HAMILTON COUNTY MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE PROGRAMS

Hamilton County
OHIO

Section 1. Minority, Women, and Small Business Enterprise Programs Purpose

The Board finds Minority Business Enterprises ("MBEs"), Women Business Enterprises ("WBEs"), and Small Business Enterprises ('SBEs") provide employment and economic growth in Hamilton County, Ohio. The Board further finds that encouraging the participation of minority businesses, women businesses and small businesses in Hamilton County construction, professional services, and goods and services procurement will benefit all residents of Hamilton County, Ohio. Hamilton County is an equal business opportunity governmental entity, and has strived to provide, and will continue to provide, equal business opportunities to diverse groups within our region.

Section 2. Non-Discrimination Policy

I. Overview

The County is committed to a policy of non-discrimination. Every contract and subcontract for or on behalf of the County, for construction, professional services, and goods and services shall contain provisions by which the contractor agrees to both of the following:

A) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 153.59 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;

B) That no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 153.59 of the Ohio Revised Code, or color.

II. Non-Discrimination Policy for Contracting

No respondent, vendor, and/or Contractor doing business with the County who competes for or is awarded a public contract shall discriminate or retaliate against a MBE/WBE/SBE. If a respondent is found to be in violation of this policy, either in the awarding of the subcontract in connection with an opportunity advertised by the County or in a contract between the County and the respondent, the County will use all remedies legally available under the law to address the policy violations.

The County may not allege or investigate an allegation of an occurrence of discrimination or retaliation in subcontracting as a basis for debarring or disqualifying a

respondent more than three (3) years after the alleged discriminatory or retaliatory conduct occurred or more than three (3) years after the County, in the exercise of reasonable diligence, should have discovered the conduct, whichever is later.

A respondent shall certify in the documents accompanying the respondent's offer to enter into a public contract that the respondent has not discriminated or retaliated and will not discriminate or retaliate against any MBE/WBE/SBE in obtaining any required subcontract.

After a respondent is awarded a public contract, if the respondent violates the certification provisions of these Policies and Procedures, the County may regard the violation as a breach of contract that permits one or more actions in Section 13.

III. Complaints of Discrimination or Retaliation

Any adult person, business entity, association, organization, or government agency may file a complaint with the Director of ECS stating facts showing or tending to show that a respondent has, within the preceding three (3) year period from the date of the complaint, engaged in discrimination or retaliation in connection with a County contract or solicitation. Within ten (10) business days, the Director, or his/her designee, shall notify the respondent against whom the complaint was filed that a complaint has been received.

IV. Complaint Procedure, Initial Findings and Recommendations

The complaint will be sent to ECS to review and determine whether there is noncompliance of the contract. See the noncompliance process in Section 13 and the appeal process in Section 14 for additional information about complaint procedures, findings, and recommendations.

Section 3. Minority, Women, and Small Business Enterprise Contract Goals

The MBE/WBE/SBE Programs goal setting applies to all competitively bid County-funded contracts of $75,000.00 or more. MBE/WBE goals will be determined based on availability data provided by the *MBE/WBE Goal-Setting Worksheet* on a contract-by-contract basis. **The MBE utilization goal for this contract is _____%, and the WBE utilization goal is _____%. The SBE utilization goal for this contract is _____%.**

THE UTILIZATION GOALS FOR THIS CONTRACT ARE:
MBE:_____ % WBE: _____ % SBE:_____ %

Respondents shall be fully informed of the MBE/WBE/SBE Programs and of any MBE/WBE/SBE contract goals, in all County bid documents. When State and/or Federal funding sources require affirmative action goals, those goals, as defined in the contract documents, replace the requirements of the MBE/WBE/SBE Goals Program.

Every respondent shall be required to submit to the County, with its bid, a plan for the engagement of MBEs/WBEs/SBEs in connection with the contract, known as the *MBE/WBE/SBE Goal Compliance Plan*. The *MBE/WBE/SBE Goal Compliance Plan* form, which shall include, among other things, the names, addresses, phone number, Tax I.D. number, and certification numbers, if applicable, of certified businesses, and any other information required by the Director, ECS, as set forth in the bid solicitation documents. If awarded a contract or procurement with the County, a Contractor shall use its Good Faith Efforts at all times to implement and accomplish the objectives with respect to the use of MBEs, WBEs and SBEs as set forth in the *MBE/WBE/SBE Goal Compliance Plan*. Following the award, the *MBE/WBE/SBE Goal Compliance Plan* shall become a part of the contract between the Contractor and the County. Documents must be approved by ECS before the award is finalized. **Failure to comply with the above requirements shall result in the respondent being deemed non-responsive**.

All ITBs, RFPs, or RFQs shall include a requirement that, if an MBE/WBE/SBE contract participation goal is applicable, the respondent must:

A. With its bid, submit a signed *MBE/WBE/SBE Goal Compliance Plan* form, showing its commitment to meet or exceed the goals for the project or contract.

