

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE (HACM)

PRIME CONTRACTOR FORMAL CONTRACT PROVISIONS FOR SUBCONTRACTING WITH EMERGING BUSINESS ENTERPRISES*

FEDERAL DOLLARS

NON-FEDERAL DOLLARS

Where Federal dollars are involved, these Provisions will specify MBEs and WBEs. Where the funding source is non-Federal dollars, these Provisions will designate the utilization of DBEs.

*Disadvantaged Business Enterprise (DBE)

*Minority Business Enterprise (MBE)

*Women Business Enterprise (WBE)

I. GENERAL

- A. In accordance with City of Milwaukee Ordinance 360 and HUD Regulations: 24 CFR 85.36(e); 24 CFR Part 135; and 24 CFR 968.100, DBE, MBE and WBEs shall participate in all Formal Contract activities of the **HOUSING AUTHORITY OF THE CITY OF MILWAUKEE (HACM)**. Participation of DBEs, MBEs and WBEs shall be determined by the source of contract dollars as explained above. The target participation percentages are 18% or more for DBEs, 20% or more for MBEs and WBEs.
- B. HACM is its own CONTRACTING OFFICER and requires DBEs to be currently certified by the City of Milwaukee or any other Wisconsin government entities with race and gender- neutral certification programs. MBEs and WBEs, must be currently certified by race and gender based certification program such as the State of Wisconsin Department of Commerce, any other Wisconsin governmental entities or the Federal Government's (8a) Business Development Program.

This contract calls for:

_____ % _____ subcontract participation.

- C. The prime contractor shall prepare and submit timely and accurate DBE, MBE and WBE utilization forms and reports to the HACM. The reports shall include, but not be limited to the following DBE, MBE and WBE reports:
1. Form A: Affidavit of Compliance (Contractor's Commitment to D/M/WBE percent participation)
 2. Form B: Prime Contractor List of DBE Subcontractors.
 3. Form B-1: Prime Contractor List of MBE and WBE Subcontractors.
 4. Form C: Monthly and Final Subcontractor Utilization Report.
 5. Form D: Monthly Subcontractor Payment Certification Form.
- Failure to submit the required forms and reports fully completed to the HACM may result in actions, such as rejection of the bid and delay of payments or other appropriate actions. Final contract payments will not be made until final DBE, MBE and WBE subcontractor payment certification forms are on file with the HACM.
- D. During the performance of this contract, the HACM reserves the right to conduct compliance reviews of the prime contractor and DBE, MBE and WBE and require documentation that will indicate levels of compliance by the prime contractor and DBE, MBE and WBE. If the contractor is not in compliance with the specifications, the HACM will notify the contractor in writing of the need to take corrective action. If the contractor fails or refuses to take corrective action as directed, the HACM may take one or more of the following actions:
1. Terminate or cancel the contract, in whole or in part.
 2. Recommend HUD debarment of the prime contractor from bidding.
 3. Withhold payments on the contract.
 4. Any other remedy available to the HACM at law or in equity.

