



CAPITAL REGION
WATER

Minority/Women/Disadvantaged Business Enterprise Plan

**August 26, 2016
(Revised November 15, 2021)**



Minority/Women/Disadvantaged Business Enterprise Plan

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I. Policy Statement

It is the policy of Capital Region Water to ensure that minority, women and other disadvantaged business enterprises have an equal opportunity to receive and participate in all project related construction contracts. It is the intent of Capital Region Water to ensure nondiscrimination in the award and administration of contracts, to create a level playing field on which minority, women, veteran, service-disabled-veteran, and LGBT-owned business enterprises can compete fairly for Capital Region Water contracts and subcontracts, to help remove barriers to the participation of minority, women, veteran, service-disabled veteran, and LGBT-owned business enterprises and to assist the development of firms that can compete successfully in the marketplace outside of this program.

II. Definitions

- A. CRW** – Capital Region Water.
- B. Bidder Responsiveness** – Actions taken by a Prime Bidder to seek participation by manufacturers, suppliers, and subcontractors (collectively, “Subcontractors”) who are MBEs, WBEs or other DBEs, as documented in the bid. Responsiveness includes submission at the time of the bid of the MBE/WBE/DBE Solicitation and Commitment Statement (similar in content to Exhibit 1), and, if needed, documentation providing an explanation for failure to achieve minimum levels of participation (MPLs). This documentation must demonstrate that the bidder has not engaged in discriminatory practices and must include a description of any barriers or impediments encountered in the effort to assure MBE, WBE or other DBE participation, despite the actions taken.
- C. Bidder Responsibility** – Demonstration of non-discrimination in the selection of Subcontractors. Bidders are presumed to meet these responsibilities if minimum participation levels established for the project are achieved. Non-discrimination can also be demonstrated by submitting supplemental evidence that failure to achieve the MPLs was not motivated by consideration of race, gender or other impermissible criterion; that MBEs, WBEs or other DBEs were not treated less favorably than others; and that solicitation and commitment decisions were not based upon policies which disparately affect MBEs, WBEs or other DBEs.
- D. Business Enterprise** – Any legal entity that is organized in any form other than as a joint venture (e.g., sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.
- E. Contractor** – An entity that contracts with the CRW to perform work in connection with a project.

F. Control – The exclusive, ultimate and sole control of a business including, but not limited to, capital investment and all other financial, property acquisition, contract negotiation, and legal matters, officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or partners. Control shall be real, substantial, and continuing, not merely pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possession of the requisite knowledge and expertise to operate the particular business. Control shall not be vested in majority or absentee ownership. Control by a minority individual or woman as defined herein shall not be deemed to exist in any case where any majority owner or employee of the business is disproportionately responsible for the operation of the firm.

G. Disadvantaged Business Enterprise (DBE) – A Business Enterprise that is:

1. an MBE
2. a WBE
3. a Veteran or Service-Disabled Veteran Business Enterprise
4. an LGBT Business Enterprise

H. LGBT Business Enterprise – A Business Enterprise that is:

1. a sole proprietorship, owned and controlled by a LGBT Person; or
2. a partnership or joint venture of Business Enterprises controlled by LGBT Persons in which 51% of the beneficial ownership interest is held by LGBT Persons; or
3. a corporation or other entity controlled by LGBT Persons in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by LGBT Persons.

I. LGBT Person – Persons who identify as lesbian, gay, bisexual, or transgender.

J. Minority Business Enterprise (MBE) – A business concern that is:

1. a sole proprietorship, owned and controlled by a minority person; or
2. a partnership or joint venture of Business Enterprises controlled by Minority Persons in which 51% of the beneficial ownership interest is held by minorities; or
3. a corporation or other entity controlled by Minority Persons in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.

K. Minority Person – Persons who are citizens of the United States and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans or Middle Eastern Americans.

1. Black (African) Americans – Persons having origins from any of the Black groups of Africa. The term includes, but is not limited to, persons having origins in any of the original peoples of the Cape Verde Islands.
2. Hispanic Americans – Persons having their origins from one or more of the Spanish- speaking peoples of Mexico, Puerto Rico, Cuba, Central or South America or the Caribbean Islands.
3. Native Americans – Persons having origins from one or more of the original peoples of North America and who are recognized as an Indian by a tribe or tribal organization.
4. Asian-Pacific Americans – Persons having origins from one or more of the original peoples of the Far East, Southeast Asia or the Pacific Islands, including China, Japan, Korea, Samoa, and the Philippine Islands.
5. Middle Eastern Americans – Persons having origins from one or more of the original peoples of Egypt, Jordan, Lebanon, Palestinian territories, Tunisia and Israel.

L. Owner – CRW

M. Prime Bidder and Prime Contractor – For MBE and WBE purposes, the term, “Prime Bidder” means a business concern that submits a bid to CRW (e.g., general contractors, plumbing contractors). A Prime Contractor is a Prime Bidder that has received an award from CRW.

