

City of Minneapolis Small and Underutilized Business Program (SUBP)

I. Overview

The City of Minneapolis and Minneapolis Park and Recreation Board (MPRB) policy is to provide equal opportunities to all businesses, with an effort to redress discrimination in the City's marketplace and in public contracting against Minority-owned business enterprises (MBEs) and Women-owned business enterprises (WBEs). This is accomplished through the Small and Underutilized Business Program ("SUBP") as detailed in the Minneapolis Code of Ordinances Chapter 423. The SUBP applies to any construction, service, or purchase contract over \$175,000. SUBP goals are set on projects based on the project scope, subcontracting opportunities and availability of eligible MBEs/WBEs.

The City has set the following SUBP goal to facilitate participation of eligible MBEs and WBEs (MBEs/WBEs) on this contract:

The goal on this contract will be 5% MBE/WBE (combined).*

* This project has a combined MBE/WBE goal. This SUBP goal may be met by utilizing either an MBE firm or a WBE firm, or by a combination of both MBE and WBE firms.

In order for the participation of an MBE/WBE firm to be counted toward the SUBP goal, the MBE/WBE firm must be:

1. Certified as a Disadvantaged Business Enterprise (DBE). This is the only MBE/WBE certification accepted by the SUBP.
2. DBE-certified within the scope of work that they will perform.
3. Performing a commercially useful function. An MBE/WBE performs a commercially useful function when it executes a distinct element of work and carries out its responsibilities by actually performing, managing, and supervising the work involved.
4. Located within the City's marketplace, which includes only the Minnesota Counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Le Sueur, Mille Lacs, Ramsey, Scott, Sherburne, Sibley, Washington, and Wright; and the Wisconsin Counties of Pierce and St. Croix.

Consultants should search for DBE-certified MBE and WBE firms using the Minnesota Unified Certification Program (MnUCP) directory, here: <http://mnu cp.metc.state.mn.us/>.¹

Consultants must make a Good Faith Effort to meet the SUBP goal. This means that Consultants must make *every necessary and reasonable effort* to subcontract with MBEs/WBEs. **Commitment to use MBEs/WBEs, Good Faith Efforts to include MBE/WBE participation, and compliance with SUBP will be a factor in the selection of proposals.**

¹ If a Consultant identifies a business that is not yet certified, but may qualify for certification as MBE/WBE, the Consultant should encourage the business to immediately begin the application process for certification with the MNUCP. The Consultant should include this in their Good Faith Efforts documentation.

II. GOOD FAITH EFFORTS EVALUATION

If a Consultant does not meet the SUBP goal, the Consultant shall demonstrate its good faith efforts to do so. To determine if the Consultant demonstrated good faith efforts to meet the SUBP goal, the following list of factors may be considered:

1. Soliciting through all reasonable and available means (attendance at pre-proposal meetings, advertising and/or written notices) the interest of all eligible MBEs/WBEs certified in the scopes of work of the contract. The proposer must solicit MBEs/WBEs in sufficient time prior to proposal due date to allow MBEs/WBEs time to respond to solicitations. The proposer must determine with reasonable certainty if the MBEs/WBEs are interested by taking appropriate steps to follow up on initial solicitations.
2. Selecting portions of the work to be performed by eligible MBEs/WBEs in order to increase the likelihood that the SUBP goal will be achieved. This includes, where appropriate, breaking out contract work into smaller units to facilitate MBE/WBE participation, even when a proposer might otherwise prefer to perform these work items with its own forces.
3. Providing interested eligible MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. The proposer must negotiate in good faith with interested eligible MBEs/WBEs and provide written documentation of such negotiation with each such business.
5. A proposer should consider a number of factors in negotiating with potential MBE/WBE sub-consultants, and should take into consideration an eligible MBE or WBE's price and capabilities and scheduling as well as the established contract goal. However, the fact that there may be some additional costs involved in finding and using eligible MBE's/WBE's is not in itself sufficient reason for a proposer's failure to meet the established MBE/WBE goal, as long as such costs are reasonable. The ability or desire to perform the work of a contract with its own organization does not relieve the proposer of the responsibility to make good faith efforts. Proposers are not, however, required to accept higher quotes from eligible MBE's/WBE's if the price difference is excessive or unreasonable.
6. The proposer must offer information regarding, and make reasonable efforts to assist, solicited eligible MBEs/WBEs in obtaining bonding, lines of credit or insurance as required by the city or by the proposer; provided that the proposer need not provide financial assistance toward this effort.
7. Effectively using the services of minority/woman community organizations; minority/woman contractors' groups; local, state and federal business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the solicitation and placement of MBEs/WBEs.
8. Whether the apparent successful proposer met or exceeded the average eligible MBE/WBE participation obtained by other proposers responding to the same City publication.

