



We Are Columbia

COLUMBIA

SOUTH CAROLINA

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Columbia Disadvantaged Business Enterprise (CDBE)

Program Guidelines

APPROVED AS TO FORM


Legal Department City of Columbia, SC

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CDBE Program Guidelines
City of Columbia, South Carolina
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***IT IS THE POLICY OF THE CITY OF COLUMBIA TO PROHIBIT AND DISCOURAGE
COMMERCIAL DISCRIMINATION ON THE BASIS OF RACE, GENDER, RELIGION,
NATIONAL ORIGIN, ETHNICITY, SEXUAL ORIENTATION, AGE, DISABILITY OR ANY
OTHER FORM OF UNLAWFUL DISCRIMINATION IN ANY CITY PROCUREMENT OR
CONTRACT.***

I. INTRODUCTION

The City of Columbia ("City") is determined to establish and firmly enforce a clear policy against discrimination in City-related business on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability. As a result, the City has established policies to not engage in City-related business with firms that discriminate in their solicitation, selection, or treatment of vendors, suppliers, contractors, subcontractors, or business customers. These policies are the Commercial Non-Discrimination Policy and the Non-Discrimination Contracting Policy.

The City had a Disparity Study completed in 2006 that found minority and women owned businesses (MWBEs) were substantially underutilized in prime contracting in a majority of procurements in the following areas: (1) construction, (2) architecture and engineering consultants, (3) professional services, (4) goods and supplies, and (5) other services. The 2006 Disparity Study also found that MWBEs were substantially underutilized in subcontracting in a majority of procurements in those same five areas.

Prior to the Disparity Study being completed, the City implemented the Subcontracting Outreach Program (SOP) in 2003 as a race and gender-neutral method to increase the utilization of MWBE subcontractors. The City also implemented the Mentor Protégé Program (MPP) in 2008 as a race and gender-neutral method to increase the utilization of MWBE prime contractors.

The City implemented a Local Business Enterprise Preference Policy (LBE) in 2010 to show its commitment to utilizing local businesses in the procurement process. In March of 2017, City Council approved the revision of the LBE policy. This policy provides a preference for businesses with their principal place of business in the Columbia-Orangeburg-Newberry Combined Statistical Area.

In addition to the SOP, MPP, and LBE programs, the City has implemented many of the recommendations outlined in the 2006 Disparity Study to increase MWBE utilization including, but not limited to, setting aspirational goals, changing insurance requirements so that smaller firms can be more competitive, requiring prime contractors to make good faith efforts to utilize MWBEs in their fulfillment of City contracts, and providing technical assistance to MWBE firms. Despite the City's extensive efforts for many years to implement race and gender-neutral methods to increase MWBEs utilized in city procurement, the City has not met the aspirational goals recommended by the 2006 Disparity Study.

As a result, the Mayor and City Council adopted Resolution 2016-079 creating the CDBE Program in December 2016. The Mayor and City Council amended the policy with Resolution R-2021-009 to update the program in March 2021.

II. DEFINITIONS

Columbia Disadvantaged Business Enterprises (CDBEs) - A CDBE is a certified socially and/or economically disadvantaged business enterprise that has an office in located within the Columbia-Orangeburg-Newberry Combined Statistical Area at a minimum of one year.

Columbia-Orangeburg-Newberry Combined Statistical Area (CSA) – An area which includes the following counties: Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, and Saluda. (As defined by the U.S. Census Bureau)

CDBE Goal Affidavit – This outlines the bidder's intention to meet or exceed the goal, meet 50% of the goal, or meet less than 50% of the goal.

Compliant - Adhering to program requirements based on specific policies and guidelines.

Disadvantaged Business Enterprises (DBEs) - DBEs are for-profit small business concerns where socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case-by-case basis. (U.S. Department of Transportation)

Economically Disadvantaged Individuals - Individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as defined by the U.S. Small Business Administration. (SBA)

Good Faith Efforts (GFE) - The Contractor shall exercise all necessary and reasonable steps to ensure that CDBEs perform services or provide materials on contracts in an amount that meets or exceeds the CDBE contract goal (as defined by SCDOT). Offerors that certify in their CDBE Goal Affidavit that their CDBE percentage will be below 50% of the specified CDBE project goal at bid opening must submit all GFE documentation and records.

