



**Supplier Diversity  
Minority and Woman Business Enterprise Program  
Policy and Procedures Manual  
(MBE/WBE Program)**

Effective June 1, 2020

Louisville and Jefferson County Metropolitan Sewer District (MSD)  
700 West Liberty Street  
Louisville, Kentucky 40203-1911

## Message from MSD's Executive Director

**MSD is strengthening its commitment to Supplier Diversity to ensure equity among our supplier community.**

At MSD, we have a proud tradition of connecting minority- and woman-owned businesses with opportunities that help grow their companies, while at the same time developing an excellent supply base that benefits our customers and communities where we live and work.

In 2018, MSD commissioned a Disparity Study to evaluate its Supplier Diversity Program. The Study found statistically significant evidence of a disparity in the award of MSD prime- and subcontracts, in particular to African American and non-minority female vendors. The results of the Study have led us to adjust the Program in a way that will not only create more inclusion, but will foster an economic boom for area businesses.

The goals of the revitalized Supplier Diversity Program are to:

- Increase the opportunity for minority- and woman-owned businesses to work with MSD.
- Increase competition in the contracting community.
- Correct shortcomings cited in the Disparity Study.
- Diversify the companies doing business with MSD.
- Be intentional about representing/listening to our community and ratepayers.

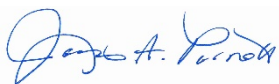
In addition to increasing opportunities for Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs), MSD is connecting skilled workers in the area to local contractors through [MSDJobLink.org](https://www.msdlouisville.org/MSDJobLink.org). These efforts, combined with our enriched Supplier Diversity Program, create more avenues for all citizens in our community to have an equal opportunity to work with and for MSD.

I believe these enhancements are an essential investment in the health, safety and quality of life for both our business partners and residential customers, now and for years to come.

In July 2019, we launched a community outreach campaign, where we met with citizens throughout Louisville Metro to provide details about our revitalized Supplier Diversity Program.

I hope you will join me in supporting this important community initiative.

Sincerely,



James A. Parrott  
MSD Executive Director



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# 1. Overview

## A. Introduction

The Louisville and Jefferson County Metropolitan Sewer District (MSD) is committed to ensuring meaningful opportunities for qualified Minority Business Enterprises and Woman-Owned Business Enterprises (MBEs/WBEs) to compete and participate in the procurement of construction, construction-related, engineering, professional services, and materials, commodities and service purchases within MSD's Procurement process. The revised MSD Supplier Diversity Minority and Woman Business Enterprise Program Policy and Procedures Manual (MBE/WBE Program) is designed to implement MSD's Supplier Diversity Policy through utilization of the enhancements recommended in MSD's 2018 Disparity Study Final Report, some of which are being implemented in phases.

Effective June 1, 2020, MSD will implement Phase I, construction services, construction-related services, and materials, commodities and services. Contracting requirements will be modified to address disparities through the use of new participation goals and other race-neutral remedies. MSD will also continue to encourage MBE/WBE participation for its engineering and other professional services contracts. Because additional enhancements involve community-based initiatives, which require support and assistance from individuals and entities other than MSD and its contractors, subsequent phases are planned for implementation at a later date. The revised MSD MBE/WBE Program supersedes all prior supplier diversity policies, including the Interim Supplier Diversity Policy and Guidelines.

In order to establish a predicate for the MSD MBE/WBE Program, the MSD Board commissioned a Disparity Study (Study) in 2016. Mason Tillman Associates, Ltd., a public policy consulting firm based in Oakland, California, conducted the Study, which was completed in 2018. The Study documented statistically significant disparity on MSD's construction services, construction-related services and commodities, materials and services contracts at both the prime contract and subcontract level. Thus, results of the Study provided the factual predicate for MSD to establish new goals governing the participation of MBEs/WBEs in MSD contracting.

MSD Leadership recommended a *phased* approach in implementing changes to its procurements, because of the Study findings. First, on June 1, 2020, for Fiscal Year 2020, MSD shall modify construction services and construction-related services (construction) and materials, commodities and services (goods and services) contracting requirements. Second, the aspirational participation goals for engineering and other professional services contracts will remain the same with supplier diversity. Currently, the aspirational participation goals are 15% MBE and 6% WBE. Third, the Small Local Business Enterprise Program will be implemented in Fiscal Year 2021.

## B. Leadership

MSD's leadership shall take an active and positive role in building a culture within which MSD is able to effectively implement this MBE and WBE Program. The Executive Director of MSD and MSD's One Water Chief Procurement Officer shall:

1. Actively review the results of the performance of the revised MSD MBE/WBE Program with internal management personnel on a periodic basis.
2. Include achievement of the revised MSD MBE/WBE Program objectives in the individual job performance evaluation of personnel responsible for or involved in contracting and procurement for construction, construction-related, engineering, professional services, and materials, commodities and services purchases.

3. Articulate in written and verbal communication, internally and externally, MSD's interest, revised MSD MBE/WBE Program, and performance in MBE/WBE procurement.
4. Issue periodic reports to the MSD Board, One Water Board, Louisville Water Company and other internal and external stakeholders, as applicable.
5. Engage in other leadership activities contributing to supporting the revised MSD MBE/WBE Program.
6. MSD's One Water Chief Procurement Officer will review and evaluate waiver requests and make recommendations to MSD Executive Director.
7. Develop and implement guidelines and procedures for the MBE/WBE Advisory Council.

### C. Program Administration

MSD's One Water Chief Procurement Officer shall have primary responsibility for the administration of the MSD Supplier Diversity MBE and WBE Program and has designated the day-to-day administration of the MBE and WBE Program to MSD's Supplier Diversity Manager and staff. The MSD Supplier Diversity Manager is authorized to:

1. Establish written procedures, informal guidelines and forms necessary to effectively implement the revised MSD MBE/WBE Program requirements.
2. Monitor compliance with the requirements of the revised MSD MBE/WBE Program.
3. Analyze and determine subcontracting components of a project and identify potential MBE/WBE subcontractors, in consultation with MSD's design/construction staff and other staff with procurement responsibilities.
4. Serve as the point of contact and source of information for potential bidders, providing upon request, the names and contact information of certified MBE/WBEs to reinforce and support outreach efforts by potential bidders.
5. Develop and implement outreach and provide technical assistance to help businesses gain the ability to compete successfully for MSD contracting opportunities.
6. Track and report on the effectiveness of this revised MSD MBE/WBE Program through collection, review and analysis of MBE/WBE utilization data.
7. Provide notices to contractors of noncompliance and investigations of alleged violations of this revised MSD MBE/WBE Program.
8. Recommend to the One Water Chief Procurement Officer any further efforts needed to promote participation by MBEs/WBEs in contracting with MSD.

## 2. Definitions

The following words, terms and phrases, when used in the MSD Supplier Diversity MBE and WBE Program, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

1. **Availability** means the calculated estimate of ready, willing and able MBEs/WBEs in a particular trade or profession.
2. **Bid** means written quotation, proposal or offer by a contractor to perform or provide

labor, materials, equipment, supplies or services to MSD for a price submitted in response to a solicitation issued by MSD.

3. **Bidder/Proposer** means any business enterprise, including a joint venture, seeking to be awarded an MSD contract by a competitive process.
4. **Bid Discount** means a 10% bid discount will be applied to bids submitted by the MBE/WBE groups that had a disparity on construction, construction-related, and materials, commodities and services prime purchase orders. The maximum discount will not exceed \$50,000 and will only apply to bids valued up to \$500,000.
5. **Broker** means a firm or person who contracts with third parties on behalf of the broker's principal or a specialist who represents purchasers of materials without taking possession or ownership of those materials, or an agent employed to make bargains and contracts for compensation. A broker acts as a middleman in transactions between a buyer and a seller, generally receiving a commission or fee for work performed. An independent manufacturer's representative or distributor is not a broker.
6. **Business Enterprise** means a corporation, partnership, sole proprietorship, professional association or any other legal entity that is properly licensed and/or otherwise authorized to do business in the Commonwealth of Kentucky and is organized to engage in lawful commercial transactions that are directly or indirectly involved in providing materials and/or services to MSD with the anticipated outcome of earning a profit.
7. **Caucasian/White (non-Minority)** means persons having origins in any of the original people of Europe, the Middle East or North Africa (e.g., Algerian, Moroccan, Egyptian). It includes people such as Irish, German, Italian, Lebanese, Arab or Moroccan.
8. **Commercially Useful Function** means work performed by an MBE/WBE for which the business is responsible for the execution of the contracted work and is performing its responsibilities by directly delivering, managing and supervising the work involved. With respect to materials and supplies used on the contract, the MBE/WBE must negotiate the price, determine the quality and quantity, order the goods, supplies and/or materials, and install and pay for the materials. An MBE/WBE that stocks or maintains sufficient quantities of supplies in direct inventory, held for sale or resale, to cover anticipated future demands for the supplies is performing a commercially useful function. MBEs/WBEs that engage in the business of providing brokerage services required and sought by MSD shall be deemed not to perform a "commercially useful function."
9. **Conduit** means a business that purchases material, commodities or services that are not normally purchased or sold as part of its daily business from another business or businesses for the sole purpose of resale or to subcontract to MSD or a contractor doing business with MSD.
10. **Construction** means all aspects of building, altering, repairing or improving any public structure or building, or other public improvements of any kind to any public real property. Construction also includes the demolition, destruction, dismantling or removal of public structures, buildings and other public improvements and the clearing of land. It does not include the routine operation, repair or maintenance of existing structures, buildings or real property.
11. **Construction-related Services** means the routine operation, maintenance, repair or replacement of existing public facilities and structures, such as wastewater hauling or

construction management services. Construction-related services do not include services within the definition of construction or the definition of professional services.

