**Inclusion Plan**

**Construction – Public Works**

***Bidders must complete and submit this form with their bid. Carefully read all instructions.***

For questions or assistance contact:

* Miguel Beltran, City Contract Compliance Manager, 206-684-4525 (Miguel.Beltran@seattle.gov)
* Carmen Kucinski, 206-684-0188(carmen.kucinski@seattle.gov)

|  |  |
| --- | --- |
| Bidder Company Name |  |
| Public Works Number |  |
| Project Title |  |
| Name of person authorized to speak on behalf of the company regarding this Plan |  |
| Email |  |
| Phone |  |

**Aspirational WMBE GOALS.** Total available score: 6 points.

Identify the Aspirational WMBE Goals Bidder believes can reasonably be achieved through good faith efforts during this project. It is not mandatory that these goals be achieved; they are not contractually or legally binding. Goals must be developed in good faith and represented as attainable by reasonable efforts.

|  |  |
| --- | --- |
| Estimated percentage of the base bid to Minority Owned contractors and suppliers  |      % |
| Estimated percentage of the base bid to Woman Owned contractors and suppliers |      % |
|  Total estimated percentage of the base bid to all WMBE contractors and suppliers |      % |

**BUSINESS SUPPORT STRATEGIES.** Total available score: 4 points

Each of the two options below is worth 2 points. Bidder may select one, both, or neither. Once selected, it applies to:

1. Registered as a Women or Minority Owned Business in the City Online Business Directory, and/or
2. Small Business Concern as certified by King County, and/or
3. Disadvantaged Business Enterprise of any definition certified by the State of Washington, and/or
4. Women or Minority Owned Business Enterprise as certified by the State of Washington; and/or
5. Small Business Concern certified by the State of Washington.

|  |  |
| --- | --- |
| **Business Support Strategy** | **Accept (Y / N)** |
| Early Retainage Release. The prime (and any sub-tier primes) will release retainage held for the subcontractor, within thirty (30) days of acceptance of the work performed by the qualified subcontractor. |  |
| Advance Mobilization Pay: The Prime (and any sub-tier primes) shall advance 10% of the specified and agreed-upon mobilization costs that were identified by line item within the WMBE firms bid, to each qualified firm at least 5 days in advance of the mobilization event. |  |

**WMBE GUARANTEES.** Total available score: 6 points.

A Bidder may offer to guarantee work to WMBE firms for the project, by identifying the WMBE and minimum dollar value of such work in the table below. You may add additional rows.

|  |  |
| --- | --- |
| **WMBE Business Name** | **Minimum Guaranteed** **Dollar Amount** |
|       | $      |
|       | $      |
|       | $      |
|       | $      |
|       | $      |
|       | $      |
| TOTAL | $      |

**City of Seattle: Public Works**

 **Women and Minority Business**

**Inclusion Plan Instructions**

*Carefully review all instructions. All Bidders must complete this form. The City public works inclusion plan requires the Bidder identify the good faith efforts the Bidder will use to include woman-owned and minority-owned business (WMBE) firms on the City project. There are 3 options for evidencing good faith efforts. Each option is worth points which can vary depending on information supplied by the Bidder. There are a maximum of 16 points available. The Bidder must earn at least 10 points. Bidders that earn less than 10 points will be found non-responsive and the Bid will be rejected. This Inclusion Plan becomes a material part of the Bidder’s contract if the project is awarded to Bidder.*

*WMBE firms are state certified or self-identified firms that are at least 51% WMBE owned (per SMC 20.42). A WMBE need not be self-identified within the City Online Directory at bid time, but in such case must self-identify and register by time of award. These resources may assist bidders:*

