



2015 Good Faith Efforts Informational Session

Presented by:

MARSHA MURRAY Assistant Director, OBO

LATANJA BOLDEN & MONICA DENNIS

Procurement Specialists, Department Services, OBO

MORRIS SCOTT

Division Manager, Contract Compliance, OBO August 25, 2015

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

T. 832.393.0600 F. 832.393.0647



Annise D. Parker

Carlecia D. Wright Director

Mayor

Overview of Presentation

- I. Good Faith Efforts Overview & Policy Companion Guide
- II. Enhancements to Documents 470, 471 & 472
- III. Assessing Good Faith Efforts & Appeals Process
- IV. Review Post-Award Good Faith Efforts Requirements



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?

 Good Faith Efforts are steps taken to achieve a Contract Goal which, by their scope, intensity and usefulness, <u>demonstrates</u> the bidder's responsiveness to fulfill the business opportunity objective when bidding on a contract <u>as well as</u> the contractor's responsibility to put forth measures to meet or exceed Contract Goal throughout the duration of the contract.

In other words, EVIDENCE of a genuine attempt to meet the Contract Goal.









Good Faith Efforts Policy Contract Document 808 -Appendix





Document 00808

REQUIREMENTS FOR THE CITY OF HOUSTON PROGRAM FOR MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISES AND PERSONS WITH DISABILITIES ENTERPRISES (PDBE)

CONSTRUCTION CONTRACTS

I. GENERAL

- A. CITY AUTHORITIES
 - The "OBO Director" is the City of Houston's Office of Business Opportunity Director, or his or her designee. City of Houston 611 Walker Street, 7th Floor Houston, Texas 77002
 - The "Contracting Department" for this Project is the City of Houston Department specified in Document 00520 – Agreement.
 - **3.** The "Project Manager" is for this Project specified in Document 00550 Contract Approval Notification.





Pre-Award Good Faith Efforts

Good Faith Efforts Policy: Pre-Award

Elements include:

- Attendance at pre-bid meeting
- Outreach and Advertisement
- Access and Point-of-Contact
- Notice and Solicitation
- Contracts and Negotiations
- Designations and Explanations
- New Efforts

This is <u>NOT</u> an exhaustive list.

This is <u>NOT</u> an exclusive list.

City may consider other factors or types of relevant efforts in appropriate cases, as documented by contractor.





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



Companion Guide to the Policy

- Focuses on the documentation the City will consider to assess your good faith efforts in the following areas:
 - Direct Solicitation of MWSBEs
 - Outreach Efforts and Advertisement
 - Whether you negotiated in good faith with MWSBEs
- Companion Guide can be found on OBO's website at <u>www.houstontx.gov/obo</u>



Companion Guide to the Policy

CITY OF HOUSTON COMPANION GUIDE TO THE OFFICE OF BUSINESS OPPORTUNITY GOOD FAITH EFFORTS POLICY

Pre-Award Good Faith Efforts

The following is not intended to be an exclusive or exhaustive list of documentation the City of Houston will consider in assessing a Bidder's good faith efforts. This list is intended to serve as a guide to Bidders of the types of documentation considered. The City may consider other types of documentation that may be relevant in appropriate cases.

A) Directly Solicit to Minority, Women and Small Business Enterprises (MWSBE)

- 1. Pre-Bid Attendance: Bidder should indicate whether they attended the relevant pre-bid conference. The Office of Business Opportunity will request copy of sign-in sheet from Contracting Department.
- Written solicitation (Invitation to Bid) to MWSBEs listed in the City's Directory no less than seven (7) business days before bid submission:
 - a. Provide copies of emails and/or fax notices and confirmations sent directly to MWSBEs listing each MWSBE's company name, contact person, phone number/e-mail address, certifications, result of contact (left message, no answer, etc.) and whether bid was received.
 - Written solicitation should include the specific type of work, amount of work, and a brief description of the work being solicited.
 - c. Written solicitation should include how MWSBEs can obtain information for the review and inspection of contract plans and specifications and provide the name of a knowledgeable contact person for questions; and
 - d. Provide phone logs, emails and/or fax confirmations showing evidence of follow-up to initial solicitations to determine if MWSBEs were interested in bidding.

