Negotiating joint venture and partnership arrangements with DBEs in order to increase opportunities for DBEs when possible.	<u>10</u>
_____	(10) Providing quick pay agreements and employing policies to enable DBE contractors and suppliers to meet cash-flow demands.	<u>10</u>

\*Plans and specifications for certain projects are available for inspection at the Minority Business Enterprise Council, Municipal Services Building, 1401 JFK Boulevard, Suite 330; please call 215.686.6372 for availability.

Instructions:

1. If "Y" (yes) to any of the above referenced actions, and the specified range is not met, bidders must provide documentation demonstrating the "good faith effort".
2. Bidders must score 60 points in order to achieve the minimum good faith effort requirement.
3. If a bidder meets the range then he/she shall be considered to have met the good faith effort requirement.