





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 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 Enterprises ("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 ("EO"). Only the work or supply effort of firms that are certified as M/W/DSBEs by an EO approved certifying agency<sup>2</sup> 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 EO an application to be included in the EO Registry which is a list of registered M/W/DSBEs maintained by the EO and available online at [www.phila.gov/oeo/directory](http://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.

<sup>1</sup>Disadvantaged 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.

<sup>2</sup>A list of "EO approved certifying agencies" can be found at [www.phila.gov/oeo](http://www.phila.gov/oeo)

ECONOMIC OPPORTUNITY PLAN (EOP)



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<sup>3</sup> These goals, which have been adopted by the Economic Opportunity Cabinet, are the recommendations of the Mayor's Commission on Construction Industry Diversity.

A. Bidder shall identify all its MW/DSBE commitments and evidence its agreement to employ minority persons and females at the levels stated herein on the

II. Bidder Responsiveness and Responsibility

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 Journeymen – 7% of all hours worked across all trades

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 levels<sup>3</sup>:

2. Employment Goals

BID	MBE	WBE	DSBE
2738	15% - 17%	10% - 12%	

As a benchmark for the Bidder's expression of its Best and Good Faith Efforts to provide meaningful and representative opportunities for MW/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 MW/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:

1. MW/DSBE Participation Ranges

D. Goals

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 MW/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 MW/DSBE Participation Ranges established for this Bid and commits to employ a diverse workforce as enumerated herein.

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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.

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.

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 Bidder's identified commitment to use an M/W/DSBE on this form constitutes a representation by 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.

C. In the event Bidder does not identify on the MW/D/SBE Participation and Workforce Commitments Form that it has made MW/D/SBE 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 MW/D/SBEs, and detailing any efforts made to include MW/D/SBEs 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 MW/D/SBEs registered with OEO and qualified MW/D/SBEs 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 MW/D/SBEs 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 MW/D/SBEs 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 MW/D/SBEs. A Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including MW/D/SBE 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 MW/D/SBEs 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 MW/D/SBE(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 MW/D/SBEs 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 MW/D/SBEs and/or focus on MW/D/SBEs; and

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The Successful Bidder agrees to cooperate with OEO in its compliance monitoring efforts, and to submit, within the time limits prescribed by OEO, all

issuance of the notice of award.  
the Successful Bidder, within fifteen (15) days of the Procurement Department's  
filled with the Chief Clerk of Council by the Procurement Department on behalf of  
A. A copy of the Successful Bidder's Plan, as certified below by OEO, will be

IV. Compliance and Monitoring of Best and Good Faith Efforts

City.  
2. Notwithstanding compliance with the requirements set forth herein, the City  
reserves the right to reject any or all bids as deemed in the best interest of the

will be rejected.  
apparent low Bidder did not make sufficient Best and Good Faith Efforts, its Bid  
or his designee whose decision shall be final. If it is determined that the  
date of OEO's decision to Chief Operating Officer of the Commerce Department  
decision of OEO may be appealed in writing within forty-eight (48) hours of the  
appeal with OEO within forty-eight (48) hours of the date of notification. The  
Best and Good Faith Efforts, the Bidder will be notified and may file a written  
1. If the OEO determines that the apparent low Bidder has not made sufficient

B. Administrative Reconsideration

and Workforce Commitments Form or BGFE Form.  
contract which may result in Bidder's amendment of its MMW/DSBE Participation  
documentation and/or clarifying information at any time prior to the award of the  
Bidder's Plan to these requirements. OEO reserves the right to request further  
1. The City, acting through its OEO, will evaluate the responsiveness of the

A. Evaluation and Determination

III. Evaluation of Responsiveness and Responsibility

that targets the employment of minority persons, disabled persons and women.  
vii. Any agreement with an apprenticeship or training program

hiring, retention and promotion of employees; and  
vi. Bidder published its policy of nondiscrimination in the

Development Corporation to perform employment outreach; and  
v. Bidder sought assistance from the Urban Affairs Coalition,  
Careerlink Philadelphia, Opportunity Industrial Center and the Philadelphia Workforce

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

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

documentation which may be requested by OEO relative to the awarded contract, including the items described below. The Successful Bidder must provide as required and maintain the following contract documentation for a period of three (3) years following acceptance of final payment under the contract:

- Copies of signed contracts and purchase orders with MM/DSBE subcontractors;
- Evidence of payments (cancelled checks, invoices, etc.) to subcontractors and suppliers to verify participation;
- Telephone logs and correspondence relating to MM/DSBE commitments.