B) Outreach and Advertisement

- Provide list of minority and women focused organizations and associations contacted no less than ten (10) business days before solicitation due date. See Organization Contact List on the OBO website at www.houstontx.gov/obo.
 - Documentation should include name of organization, person contacted, phone number and/or email, date contacted and results of contact.
- 2. If Bidder advertised in minority and woman focused news media:
 - Documentation should include the name of the news media, a copy of the advertisement and the date(s) of the advertisement.

Negotiated in Good Faith

- Whether Bidders negotiated in good faith with interested MWSBEs, and not rejecting MWSBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
 - a. Provide a detailed statement of the reasons why subcontracts were not entered into with sufficient number of MWSBEs to meet the advertised goal.
 - b. Provide a list of MWSBEs you rejected, their contact information and reason for rejection.
 - c. If price competitiveness was not the reason for rejection, provide a copy of the written rejection letter you sent to MWSBE firms, providing the reason for rejection.
 - d. If price competitiveness was the reason for rejection, provide documentation that the rejection was discussed with the MWSBE if an explanation was requested by the MWSBE firm.

August 2015



Pre-Bid Good Faith Efforts Forms Enhanced Documents 470, 471 and 472



Document 00470 Bidder's MWSBE Participation Plan

Document 470 - Bidder's MWSBE Participation Plan

<<ShortPrjName>> WBS NO. «WBSNo»

Plan Total

BIDDER'S MWSBE 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), a Request for Deviation from the Goal (Document 00472), and providing supporting 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. Visit http://www.houstontx.gov/obg for more information.

City Contract Goal	MBE	WBE	 Any 	y excess of	one Goal		ontract Goals. I to meet another Goal. r WBE Goal, but not to exceed 4%	
NAICS Code (6 digit)	Sheet #, Unit Price #,	Description of Work (Plan Sheet #, Unit Price #, Scope of Work #, as applicable) % of Total Bid Price (2 decimal places Example: 5.00 %)				places,	Cert. Type for Goal: MBE, WBE, or SBE	Certified Firm Name Firm Address Contact Name Phone No. and E-Mail
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Bidder's Participat		ABE	WBE	SBE	1	Name:		

Submitted at the time of bid.

- Captures the MWSBE participation that the Bidder commits to achieve for that contract.
- Used for determining whether Bidder has a plan to meet the goal.

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

00470-1 03-23-2015

Phone #: Date:

Company Name

<<Bidder or Proposer Name>>



Language added to include Good Faith Efforts requirement to provide "supporting" documentation (page 1):

BIDDER'S MWSBE PARTICIPATION PLAN a Bidder or Proposer shall submit this completed form with the bid, to demonstrate the Bidder/Proposer in to meet the contract-specific MWSBE goal ("contract goal"). If the Bidder or Proposer cannot meet the tract goal, the Bidder/Proposer has the burden to demonstrate "Good Faith Efforts", which shall includ rectly and accurately preparing and submitting this form, a Record of Good Faith Efforts (Document 00471 tequest for Deviation from the Goal (Document 00472), and providing supporting documentation evidencin ir "Good Faith Efforts", as required by the City of Houston's Good Faith Efforts Policy (Document 00808 e City will review the Participation Plan and Good Faith Efforts at the time of bid opening. Vis 20//www.houstonts.gov/obp for more information. City MBE • MBE and WBE Goals are two separate Contract Goals. • Any excess of one Goal cannot be applied to meet another Goal. • Any excess of one Goal cannot be applied to meet another Goal. • An SBE can be applied to the MBE and/or WBE Goal, but not to exceed 4%. AMCS Description of Work (Plan Sheet #, Unit Price #, Scope of Work #, as applicable) % of Total Bid Price (2 decimal places, Example: 5.00 %) Cert. Type for Goal: MBE, WBE, Contact Name Phone No. and E-Mail
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de Sheet #, Unit Price #, Scope of Price for Goal: Firm Address igit) Work #, as applicable) (2 decimal places, MBE, WBE, Contact Name
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Language added to specify the City's separate Contract Goals and how to count MWSBE participation in order to meet the City's MWBE Contract Goal (page 1):