B. Make Good Faith Efforts, before the opening of bids or submittal of proposals, to meet the applicable contract participation goal(s); and

C. Keep records of its Good Faith Efforts adequate to permit a determination of compliance with the *MBE/WBE/SBE Goal Compliance Plan*. If a contract goal will not be met, a respondent shall be required to submit with its bid a signed *MBE/WBE/SBE Goal Compliance Plan* form, and the *Application for MBE/WBE/SBE Program Waiver* form for approval by ECS. The respondent must submit its Good Faith Efforts documentation for review by ECS with the bid document.

As such, Construction, Professional Services, and Goods and Services contracts of $77,500.00 or greater to be awarded competitively shall be reviewed by the ECS for MBE/WBE/SBE utilization responsiveness. After its review of the *MBE/WBE/SBE Goal Compliance Plan* and the *Application for MBE/WBE/SBE Program Waiver* form, ECS shall make a recommendation to the Purchasing Department and the Department of the respondent's responsiveness.

While the inability of a respondent to meet goals established under the MBE/WBE/SBE Program may not alone exclude a respondent from award of a contract or procurement, the respondent's adequate Good Faith Efforts to meet the goal will be considered in determining award of the Contract.

For the procurement of goods and services, and/or the award of construction contracts value d at $77,500.00 or more, public notice of the opportunity to bid on such procurements or contracts will be given and the procurement or contract will be awarded to the respondent that submits the applicable bidding standard.

Section 4. Request for Waivers to MBE/WBE/SBE Contract Goals

If the respondent will not meet the MBE/WBE/SBE participation goals, in addition to its *MBE/WBE/SBE Goal Compliance Plan*, the respondent shall also submit with its bid a fully completed *Application for MBE/WBE/SBE Program Waiver* form (see Appendix B for applicable forms). The respondent shall indicate on the *Application for MBE/WBE/SBE Program Waiver* form, the Good Faith Efforts that it made prior to submission of its bid, to meet the MBE/WBE/SBE goals for the contract. The respondent shall also submit all documentary evidence to support those Good Faith Efforts made by the respondent, as declared on the *Application for MBE/WBE/SBE Program Waiver* form with its bid or the respondent will be deemed nonresponsive. The Director of ECS, the Director of Purchasing, or their designees, will review the documents submitted and make its determination of the *Application for MBE/WBE/SBE Program Waiver* request based on those submitted documents. When considering whether a respondent made adequate Good Faith Efforts to achieve the MBE/WBE/SBE participation goals, the County will evaluate the described efforts and documentation provided by contractors.

Section 5. Good Faith Efforts Documentation

All respondents must document the Good Faith Efforts it took to obtain MBE/WBE/SBE participation. As part of the selection process, a review of the respondent's *MBE/WBE/SBE Goal Compliance Plan* form is performed to determine the respondent's commitment to meeting the MBE/WBE/SBE goals for the contract. If the respondent will not meet the MBE/WBE/SBE participation goal, the *Application for MBE/WBE/SBE Program Waiver* form must be submitted with the bid.

Such Good Faith Efforts may include, but are not limited to the following:

A. Respondent's attendance at pre-bid conference;

B. Advertisement in general circulation media, trade publications, and minority focused media at least two (2) weeks before bids or proposals are due;

C. Tailored mailings to MBE/WBE/SBE firms notifying them of contracting opportunities at least two (2) weeks before bids or proposals are due;

D. Efforts made to select portions of the work proposed to be performed by MBE/WBE/SBE firms in order to increase the likelihood of achieving the stated goal(s);

E. Efforts to negotiate with MBE/WBE/SBE firms for specific sub-bids, including at a minimum:

a. The names, addresses and telephone numbers of MBE/WBE/SBE firms that were contacted;

b. A description of the information provided to MBE/WBE/SBE firms regarding the plans and specifications for portions of the work to be performed; and/or

c. A statement of why additional agreements with MBE/WBE/SBE firms were not reached.

F. If the respondent rejected any MBE/WBE/SBE firm(s) as unqualified, they must submit the reason(s) for this conclusion.

G. The respondent must also document technical assistance provided to the MBE/WBE/SBE firms in obtaining bonding or insurance required by the County.

H. Providing interested MBE/WBE/SBEs with prompt access to the plans, specifications, scope of work, and requirements of the contract.

I. Follow up to initial solicitations and copy of call logs.

J. Has a joint venture agreement or partnership for the contract with an MBE/WBE firm. Commercially useful function participation by the MBE/WBE/SBE must be 30% or greater.

K. Has a mentor-protégé agreement with an MBE/WBE/SBE firm for the contract.

Failure to provide the *Application for MBE/WBE/SBE Program Waiver* at the time of bid submission will result in the bid being determined to be non-responsive.

Respondents' Good Faith Efforts to meet MBE/WBE/SBE participation goals will be a factor in determining the award of the contract. In determining whether a respondent has made adequate Good Faith Efforts, the County may consider the performance of other respondents in meeting the MBE/WBE/SBE participation goals for the same solicitation. Respondents that fail to meet MBE/WBE/SBE goals and fail to demonstrate Good Faith Efforts shall be deemed non-responsive to the County's solicitation and shall not be eligible to be awarded the contract.