12. **Contract** means an agreement between MSD and a person or business enterprise to provide or procure labor, materials, equipment, supplies and services to, for or on behalf of MSD.
13. **Contractor** means any person or business enterprise who undertakes to procure a contract for profit with MSD, to supply or provide labor, materials or services; and any person who is a subcontractor under any such contract.
14. **E-commerce** means the sale of materials or supplies through online commercial transactions. This does not provide a commercially useful function.
15. **Equipment** means any item procured by MSD or used on an MSD project.
16. **Good Faith Efforts** means steps taken by a contractor or consultant to achieve the MBE/WBE goal as set forth in the MSD Supplier Diversity MBE and WBE Program including the required documentation demonstrating a contractor's efforts to meet the MBE/WBE subcontract goal.
17. **Incentive Credit** means the 10% of the evaluation points assigned to each solicitation for engineering and professional services prime purchase orders assigned to the MBE/WBE groups that were found to have a disparity.
18. **Independent Ownership** means the degree to which MBEs/WBEs own and participate in the management of the partnership, corporation or joint venture, by considering: 1) the MBE's/WBE's participation in the decisions affecting day-to-day operations of the business; 2) the ability of MBEs/WBEs to function and carry out daily business activities without assistance from the majority partner, other than in ways specified in the partnership or corporation papers; and 3) the MBE's/WBE's proportionate interest in the capital, assets, profits and losses of the business. In determining if a partnership or corporation is at least 51% independently owned and controlled by an MBE/WBE, and in determining if such MBE/WBE has at least 51% independent ownership and control, MSD must use discretion in weighing the foregoing factors, as well as any other factor which, in MSD's determination, affects independent ownership and control.
19. **Joint Venture** means the association of two or more businesses established to carry on a single business activity that is limited in scope and duration. The MBE/WBE shall be responsible for a distinct, clearly defined portion of the work of the contract and share in the capital contribution, control, management, risks, costs and profits of the joint venture that are commensurate with its ownership interest.
20. **Manufacturer** means a firm that operates or maintains a factory or establishment that produces on their premises the materials or supplies obtained by the contractor. Brokers, distributors and packagers shall not be regarded as manufacturers within the meaning of this definition.
21. **Materials, Commodities and Services** means all personal property and/or products including, but not limited to, goods, equipment, fuel, leases on real property, printing and insurance and necessarily associated non-professional services.
22. **Minority Business Enterprise (MBE)** means a business enterprise that is at least 51% owned, operated and independently controlled by a person or persons who are minority group members. Minority group members are African Americans, Native Americans,

Hispanic Americans, Asian Indian Americans and Asian Pacific Americans, who are United States citizens.

23. **MBE/WBE Subcontract Goal** means the annual subcontracting goals for MBE/WBE subcontractor participation that are awarded through contracts that represent (i) at least 20.0% MBE (18.0% African American and 2.0% Asian Indian); and (ii) at least 15.0% WBE (Caucasian Female) for construction and construction-related projects. The subcontracting goals shall be applicable to all contracts \$150,000 and greater unless otherwise noted in the solicitation. The MBE/WBE subcontract goals are to be set at the time of bid opening and achieved throughout the duration of the project or documented in a good faith effort.
24. **Owned, Operated and Independently Controlled** means one or more minority persons or women who own(s) real, substantial and continuing, going beyond pro forma ownership, enjoying all of the customary incidents of ownership, and sharing in the risks and profits commensurate with its ownership interest. The one or more minority persons or women shall have control over all day-to-day operations of the business and with those with whom it does business.
25. **Participation** means the rate of MBE/WBE utilization.
26. **Professional Services** means services requiring specialized knowledge, skill and formal licensing and/or certification under state law. These services include a licensed professional engineer, architect, attorney, physician, psychiatrist, psychologist, certified public accountant, registered nurse or educational specialist. Professional services also include the services of a technician, such as a plumber, electrician, carpenter or mechanic, or an artist, such as a sculptor, aesthetic painter or musician. Professional services do not include the services of architects or engineers providing construction management services.
27. **Second-Tier** means a business enterprise that provides materials, commodities or services directly related to the performance of an MSD prime contract, by furnishing materials, commodities or services to a first-tier subcontractor.
28. **Subcontractor** means any person or business enterprise providing materials, commodities, labor or services to a contractor if such materials, commodities, labor or services are procured in fulfillment of the contractor's obligations arising from a contract with MSD. Subcontractor includes every level of subcontracting required to fulfill a contract with MSD.
29. **Supplier** means a business enterprise that owns, operates or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, stocked and regularly sold to the public in the usual course of business. To be a supplier, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products being procured by MSD.
30. **Trucker** means a business enterprise that owns and operates at least one licensed, insured truck for transporting materials and supplies.
31. **Waiver** is MSD's approval relinquishing a contractor's obligation to comply with one or more provision(s) of the revised MSD MBE/WBE Program.
32. **Woman Business Enterprise (WBE)** means a business enterprise that is at least 51% owned, operated and independently controlled by a female or group of females who are U.S. citizens.



### 3. BID DISCOUNTS

#### A. Construction, Construction-related, and Materials, Commodities and Services Prime Contracts

1. When construction, construction-related, and materials, commodities and non-professional services procurements estimated at \$500,000 or less are bid, a 10% bid discount shall be assigned during the price evaluation on bids submitted by eligible MBE/WBEs that bid as a prime contractor. As determined in the Study, the MBE/WBE groups eligible for this bid discount are listed in Table 1.

Table 1. MBE/WBE Groups Eligible for Bid Discount				
<b>African Americans</b> <ul style="list-style-type: none"> <li>▪ Construction Services</li> <li>▪ Construction-related Services</li> <li>▪ Materials, Commodities and Services</li> </ul>	<b>Hispanic Americans</b> <ul style="list-style-type: none"> <li>▪ Construction Services</li> <li>▪ Construction-related Services</li> </ul>	<b>Asian Pacific Americans</b> <ul style="list-style-type: none"> <li>▪ Construction Services</li> </ul>	<b>Asian Indian Americans</b> <ul style="list-style-type: none"> <li>▪ Construction Services</li> </ul>	<b>Caucasian Females</b> <ul style="list-style-type: none"> <li>▪ Construction Services</li> <li>▪ Construction-related Services</li> <li>▪ Materials, Commodities and Services</li> </ul>

2. The bid discount shall be applied when ranking the prime contractor’s bid amount. To determine the lowest bidder during the evaluation process, the bid amount for eligible MBE/WBE bidders shall be reduced by 10%. The amount of the original bid shall be the basis of the contract award to the lowest bidder. The maximum discount shall not exceed \$50,000.
3. The solicitation shall specify the bid discount and describe its application to eligible MBEs/WBEs bidding as prime contractors. To qualify for the bid discount, an eligible bidder shall document that its MBE/WBE certification is current. The bidder shall also include a copy of the current MBE/WBE certification approval letter issued by MSD’s Supplier Diversity Department.
4. The Supplier Diversity Department shall verify the eligibility of the MBE/WBE prime contractor at the time of bid opening to determine the applicability of the bid discount. The Supplier Diversity Department shall also ensure that the bid discount is applied on all construction, construction-related, and materials, commodities and services prime contracts when the prime contractor is a currently certified eligible MBE/WBE.