BIDDER'S MWSBE PARTICIPATION PLAN he Bidder or Proposer shall submit this completed form with the bid, to demonstrate the Bidder/Proposer's lan to meet the contract-specific MWSBE goal ("contract goal"). If the Bidder or Proposer cannot meet the ontract goal, the Bidder/Proposer has the burden to demonstrate "Good Faith Efforts", which shall include orrectly and accurately preparing and submitting this form, a Record of Good Faith Efforts (Document 00471), Request for Deviation from the Goal (Document 00472), and providing supporting documentation evidencing teir "Good Faith Efforts", as required by the City of Houston's Good Faith Efforts Policy (Document 00808). he City will review the Participation Plan and Good Faith Efforts at the time of bid opening. Visit tp://www.houstontx.gov/obo for more information. City MBE MBE and WBE Goals are two separate Contract Goals. MBE WBE Any excess of one Goal cannot be applied to meet another Goal. NAICS Description of Work (Plan % of Total Bid Cert. Type Certified Firm Name NAICS Description of Work (Plan % of Total Bid Cert. Type Certified Firm Name Naice Price Certified Firm Name		BIDDER	Document (
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(6 digit) Work #, as applicable) (2 decimal places, MBE, WBE, Contact Name Example: 5.00 %) or SBE Phone No. and E-Mail	Code Sheet #, Unit P	Price #, Scope of	Price (2 decimal places,	for Goal: MBE, WBE, or SBE	Firm Address Contact Name	

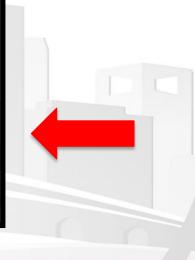
• Example added to specify how MWBE participation percentage should be presented on form (page 1 and page 2):

Document 00470

BIDDER'S MWSBE PARTICIPATION PLAN

he Bidder or Proposer shall submit this completed form with the bid, to demonstrate the Bidder/Proposer's ian to meet the contract-specific MWSBE goal ("contract goal"). If the Bidder or Proposer cannot meet the ontract goal, the Bidder/Proposer has the burden to demonstrate "Good Faith Efforts", which shall include orrectly and accurately preparing and submitting this form, a Record of Good Faith Efforts (Document 00471), Request for Deviation from the Goal (Document 00472), and providing supporting documentation evidencing teir "Good Faith Efforts", as required by the City of Houston's Good Faith Efforts Policy (Document 00808). he City will review the Participation Plan and Good Faith Efforts at the time of bid opening. Visit <u>tp://www.houstontx.gov/obo</u> for more information.

City Contract Goal	MBE	• A		I cannot be applie	Contract Goals. ed to meet another Goal. or WBE Goal, but not to exceed 4%.
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CITY OF HOUSTON

• Selection boxes and language added to Certification Type for Goal.

CITY OF HOUSTON

			Document	00470		
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City ontract Goal					WBE Goal, but not to exceed 4%.	

• Table added to list Bidder's Participation Plan Total for MBE, WBE, SBE (page 1):

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Assessing Your MWSBE Participation Plan: Document 470

Achievement of the Goal

- 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
- 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 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	Ferguson Tip: Try just a few letters of the firm's name.							
Search by Business Descripti	on							
Business Description								
Search by Commodity Code								
Commodity Code	Click to Lookup Commodity Code							
	(popup window will appear to browse and search a	available Commodity Codes)						
Search by Contact Person								
Contact Person/Owner	First name	Last name						
		Tip: Try just the first few letters.						
	Tip: Use the first letter.							
Search by Location								
City								
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Zip Code								
Phone Area Code								
Search by Certification Type								
Certifications	Airport Concessionaire Disadvan	taged Business Enterprise (ACDBE)						
	Minority Business Enterprise (MB	E)						
	Small Business Enterprise (SBE)							
	✓ Women Business Enterprise (WB)	E)						
	Disadvantaged Business Enterprise (DBE)							
	Persons with Disabilities Busines	s Enterprise (PDBE)						
Search by Reference								
Category None selected								
Search	Download Entire Directory: to Ex	to CSV						
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•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.



Calculating Participation

Calculating Participation – Example 1

• Goals: 13% MBE and 8% WBE Contract Goals

These are separate goals to be met individually!