II. DEFINITIONS

- A. *Disadvantaged Business Enterprise (DBE)*, means a small business concern that is owned, operated and controlled by one or more disadvantaged individuals. The disadvantaged individuals must have day-to-day operational and managerial control and interest in capital, financial risks and earnings commensurate with the percentage of their ownership.
- B. *Disadvantaged Individual*, means a person who is a citizen or lawful permanent resident of the United States and who has experienced and who continues to experience substantial difficulty in achieving business-related success as defined in subsections 11 and 12 of Chapter 360 of the Milwaukee Code of Ordinances.
- C. *Minority Business Enterprise (MBE)*, means a small business concern which is at least fifty-one percent (51%) owned by one or more minorities (as defined herein) and whose management and daily operations are controlled by one or more minority owners.
- D. *Minority*, means a person who is a citizen or a lawfully admitted permanent resident of the United States who is a member of one of the following groups:
1. **Black Americans**, includes persons having origins in any of the Black racial groups of Africa.
 2. **Hispanic Americans**, includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
 3. **Native Americans**, includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
 4. **Asian-Pacific Americans**, includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and Northern Marianas;
 5. **Asian-Indian Americans**, includes persons whose origins are from India, Pakistan and Bangladesh.
 6. **Hasidic Jewish Americans**, not defined by HUD - in conjunction with HUD and the community recognized membership in this group will be addressed on a case-by-case basis.
- E. *Women Business Enterprise (WBE)*, means a small business concern which is at least fifty-one percent (51%) owned by one or more women and whose management and daily business operation are controlled by one or more women owners.
- F. *Minority/Women Business Enterprise (M/WBE)*, means a small business concern which is at least fifty-one percent (51%) owned by one or more minority women and whose management and daily business operations are controlled by one or more minority women owners.
- G. *Small Business Concern*, means a small business as defined pursuant to Section 3 of the Small Business Act.
- H. *Joint Venture*, shall be eligible under this program if the DBE, MBE, M/WBE or partners own at least fifty-one percent (51%) of the joint venture and share to an equivalent percent in the management responsibilities, risks and profits of the joint venture, as well as being responsible for a clearly defined portion of the work performed.
- I. *Owned, Operated and Controlled*, means a business which meets one of the following:
1. A sole proprietorship legitimately owned and controlled by a DBE, MBE or WBE. Business.
 2. A partnership or joint venture legitimately owned, operated and controlled by disadvantaged, individuals, minority individuals or women who own at least 51% of the beneficial ownership interests in the enterprise and who hold at least 51% of the voting interests of the enterprise. Section
 3. A corporation legitimately owned, operated and controlled by one or more minority individuals or women, if applicable, who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

III. DBE/ MBE/WBE UTILIZATION REQUIREMENTS

A. DBE

Eighteen percent (18%) or more **DBE** participation. Note that the **DBE** participation pertains to the base bid excluding specified allowances, but including alternatives, and change orders. **DBE** commitments relative to contract award shall be based upon the approved **Form B**, "Prime Contractor List of DBE Subcontractors."

B. MBE, WBE

Twenty percent (20%) or more **MBE** and/or **WBE** participation. Note **MBE** and/or **WBE** participation pertains to the base bid excluding specified allowances, but including alternatives, and change orders. **MBE** and **WBE** commitments relative to contract award shall be based upon the approved **Form B-1**, "Prime Contractor List of MBE and WBE Subcontractors."

C. The determination of a DBE, MBE and WBE shall be based on the following criteria:

1. The firms identified as DBE, MBE or WBE by the prime contractor on Form B (Prime Contractors List of DBE Subcontractors) or Form B-1 (Prime Contractors List of MBE and WBE Subcontractors) must be certified by the one of the specified agencies prior to bid opening.
2. The prime contractor shall pay special attention to the area(s) specified as the business specialty by the applicant business in the certification application. ***New or expanded business specialties are subject to certification review by the certifying agency.***
3. The prime contractor shall be credited for the entire expenditure to DBE, MBE and WBE, only if all of the identified scope of work has a commercially useful function in the actual work of the contract and is performed directly by the certified DBE, MBE or WBE.
4. The prime contractor shall be credited for the expenditure to DBE, MBE, or WBE manufacturer only if the manufacturer produces goods from raw materials or substantially alters material for resale. Twenty-percent (20%) of the DBE MBE, or WBE participation goal, or less, may be expended for DBE, MBE, or WBE suppliers that do not operate or maintain a store, warehouse, or other establishment in which the materials or supplies are kept in stock and regularly sold to the public in the usual course of business. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.
5. The prime contractor shall count toward the DBE, MBE, and WBE participation goals only expenditures to DBEs, MBEs, and WBEs that perform a commercially useful function in the actual work of the contract. DBEs, MBEs, or WBEs are **required** to notify the CONTRACT SERVICES MANAGER, by letter, if they will subcontract out work on this project. The CONTRACT SERVICES MANAGER shall be notified, by letter, of labor shortages, if any, affecting the contract work. The HACM CONTRACT OFFICER OR DESIGNEE and CONTRACT SERVICES MANAGER will may the final determination and evaluation of whether or not the firm is performing a commercially useful function on this project.
6. A prime contractor shall be credited one hundred percent (100%) of expenditures to a DBE, MBE, or WBE delivery service, hauler or trucker of materials and supplies required on a job site, but not the cost of the materials and supplies.
7. A prime contractor shall count toward the DBE, MBE, or WBE participation goals, only expenditures to DBEs, MBEs, or WBEs that perform a commercially useful function in the actual work of the contract. The Prime contractor is required to notify the HACM CONTRACT OFFICER OR DESIGNEE if their DBE, MBE, or WBE will further subcontract out work on this contract. Credit will be given based on actual participation by the DBE, MBE, or WBE. **Credit will not be given for work subcontracted by DBEs, MBEs, or WBEs without prior approval from the CONTRACT SERVICES MANAGER.**

