

SPECIAL NOTICE

A. This project is subject to the requirements of the *Subcontracting Outreach Program* as specified in SCOP 1- 8 of the *Subcontracting Outreach Program* section in this document:

1. Bidder's broad-based solicitation of sub-bids is **mandatory**;
2. Bidder's inclusion of subcontractors at the level identified in this document is **mandatory**; and
3. Bidder's submission of Good Faith Effort documentation is **mandatory**.

A bid will be declared **non-responsive** if:

1. Bidder fails to include subcontractors at the level identified in this document;
2. Bidder fails to submit Good Faith Effort documentation required in this document; or
3. Bidder fails to achieve a minimum of 80 (out of 100) Outreach Effort Indicator Points as defined in these specifications.

B. Pre-Bid Meeting

A pre-bid meeting is scheduled for this project as specified in the Notice Inviting Bids. The purpose of this meeting is to inform prospective bidders of the submittal requirements and provisions relative to the *Subcontracting Outreach Program*. Bidders are strongly encouraged to attend the scheduled pre-bid meeting in order to better understand the Good Faith Effort requirements of the City's *Subcontracting Outreach Program*.

NOTE: Attendance at the pre-bid meeting is worth 5 Outreach Effort Indicator Points.

C. Mandatory Subcontractor Participation Level

To be eligible for award of this project, the City of San Diego requires the bidder to subcontract a minimum percentage of the project to any qualified, available subcontractor(s). Failure of the bidder to subcontract this specified minimum percentage will cause the bid to be declared non-responsive. The minimum mandatory subcontracting percentage for this project is specified in the *Subcontracting Outreach Program* section in this document.

D. Outreach Efforts Documentation

To be eligible for award of this project, the City of San Diego requires the bidder to submit documentation demonstrating the bidder made a good faith effort to outreach to and include a broad-base of subcontractors as specified in this contract document. Failure of the bidder to submit Outreach Efforts documentation within 5 working days of the bid opening will cause the bid to be declared non-responsive. Failure of the bidder to achieve 80 (out of 100) Outreach Indicator Points

will cause the bid to be declared non-responsive.

**CITY OF SAN DIEGO
OFFICE OF THE CITY MANAGER
EQUAL OPPORTUNITY CONTRACTING
EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)**

SUBCONTRACTING OUTREACH PROGRAM

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SUBCONTRACTING OUTREACH PROGRAM SUMMARY

The Subcontracting Outreach Program applies to construction contracts in excess of \$250,000.00.. When Federal or State funding sources impose additional requirements, those requirements as defined in the contract documents replace the requirements of this program.

The City of San Diego is committed to maximizing subcontracting opportunities for all qualified and available firms. Bidders should be fully informed of the *Subcontracting Outreach Program* as set forth in this document.

Subcontract Minimum Percentage:

To be eligible for award of this project, the bidder must subcontract a minimum percentage of its bid to qualified available subcontractors, as indicated below. The bidder must list all subcontractors, regardless of amount. Failure to list subcontractors and subcontracting amounts with the bid sufficient to meet or exceed the mandatory subcontracting participation level will cause a bid to be rejected as non-responsive.

MANDATORY Subcontractor Participation Goal
_____%

Submit Outreach Documentation:

To be eligible for award of this project, the three (3) apparent low bidders must submit documentation of its subcontractor outreach effort with the bid proposal or provide this documentation within five (5) working days following the close of business on the day bids are opened. Should it become necessary to evaluate the efforts of bidders beyond the three (3) apparent low bidders, each additional firm shall receive five (5) working days for submittal of documentation commencing on the date of notification. Notification can be verbal or in writing. Failure to submit required documentation within this time frame will cause a bid to be rejected as non-responsive.

Mail documentation to:

Equal Opportunity Contracting Program
 Office of the City Manager
 Equal Opportunity Contracting
 1010 Second Avenue, Suite 500
 San Diego, CA 92101

For assistance or further information about the *Subcontracting Outreach Program*, contact the Equal Opportunity Contracting Program at (619) 533-4464.