- Bidder's Numbers:
 - SBE: 6%

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4% of SBE may be used to meet the MBE and/or WBE goal.

YES!!

+ 4% (from SBE) = 13%

• WBE: 8%

+ 13% = 21%

Does this plan meet the Goal?



Calculating Participation – Example 2

Goals: 11% MBE and 8% WBE Contract Goals

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.

<u>NO</u>



Calculating Participation – Example 3

- Goals: 15% MBE and 5% WBE Contract Goals
- Bidder's Numbers:
 - SBE: 5%

Up to 4% of SBE participation may be calculated into MBE and/or WBE participation. In this case, MBE may be increased to 16%, after taking 3% of the allowed 4% SBE.

Only up to 50% of the Total Goal may be calculated from Suppliers.

calculated into the MBE Goal for a total of 12% MBE participation.

Here only 10% of Suppliers and the 2% of Service will be

- **MBE: 13%**
- 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 <u>5% WBE</u> Total: 20%





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





When do you demonstrate Good Faith Efforts?

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

- Document 00471
 - Pre-Bid Good Faith Efforts

Document 00472

- Bidder's MWSBE Goal Deviation Request
- Supporting Documentation





Document 00471 Pre-Bid Good Faith Efforts

Document 00471 – Pre-Bid Good Faith Efforts

[Short Project Name] WBS No. [WBS No.]	PRE-BID GOOD FAITH EFFORTS
Docum	ent 00471
PRE-BID GOOI	D FAITH EFFORTS
Bidder Name: Project Na	ame
A Bidder or Proposer that may be unable to o	complete or follow a Participation Plan (Documer

cumen CCD-00470) to meet the Contract Goal in the Supplemental Conditions (Document 00800), must submit this completed form, Goal Deviation Request Form (Document 00472), providing supporting documentation evidencing their "Good Faith Efforts", as required by the City of Houston's Good Faith Efforts Policy (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 othe 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.

Code	Plan Item No.	MWSBE Type for Goal	Certified Firm Name Address, Phone No. and E-Mail	Certified Firm Contact Person	Methods of Contact	Prime Contact Dates	Certified Firm Response	Results of Contact (why suitable or not suitable for work)
		MBE 0 WBE 0 SBE 0			Phone C E-mail D Fax C			
		MBE II WBE II SBE II			Phone D E-mail D Fax D			
		MBE C WBE C SBE D			Phone 🗆 E-mail 🗆 Fax 🗆			<u>.</u>
		MBE C WBE C SBE C			Phone 🗆 E-mail 🗆 Fax 🗍			
uthorized	Signati	ure:		Date:			Phone:	

Email Address

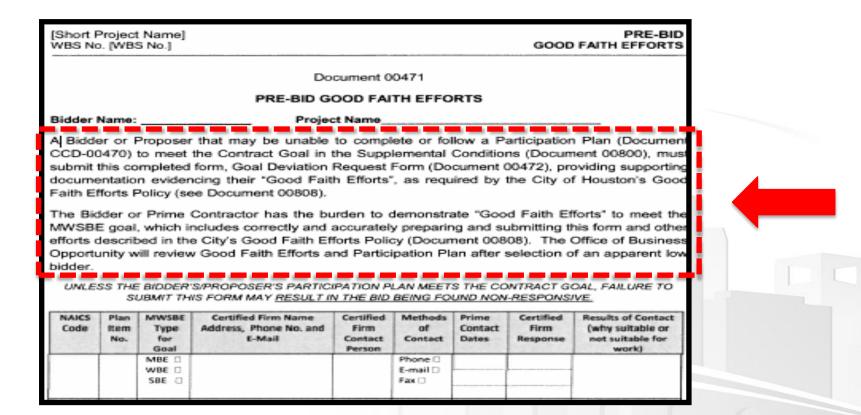
- Submitted at the time of bid.
- **Documents Bidder's** Good Faith Efforts to meet the MWSBE goal.
- Captures the amount of effort the bidder put into finding MWSBE firms.

ompany Name:

rint Name:

OF HOUSTON BUSINESS OPPORTUNITY

• Language added to include Good Faith Efforts requirements and required documentation (page 1):





• Language underlined for emphasis (page 1):

