



EDUCATE. CONNECT. GROW.



EDUCATE. CONNECT. GROW.

Pre-Bid Good Faith Efforts Assessment

Presented by

MARSHA E. MURRAY

Assistant Director

LATANJA BOLDEN

Procurement Specialist, Department Services

MONICA DENNIS

Procurement Specialist, Department Services

August 8, 2014

Annise D. Parker
Mayor

Carlecia D. Wright
Director

611 Walker, 7th Floor
Houston, TX 77002
www.houstontx.gov/obo

T. 832.393.0600 F. 832.393.0647



Overview of Presentation



- I. Purpose**
- II. Discussion of Good Faith Efforts Policy**
- III. Assessing your Participation Plan**
- IV. Case Studies of Approved & Denied GFEs**
- V. Appealing a Final Determination**



Minority, Women and Small Business Enterprise (MWSBE) Program



- **Governed by City of Houston Code of Ordinances, Chapter 15, Article V**
- **Express purpose is to promote the growth and success of MWSBEs**
- **Goal-oriented contracts – a way to increase participation of MWSBEs**
- **An effort to remedy discriminatory practices and eliminate statistical disparities in city contracting.**
- **Goals are not quotas. The standard for meeting goals is demonstrating good faith efforts.**
- **Contract goals are based on divisibility of the work required under the contract and the availability of MWSBEs to perform the work.**



What are Good Faith Efforts?



- Steps taken to achieve a Contract Goal which, by their scope, intensity and usefulness **DEMONSTRATED** the bidder's responsiveness to fulfill the business opportunity objective prior to the award of a contract.

*In other words, **EVIDENCE** of a genuine attempt to meet the contract goal.*



Good Faith Efforts



- Good Faith Efforts are a **REQUIREMENT** to be demonstrated by a successful bidder on goal oriented contracts **PRIOR** to the award.
- If a bidder anticipates it cannot or will not meet the contract goal prior to the award, a Good Faith Effort demonstration is **REQUIRED** to be eligible for the award.





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

Good Faith Efforts Policy Contract Document 808 - Appendix

Tips to Increase Goal Attainment



- **Establish relationships with MWSBEs in advance**
- **Subdivide the work**
- **Use the City Of Houston MWSBE Directory to find firms**
- **Directly solicit to MWSBEs in a timely manner**
- **Provide relevant bidding/contract information to MWSBE Firms**
- **Advertise opportunities**
- **Offer assistance to MWSBEs**
- **Go back to subcontractor's that you've done business with in the past and ask them to bid**
- **If no one responds to your email blasts, pick up the phone and call to ask if they are going to bid**
- **Review CIP in advance and discuss projects and opportunities with MWSBEs**



Good Faith Efforts Policy



Elements include:

- **Attendance at pre-bid meeting to identify issues and Follow-Up**
- **Outreach and Advertisement**
- **Identify and Designate**
- **Access and Point-of-Contact**
- **Notice and Solicitation**
- **Contracts and Negotiations**
- **Explanations**
- **New Efforts**



Attendance



- **Attend pre-bid/pre-proposal meetings. If necessary, use meeting as opportunity to voice any concerns about contract goal.**



Document!



Follow up



- **Follow-up with MWSBEs attending the meetings to discuss subcontracting opportunities. Contact MWSBEs in the City's online directory to discuss subcontracting opportunities.**

City of Houston MWDBE/SBE Directory

Search the City of Houston's MWDBE/SBE Directory by entering search terms and clicking **Search**. You must select at least one certification type.

This online directory lists firms certified by the City of Houston.

For DBE firms, an agreement mandated by Federal DOT establishes a **central directory (UCP)** located on the [State of Texas website](#). The combined TUCP directory contains DBE firms certified by all TUCP partner agencies, including the City of Houston. Please use this directory when searching for DBE certified firms.

Search by Business Name or DBA

Business Name/DBA
 Tip: Try just a few letters of the firm's name.

Search by Business Description

Business Description

Search by Commodity Code

Commodity Code [Click to Lookup Commodity Code](#)
 (popup window will appear to browse and search available Commodity Codes)



Document!



Outreach



- Conduct outreach with minority and women based organizations **no less than 10 business days** before solicitation due date.



- Women Contractors Association
- Hispanic Contractor's Association
- National Association of Minority Contractors
- Chambers of Commerce
- Houston Minority Supplier Development Council
- Women's Business Enterprise Alliance



Subdivide the Work



- Identify and designate work to be performed by MWSBEs that increase likelihood of meeting goal.
- Do not choose portions of work for which availability of firms is limited.
- Designate reasonably sized subcontracts to ensure participation.



Who is installing the pipes?



Who is supplying the piping material?