SUBCONTRACTING OUTREACH PROGRAM

I. General

~~This program is subject to policies and requirements established by the City of San Diego Equal Opportunity Contracting Program. The City is committed to ensuring full and equitable participation by subcontracting businesses in provision of goods and services on a contractual basis. Bidders are advised to be fully informed of the *Subcontracting Outreach Program* as set forth in this document. Failure to comply with the City's *Subcontracting Outreach Program* will cause a bid to be rejected as non-responsive.~~

Terms and conditions of this *Subcontracting Outreach Program* apply to construction projects in excess of \$250,000.00. At the City's sole discretion, these requirements may be waived in advance on projects deemed inappropriate for subcontracting participation. When State and/or Federal funding sources require affirmative action goals, those goals as defined in the contract documents replace requirements of this *Subcontracting Outreach Program*.

This project is subject to the policies and requirements established by the City of San Diego Office of Equal Opportunity Contracting Subcontracting Outreach Program for the use of MBEs, WBEs, DBEs, DVBEs and OBEs. The City is committed to ensuring full and equitable participation by minority, women, disadvantaged, disabled or other sub-bid or subcontracting businesses in the provision of all goods and services to the City on a contractual basis. This outreach program is set forth herein. Bidders should be fully informed of this program. Bidders are encouraged to use MBE, WBE, DBE, and DVBE firms whenever there is a need to subcontract portions of the work. *Failure to comply with the City's Good Faith Effort Subcontractor Outreach Program will render the bid non-responsive.*

Mandatory Subcontracting Minimum Participation Level

To be eligible for award of this project, the City of San Diego requires the bidder to subcontract a minimum percentage of its bid, which is stated on page 2 of 12, to any qualified, available contractor. Failure by the bidder to subcontract this minimum level percentage will render the bid non-responsive.

II. ~~Subcontractor Outreach and Participation~~—MBE/WBE/DBE/DVBE/OBE Participation

~~This *Subcontracting Outreach Program* requires bidders to make subcontracting opportunities available to a broad base of qualified subcontractors and to achieve a minimum subcontractor participation as identified for this project.~~

The Subcontracting Outreach Program requires the bidder to make a “Good Faith Effort” to obtain sub-bid participation by MBEs, WBEs, DBEs, DVBEs and OBEs which is anticipated by the City of San Diego to produce levels of participation as stated on Page 2 of 12.

III. Definitions

- A. **Minority Business Enterprise (MBE):** a certified business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.
- B. **Women Business Enterprise (WBE):** a certified business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party (ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.
- C. **Disadvantaged Business Enterprise (DBE):** A certified business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying part(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by and the business operated by socially and economically disadvantaged individuals.
- D. **Disabled Veteran Business Enterprise (DVBE):** A certified business which is at least fifty-one percent (51%) owned and operated by one or more veterans with a service-related disability and whose management and daily business operation is controlled by the qualifying party(ies).
- E. **Other Business Enterprise (OBE):** A business, which does not otherwise qualify as a Minority Business Enterprise, Women Business Enterprise, Disadvantaged Business Enterprise or a Disabled Veteran Business Enterprise.
- F. **Subcontractor Outreach Efforts:** Affirmative steps taken by a bidder prior to bid opening to ensure maximum effort to recruit subcontractors, including Minority Business Enterprises, Women Business Enterprises, Disadvantaged Business

Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs) and Other Business Enterprises (OBEs), as sources of supplies, construction and other services whenever possible. Required steps for documenting outreach efforts are outlined in Paragraph V of this document.