S No. [WBS No.]					3000	FAITH EFFORT
	Doc	ument 0	0471			
	PRE-BID GO	DOD FAI	TH EFFO	RTS		
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• Selection boxes and language added to MWSBE Type for Goal (page 1 and page 2):

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his form and oth Office of Busines f an apparent lo DAL, FAILURE TO	bmitting th 08). The C election of NTRACT GC	ng and su nent 008/ an after s S THE CO	y preparin y (Docum pation Pla	accurately forts Polic nd Partici	Contractor has the build of the	which in ed in the ill review	goal, escrib nity w	/SBE orts de oortui der.
Results of Contact (why suitable or	Certified Firm Response	Prime Contact Dates	Methods of Contact	Certified Firm Contact Person	Certified Firm Name Address, Phone No. and E-Mail	MWSBE Type for Goal	Plan Item No.	ode
(why suitable or not suitable for work)	222323 (C. C. C		Phone 🗌			MBE []		

BUSINESS OPPORTUNIT

Document 00471 - Supporting Documentation

Bidder may attach an Excel Spreadsheet with equivalent information.

Company Name Resources, Inc	DBA Name	Owner First Barbara A.	Owner Last Porter	Physical Address 10700 Richmond Ave., Suite 154		51 Zp T 77042 X	Mailing Address 10700 Richmond Ave., Suite 154	City2 Houston	90 TX				Email 216esources@gmail.com	Cert MBE	Renewal 2/28/15	Capability Broker of Aggregate & Other Construction Supplies; Construction Mgmt; Hauling & Logistics Services	Calagory Construction Services & Equipment
Resources, Inc		Barbara A.	Porter	10700 Richmond Ave., Suite 154	Houston	T 77042 X	10700 Richmond Ave., Suite 154	Hoution	тх	77042	713-075-0000	888-442-8054	216resources@gmail.com	SDE	2/28/15	Broker of Aggregate & Other Construction Supplier, Construction Myrit; Hauling & Logistics Services	Construction Services & Equipment
Resources, Inc		Barbara A.	Porter	10700 Richmond Ave., Suite 154	Houston	T 77042 X	10700 Richmond Ave., Suite 154	Houston	тх	77042	713-975-6800	888-442-8254	21Ensources@gmail.com	WDE	2/28/15	Broker of Apgregate & Other Construction Supplier, Construction Mgmt; Hauling & Logistics Services	Construction Services & Equipment
A Trucking LLC		Antonio A.	Rodriguez	418 E TEXAS AVE	Baytown	T 77520 X	418 E TEXAS AVE	Baytown	тх	77520	201-837-1274	281-427-2124	aadmpik@aci.com	MSE	6/30/14	Dump Truck Services, 24 Hours A Day, Supplers of Earth Molertale, Base Materiale, Crush Concrete, Limestone Meteriale, & Asphalt Materiale	Construction Services & Equipment
Trucking LLC		Antonio A.	Rodriguez	418 E TEXAS AVE	Baytown	T 77520 X	418 E TEXAS AVE	Baytown	TX	77520	201-837-1274	281-427-2124	aadmpirk@aol.com	SBE	6/30/14	Dump Truck Services, 24 Hours A Day/Supplers of Each Materials, Base Materials, Crush Concrete, Limestone Materials, & Asphalt Materials	Construction Services & Equipment
DEE, Inc.		Don	Briggs	15806 Ridgerock	Mascut City	T 77409	P.O. Box 200735	Houston	тх	77207	201-438-4246	713-991-7364	alax-dbe@qrip.net	MBE	4/30/13	CONCRETE WORK	Construction Services & Equipment
DBE, Inc.		Don	Briggs	15806 Ridgerock	Mascuri City	T 77409	P.O. Box 200735	Houston	тх	77207	201-438-4246	713-991-7364	alex-doo@quip.net	SDE	4/20/13	CONCRETE WORK	Construction Services & Equipment
LA. Trucking, Inc.		Juan Jose	Argusta	14319 Balamonia St.	Houation	T 77085	14315 Balamortie St.	Houtton	тх	77065	201-558-8691	201-495-3036	juan.arguueta@att.net	MBE	6/30/14	Local Transportation of Construction Materials (Asphalt & Dirt)	Construction Services & Equipment
LA. Trucking, Inc.		Juan Jose	Argueta	14319 Balamonia St.	Houation	T 77085	14315 Balamorte St.	Houston	τx	77085	201-558-8691	201-495-3036	juan.arguueta⊜at.net	SDE	6/30/14	Local Transportation of Construction Materials (Asphalt & Dirt)	Construction Services & Equipment
larging & Paving Company		John	Mandor	6221 W Sam Houston Parkway N	Houston	T 77041 X	6211 W Sam Houtton Parkway N.	Houton	TK	77041	713-975-1819	713-975-9158	cdule (Ealisp.com	SDE	1/21/14	Site & Underground, URIN, Concrete Construction & Repair, Asphati Paving, Pavement Marking, Signage & Boland Instatistion, & Parking Garage Repair, Construction Management	Construction Services & Equipment
Aphat Paing, Inc.		Michael D.	Holiman	10536 Tanner Road	Houston	T 77041	10526 Tanner Road	Houston	тх	77041	713-817-4387	713-896-6889	mikeh@aaa-asphalt.com	SDE	12/31/13	Storm Sever Construction, Concrete and Asphalt paying	Construction Services & Equipment





