

**City of Philadelphia
Economic Opportunity Plan
4149ROOF**

I. Introduction, Definitions and Goals

A. Chapter 17-1600 of The Philadelphia Code requires the development and implementation of "Economic Opportunity Plan(s)" for certain classes of contracts and covered projects as defined in Section 17-1601. The Economic Opportunity Plan ("Plan") memorializes the successful Bidder's best and good faith efforts to provide meaningful and representative opportunities for Minority Business Enterprises ("MBEs"), Woman Business Enterprises ("WBEs") and Disabled Business Enterprises ("DSBEs"), Disadvantaged Business Enterprises² ("DBEs") (collectively, "M/W/DSBEs") and an appropriately diverse building trades workforce in connection with the contract or covered project.

This Invitation and Bid and any resulting contract are subject to the Plan requirements as described in Section 17-1603 (2). Accordingly, by submission of its Bid, a responsive and responsible Bidder makes a legally binding commitment to abide by the provisions of this Plan which include Bidder's commitment to exercise its best and good faith efforts throughout the contract term to provide meaningful and representative contracting opportunities for M/W/DSBEs and to employ an appropriately diverse workforce of tradespeople including minority and female persons in all phases of any contract awarded under this Bid.

Bidder hereby verifies that all information submitted to the City including without limitation, the Plan and all forms and attachments thereto, are true and correct and is notified that the submission of false information by Bidder is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities. Bidder also acknowledges that if it is awarded a contract resulting from this Invitation and Bid, it is a felony in the third degree under 18 Pa.C.S. Section 4107.2 (a)(4) if, in the course of this contract, it fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women's business enterprises.

B. For the purposes of this Plan, MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by the City of Philadelphia through its Office of Economic Opportunity ("OEO"). Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency³ at the time of bid opening will be eligible to receive credit as a Best and Good Faith Effort. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at www.phila.gov/oEO/directory. If bidder or bidder's subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be furnished with the bid.

²Disadvantaged Business Enterprises ("DBEs") are those socially or economically disadvantaged minority and woman owned businesses certified under 49 C.F.R. Part 26. If Bidder makes solicitation(s) and commitment(s) with a DBE, Bidder shall indicate which category, MBE or WBE, is submitted for credit.

³A list of "OEO approved certifying agencies" can be found at www.phila.gov/oEO
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C. For this Plan, the term "Best and Good Faith Efforts," the sufficiency of which shall be in the sole determination of the City, means: a Bidder's efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and an appropriately diverse workforce and to achieve the objectives of Chapter 17-1600. Best and Good Faith Efforts are rebuttably presumed met, when a Bidder makes commitments within the M/W/DSBE Participation Ranges established for this Bid and commits to employ a diverse workforce as enumerated herein.

D. Goals

1. M/W/DSBE Participation Ranges

As a benchmark for the Bidder's expression of its Best and Good Faith Efforts to provide meaningful and representative opportunities for M/W/DSBEs in the contract, the following participation ranges have been developed. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable on this contract through the exercise of Bidder's Best and Good Faith Efforts. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of MBEs, WBEs and DSBEs to perform various elements of the contract:

BID	MBE	WBE
4149ROOF	10-13%	5-8%

2. Employment Goals

Bidder agrees to exhaust its Best and Good Faith Efforts to employ minority persons and females in its workforce of apprentices and journeymen at the following levels⁴:

- Minority Apprentices – 50% of all hours worked by all apprentices
- Minority Journeymen – 32% of all journey hours worked across all trades
- Female Apprentices – 7% of all hours worked by all apprentices
- Female Journeypersons - 7% of all hours worked across all trades

II. Bidder Responsiveness and Responsibility

A. Bidder shall identify all its M/W/DSBE commitments and evidence its agreement to employ minority persons and females at the levels stated herein on the form entitled, "M/W/DSBE Participation and Workforce Commitments." The Bidder's identified commitment to use an M/W/DSBE on this form constitutes a representation by

⁴ These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.
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Bidder, that the M/W/DSBE is capable of completing the subcontract with its own workforce, and that the Bidder has made a legally binding commitment with the firm. The listing of the M/W/DSBE firm by Bidder further represents that if Bidder is awarded the contract, Bidder will subcontract with the listed firm(s) for the work or supply effort described and the dollar/percentage amount(s) set forth on the form. In calculating the percentage of M/W/DSBE participation, Bidder shall apply the standard mathematical rules in rounding off numbers. In the event of inconsistency between the dollar and percentage amounts listed on the form, the percentage will govern. Bidder is to maintain the M/W/DSBE percentage commitments throughout the term of the contract which shall apply to the total amount of the contract and any additional increases. In the event the Successful Bidder's contract is increased by change order and/or modification, or amendment, it shall be the responsibility of the Successful Bidder to apply its Best and Good Faith Efforts to the amended amount in order to maintain any participation ranges committed to on the total dollar amount of the contract at the time of contract completion.

1. Commercially Acceptable Function

A Bidder that enters into a subcontract with an M/W/DSBE shall be considered to have made a Best and Good Faith Effort in that regard only if its M/W/DSBE subcontractor performs a commercially acceptable function ("CAF"). An M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with Bid specifications), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved; M/W/DSBE subcontractors must perform at least twenty percent (20%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees.

