



**Minority Women Business Enterprises  
(MWBE)  
&  
Small Business Enterprises (SBE)  
MWSBE Program**

**Regulations and Compliance Forms**

“To ensure that Minority, Women, Small & Disadvantage Business Enterprises are solicited on all applicable projects when local, state and federal triggers are met ”.

**In the administration of HUD funds, the City is required by 24 CFR Part 85.36** to take all necessary steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

**(Complete the below and Return with Compliance Documents)**

Project Name & Address: _____
Name of the Contractor/Subcontractor: _____
Address, City, State: _____ / Zip Code: _____
Contact Telephone Number: _____ Fax: _____
Company's Tax ID Number: _____
Scope of Services: _____
Amount of Contract: _____
Contact Person: _____ / Email: _____
Owner's Ethnicity/Racial Background: _____
(1) Gender: M / F    (2) Subcontract Tier Level _____    (3) Certification: MBE/WBE/SBE/HUB

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**MINORITY WOMEN BUSINESS ENTERPRISE (MWBE) &  
SMALL BUSINESS ENTERPRISES (SBE)  
Program Requirements**

A. **The following documents must be signed and submitted to the Housing and Community Development Department (HCDD) within ten (10) working days upon notification of finalist or successful proposer status along with documentation of Good Faith Efforts, if any.**

- (1) Minority Women Business Enterprise & Small Business Enterprises ("MWBE & SBE") Participation Plan (**CP-14**) - List of proposed Subcontractors and Suppliers
- (2) Executed Subcontract(s), or Letter(s) of Intent for each MWBE & SBE Subcontractor or Supplier, including:

Name of MWBE & SBE Subcontractor/Supplier;  
Description of the Scope of Work to be performed;  
Dollar value of each proposed MWBE & SBE subcontract; or  
Documentation of Good Faith Efforts to meet the MWBE & SBE Goal

B. **MWBE & SBE Reporting**

MWBE & SBE Monthly Utilization Report must be submitted through online Contract Monitoring System, known as **B2GNow** System. The B2GNow system can be accessed through: <https://houston.mwdb.com/>.

C. **Guidelines**

1) ***Purpose***

To facilitate implementation of Chapter 15 Article V of the City of Houston Code of Ordinances relating to MWBE & SBE Contract Participation.

2) ***Policy***

It is the policy of the City to encourage the full participation of MWBE & SBEs in all phases of its procurement activities and to afford them a full and fair opportunity to compete for City contracts at all levels.

3) ***Policy Elements***

- (a) The Contractor agrees to ensure that MWBE & SBEs, as defined in Chapter 15 Article V of the City of Houston Code of Ordinances, have a full and fair opportunity to participate in the performance of City contracts. In this regard, the Contractor shall take all reasonable Good Faith Efforts as defined herein, to meet the MWBE & SBE Goal for this contract.

- (b) The Contractor and any Subcontractor/Supplier shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of City contracts.
- (c) Contractor's performance in meeting the MWBE & SBE Participation Goal will be monitored by the HCDD Compliance and Monitoring Division of HCDD.

4) ***Percentage Goal***

The percentage goals for MWBE & SBE participation under this contract are specified in the loan agreement/construction contract.

5) ***Proposer Responsibilities***

- (a) **Prior to Award:** Proposer must submit a plan ("The Plan") setting out how the goal is to be met or within a period designated by HCDD.

- (i) MWBE & SBE Participation Plan (CP-14) - List of proposed Subcontractors/Suppliers. **All MWBE & SBEs listed on this form must be certified by the Office of Business Opportunity Department prior to the Request for Proposal due date with the following exception:** The Office of Business Opportunity Department will consider priority certification of non-certified firms in those cases where the successful proposer proposes the utilization of a firm for a specific capability not found among at least three (3) certified firms.

- (ii) Executed Subcontract(s), or Letter(s) of Intent for each MBE & SBE Subcontractor or Supplier, including:

Name of MWBE & SBE Subcontractor/Supplier;  
Description of the Scope of Work to be performed;  
Dollar value of each proposed MWBE & SBE subcontract; or

- (iii) Documentation of Good Faith Efforts to meet the MBE & SBE Goal, if the goal is not met. See MWBE/SBE Good Faith Efforts (CP-16) for minimum standards for Good Faith Efforts. Such documentation shall be presented to HCDD for review by the Office of Business Opportunity Department.