### 4. MBE and WBE Subcontractor Participation

#### A. Construction Subcontracting Goal

1. An MBE/WBE subcontract goal shall be established on construction contracts valued at or above \$150,000, as determined by MSD. The MBE/WBE goal is applicable to the ethnic and gender groups that had a statistically significant disparity in the 2018

Disparity Study. The MBE/WBE construction subcontract goal is 35.0%. The breakdown of the 35.0% shall be set at the availability levels for each eligible ethnic or gender group as presented in Table 2 below. MSD reserves the right to set contract goals on a contract basis. The combined MBE/WBE subcontract goals shall be a minimum of 35.0%.

<b>Table 2. MBE/WBE Subcontract Construction Goals by Ethnicity and Gender</b>		
<b>African Americans</b>	<b>Asian Indian Americans</b>	<b>Caucasian Females</b>
18.0%	2.0%	15.0%

2. The subcontracting goal shall be applied to solicitations for construction bids valued at or above \$150,000 that have subcontracting opportunities. Emergency procurements do not constitute a waiver of the current MSD Supplier Diversity MBE and WBE Program. The subcontracting goal shall be met on each construction bid at the time of bid opening, or the bidder shall document with its bid that a good faith effort was made to meet the goal. The eligible MBEs/WBEs used to meet the MBE/WBE goal shall be listed in the prime contractor's utilization plan to perform a commercially useful function. The MBE/WBE utilization plan shall list the name and contact information of each subcontractor, supplier or vendor that will be used to meet the MBE/WBE subcontract goal, the items of work the firm shall perform and the firm's percentage of the prime contractor's bid amount. A copy of the subcontractor's current MBE/WBE certification approval letter issued by MSD's Supplier Diversity Department also shall be included with the bid in addition to a signed Notice of Intent to participate as a subcontractor.
3. The construction subcontracting goal shall be published in all solicitations for construction bids valued at or above \$150,000, including emergency procurements. The solicitation shall contain a full definition of the application of the MBE/WBE subcontract goal and list the eligibility criteria as stated in the MSD Supplier Diversity MBE and WBE Program.
4. The MBE/WBE utilization plan and bid certificate shall be reviewed and verified by MSD's Supplier Diversity Department. The certification recognition status of each MBE/WBE reviewed shall be current and include a current list of capabilities in the MBE's/WBE's Supplier Diversity Profile. Verification that the proposed subcontractors are eligible, currently certified and listed to perform a commercially useful function shall be confirmed by the Supplier Diversity Department before the determination of the apparent low bidder is made. The Supplier Diversity Department shall certify that the prime contractor met the MBE/WBE subcontracting goal with MBEs/WBEs that could perform a commercially useful function.
5. A bidder that fails to meet the MBE/WBE subcontract goal with a certified, recognized business that can perform a commercially useful function shall provide, at the time of bid opening, sufficient proof of a good faith effort to meet the MBE/WBE subcontract goal. All steps shall be documented, and the Supplier Diversity Department shall determine if the prime contractor has made a good faith effort to meet the subcontract goal. A prime contractor who fails to meet the subcontract goal or make a good faith effort shall be deemed nonresponsive and ineligible for contract award. MSD will review all bids after the bid opening and prior to award for compliance with MSD's MBE and WBE Program.

## B. Requirements for Bid Submissions

1. Bids and statements of qualifications must contain the following documentation to be deemed responsive. **The submittal deadline is AT BID OPENING, with Sealed Bid.**

<b>Table 3. Requirements for MBE/WBE Submissions by Bidders Who  <u>HAVE MET</u> MSD's Participation Goals                      [Bidders must submit all of the following documentation to be deemed responsive.]</b>			
Required Documentation:	Bidder Completes:	MBE/WBE Subs Complete:	Submittal Deadline:
MSD MBE/WBE Goal Compliance Plan Cover Page	✓		At Bid Opening (with Sealed Bid)
MBE/WBE Data Sheets 1 and 1A	✓		
Subcontractor Utilization Plan	✓		
MBE/WBE Proposals		✓	
MBE/WBE Bid Certificate(s)		✓	

2. If the MBE/WBE participation goal **is not met**, a bid or statement of qualifications **must contain** the following documentation to be deemed responsive. **The submittal deadline is AT BID OPENING, with Sealed Bid.**

<b>Table 4. Requirements for MBE/WBE Submissions by Bidders Who  <u>WILL NOT MEET</u> MSD's Participation Goals                      [Bidders must submit all of the following documentation to be deemed responsive.]</b>	
Required Documentation:	Submittal Deadline:
MSD MBE/WBE Goal Compliance Plan Cover Page	At Bid Opening (with Sealed Bid)
MBE/WBE Data Sheets 1 and 1A	
Subcontractor Utilization Plan	
MSD MBE/WBE Good Faith Efforts Summary Sheets and Waiver Request Form and Affidavit	

3. A Notice to Proceed will be issued when all finalized, signed and fully executed MBE/WBE subcontractor agreements are received by MSD. After contract award,

contractors must also submit, on a monthly basis, the MBE/WBE Monthly Report completed on MSD's construction projects form regarding the use of MBEs/WBEs, with the contractor's monthly pay estimate. If the monthly report is not in compliance, MSD shall contact the contractor and MSD project manager to discuss the reasons for noncompliance and possible solutions. Payment to the contractor may be withheld or delayed until approval of its monthly report by MSD.

4. When a contractor utilizes one or more subcontractors and/or suppliers to meet the revised MSD MBE/WBE goals, only expenditures to MBEs/WBEs that perform "a commercially useful function" in the satisfaction of the contract or procurement will be counted toward the MBE/WBE goals. The roles of MBE/WBEs must be meaningful and must contribute positively to the successful completion of the MSD contract or procurement.

## 5. MBE and WBE Certification Recognition

### A. MBE/WBE Certification Requirements

1. MSD does not certify MBE/WBE businesses. All MBEs/WBEs used to meet the MSD MBE/WBE goal must be certified by an approved agency. Recertification of MBE/WBE status shall be required to verify that eligibility is current. The certifying agency must be recognized and approved by MSD before the MBE/WBE can participate in the revised MSD MBE/WBE Program.
2. MSD may accept certifications from agencies that certify businesses as minority-owned if they are at least 51% owned, operated and independently controlled by African Americans, Hispanic Americans, Asian Indian Americans or Asian Pacific Americans. A business that is at least 51% owned, operated and independently controlled by a female or group of females must be certified as a WBE.
3. MSD accepts local, national and federal certifications, which will be monitored by the MSD Supplier Diversity Department, from the following local, national and federal certifying agencies and their regional affiliates:
  - Louisville Metro Government – Metro Human Relations Commission (MBE & WBE certifications conducted by their office and accompanied by their site visit)
  - National Minority Supplier Development Council (NMSDC)
  - Women's Business Enterprise National Council (WBENC)
  - U.S. Small Business Administration – 8(a) MBE and WBE Program (U.S. SBA 8(a) only)
4. The review process of the certifying agencies must include standards to verify the ethnicity, gender, ownership and control of the business operations, and the existence of the business for a minimum period of one (1) year. Before and after accepting an agency's MBE/WBE certification, MSD reserves the right to conduct site visits and/or an independent audit with submission by the online MBE and WBE certification recognition application and supporting documentation.
5. MSD's construction compliance field-monitoring MBE and WBE Program shall ensure certified MBEs/WBEs are performing a *commercially useful function* and are utilizing their own workforce and equipment.

## B. Commercially Useful Function

1. **Commercially Useful Function Assessment** – At the time a bid or statement of qualifications is opened, an assessment shall be performed to determine the materials or services the eligible MBE/WBE is certified to provide or perform. To determine whether a certified MBE/WBE subcontractor is providing specific materials or services that are being used to perform a commercially/proposed useful function, the following factors shall be considered by MSD:
  - Whether the amount of work subcontracted conforms to normal industry standards and practices.
  - Whether the amount the MBE/WBE is to be paid for the goods or services listed in the Utilization Plan is commensurate with the work it is actually listed to perform.
  - Whether the amount of MBE/WBE credit is claimed for performance of the work.
2. **Determining “Industry Standards and Practice”** – Central to evaluating the performance of a commercially useful function is the knowledge of normal industry standards and practices. An MBE/WBE performs a commercially useful function when its role is that of a central and critical participant in a transaction, contract or project as evidenced by the financial arrangement. Although an MBE/WBE must perform based on normal industry practices, if those practices erode the ability of the MBE/WBE to control its work and remain independent, the practice shall not be considered a commercially useful function. If the MBE/WBE does not perform the total costs of the contract with its own work force or the portion of the work is inconsistent with industry practices, the MBE/WBE firm is presumed not to perform a commercially useful function.
3. **Suppliers** – Suppliers shall be a business that sells or leases supplies at its establishment. The supplier must operate under its own name and sell or lease products. The regular supplier shall own, operate or maintain a store, warehouse or other establishment in which the materials or supplies are regularly sold or leased in the usual course of business. A person may be a supplier in such bulk items as petroleum products, steel, cement, gravel, stone, asphalt or other supplies without owning, operating or maintaining a place of business as provided herein, provided the person both owns and operates distribution equipment for the products. Any supplementing of supplier’s own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. The supplier’s distribution agreement must extend beyond MSD or its market area and include a market area customary with industry practice.