- G. Subcontract: Agreement between a prime contractor and an individual, firm or corporation or performance of particular portion(s) of work for which prime contractor has obligated itself.
- H. Subcontractor: An individual, firm or corporation having a direct contract with prime contractor for performance of portion(s) of work to be constructed under the contract, including furnishing of labor, materials or equipment.
- I. Vendor and/or Supplier: A firm that owns, operates or maintains a store, warehouse or other establishment in which materials or supplies required for performance of the contract are bought, kept in stock and regularly sold to the public in the usual course of business. As its principal business and in its own name, the firm must engage in purchase and sale of products in question. A vendor and/or supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock if it operates distribution equipment.
- J. Manufacturer: An individual, firm or corporation operating or maintaining a factory or establishment that produces on the premises materials or supplies obtained by the contractor.
- K. Subcontractor Participation: Minority Business Enterprise, Women Business Enterprise, Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs) and Other Business Enterprises (OBEs) will be recognized as participants in a contract according to the following criteria:
 - 1. For credit to be allowed toward respective participation level, on the date bids for the project are opened, all listed MBE, WBE, DBE and DVBE firms must be certified as defined under Paragraph III, Definitions, Items A and B, and identified in bid documents for data collection purposes.
 - 2. A subcontractor must perform a commercially useful function for credit to be allowed toward subcontractor participation levels. A subcontractor must be responsible for execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work.
 - 3. In computing level of subcontractor participation, recognition for materials and/or supplies is limited to sixty percent (60%) of amount to be paid to vendor for such

materials/supplies unless vendor manufactures or substantially alters materials/supplies.

IV. Mandatory Subcontractor Participation Goal

The City has incorporated a mandatory subcontractor participation goal to enhance competition and maximize subcontracting opportunities. Based on historical review of subcontractor usage on City projects and availability, the mandatory goal for this project is:

MANDATORY Subcontractor Participation Goal
____%

Failure to meet this subcontractor participation goal will cause a bid to be rejected as non-responsive.

Based on data collected over a five-year period, bidders should be able to include participation of Disadvantaged Business Enterprises (DBE), Disabled Veteran Business Enterprises (DVBE) and Other Business Enterprises (OBE).

ADVISORY Participation Levels
____ %MBE ____ %WBE
____ %DBE ____ %DVBE
____ %OBE

These MBE, WBE, DBE, DVBE and OBE participation levels are advisory only and do not constitute a basis for determination of non-compliance or disqualification.

V. Documentation of Subcontractor Outreach Efforts

All documentation must be submitted with the bid proposal or within five (5) working days following close of business on the day bids are opened. Failure to submit required documentation within this time frame will render a bid non-responsive. The City may request additional information to validate or clarify; such information must be submitted promptly upon request.

It is the policy of the City of San Diego to provide all subcontractors an equal opportunity to participate in performance of City contracts. Bidders assist the City in implementing this policy by taking reasonable steps to ensure all qualified businesses, including Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs) and Other Business Enterprises (OBEs), have equal opportunity to compete for and participate in City contracts.

Documentation of a bidder's outreach efforts will be reviewed by EOCP according to the indicators listed below to verify that bidder made subcontracting opportunities available to a broad base of qualified subcontractors, negotiated in good faith with interested subcontractors, and did not reject any bid for unlawful discriminatory reasons.

Failure to achieve a minimum of 80 out of 100 points will render a bid non-responsive and will result in its rejection. Indicator points are awarded on a pass/fail basis, i.e., either full or zero points can be achieved for compliance with each item as set forth below:

Indicator	Points
1. Achievement of advisory MBE/WBE/DBE/DVBE/OBE subcontractor participation level	No Points
2. Pre-Bid Meeting attendance	5 Points
3. Identification of sufficient subcontracting work	10 Points
4. Broad-based advertisement	10 Points
5. Written notice to subcontractors	10 Points
6. Follow-up to initial solicitations	10 Points
7. Provision of plans, specifications and requirements	10 Points
8. Request for assistance from recruitment/placement agencies	10 Points
9. Documentation of subcontractor negotiation	25 Points
10. Assistance with bonds, credit lines and insurance	10 Points
POSSIBLE TOTAL	100 Points

1. Achievement of advisory MBE/WBE/ DBE/DVBE/OBE subcontractor participation levels	No Points
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Failure to meet advisory MBE/WBE/DBE/DVBE/OBE subcontractor participation levels is not a basis for disqualification or determination of non-compliance with this policy.