III. DBE, MBE, WBE UTILIZATION REQUIREMENTS (continued)

- D. The Form A, "Affidavit of Compliance is included with the bid the document must be submitted with the bid, indicating DBE, MBE and WBE percent (%) participation.
- E. *The applicable D/M/WBE list of subcontractors: Form B, Prime Contractor List of DBE Subcontractors; Form B-1, Prime Contractor List of MBE/WBE Subcontractors, can be submitted with the bid. The deadline date for receipt of the list(s) by the HACM is the third (3rd) calendar day following the date of the bid opening unless by special arrangement with the Contract Services Manager. Revision to the initial list is due the second (2nd) calendar day following receipt of the initial list.*
- F. Information on Forms B and B-1 shall include, but not be limited to:
1. The DBE, MBE, WBE subcontractors name, address, telephone number and authorized contact person for the DBE, MBE, WBE that will participate on the contract.
 2. A description of the scope of work to be performed by the DBE, MBE, WBE on this project.
 3. The DBE, MBE, WBE contractor dollar values and corresponding percentages that the dollar values represent of the total contract amount.
 4. Listing of DBEs, MBEs, WBEs on Forms B and B-1, respectively, shall constitute a representation that the contractor has communicated directly with the DBEs, MBEs, WBEs listed, agreed to the specified work and dollar values. If awarded the contract, the bidder will enter into a written subcontract with the firm for the portion of the work listed.
- G. Failure to submit an Affidavit of Compliance may render the bid non-responsive, and prompt an award recommendation to the next apparent low bidder.
- H. Only DBEs, MBEs, and WBEs that have been certified as such by the specified certification agency may be listed on Forms B and B-1. The firms shall be counted towards the targeted percentage on this project Directories of certified firms may be obtained from the specified certification agencies.
- I. After execution of the contract, if for any reason, a DBE, MBE, or WBE cannot perform the specified work, the prime contractor shall immediately provide the HACM CONTRACTING OFFICER with a written explanation detailing the reason, including a request for approval from the CONTRACT SERVICES MANAGER to substitute another certified firm or approval of a DBE, MBE, or WBE if a replacement has been identified.
- J. Approval to delete or replace initial DBEs, MBEs, or WBEs must be obtained from the CONTRACT SERVICES MANAGER prior to making the deletion or replacement. Any difference in the cost occasioned by such substitution, deletion or replacement shall be borne by the prime contractor.
- K. If the prime contractor has a problem in meeting the DBE, MBE or WBE goal, or if any other issues relative to DBEs, MBEs or WBEs arise during the completion of this project, the prime contractor shall immediately forward a letter to the HACM CONTRACTING OFFICER with a copy to the CONTRACT SERVICES MANAGER detailing the issue(s).
- L. Certification as DBE, MBE and WBE from programs other than from those agencies specified is neither accepted by the HACM nor do they have any bearing whatsoever on the eligibility criteria established by the specified certification agencies.

HACM PROVISIONS

Revisions: 4/28/1995, 7/21/1995, 9/22/1995, 2/25/2000, 2/26/2001, 9/24/2001, 3/30/2007, 5/31/2007

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE

BIDDERS INSTRUCTIONS
FOR COMPLETING EMERGING BUSINESS ENTERPRISES FORMS

PRIME CONTRACTOR'S AFFIDAVIT OF COMPLIANCE (FORM A)
PRIME CONTRACTOR LIST OF SUBCONTRACTORS (FORM B AND/OR FORM B-1)

Step 1:

Please thoroughly review the "Prime Contractor Formal Contract Provisions for Subcontracting with Emerging Business Enterprises" (copy attached to this page).