Section 6. MBE/WBE/SBE Programs Records and Reports

In order to ensure the effective tracking of these efforts, the following shall be done:

1) Each Contractor shall continuously maintain, compile, and provide to the County monthly information, utilizing the procurement software system (when available) relating to its use of MBE/WBE/SBEs. This information shall include without limitation the following information for each of the MBE/WBE/SBE subcontractors, suppliers, and/or vendors utilized by the Contractor: a description of the categories of contracts awarded to and spent with MBE/WBE/SBEs; the dollar value of contracts awarded to and spent with MBE/WBE/SBEs; the contract number(s), and contact information for the MBE/WBE/SBEs. Additionally, the Contractor shall provide information regarding its progress toward attaining the MBE/WBE/SBE goals for the contract.

2) Within thirty (30) days after the end of a contract in which there were MBE/WBE/SBE goals, each contractor shall provide the County with a report including by not limited to the following information: the identity of and contact information for each MBE/WBE/SBE to whom the contractor has awarded a subcontract or supplier agreement; the type of work performed or supplies provided by each subcontractor/supplier; the dollar value of each of the subcontracts/supplier agreements; and the total percentage of the value of the County contract subcontracted to MBE/WBE/SBE subcontractors, suppliers, and/or vendors.

Section 7. Payments to Subcontractors/Prompt Pay

A Contractor shall be required to certify electronically or in writing that all of its subcontractors, suppliers, and/or vendors have been paid for work and materials in relation to the County contract by the Contractor for previous disbursements before additional disbursements of contract and/or procurement payments are made to the Contractor. This section requires Hamilton County to make every effort to make payments to Contractors within thirty (30) days of receipt of a complete and responsive invoice.

If a subcontractor or material supplier submits an application or request for payment or an invoice for materials to a contractor in sufficient time to allow the contractor to include the application, request, or invoice in the contractor's own pay request submitted to an owner, the contractor, within ten calendar days after receipt of payment from the owner for improvements to the property, shall pay to the:

A. Subcontractor, an amount that is equal to the percentage of completion of the subcontractor's contract allowed by the owner for the amount of labor or work performed;
B. Material supplier, an amount that is equal to all or that portion of the invoice for materials that represents the materials furnished by the material supplier.

If the contractor fails to comply with this provision, the contractor shall pay the subcontractor or material supplier, in addition to the payment due, interest in the amount of eighteen percent per annum of the payment due, beginning on the eleventh day following the receipt of payment from the owner and ending on the date of full payment of the payment due plus interest to the subcontractor or material supplier. *Refer to Ohio Revised Code, Section 4113.61: Time limitations for payments to subcontractors and materialmen*.

During the contract and upon completion of the contract, the County may request documentation to certify payment to subcontractors or suppliers. The subcontractor or supplier may be required to sign off on the certification of payment form or affidavit, by the subcontractor or supplier, to attest to the receipt of payment from the Contractor.

Section 8. Subcontractor Substitution

If a contractor must substitute a subcontractor after the contract has been awarded, the contractor shall request approval for any substitution of a MBE/WBE/SBE subcontractor, supplier, or vendor used or proposed to be used by a Contractor, by completing and submitting a copy of the *Prime Contractor Substitution Request* form. The *Prime Contractor Substitution Request* form and instructions for completing the request will be included in the contract at the time of award.

Section 9. Change Orders and Amendments to Contracts

This rule applies to contracts valued at $100,000.00 and greater. Whenever a contract is amended, any single change order is issued, or subsidiary agreement is authorized that increases the total original contract cost by more than ten percent (10%), the MBE/WBE/SBE contract goal regarding the work, services, or supplies to be paid for through such amendment, modification, change order, or subsidiary agreement will remain the same; and, Good Faith Efforts will be made to ensure that it maintains the same percentage of MBE/WBE/SBE participation in performing the additional work, services, or supplies.

Section 10. Certification

The County does not conduct its own MBE, WBE or SBE certification process but does accept MBE, WBE, and SBE certifications from other County-approved agencies.

The requirements for County approved MBE certification are:

A. The applicant is an independent operating business and must have been in business for at least one year before applying for certification.
B. The owner is a sole proprietorship that is independently owned and controlled by an individual who is a minority group member; a joint venture that is at least 51% independently owned and controlled by minority group members; or a partnership, limited liability company or corporation that is at least 51% independently owned and controlled by minority group members;
C. The minority owners have interest in capital and earnings commensurate with the minority group members' percentage of ownership;
D. The firm performs a commercially useful function;
E. Each owner of the firm must be United States citizens or lawfully admitted permanent residents;
F. The firm has a valid and current MBE or WBE certification or both with at least one of the County-approved certification agencies (see Appendix A. Certification Agencies).

The requirements for County approved WBE certification are:

A. The applicant is an independent operating business and must have been in business for at least one year before applying for certification.
B. The owner is a sole proprietorship that is independently owned and controlled by an individual(s) who is a woman; a joint venture that is at least 51% independently owned and controlled by a woman; or a partnership, limited liability company or corporation that is at least 51% independently owned and controlled by a woman;
C. The woman owners have interest in capital and earnings commensurate with the woman's percentage of ownership;
D. The firm performs a commercially useful function;
E. Each owner of the firm must be United States citizens or lawfully admitted permanent resident;
F. The firm has a valid and current WBE certification with at least one of the County-approved certification agencies (see Appendix A. Certification Agencies).