Advertise



- **Advertise subcontracting opportunities in news media.**

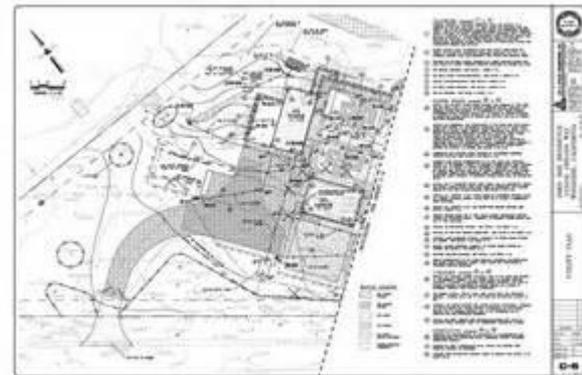


Access to information and Point of Contact

- Designate a knowledgeable point of contact available to MWSBEs. Provide Contact's *name, phone number, e-mail, office address.*



- Provide interested MWSBEs access to plans, scope of work, and requirements of the contract.



Notice and Solicitation



- Provide MWSBEs with written notice via email, mail, fax or other documented contact regarding subcontracting opportunities
- Solicit MWSBEs no less than 7 business days before bid submission
- Follow up with solicited MWSBEs to determine interest in bidding



*Document
Efforts!*



Negotiate in Good Faith



- **Negotiate in good faith with interested MWSBEs, and not rejecting MWSBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.**



Provide Explanations



Explain rejected bids:

- **Written notice to MWSBE** if price competitiveness was NOT the reason for rejection.
- **Follow up with/Set up meeting to discuss** if price competitiveness was the reason for rejection, if requested by MWSBE.
- **Notify OBO** of pass-throughs.



Assist and Ensure



Where applicable:

- **Assist MWSBE in obtaining credit lines and insurance.**
- **Ensure conditions and requirements for subcontracts meet industry standards without economic hardship to MWSBEs.**
 - ❖ **Avoid unnecessary insurance**
 - ❖ **Avoid coupling bid bonds with retainage**



Incorporate New Efforts



- **Efforts not attempted earlier or on previous bids that are likely to lead to attaining the contract goal.**
- **Past performance on similar contracts with similar scopes will also be taken in consideration**
- **Bidder with continuous same efforts without significant changes in the level of participation is not considered to be making Good Faith Efforts**
- **Mere formalities or obligatory acts are not considered as part of a bidder's good faith efforts.**





- This is **NOT** an exhaustive list.
- This is **NOT** an exclusive list.
- City may consider other factors or types of relevant efforts in appropriate cases, as documented by contractor.



Good Faith Effort Documentation



At a minimum, the following should be submitted to support Good Faith Effort documentation:

- Fax logs, emails, and/or copies of documents sent to certified firms.
- Copies of written correspondence to certified firms.
- Phone logs with results of contact (*a phone contact list alone is not sufficient*).
- Lists and copies of letters sent by mail, hand delivered, or e-mailed.
- Breakdown of negotiations made with certified firms.



Good Faith Effort Documentation



The following additional Good Faith Efforts factors may also be considered:

- Copies of advertisements and communications with local newspapers, trade associations, Chambers of Commerce and/or any other public media.
- Copies of emails or phone logs regarding assistance in bonding, lines of credit, or insurance.
- Copies of emails or phone logs regarding assistance in obtaining equipment, supplies, materials, or services.
- Copies of all bids received in response to Bidder contacting other firms.
- Records of discussion with sub-contractors prior to the beginning of the bid process.





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

The Participation Plan



Document 00470

BIDDER'S MWSBE PARTICIPATION PLAN

The Bidder or Proposer shall submit this completed form with the bid, to demonstrate the Bidder/Proposer's plan to meet the contract-specific MWSBE goal ("contract goal"). If the Bidder or Proposer cannot meet the contract goal, the Bidder/Proposer has the burden to demonstrate "Good Faith Efforts", which shall include correctly and accurately preparing and submitting this form, a Record of Good Faith Efforts (Document 00471), and a Request for Deviation from the Goal (Document 00472), the documentation evidencing their "Good Faith Efforts", as required by the City of Houston's Good Faith Efforts Policy (Document 00808). The City will review the Participation Plan and Good Faith Efforts at the time of bid opening. For more information, visit <https://houston.mwdbe.com/FrontEnd/VendorSearchPublic.asp>.

Contract Goal 0.00%	MBE	WBE	Bidder's Participation Plan Percentage	SBE	MBE	WBE	Total
------------------------	-----	-----	---	-----	-----	-----	-------

NAICS Code (6 digit)	Plan Item Number (if applicable)/ Description of Work	% of Total Bid Price (2 decimal places)	Cert. Type for Goal MBE, WBE, SBE)	Certified Firm Name Firm Address Contact Name Phone No. and E-Mail (if available)

Signature for Company: _____ * Date: _____
 Print Name: _____ Phone: _____

*I understand that supplying inaccurate information may violate Texas Penal Code Section 37.10 and lead to City sanctions.

00470-1
 07-01-2013

<<Bidder Name>>



Participation Plan: Document 470

- Captures the MWSBE participation that the Bidder commits to achieve for that contract.
- Helps Contracting Department and OBO determine whether the Bidder has a plan to actually meet the goal.
- The 00470 is submitted at the time of bid.

What goes into Document 470?