Step 2:

Note the type of business(es) targeted for participation on this project. See Page 1 of the Provisions, Section I, Paragraph A: "This contract calls for" This section specifies the type of business(es) and the preferred participation percentage(s) for this particular contract.

Step 3:

On the Prime Contractor's Affidavit of Compliance (Form A), fill in the subcontract percentage participation on the lines(s) that correspond to the type of targeted business(es) identified on Page 1 of the Provisions.

For example, if the Provisions call for 20% MBE and WBE participation, you may use on the Affidavit of Compliance, the following:

- A. MBEs at 10% and WBEs at 10% to full the percentage; or
- B. MBEs at 20% or 20% WBEs to full the percentage

Note that the Prime Contractor's Affidavit of Compliance is a part of the bid and requires submission with the bid.

Step 4:

Locate the Prime Contractor List of DBE Subcontractors (Form B) and the Prime Contractor List of MBE and WBE Subcontractors (Form B-1). Select the appropriate form for the type of business(es) taken from Page 1 of the Provisions and the Affidavit of Compliance and to complete the list. Keep in mind that Form B is for DBE utilization and Form B-1 is for MBE/WBE utilization.

Attention: The Prime Contractor's List of Subcontractors (Form B, Form B-1) may be submitted with the bid but must be submitted within three (3) calendar days following the bids.

SPECIAL BIDDERS INSTRUCTIONS

Revisions: 10/24/1995, 02/02/2001, 07/27/2007, 06/15/2011

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE (HACM)

PRIME CONTRACTOR'S AFFIDAVIT OF COMPLIANCE FOR PARTICIPATION IN THE HACM EMERGING BUSINESS ENTERPRISE PROGRAM

Official Notice # _____

Date: _____

RFP # _____

Project #: _____

The bidder's commitment for DBE participation on this project is..... ____%.

The bidder's commitment for MBE participation on this project is..... ____%

The bidder's commitment for WBE participation on this project is..... ____%.

The HACM may reject and disqualify any bid that does not include the Emerging Business Enterprise Program. The HACM may reject and disqualify any bid if the contractor fails to consider the "Prime Contractor Provisions for Subcontracting with Emerging Business Enterprises."

The undersigned hereby states that he/she has not discriminated in any manner on the basis of race, sex, or national origin in any manner in the preparation of the attached bid or selection of subcontractors or material suppliers for such bid.

The undersigned acknowledges, understands, and agrees that submission of a bid shall commit the bidder to comply with the HACM's Emerging Business Enterprise Program that includes DBE, MBE, WBEs in subcontract work on this contract, including the submittal of applicable lists -- Forms B, B-1.

The undersigned also states that all the above information is true and correct to the best of his/her knowledge.

Company Name

Authorized Signature and Title

Printed Name

STATE OF WISCONSIN, COUNTY OF _____

Personally came before me this ____ day of _____, 2____, who acknowledges that he/she executed the foregoing document for the purpose therein contained for and on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public _____, County of _____, State of _____

My Commission Expires: _____

FORM B

Date Form B Submitted _____

Initial List/Date _____

Revised List/Date _____

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE

Prime Contractor List of DBE Subcontractors

This form must be fully completed. The deadline for submission of this bid document to the Housing Authority, by the Prime Contractor is three (3) calendar days following the bid opening date, or with the bid.

Prime Contractor's Name _____ Official Notice _____ RFP #: _____

Total Bid Amount: _____ DBE \$'s: _____ % of Total Bid _____

Please list all proposed subcontractor(s) and material supplier(s) for this project. It is the bidder's obligation to obtain Disadvantaged Business Enterprise Participation.

Firm Names(s) Address / Phone # & Contact Person	D B E		Work to be Performed / Material Supplied	% of Bid	Amount	Signature of DBE owner or DBE representative needed to confirm all information herein.