The requirements for County approved SBE certification are:

A. The firm has gross revenues or number of employees, averaged over the past three years and inclusive of any affiliates, as defined by 13 C.F.R. Sec. 121.201, and does not exceed the size standards as defined pursuant to Section 3 of the SBE Act. A full table of the Small Business Size Standards matched to the North American Industry Classification System (NAICS) may be obtained at *www.sba.gov/size.*

B. The personal net worth of each owner and his or her spouse cannot exceed $750,000, exclusive of specified assets (equity in primary residence, retirement accounts subject to a significant withdrawal penalty, equity in the business for which they are applying).
C. The applicant for SBE certification must have been in business for at least one year before applying for certification;
D. The firm performs a commercially useful function;
E. Each owner of the firm must be United States citizens or lawfully admitted permanent residents;
F. The firm has a valid and current SBE certification with at least one of the County approved certification agencies (see Appendix A. Certification Agencies).

A business that desires approval by Hamilton County through its Economic and Community Support department as a MBE, WBE or SBE must complete and submit a County Vendor Registration form and provide a current MBE, WBE or SBE certification from a County-approved agency.

The County approves MBE, WBE, and SBE applicants in three categories:

A. Construction;
B. Professional Service;
C. Goods and Services

Section 11. Selection Criteria and Evaluation

Hamilton County will consider past compliance with MBE/WBE/SBE programs in determining contract awards.

For RFPs, selection criteria and evaluation will include a criterion for the respondent's commitment to the MBE/WBE/SBE contract goals and will be worth no less than 10% of the selection evaluation total points.

Section 12. Falsification of MBE and WBE Subcontracts

Falsification or misrepresentation of an agreement with a subcontractor as to company name, contract amount and/or actual work performed by subcontractor, submitted on any contracts or forms required or otherwise requested by the County, will result in the County utilizing any and all remedies available under the law to enforce ECS policies.

Section 13. MBE/WBE/SBE Program Noncompliance Process

If ECS or the contracting department determines that a contractor has failed to comply with the terms of the MBE/WBE/SBE programs, ECS and the contracting department shall meet

to discuss the contract, issues of noncompliance, and the options for correcting contract noncompliance.

A contractor may be found in noncompliance with the MBE/WBE/SBE Programs in the following ways without limitation:

1. By evidence found by the contracting department or by ECS through the course of regular monitoring of the execution of such contract;
2. By complaint submitted to the contracting department or ECS, where the party responsible for the complaint submits any evidence or documentation they possess in support of their claim;
3. Contractor fails to notify Hamilton County of debarment or suspension by the State of Ohio, City of Cincinnati, or any other municipality before or during the contract period.

If ECS and/or the contracting department through their discussion find evidence of noncompliance with Hamilton County's MBE/WBE/SBE programs, The Director of ECS may at this stage request that the contractor participates in a meeting to discuss its progress towards meeting its proposed MBE/WBE/SBE utilization goals. If ECS and the contractor agree on corrective measures, the contractor shall, within ten (10) business days, submit a letter to the Project Manager and Director of ECS documenting the corrective measures to be taken by the contractor along with an agreed-upon timeline for implementation.

If no agreement can be reached, ECS shall serve a written notice of MBE/WBE/SBE program noncompliance to the contractor. The written notice will include all instances of noncompliance and potential options for rectification. Contractors shall have ten (10) business days from the date of the written notice of MBE/WBE/SBE program noncompliance to determine and communicate a method for remedying all instances of noncompliance. The contractor must include within their communication a plan that is agreed to by ECS to remedy all instances of MBE/WBE/SBE program noncompliance within thirty (30) days of their response. If the contractor cannot remedy all instances within thirty (30) days of the notice of MBE/WBE/SBE program noncompliance, the Director of ECS and Program Manager, may, at their discretion, negotiate a new timeframe to achieve MBE/WBE/SBE program compliance with the contractor.

If a contractor fails to remedy all instances of MBE/WBE/SBE program noncompliance within thirty (30) days of the date of the written notice or within the newly negotiated timeframe, ECS shall make a determination of noncompliance which will be sent to the contractor in writing.

Once a determination of noncompliance is made, ECS may use all available legal remedies including but not limiting to:

a. Withhold all or part of all future payments to the contractor;
b. Require contractor payment of liquidation damages,

If appropriate, ECS will refer the matter to the appropriate authorities for potential criminal investigation and prosecution.

Section 14. Appeal Process for Determinations of Noncompliance

Any contractor who is determined to be noncompliant in connection with the performance of a contract shall be allowed ten (10) business days from receipt of the ECS notice of MBE/ WBE/SBE program noncompliance to file a written appeal of that determination. Filing of the appeal shall be accomplished by delivery (paper or electronic) of a notice of appeal to ECS. The notice of appeal by the contractor shall be in writing and shall briefly state all the facts or other basis upon which the contractor contests the ECS. finding of noncompliance. Supporting documentation must be included.