**Note 1:** Failure to respond within the designated period could result in a finalist being considered non-responsive and the next proposer being considered for award.

**Note 2:** The Proposer shall be bound by the Plan submitted unless a waiver is received from the Director of HCDD ("Director").

**Note 3:** The Director is authorized to suspend any Contractor who has failed to make Good Faith Efforts to meet an established MWBE & SBE Goal; and to suspend any MWBE & SBE who has failed to make Good Faith Efforts to meet all requirements necessary for participation as an MWBE & SBE.

- (iv) Prior to award, the successful proposer shall execute written contracts with all of its MWBE & SBE Subcontractors and shall assure that all such contracts contain the terms set out in this document. Contracts (including purchase orders or similar instruments) with MWBE & SBE suppliers may be issued after the Notice to Proceed but should also incorporate the terms as listed on (CP-14).
- (v) Prior to award, Contractor shall designate an MWBE & SBE liaison officer who will administer the Contractor's MWBE & SBE programs and who shall be responsible for maintenance of records of Good Faith Efforts to subcontract with MWBE & SBE Subcontractors/Suppliers.

**(a) After Award**

- (i) Contractor shall report the monthly MWBE & SBE Utilization through the online Contract Monitoring System, B2GNow.
- (ii) Comply with MWBE & SBE Participation Plan (CP-14), unless it has received approval from HCDD to deviate therefrom. Approval will not be reasonably withheld.
- (iii) Upon approval by HCDD, make Good Faith Efforts to replace a certified MWBE & SBE Subcontractor/Supplier that is displaced, for any reason, with another certified MWBE & SBE.
- (iv) Submit all disputes with MWBE & SBE Subcontractors and Suppliers that are unable to be resolved by the HCDD to binding arbitration as set out in the City's Office of Business Opportunity Department and Contract Compliance Division.

- (v) Make timely payments to all persons and entities supplying labor, materials, or equipment for the performance of the contract; and agree to protect, defend and indemnify the City from any claims or liability arising out of Contractor's failure to make such payments. (Disputes relating to payment of MWBE & SBE Subcontractors shall be submitted to arbitration in the same manner as any other disputes under the MWBE & SBE subcontract. Failure of the Contractor to comply with the decisions of the arbitrator may, at the sole discretion of the City, be deemed a material breach leading to termination of this contract).

6) ***Eligibility of MWBE & SBE Firms***

- (a) To ensure that the MWBE & SBE program benefits only those firms that are owned and controlled by a minority person(s), the Office of Business Opportunity will certify the eligibility of MWBE & SBE Subcontractors/Suppliers. Contact the Office of Business Opportunity Department at (832) 393-0600 for information regarding certification.
- (b) The Office of Business Opportunity publishes and maintains a MWBE & SBE Directory. This Directory is available from the Office of Business Opportunity Department as well as the City of Houston web page.

NOTE: ALL MWBE & SBE FIRMS, EVEN IF CERTIFIED BY ANOTHER AGENCY, MUST BE CERTIFIED BY THE OFFICE OF BUSINESS OPPORTUNITY IN ORDER TO QUALIFY FOR ATTAINMENT OF THE MWBE & SBE GOAL.

7) ***Determination of MWBE & SBE Participation***

MWBE & SBE participation shall be counted toward meeting the MWBE & SBE Goal in accordance with the following:

- (a) Once a firm is certified as an MWBE & SBE, the total dollar value of the subcontract awarded to the MWBE & SBE is counted toward the MWBE & SBE Participation Goal.
- (b) When a Contractor or Subcontractor organizes a joint venture with one (1) or more MWBE & SBEs to satisfy its MWBE & SBE Goal, HCDD shall determine the percent of participation resulting from such joint venture to be counted toward the MWBE & SBE Goal.
- (c) Contractor may count toward its MWBE & SBE Goal those MWBE & SBE Subcontractors/Suppliers performing a Commercially Acceptable Function.

**COMMERCIALLY ACCEPTABLE FUNCTION** means a discrete task or group of tasks, the responsibility for performance of which shall be discharged by the MWBE & SBE by using its own forces or by actively supervising on-site the execution of the tasks by another entity for whose work the MWBE & SBE is responsible. Without limiting the generality of the foregoing, an MWBE & SBE will not be considered to be performing a Commercially Acceptable Function if it subcontracts, to non-MWBE & SBE firms or to other MWBE & SBE firms, more than fifty (50%) percent of a contract being counted toward the applicable participation goal, unless such subcontracting in excess of fifty (50%) percent has been expressly permitted by the Director of Office of Business Opportunity Department in a written waiver of this requirement. A waiver shall be granted upon demonstration that the industry standard for the type of work involved is to subcontract over fifty (50%) percent of the work.