Good Faith Efforts Committee (GFE Committee) – A committee that reviews the GFE submitted by offerors and determines the offer either compliant or non-compliant.

HUBZone - The Historically Underutilized Business Zones (HUBZone) program helps small businesses in urban and rural communities gain preferential access to federal procurement opportunities. These preferences go to small businesses that obtain HUBZone certification in part by employing staff who live in a HUBZone. (As defined by the SBA)

Invitation for Bid (IFB) - A procurement method used to solicit competitive sealed bid responses, sometimes called a formal bid, when price is the basis for award.

Minority - “Minority” means a person who is a citizen or lawful permanent resident of the United States and who is (As defined by the SBA):

- Black (a person having origins in any of the black racial groups of Africa);
- Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); and/or,
- American Indian and Alaskan Native (a person having origins in any of the original peoples of North America).

Offeror - A generic term that refers to a person or entity who submits an offer in response to a solicitation.

Socially Disadvantaged Individuals - Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities as defined by the SBA. Minority and women-owned businesses are presumed socially disadvantaged.

Socially and/or Economically Disadvantaged Business - A socially and/or economically disadvantaged business is at least fifty-one (51%) percent owned and controlled by one or more citizens of the United States who are determined to be socially and/or economically disadvantaged.

- a. In the case of a concern which is a corporation, fifty-one (51%) percent of all classes of voting stock of such corporation must be owned and controlled by an individual determined to be socially and/or economically disadvantaged.
- b. In the case of a concern which is a partnership, fifty-one (51%) of the partnership interest must be owned by an individual or individuals determined to be socially and/or economically disadvantaged and whose management and daily business operations are controlled by individuals determined to be socially and/or economically disadvantaged. Such individuals must be involved in the daily management and operations of the business concerned.

III. COMMERCIAL NON-DISCRIMINATION POLICY

It is the policy of the City of Columbia to prohibit and discourage commercial discrimination on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, disability or any other form of unlawful discrimination in any City procurement or contract.

IV. NON-DISCRIMINATION CONTRACTING POLICY

In carrying out the service, the Contractor shall not discriminate against any employee or applicant for employment because of that employee or applicant's age, sex, gender, gender identity or expression, sexual orientation, race, religion, creed, color, disability, national origin, veteran or military status, political affiliation, or any other characteristic protected by federal, state, or local laws ("protected characteristic"). The Contractor shall take affirmative steps to ensure equal employment opportunities for all applicants for employment, without regard to their protected characteristics. For the purpose of this Non-Discrimination in Contracting Policy, the term "sex" includes medical needs and/or lactation needs arising from pregnancy, childbirth, or related medical conditions pursuant to the South Carolina Pregnancy Accommodations Act, 2018 S.C. Act No. 244.

This Non-Discrimination Contracting Policy extends to all aspects of the Contractor's operations, including, but not limited to the Contractor's employment practices (including selection, hiring, assignment, re-assignment, training, promotion, transfer, compensation, layoff, leave of absence, return from layoff or leave of absence, discipline, and termination); selection of volunteers and vendors, and provision of services. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this Non-Discrimination Contracting Policy. The Contractor shall incorporate the provisions of this Non-Discrimination Contracting Policy in all subcontracts for service work.

V. CITY OF COLUMBIA LOCAL BUSINESS ENTERPRISE

Resolution R-2017-028 adopted and incorporated Local Business Enterprise (LBE) Preference Policy into the City Procurement Regulations. Whereas, the City of Columbia has a significant interest in encouraging the creation of employment opportunities for residents and businesses located within the Columbia-Orangeburg-Newberry Combined Statistical Area (CSA). It is in the interest of the City of Columbia to give preference on eligible local projects to local business enterprises having a moderate degree of employment interchange within the CSA. To claim local vendor preference, an offeror must complete the LBE Qualification Statement and submit it to the Office of Business Opportunities for approval prior to bid opening.