The ECS Director, with the input of the Purchasing Director and the Project Manager, shall consider the contractor's appeal and shall make a written decision no later than thirty (30) days after receipt concerning the merits of the contractor's appeal. Hamilton County staff may, at their discretion, meet with the contractor to discuss the appeal.

A copy of the appeal decision shall be sent to the contractor. If the ECS upholds the finding of noncompliance, the ECS Director shall inform the contractor of the decision which shall be final, and the appropriate penalties shall be applied.

If Hamilton County accepts the appeal, then the contractor will be informed. If Hamilton County’s determination is not made within thirty (30) days after the receipt of the appeal, then the contractor will not be held accountable.

Appendix A. Certification Agencies

Below are certification agencies we recognize as outlined in our Hamilton County Economic Inclusion Policy:

City of Cincinnati
Department of Economic Inclusion
805 Central Avenue, Suite 600
2 Centennial Plaza
Cincinnati, OH 45202
Phone: (513) 352-3154
Email: cincinnati@diversitycompliance.com
Website:
https://cincinnati.diversitycompliance.com/
Certifies SBEs, MBEs, WBEs

U.S. Small Business Administration (SBA)
Columbus District Office
8(a) Business Development Program
2 Nationwide Plaza, Suite 1400
Columbus, OH 43215
Phone: (614) 469-6860
Email: answerdesk@sba.gov
Website: *https://certify.sba.gov/*
Certifies WOSBs

Women's Business Enterprise Council Ohio River Valley (WBEC ORV)
3458 Reading Road
Cincinnati, OH 45229
Phone: (513) 487-6503
Email: crudisell@wbec-orv.org
Website: *https://www.wbecorv.org/how-to-apply/*
Certifies SBEs, WBEs

Abbreviations:
SBE- Small Business Enterprise
MBE- Minority Business Enterprise
WBE- Women's Business Enterprise

Ohio Department of Transportation (ODOT)
Office of Equal Opportunity
1980 West Broad Street
Columbus, OH 43223
Phone: (614) 644-8436 or 1-800-459-3778
Email: DOT.SDBE@dot.ohio.gov
Website: *https://www.transportation.ohio.gov/programs/business-economic-opportunity/business-economic-opportunity*
Certifies SBEs, MBEs

Ohio Minority Supplier Development Council
Chase Building
100 East Broad Street, Suite 2460
Columbus, OH 43215
Phone: (614)-225-6959, Ext.208
Email: certification@ohiomsdc.org
Website: *https://thh.3df.myftpupload.com/certificationprocess/*
Certifies SBEs, MBEs

Ohio Department of Development
Equal Opportunity Division
30 East Broad Street, 18th Floor
Columbus, OH 43215
Phone: (614) 466-838
Email:
Donald.Stinsonjr@development.ohio.gov
Website: *https://development.ohio.gov/business/minoritybusiness/certifications*
Certifies MBEs, WBEs

MBE/WBE/SBE GOAL COMPLIANCE PLAN

Failure to complete this form in its entirety may result in your bid being deemed non-responsive.

Bidder must achieve, or show good faith efforts to achieve, all goals. All sections of this form must be completed and returned as part of the bid. MBE/WBE firms that are also certified as SBEs may be used to achieve both the MBE/WBE goal and the SBE goal. Firms that are certified as both MBE and WBE will be counted towards the MBE goal and not the WBE goal. If you are not able to meet one or more of the stated goals, you must include the Application for SBE/MBE/WBE Program Waiver with your bid package.

Bidder must list the following information for **every** firm that will perform work, labor, render services, or provide materials as part of the contract or project, including certified MBE/WBE/SBE firms; non-certified small, minority-, or woman-owned firms; and any other firms. Bidder must also include any work to be self-performed and any work performed by a joint venture (JV) partner.

For projects under $1 million, bidders must submit a completed Letter of Intent (LOI) for all subcontractors/suppliers listed in their bid package at the time of submission. For larger projects over $1 million, bidders must include a completed LOI for all MBE/WBE/SBE subcontractors/suppliers listed in the Goal Compliance Plan at the time of submission. The LOI for all other subcontractors can be submitted after the time of submission, but before the contract is awarded. This applies to any subcontractors/suppliers that are substitutions or additions to the plan made after award and prior to the start of work.

Bidder must ensure that all firms whose participation is being counted towards the MBE, WBE, and SBE goals are certified as an MBE, WBE, or SBE with one of the certification agencies recognized by Hamilton County and are registered as a certified company with Hamilton County.

If you plan to perform 100% of the work yourself, you must submit the Goal Compliance Plan and indicate this in the self-performance section. In addition, you must successfully complete the the Application for Program Waiver by selecting the goals you would like to waive and signing and dating the Application for Program Waiver.

MBE/WBE/SBE GOAL COMPLIANCE PLAN

Failure to complete this form in its entirety may result in your bid being deemed non-responsive.

