



OFFICE OF ECONOMIC OPPORTUNITY
 DETERMINATION/COMPLIANCE
 SUMMARY FORM - EOP

RANGES
 MBE 15%-17%
 AND
 WBE 10%-12%

DEPARTMENT: City of Philadelphia - Water Department
 BID NUMBER: BID# 2746/ Relay of Water Mains and Construction of Green Infrastructure in Medary St. from Broad St. to N. 13th St and Reconstruction of ManHoles in Medary St. from Broad St to N. Park St

DSBE _____

OPENING DATE: 10/13/2015

ITEM	CERT. PRIME		BIDDER NAME	SUBCONTRACTOR NAME	PARTICIPATION				DOCUMENT		RESPONSIVE	
	Yes	No			MBE	WBE	DSBE	C	BCFE	Yes	No	
1	No	No	Philip Pio Construction, Inc.	G.E. Frisco Co, Inc. Gessler Construction Co, Inc. The Labov Plumbing & Heating Supply Inc. Devault Group Inc	15.0%	3.0%	3.0%	4.0%	X	X	X	
Total					15.0%	10.0%					Yes	

All bidder appeals have been exhausted.
 OEO Executive Director has certified EOP
 Bidder has signed EOP

COMMENTS: Contract Est amount 6,520,107.⁰⁰ and there is Union Involvement 30

OEO STAFF REVIEWER _____ SIGNATURE _____ DATE 10/13/15
 OEO STAFF UNIT COORDINATOR _____ SIGNATURE _____ DATE 10/13/2015
 OEO STAFF DIRECTOR/DEPUTY STAFF DIRECTOR _____ SIGNATURE _____
 OEO STAFF DIRECTOR/DEPUTY STAFF DIRECTOR _____ SIGNATURE _____

PLEASE NOTE: DETERMINATION MUST CONTAIN THE SIGNATURE OF THE STAFF DIRECTOR OR THE DEPUTY STAFF DIRECTOR.
 C = COMMITMENT
 BCFE = BEST & GOOD FAITH EFFORTS
 MBE - Minority Business Enterprise
 WBE - Woman Business Enterprise
 DBE - Disabled Business Enterprise

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 Enterprises ("DBEs") (collectively, "M/W/DSBEs") and an appropriately diverse 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 agency² 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/eo/directory. If bidder or bidders subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be furnished with the bid.

¹Disadvantaged 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.

²A list of "EO approved certifying agencies" can be found at www.phila.gov/eo

ECONOMIC OPPORTUNITY PLAN (EOP)

November 2011

City of Philadelphia/OEO

EOP Bid [Service and Public Works Sealed Bids over \$250,000.]

- 2 -

³ 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 Journeypersons - 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 levels³:

2. Employment Goals

BID	MBE	WBE	DSBE
2746	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.

ECONOMIC OPPORTUNITY PLAN (EOP)

City of Philadelphia/OEO

November 2011

EOP Bid (Service and Public Works Sealed Bids over \$250,000.)

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.

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.

1. Commercially Acceptable Function

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.

ECONOMIC OPPORTUNITY PLAN (EOP)

EOP Bid [Service and Public Works Sealed Bids over \$250,000.]
City of Philadelphia/OEO
November 2011

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

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

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

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

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

4. Documentation of the following:

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

2. Bidder provided interested MW/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

1. Solicitation directed to both qualified MW/DSBES registered with OEO
and qualified MW/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 MW/DSBES are interested by taking
appropriate steps to follow up on initial solicitations; one time contact, without follow up,
is not acceptable; and

3. In the event Bidder does not identify on the MW/DSBE participation and
Workforce Commitments Form that it has made MW/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* ("BGEF Form"), documenting its solicitations and any
commitments with MW/DSBES, and detailing any efforts made to include MW/DSBES
in the contract and to employ a diverse workforce. The submission of the BGEF Form is
an element of bid responsiveness and failure to include this form may result in the
rejection of the Bid. The BGEF Form must include at a minimum, certification and
documentary evidence that the following actions were taken:

ECONOMIC OPPORTUNITY PLAN (EOP)

EOP Bid [Service and Public Works Sealed Bids over \$250,000.]
City of Philadelphia/OEO
November 2011

- 5 -

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

IV. Compliance and Monitoring of Best and Good Faith Efforts

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 City.

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

B. Administrative Reconsideration

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

A. Evaluation and Determination

III. Evaluation of Responsiveness and Responsibility

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

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

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

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

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

ECONOMIC OPPORTUNITY PLAN (EOP)

EOP Bid [Service and Public Works Sealed Bids over \$250,000]
City of Philadelphia/OEO
November 2011

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.

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.

D. Oversight Committee

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 M/W/DSBE subcontractors to M/W/DSBE commitments presented in the Plan.

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 M/W/DSBE subcontractors their proportionate share of such payment for work performed (including the supply of materials). In connection with payment of its M/W/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.

C. Prompt Payment of M/W/DSBEs

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.

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

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:

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/LDBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

[Signature]

SIGNATURE OF BIDDER AND TITLE
/s/ 12-15
DATE

[Signature]

ANGELA DOWD-BURTON, Executive Director, Office of Economic Opportunity
/s/ 14/2015
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]

Bidder 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.
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.

ECONOMIC OPPORTUNITY PLAN (EOP)

ECONOMIC OPPORTUNITY PLAN (EOP)

HOP Bid (Service and Public Works Sealed Bids over \$250,000.)
City of Philadelphia/OEO
November 2011



OEO Official Use Only	
M/W/DSBE Commitments	Percent/Dollar Amount
_____	_____
_____	_____
[DSBE]	_____
_____	_____
_____	_____
_____	_____
[WBE]	_____
_____	_____
_____	_____
[MBE]	_____
_____	_____

OEO Official Use Only

M/W/DSBE Commitments Percent / Dollar Amount

[MBE]

G.E. Frisco Co, Inc. 15.0% / \$52,500.00

Blank lines for MBE entries

[WBE]

Gessler Construction Co, Inc. 3.0% / \$16,000.00

The Labov Plumbing & Heating Supply Inc

3.0% / \$16,000.00

Devault Group Inc.

4.0% / \$21,000.00

Blank lines for WBE entries

[DSBE]

Blank lines for DSBE entries

ECONOMIC OPPORTUNITY PLAN (EOP)

EOP Bid (*Service and Public Works Sealed Bids over \$250,000*)
City of Philadelphia / OEO
November