N. Service-Disabled Veteran Business Enterprise – A Business Enterprise that is:

1. a sole proprietorship, owned and controlled by a Service-Disabled Veteran; or
2. a partnership or joint venture of Business Enterprises controlled by Service-Disabled Veterans in which 51% of the beneficial ownership interest is held by Service-Disabled Veterans; or
3. a corporation or other entity controlled by Service-Disabled Veterans in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by Service-Disabled Veterans.

O. Service-Disabled Veteran – Persons who are Veterans and either (1) are “disabled veterans” as defined in 5 USC 2108(2) (i.e. “individuals who have served on active duty in the armed forces, have been separated therefrom under honorable conditions, and have established the present existence of a service-connected disability or are receiving compensation, disability retirement benefits, or pension because of a public statute

administered by the Department of Veterans Affairs or military department”) or (2) have a disability as defined in the Social Security regulations, 42 USC 423 (i.e. “an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted, or can be expected to last for a continuous period of not less than 12 months”) and have a present determination of a disability by the Social Security Administration or Veterans Administration.

P. Subcontractor – A business concern that has a contract with a Prime Contractor to supply labor, equipment, materials or supplies for a project as a manufacturer, supplier or subcontractor.

Q. Veteran – Persons who served in honorably in the United States military.

R. Veteran Business Enterprise

1. a sole proprietorship, owned and controlled by a Veteran; or
2. a partnership or joint venture of Business Enterprises controlled by Veterans in which 51% of the beneficial ownership interest is held by Veterans; or
3. a corporation or other entity controlled by Veterans in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by Veterans.

S. Women’s Business Enterprise (WBE) – A business concern that is:

1. a sole proprietorship, owned and controlled by a woman; or
2. A partnership or joint venture of Business Enterprises controlled by women in which 51% of the beneficial ownership interest is held by women; or
3. a corporation or other entity controlled by women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by women.

T. Women – United States citizens who are of the female gender.

III. Applicability

This Plan applies to all construction contracts that exceed the bidding threshold established for municipal authorities in Pennsylvania.

IV. Contractor Compliance Generally

A. Minimum Participation Levels (MPLs)

CRW will establish minimum participation levels (MPLs) for the MBEs, WBEs and other DBEs on a project-by-project basis. The MPLs will be established for each prime bid to be used solely as a guide in determining Prime Bidder responsibility. MPLs are applied to prime contractor projects as a whole and to each bid category. The MPLs will vary based on the market availability of subcontracting opportunities for MBEs, WBEs and other DBEs that matches the scope of work, on a project-by-project basis with separate participation levels for the MBEs, WBEs and other DBEs categories.

B. Bidder's Submissions at Time of Bid

The Prime Bidder shall submit the MBE/WBE/DBE Solicitation and Commitment Statement (similar in content to Exhibit 1) with its bid, showing efforts made to solicit MBE, WBE and other DBE Subcontractors, and written confirmations of the intent to use the identified Subcontractors if awarded the prime contract. The Prime Contractor's MBE/WBE/DBE Contact/Solicitation and Commitment Statement shall include the names of all companies and individuals contacted or solicited for participation in the project, the type of work, material, supplies or equipment involved in the solicitation, the total dollar amount of each quote received, the time of solicitation and, when appropriate, the total dollar amount of each subcontract that would be awarded.

C. Safe Harbor and Compliance at Time of Bidding

In the absence of evidence to the contrary, compliance with the requirements under this Plan to demonstrate both bidder responsiveness and responsibility is presumed if MPLs are achieved. Notwithstanding, CRW reserves the right to examine all relevant documentation in the possession of the Prime Bidder and the right to disqualify any Prime Bidder that has engaged in discriminatory practices.

If MPLs are not met, the Prime Bidder shall document why it was not feasible to meet the numerical levels by submitting evidence that: failure to achieve MPLs was not motivated by consideration of race or gender; that MBEs, WBEs and other DBEs were not treated less favorably than others; and that solicitation and commitment decisions were not based upon policies which disparately affect MBEs, WBEs or other DBEs. Justification for not meeting the MPLs should include a description of any barriers or impediments encountered in the effort to assure MBE, WBE or other DBE participation, despite the actions taken.

CRW shall send a letter, via email, followed by a hard copy sent via Regular First Class Mail, to each Prime Bidder receiving an award on the project that provides information on compliance with MBE/WBE/DBE requirements, using the Standard Form of CRW's Letter to Prime Contractor After Award of Contract (similar in content to Exhibit 2).