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Document 00472 Bidder's MWSBE Goal Deviation Request

Document 00472 – Bidder's MWSBE Goal Deviation Request

[Short Project Name] WBS No. [WBS No.]				BIDDER'S M DEVIATIO	WSBE GOAL
BIDDER		cument 004 GOAL DEV	72	JEST	
Company Name:					_
Project Name:					_
Department Approved Contract Goals	MBE %	WBE %	Total %]	
Bidder's Proposed Participation Plan	MBE %	WBE %	SBE (Max 4% for Credit) %	Total %	
Justification: Please provide the reas	on the Bidde	er is unable t	o meet the Con	tract Goal in Do	cument 00800.
Good Faith Efforts: Please list any eff 00471) and provide supporting docun Houston's Good Faith Efforts Policy (E	nentation ev	videncing "G			
Date:		Company Na	me:		
Email:		Company Re	presentative:		
Phone Number:	1	fitle:			
FOR OFFICIAL USE ONLY: Approved	d D r	Not Approve	d 🗆		
OBO Representative	t	Date:			
		Title:			

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- Submitted at the time of bid.
- Explains why the Bidder was unable to meet the advertised MWSBE goal; and
- Explains what good faith efforts the Bidder made that were not captured on Document 471

Document 00472 - Enhancement # 1

 Language added to SBE % Column of the Bidder's Proposed Participation Plan Table:

RIDDER		COAL DEV	172 /IATION REQUE	ет		
Company Name:					_	
Project Name:					-	
Department Approved Contract Goals	MBE %	WBE %	Total «			
L					_	
Bidder's Proposed Participation Plan	MBE %	WBE %	SBE (Max 4% for Credit) %	Total %		
					4	
Justification: Please provide the reas	son the Bidd	er is unable t	to meet the contra	ct Goal in Do	cument 00800.	



Document 00472 - Enhancement # 2/

• Language added to emphasize the need to provide supporting documentation.

BUSINESS OPPORT

	Do	cument 004	72				
BIDDER	S MWSBE	GOAL DEV	IATION REQU	EST			
Company Name:							
Project Name:					_		
Department Approved Contract Goals	MBE %	WBE %	Total %		_		
Bidder's Proposed			·				
Justification: Please provide the reas	MBE %	WBE %	SBE (Max 4% for Credit) % o meet the Cont	Total % ract Goal in D	ocument 0080	0.	
Participation Plan	% on the Bidd forts not list mentation e	er is unable t ed in the Bid videncing "G	for Credit) % o meet the Contr der's Pre-Bid Goo	% ract Goal in D	t (Document		
Participation Plan Justification: Please provide the reas Good Faith Efforts: Please list any ef 00471) and provide supporting docu	% on the Bidd forts not list mentation e	er is unable t ed in the Bid videncing "G	for Credit) % o meet the Contr der's Pre-Bid Goo	% ract Goal in D	t (Document		

Document 00472 - Enhancement # 3

 Lines for 'Company Name' and 'Company Representative' replaced the lines for 'Bidder' and 'By':