Document 00470

BIDDER'S MWSBE PARTICIPATION PLAN

The Bidder or Proposer shall submit this completed form with the bid, to demonstrate the Bidder/Proposer's plan to meet the contract-specific MWSBE goal ("contract goal"). If the Bidder or Proposer cannot meet the contract goal, the Bidder/Proposer has the burden to demonstrate "Good Faith Efforts", which shall include correctly and accurately preparing and submitting this form, a Record of Good Faith Efforts (Document 00471), and a Request for Deviation from the Goal (Document 00472), the documentation evidencing their "Good Faith Efforts", as required by the City of Houston's Good Faith Efforts Policy (Document 00808). The City will review the Participation Plan and Good Faith Efforts at the time of bid opening. For more information, visit <https://houston.mwdbe.com/FrontEnd/VendorSearchPublic.asp>.

Contract Goal	MBE	WBE	Bidder's Participation Plan Percentage	SBE	MBE	WBE	Total
0.00%							

NAICS Code (6 digit)	Plan Item Number (if applicable)/ Description of Work	% of Total Bid Price (2 decimal places)	Cert. Type for Goal MBE, WBE, SBE	Certified Firm Name Firm Address Contact Name Phone No. and E-Mail (if available)
541330	Plan Item #16: Electrical Design & Services	5.00%	WBE	Ferguson Consulting, Inc. 37602 Tournament Lane Magnolia, TX 77355 Carolyn Ferguson 281 252-9232 Ferguson@fci-engr.com

Required Fields

- **NAICS Code**
- **Plan Item Number & Description of Work**
- **Percent of Total Bid Price**
- **MWSBE Type for Goal**
- **Certified Firm Name, Address, Contact Name, Phone Number and E-mail**



CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

Assessing Your Participation Plan



Achievement of the Goal



Effective July 1, 2013:

- Utilization plans (Document 470) are due at time of bid.
- MBE and WBE goals are **separate subcontracting** goals to be met individually.
- Any **excess** of the MBE or WBE Goal **cannot** be used to meet a deficient MBE or WBE goal, or the Total Goal.
- **Only 4% SBE** can be used to meet either the MBE and/or WBE Goal, but both cannot get 4% each.
- **Supplies** can contribute up to **50%** of the Contract Goal
 - *Supplies alone do not stimulate growth among MWSBEs, therefore a limit is required to achieve the program's goal.*



City of Houston MWDDBE/SBE Directory

Search the City of Houston's MWDDBE/SBE Directory by entering search terms and clicking **Search**. You must select at least one certification type.

This online directory lists firms certified by the City of Houston.

For DBE firms, an agreement mandated by Federal DOT establishes a **central directory (UCP)** located on the **State of Texas website**. The combined TUCP directory contains DBE firms certified by all TUCP partner agencies, including the City of Houston. Please use this directory when searching for DBE certified firms.

Search by Business Name or DBA

Business Name/DBA
Tip: Try just a few letters of the firm's name.

Search by Business Description

Business Description

Search by Commodity Code

Commodity Code [Click to Lookup Commodity Code](#)
(popup window will appear to browse and search available Commodity Codes)

Search by Contact Person

Contact Person/Owner
First name Last name
Tip: Use the first letter. Tip: Try just the first few letters.

Search by Location

City
State
Zip Code
Phone Area Code

Search by Certification Type

Certifications

- Airport Concessionaire Disadvantaged Business Enterprise (ACDBE)
- Minority Business Enterprise (MBE)
- Small Business Enterprise (SBE)
- Women Business Enterprise (WBE)
- Disadvantaged Business Enterprise (DBE)
- Persons with Disabilities Business Enterprise (PDBE)

Search by Reference

Category

Download Entire Directory:

Include Commodity Codes in download

•Only City of Houston Certified firms may be used to meet either the MBE Goal or WBE Goal

•Visit OBO Website at <http://www.houstontx.gov/obo/> and click “Certified Firm Directory” link to search for Houston Certified Vendors.





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

Calculating Participation

Calculating Participation – Example 1

- **Goal: 21% MWBE Advertised Contract Goal**
 - ❖ 13% MBE and 8% WBE ← These are separate goals to be met individually!
- **Bidder's Numbers:**
 - SBE: 6% → 4% of SBE may be used to meet the MBE and/or WBE goal.
 - MBE: 9% + 4% (from SBE) = 13%
 - WBE: 8% + 13% = 21%
- **Does this plan meet the Goal?**

YES!!



Calculating Participation – Example 2

Goal: 19% MWBE Advertised Contract Goal

❖ 11% MBE and 8% WBE



These are separate goals to be met individually!

•Bidder's Numbers:

○SBE: 12% → **ONLY** 4% of SBE may be used to meet either the MBE and/or WBE goal. **NOT 4% FOR EACH!**

○MBE: 6% The remainder SBE percentage CANNOT be used for MBE goal calculation.

○WBE: 4% + 4% (from SBE) = 8%

TOTAL: 22 %

Does this plan meet the Goal?

Only the WBE Goal is met.