VI. COLUMBIA DISADVANTAGED BUSINESS ENTERPRISE (CDBE) UTILIZATION POLICY

It is the policy of the City of Columbia that Disadvantaged Business Enterprises (DBEs) shall be afforded the opportunity to participate fully in its overall procurement process. The objectives of the Columbia Disadvantaged Business (CDBE) Policy are to: take specific steps to ensure non-discriminatory results and practices; and fully include CDBEs and DBEs in the City's procurement process.

The CDBE Utilization Policy shall be used when the City Manager has placed a CDBE subcontractor goal on a project. Except as otherwise provided herein or prohibited by federal or state law, this policy shall also apply to any federally assisted activity with subcontracting possibilities

- 1.) A CDBE is (1) a certified business (2) that has an office in the Columbia-Orangeburg-Newberry CSA for one year; and (3) is a socially and/or economically disadvantaged business.
- 2.) Columbia-Orangeburg-Newberry CSA includes the following counties: Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, and Saluda.



3.) Certified Business: Any businesses having at least one of the following certifications shall qualify as certified under the City of Columbia DBE Utilization Policy upon submission and verification of such certification. (The list below is not all inclusive, other certifications may be accepted from accredited certifying agencies):

Certification	Acronym	Certifying Agency
Disadvantaged Business Enterprise	DBE	Department of Transportation (DOT)
Historically Underutilized Business Zone	HUBZone	Small Business Administration (SBA)
Minority Business Enterprise	MBE	SC Office of Small and Minority Business Contracting and Certification (SMBCC)
Minority Business Enterprise	MBE	National Minority Supplier Diversity Council (NMSDC)
Service-Disabled Veteran-Owned Small Business	SDVOSB	Small Business Administration (SBA)
Women’s Business Enterprise National Council	WBENC	Women’s Business Enterprise National Council (WBENC)
Women Owned Small Businesses	WOSBs	Small Business Administration (SBA)
Economically Disadvantaged Women-Owned Small Business	EDWOSB	Small Business Administration (SBA)
8(a) Business Development Program	8(a)	Small Business Administration (SBA)

VII. APPLICABILITY

Except as otherwise provided herein or prohibited by federal, state, or local laws, the *CDBE Utilization Policy* shall also apply to any federally assisted activity with subcontracting possibilities.

VIII. RESPONSIBLE DEPARTMENT

The City Manager has designated the Office of Business Opportunities (OBO) to administer the CDBE policy. OBO is responsible for developing, managing and implementing the *CDBE Utilization Policy*. The City has available resources, including directories and/or lists to facilitate in the identification of CDBEs available to perform City contracts. The City shall make such resources available to offerors in their efforts to meet the DBE requirements.

IX. CDBE SUBCONTRACTING GOALS

Under Resolution R-2021-009, the City Manager has the authority to determine contract goals for CDBE participation on any prime contract estimated at \$200,000.00 or more. Established goals shall be included in the solicitation.

- 1.) Offerors must identify and select specific work items of CDBE project to be performed by subcontractors. Offerors are expected to subdivide total contract work requirements into smaller economically feasible portions or quantities to permit maximum active utilization of CDBEs.
- 2.) The CDBE subcontractor goal must be maintained or increased throughout the duration of the contract, including, where appropriate, any change orders, contract modifications, and substitutions.
- 3.) The CDBEs must self-perform a minimum of 50% percent of their portion of the project. Offerors should not use a CDBE as a pass-thru for the purchase of supplies/materials or contracting of firms that otherwise would be a direct subcontractor of the offeror or responder.

X. CITY RECORDS AND REPORTS

The Office of Business Opportunities shall maintain CDBE records and provide reports annually to the City Manager and City Council to ensure full compliance with the CDBE program.

XI. PROCESSES TO ENSURE EQUITABLE OPPORTUNITIES

The City shall use the following techniques to facilitate CDBE utilization in contracting activities:

- 1.) Arrange bid solicitations and times for the submission of bids/bid specifications to ensure equitable participation.
- 2.) Break down larger contracts into smaller contracts to include the participation of smaller businesses to the extent economically and legally feasible.
- 3.) Provide specifications in a timely manner to CDBEs, majority contractors and business associations.
- 4.) Provide technical assistance to CDBEs.
- 5.) Hold seminars or workshops to acquaint the business community with the requirements and scope of City procurement activities.
- 6.) Utilize local minority-owned banks wherever feasible.
- 7.) Maintain accurate records of the utilization of CDBEs.
- 8.) Aid such businesses in the Columbia-Orangeburg-Newberry CSA that meet the definitions of DBE and ensure that they shall be afforded the full opportunity to participate in procurement through the goals and procedures established herein, provided that the integrity of the bidding procedures and process of awarding contracts to the lowest acceptable offeror is maintained.