The successful Prime Contractor shall, within three (3) business days of receipt of CRW's letter, provide notification to each of the MBE/WBE/DBE Subcontractors of the award and shall request confirmation of the amount of the subcontract and the source of the Subcontractor's certification, using the Standard Form of Prime Contractor's Letter to Subcontractors After Notice of Award to Prime Contractors (similar in content to Exhibit 3).

D. Compliance Responsibilities – CRW and Prime Contractor

CRW has the responsibility to comply with the requirements under this Plan and ensure non-discrimination in the selection of prime contractors, subcontractors and suppliers, and in the administration of the project.

The Prime Contractor has the responsibility to meet its commitments made during bidding by utilizing each Subcontractor it selected to the full extent of the subcontract value. The failure of the Prime Contractor to honor its commitments made at the time of bidding shall subject the Prime Contractor to liquidated damages to compensate CRW for the administrative cost of enforcement in a daily amount of 0.1% to 1.0% inclusive of contract value.

E. Prime Contractor's Submissions during Project Administration

Prime Contractor shall submit periodic reports as specified in this Plan and in the Contract Documents. Specifically, the Prime Contractor shall submit the Prime Contractor MBE/WBE/DBE Monthly Reporting Form Summarizing Payments Made (similar in content to Exhibit 4) for each project. Further, the Prime Contractor shall require and cause its Subcontractors to submit the MBE/WBE/DBE Monthly Reporting Form for Subcontractors Summarizing Payments Received (similar in content to Exhibit 5) directly to CRW. Both forms shall be coordinated temporally or by pay period, meaning that the same periods of time shall be used on both forms when submitted, using the dates of the checks, fund transfers, etc. The failure of the Prime Contractor to submit periodic reports on a timely basis will subject the Prime Contractor to liquidated damages to compensate CRW for the administrative cost of enforcement in a daily amount of a minimum of 0.01% and a maximum of 0.1% of the contract value as set forth in the Contract Documents.

V. Procedures - Clauses Included in Bidding and Contract Documents

CRW shall insert the following in the appropriate contract document, establishing requirements applicable to the Prime Bidder:

A. Advertisement/Invitation for Bid (IFB)

All advertisements for IFB will include the following statement:

“The bidder must submit documentary evidence of solicitations to minority and women business enterprises, which have been contacted and to which commitments have been made. Documentation of contract solicitations and commitments shall be submitted concurrently with the bid.”

B. Instructions to Bidders (ITB)

The following statements will be placed in the bid documents, establishing requirements applicable to the Prime Bidder:

1. Participation Level

- a. CRW has established the following minimum participation levels (MPLs) for Minority Business Enterprises (MBEs), Women's Business Enterprises (WBEs) and other Disadvantaged Business Enterprises (DBEs) (i.e. Veteran or Service-Disabled Veteran Business Enterprises or LGBT Business Enterprises) in accordance with the Minority/Women/Disadvantaged Business Enterprise Plan, the provisions of which are incorporated as though fully set forth herein.

MBEs ____% of the total dollar amount of the ____ contract

WBEs ____% of the total dollar amount of the ____ contract

Veteran or Service-Disabled Veteran Business Enterprise ____% of the total dollar amount of the ____ contract

LGBT Business Enterprise ____% of the total dollar amount of the ____ contract

MPLs for the various categories of MBEs/WBEs/DBEs are established for this project to be used solely as a threshold in determining Prime Bidder responsibility. Prime Bidders are presumed to meet their responsibilities under CRW's Plan if the dollar commitments

to MBEs, WBEs and other DBEs reflect these participation levels. A Prime Bidder will not be rejected as non-responsible solely because it fails to reach the MPLs. However, a Prime Bidder that does not meet the MPLs may be reviewed and his Bid rejected if the Bidder discriminated in the solicitation of MBEs/WBEs/DBEs. To determine the participation level that has been reached, a Prime Bidder shall divide the total dollar amount of the commitments for the project by the total dollar amount of the Prime Bidder's contract award.

- b. Bidders are advised to solicit MBE/WBE/DBE participation only from MBE enterprises, WBE enterprises, Veteran or Service-Disabled Veteran Business Enterprises, and LGBT Business Enterprises that provide Work, including equipment and materials, that will be used on the Project. Mass mailing and emailing to entities that are not potentially able to participate as a Subcontractor is discriminatory and will be treated as such by the Owner.
- c. When the Bidder has determined that a proposal from a potential DBE Subcontractor is not being used, Bidder shall identify the majority Subcontractor or Subcontractors whom Bidder intends to use instead, and the reason for the selection of the Subcontractors.
- d. In soliciting MBEs/WBEs/DBEs, the potential MBE/WBE/DBE proposers shall be afforded the opportunity to propose on the same scope of Work that is offered to majority Subcontractors. In addition, potential MBE/WBE/DBE proposers shall be solicited in the same manner as the Prime Bidder solicits majority Subcontractors. To do otherwise is discriminatory and will be treated as such by the Owner.
- e. Bidders are advised that wage certifications may at the discretion of the Owner be reviewed and compared with information found within the reports submitted during construction administration.
- f. MBE/WBE/DBE Subcontractors will be credited toward the MPLs at 100%. MBE/WBE/DBE stocking suppliers and manufacturers are credited at 100%. MBE/WBE/DBE non-stocking suppliers, which are commonly and ordinarily the custom in the industry and a part of the industry's trade practices, are credited at 100%. Non-stocking suppliers, which are not commonly and ordinarily the custom in the industry nor a part of the industry's trade practice, are not credited.
- g. MBE/WBE/DBE Prime Bidders will be credited towards the MPLs at 100%. CRW shall make a rebuttable presumption that the Prime Bidders has not engaged in discriminatory practices in the solicitation and utilization of MBEs, WBEs and other DBEs to perform as Subcontractors on the project. The Prime Bidders shall receive the full credit for meeting the MPL's provided that 50% of the labor on the contract is self-performed. CRW will make