8) ***Compliance of the Contractor***

To ensure compliance with MWBE & SBE requirements, the HCDD will monitor Contractor's efforts regarding MWBE & SBE Subcontractors/Suppliers during the performance of this Contract. This may be accomplished through job site visits, reviewing of records and reports, and interviews of randomly selected personnel.

9) ***Records and Reports***

- (a) Each month the Prime Contractor is responsible for inputting payments in the B2GNow system each month. Additionally, each MWBE and SBE must confirm the Prime Contractor's payment in the system each month. If there is a dispute regarding payment, the Prime Contractor and MWBE & SBE must reach a resolution.
- (b) Contractor shall maintain the following records for review upon request by the HCDD:
  - (i) Copies of Subcontractor agreements and purchase orders as executed;
  - (ii) Documentation of payments and other transactions with MWBE & SBE Subcontractors/Suppliers; and
  - (iii) Appropriate explanations of any changes or replacements of MWBE & SBE Subcontractors/Suppliers.

**NOTE: ALL REPLACEMENT MWBE & SBE FIRMS MUST BE APPROVED BY HCDD.**

- (c) If the MWBE & SBE Goal is not being met, the monthly report shall include a narrative description of the progress being made in MWBE & SBE participation. Reports are required when no activity has occurred in a reporting period.
- (d) All such records must be retained for a period of three (3) years following completion of the work and shall be available at reasonable times and places for inspection by authorized representatives of the City.

D. **Sanctions**

(1) ***General***

Pursuant to Section 15-86 of the Code of Ordinances, the Director is authorized to suspend for a period of up to, but not to exceed, five (5) years, any Contractor who has failed to make Good Faith Efforts or who has failed to comply with its submitted Plan pursuant to Section 15-85 unless a waiver has been granted from engaging in any Contract with the City. The Director is also authorized to suspend any MWBE & SBE who has failed to make Good Faith Efforts from engaging in any Contract affected by Article V of Chapter 15 of the Code of Ordinances, for a period of up to, but not to exceed, five (5) years.

(2) ***Guidelines for Imposition of Sanctions***

(a) ***General***

- (i) No suspension shall be imposed by the Director except upon evidence of specific conduct on the part of an MWBE & SBE or a Contractor that is inconsistent with or in direct contravention of specific applicable requirements for Good Faith Efforts; and
- (ii) Imposition and enforcement of suspensions shall be consistent with applicable state law.

(b) ***Severity of Sanctions***

In determining the length of any suspension, the Director shall consider the following:

whether the failure to comply with applicable requirements involved intentional conduct or, alternatively, may be reasonably concluded to have resulted from a misunderstanding on the part of the Contractor or MWBE & SBE of the duties imposed on them by Article V of Chapter 15 of the Code of Ordinances and these procedures;

the number of specific incidences of failure by the Contractor or MWBE & SBE to comply;

whether the Contractor or MWBE & SBE has been previously suspended;

whether the Contractor or MWBE & SBE has failed or refused to provide the Director with any information requested by the Director or required to be submitted to the Director pursuant to law or these procedures;

whether the Contractor or MWBE & SBE has materially misrepresented any applicable facts in any filing or communication to the Director; and

whether any subsequent restructuring of the subject business or other action has been undertaken to cure the deficiencies in meeting applicable requirements.

(3) ***Delegation***

A decision to implement a suspension may be taken after notice and an opportunity for a hearing by the Director or by another impartial person designated by the Director for that purpose. The Director or other person conducting the hearing shall not have participated in the actions or investigations giving rise to the suspension hearing.

(4) ***Notice***

- (a) Prior to the imposition of any suspension, the Director shall deliver written notice to the Contractor or MWBE & SBE setting forth the grounds for the proposed suspension and setting the date, time and place to appear before the Hearing Officer for a hearing on the matter.
- (b) Any notice required or permitted to be given hereunder to any Contractor or MWBE & SBE may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to their most recent address as specified in the records of the Office of Business Opportunity Department and Contract Compliance Division or in the Contract if no address is on file with the Office of Business Opportunity Department and Contract Compliance Division.