- 9.) Have available resources, including directories and/or lists, to facilitate in the identification of CDBEs with capabilities needed in the performance of City contracts on the Office of Business Opportunities website (these lists should not be considered sole sources or all-inclusive and no warranties expressed and/or implied).

XII. MEETING THE CDBE GOAL

The CDBE goal can be met on a project by utilizing the following:

- 1.) Direct outreach to registered CDBEs within the Columbia-Orangeburg-Newberry Combined Statistical Area (CSA) which includes the following counties: Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, and Saluda.

- a. A list of CDBEs can be found on the OBO website at www.columbiasc.gov/obo or calling the Office of Business Opportunities at 803-545-3950.

- 2.) Offerors must demonstrate that Good Faith Efforts were made to utilize registered CDBEs/DBEs in meeting the CDBE goal placed on a project.

CDBE/DBE Resources:

- Utilization of CDBEs and Certified DBEs within the Columbia-Orangeburg-Newberry CSA (All offerors must demonstrate outreach to registered CDBEs/DBEs prior to the bid opening.)
 - Utilize the OBO CDBE Directory (found on the OBO website at www.columbiasc.gov/obo.)
 - South Carolina Department of Transportation ([SC Department of Transportation DBE Directory](#)) and South Carolina Division of South Carolina Division of Small Minority Business Contracting and Certification ([SMBCC MBE Listing](#))
 - South Carolina Department of Transportation ([SC Department of Transportation DBE Directory](#)) and South Carolina Division of South Carolina Division of Small Minority Business Contracting and Certification ([SMBCC MBE Listing](#))
- 3.) In an effort to establish relationships with prospective offerors and meet the Good Faith Efforts requirement on CDBE projects, CDBEs/DBEs and offerors should attend the pre-bid/pre-solicitation and outreach events.

- 4.) Offerors are encouraged to begin solicitation to CDBE firms immediately following pre-bid/pre-solicitation.
- 5.) An offeror who is a CDBE/DBE MAY count towards 20% of the overall CDBE goal requirement placed on a project.

XIII. METHODOLOGY

The Office of Business Opportunities will use the methodology below in calculating subcontracting goals. This department will work in collaboration with other city departments that are responsible for implementing the project for input on the goal before it is submitted to the City Manager for final approval.

- 1.) The goal will be established based upon the relative availability and use of CDBEs who will be able to assist the City of Columbia in completion of a specific project. This is calculated using the following method¹:
 - a. Determining Relative Availability
 - i. Determine ready, willing, and able DBEs in market area from City of Columbia eBid System, SCDOT, and SMBCC database.
 - ii. Determine ready, willing, and able firms in market area from the Census Data
 - iii. $\text{Number of DBEs} \div \text{Number of all firms} = \text{Base figure for relative availability}$
 - b. Weight is determined by the proportion of dollars spent within each industry/trade: resulting percentage is more heavily influenced by availability in industries/trades where more dollars are spent.
 - c. Calculate goal utilizing availability and weight.
- 2.) Final goal may require adjustments to take into account previous projects, information from the disparity study, and any other data affecting likely CDBE participation.
- 3.) The cost of equipment purchased or leased by a CDBE from a prime contractor does not count for DBE credit. If a charge for the use of the equipment is part of the cost of the CDBEs contract, it would be deducted from the CDBEs credit allowed for the contract.

XIV. INVITATION FOR BID (IFB) PROCESS FOR CDBE PROJECTS

The IFB will consist of the following:

- ❖ **Review of CDBE Goal Affidavit**
- ❖ **Final Bid Submittal**

The City reserves the right, in its sole discretion, to reject all submissions, reissue a subsequent bid, terminate, restructure or amend this process at any time. The final selection and contract negotiation rests solely with the City.