2. Pre-bid meeting attendance	5 Points
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Bidder attended pre-bid meeting scheduled by the City to inform all bidders of requirements for subject project. If bidder certifies in writing prior to pre-bid meeting that it was already informed of project requirements, the City may waive requirement for pre-bid meeting attendance.

Required documentation: a) Attend pre-bid meeting and be listed on attendance sheet; or b) Submit letter requesting waiver prior to pre-bid meeting.

3. Identification of sufficient subcontracting work	10 Points
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Bidder identified and selected specific work items in subject project to be performed by sub-bidders/subcontractors. ~~Bidder subdivided total contract work requirements into smaller portions or quantities to permit maximum active participation.~~ In order to provide an opportunity for participation by MBEs, WBEs, DBEs, DVBEs and OBEs, upon making this determination, the bidder subdivided the total contract work requirements into smaller portions or quantities to permit maximum active participation of MBEs, WBEs, DBEs, DVBEs and OBEs.

Required documentation: Content of advertisements (Indicator 4) ~~and~~ or written notices to subcontractors (Indicator 4 or 5) will demonstrate compliance with this objective.

4. Broad-based advertisement	10 Points
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Not less than ten (10) calendar days prior to bid submittal, bidder conducted an advertising campaign designed to reach all segments of the San Diego community by advertising in newspapers, ~~trade association publications~~, special interest publications, trade journals, minority publications, community papers or other media. Advertisement must be specific to the project, not generic, and may not be a plan holder advertisement provided by the publication. Advertisement must be worded to ensure it does not exclude or limit number of potential respondents.

Required documentation: Submit copies of advertisements and proof of publication dates.

5. Written notice to subcontractors	10 Points
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Not less than ten (10) calendar days prior to bid submittal, bidder provided written notice of its interest in receiving sub-bids on subject contract to business enterprises, including MBEs, WBEs, DBEs, DVBEs and OBEs having with an interest in ~~performance of identified~~ work items. Contents of letters must include:

- City of San Diego's Project name;
- Name of Bidder;
- Areas of work available for subcontracting;
- Contract person's name and phone number;
- Information on availability of plans and specifications; and
- Bidder's policy concerning assistance to subcontractors in obtaining bonds, credit lines and/or insurance.

Required documentation: Submit copy of each letter sent to subcontractors for each item of work to be performed. If only one master notification, submit letter with list of recipients. Faxed copies must include fax transmittal confirmation slip showing date and time of transmission. Mailed letters must include copies of metered envelopes or certified mail receipts.

6. Follow-up to initial solicitations	10 Points
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Bidder followed up initial solicitations of written notice to subcontractors to determine interest in specific portions of project work, answered questions, recorded phone quotes, and recorded subcontractor's interest in bidding on any portion of subject project.

Required documentation: Submit copy of telephone logs including name of caller, name of company called, phone number, contact person, time, date and result of conversation. Telephone logs must be submitted to demonstrate follow-up with all contractors to whom written notices were sent.

7. Provision of plans, specifications and requirements	10 Points
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Bidder provided interested sub-bidders with access to plans, specifications and requirements for subject project.

Required documentation: Content of advertisements (Indicator 4) and written notices to subcontractors (Indicator 5) will demonstrate compliance with this indicator.

8. Request for assistance from recruitment/placement agencies	10 Points
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Not less than fifteen (15) calendar days prior to bid submittal, bidder requested assistance from agencies, which recruit and place subcontractors. A list of such agencies is available from EOCP. Other organizations, which promote subcontractor activities, may also be contacted.

Required documentation: Submit copy of each letter sent to outreach agencies requesting assistance in recruiting subcontractors. Faxed copies must include fax transmittal confirmation slip showing date and time of transmission. Mailed letters must include copies of metered envelopes or certified mail receipts. Content of letters must include City of San Diego's project name, name of bidder, and contact person's name and phone number.