(5) ***Hearing Procedures***

Proceedings before the Director or other hearing officer shall be conducted informally, provided that each party may be represented by counsel and may present evidence and cross-examine witnesses. The burden shall be upon the City by a preponderance of evidence. The decision shall be reduced to writing and notice provided to the Contractor or MWBE & SBE.

**CITY OF HOUSTON**  
**HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT**  
**MWBE & SBE Good Faith Efforts**

"Good Faith Efforts" means those efforts required to be made and demonstrated by an apparently successful bidder or proposer prior to award of a contract (whether a Goal Oriented Contract or a Regulated Contract) and at the conclusion of performance of the Contract in the event it has been unsuccessful in meeting the contract MWBE & SBE Goal.

A. Prior to Award - Good Faith Efforts for non-MWBE & SBEs in construction, procurement and professional services shall mean at a minimum the following:

(1) ***Delivery of written notice to the following:***

- (a) All local certified MWBE & SBEs in the directory for the month prior to the month of the bid or proposal submission date and identified as performing work or services or providing commodities for all potential subcontracting or supply categories in the Contract; and
- (b) All minority focused associations identified in the directory for the month prior to the month of the bid or proposal submission date; and
- (c) All news media focused toward minority person identified in the directory for the month prior to the month of the bid or proposal submission date; and
- (d) All MWBE & SBEs which requested information on the Contract.

(2) ***The written notice(s) will contain:***

- (a) Adequate information about plans, specifications and relevant terms and conditions of the Contract and about the work to be subcontract or the goods to be obtained from Subcontractors and Suppliers;
- (b) A contact person within the apparent low bidder's or proposer's office to answer questions;
- (c) Information as to the apparent low bidder's or proposer's bonding requirements, the procedure for obtaining any needed bond and the name and telephone number of one or more acceptable surety companies to contact;
- (d) The last date for receipt by the bidder or proposer of MWBE & SBE bids or price quotations.

- (3) Attendance at any special pre-bid meeting called to inform MWBE & SBEs of subcontracting or supply opportunities, if set forth in the bidding or proposal documents.
- (4) Division of the Contract, as recommended by the department head of the initiating City Department and in accordance with normal industry practices, into small, economically feasible segments that could be performed by MWBE & SBE.
- (5) Provide an explanation for rejection to any MWBE & SBE whose bid or price quotation is rejected, unless another MWBE & SBE is accepted for the same work, as follows:
  - (a) Where price competitiveness is not the reason for rejection, a written rejection notice including the reason for rejection will be sent to the rejected MWBE & SBE;
  - (b) Where price competitiveness is the reason for rejection, a meeting must be held, if requested, with the price-rejected MWBE & SBE to discuss the rejection.
- (6) Provide an explanation for rejection of any MWBE & SBE to the Housing and Community Development Department (HCDD), unless another MWBE & SBE firm is accepted for the same work. Include the name of the non-MWBE & SBE firm proposed to be awarded the subcontract or supply agreement and if price competitiveness is the reason for rejection, the MWBE & SBE's price quotation and the successful non-MWBE & SBE's price quotation.

B. After Award - Good Faith Efforts for MWBE & SBE firms in construction, procurement and professional services shall mean at a minimum the following:

- (1) Designate an MWBE & SBE liaison officer who will administer the Contractor's MWBE & SBE programs and who shall be responsible for maintenance of records of Good Faith Efforts.
- (2) MWBE & SBE Reporting
  - (a) Furnishing prompt MWBE & SBE Utilization Reports in a timely and accurate manner through the online Contract Monitoring System (B2GNow System).
  - (b) Respond to efforts to resolve disputes between prime and subcontractors, and genuinely attempt to resolve these issues.
  - (c) Clear online Contract Monitoring System (B2GNow System) discrepancies monthly.

- (3) Deviation Requests – The contractor shall comply with the submitted MWBE & SBE plan, unless it has received approval from the Office of Business Opportunity Director. Approval will not be unreasonably withheld. Upon approval, contractor will make a Good Faith Effort to replace a removed MWBE & SBE with another certified firm.
- (4) Furnishing prompt written responses to any written inquiry from the Director or any employee of the HCDD regarding the MWBE & SBE's performance or information pertaining to the MWBE & SBE's certification;
- (5) Ensuring that at all times during the performance of any contract or subcontract subject to the requirements of Chapter 1 of the Code of Ordinances the MWBE & SBE firm is engaging in a commercially acceptable function as that term is defined herein; and
- (6) Ensuring that no application, response to a request for information, or other factual material submitted to the Director or any employee of the HCDD contains any material misrepresentation; and
- (7) Furnishing prompt responses to requests from the department administering the Contract, the City Attorney and the City Controller for information, books and records needed to verify compliance
- (8) Attend all meetings and mediation as requested by the Director or his/her designee.