NO



Calculating Participation – Example 3

- **Goal: 20% MWBE Advertised Contract Goal**
 - ❖ 15% MBE and 5% WBE
- **Bidder's Numbers:**
 - **SBE: 5%** → Up to 4% of SBE participation may be applied to MBE and/or WBE participation. In this case, MBE may be increased to 15%, after taking 3% of the allowed 4% SBE.
 - **MBE: 13%** → Only up to 50% of the Total Goal may be calculated from Suppliers. Here only 10% of Suppliers and the 2% of Service will be calculated into the MBE Goal for a total of 12% MBE participation.
 - 11% from suppliers.
 - 2% Service
 - **WBE: 10%**
 - TOTAL Bidder Plan Submitted: 28%

- **Does this plan meet the Goal?**

YES!!

After Assessment: 12% + 3% = 15% MBE plus 5% WBE Total: 20%



Calculating Participation – Example 4

- **Goal: 20% MWBE Advertised Contract Goal**

- ❖ 15% MBE and 5% WBE

- **Bidder's Numbers:**

- **SBE: 6%**



4% May be allocated to alleviate the deficient MBE percentage.

- **MBE: 15%**

- All 15% from suppliers.



Bidder exceeded 50% supply threshold. Only 10% of his MBE participation counts toward the MBE Goal.

- **WBE: 10%**

WBE Goal is met with 5% (the remainder WBE goal may not be used to alleviate the MBE goal)

- **TOTAL: 25 %**



5% (WBE) + 14 (MBE with the allowed 4% SBE allocation) = 19%

- **Does this plan meet the Goal?**

NO



Remember...



- ✓ Bidder completely fills out the 00470 PRIOR to bid submission.
- ✓ Bidders MUST submit the 00470 with the bid or else the bid is non-responsive.
- ✓ Bidders must fill in each box COMPLETELY.
- ✓ SIGN the document.
- ✓ All information must be provided in order to be deemed responsive.





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

When do you demonstrate Good Faith Efforts?



Reviewing Good Faith Efforts



If the bidder's participation plan provides for MWSBE participation less than the Contract Goal, bidder must also submit:

Document 00471

❖ Pre-Bid Good Faith Efforts

AND

Document 00472

❖ Bidder's MWSBE Goal Deviation Request



Document 00471: Record of Good Faith Efforts



[Short Project Name]
WBS No. [WBS No.]

PRE-BID
GOOD FAITH EFFORTS

Document 00471

PRE BID GOOD FAITH EFFORTS

Bidder or Proposer Name: _____ Project Name & Bid/Contract# _____

A Bidder or Proposer that may be unable to complete or follow a Participation Plan (Document CCD-00470) to meet the contract specific goal in the Supplemental Conditions (Document 00800), must submit this completed form as well as a Goal Deviation Request Form (Document 00472), and any other documentation of "Good Faith Efforts" with the bid (see Document 00808). The Bidder or Prime Contractor has the burden to demonstrate "Good Faith Efforts" to meet the MWSBE goal, which includes correctly and accurately preparing and submitting this form and other efforts described in the City's Good Faith Efforts Policy (Document 00808). The Office of Business Opportunity will review Good Faith Efforts and Participation Plan after selection of an apparent low bidder.

UNLESS THE BIDDER'S/PROPOSER'S PARTICIPATION PLAN MEETS THE CONTRACT GOAL, FAILURE TO SUBMIT THIS FORM MAY RESULT IN THE BID BEING FOUND NON-RESPONSIVE.

NAICS Code	Plan Item No.	MWSBE Type for Goal	Certified Firm Name Address, Phone No. and E-Mail	Certified Firm Contact Person	Method of Contact	Prime Contact Date	Certified Firm Response	Results of Contact (why suitable or not suitable for work)
					Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/>			
					Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/>			
					Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/>			
					Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/>			

Authorized Signature: _____ Date: _____ Phone: _____

Print Name: _____ Email Address: _____

00471-1
07-01-2013

- **Allows the Bidder to document Good Faith Efforts to meet its MWSBE goal.**
- **Allows the City to see how much effort the bidder put into finding MWSBE firms.**
- **Bidder must fill out every box.**
- **Bidder must sign document.**



Completing Document 00471



[Short Project Name]
WBS No. [WBS No.]

PRE-BID
GOOD FAITH EFFORTS

Document 00471

PRE BID GOOD FAITH EFFORTS

Bidder or Proposer Name: _____ Project Name & Bid/Contract# _____

A Bidder or Proposer that may be unable to complete or follow a Participation Plan (Document CCD-00470) to meet the contract specific goal in the Supplemental Conditions (Document 00800), must submit this completed form as well as a Goal Deviation Request Form (Document 00472), and any other documentation of "Good Faith Efforts" with the bid (see Document 00808). The Bidder or Prime Contractor has the burden to demonstrate "Good Faith Efforts" to meet the MWSBE goal, which includes correctly and accurately preparing and submitting this form and other efforts described in the City's Good Faith Efforts Policy (Document 00808). The Office of Business Opportunity will review Good Faith Efforts and Participation Plan after selection of an apparent low bidder.