Bid Number:_____

Project Title:_____

Total Bid Amount:_____

Bidder Name:_____

Primary Contact Name:_____

Bidder Address:_____

Bidder Email:_____

Bidder Phone:_____

Certification Type (if applicable):

☐ MBE ☐ WBE ☐ SBE

Race/Ethnicity (if MBE):_____

Description of Self-Performed Work (if applicable):

Dollar Amount:_____ Percent of Total Bid:_____

STATED COMMITTMENT TO MBEs/WBEs/SBEs

MBE goal stated in solicitation:_____ WBE goal stated in solicitation:_____

Total $ amount committed to MBEs:_____ Total $ amount committed to WBEs:_____

% total bid amount committed to MBEs:_____ % total bid amount committed WBEs:_____

SBE goal stated in solicitation:_____

Total $ amount committed to SBEs:_____

% total bid amount committed to SBEs:_____

PARTICIPATING FIRMS

Bidder should add additional firms using the same format as needed.

Company Name, Address, and Telephone Number	JV Partner, Subcontractor, or Supplier	Certification Type (MBE/WBE/SBE) *Select all that apply	Race/Ethnicity (if MBE)	Description of Work	Dollar Amount	Percent of Total Bid	ECS APPROVED *ECS use only
Name: Address: Phone:	☐ JV Partner ☐ Subcontractor ☐ Supplier	☐ MBE ☐ WBE ☐ SBE ☐ N/A					☐
Name: Address: Phone:	☐ JV Partner ☐ Subcontractor ☐ Supplier	☐ MBE ☐ WBE ☐ SBE ☐ N/A					☐
Name: Address: Phone:	☐ JV Partner ☐ Subcontractor ☐ Supplier	☐ MBE ☐ WBE ☐ SBE ☐ N/A					☐
Name: Address: Phone:	☐ JV Partner ☐ Subcontractor ☐ Supplier	☐ MBE ☐ WBE ☐ SBE ☐ N/A					☐
Name: Address: Phone:	☐ JV Partner ☐ Subcontractor ☐ Supplier	☐ MBE ☐ WBE ☐ SBE ☐ N/A					☐

By signing below, the Bidder certifies that the information included in this form is accurate and complete to the best of their knowledge.

Signature:_____

Date:_____

Title:_____

Company:_____

HAMILTON COUNTY MBE/WBE/SBE PROGRAMS Application for Program Waiver

At the time of bid submission, Bidders **that do not meet one or more of the MBE, WBE, or SBE goals** must request a waiver from achieving the MBE, WBE, and/or SBE goal(s) by documenting the Good Faith Efforts they made to achieve the goal(s) and document, with specificity, the Good Faith Efforts they made to achieve the goal(s). "Good Faith Efforts" means the efforts a bidder made to utilize MBEs, WBEs, and SBEs in response to the solicitation. Bidders that request a waiver must demonstrate they took reasonable steps to achieve the MBE/WBE/SBE goal(s) specified within the bid/RFP, and that the scope, intensity, and appropriateness of their efforts could reasonably be expected to result in MBE/WBE/SBE participation sufficient to achieve the goal(s), even if they were not successful in doing so. In considering waiver approval, among the totality of Good Faith Efforts bidders make, Hamilton County will consider the specific efforts the bidder made.

Bidders requesting a waiver must complete this form to document their Good Faith Efforts with specificity, or their bid will be deemed non-responsive. Every item marked on the checklist must have associated documentation in order to receive points.

HAMILTON COUNTY MBE/WBE/SBE PROGRAMS
Application for Program Waiver

Bid/RFP Name:_____ Bid/RFP Number: _____

Bidder Name:_____ Bidder Address:

Primary Contact Name:_____

Bidder Phone:_____ Bidder Email: _____

Bidder is requesting a waiver for: (select all that apply)

MBE goal **WBE goal** **SBE goal**

In attempting to meet the projected goal(s), the bidder made the following good faith efforts:
Check all that apply. Minimum score required to establish "good faith" effort is 70 points.

Item	Points	Score (ECS USE ONLY)
Respondent's attendance at pre-bid conference;	**10**	
Advertisement in general circulation media, trade publications, and minority-focused media at least two (2) weeks before bids or proposals are due;	**10**	
Tailored mailings to MBE/WBE/SBE firms notifying them of contracting opportunities at least two (2) weeks before bids or proposals are due;	**10**	
Efforts made to select portions of the work proposed to be performed by MBE/WBE/SBE firms in order to increase the likelihood of achieving the stated goal(s);	**10**	
Efforts to negotiate with MBE/WBE/SBE firms for specific sub-bids, including at a minimum: The names, addresses, and telephone numbers of MBE/WBE/SBE firms that were contacted; A description of the information provided to MBE/WBE/SBE firms regarding the plans and specifications for portions of the work to be performed and/or; A statement of why additional agreements with MBE/WBE/SBE firms were not reached.	**15**	
If the respondent rejected any MBE/WBE/SBE firm(s) as unqualified, they must submit the reason(s) for this conclusion.	**10**	
The respondent must also document technical assistance provided to the MBE/WBE/SBE firms in obtaining bonding or insurance required by the County.	**15**	
Providing interested MBE/WBE/SBEs with prompt access to the plans, specifications, scope of work, and requirements of the contract.	**10**	
Follow up to initial solicitations and copy of call logs.	**10**	
Has a joint venture agreement or partnership for the contract with an MBE/WBE/SBE firm where the commercially useful function participation by the MBE/WBE must be 30% or greater.	**15**	
Has a mentor-protégé agreement with an MBE/WBE/SBE firm for the contract.	**10**	
	TOTAL	

Document the nature of Good Faith Efforts made to achieve participation with MBEs, WBEs, and SBEs, and attach copies of any documentation of those efforts, including copies of emails, written communications, advertisements, call logs, and outcomes of in-person/telephone negotiations.