# Forms



**CITY OF HOUSTON HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT  
MWBE & SBE Participation Plan**

PROJECT NAME: \_\_\_\_\_  
 PRIME CONTRACTOR: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CONTACT PERSON: \_\_\_\_\_

REPORT DATE: \_\_\_\_\_  
 CONTRACT AMOUNT: \_\_\_\_\_  
 MWBE & SBE GOAL: \_\_\_\_\_ %  
 CONTACT PHONE#: \_\_\_\_\_

Initial List of Subcontractors \_\_\_\_\_ Monthly \_\_\_\_\_ Final/Closeout List of all Subcontractors \_\_\_\_\_

NAICS (6 Digit)	Description of Work	% of Total Bid (2decimal places)	Vendor Name/Address/Contact Name/Email	Date of AA Certification	Date of Contract	Subcontractor Amount	% of Total Contract
MBE							
SBE							
WBE							

Use additional pages if needed  
 Provide a copy of each firm's certificate and Notice of Intent to Award letter

Submit to: Housing & Community Development Department  
 Compliance & Monitoring Division  
 601 Sawyer Street, 4th Floor  
 Houston, Texas 77007 (Fax) 713-868-8366



**Request For Contractor/Subcontractor Clearance**

**Date:**

HUD Project No.: \_\_\_\_\_

Project Name & Address: \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

Address: \_\_\_\_\_

(Include Zip Code)

Telephone Number: \_\_\_\_\_

Sole Proprietorship: \_\_\_\_\_

(List Sole Owner)

Partnership: \_\_\_\_\_

(List All Partners)

Corporation: \_\_\_\_\_

(Names of All Principals)

and their Titles:

City of Houston, Housing and Community Development Department

601 Sawyer St., 4<sup>th</sup> Floor

Houston, TX 77007

Phone: (713) 868-8471 or (713) 868-8405

Fax: (713) 868-8366

**Attention: Karen Franklin or Greta Molo**

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Instructions: Prime Contractor completes Clearance form and run the results on all subcontractors/vendors active on the project. For Subcontractors obtaining lower-tiers complete and run the results then forward to the Prime Contractor. Failure to complete the stated steps could result in non-responsive to the contract.



**BIDDER'S MWSBE GOAL  
DEVIATION REQUEST**

**Bidder or Proposer Name:** \_\_\_\_\_

**Project Name & Bid/Contract #:** \_\_\_\_\_

Department Approved  
MWSBE Goals

MBE	WBE	SBE	Total
%	%	%	%

Bidder's Proposed  
MWSBE Goals

MBE	WBE	SBE	Total
%	%	%	%

Justification: Please provide the reason the Bidder is unable to meet the Contract Goal.

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Good Faith Efforts: Please list any efforts not listed in the Bidder's Good Faith Effort Report (Form CP 14).

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Date: \_\_\_\_\_ Bidder: \_\_\_\_\_

Title: \_\_\_\_\_ Email: \_\_\_\_\_

Phone Number: \_\_\_\_\_



# Deviation Request

<b>Date:</b>	
<b>Name of Contractor:</b>	
<b>Project Name, # or Description:</b>	

Name of MWDBE/SBE Requesting to Add	Name of MWDBE/SBE Requesting to Drop
_____	_____
_____	_____
_____	_____

If dropping a MWDBE/SBE firm, list the name of the eligible MWDBE/SBE replacement firm: \_\_\_\_\_

Reasons for deviating from final plan: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- If dropping a MWDBE/SBE firm, attach copy of the Notice Intent to Award for eligible MWDBE/SBE replacement firm.
- Attach copies of all correspondence relative to the reason for deviation (i.e. letter from subcontractor to prime, change order, default notices other acceptable evidence).

HCDD Internal Use	
Reason given by MWDBE for deviation:	
Comments/Findings:	
Administrative Specialist/Compliance Officer:	Date:
Approved by:	Date:

Revised 5/2013