III. Required Documentation

1. The proposer must thoroughly document its efforts to solicit and incorporate eligible MBE/WBE participation to meet the SUBP goal. **The following must be submitted with the proposal:**
 - a. *SUBP Commitment Form*, listing all sub-consultants, contractors, suppliers, and service providers that will be used on the project. This completed form will be used to determine whether the proposer is committing to meeting the SUBP goal. The commitments listed by the proposer on this form are a material condition of contract award, and constitute minimum commitments on this contract.

2. If the *SUBP Commitment Form* does not demonstrate verifiable MBE/WBE participation sufficient to meet the SUBP goal, **then the proposer must submit documentation demonstrating that the proposer made sufficient good faith efforts (GFE) to meet the SUBP goal. This GFE documentation will be due upon request by the City.** This GFE documentation includes:
 - a. *Good Faith Efforts Checklist*: A checklist based on the factors that may be considered in determining whether a proposer made good faith efforts to meet the SUBP goal.
 - b. *Supporting Documentation to Demonstrate Good Faith Efforts*: The proposer must submit documentation evidencing the efforts taken to achieve the SUBP goal. The documentation may include, but is not limited to, copies of solicitation emails, quotes received, faxes, and phone call logs. Any such documentation of solicitations to MBE/WBE firms must clearly include the identification of the recipient firm(s).
3. The contract may be monitored through the Contract Compliance Information Management System (CCIMS) software (also called B2Gnow), or by other method specified by MDCR. If specified by MDCR, the prime consultant and its sub-consultants and suppliers will be responsible for entering information into the specified software. Such information will include, but may not be limited to, payment amounts made to the prime consultant and payment amounts made to MBE and WBE sub-consultants and suppliers. The prime consultant and its sub-consultants and suppliers will also be responsible for maintaining the appropriate records to document their compliance and for producing such records if audited.

IV. Post-Award Substitutions

A Consultant shall not substitute, reduce participation of, or eliminate MBE/WBE sub-consultants listed in the *SUBP Commitment Form* without prior written approval of the Minneapolis Department of Civil Rights. A Consultant who substitutes, reduces participation of, or removes an MBE/WBE sub-consultant listed in the *SUBP Commitment Form* without prior written approval shall be subject to a fine of up to \$10,000 per violation, or any of the penalties listed below. The Consultant must make good faith efforts to replace an MBE/WBE sub-consultant that is unable to perform with another MBE/WBE to perform the same scope of work.

V. Penalties for Non-Compliance

Compliance with SUBP is a material condition of the contract. The City may take the following actions wholly, partly, or in any combination:

- a) Temporarily withhold cash payments pending correction of the deficiency.
- b) Permanently withhold payment for all or part of the activity not in compliance with this chapter if the deficiency cannot be corrected, or the entity refuses to correct the deficiency.
- c) Suspend or debar the noncompliant consultant, sub-consultant, supplier or vendor as ineligible for all current or potential contracts with the City or supported by City funds.
- d) Designate the noncompliant consultant, sub-consultant, supplier or vendor as high-risk for future contracts and require of the consultant, sub-consultant, supplier or vendor increased reporting requirements, mandatory audits and similar measures.