UNLESS THE BIDDER'S/PROPOSER'S PARTICIPATION PLAN MEETS THE CONTRACT GOAL, FAILURE TO SUBMIT THIS FORM MAY RESULT IN THE BID BEING FOUND NON-RESPONSIVE.

NAICS Code	Plan Item No.	MWSBE Type for Goal	Certified Firm Name, Address, Phone No. and E-Mail	Certified Firm Contact Person	Method of Contact	Prime Contact Date	Certified Firm Response	Results of Contact (why suitable or not suitable for work)
238120 Iron Work	15	MBE	Halcon Erectors 331 Lang Rd TRLR 56 Houston, TX 77092 halconerectors@yahoo.com	Eduardo Rojas	Phone <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/>	4/26/13	4/26/13	Certified Firm Already Booked

Doc. 471 requires similar information as Doc. 470 for the fields of:

- **NAICS Code**
- **MWSBE Type for Goal**
- **Certified Firm Name, Address, Phone No. and E-mail**



CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

Completing Document 471



Bidder may attach an Excel Spreadsheet with equivalent information.

Company Name	DBA Name	Owner First	Owner Last	Physical Address	City	St	Zip	Mailing Address	City2	St2	Zip2	Phone	Fax	Email	Cart MBE	Renewal	Order of Aggregate & Other Construction Supplies, Construction Mgmt, Hauling & Logistics Services	Category
218 Resources, Inc.		Barbara A.	Porter	10700 Richmond Ave., Suite 154	Houston	T	77042	10700 Richmond Ave., Suite 154	Houston	TX	77042	713-875-8800	888-442-8024	218resources@gmail.com		2/28/15	Order of Aggregate & Other Construction Supplies, Construction Mgmt, Hauling & Logistics Services	Construction Services & Equipment
218 Resources, Inc.		Barbara A.	Porter	10700 Richmond Ave., Suite 154	Houston	T	77042	10700 Richmond Ave., Suite 154	Houston	TX	77042	713-875-8800	888-442-8024	218resources@gmail.com	MBE	2/28/15	Order of Aggregate & Other Construction Supplies, Construction Mgmt, Hauling & Logistics Services	Construction Services & Equipment
218 Resources, Inc.		Barbara A.	Porter	10700 Richmond Ave., Suite 154	Houston	T	77042	10700 Richmond Ave., Suite 154	Houston	TX	77042	713-875-8800	888-442-8024	218resources@gmail.com	WBE	2/28/15	Order of Aggregate & Other Construction Supplies, Construction Mgmt, Hauling & Logistics Services	Construction Services & Equipment
A & A Trucking LLC		Antonio A.	Rodriguez	418 E TEXAS AVE	Baytown	T	77520	418 E TEXAS AVE	Baytown	TX	77520	281-827-1274	281-427-3124	aaatruck@aol.com	MBE	6/30/14	Dump Truck Services, 24 Hours A Day/Suppliers of Earth Materials, Stone Materials, Crush Concrete, Limestone Materials, & Asphalt Materials	Construction Services & Equipment
A & A Trucking LLC		Antonio A.	Rodriguez	418 E TEXAS AVE	Baytown	T	77520	418 E TEXAS AVE	Baytown	TX	77520	281-827-1274	281-427-3124	aaatruck@aol.com	MBE	6/30/14	Dump Truck Services, 24 Hours A Day/Suppliers of Earth Materials, Stone Materials, Crush Concrete, Limestone Materials, & Asphalt Materials	Construction Services & Equipment
A Tex DBE, Inc.		Don	Briggs	12806 Ridgeway	Mesquite City	T	77489	P.O. Box 206725	Houston	TX	77207	281-438-4246	713-991-7264	atexdb@atp.net	MBE	4/30/13	CONCRETE WORK	Construction Services & Equipment
A Tex DBE, Inc.		Don	Briggs	12806 Ridgeway	Mesquite City	T	77489	P.O. Box 206725	Houston	TX	77207	281-438-4246	713-991-7264	atexdb@atp.net	MBE	4/30/13	CONCRETE WORK	Construction Services & Equipment
A.J.J.A. Trucking, Inc.		Juan Jose	Argueta	14219 Beaworth St.	Houston	T	77065	14215 Beaworth St.	Houston	TX	77065	281-588-8691	281-455-3636	jaan.argueta@aol.net	MBE	6/30/14	Local Transportation of Construction Materials (Asphalt & Dirt)	Construction Services & Equipment
A.J.J.A. Trucking, Inc.		Juan Jose	Argueta	14219 Beaworth St.	Houston	T	77065	14215 Beaworth St.	Houston	TX	77065	281-588-8691	281-455-3636	jaan.argueta@aol.net	MBE	6/30/14	Local Transportation of Construction Materials (Asphalt & Dirt)	Construction Services & Equipment
A-1 Sealing & Paving Company		John	Meador	6221 W San Houston Parkway N	Houston	T	77041	6221 W San Houston Parkway N	Houston	TX	77041	713-875-1819	713-875-6128	colde@a1p.com	MBE	1/31/14	Seal & Underpinment, Utility, Concrete Construction & Repair, Asphalt Paving, Pavement Marking, Grading & Related Activities, & Traffic Control Signs, Construction Management	Construction Services & Equipment
AAA Asphalt Paving, Inc.		Michael D.	Huffman	10526 Turner Road	Houston	T	77041	10526 Turner Road	Houston	TX	77041	713-817-4387	713-886-8888	mhuffm@aaaasphalt.com	MBE	1/31/13	Storm Sewer Construction, Concrete and Asphalt paving	Construction Services & Equipment



What's Next?