1.) Review of CDBE Goal Affidavit

Interested contractors or consultants with an interest in bidding on City of Columbia projects with a CDBE utilization goal must submit required compliance documentation during the bid opening.

CDBE Goal Process

- Tentative bid issued and notifications posted/sent;
 - Pre-bid meeting held;
 - Outreach event held immediately following pre-bid meeting;
 - *CDBE Goal Affidavit* and other required documents submitted by offeror to Department of Procurement and Contracts by due date;
 - *Offerors who fail to meet at least 50% of the specified CDBE goal, must submit GFE documentation with their CDBE Goal Affidavit during the bid opening (please see section XV. Good Faith Efforts below).*
 - Department of Procurement and Contracts forwards relevant documentation to OBO for compliance review;
 - OBO provides a memo of non-compliant and compliant offerors to the Department of Procurement and Contracts; and
 - The Department of Procurement and Contracts sends notification to responsive and non-responsive offerors.
- a. All offerors must submit a *CDBE Goal Affidavit* to the Office of Procurement and Contracts stating the CDBE utilization percentage to be obtained by offeror by indicating one of the following:
- Offeror will meet or exceed the CDBE project goal at bid opening. GFE documentation is not required for these offerors.
 - Offeror's CDBE percentage will be at least 50% or more of the specified CDBE project goal at bid opening. For these offerors, GFE documentation is not required during the submittal period, but should be maintained by offeror.
 - Offeror's CDBE percentage will be below 50% of the specified CDBE project goal at bid opening. **The offeror must submit all required GFE documentation during the submittal period with the CDBE Goal Affidavit.**

The offeror must also include in the *CDBE Goal Affidavit* that the CDBEs/DBEs to be included at bid opening will self-perform a minimum of 50% of their portion of the project.

- b. Pricing should not be included with the CDBE Goal Affidavit by any offeror.

2.) **Final Bid Submittal**

Bid packages submitted to Procurement and Contracts will be opened by offerors deemed compliant by OBO.

Final Bid Submittal Process

- Bid opening occurs;
 - Department of Procurement and Contracts reviews submittals;
 - Department of Procurement and Contracts forwards relevant documentation to OBO for final compliance review;
 - OBO reviews the *CDBE Goal Affidavit* and Good Faith Efforts (if applicable);
 - OBO provides the Lowest Bidder Response Memo to the Department of Procurement and Contracts;
 - Department of Procurement and Contracts will notify offerors if they are non-responsive; and
 - Department of Procurement and Contracts draft intent to award to the lowest apparent offeror.
- a. CDBE percentages reflected in final bid submittals must match or exceed the previous percentage certified in the *CDBE Goal Affidavit* submitted during the bid opening. If the percentage contained in the bid submitted during bid opening is less than the percentage contained in the affidavit submitted during bid opening, the bidder will be found non-responsive. *The City of Columbia reserves the right to act in the best interest of the City in determining reasonableness of bids submitted.*
 - b. Offerors must include on the Business Information Record (BIR) the list of all subcontractors, including CDBE/DBE subcontractors, that will be utilized on the project. Additional BIR information includes:
 - Business names, addresses and vendor numbers of the participating subcontractors; and
 - Specific participation percentages, certifications, services, and/or materials to be provided by each subcontractor (Percentages should be based on the projected total contract amount of the bid).

- c. Written documentation must be included indicating offeror's commitment to use the CDBEs/DBEs listed at the stated participation percentages.
- d. Offeror must submit as part of the bid proof of certification for each CDBE/DBE subcontractor to be utilized for the project. If a proposed certified DBE subcontractor that has an office in the Columbia-Orangeburg-Newberry CSA for one year and has not been CDBE approved through the city at the time of response, the offeror must include a completed **CDBE Qualification Statement** for that subcontractor with necessary supporting documentation.
- e. Prior to bid opening, offerors must notify the CDBE/DBE subcontractors listed on the Business Information Records Form (BIR) that they have been included as a subcontractor in response to bid opening. A copy of each notification sent to the CDBE/DBE subcontractors should be included as part of the offeror's bid package.
- f. Offeror must include written confirmation of participation from each CDBE/DBE subcontractor listed in BIR at percentages stated.
- g. Offeror must include all other bid documentation and information as required by the Department of Procurement and Contracts.