The City will monitor compliance with the SUBP throughout the contract. Compliance with the MBE/WBE goal and other SUBP requirements will be a material condition of the contract and failure to comply may be deemed a breach of contract.

Please review Minneapolis Code of Ordinances Chapter 423 for more information or the contact the City of Minneapolis Civil Rights Department (612.673.2086) or contractcompliance@minneapolismn.gov.

THIS FORM IS DUE WITH YOUR PROPOSAL.

**CITY OF MINNEAPOLIS – DEPARTMENT OF CIVIL RIGHTS
SUBP¹ COMMITMENT FORM**



INSTRUCTIONS:

- List **all** known consultants (including your company), sub-consultants, sub-contractors, suppliers, and service providers **that will be used on the project.**
- Make additional copies of this form as necessary.
- This completed form should show how the proposer intends to include minority-owned and women-owned business enterprises (MBEs and WBEs) to meet the SUBP goal(s). **By completing this form you are committing to using the MBE and WBE firms listed for at least the dollar amounts that you listed in this form.**
- A consultant shall not substitute, reduce participation of, or eliminate MBE/WBE sub-consultants listed in this form without prior written approval of the Minneapolis Department of Civil Rights. A consultant who substitutes or removes an MBE/WBE sub-consultant listed in this form without prior written approval shall be subject to a fine of up to \$10,000 per violation, or other penalties listed in ordinance §423.120.
- Only MBEs and WBEs certified as Disadvantaged Business Enterprise (DBE)² count toward the SUBP goal(s). Place a mark “x” in the appropriate column below if a firm is DBE-certified as an MBE or WBE.
 - To count toward the SUBP goal(s), the MBE/WBE must be DBE certified in the scope of work it will perform, and the MBE/WBE must be located in the geographical area of the Minnesota counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Le Sueur, Mille Lacs, Ramsey, Scott, Sherburne, Sibley, Washington, or Wright, or the Wisconsin counties of Pierce and St. Croix.
- If an MBE/WBE subcontracts work to a non-MBE/WBE, the value of that work will **not** count toward the SUBP goal(s).
- An MBE/WBE must perform a commercially useful function to count toward the SUBP goal(s). An MBE/WBE performs a commercially useful function when it executes a distinct element of work and carries out its responsibilities by actually performing, managing, and supervising the work involved.
- **This form is due with your proposal. Failing to complete and submit this form, or indicating “not applicable,” may result in a non-responsive proposal.**

¹ For more information about the Small and Underutilized Business Program (SUBP) goals, see the SUBP Special Provisions published with this RFP, and review Minneapolis Ordinances Chapter 423.

² A firm’s DBE certification, and business location, should be verified by checking in the online MnUCP Directory: <http://mnuce.metc.state.mn.us/>. A firm’s current profile in that directory is evidence of current DBE certification.

THIS FORM IS DUE WITH YOUR PROPOSAL.

CITY OF MINNEAPOLIS – DEPARTMENT OF CIVIL RIGHTS



SUBP COMMITMENT FORM

Company Name		City, State	Phone & Email	Contact Method (fax, phone, email)	Date of Solicitation	Scope of Work	Quote Amount	DBE-certified MBE	DBE-certified WBE
YOUR FIRM HERE >									

THIS FORM IS DUE WITH YOUR PROPOSAL.

Company Name	City, State	Phone & Email	Contact Method (fax, phone, email)	Date of Solicitation	Scope of Work	Quote Amount	DBE-certified MBE	DBE-certified WBE

Check here if your company intends to self-perform all work and DOES NOT intend to subcontract out any work for this project:

If your company is not DBE-certified, checking this box means that your company will need to demonstrate good faith efforts (GFE) to meet the SUBP goal, in order to be awarded the contract. All GFE documents and supporting evidence will be due upon request by the City.

The proposer certifies that the foregoing is correct, and that all known consultants (including your company), sub-consultants, sub-contractors, suppliers, and service providers that will be used on the project are listed herein.

Failure to complete and submit this form may result in your proposal being deemed non-responsive.

 Proposer Company Name Contact Name & Title Phone & Email Date