Pre-Bid Documents:

- ✓ **Document 00470**
 - ❖ **Bidder's MWSBE Participation Plan**

- ✓ **Document 00471**
 - ❖ **Pre-Bid Good Faith Efforts**

- ✓ **Document 00472**
 - ❖ **Bidder's MWSBE Goal Deviation Request**



Document 00472: Request for Goal Deviation



[Short Project Name]
WBS No. [WBS No.]

BIDDER'S GOAL
DEVIATION REQUEST

Document 00472

BIDDER'S MWSBE GOAL DEVIATION REQUEST

Bidder or Proposer Name: _____

Project Name & Bid/Contract #: _____

Department Approved MWSBE Goals	SBE %	MBE %	WBE %	Total %

Bidder's Proposed MWSBE Goals	SBE %	MBE %	WBE %	Total %

Justification: Please provide the reason the Bidder is unable to meet the MWSBE goal in Document 00800.

Good Faith Efforts: Please list any efforts not listed in the Bidder's Good Faith Effort Report (Document 00471).

Date: _____ Bidder: _____

Email: _____ By: _____

Phone Number: _____ Title: _____

FOR OFFICIAL USE ONLY: Approved <input type="checkbox"/>		Not Approved <input type="checkbox"/>	
OBO Representative	Date: _____		
_____	Title: _____		

00472-1
04-01-2013

The 00472 allows the Bidder to explain two things:

- Why the Bidder was unable to meet the advertised MWSBE goals; and
 - What good faith efforts the Bidder made that were not captured on Document 471.
- Make sure this document is completely filled out.
 - Make sure the Bidder has signed the document.



Important!!!



- Either you turn in ONE document if you meet the Contract Goal
(Doc. 00470)

OR

- You turn in THREE documents if you cannot meet the Contract Goal
(00470, 00471, & 00472)

- ❖ For guidance with completing the required documents, please refer to the
“New MWSBE Pre-Bid Requirements” Presentation at:
http://www.houstontx.gov/obo/docsandforms/contractor_prebid_requirements.pdf





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

Evaluation and Assessment of GFE



Evaluation and Assessment



GFE are evaluated by the OBO on a **case-by-case basis** in making determination whether a bidder or contractor is in compliance with this policy.

- Efforts employed by a bidder or contractor should be those that one could reasonably expect a bidder or contractor to take if bidder were actively and aggressively attempting to obtain MWSBE participation to meet the contract goal.
- A bidder's Good Faith Efforts must be demonstrated at bid submission
- **Additional supporting documents or justifications cannot be submitted to the OBO for review or consideration after submission of bid.**
- Contractors will be contacted by the OBO only for clarification purposes on a case-by-case basis.





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

GOOD FAITH EFFORTS

Case Studies

Approved GFE



Approved Good Faith Efforts usually consist of:

- **Completed Documents**
- **Evidence of Good Faith Efforts**
- **Supporting Documents**



Approved GFE – Case Study 1



A **Plant Work** project with a **20%** MWBE Goal (**13%** MBE, **7%** WBE).

- Bidder's Participation Plan: **MBE = 13.82%**, **WBE = 0.00%**, SBE = 0.91%, Total = 14.73%
- Bidder exceeded the MBE Goal, however the excess goal does not count towards the total MWBE Goal. Bidder failed to meet the WBE Goal by 7%. Bidder could combine SBE % toward meeting the WBE goal:
MBE = 13.00%, **WBE = 0.91%** Total Goal = 13.91%, **Unmet WBE Goal = 6.09%**
- **Bidder provided the following documentation for evaluation:**
 - Documents 470, 471 & 472
 - Written narrative to explain step taken to achieve MWBE Goal
 - Documents provided the following information:
 - MWBE's contacted and contact details
 - Certification Type
 - MWBE's work capabilities
 - Scope of work relevant to MWBE's work capabilities
 - Date of contact for fax and email notification, and telephone call follow ups
 - Results of contact with MWBEs
 - Fax log and email log submissions
 - Sample bid invitation with project details, point of contact & link to project plans & specs
 - Proof of advertising details and link where plans were made available to MWBEs