XV. GOOD FAITH EFFORTS

Offerors are expected to take steps to ensure all willing and available businesses, including Columbia Disadvantaged Business Enterprises (CDBEs), Disadvantaged Business Enterprises (DBEs), other certified socially and economically disadvantaged minority business enterprises, and have an equal opportunity to compete for and participate in all City of Columbia contracts.

Offerors that Meet or Exceed the CDBE Goal

For offerors that meet or exceed the CDBE goal placed on a project, Good Faith Efforts (GFE) are not required. If the goal is met or exceeded by only utilizing DBEs, offeror must maintain documentation that outreach was made to registered CDBE firms for a minimum of three (3) years.

Offerors that Meet the CDBE Goal at or above 50%

For offerors that fail to meet the CDBE goal placed on a project, GFE are required. Offerors that meet the CDBE goal at or above 50% must perform GFE are required and all GFE documentation must be maintained for a minimum of three (3) years.

Offerors that Fail to Meet 50% of the CDBE Goal

For offerors that fail to meet at least 50% of the CDBE participation goal placed on a city project, GFE documentation must be submitted at the time of bid opening.

Required Activities and Documentation to Illustrate GFE Compliance

Offerors are encouraged to begin solicitation of CDBE participation immediately following the pre-bid/pre-solicitation meeting. GFE activities and documentation should be organized using the checklist coversheet located in Appendix C. All GFE documentation should be submitted digitally in one inclusive document and each GFE labeled with a title page for each section for ease of GFE evaluation. Any item below missing required documentation will constitute a failure to comply with the GFE requirement and deemed non-compliant.

Pricing should be redacted from any emails/documentation submitted as part of the GFE.

1.) Completed GFE Checklist Coversheet (Appendix C)

2.) Pre-bid/Pre-Solicitation Meetings & Outreach Event Attendance

Offeror must attend pre-bid/pre-solicitation meeting scheduled by the City for CDBE projects to inform all interested offerors of requirements for CDBE projects. Outreach events hosted by the City for CDBE projects are also required to provide interested offerors with an opportunity to meet CDBEs that are willing and available to serve as subcontractors on CDBE projects.

Required Documentation (1): a) Signed attendance sheet; b) Offeror's name on virtual attendance roster or c) Submit letter requesting waiver prior to pre-bid/pre-solicitation or pre-solicitation meeting and outreach events. Must be emailed to the procurement office prior to pre-bid/pre-solicitation meeting for compliance review.

It is the offerors responsibility to ensure that if a representative attends the meeting or event, that their representative's name and company are recorded on the attendance sheet or virtual roster.

3.) Broad-based Advertisement

Immediately following the pre-bid/pre-solicitation meeting, the bidder needs to initiate an advertising campaign designed to reach all CDBEs located within the segments of the eight county Columbia-Orangeburg-Newberry Combined Statistical Area of Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, and Saluda counties.

The advertising may include either print or digital platforms in one or more of the following: newspapers, trade association publications, special interest publications (such as Minority and Women Business Enterprise focused media outlets), trade journals, community papers or other media. Advertisements must be specific to the project, not generic, and may not be a plan holder advertisement provided by the publication. Advertisements shall be published on at least three (3) separate days in newspapers (including digital). Advertisements must be worded to ensure it does not exclude or limit the number of

potential respondents and must include:

- a. Offeror's contact person's name, phone number, and email address;

- b. Offeror’s statement seeking Minority and Women Business Enterprises to respond to the advertisement;
- c. City of Columbia’s project name and name of offeror;
- d. Areas of work available for subcontracting;
- e. Link to City's eBid to access plans and specifications:<https://columbiasc.ionwave.net>
- f. Offeror’s policy concerning assistance to subcontractors in obtaining bonds and credit lines and/or insurance;
- g. Offeror’s statement that selected CDBE/DBE subcontractors must self-perform a minimum of 50% percent of their portion of the project;
- h. Offeror’s statement that they do not discriminate in the recruitment or hiring of subcontractors based on race, creed, color, religion, ancestry, sex, sexual orientation, or national origin; and
- i. Offeror’s statement that they will take affirmative steps to ensure against discrimination in all aspects of offeror’s operations including subcontracts for service work.