The MBE/WBE shall sell the product on a routine basis and shall furnish and install materials or supplies to be considered as engaging in normal industry practices as a supplier. In addition, the MBE/WBE material supplier shall: 1) negotiate price; 2) determine quality and quantity; 3) order materials and 4) pay for the materials. The function shall not be limited to simply furnishing the supplies or materials.
4. **Truckers** – The MBE/WBE trucker shall own and operate at least one licensed, insured and operational truck for transporting materials or supplies. Leased trucks may only be used to supplement a fleet, but the MBE/WBE shall have exclusive use and control of the leased truck(s). Formal written lease agreements for leased trucks shall minimally include lessor’s name, list of trucks to be leased by vehicle identification number and the cost and method of payment. The MBE/WBE shall be responsible for providing the

fuel, maintenance and insurance for all leased trucks. The leased rate shall meet normal industry practices. The drivers shall be listed on the MBE's/WBE's payroll.

5. **Manufacturers** – Manufacturers shall operate or maintain a factory or establishment that produces on the premises the materials, supplies or equipment required under the contract. The MBE's/WBE's primary function is to manufacture the procured products and control the purchase and quality of the raw materials procured and fabricated.

## 6. Participation Counted Toward Goals

1. **Participation Counted Toward MBE/WBE Goal** – A contractor is required to meet the established MBE/WBE subcontractor goals. If the contractor falls short of meeting the goals as set forth in the solicitation, they must demonstrate an adequate good faith effort. When an MBE/WBE participates in a contract, only the payments to the first tier MBEs/WBEs for the value of the work actually performed shall be counted toward the goal as follows:
  - MSD will count the entire amount of a construction, construction-related, professional services, or materials, commodities and services contract that is performed by first-tier MBE/WBE subcontractors.
  - MSD will count 60% of the cost of supplies and materials provided by the MBE/WBE for the work of the contract, including supplies purchased or equipment leased by the MBE/WBE (except supplies and equipment the MBE/WBE purchases or leases from the contractor or its affiliates).
  - MSD shall count the fees or commissions charged by a first-tier MBE/WBE for services such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance contract toward MBE/WBE goals, provided the fee was determined to be reasonable and not excessive as compared with fees customarily allowed for similar services and the MBE/WBE is providing a commercially useful function.
2. **Calculating MBE/WBE Participation** – When calculating participation, MBE/WBE subcontractors, suppliers and vendors must be first-tier subcontractors, suppliers and/or vendors. The percentage will be allocated as follows:
  - **Counting the Joint-Venture Participation** – When an MBE/WBE performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE/WBE performs with its own forces shall count toward the MBE/WBE goals. For example, if an MBE/WBE and non-MBE/WBE joint venture proposes to perform 100% of a project quoted at \$500,000, and 25% of the work is to be performed by the MBE/WBE partner in the joint venture, the MBE/WBE participation will be credited as 25% of the work, or \$125,000.
  - **Counting the Participation of Suppliers** – If the materials or supplies are purchased from an MBE/WBE supplier, 60% of the cost of the materials or supplies from the certified MBE/WBE supplier will be counted toward the MBE/WBE goal.
  - **Counting the Participation of Manufacturers** – If the materials or supplies are obtained from an MBE/WBE manufacturer, MSD shall count 100% of the cost of the materials or supplies toward MBE/WBE goals.

- **Counting the Participation of Truckers** – 100% of the amount contracted for trucking services will be counted.
- 3. **Restrictions to Counting MBE/WBE Participation** – MSD shall not count the dollar amount of work performed under a contract with an MBE/WBE after it has ceased to be a certified MBE/WBE, if the MSD contract extends beyond the current fiscal year.
- 4. **Progressive Design-Build Projects** – MSD reserves the right to permit the Design/Builder Team (DB Team), also known as the Prime Contractor, awarded the Progressive Design-Build Project to count and utilize 1<sup>st</sup> Tier prime subcontractors, with direct contracts, to the DB Team to count 2<sup>nd</sup> Tier subcontractors, subcontractors, suppliers and/or vendors of the DB Team toward the 20.0% MBE and 15.0% WBE participation goals to achieve Supplier Diversity. MBE and WBE firms must be utilized throughout the entire duration of the project, including both construction and engineering design phases. The DB Team shall be responsible for ensuring both the 1<sup>st</sup> and 2<sup>nd</sup> Tier participation comply with the revised MSD MBE/WBE Program. The DB Team is ultimately responsible for making certain the supplier diversity procurement goals of 20.0% MBE and 15.0% WBE are achieved.

## 7. Good Faith Efforts

For all contracts and procurements for which MBE/WBE contract goals have been established, the bidder shall be required to submit the forms required under Section 13: **Forms – MBE/WBE Program**. To be eligible for award of a contract or procurement in a case where the MBE/WBE goals will not be met, a bidder must submit all documentation of its MBE/WBE outreach efforts with its bid or proposal. Failure to submit required documentation may cause a bid to be rejected as non-responsive. Outreach and Good Faith Efforts include, but are not limited to, the following:

1. Identification of sufficient subcontracting work: Bidder has identified and selected specific work items to be performed and/or procurement to be filled by an MBE/WBE. Bidder subdivided total contract work requirements and/or procurements into smaller portions or quantities to permit maximum active participation by MBE/WBE. Content of advertisements and written notices to subcontractors may demonstrate compliance with this objective.
2. *(Optional)* Bidder conducted an advertising campaign designed to reach all segments of the community by advertising in newspapers, trade association publications, special interest publications, trade journals, community papers or other media. Advertisement must be specific to the MSD contract or procurement, not generic, and may not be a plan holder advertisement provided by the publication. Advertisement must be worded to ensure it does not exclude or limit the number of potential respondents and must include the project name; the name of the bidder; areas of work available for subcontracting; contact person's name and phone number; information on the availability of plans and specifications; date the subcontractor's interest and written bid/estimate are due to the bidder; and the bidder's policy concerning assistance to subcontractors, suppliers and vendors in obtaining bonds, financing and/or insurance. Bidders are encouraged to advertise not less than ten (10) days prior to the MSD bid opening date or within the MSD advertisement date. Documentation that may satisfy this requirement includes copies of advertisements and proof of publication dates.

3. Written notice to MBE/WBE subcontractors, suppliers and vendors: Not less than ten (10) days prior to the MSD bid opening date or within the MSD advertisement date, bidder provided written notice of its interest in receiving subcontractor, supplier and vendor bids related to the MSD contract or procurement to MBE/WBEs with an interest in performing identified work items. Contents of the notice must include the project name; the name of the bidder, areas of work available for subcontracting and procurement opportunities; contact person's name and phone number; information on availability of plans and specifications; date the subcontractor's interest and written bid/estimate are due to the bidder; and bidder's policy concerning assistance to subcontractors, suppliers and vendors, in obtaining bonds, financing and/or insurance. Bidders are encouraged to go to the MSD website at <http://www.msdlouky.org/insidemsd/diverse/find.html> to view a list of MBEs/WBEs available for use to meet the MBE/WBE subcontractor participation goals. Documentation that will demonstrate satisfaction of this requirement includes, but is not limited to, a copy of each notice sent to subcontractors by the bidder for each item of work to be performed or each procurement. If there is only one master notification, the bidder should submit a copy with a list of its recipients. Faxed copies of the notice and copies sent by electronic transmission or email must include fax transmittal confirmation slip or written confirmation of receipt by email, as the case may be, from the recipient, showing the date of transmission. The due date for subcontractor's written bid/estimate to the bidder should not be less than seventy-two (72) hours prior to the bidder's bid submittal due date to MSD. Additionally, evidence should be provided that MBE/WBE firms were invited to meetings.
4. Follow-up to initial solicitations: Bidder followed up to initial written notices to MBE/WBE subcontractors, suppliers and vendors to determine interest in specific portions of project work and/or procurement; answered questions, recorded phone quotes; and recorded interest of subcontractors, suppliers and/or vendors in bidding on any portion of subject project. Required documentation shall include a copy of telephone logs, including name of caller, name of and telephone number of subcontractor, supplier or vendor's contact person. Telephone logs must be submitted to demonstrate follow-up with all subcontractors, suppliers and vendors to whom bidder sent written notices.
5. Provision of plans, specifications and requirements: Bidder provided interested MBE/WBE subcontractors, suppliers and/or vendors with access to plans, specifications and requirements for the subject project. Documentation that will demonstrate compliance with this requirement includes the content of advertisements and written notices to subcontractors, suppliers and vendors.
6. Assistance with bonds, financing and insurance: Bidders made efforts to advise and assist interested subcontractors, suppliers and vendors in obtaining information regarding bonds, financing and insurance required for the subject project. Documentation that will demonstrate compliance with this requirement includes, but is not limited to, the content of advertisements and written notices to the MBE/WBE subcontractors, suppliers and vendors. Such efforts include, but are not limited to, introducing MBEs/WBEs to professionals in these fields.
7. Not rejecting MBEs/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The MBE's/WBE's standing within its industry, membership in specific groups, organizations or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate



causes for rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

8. Ongoing Mentor Protégé Relationships: The bidder is actively participating in an ongoing mentor/protégé relationship with an MSD registered MBE/WBE(s) in the assistance of their business growth and development.
9. Meeting invitations showing evidence that MBE/WBE firms were invited to meetings.
10. Effectively using the services of community organizations; contractors' groups; local, state, and federal business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs. Required documentation shall include a copy of telephone logs, including name of caller and name of and telephone number of the organization's and/or agency's contact person.

In determining whether a bidder has made adequate Good Faith Efforts, MSD may, at its sole discretion, consider any or all of the foregoing efforts as well as the performance of other bidders in meeting the MBE/WBE participation goals as submitted with their bids. For example, when the apparent low bidder fails to meet the contract goal, but other bidders meet it, it may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal. If the apparent low bidder fails to meet the goal, but meets or exceeds the average MBE/WBE participation obtained by other bidders, MSD may view this, in conjunction with other factors, as evidence of the apparent low bidder having made adequate Good Faith Efforts. Bidders that fail to meet MBE/WBE goals or fail to demonstrate adequate Good Faith Efforts may be deemed non-responsive to MSD's solicitation for bids and may not be eligible to be awarded the contract.

## 8. Determination of Good Faith Efforts

The Good Faith Efforts (GFE) will be determined on a point system. Points are awarded for Indicators 1 through 10 when required and completed documentation is submitted at the time the partial or full waiver is being requested by the bidder at the MSD bid opening.

Points are awarded for each Indicator on an "all or nothing" basis. Points are not awarded for bid documentation deemed to be partially completed. There are 10 Indicators for the GFE documentation. Indicators 1 through 10 award points when the required documentation is submitted. Failure to include the required and completed GFE documentation and failure to achieve a minimum of 90 out of 125 points may render the bid non-responsive and could result in its rejection.

### Points for Each Indicator:

Indicator:	1	2	3	4	5	6	7	8	9	10	Total
Points:	15	5	15	15	15	10	10	15	10	15	125

Each Indicator has a different point value equal to 5, 10 or 15 points. Without sufficient documentation for the indicators (including all MBE/WBE firms that submitted bids and a summary sheet) a firm will not be able to achieve the minimum 90 points.

Indicator	GFE Criteria Summary Description
1	Identification of sufficient MBE/WBE subcontracting work
2	(Optional) Evidence of advertisement campaign regarding subcontracting opportunities
3	Written notice to MBE/WBE subcontractors, suppliers and vendors of prime contractor's interest
4	Follow-up to initial solicitations (written notices) to MBE/WBE subcontractors, suppliers and vendors
5	Provisions of plans, specifications and requirements provided to MBE/WBE subcontractors, suppliers and vendors with access to plans/specifications/requirements for the MSD project
6	Assistance to MBEs/WBEs to obtain information regarding bonding, financing and insurance
7	Evidence of justifiable rejection of bid and not rejecting MBEs/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities
8	Evidence of ongoing Mentor Protégé Relationships with MSD-registered MBEs/WBEs in the assistance of their business growth and development
9	Evidence that MBE/WBE firms were invited to meetings
10	Verification of utilization of the services of community organizations; contractors' groups; local, state and federal business assistance offices; and other organizations as allowed to provide assistance in the recruitment and placement of MBE/WBE

**A. Guidelines for Completing the GFEs Documentation Forms and Other Submittals**

Bidders and Proposers are prohibited from requiring prospective subcontractor(s), sub-consultant(s) or supplier(s) pre-signed with ink or a pre-signed photocopy of blank MBE/WBE Proposals and MBE/WBE Bid Certificates.

Bidders and Proposers are prohibited from maintaining on-file pre-signed blank MBE/WBE Proposals and MBE/WBE Bid Certificates.

Bidders and Proposers must complete and submit (due at Bid Opening, with sealed bid) an original, signed MSD MBE/WBE Goal Compliance Plan Cover Page, MBE/WBE Data Sheets, Bid Certificate, Subcontractor Utilization Plan, Waiver Request Form and Affidavit, and MSD MBE/WBE Subcontractors Good Faith Effort Summary Sheets, as applicable.

**B. Purpose, Rating and Good Faith Efforts Criteria**

1	Identification of sufficient MBE/WBE subcontracting work	Total Points 15
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**Purpose:** To ensure the Bidder/Proposer has determined and communicated to potential MBEs/WBEs which products or services are available for subcontract, sub consultant and/or supplier opportunities.

**Criteria:** Provide the list of opportunities that the Prime Contractor (Bidder and/or Proposer) had in regard to the portion of the project they intended to subcontract out. What areas would be better served by an entity that may have specialized services. (e.g., trucking, paving, special supplies, electrical engineering or asbestos abatement).

2	(Optional) Evidence of advertisement campaign regarding subcontracting opportunities	Total Points: 5
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**Purpose:** To ensure the public/business community is well-informed and made aware of MSD projects and to outreach to MBE/WBE firms for potential subcontract, subconsultant and/or supplier opportunities.

**Criteria:** Provide a copy of the advertisement(s) in local and/or trade publications and the services that they are attempting to subcontract. This effort would need to be made well in advance of pre-bid meetings, and at the very least, well before the bid or proposal due date.

3	Written notice to MBE/WBE subcontractors, suppliers and vendors of prime contractor's interest	Total Points: 15
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**Purpose:** To ensure the Bidder/Proposer has provided potential subcontracting firms with information about MSD projects it intends to bid on.

**Criteria:** Submit a copy of information that was forwarded to the list of potential subcontracting firms. This step is to illustrate that adequate information was provided to firms that were contacted.

4	Follow-up to initial solicitations (written notices) to MBE/WBE subcontractors, suppliers & vendors	Total Points: 15
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**Purpose:** To ensure the Bidder/Proposer has provided sufficient notification to potential MBEs/WBEs of the Bidder's/Proposer's interest in bidding on an MSD project to facilitate the MBE's/WBE's decision to participate and preparation of a bid for subcontracting.

**Criteria:** Provide documentation of written notice, to a reasonable number of specific MBE/WBE firms of the Bidder's interest in the Contract that is being solicited, in sufficient time in order to allow MBE/WBE firms to participate effectively.

5	Provisions of plans, specifications and requirements provided to MBE/WBE subcontractors, suppliers and vendors with access to plans/specifications/requirements for the MSD project	Total Points: 15
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**Purpose:** To ensure the Bidder/Proposer has provided bid plans, specifications and other pertinent requirements to MBE/WBE firms.

**Criteria:** Provide a copy of all plans, specifications and other documentation that was provided to a reasonable number of MBE/WBE firms of the Bidder's interest in the Contract that is being solicited.

6	Assistance to MBEs/WBEs to obtain information regarding bonding, financing and insurance	Total Points: 10
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**Purpose:** To ensure the Bidder/Proposer has extended efforts to advise and assist interested MBEs/WBEs in obtaining bonds and/or insurance as required by MSD on specific projects.

**Criteria:** Demonstrate attempts were made to assist interested MBE/WBE firms with obtaining bonding and/or insurance that the Bidder/Proposer may make as a requirement of the MBE/WBE firm to subcontract.

7	Evidence of justifiable rejection of bid and not rejecting MBE/WBE as being unqualified without sound reasons based on a thorough investigation of their capabilities	Total Points: 10
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**Purpose:** To ensure the Bidder/Proposer has taken all appropriate measures to include potential MBE/WBEs identified and contacted on MSD projects, but determined sound reason(s) for exclusion.