B. The Successful Bidder shall ensure that all its on-site contractors submit, to the extent required by law, certified payrolls to the City's Labor Standards Unit in the format prescribed by that agency which includes hours worked by minority and female apprentices and journeypersons.

C. Prompt Payment of MM/DSBEs

1. The Successful Bidder shall within five (5) business days after receipt of a payment from the City for work performed under the contract, deliver to its MM/DSBE subcontractors their proportionate share of such payment for work performed (including the supply of materials). In connection with payment of its MM/DSBE subcontractors, the Successful Bidder agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.

2. Each month of the contract term and at the conclusion of the contract, the Successful Bidder shall provide to the OEO documentation reconciling actual dollar amounts paid to MM/DSBE subcontractors to MM/DSBE commitments presented in the Plan.

D. Oversight Committee

1. For this project, the City, in its sole discretion, may establish a Project Oversight Committee consisting of representatives from the Bidder's company, representatives of the building trades, the construction manager, and the City which may include the Project site's District Councilperson, OEO, and appropriate community organizations ("Committee"). The Committee will meet regularly to provide advice for the purpose of facilitating compliance with the Plan.

2. If a Project Oversight Committee is established, the City will convene meetings of the Committee no later than one (1) month after issuance of the Notice To Proceed.



V. Remedies and Penalties for Non-Compliance

A. The Successful Bidder agrees that its compliance with the requirements of the Plan is material to the contract. Any failure to comply with these requirements may constitute a substantial breach of the contract. It is further agreed and understood that in the event the City determines that the Successful Bidder hereunder has failed to comply with these requirements the City may, in addition to remedies reserved under Section 17-1605 of The Philadelphia Code, any other rights and remedies the City may have under the contract, or any bond filed in connection therewith or at law or in equity, exercise one or more of the remedies below, which shall be deemed cumulative and concurrent:

- a. Withhold payment(s) or any part thereof until corrective action is taken.
- b. Terminate the contract, in whole or in part.
- c. Suspend/Debar the successful bidder from bidding on and/or participating in any future City contracts for a period of up to three (3) years.

d. Recover as liquidated damages, one percent of the total dollar amount of the contract for each one percent (or fraction thereof) of the commitment shortfall. (NOTE: The "total dollar amount of the contract" shall include approved change orders, amendments and for requirements contracts shall be based on actual quantities ordered by the City.)

The remedies enumerated above are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with any contract resulting from this Invitation and Bid nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors. No privity of contract exists between the City and the M/W/DSBE subcontractor identified in any contract resulting from this Invitation and Bid. The City does not intend to give or confer upon any such M/W/DSBE subcontractor(s) any legal rights or remedies in connection with subcontracted services under any law or Executive Order or by any reason of any contract resulting from the Invitation and Bid except

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

SIGNATURE OF BIDDER AND TITLE \_\_\_\_\_  
DATE 9-3-15

ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity  
9/8/2015

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



"Bidder is required to sign and date, but the City reserves the right to obtain the Successful Bidders 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.  
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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OEO Official Use Only	
M/W/DSBE Commitments	Percent/Dollar Amount
[MBE]	_____
_____	_____
_____	_____
[WBE]	_____
_____	_____
_____	_____
[DSBE]	_____
_____	_____
_____	_____



**BID # 2738**

**Seravalli Inc.**

**OEO Official Use Only**

**M/W/DSBE Commitments**

**Percent / Dollar Amount**

**[MBE]**

**G.E. Frisco Co, Inc.**

**13.0% / \$94,000.00**

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**[WBE]**

**City Roots Contracting.**

**2.1%% / \$15,200.00**

**Devault group Inc**

**2.6 % / \$19,000.00**

**The Labov Plumbing and Heating Supply, Inc**

**7.5% / \$54,000.00**

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**[DSBE]**

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