Required Documentation (2): Submit copies of advertisements (newspaper and or digital) and proof of publication dates.

4.) Written or Digital Notice to CDBE Subcontractors

Not less than ten (10) calendar days prior to bid submittal, offeror needs to provide written or digital notice of their interest in receiving sub-bids to a reasonable number of relevant CDBEs/DBEs via email or fax within the eight county Columbia-Orangeburg- Newberry CSA based on subcontracting areas of the CDBE project. Offerors must consider CDBEs/DBEs located within the eight county CSA to meet or exceed the CDBE utilization goal placed on a CDBE project.

The content of the written or digital correspondence must include the following:

- a. Offeror’s contact person’s name, phone number, and email address;
- b. Offeror’s statement seeking Minority and Women Business Enterprises to respond to the advertisement;
- c. City of Columbia’s project name and name of offeror;
- d. Areas of work available for subcontracting;

- e. Link to City's eBid to access plans and specifications: <https://columbiasc.ionwave.net>
- f. Offeror's policy concerning assistance to subcontractors in obtaining bonds and credit lines and/or insurance;
- g. Offeror's statement that selected CDBE/DBE subcontractors must self-perform a minimum of 50% percent of their portion of the project;
- h. Offer's statement that they do not discriminate in the recruitment or hiring of subcontractors based on race, creed, color, religion, ancestry, sex, sexual orientation, or national origin; and
- i. Offeror's statement that they will take affirmative steps to ensure against discrimination in all aspects of offeror's operations including subcontracts for service work.

Required Documentation (3): Submit all completed sections of the *Solicitation Log Sheet & GFE Follow-UP Communications Log Sheet* (found in Appendix D & E). Offeror should attach to these log sheets a copy of each letter (written or digital) sent to CDBEs, DBEs, and other minority business enterprises for each area of work to be performed.

- a. If one master notification, submit letter/email sent with date and list of recipients.
- b. Mailed letters must include copies of metered envelopes or certified mail receipts.
- c. Emails must include the date sent, time, and email address to which the letter was emailed.

5.) Follow-up to Initial Solicitations

Offeror must follow up on initial solicitations of written notice to CDBEs, DBEs, and other minority business enterprises to determine their interest in specific portions of project work, answer questions, record phone quotes, and record subcontractor's interest in bidding on any portion of the CDBE project.

Required Documentation (4): Submit copy of GFE Follow-Up Communications Log (Appendix E) including name of caller, name of company called, phone number, contact person, time, date, and result of conversation. Telephone logs must be submitted to demonstrate follow-up with all contractors to whom written notices were sent in GFE item #3. Prior to rejecting any bid, the offeror must document that a good faith effort was made to negotiate with the CDBE/DBE. Any CDBEs/DBEs bid that is rejected must be justified in writing by the offeror to the CDBE/DBE. The justification must be based on sound reasoning and a thorough investigation of CDBE/DBE capabilities. The written justification must be included as part of the offeror's GFE documentation. The following documentation must also be attached:

- a. Summary sheet organized by work type listing subcontractor company names for each work type; and
- b. A notarized statement from the owner or a principal of the offeror stating that the owner or principal does not hold a financial interest in, does not have ownership of or a controlling interest in or is not significantly involved in the operation of the subcontractor. If offeror elects to use own forces to perform a work type, include bid to show own costs for the work.

6.) Request for Assistance

Immediately following the pre-bid/pre-solicitation meeting, but no less than fifteen (15) calendar days prior to bid submittal, offeror must request assistance in the recruitment of DBEs from **AT LEAST ONE** relevant agency (submit copy of email or fax) that recruits and places DBEs and other minority business enterprises (i.e., obtaining a list of DBEs and/or providing the broad based advertisement from an agency). Such agencies include, but are not limited to, SBA HUB Zone; Carolinas-Virginia Minority Supplier Development Council, SC DOT Disadvantaged Business Programs/Unified Certification Program; S.C. Division of Small and Minority Business Contracting and Certification; U.S. Dept. of Veteran Affairs (Vetbiz.gov); Associated General Contractors (AGC); The Dodge Project Center; SC National Association of Minority Contractors; and the Minority Business Development Agency (MBDA). Other organizations and trade associations that promote minority subcontractor participation may also be contacted.