**Criteria:** Provide evidence that no bid was rejected without a sound reason.

8	Evidence of ongoing Mentor Protégé Relationships with MSD-registered MBEs/WBEs in the assistance of their business growth and development	Total Points: 15
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**Purpose:** To ensure the Bidder/Proposer that is more experienced has paired with a newer business for a mutually beneficial relationship. The Protégé or MBE/WBE business may receive ongoing technical or management assistance, etc., from Bidder/Proposer in obtaining local, state and/or federal contracts or subcontracts as a subcontractor/supplier/vendor.

**Criteria:** Demonstrate that they (Prime Contractor – Bidder and/or Proposer) has an ongoing mentor protégé agreement(s) with MBEs/WBEs registered with MSD and provide documentation of such agreements and other related supporting information.

9	Evidence that MBE/WBE firms were invited to meetings	Total Points: 10
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**Purpose:** To ensure the Bidder/Proposer provided access to MBEs/WBEs to informational sessions regarding specific subcontracting opportunities.

**Criteria:** Provide documentation that MBE/WBE firms were invited, where appropriate, to meetings/conferences to inform them of subcontracting opportunities.

10	Verification of utilization of the services of community organizations; contractors' groups; local, state and federal business assistance offices; and other organizations as allowed to provide assistance in the recruitment and placement of MBE/WBE firms	Total Points: 15
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**Purpose:** To ensure the Bidder/Proposer has requested services of community organizations; contractors' groups; local, state and federal business assistance offices; and other resources in order to access their respective databases of registered firms who may be interested to in conducting business as a prime contractor or subcontractor and to help identify and link potential contracts to MBEs/WBEs.

**Criteria:** Demonstrate that they (Prime Contractor – Bidder and/or Proposer) utilized the services of community organizations; contractors' groups; local, state and federal business assistance offices; or any successor web-based compliance system thereto, or one of the certifying agencies recognized by MSD in establishing the initial contact list. Provide a copy of the information that was furnished by these agencies and was used in contacting Bidders.

## 9. Monitoring Standards

### A. Prime Contractor Data Retention Requirements

The effectiveness of this revised MSD MBE/WBE Program shall be measured by verified data and recording the spend with MBEs/WBEs. The data shall record spend with MBEs/WBEs as both prime contractors and subcontractors. In order to ensure the measurements of the efforts are comprehensive and accurate, the following shall be done:

1. Each contractor shall maintain, compile and provide to MSD a monthly report of its use of MBEs/WBEs as listed in each of its MSD contracts. This information shall include, without limitation, the following information for each of the MBE/WBE subcontractors, suppliers and/or vendors utilized by the contractor:
  - A description and dollar value of the contracts awarded to MBEs/WBEs; the dollar value of payments made year to date to each MBE/WBE; the contract number(s), if applicable, and contact information for the MBEs/WBEs. Additionally, the contractor shall provide information specifying the percent of completion for each MBE/WBE subcontract.
2. Within 30 days after the end of a contract in which there were MBE/WBE goals, and before the official contract closeout by the MSD project manager, each contractor shall provide MSD with a report that summarizes the following information:
  - The identity of and contact information for each MBE/WBE 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
  - The total percentage of the value of the MSD contract subcontracted to MBE/WBE subcontractors, suppliers and/or vendors

### B. Auditing

**Prime Contractor's Records Subject to Auditing** – Prime contractors' and MBEs/WBEs' records pertaining to services performed and /or materials, commodities provided shall be made available to MSD or MSD's authorized representative upon request, and at no cost to MSD. The prime contractors' and MBE's/WBEs' records subject to audit shall include documents that have a bearing on matters of interest to MSD in connection with the MBE's/WBEs' work for MSD and shall be open to inspection and subject to review and reproduction by MSD's agent or its authorized representative to the extent necessary to adequately evaluate and verify: 1) MBE's/WBEs' compliance with contract requirements, 2) contractors' compliance with contract requirements, 3) compliance with MSD's business ethics policies, and 4) any and all other matters of concern to MSD.

Records subject to audit shall also include those necessary to evaluate and verify direct and indirect costs, (including overhead allocations) that apply to costs associated with the MSD contract. In those situations, in which such records have been generated from computerized data (e.g., mainframe, mini-computer or PC-based computer systems), MSD shall be provided with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange formats.

MSD or its designee shall be entitled to audit all of the contractor's and its MBE's/WBE's records and shall be allowed to interview any of their employees, pursuant to the provisions of this revised MSD MBE/WBE Program and the contract for a period of five (5) years after final payment. Such audits

must require inspections and photocopying of selected documents from time to time at reasonable times and places.

## **10. Compliance and Reporting**

### **A. MSD Supplier Diversity MBE and WBE Program Monitoring Standards**

1. MSD may, at any time, and with or without notice, monitor the prime contractor, subcontractor, supplier, trucker and/or vendor performing the contract in the field and also make site visits to the contractor's and its MBE's/WBE's respective business location.
2. When MSD has reason to believe the prime contractor or any subcontractor, supplier, trucker or vendor is not operating in compliance with the terms, conditions or requirements of the revised MSD MBE/WBE Program, MSD will conduct an investigation, which shall include an audit of the prime contractor's records. If MSD finds that the prime contractor or any subcontractor, supplier, trucker or vendor is not in compliance with this revised MSD MBE/WBE Program or its contract provisions, MSD will notify the prime contractor, in writing. When a prime contractor receives such a written notice, the contractor shall schedule a conference with MSD to discuss corrective action within the period set forth in MSD's notice.

## **11. Complaints**

MSD may temporarily suspend or debar a contractor, manufacturer, subcontractor, supplier, owners or principals (at the time of debarment) and those owners or principals of future companies from participating in the bid process and from contract awards for a period of three (3) years for violation of the revised MSD MBE/WBE Program, contract provisions and/or pursuant to applicable provisions of its Procurement Regulations. Debarment is not meant to be punitive, but a procedure to ensure that the revised MSD MBE/WBE Program is conducted legally with responsible parties, maintaining the integrity of MSD's procurement process.

At MSD's discretion, contractors and MBEs/WBEs may be allowed to finish their work on contracts awarded prior to notice of temporary suspension and/or debarment.

## **12. Suspension/Debarment**

MSD is committed to enforcing this revised MSD MBE/WBE Program as written, and in turn, encourages all MBEs/WBEs, firms or individuals to promptly report any suspected unlawful or illegal activities by others.

Any person or organization with information that supports the unlawful or illegal participation by a business enterprise, firm or individual in the revised MSD MBE/WBE Program should provide a detailed statement in writing to the Supplier Diversity Manager specifying such unlawful or illegal acts and explaining the basis for such claim or statement.

## **13. Forms – MBE/WBE Program**

See the following pages for required forms:

1. MBE/WBE Goal Compliance Plan Cover Page
2. MBE/WBE Data Sheets 1 and 1A
3. Bid Certificate
4. Subcontractor Utilization Plan
5. Good Faith Efforts Summary Sheets and Waiver Request Form



## MBE/WBE GOAL COMPLIANCE PLAN COVER PAGE

MSD Project Name: \_\_\_\_\_

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

**Instructions:** Detailed completion and submission of this cover page, by the Prime Bidder. Inclusion with sealed bid, at bid time is **mandatory**. For a complete list of MSD-recognized MBE and WBE businesses, please visit the MSD Supplier Diversity website at <http://www.msdlouky.org/insidemsd/diverse/search>.

<b>Part I</b>		<b>Prime Bidder/Contractor Information</b>	<b>Prime Bid Amount</b>
<b>Business</b>		<b>Name:</b>	<b>Total Base Bid Price: \$</b> _____
<b>Full Address:</b> Number, Street, Apt. or Suite No., City, State, ZIP Code			
<b>Contact Name:</b>		<b>Phone #</b>	<b>Email address:</b>
<b>Check <u>one</u> of the following <i>if</i> applicable:</b>			
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE			

<b>Part II</b>		<b>MBE/WBE Subcontractor Information</b> (Cannot be the same company as the Bidder/Contractor)	
<b>Required Subcontractor Goals</b> MBE – 18.0% African Americans; and 2.0% Asian Indian Americans; <u>and</u> WBE – 15.0% Caucasian Females. Must utilize three separate MBE/WBE Companies.			
MBE Total Participation Amount: \$			
MBE Subcontractor(s) Names:			
<b>MBE Total Participation Percentage:</b>		<b>%</b>	
WBE Total Participation Amount: \$			
WBE Subcontractor(s) Names:			
<b>WBE Total Participation Percentage:</b>		<b>%</b>	
<b>Check One:</b> Will <b>MEET</b> MBE and WBE Participation Goal <input type="checkbox"/>			
<b>Check One:</b> Will <b>NOT MEET</b> MBE and WBE Participation Goal – MBE Goal: <input type="checkbox"/> WBE Goal: <input type="checkbox"/>			