reasonable efforts to seek out MBE, WBE and other DBE firms that can perform as Prime Contractors.

- h. A prospective subcontractor that qualifies as an MBE, a WBE and/or as a DBE, will only receive credit toward MPLs as one but not both or all three. Prime Bidders must indicate on the MBE/WBE/DBE Solicitation and Commitment Statement (similar in content to Exhibit 1) how the prospective subcontractor should be credited.
- i. An MBE, WBE or a DBE which is the Prime Bidder on a project will receive full MPL credit for its own work effort for services provided. Such a business bidding as prime contractor should nonetheless attempt to hire and solicit certified MBE, WBE or any other DBE for participation in subcontracts.
- j. MBE/WBE/DBE Subcontractors providing labor must perform at least seventy-five percent (75%) of the cost of the subcontract, not including the cost of materials, with its own employees or with the employees of sub-subcontractors who are residents of the municipality where the project is located. Prime Bidders shall provide CRW with its workforce information at the time of bidding.
- K. MBE/WBE/DBE firms participating in a joint venture shall be treated as Subcontractors for the purpose of meeting the MPLs.

C. General Conditions

CRW will include following provisions in construction contracts, establishing requirements applicable to the Prime Contractor:

1. Reporting Requirements after Award

- a. Prime contractors must provide CRW with the Prime Contractor's Monthly MBE/WBE/DBE Business Utilization Report (similar in content to Exhibit 4) for each project that is underway and for which payment applications are being submitted. The report shall include the names of and the total dollar amount paid to all MBE, WBE and other DBE Subcontractors utilized under this contract.
- b. Subcontractors must provide the Prime Contractor and CRW directly with the Subcontractor's Monthly MBE/WBE/DBE Business Utilization Report for each project (similar in content to Exhibit 5), reflecting the Prime Contractors who have purchased their labor, equipment, materials or supplies. The report shall reflect the name of the Prime Contractor, the total dollar amount invoiced, and total dollar amount received for

payment. The periods of time covered by the Prime Contractor's report and that of its subs shall be coordinated.

- c. The failure of the Prime Contractor to submit periodic reports on a timely basis shall subject the Prime Contractor to liquidated damages to compensate CRW for the administrative cost of enforcement in a daily amount of 0.01% to 0.1% inclusive of contract value.

2. Joint Ventures and Subcontracting

- a. Joint Venture.

Project-related contracts that involve a joint venture with a MBE/WBE/DBE firm must include the following clause:

If the joint venture relationship identified as the _____ is dissolved,
Joint Venture Firm Name

or otherwise discontinued, (_____), the
Name of Replacement Prime Contractor

Replacement Prime Contractor, as the successor on the contract, shall continue this commitment by entering into contractual agreements with other appropriate firms to perform work on this contract. The Replacement Prime Contractor must submit all requests for change orders to CRW for approval.

- b. Subcontracting.

Subcontracts with MBE/WBE/DBE firms must include the following clause:

If the subcontracting commitment made to the _____
Name of Subcontractor

is terminated or materially reduced, _____
Name of Prime Contractor

agrees that the termination or material reduction is subject to the approval of CRW, which approval shall not be withheld unreasonably.

3. Honoring Subcontractor Commitments After Award

- a. The failure of the Prime Contractor to honor its commitments made at the time of bidding shall subject the Prime Contractor to liquidated damages to compensate CRW for the administrative cost of enforcement in a daily amount of 0.1% to 1.0% inclusive of contract value.