City On-Line Directory: <http://web6.seattle.gov/fas/registration/>

OMWBE Directory: <https://omwbe.diversitycompliance.com/>

1. **INSTRUCTIONS**
2. All Bidders (including WMBE Primes) must complete and submit this form as part of the Bid for City design-bid-build public works project having an Engineer’s Estimate of $300,000 or greater, unless the City expressly instructs otherwise in the bid package.
3. There are three commitments Bidders can use to establish an Inclusion Plan – Aspirational WMBE Goals, Business Support Strategies, and WMBE Guarantees:
4. Aspirational WMBE Goals are goals Bidder believes can be achieved by good faith efforts. This option is worth a maximum of 6 points;
5. Business Support Strategies are those the Bidder commits to employ for qualified firms. This option is worth a maximum of 4 points;
6. WMBE Guarantees identify WMBE firms the Bidder guarantees to contract with for this project, with agreement reached about the work and pricing for the WMBE scope, including any terms and conditions important to the WMBE for their performance. This option is worth a maximum of 6 points.
7. Work performed by a WMBE must be commercially useful and a distinct element of work that includes managing and supervising the work. The Contractor should evaluate the amount of work subcontracted, industry practices, and other relevant factors to determine whether the work is commercially useful.
8. A Bidder scored less than 10 points will be deemed non-responsive. See Scoring section below.
9. All dollars cited shall exclude sales tax (including references to the Total Bid Cost and estimates made by Prime when completing this form).
10. **SCORING INSTRUCTIONS**
	1. The average percentage of WMBE utilization on past City projects has been calculated by PC and is provided in the table below. This average is used to score the points that will be awarded for the aspirational goals and guarantees. These percentages are updated annually. Note that these averages include total WMBE utilization, not subcontracting alone, since aspirational goals may include prime self-performance.
	2. In addition to the Past Performance, scoring also recognizes an intent to exceed past performance by at least 2 percentage points above past performance.
	3. If the project is characterized by work of various types, PC may calculate a unique utilization rate for the project given the weight of each. PC determination is not subject to challenge.
	4. The project type and percentage of past WMBE utilization will be stated in the bids advertisement and documents.
	5. If past utilization for a project type was zero, an Aspirational Goal above two percent will receive 6 points. Bidder must still identify Business Support Strategies and Guarantees it is willing to employ and will be scored accordingly.
	6. Points awarded for WMBE Guarantees will be calculated based upon total available work for subcontract given past performance. This section can be awarded as many as 6 points.
	7. A Bidder who has received a formal Deficiency Report issued by the City as a result of unfulfilled WMBE Inclusion Plan commitments on past projects will lose one point from the total score.
	8. When calculations are used to evaluate the points, the City will calculate points to the nearest tenth decimal place. The City will round up to the nearest tenth.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 2020 | Roadway | Facility | Parks\* | Underground | Boundary | Structural Paint | Structural | Natural Habitat | Roof | Trenchless / Sewer Lining |
|  |  |  |  |  |  |  | Natural Habitat | Dredging | Roof |
| 3 year average  Past performance  | 21% | 25% | 25% | 14% | 2% | 2% | 8% | 16% | 14% | 8% |  |  |  |  |  |  |  |  |  |  |

**Note**: Boundary refers to projects performed in Pend Oreille County (Boundary). Parks utilization rate excludes the mandatory self-performed WMBE work for a prime.

1. **ASPIRATIONAL WMBE GOAL INSTRUCTIONS**
	1. Aspirational WMBE Goals represent a serious commitment to use good faith efforts to reach the stated goals.
	2. The City will rely upon the Total WMBE Goal to determine responsiveness. The City will correct the Total WMBE Goal if that provided by the Bidder does not match the MBE and WBE goals.
	3. Aspirational WMBE Goals are a percentage of the Base Bid and during the course of the project will apply to the total contract amount including all contract change orders, additives, alternates and deductives. Contractor may seek a goal adjustment if such changes may merit a greater or lesser goal; PC will consider such requests, approve if appropriate, and modify the Plan accordingly.
	4. A WMBE Bidder may include in their goals and guarantees that percentage of contract base bid for work which the WMBE intends to self-perform that is in excess of the mandatory 30% they are otherwise required to perform as required by the City Specifications Section 1-08.1(3).
	5. Bidder will receive between 0 and 6 points for its Aspirational WMBE Goals, with proportional points based on a straight line formula to Past Performance (plus 2%) identified for the project as advertised in the bid solicitation. Bidder receives 3 points if the Total Aspirational Goal is half of Past Performance + 2%. Six points are awarded if the Bidder meets or exceeds Past Performance by 2 or more percentage points. For example, a project with Past Performance of 14%, would receive 3 points if the Total Aspirational Goal was 8% or 6 points if the Total Aspirational Goal was 16%.

PA = $6A/(P+2)$,

Where PA = Points awarded for Bidder’s Aspiration Goal

A = Bidder’s Aspiration Goal (%)

P = Applicable Past Performance Trend (%)

1. **BUSINESS SUPPORT STRATEGIES INSTRUCTIONS**

The Bidder may elect to provide the business support identified on Page 2 for qualified firms. The City will provide two points for each choice selected. There are two options, allowing a total of 4 points if both options are chosen:

1. Early Retainage Release. The prime and any sub-tier primes will release retainage held for the subcontractor, within thirty (30) days of acceptance of the work performed by the qualified subcontractor.
2. For mobilization, the Prime and any sub-tier primes will pay all qualified firms five days in advance of the on-site performance, except if a unique situation prohibits such as an emergency or event requiring an immediate mobilization response. In those events, the Prime (including any sub-tier primes) shall deliver the payment no later than 5 days after job mobilization begins.
3. **WMBE GUARANTEE INSTRUCTIONS**
4. This guarantees the City and WMBE that they shall be used for at least the amount given, following the remaining rules below.
	1. A WMBE Guarantee expects the Bidder achieved agreement about scope, terms and cost of the work for the WMBE at bid time. The burden is upon the Bidder to resolve any differences, once the guarantee is given.
	2. The amount guaranteed to WMBEs is not conditional on award of additives, deductives or alternates.
	3. The Prime should clearly document in writing, agreements made with the WMBE firm upon which the guarantee was predicated, such as unit price or lump sum pricing as applicable, scope, terms or conditions, and subcontractor concurrence. This protects both parties when completing and executing the resultant subcontract before work begins.
	4. The City may contact the WMBE firm or Prime after Bid opening to verify the firm has agreement to perform work as described in the plan. Failure to have agreement may result in rejection of the Inclusion Plan, rendering the Bid non-responsive.
	5. A bidder will receive between 0 and 6 points for WMBE Guarantees, receiving a proportional number of points based on a straight line formula to Past Performance. A bidder will receive 3 points if the dollar-value of the Guarantees equals half of the Past Performance percentage. Six points are awarded if the Bidder commitments meet or exceed Past Performance.

PG = $6 G / P$

Where PG = Points awarded for Bidder’s Guaranteed Goal

G = Bidder’s Guaranteed WMBE Goal (%)

P = Applicable Past Performance Trend (%)

1. A WMBE bidder may only include self-performed work above 30%. This is based on the self-performance minimum required by the City Specifications Section 1-08.1(3).
2. Substitution or reduction of a Guaranteed WMBE firm is prohibited absent a waiver granted by the PC as a result of:
3. Bankruptcy of the WMBE firm;
4. Failure of the WMBE firm to provide the required bond;
5. The WMBE firm cannot perform the work because they are debarred, not properly licensed, does not meet the subcontractor approval criteria, or in some other way is ineligible to work;
6. Failure of the Subcontractor to comply with a requirement of law applicable to subcontracting;
7. Death or disability of the principal of the WMBE firm rendering it unable to perform the work;
8. Dissolution of the WMBE firm;
9. Failure of the WMBE firm to perform satisfactorily in previous projects not known to Bidder at the time of bid;
10. Failure or refusal of the WMBE to perform work for reasons other than contract term or pricing disputes;
11. A change in scope of the contract which removes the guaranteed work from the project.
12. WMBE Subcontractor does not execute an offered contract that reflects the terms and pricing that was agreed upon as a condition of the Guarantee. The Prime must evidence that the WMBE Subcontractor failed to execute a contract offered by the Prime which reflected such agreements, after the Subcontractor was given adequate time to execute the offered subcontract.
13. Change order that reduces the scope of work of a WMBE guarantee or other reason if approved by PC Division Director.

**6. Incorporation of Plan into Contract and Reporting Requirements**

1. PC may discuss the Plan with the Apparent Successful Bidder before incorporating into the contract and may amend the Plan by mutual consent.
2. PC reserves the right to require a completed Social Equity Plan as a condition for contract execution if no WMBE guarantees are provided in order to demonstrate results of good faith efforts.
3. The Contractor must provide reports and documents as required by PC within 15 days.
4. PC will evaluate Contractor’s WMBE utilization throughout the project.
5. Contractor may not substitute a WMBE firm identified in the guaranteed portion of the plan unless the substitution is approved by PC. Such a substitution will not be considered unless Contractor can demonstrate clear necessity for such substitution. A Contractor granted permission to substitute for a guaranteed WMBE firm shall use good faith efforts to recruit another WMBE firm to perform the Work.
6. If PC determines the Contractor is not making good faith efforts, it may take action as described in the project specification such as withholding invoice payments and breach of contract.
7. The City will evaluate the WMBE utilization at close-out and may assign a Deficiency rating for failure to demonstrate good faith efforts. Deficient ratings are used by the City to determine Bidder responsibility on future work and debarment. To avoid a deficiency rating, the Contractor must demonstrate:
8. A good faith effort to achieve Aspirational goals. Attainment under 80% of the goal will likely be considered deficient;
9. Timely submittal of required and requested materials and reports to PC;
10. Having advance agreements with each WMBE Guarantee, such that the WMBE understands and agrees that the WMBE Guarantee represents mutual agreement at time of the bid submittal;
11. Using all “WMBE Guarantees” named in the Inclusion Plan, unless Prime received written authorization from PC for substitution;
12. WMBE relationships are harmonious, clearly communicated and free of undue dispute; and
13. WMBE work was commercially useful as defined above.