<b>Part III</b>		I certify that the information included in this MBE/WBE Goal Compliance Plan (Compliance Plan) Cover Page is true and complete to the best of my knowledge and belief. I further understand and agree that this Goal Compliance Plan shall become a part of my Contract with the Louisville and Jefferson County Metropolitan Sewer District (MSD).	
		_____ Print Name and Title of Authorized Representative	_____ Date
		_____ Signature	_____ Date





**Louisville and Jefferson County  
Metropolitan Sewer District (MSD)  
Supplier Diversity MBE and WBE Program  
Policy and Procedures Manual  
(Effective June 1, 2020)**

**REQUIRED DOCUMENTS**

MSD requires all Bidders to provide detailed documentation concerning the efforts taken to comply with the objectives of this **Supplier Diversity MBE and WBE Program — Construction Subcontracting Goals**. Bidders who have met the designated MBE/WBE goals must submit the following complete information in their Bid Proposal to be considered responsive:

- A. The MBE and WBE subcontract goals shall be established on construction contracts valued at or above \$150,000.00, as determined by MSD, and is applicable to the ethnic and gender groups that had a statistically significant disparity in the 2018 Disparity Study. The total breakdown of the **35% subcontracting goals** shall apply as follows: **MBE**: 18.0% African Americans and 2.0% Asian Indian Americans; and **WBE**: 15.0% Caucasian Females.
- B. Fully completed and signed MBE Data Sheet Number 1 (Bid Proposal forms) to report MBE firm's name(s), monetary amount of participation and a description of the services and/or materials supplied.
- C. Fully completed and signed WBE Data Sheet Number 1A (Bid Proposal forms) to report WBE firm's name(s), monetary amount of participation and a description of the services and/or materials supplied.
- \*\*D. A copy of the signed proposal from each MBE/WBE participant stating the terms of the Agreement between the Bidder and the MBE/WBE and the monetary amount for the services and/or materials supplied.

Bidders who have not received a complete waiver of the designated MBE/WBE goals must comply with the above requirements to be considered responsive to the Bid.

For further information regarding the requirements of this program, see the Supplier Diversity MBE and WBE Program Policy and Procedures Manual of this Contract, or call MSD's Supplier Diversity Manager at (502) 540-6503.

\*\*A proposal is a signed and dated letter or quote from each MBE/WBE subcontractor, on their respective letterhead, with an itemized scope of work and amounts and cumulative totals stating the terms of the Agreement between the Bidder and the MBE/WBE and the monetary amount for the services/materials to be supplied. MBE and WBE subcontractors shall perform a **Commercially Useful Function** in accordance with the MBE and WBE Program Policy and Procedures Manual.











**BID CERTIFICATE**

The undersigned, having been certified as a Minority or Woman-owned Business Enterprise in accordance with the **MSD Supplier Diversity Minority and Woman Business Enterprise Program Policy and Procedures Manual (MBE/WBE Program), effective June 1, 2020**, as approved and adopted by the MSD Board of Directors, does hereby certify as follows:

That he/she is fully familiar with all of the requirements of the **MBE/WBE Program**; and

That he/she has independently developed the bid and pricing information submitted to the Prime Contractor for use in determining its bid for MSD Project # \_\_\_\_\_; and

That he/she fully intends to perform the work set out in the subcontract submitted by the Prime Contractor for the said MSD Project with his/her own equipment, supplies and workforce and shall perform a **Commercially Useful Function** as required by the **MBE/WBE Program**; and

That he/she will provide all necessary supervision and direction of the workforce provided under the said subcontract to ensure compliance with all MSD Standard Specifications and Drawings as pertains to the said MSD Project; and

That he/she will submit all records, forms and information required or requested by the MSD Supplier Diversity Department for purposes of monitoring workforce and equipment utilization and determining value of the work performed during the term of the said subcontract; and

That he/she has independently negotiated the terms and conditions of the subcontract entered into with the Prime Contractor, awarded the MSD contract, for the said MSD Project and accepts the terms and conditions of the said subcontract without exception or reservation.

IN WITNESS WHEREOF, the undersigned has affixed his/her signature this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on behalf of \_\_\_\_\_.  
(Company Name)

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_



**SUBCONTRACTOR UTILIZATION PLAN  
(STATEMENT OF INTENT TO UTILIZE FIRMS)  
Due with Sealed Bid**

Page  1  of      

**REQUIRED DOCUMENTS**

**Instructions:** The Prime Bidder must complete this form and submit it with their sealed bid, on the day of the MSD bid opening, at local time. List **ALL OTHER SUBCONTRACTORS** that are *not* included on the MBE/WBE Data Sheets, as required by the Supplier Diversity MBE and WBE Program – Construction Subcontracting Goals, regardless of the amount or service. This document will be included as part of the contract.

Prime Bidder/Contractor Name: \_\_\_\_\_ Project Name & No.: \_\_\_\_\_

Bid Amount: \$ \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Company Name/ Address/Contact Person/Phone/Email	Federal Tax ID#	Describe Exact Type of Work/*Supplier	*Check if Supplier Only	Subcontractor Amount		All Other Subs:		
				Amount	%	Non- MBE/WBE	MBE	WBE
1.			<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.			<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.			<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.			<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.			<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I certify that the above information is true to the best of my knowledge. The company acknowledges and agrees that if awarded the contract, the information provided on the Subcontractor Utilization Plan shall be incorporated into the terms and conditions of the final contract between MSD and the Company.

Signature: \_\_\_\_\_

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

Print Name: \_\_\_\_\_



## GOOD FAITH EFFORTS SUMMARY SHEETS Due with Sealed Bid

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 1.</b>	<b>POINTS – 15 TOTAL</b>	<b>YES</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>
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**Identification of MBE/WBE Subcontracting Work:** Selected portions of the work to be performed by MBE/WBEs in order to increase the likelihood that the MBE/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

**NOTE:** The total breakdown of the **MSD Supplier Diversity MBE and WBE Program - 35% subcontracting goals** shall apply, for all ten (10) Bidder Actions, and is as follows: **MBE:** 18.0% African Americans and 2.0% Asian Indian Americans; and **WBE:** 15.0% Caucasian Females. For each MSD Louisville registered MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name	Type of Business	Type of Work/Service(s) Solicited	How Business was contacted (e.g. email, phone, letter, etc.)	Response to Solicitation (e.g. will submit bid, no response, not interested)	Bid/Quote Amount	Company Selected?	
						YES	NO
						<input type="checkbox"/>	<input type="checkbox"/>
1.						<input type="checkbox"/>	<input type="checkbox"/>
2.						<input type="checkbox"/>	<input type="checkbox"/>
3.						<input type="checkbox"/>	<input type="checkbox"/>
4.						<input type="checkbox"/>	<input type="checkbox"/>
5.						<input type="checkbox"/>	<input type="checkbox"/>
6.						<input type="checkbox"/>	<input type="checkbox"/>
7.						<input type="checkbox"/>	<input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_





**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 2.</b>	<b>POINTS – 5 TOTAL</b>	<b>YES</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>
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**Advertisement (Optional):** Evidence of advertisement campaign regarding subcontracting opportunities.

**NOTE:** List all information requested below related to the above project. If additional space is required, this form may be duplicated.

Portion of Work to be performed by MBE/WBEs:	
Company Name:	Portion of Work/Scope:
1.	
2.	
3.	
4.	
5.	
6.	
7.	