VI. Procedure to Solicit Participation

A. MBE/WBE/DBE Certification

1. Prime Bidders will only be given credit for MBEs, WBEs and other DBEs that are certified or accepted as certified MBEs, WBEs and other DBEs by programs approved by, and in accordance with additional requirements set forth by, Board resolution.
2. Under the State Act of December 21, 1984, No. 230, P.L. 210, 18 PA. C.S.A. § 4107.2 a person commits a felony of the third degree if, in the course of business, he/she engages in deception relating to MBE, WBE or other DBE certification.
3. To be credited, the certification relied upon must be for the category of labor, equipment, materials or supplies that would be used by the Prime Contractor in the proposed subcontract with the Subcontractor. For example, a certification as a masonry contractor does not qualify as a certification to supply electrical equipment.

B. Notification to MBEs/WBEs/DBEs

The procedure for the prime contractor to notify MBEs, WBEs and other DBEs of contract shall be as follows:

1. **Notice of ITBs** – The Prime Bidder shall utilize available information regarding certified MBE/WBE/DBE firms capable of performing in the project's area. CRW shall provide reasonable assistance to the Prime Bidder. The Prime Bidder shall provide notice of the project to MBE/WBE/DBE firms so identified and to other qualified MBE/WBE/DBE firms and shall otherwise provide the same level of communication and interaction with prospective MBE/WBE/DBE Subcontractors as it would to other companies with which the Prime Bidder routinely contracts.
2. **Other Notices** – Notices of the MBE/WBE/DBE subcontracting opportunities will be sent by CRW to appropriate organizations, such as:
 - a. Local minority churches and civic organizations;

- b. Appropriate (1) minority business technical assistance organizations and schools, (2) minority and women, veteran and LGBT business contractor associations and appropriate trade organizations; and,
- c. Other business assistance agencies, community organizations, and media organizations such as trade association papers and newsletters, community television networks, local newsletters, and radio advertising.

- 3. Plans and Specifications** – Plans and Specifications and all bidding documents on all projects will be made available to potential Subcontractors, and minority/women, veteran, service-disabled-veteran, and LGBT contractor associations, and trade organizations, through Penn Bid and similar web-based databases, and otherwise as may be appropriate.
- 4. List of Plan Holders** – The names of Prime Bidders requesting bid documents will be made available by CRW, within three to five business days of request, to MBE/WBE/DBE firms which provide labor, equipment, materials or supplies that appropriate to the scope of project work being solicited.
- 5. Lists of MBE's/WBE's/DBE's Businesses** – CRW will provide each Prime Bidder obtaining plans and specifications for a project with any available lists of MBE/WBE/DBE firms.

VII. Procedure to Evaluate Bids

A. Responsiveness

- 1. The Prime Bidder must complete and submit the MBE/WBE/DBE Solicitation and Commitment Statement (similar in content to Exhibit 1) with the bid. Failure to submit a completed form with the bid, will result in the bid being rejected as nonresponsive.
- 2. The Prime Bidder should only solicit MBE/WBE/DBE Subcontractors, vendors, manufacturers, or suppliers whose labor, equipment, materials or supplies are within the scope of work and which the Prime Bidder reasonably believes it could choose to subcontract with or purchase from.
- 3. Prime Bidders failing to meet the MPLs must submit concurrently with the bid, an explanation of why the MPLs have not been met. This explanation must demonstrate that the Prime Bidder has not engaged in discriminatory practices in the solicitation and utilization of MBEs, WBEs and other DBEs to perform as Subcontractors on the project. The evidence submitted by the Prime Bidder must demonstrate the following:

- a. Indicate whether MBE/WBE/DBE firms were solicited for each type of work the Prime Bidder expects to subcontract for and for all materials which the Prime Bidder expects to procure and, if not, the reason(s) why no such solicitation was made;
 - b. Indicate the reason why commitments were not made to MBE/WBE/DBE firms for a type of subcontract labor, equipment, materials or supplies in any areas where quotes were received from such firms; and
 - c. In any case where no quotations are received from, nor commitments made to MBE/WBE/DBE firms, indicate on Exhibit 1 that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.
4. If the Prime Bidder fails to submit such evidence, the bid submission shall be considered non-responsive and the bid shall be rejected.
 5. Information related to the above shall be submitted on Exhibit 1 with the bid and on such additional materials as the Prime Bidder wishes to attach.

B. Responsibility

1. The submittals of each Prime Bidder are subject to review by CRW to determine whether the Prime Bidder has discriminated in the selection of manufacturers, subcontractors, and suppliers.

Where the MPLs are not met, CRW will determine whether discrimination has occurred. If, after investigation including a review of Exhibit 1, other materials submitted by the Prime Bidder, and such additional documents and information as CRW has secured, it is determined that discrimination has occurred, the Prime Bidder shall be deemed to be not responsible and the bid will be rejected.

2. Documentation submitted by the Prime Bidder should meet the following standards for review:
 - a. The Prime Bidder whose actions resulted in a limited or no commitment to MBE/WBE/DBE firms was not motivated by consideration of race or gender.
 - b. MBE/WBE/DBE firms were not treated less favorably than other businesses in the hiring and/or contract solicitation and commitment processes.