Approved GFE – Case Study 1



- **Department Services evaluated documentation and verified details**
- **Bidder met Good Faith Efforts by providing documentation to demonstrate they:**
 - Identified and designated portions of the work to be performed by MWSBEs to increase the likelihood of meeting the contract goals by encouraging proposals in various scopes of work
 - Provided a point of contact that was knowledgeable about the project who possessed decision-making authority to answer questions from MWSBE's by providing estimator as a point of contact
 - Notified a reasonable number of certified MWSBEs
 - Followed up to determine if they were interested in submitting a bid or participating on a team
 - Solicited MWSBEs within a reasonable amount of time by providing written notification to MWBEs more than 7 business days before bid submission
 - Provided MWSBEs access to the plans, specifications, scope of work and requirements
 - Negotiated in good faith with MWSBEs by proposing a participation plan of 13.91%
 - Attended the City's pre-bid meeting



Approved GFE – Case Study 2



A **Lift Station** project with an **18%** MWBE Goal (**11%** MBE, **7%** WBE).

- Bidder's Participation Plan: **MBE= 15.12%**, **WBE= 0.80%**, SBE = 2.47%, Total Goal = 18.374%
- Bidder exceeded the MBE Goal, however the excess goal does not count towards the total MWBE Goal. Bidder failed to meet the WBE Goal by 6.20%. Bidder could combine their SBE % toward meeting the MBE goal: MBE = 11.00%, WBE = 3.27%, **Total Goal = 14.27%**, **Unmet WBE Goal = 3.73%**
- **Bidder provided the following documentation for evaluation:**
 - Documents 470, 471 & 472
 - Documents provided the following information:
 - MWBEs contacted and contact details
 - Certification Type
 - MWBE's work capabilities
 - Date of contact for phone and/or email notification
 - Response from MWBEs



Approved GFE – Case Study 2



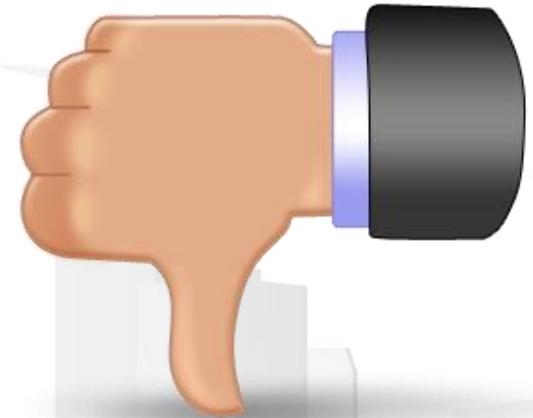
- **Department Services evaluated documentation and verified details**
- **Bidder met Good Faith Efforts by providing documentation to demonstrate they:**
 - Identified and designated portions of the work to be performed by MWSBEs to increase the likelihood of meeting the contract goals by encouraging proposals various scopes of work
 - Notified a reasonable number of certified MWBEs
 - Solicited MWSBEs within a reasonable amount of time by providing written notification to MWBEs more than 7 business days before bid submission
 - Followed up to determine if they were interested in submitting a bid or participating on a team
 - Negotiated in good faith with MWSBEs by proposing a MWSBE participation plan of 14.27%
 - Attended the City's pre-bid meeting



Denied GFE



- Bidders cannot demonstrate good faith efforts merely by stating any of the following:
 - Not enough divisibility
 - Contractor self-performing the work
 - Not enough low MWBE bids
 - Running out of time
 - Specialty nature of work



It is important to address Goal challenges at the City's Pre-Bid meetings



Denied GFE – Case Study 1



A **Lift Station** with an **18%** MWBE Goal (**11%** MBE, **7%** WBE).

- Bidder's Participation Plan: **MBE = 2.56%**, **WBE = 23.65%**, SBE = 0.45%, Total = 26.66%
- Bidder exceeded the WBE Goal, however the excess goal does not count towards the total MWBE Goal. Bidder failed to meet the MBE Goal by 8.44%. Bidder could combine their SBE% toward meeting the MBE goal: MBE = 3.01%, WBE = 7%, **Total Goal = 10.01%**, **Unmet MBE Goal = 7.99%**
- **Bidder provided the following documentation for evaluation:**
 - Documents 470, 471 & 472
 - Documents provided the following information:
 - MWBEs contacted and contact details
 - Certification Type
 - MWBE's work capabilities
 - Date of contact for phone and/or email notification
 - Response from MWBEs



Denied GFE – Case Study 1



- **Department Services evaluated documentation and verified details**
- **Bidder provided documentation to demonstrate they:**
 - Identified and designated portions of the work to be performed by MWSBEs to increase the likelihood of meeting the contract goals by encouraging proposals in various scopes of work
 - Negotiated in good faith with MWSBEs by proposing a participation plan of 10.01%
 - Solicited bids in news media and organizations focused towards minority and women
 - Notified a reasonable number of MWSBEs
- **While bidder demonstrated the above, a Good Faith Effort was not established:**
 - Media and organizations were not notified within a timely manner
 - Organizations were given 6 business day notice, which is less than the minimum 10 business days
 - 60% of emails sent were undeliverable
 - 20% of the organizations were not relevant to solicit bids
 - MWBEs were not notified within a timely manner
 - MWBEs were given 6 business day notice, which is less than the minimum 7 business days