The City may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the M/W/DSBE is performing a CAF and in determining the amount of credit the Bidder receives towards the participation ranges. For example, a Bidder using an M/W/DSBE non-stocking supplier (i.e., a firm that does not manufacture or warehouse the materials or equipment of the general character described by the Bid specifications and required under the contract) to furnish equipment or materials will only receive credit towards the participation ranges for the fees or commissions charged, not the entire value of the equipment or materials furnished.

B. Upon award, letters of intent, quotations, and any other accompanying documents regarding commitments with M/W/DSBEs, including the M/W/DSBE Participation and Workforce Commitments Form, become part of the contract. M/W/DSBE commitments are to be memorialized in a written subcontract agreement and are to be maintained throughout the term of the contract and shall apply to the total contract value (including approved change orders and amendments). Any change in commitment, including but not limited to termination of the subcontract, reduction in the scope of committed work, substitutions for the listed firms, changes or reductions in the listed dollar/percentage amounts, must be pre-approved in writing by OEO. Throughout the term of the contract, Bidder is required to continue its Best and Good Faith Efforts.

C. In the event Bidder does not identify on the M/W/DSBE Participation and Workforce Commitments Form that it has made M/W/DSBE commitments within the participation ranges established for this Bid and/or does not agree to the employment goals described herein, Bidder must complete and submit a *Documentation of Best and*

Good Faith Efforts Form ("BGFE Form"), documenting its solicitations and any commitments with M/W/DSBEs, and detailing any efforts made to include M/W/DSBEs in the contract and to employ a diverse workforce. The submission of the BGFE Form is an element of bid responsiveness and failure to include this form may result in the rejection of the Bid. The BGFE Form must include at a minimum, certification and documentary evidence that the following actions were taken:

1. Solicitation directed to both qualified M/W/DSBEs registered with OEO and qualified M/W/DSBEs certified by agencies approved by OEO. Bidder must provide a list of all certification directories used for soliciting participation for this Bid. Bidder must determine with reasonable certainty if the M/W/DSBEs are interested by taking appropriate steps to follow up on initial solicitations; one time contact, without follow up, is not acceptable; and

2. Bidder provided interested M/W/DSBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation; and

3. Bidder negotiated in good faith with interested M/W/DSBEs. A Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including M/W/DSBE subcontractors, and would take a firm's price and capabilities as well as the objectives of the Plan into consideration; and

4. Documentation of the following:

i. Any commitments to use M/W/DSBEs in its bid for subcontracted services and materials supply even when Bidder would otherwise prefer to self-perform/supply these items; and

ii. Correspondence between the Bidder and any M/W/DSBE(s) related to this Bid; and

iii. Attendance logs and/or records of any scheduled pre-bid meeting; and

5. Certification and evidence that the following actions were taken or documentation of the following, or an explanation why these actions were not taken or why documentation does not exist:

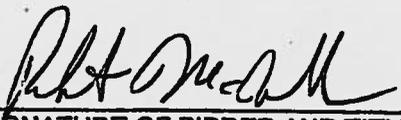
i. Any arms length business assistance provided to interested M/W/DSBEs which may include access/introduction to major manufacturer/suppliers, lines of credit and union halls; and

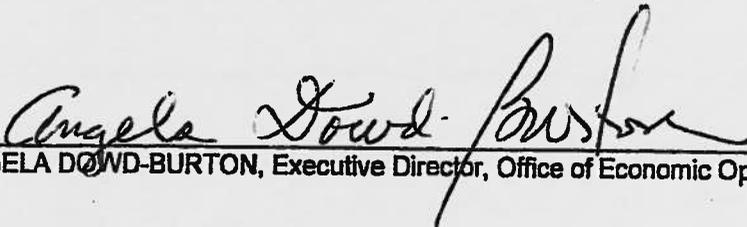
ii. Solicitation through job fairs, newspapers, periodicals, advertisements and other organizations or media that are owned by M/W/DSBEs and/or focus on M/W/DSBEs; and

iii. Telephone logs of communications related to this Bid; and

iv. Notification of and access to bid documents at the Bidder's office or other office locations for open and timely review; and

such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

 / President 4-28-2015
SIGNATURE OF BIDDER AND TITLE⁵ DATE

 5/14/2015
ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity⁶ DATE

[See Forms on following pages; these Forms, as completed by Bidder, must be submitted with the Bid as a matter of Responsiveness and Responsibility]



⁵Bidder is required to sign and date, but the City reserves the right to obtain the Successful Bidder's signature thereon at any time prior to Plan certification. The Successful Bidder will receive from the City a certified copy of its Plan which will be filed by the Procurement Department with the Chief Clerk of City Council within fifteen (15) days of the Procurement Department's issuance of a notice of award and published by OEO, in a downloadable format, on the OEO website.

⁶ Pursuant to Section 17-1603 (2) of The Philadelphia Code, the representative of the City of Philadelphia's Office of Economic Opportunity, the "certifying agency", certifies that the contents of this Plan are in compliance with Chapter 17-1600.

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