- c. Solicitation and commitment decisions were not based upon policies that disparately affect MBE/WBE/DBE firms.
3. Commitments to MBE/WBE/DBE firms at the time of bidding must be maintained throughout the project unless a change in commitment is approved in advance by CRW. Such approval shall not unreasonably be withheld.

C. Access to Information

CRW may obtain documents and information from any Prime Bidder, Subcontractor, vendor, supplier, or manufacturer as may be required to ascertain Prime Bidder's contractor responsibility. Failure to provide requested information may result in the Prime Bidder's bid being declared non-responsive, the Prime Bidder not responsible or both.

VIII. Procedures - Records and Reports

A. Records and Reports

1. CRW will send letters to the Prime Contractors, confirming MBE/WBE/DBE contract awards and explaining the monthly reporting requirements (similar in content to Exhibit 2). In addition, the Prime Bidder will send letters to all MBE/WBE/DBE Subcontractors (copy to CRW) explaining their monthly reporting requirements (similar in content to Exhibit 3).
2. CRW shall report periodically on project-related contracting opportunities, solicitations, and commitments, based upon reports received from the Prime Contractors, using CRW's Monthly MBE/WBE/DBE Business Utilization Report (similar in content to Exhibit 6).
3. CRW will review all reports received to determine if the commitments made by Prime Contractors in their bids are being met. This review is to be done contemporaneously with the receipt of payment applications, and in any event prior to final payment being made to the Prime Contractor.
4. CRW will keep such records as are necessary to determine compliance with its MBE/WBE/DBE requirements. These records must be in sufficient detail to indicate the prime contract work performed, and the percentages of project-related work that is being performed by MBEs, WBEs and other DBEs.
5. The Prime Contractor must retain MBE/WBE/DBE records related to the construction period for a period of four years after final completion of the project. If any litigation, claim, negotiation, audit, or other action has been commenced before the previously mentioned

record retention periods, the records must be retained until the completion of the action and resolution of all issues which arise from it or until the end of the previously referenced record retention period, whichever is later.

Exhibit 1

MBE/WBE/DBE Solicitation and Commitment Statement

Minority/Women/Disadvantaged Business Enterprise Plan - Exhibit 1

MBE/WBE/DBE Solicitation and Commitment Statement

Owner / Prime Bidder's Firm Name (1)	Project Name (2)	
Address	Bid Opening Date	Contract Award Date
Telephone Number	Contact Person	

* (3)	(3)	(4)	(4)	(4)	(4)	(5)	(6)	* (7)
Company Name EIN/SSN Telephone Number	Date Of Solicitation	MBE	WBE	DBE	Certification Program and Number	Type Of Work to Be Performed and/or Material to Be Supplied	Total Dollar Amount of Quote Received	Total Commitment Dollar Amount

*(8) Note: List those certified minority and/or women owned businesses from whom you solicited quotes or who contacted you and gave you quotes in regard to this Invitation to Bid. Contact with MBE/WBE/DBE subcontractors should be at least equivalent to the notice given to other subcontractor proposers.

(9) Prepared By (Please Print)	Telephone Number	E-Mail
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* Use additional sheets if necessary

MBE/WBE/DBE SOLICITATION AND COMMITMENT STATEMENT

Instructions and Explanation of Columns

Project owners and all prime bidders will complete this form to document all businesses solicited and all businesses that provided solicited or unsolicited quotes for project-related contracts.

- (1) Provide your (project owner's or prime bidder's) company name, address, telephone number.
- (2) Provide the project name, project number, bid opening date, contract award date, and a contact person's name.
- (3) For each business solicited and each quote/bid received, enter the firm name, Employer Identification Number (EIN) or Social Security Number (SSN) for a sole proprietorship, telephone number with area code, and email address. Only the company's name is a mandatory item. Add the date of the Solicitation.
- (4) Indicate whether or not the firm is a MBE, WBE business or other DBE business. Place a check mark in only one of the appropriate MBE, WBE or DBE columns, add the identity of the certifying entity and the MBE's/WBE's/DBE's certification number.
- (5) Indicate the type of work to be performed and/or material to be supplied.
- (6) Enter the total dollar amount of the quote received.
- (7) Enter the total dollar (\$) amount of the commitment which you have made to the MBE, WBE or other DBE business. If no amount is provided in this space, it will be presumed that your firm made no commitment to the MBE, WBE or other DBE business.
- (8) NOTE: You must include information on both solicited and unsolicited quotes. Failure to include a firm providing solicited or unsolicited quotes may result in the rejection of the bid or a determination that you are not a responsible contractor. Adequate time equivalent to that provided to other subcontractor proposers must be provided for MBE/WBE/DBE subcontractors and suppliers to respond to bids. You should include a description of any barriers or impediments encountered in the effort to assure MBE, WBE or other DBE participation.
- (9) For the proposals of MBE/WBE/DBE firms that are not selected, indicate in an attachment the majority Subcontractor or Subcontractors whom Bidder intends to use instead, and the reasons for the selection of the majority Subcontractors.
- (10) Indicate the name, telephone number and e-mail address of the person(s) who prepared the form.