Pre-bid and Pre-solicitation Meeting Attendance

List date, time, and location of pre-bid/pre-solicitation meetings attended for this solicitation. (ECS to verify attendance using sign-in sheets.)

Meeting Date	Meeting Time	Meeting Location

Advertisements

Provide the following information for each advertisement.

Newspaper/Publication Name	Date(s) on which ad was published

Attach copies of published advertisements.

Communication Efforts to MBE/WBE/SBEs

How many MBEs did you contact? How many WBEs did you contact? How Many SBEs did you contact?

Provide the following information for each contact made:

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Scope of Work / Line of Work	Dates of Contact	Contact Method	Contract Plans / Requirements	Negotiation	Selected	Reasons for Outcome
Name: Phone: Email: Address:			Initial: Follow-up:		☐ Requested ☐ Sent	☐ Yes ☐ No	☐ Yes ☐ No	
Name: Phone: Email: Address:			Initial: Follow-up:		☐ Requested ☐ Sent	☐ Yes ☐ No	☐ Yes ☐ No	
Name: Phone: Email: Address:			Initial: Follow-up:		☐ Requested ☐ Sent	☐ Yes ☐ No	☐ Yes ☐ No	
Name: Phone: Email: Address:			Initial: Follow-up:		☐ Requested ☐ Sent	☐ Yes ☐ No	☐ Yes ☐ No	
Name: Phone: Email: Address:			Initial: Follow-up:		☐ Requested ☐ Sent	☐ Yes ☐ No	☐ Yes ☐ No	

Attach additional pages using the same format as necessary. ***Attach copies of all correspondence.***

Assistance to MBE/WBE/SBEs (including bonding, insurance, financial equipment, or other resources

Provide information below regarding any assistance provided to MBE/WBE/SBEs in obtaining bonding and insurance required for the solicitation.

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Type of Assistance Provided
Name: Phone: Email: Address:		
Name: Phone: Email: Address:		
Name: Phone: Email: Address:		

Attach additional pages using the same format as necessary.

Segmenting Scope(s) of Work for MBE/WBE/SBE Participation

Describe efforts made to segment scope(s) of work to enable MBE/WBE/SBE participation.

Joint Venture Agreements with MBE/WBE/SBEs

List MBE/WBE/SBEs involved in the joint venture agreement.

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Scope of Work	% of Total Bid
Name: Phone: Email: Address:			
Name: Phone: Email: Address:			
Name: Phone: Email: Address:			

Attach agreement documents for the joint venture agreement.

Mentor-Protégé Agreements with MBE/WBE/SBEs

List any mentor-protégé agreements with MBE/WBE/SBEs and provide supporting documentation.

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Describe nature of mentor-protégé agreement
Name: Phone: Email: Address:		
Name: Phone: Email: Address:		

By signing below, the Bidder agrees that the information included in this form is accurate and complete to the best of their knowledge:

Signature: _____

Printed Name: _____

Title/Position: _____

Date: _____

FOR ECS USE ONLY

Application for Program Waiver approved:

☐ Yes ☐ No

If no, provide reasons for rejection:

Director of ESC Signature: _____ **Date:** _____

Appendix B.3 Letter of Intent (LOI) Between Prime Contractor and Subcontractor/Supplier

Letter of Intent (LOI)
Between Prime Contractor and
Subcontractor/Supplier

The following Letter of Intent (LOI) is to be used by Prime Contractors and their subcontractors/suppliers. For projects under $1 million, signed and notarized LOIs between Bidder and all subcontractors/supplies must be included in their Goal Compliance Plan at the time of submission. For larger projects above $1 million, bidders must submit a completed LOI for all MBE/WBE/SBE subcontractors/suppliers listed in the Goal Compliance Plan at the time of submission. The LOI for all other subcontractors can be submitted after the time of submission, but before the contract is awarded. Submit a separate form for each distinct subcontractor/supplier.

Any changes to the MBE/WBE/SBE Goal Compliance Plan, including substitution or addition of an MBE/WBE/SBE subcontractor/supplier must be submitted to the Contract Administrator and approved by Hamilton County's Director of Economic & Community Support (ECS). LOIs must be submitted prior to the start of work for changes of MBE/WBE/SBEs stated in the Goal Compliance Plan.

Letter of Intent (LOI)
Between Prime Contractor and Subcontractor/Supplier

Prime Contractor:_____

Address:_____

City:_____ State:_____ Zip:_____

Telephone:_____ Fax:_____ Proposed Contract Amount: $_____

Project Solicitation Number: _____

Project Name: _____

Type of Agreement: _____
(Lump Sum/Unit Price/Commodity/Professional Service)

Period of Performance: _____

Name of Subcontractor/Supplier: _____

Certification Type (select all that apply): ☐ MBE ☐ WBE ☐ SBE ☐ N/A

Address:_____

City:_____ State:_____ Zip:_____

Telephone:_____ Fax:_____ Proposed Contract Amount: $_____

Description of work to be performed under Subcontract:

By signing below, the Prime Contractor and the subcontractor/supplier agree that they intend to enter into a contract by which the Prime Contractor agrees to pay the contract amount and the subcontractor/supplier agrees to perform the work described herein.