[Short Project Name] WBS No. [WBS No.]				BIDDER'S N DEVIAT	ION REQU			
	Doc	cument 004	72					
BIDDEF	R'S MWSBE	GOAL DEV	IATION REQU	JEST				
Company Name:								
Project Name:					_			
Department Approved Contract Goals	MBE %	WBE %	Total %]				
Bidder's Proposed Participation Plan		WBE %	SBE (Max 4% for Credit) %	Total %	7			
Good Faith Efforts: Please list any e	fforts not liste	ed in the Bid	der's Pre-Bid Go	ood Faith Effor	t (Documen	nt		
Good Faith Efforts: Please list any e 00471) and provide supporting doc Houston's Good Faith Efforts Policy	umentation ev	videncing "G			-			P
00471) and provide supporting doc	umentation ev (Document 80	videncing "G 08).		s", as required	by the City	y of		
00471) and provide supporting doc	umentation ev	videncing "G 08).	ood Faith Effort	ss", as required	by the City	y of 		
00471) and provide supporting doc Houston's Good Faith Efforts Policy	Unentation ev	videncing "G 08). Company Na	iood Faith Effort	ss", as required	l by the City	y of 		

Important!!!

- You either turn in <u>ONE</u> document if you meet the Contract Goal: (Document 00470); <u>OR</u>
- You turn in <u>THREE</u> documents if you cannot meet the Contract Goal: (Documents 00470, 00471, & 00472)
- Additional supporting documents or justifications cannot be submitted to the OBO for review or consideration after bid submission
- Bidders will be contacted by the OBO only for clarification purposes on a case-by-case basis.





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Case Studies Approved and Denied Good Faith Efforts



Approved Good Faith Efforts

Approved Good Faith Efforts usually consist of:

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





Case Study 1- Approved Good Faith Efforts

A Plant Work project with a <u>13</u>% MBE & <u>7</u>% WBE Contract Goal.

- Bidder's Participation Plan: <u>13.82</u>% MBE , <u>0.00</u>% WBE, <u>0.91</u>% SBE
- 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 <u>7</u>%. Bidder could combine **SBE**% toward meeting the **WBE** goal:
 - MBE = 13.00%, WBE = 0.91% MBE Goal Met, but WBE Goal Unmet by 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:
 - MWBEs contacted and contact details
 - Certification Type
 - MWBE's work capabilities
 - Scope of work relevant to MWBE's work capabilities
 - Dates 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



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Case Study 1- Approved Good Faith Efforts



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



Denied Good Faith Efforts

- 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
 - Specialty nature of work
 - Running out of time

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



Case Study 2- Denied Good Faith Efforts

A Large Water Line with a 12 % MBE & 7 % WBE Contract Goal.

- Bidder's Participation Plan: 2.34% MBE, 0.08% WBE, 1.07% SBE
- 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%, **MBE Goal** <u>Unmet</u> by <u>8.59</u>%, **WBE Goal** <u>Unmet</u> by <u>6.92</u>%.
- 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



Case Study 2- Denied Good Faith Efforts

- 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







Case Study 2- Denied Good Faith Efforts (Cont)



- 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 <u>demonstrate</u> 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





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Appealing A Good Faith Efforts Denial

Once OBO notifies Bidder of the Denial:

- Bidder may appeal by making a written request to OBO's Director via email at <u>director.obo@houstontx.gov</u> within (3) three business days from the date of the notice of denial.
- If the OBO Director upholds the Denial, the Bidder may appeal that decision by making a written request to the Legal Department's Contract Section via email at <u>director.obo@houstontx.gov</u> within three (3) business days of the date of the Director's decision.





- The decision rendered by the Legal Department will be the final determination by the City of Houston regarding the Pre-Bid Good Faith Efforts Request.
- Bidder will be provided a written determination at each stage of the appeals process.

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





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Post-Award Good Faith Efforts



Post-Award Good Faith Efforts

- If Contractor fails to achieve the Participation Plan Percentage, Contractor must demonstrate its efforts to meet the Participation Plan Percentage and failure to do so based on circumstances that the contractor could not reasonably control.
- The Good Faith Efforts Policy (Doc 808) outlines those factors that will be considered in determining post-award good faith efforts.
- **Remember**: MWBE goals are not quotas. The standard for meeting MWBE goals is the demonstration of good faith efforts.