Exhibit 2

Standard Form of CRW's Letter to Prime Contractor After Award of Contract



(Date)

(Contractor's Name and Address)

Re: (Name of Project, Project Number, Contract Type)

Dear Sir/Madam:

Congratulations on being awarded the above referenced contract. In the bid, a binding commitment was made by your firm to the following MBE, WBE or other DBE firms – [List Names of MBE/WBE/DBE firms here].

Please prepare letters and forward to your Subcontractors, using the Standard Form of Prime Contractor's Letter to Subcontractors After Notice of Award to Prime Contractors (Exhibit 3).

Please complete the enclosed Prime Contractor's Monthly Business Utilization Report (Exhibit 4) and return it to _____ (Name of CRW's representative) at _____ (insert address) each month with your payment requisitions. The information requested on this form will, among other things, be used to determine the actual dollar amount paid to MBE/WBE/DBE Subcontractors to which your firm made commitments during the bidding process.

Also, please provide the enclosed MBE/WBE/DBE Monthly Reporting Form for Subcontractors Summarizing Payments Received, so that your Subcontractors may submit their monthly reports. Please coordinate with your Subcontractors on the periods covered.

If you have any questions regarding the above, please contact (Name of CRW's representative) at _____ (insert phone number) or at _____ (insert email address).

Very truly yours,

Signature

Name
Title

Exhibit 3

Standard Form of Prime Contractor's Letter to Subcontractors After Notice of Award to Prime Contractors

Exhibit 3
(On Prime Contractor's Letterhead)

(Date)

MBE/WBE/DBE Subcontractor's Name and Address

Re: (Name of Project, Project Number, Contract Type)

Dear _____:

The above referenced contract has been awarded to _____ (Name of Prime Contractor). In the contract, a binding commitment was made to your firm of _____ (dollar amount of commitment). Per page 10 of CRW's MWDBE plan, your subcontract should include the requirement that you not be replaced without the express, written consent of CRW, which consent shall not be unreasonably withheld.

Please verify the above committed amount with this office within five (5) days after receipt of this letter. If you do not respond, we will presume that your firm is in agreement with the committed amount.

In order that we may track this amount accurately, we ask that the attached Subcontractor MBE/WBE/DBE Monthly Reporting Form Summarizing Payments Received (Exhibit 5) be completed and returned to _____ (Name of Prime Contractor's representative), with a copy to _____ (Name of CRW's representative) within ten (10) working days after the end of each month and at final project completion, covering checks issued, cash transferred on or after _____ date thru and including _____ date (insert beginning and end of periods).

Should you have any questions regarding this letter, please contact _____ (Name of Prime Contractor's representative) at _____ (insert phone number) or at _____ (insert email address).

Very truly yours,

Signature

Name
Title

Attachment

cc: (CRW's Representative)

Exhibit 4

Prime Contractor MBE/WBE/DBE Monthly Reporting Form Summarizing Payments Made

Minority/Women/Disadvantaged Business Enterprise Plan - Exhibit 4

Mandatory Form. Submit Monthly.

(Page 1 of 2)

PRIME CONTRACTOR Monthly MBE/WBE/DBE Payment Report

Name of Project _____
 Prime Original Contract Value: _____
 Change Orders (Overall Add/Deduct): _____
 Total Contract Amount to Date: _____
 Total Payments Issued from _____ to _____ (date)

Contract No.: _____
 Report for the Month of: _____
 Notice to Proceed Date: _____
 Project Mgr. Name: _____
 Assigned MBE/WBE/DBE Goal %: _____

Name of MBE/WBE/DBE Subcontractor	Work Task Performed	Original Contract Amount (\$)	Change Order Amount \$ (+/-)	Amount of Invoice Received this Month	Date of Invoice Received in this Month	Payments Made to MBE/WBE/DBE in this Month (\$)	Date(s) Payments Made this Month	Total MBE/WBE/DBE Payments Made to Date in \$	% Overall Work Finished	Final Payment (Y/N)
	Total(s) →	\$	\$	\$	Total(s)	\$	Total(s)	\$		

Itemize payments/invoices and dates if paid/received more than one payment/invoice between the 1st and 31st of this Month.

Prime Contractor Information:

Prime Firm Name: _____
 Address: _____
 Telephone No.: _____ Date: _____

Project Director Name: _____
 Project Director Signature: _____
 EIN # / TIN # _____

Prime's Past Due Invoice Information: List any invoice more than ____ days past due from the date **submitted** to ____ at the time you complete this form.