Prime Contractor: _____

Date: _____

Tele: _____

Reviewed By: _____

Date: _____

HACM Contract Services Manager

PROJECT SUMMARY: _____

Date Form B-1 Submitted _____

Initial List/Date: _____

Revised List/Date: _____

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE

Prime Contractor List of MBE/WBE Subcontractors

This form must be fully completed. The deadline for submission of this bid document to the Housing Authority, by the Prime Contractor is three (3) calendar days following the bid opening date, or with the bid.

Prime Contractor's Name _____ Official Notice _____ RFP #: _____

Total Bid Amount: _____ MBE \$'s: _____ % of Total Bid _____ WBE \$'s: _____ % of Total Bid _____

Please list all proposed subcontractor(s) and material supplier(s) for this project. It is the bidder's obligation to obtain Minority and Women Business Enterprise Participation.

Firm Names(s) Address / Phone # & Contact Person	M B E	W B E	Work to be Performed / Material Supplied	% of Bid	Amount	Signature of MBE or WBE owner or MBE, WBE representative needed to confirm all information herein.

Prime Contractor: _____

Date: _____

Tele: _____

Reviewed By: _____

Date: _____

HACM Contract Services Manager

PROJECT SUMMARY: _____

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE
MONTHLY & FINAL SUBCONTRACTOR UTILIZATION REPORT

Monthly Submittal for

Final Submittal

_____ (month/year)

_____ (month/year)

Contract Number _____

Prime Contractor _____

Development Site _____

Work Description _____

Start Date _____ Estimated/Actual Completion Date _____

Initial Contract \$'s _____ Adjusted Contract \$'s _____

Subcontractor	Type of Work	Requests for Payment: This Month					\$'s	Requests for Payment: Contract to Date			
		Type of Subcontractor						2016 \$'s	2017 \$'s	2018 \$'s	2019 \$'s
		DBE	MBE	WBE	Sec 3 Bus	Other					

Please specify any contract activity changes and associated costs that have occurred since the initial submittal of this report, and state the reason:

If you are using Section 3 residents to do part or all of the work involved with this project, please indicate the dollar amount of wages paid this month

\$ _____ or to date \$ _____.

Signature

Date

**HOUSING AUTHORITY OF THE CITY OF MILWAUKEE
MONTHLY SUBCONTRACTOR PAYMENT CERTIFICATION FORM
FOR DBE, MBE, AND WBE SUBCONTRACTORS**

This form must be submitted for each DBE, MBE, and WBE utilized on this project. Each form must be attached to the document entitled "Prime Contractor's Periodical Estimate for Partial Payment".

SECTION A -- FOR COMPLETION BY THE PRIME CONTRACTOR

IF SUBCONTRACT PAYMENTS TO DBEs, MBEs, and WBEs HAVE **NOT** BEEN MADE TO DATE, THE PRIME CONTRACTOR SHALL CHECK THIS BOX **NONE** AND COMPLETE ITEMS 1-6 IN SECTION A.

IF SUBCONTRACTOR PAYMENTS HAVE BEEN MADE TO DATE, THE PRIME CONTRACTOR AND SUBCONTRACTOR SHALL FULLY AND INDIVIDUALLY COMPLETE SECTION A AND SECTION B.

1. Prime Contractor _____
2. Official Notice Number _____ Contract Number _____
3. Project Description _____
4. Check one Subcontractor designation: DBE MBE WBE
Is Subcontractor a Self-Certified Section 3 Business: _____
5. Name of Subcontractor _____
6. Subcontract Work Description _____

Prime Contractor Certification: I, (name/title) _____,
(Printed and Signature)

hereby certify that as of this date, _____, \$ _____ PAID THIS MONTH
has been paid to the subcontractor named in Section A-5 for work described in Section A-6. \$ _____ PAID TO DATE

SECTION B -- FOR COMPLETION BY SUBCONTRACTOR

1. Subcontractor _____
2. Official Notice Number _____ Contract Number _____
3. Project Description _____
4. Check your Certification Designation: DBE MBE WBE
Are you a Self-Certified Section 3 Business: _____
5. Subcontract Work Description _____

Subcontractor Certification: I, (name/title) _____,
(Printed and Signature)

hereby certify that as of this date, _____, \$ _____ PAID THIS MONTH
has been paid to the subcontractor named in Section A-5 for work described in Section A-6. \$ _____ PAID TO DATE