Good Faith Efforts Policy: Post-Award

- Designate an MWSBE liaison officer
- Provide up-to-date Utilization Plans & Schedules and promptly upload payments to the contract management system.
- Genuinely attempt to resolve disputes with certified firms
- Request a deviation when needed, and make good faith efforts to replace MWSBE with another MWSBE
- Promptly respond to inquiries from City regarding MWSBE participation for goal credit
- Ensure goal credit MWSBEs are performing a <u>Commercially</u> <u>Useful Function</u>



Good Faith Efforts Policy: Post-Award (Cont.)

- Provide information that is factually accurate and free of material misrepresentation
- Attend all meetings and mediation hearings requested by the City
- Notify OBO of effect of change orders on Participation Plan

**City may consider other factors or types of relevant efforts in appropriate cases, as documented by contractor.



Assessment of Good Faith Efforts

- Contractor's efforts to meet the MWBE contract goal are assessed at the end of the project
- Failure to make good faith efforts will result in "unsatisfactory" compliance rating
- Ratings are reviewed by City Council and Mayor
- Unsatisfactory ratings may impact award of future projects if a sanction is imposed.



Documenting Good Faith Efforts

- Document all efforts made to comply with the goal(s)
- Execute subcontracting agreements outlining terms of engagement (required)
- Keep a log of efforts made throughout course of contract to meet goals
- Contact OBO for assistance if you are experiencing challenges meeting your goal
- When possible, provide subcontractors with advance notice when they will be needed for project





Common Observations: Failure to Make GFE

- Failure to respond to inquiries (letters, email, calls) regarding MWSBE utilization
- Failure to execute subcontracting agreements outlining terms of engagement
- Lists MWSBEs for goal credit without notifying subcontractors
- Failure to submit deviation request for a change in Participation Plan
- Failure to fully report payments made to MWSBEs



Common Observations: Failure to Make GFE

- Self performing work intended for MWSBEs, without notification
- Failure to understand how MWSBEs will perform on the contract (no Commercially Useful Function or partial goal credit work)
- Failure to understand impact of MWSBEs subcontracting work to non-MWSBEs
- Failure to notify MWSBEs and OBO promptly of any challenges that will affect MWSBE utilization



Commercially Useful Function

- An MWSBE performs a commercially useful function when it is responsible for a discrete task or group of tasks required in the contract using its own forces or by actively supervising on-site the execution of tasks. MWSBE has to be certified in the NAICS code in which they are performing.
- Prime Contractors only get goal credit when an MWSBE
 performs a commercially useful function
- Do not confuse commercially useful function with certification



Commercially Useful Function & Goal Credit

- Subcontractors must:
 - Perform specific work items with own forces pursuant to a contract agreement with prime
- Suppliers must:
 - (a) Negotiate price;
 - (b) Determine quality and quantity;
 - (c) Order the materials;
 - (d) Show that the invoice is in the certified firm's name;
 - (e) Pay for the material itself;
 - (f) Control delivery; and
 - (g) Be certified to provide the supplies in the appropriate NAICS code
- Truckers must:
 - Use their own trucks and trucks owned and operated by other certified City of Houston firms.
 - For each truck the MWSBE firm owns, that firm may receive credit for one truck used on the project, owned by a non-certified firm.



Challenging an "Unsatisfactory" Rating

- OBO evaluates the MWBE compliance of Contractors before final clearance and a final payment request is made to City Council on all construction projects.
- After evaluation of Contractor's good faith efforts to meet the MWBE goal, Contractors are notified of their compliance rating via letter.
- Contractors who don't agree with their ratings have 14 days to challenge them by contacting Morris Scott at 832-393-0631 or via email at Morris.Scott2@houstontx.gov.OBO will review all explanations and documents, then notify Contractors of the final rating.
- The initial rating will become final if Contractor fails to challenge it within 14 days.





Questions

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Annise D. Parker Mayor

Carlecia D. Wrigh

Directo

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

T. 713.837.9000 F. 713.837.9055



THANK YOU

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Annise D. Parker Mayor

Carlecia D. Wright

Directo

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

T. 713.837.9000 F. 713.837.9055