Denied GFE – Case Study 1



- The City's Good Faith Efforts Policy outlines a multitude of options in order to make the requisite good faith efforts request.
- The bidder did not *demonstrate* a genuine effort to comply with the City's Good Faith Effort Policy:
 - Media and organizations were not notified within a timely manner
 - MWBEs were not notified within a timely manner
 - No follow up to determine if they were interested in submitting a bid or participating on a team
 - No follow up to organizations and associations to correct undelivered emails
 - Bidder did not provide interested MWSBEs certified to perform the work with prompt access to plans, specifications, scope of work and requirements of the contract
 - Bidder did not provide a point of contact that was knowledgeable about the project and possessed decision-making authority to answer questions
 - Bidder did not attend pre-bid meeting



Denied GFE – Case Study 2



A **Large Water Line** with a 19% MWBE Goal (12% MBE, 7% WBE).

- Bidder's Participation Plan: **MBE 2.34%, WBE 0.08%**, SBE 1.07%, Total 3.49%
- Bidder failed to meet the MBE and WBE Goal. Bidder could combine their SBE% toward meeting the MBE or WBE goal: MBE = 3.41%, WBE = 0.08%, **Total Goal = 3.49%, Unmet MWBE Goal = 15.51%**
- **Bidder provided the following documentation for evaluation:**
 - Documents 470, 471 & 472
 - Documents provided the following information:
 - MWBEs contacted and contact details
 - Certification Type
 - MWBE's work capabilities



Denied GFE – Case Study 2



- **Department Services evaluated documentation and investigated details**
- **Bidder provided documentation to demonstrate they:**
 - Identified and designated portions of the work to be performed by MWSBEs to increase the likelihood of meeting the contract goals by encouraging proposals in various scopes of work
 - Negotiated in good faith with MWSBEs by proposing a participation plan of 3.49%
 - Solicited bids in news media and organizations focused towards minority and women
 - Notified a reasonable number of MWSBEs
- **While bidder demonstrated the above, a Good Faith Effort was not established:**
 - Dates MWBEs were contacted was not identified
 - Method of contact for MWBEs was not identified
 - Results of contact from MWBEs were not identified
 - Dates Organizations and Associations contacted was not identified
 - Method of contact for Organizations and Associations was not identified
 - Results of contact from Organizations and Associations were not identified



Denied GFE – Case Study 2



- The City's Good Faith Efforts Policy outlines a multitude of options in order to make the requisite good faith efforts request.
- The bidder did not *demonstrate* a genuine effort to comply with the City's Good Faith Effort Policy:
 - Media and organizations were not notified within a timely manner
 - Method of contact for Organizations and Associations was not identified
 - MWBEs were not notified within a timely manner
 - Method of contact for MWBEs was not identified
 - No follow up to determine if they were interested in submitting a bid or participating on a team
 - Bidder did not provide interested MWSBEs certified to perform the work with prompt access to plans, specifications, scope of work and requirements of the contract
 - Bidder did not provide a point of contact that was knowledgeable about the project and possessed decision-making authority to answer questions
 - Bidder did not attend pre-bid meeting



Approval or Denial Determination of Good Faith Efforts



Approval Process

- ✓ **OBO notifies the Contracting Department of the approval**
 - Contractors must plan on using the certified firms listed on Document 470 to meet the goal.

Denial Process

- ✓ **OBO notifies the Contracting Department of the denial**
 - The contracting department may choose to proceed with bidder or choose the next apparent responsive low-bidder.
 - The Contracting Department will notify the bidder of denial, at this time.





CITY OF HOUSTON
OFFICE
of
BUSINESS OPPORTUNITY

EDUCATE. CONNECT. GROW.

Appealing Denial of GFE Request



Appeals Process



Failure to submit Good Faith Efforts (Forms 470, 471 & 472) results in waiver of the right to appeal OBO determination.

Once the Bidder is notified of the City's determination:

- Bidder may appeal a denial of their Good Faith Efforts by contacting OBO's Assistant Director via mail or by email at marsha.murray@houstontx.gov
- An appeal of the denial of good faith efforts can be conducted in person or via telephone
- No new documentation will be accepted by OBO at appeal stage.
- If after review by the Assistant Director's office, further review is requested, you may request a final review by the OBO's Director at director.obo@houstontx.gov
- If a denial is reversed as a result of appeal, the bidder will be notified in writing.





QUESTIONS?
OBO Website:
www.houstontx.gov/obo

EDUCATE. CONNECT. GROW.



Annise D. Parker
Mayor

Carlecia D. Wright
Director

611 Walker, 7th Floor
Houston, TX 77002
www.houstontx.gov/obo

T. 713.837.9000 F. 713.837.9055





THANK YOU

EDUCATE. CONNECT. GROW.



Annise D. Parker
Mayor

Carlecia D. Wright
Director

611 Walker, 7th Floor
Houston, TX 77002
www.houstontx.gov/obo

T. 713.837.9000 F. 713.837.9055