Invoice #	Invoice Date	Invoice Amount (\$)	No. of Days Past Due	Comments

Mandatory Form. Submit Monthly.

(Page 2 of 2)

Prime Contractor MBE/WBE/DBE Payment Certification

1. Have all MBE/WBE/DBE subcontractors with executed subcontracts been paid amounts due from previous progress payments?

☐ **If Yes**, skip the next section and go to Number 3.

☐ **If No**, please complete fields in box below (use additional paper, if necessary)

Subcontractor Name	Amount Withheld from Invoice (\$)	Total of Invoice Amount (\$)	Invoice No.	Invoice Date	Specific Reason for Withholding

2. Have you notified the MBE/WBE/DBE subcontractor(s) that you are withholding payment and the reason(s) why?

☐ **If Yes**, provide a copy of written notification to the MBE/WBE/DBE subcontractor with this form, indicating the date of notification which includes an explanation as to why payment was withheld.

☐ **If No**, lack of prior written notification to the MBE(s)/WBE(s)/DBE(s) that you are withholding payment may violate the prompt payment clause guidelines.

Please contact the MBE/WBE/DBE immediately, and provide a copy of written notification to the subcontractor with this form.

3. By signing this form, I certify that all of the above represent true and accurate information.

Project Director Name (Print)

Project Director (Signature)

____/____/____
Date

Additional Reasons/Comments for Withholding Payment:

DO NOT WRITE BELOW

☐ Approved

☐ Denied

This Form is Due on the _____ of each Month.

Please forward to: _____

Exhibit 5

Subcontractor MBE/WBE/DBE Monthly Reporting Form Summarizing Payments Received

Minority/Women/Disadvantaged Business Enterprise Plan - Exhibit 5

Mandatory Form. COMPLETE & SUBMIT BY MBE/WBE/DBE ONLY.

SUBCONTRACTOR Monthly Payment Report

Name of MBE/WBE/DBE Firm: _____

Report payments issued from _____ (date) to _____ (date)

MBE/WBE/DBE EIN: _____

Contract No.: _____

MBE/WBE/DBE Address: _____

Contract Name: _____

MBE/WBE/DBE Telephone No.: _____

MBE/WBE/DBE Contract Start Date: _____

Prime Contractor's Information:

Name of Prime: _____ Address: _____ Telephone #: _____

MBE/WBE/DBE PAYMENT INFO: Itemize payments/invoices and dates if received/submitted more than one payment/invoice between the 1st and 31st of THIS Month.

Work Task Performed	Original Subcontract Amount	Change Order Amount (+/-)	Invoice #'s Submitted in this Month	Dollar Amount of each Invoice Submitted this Month	Date of Invoice(s) Submitted this Month	Total Payments Received by MBE/WBE/DBE this Month (\$)	Date(s) Payments Received in this Month	Total Payments Received by MBE/WBE/DBE to Date (\$)	Total % Work To Date	Final Payment (Y/N)
Total(s) →	\$	\$	Total(s) →	\$	Total(s) →	\$	Total(s) →	\$		

Is retainage held on your subcontract? **Yes** or **No** (circle one) If yes, how much? \$ _____. Did your final payment include retainage? Yes or No (circle one)

Past Due Invoice(s) Information: List any invoice more than ____ days past due from date submitted to prime at the time you complete this form.

Invoice #	Invoice Date	Invoice Amount (\$)	No. of Days Past Due	Comments

Name: _____ Signature: _____ Title: _____ Date: _____

THIS FORM IS DUE ON THE _____ OF EACH MONTH IMMEDIATELY FOLLOWING MBE's/WBE's/DBE's SUBCONTRACT START DATE, EVEN IF PAYMENT IS NOT RECEIVED

Please forward to: _____

Exhibit 6

CRW's Monthly MBE/WBE/DBE Business Utilization Report

Minority/Women/Disadvantaged Business Enterprise Plan - Exhibit 6

Contractor Name, Address, and Telephone		Project Name and Number	Prime Contract Value
MBE/WBE/DBE Exhibit 1 Project Participation Level: MBE/WBE/DBE Exhibit 1 Total Commitment Dollar Amount:		Munis Project Code	
Subcontractor/Supplier Name, Address, Telephone Number	MBE Final Subcontract Amounts	WBE Final Subcontract Amounts	DBE Final Subcontract Amounts
Final Total Value All M/W/DBE Subcontractor/Supplier Contracts			
Total Dollar Value Difference from Awarded Amount in Exhibit 1 (+/-)			
MBE/WBE/DBE Participation Level % Change from Exhibit 1 Commitment (+/-)			
Final MBE/WBE/DBE Participation Level %			

NOTES (include an explanation of any variance between the M/W/DBE Commitment Amount reflected in Exhibit 1 and the Final Commitment Amount awarded):