Prime Contractor: _____

Name of Firm: _____

By: _____ Title: _____
(Signature)

Print Name: _____ Date: _____

Subcontractor/Supplier: _____

Name of Firm: _____

By: _____ Title: _____
(Signature)

Print Name: _____ Date: _____

STATE OF _____

COUNTY OF _____

SUBSCRIBED AND SWORN TO before me on the _____ day of _____, 20____

Notary Public _____

Printed Name of Notary _____

Prime Contractor Substitution Request Form

APPLICABLE POST AWARD

No changes to the *MBE/WBE/SBE Goal Compliance Plan* are permitted after submittal of the Bid and before the award of the Trade Contract. After Trade Contract award, changes to the *MBE/WBE/SBE Goal Compliance Plan* must be requested through the Contract Administrator and approved by Hamilton County's Director of Economic and Community Support (ECS).

Submission and Evaluation of Requests

Where a Bidder discovers after award of the Trade Contract that the *MBE/WBE/SBE Goal Compliance Plan* must be changed or a substitution must occur, the Bidder must request changes through the Contract Administrator and receive approval by the Director of ECS using the attached form. The form must be notarized.

The written request must state specific reasons for the proposed change or substitution. Sworn statements from the subcontractor/supplier to be substituted stating why it cannot perform on the Project may be submitted to support the request. The facts supporting the request must not have been known nor reasonably should have been known by the Bidder and/or proposed subcontractor/supplier prior to the submission of the *MBE/WBE/SBE Goal Compliance Plan*.

The following conditions constitute examples of acceptable reasons for changes:

- Unavailability of subcontractor/supplier after receipt of reasonable notice to proceed;
- Failure to perform the scope(s) of work;
- Financial incapacity;
- Failure to honor bid or proposal price within a reasonable period of time after original submittal;
- Failure of subcontractor/supplier to meet bonding, insurance, or licensing requirements specified in the solicitation;
- Withdrawal of bid or proposal by subcontractor/supplier;
- When the County determines that it is in the best interest of the Program and the County.

Where the reason is a valid mistake or disagreement on the scope(s) of work, the request must document all efforts made by the parties to reach an agreement for a reasonable price for the corrected scope(s) of work.

Good Faith Efforts on Substitutions and Additions of MBE/WBE/SBE Subcontractor/Suppliers

When a change or substitution of an MBE/WBE/SBE is requested, the Prime Contractor still must continue to make Good Faith Efforts to meet the goal as submitted in the *MBE/WBE/SBE Goal Compliance Plan*.

Prime Contractor
Substitution Request Form

Project Solicitation Number:_____ Date:_____

Project Name: _____

Prime Contractor:_____

Total Trade Contract Price:_____

Participation Goals Stated in Solicitation: MBE: _____ WBE: _____ SBE:_____

Actual Participation Prior to Proposed Change: MBE:_____ WBE:_____ SBE:_____

Participation After Proposed Change: MBE: _____ WBE:_____ SBE:_____

The Prime Contractor on the above Project requests approval of the following addition and/or deletion of subcontractor/suppliers as submitted in the MBE/WBE/SBE Goal Compliance Plan included in the Bid. (Submit a separate form for each proposed change.)

PROPOSED DELETION:

Name of subcontractor/supplier:_____

Certification Type (select all that apply): ☐ MBE ☐ WBE ☐ SBE ☐ N/A

Address: _____

City:_____ State:_____ Zip:_____

Contact Person:_____ Telephone Number:_____

Amount of Subcontract: $_____ Percent of Trade Contract: _____

Description of Work:_____

PROPOSED ADDITION: *Attach Good Faith Efforts documentation, if applicable. See preceding page for instructions.*

Name of subcontractor/supplier: _____

Certification Type (select all that apply): ☐ MBE ☐ WBE ☐ SBE ☐ N/A

Address: _____

City: _____ State: _____ Zip: _____

Contact Person: _____ Telephone Number: _____

Amount of Subcontract: $ _____ Percent of Trade Contract: _____

Description of Work: _____

REASONS FOR REQUESTING CHANGE: Attach supporting documentation as necessary. A statement from the subcontractor/supplier to be removed stating why it cannot perform on the Project may be submitted to support the request.

AFFIDAVIT

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that this affidavit shall become a part of my Trade Contract with Hamilton County.

Name and Title (Print): _____

Signature: _____ Date: _____

State of: _____

County of: _____

On the _____day of _____. 20____, _____ personally appeared and having been duly sworn by me, subscribed to the foregoing affidavit and has stated that the facts stated therein are true and correct.

Notary Public: _____

Printed Name of Notary: _____

FOR ECS USE ONLY:

Substitution Request Form Approved:

☐ Yes ☐ No

COMMENTS:

Director of ECS Signature: _____ **Date:** _____