9. Documentation of subcontractor negotiation	25 Points
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Bidder acted in good faith with interested ~~subcontractors~~ MBEs, WBEs, DBEs, DVBEs and OBEs, and has rejected no bid for other than legitimate business reasons.

Required documentation: Submit: a) Copies of ~~subcontractor~~ all MBE, WBE, DBE, DVBE and OBE bids or quotes received; and b) Summary sheet organized by work type listing subcontractor company names with bid amounts for each work type. Identify selected subcontractor for each work type. If bidder elects to use own forces to perform a work type, include bid to show own costs for the work. Copies of bids or quotes from vendors and suppliers must also be included if those bids are used toward achievement of the mandatory goal and must also be listed on the Summary sheet.

10. Assistance with bonds, credit lines and insurance	10 Points
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Bidder made efforts to advise and assist interested subcontractors in obtaining bonds, credit lines and insurance required for subject project.

Required documentation: Content of advertisements (Indicator 4) and written notices to subcontractors (Indicator 5) will determine compliance with this objective.

VI. Contract Award

The City reserves the right to reject any and all bids. Award of contract will be to the lowest responsible bidder whose proposal complies with the *Subcontracting Outreach Program* as determined by evaluation of submitted documentation.

VII. Subcontractor Substitution

A. Except as provided below, the level of listed subcontractor participation shall be maintained for the duration of the contract.

1. Contractor shall request prior approval from the City of San Diego for all substitutions of subcontractors, including any reduction in compensation or scope of work.
 2. Written request shall provide name of listed subcontractor, name of replacement subcontractor, reason for substitution, work type and dollar amount.
 3. Except as otherwise provided in Section 4107.5 of the California Public Contract Code [PCC], the City may consent to the substitution of another person as a subcontractor in any of the situations listed under Section 4107 of the PCC.
 4. The Contractor's proposed replacement subcontractor must be selected in accordance with the MBE/WBE/DBE/DVBE sub-bidder/subcontractor outreach process in Section II, below.
 5. The selection process for a substitute subcontractor shall be evaluated for fairness and outreach efforts.
 - A. Contractor shall submit all documentation of subcontractor outreach efforts to City of San Diego for review by EOCP.
 - B. Evidence of fraud or discrimination in substitution of subcontractors will result in sanctions including assessment of penalty fines, termination of contract or debarment.
 6. In the event that the City consents to the Contractor's substitution request and the Contractor fails to specify the replacement subcontractor, the Contractor agrees that (i) he or she is fully qualified to perform that portion himself or herself; provided, however, that the Contractor must still satisfy the City's mandatory subcontractor participation goal for the project.
 7. This section does not replace the applicable PCC.
- B. MBE/WBE/DBE/DVBE sub-bidder/subcontractor substitution: The City requires that whenever the Contractor seeks to substitute a bid-listed MBE, WBE, DBE

or DVBE subcontractor, the Contractor must make a good faith effort to replace the MBE, WBE, DBE or DVBE with a subcontractor of the same certification status (i.e. MBE for MBE, WBE for WBE, DBE for DBE, DVBE for DVBE).

1. The Contractor shall call at least two (2) certified MBE, WBE, DBE or DVBE sub-bid prospects from each trade for which sub-bids/subcontracting work is available and document the following for submittal:
 - I. Name of company called.
 - II. Contact person and telephone number.
 - III. Date and time of contact.
 - IV. Response for each item of work which was solicited, including dollar amounts.
 - V. Reason for selection or rejection of sub-bid prospect.
2. The Contractor shall submit all documentation of good faith efforts to the City of San Diego Office of Equal Opportunity Contracting.

VIII. Falsification of Sub-Agreement

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work performed by subcontractor will result in sanctions including assessment of penalty fines, termination of contract or debarment.

IX. Submission of *Final Summary Report*

Contractor must submit a *Final Summary Report* including all subcontracting activity during the project to City of San Diego within fifteen (15) calendar days after Final Inspection of contract work. Failure to comply may result in assessment of liquidated damages or withholding of retention.