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 3.</b>	<b>POINTS – 15 TOTAL</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
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**Solicitations, Written Notices, etc:** Solicited, through all reasonable and available means to include, but not limited to the following examples: attendance at pre-bid meetings, accessed <http://www.msdlouky.org/insidemsd/diverse/index.html>, advertising and/or written notices the interest of all MSD Louisville MBE/WBEs who have the capability to perform the work of the contract. To be considered reasonable, the bidder should solicit this interest **ten (10) days or within the MSD bid advertisement date** in order to allow MBE/WBEs sufficient time to respond to the solicitation. [To receive credit for this effort, the bidder must determine with certainty if the MBE/WBEs are interested by documenting and taking the appropriate steps to follow up initial solicitations.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name	Type of Business	Type of Work/Service(s) Solicited	How Business was contacted (e.g. email, phone, letter, etc.)	Response to Solicitation (e.g. will submit bid, no response, not interested)	Bid/Quote Amount	Company Selected?	
						YES	NO
1.						<input type="checkbox"/>	<input type="checkbox"/>
2.						<input type="checkbox"/>	<input type="checkbox"/>
3.						<input type="checkbox"/>	<input type="checkbox"/>
4.						<input type="checkbox"/>	<input type="checkbox"/>
5.						<input type="checkbox"/>	<input type="checkbox"/>
6.						<input type="checkbox"/>	<input type="checkbox"/>
7.						<input type="checkbox"/>	<input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 4.</b>	<b>POINTS – 15 TOTAL</b>	<b>YES</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>
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**Follow-up:** Follow-up to initial solicitations (written notices) to MBE/WBE subcontractors, suppliers and vendors.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name & Contact Person:	Description of Information Provided	Agreement Reached?	
		YES	NO
1.		<input type="checkbox"/>	<input type="checkbox"/>
2.		<input type="checkbox"/>	<input type="checkbox"/>
3.		<input type="checkbox"/>	<input type="checkbox"/>
4.		<input type="checkbox"/>	<input type="checkbox"/>
5.		<input type="checkbox"/>	<input type="checkbox"/>
6.		<input type="checkbox"/>	<input type="checkbox"/>
7.		<input type="checkbox"/>	<input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 5.</b>	<b>POINTS – 15 TOTAL</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
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**Adequate Information Provided:** Provided interested MSD Louisville registered MBE/WBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation for MBE/WBEs participation.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name & Contact Person:	Type of Work/Service(s) Considered	Agreement Reached?	
		YES	NO
1.		<input type="checkbox"/>	<input type="checkbox"/>
2.		<input type="checkbox"/>	<input type="checkbox"/>
3.		<input type="checkbox"/>	<input type="checkbox"/>
4.		<input type="checkbox"/>	<input type="checkbox"/>
5.		<input type="checkbox"/>	<input type="checkbox"/>
6.		<input type="checkbox"/>	<input type="checkbox"/>
7.		<input type="checkbox"/>	<input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 6.</b>	<b>POINTS – 10 TOTAL</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
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**Assistance: Bonding/Lines of Credit/Insurance:** Made efforts to assist interested MSD Louisville registered MBE/WBEs in obtaining bonding, lines of credit or insurance as required by MSD Louisville or the contractor.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name & Contact Person:	Type of Assistance Provided	Agreement Reached?	
		YES	NO
1.		<input type="checkbox"/>	<input type="checkbox"/>
2.		<input type="checkbox"/>	<input type="checkbox"/>
3.		<input type="checkbox"/>	<input type="checkbox"/>
4.		<input type="checkbox"/>	<input type="checkbox"/>
5.		<input type="checkbox"/>	<input type="checkbox"/>
6.		<input type="checkbox"/>	<input type="checkbox"/>
7.		<input type="checkbox"/>	<input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bonding, lines of credit or insurance will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 7.</b>	<b>POINTS – 10 TOTAL</b>	<b>YES</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>
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**Evidence of Justifiable for Bid Rejection:** If participation of specific MBE/WBEs was considered, the bidder did not reject MBE/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. An MBE/WBE subcontractor’s standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations [for example, union vs, non-union employee status] are not legitimate causes for the rejection or non-solicitation of MBE/WBE subcontractor proposals when considering the contractor’s efforts to meet the project goal.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name & Contact Person:	Were Bid(s) Rejected?		Provide detailed explanation as to why the bid(s) were rejected and include supporting documentation.
	YES	NO	
1.	<input type="checkbox"/>	<input type="checkbox"/>	
2.	<input type="checkbox"/>	<input type="checkbox"/>	
3.	<input type="checkbox"/>	<input type="checkbox"/>	
4.	<input type="checkbox"/>	<input type="checkbox"/>	
5.	<input type="checkbox"/>	<input type="checkbox"/>	
6.	<input type="checkbox"/>	<input type="checkbox"/>	
7.	<input type="checkbox"/>	<input type="checkbox"/>	

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms’ responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 8.</b>	<b>POINTS – 15 TOTAL</b>	<b>YES</b> <input type="checkbox"/> <b>NO</b> <input type="checkbox"/>
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**Ongoing Mentor Protégé Relationships:** The bidder is actively participating in an ongoing mentor/protégé relationship with an MSD Louisville M/WBE in the assistance of their business growth and development.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name & Contact Person:	Type of Assistance Provided	Mentor Protégé Agreement Reached? If Yes, please provide a copy. If not, why not?	
		YES	NO
1.		<input type="checkbox"/>	<input type="checkbox"/>
2.		<input type="checkbox"/>	<input type="checkbox"/>
3.		<input type="checkbox"/>	<input type="checkbox"/>
4.		<input type="checkbox"/>	<input type="checkbox"/>
5.		<input type="checkbox"/>	<input type="checkbox"/>
6.		<input type="checkbox"/>	<input type="checkbox"/>
7.		<input type="checkbox"/>	<input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all mentor/protégé agreement(s) will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 9.</b>	<b>POINTS – 10 TOTAL</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
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**Meeting Invitations:** Evidence M/WBE firms were invited to meetings.

**NOTE:** For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name & Contact Person:	Description of Meeting Notices for MBEs/WBEs	Did MBE/WBE attend meeting?	
		YES	NO
1.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>
2.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>
3.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>
4.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>
5.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>
6.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>
7.		<input type="checkbox"/>	Meeting Date: <input type="checkbox"/>

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Confirmation of all meeting invitations and other evidence of attendance, along with all bids and/or quotes will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_





**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

Prime Bidder/Contractor Name: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

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

Total Contract Value: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Federal Tax ID#: \_\_\_\_\_

**Bidder Action(s):**

<b>NUMBER 10.</b>	<b>POINTS – 15 TOTAL</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
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**Community and Other Organizational Services Support:** Effectively used the services of community organizations, contractors’ groups, local, state and federal business assistance offices, and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBE/WBEs.

Company Name & Contact Person:	Type of Community and/or Organizational Services Business	Please specify in detail results of the outcome(s).	
1.			
2.			
3.			
4.			
5.			
6.			
7.			

It is hereby certified that the above community and/or organizational services businesses were contacted in regards to the above project. We further certify that the above statements are a true account of all firms’ responses to our solicitation. Confirmation and evidence of effectively utilizing community and/or other organizational services support, in the recruitment and placement of MBE/WBEs will be made available upon request.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_



**GOOD FAITH EFFORTS SUMMARY SHEETS  
Due with Sealed Bid**

**WAIVER REQUEST FORM**

Bidders who do not meet the revised **MSD Supplier Diversity MBE and WBE Program** subcontracting goals of **20.0% MBE and 15.0% WBE participation** with utilization from three (3) separate companies as follows: **MBE:** 18.0% African Americans and 2.0% Asian Indian Americans; and **WBE:** 15.0% Caucasian Females - **must earn a minimum of ninety (90) points** in the categories outlined and described above on the "M/WBE Subcontractors Good Faith Efforts Summary Sheet(s)" and they must be completed in their entirety for MSD to determine if adequate "Good Faith Efforts" (GFE) were demonstrated towards meeting the established MBE/WBE Subcontract Participation Goals, as described above.

I, \_\_\_\_\_, having been duly authorized to complete the foregoing MBE/WBE Subcontractors Good Faith Efforts Summary Sheet(s), do hereby swear that all of the information provided in the MBE/WBE Subcontractors Good Faith Efforts was provided by me; that all of the statements contained in the M/WBE Subcontractors Good Faith Efforts and all attachments hereto are true, complete and accurate; and that I have not knowingly concealed or in any way falsified or misrepresented the summary sheets or status of:

\_\_\_\_\_.

I acknowledge that the following acts may constitute fraud and that if committed by me or any employee, member or principal of my company, may permanently disqualify my company from participation in MSD procurement or contract in accordance with the MSD Procurement Regulations and MSD Supplier Diversity Minority and Woman Business Enterprise Program Policy and Procedures Manual:

- (1) Willfully and/or knowingly making a false or misleading statement, and whether by affidavit, or by oral or written report or other representation, to an MSD representative for the purpose of influencing MSD's acceptance/rejection of this Waiver Request.
- (2) Fraudulently obtaining, attempting to obtain or aiding another person or entity in fraudulently obtaining or attempting to obtain public monies or services, or a certified MBE/WBE to include non-M/WBEs and any community/nonprofit/service organization, etc. and/or any affiliate of such agency.

**[This document shall be notarized by a Notary Public, in good standing.]**

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of: \_\_\_\_\_ County of: \_\_\_\_\_

The foregoing Waiver Request Form and Affidavit was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_

[Name of Affiant]  
as \_\_\_\_\_ of \_\_\_\_\_ as his/her voluntary and proper act and deed on behalf of the Company.  
[Title] [Name of Company]

My Commission Expires: \_\_\_\_\_ Notary Public: \_\_\_\_\_

[SEAL] State of: \_\_\_\_\_

Notary ID# \_\_\_\_\_