The content of the written requests must include the following:

- a. Offeror's contact person's name, phone number, and email address;
- b. Offeror's statement seeking Minority and Women Business Enterprises to respond to the advertisement;
- c. City of Columbia's project name and name of offeror;
- d. Areas of work available for subcontracting;
- e. Link to City eBids to access plans and specifications: <https://columbiasc.ionwave.net>
- f. Offeror's policy concerning assistance to subcontractors in obtaining bonds and credit lines and/or insurance; and
- g. Offeror's statement that they do not discriminate in the recruitment or hiring of subcontractors based on race, creed, color, religion, ancestry, sex, sexual orientation, or national origin.
- h. Offeror's statement that they will take affirmative steps to ensure against discrimination in all aspects of offeror's operations including subcontracts for service work.

Required Documentation (5): Mailed letters must include copies of metered envelopes or certified mail receipts. Emails must include the date sent, time, and email address to which the letter was emailed.

7.) Utilizing Certified DBE subcontractors

If the offeror was unable to secure CDBE subcontractors within the CSA, good faith efforts must be demonstrated that offeror provided outreach to certified DBE firms within the CSA.

Required Documentation (7): Submit a copy of each DBE firm's certification documentation. All certifications submitted must be current.

XVI. AUDIT OF GOOD FAITH EFFORTS

The City reserves the right to audit GFE paperwork at any time it deems necessary. Offerors that repeatedly fail to meet or exceed the specified CDBE utilization goal placed on CDBE projects will be audited. Audit findings may result in suspension of offeror's participation in future CDBE projects.

An audit of GFE paperwork will be triggered when the offeror fails to meet the CDBE goal placed on three (3) CDBE projects over the course of a fiscal year (July 1 – June 30). The GFE committee will review the GFE paperwork and perform the audit.

XVII. GFE COMMITTEE REVIEW – COMPLIANT/NON-COMPLIANT

The Office of Business Opportunities will convene the GFE Committee to review GFE documentation and determine compliance or non-compliance of offerors that fail to meet at least 50% of the CDBE goal placed on a project prior to the IFB. The committee will consist of representatives from OBO and relevant city departments. This review will verify that the offeror made CDBE subcontracting opportunities available to a broad base of willing and available CDBEs, DBEs, and other certified minority business enterprise subcontractors, based on the GFE outlined in the guidelines.

Offerors deemed non-compliant will be notified by the Department of Procurement and Contracts prior to the bid opening.

XVIII. GENERAL ADMINISTRATIVE REVIEW COMMITTEE (ARC)

All appeals shall be escalated to the Administrative Review Committee (ARC) for further consideration. If the goal was not met due to the offeror(s) assertion that the goal was unrealistic and/or unobtainable within the timeframe allotted prior to the IFB, the offeror may submit a request for an administrative review. This request for an administrative procurement review shall be submitted to the purchasing agent within three (3) business days after the offeror was deemed non-compliant.

The purchasing agent shall briefly review the complaint and then refer this information to the ARC for a final decision. The committee members shall be comprised of two executive staff members, an OBO representative, and one subject matter expert from the using department. The deputy director for the Department of Procurement and Contracts shall serve as the facilitator. The purchasing agent shall be recused from the ARC process due to the agent's responsibility to offer a non-biased, non-subjective and fact-based only opinion on protest and contract controversies.

The ARC shall review the appeal within three (3) business days after receipt of the timely appeals request and a final decision shall be rendered in writing by the ACM for the using department.

Any appeal denied by the ARC shall result in the aggrieved offeror being deemed as a non-complaint. The aggrieved offeror shall have all rights afforded to him as outlined in the City's protest procedures.

XIX. COMPLAINTS

Any complaint received by the City concerning the CDBE Policy will be investigated by the Office of Business Opportunities, or designee(s) of the City Manager, and reported to the City Manager with a recommendation for resolution. This information shall be reported by the City Manager to City Council as deemed necessary.

XX. ADDITIONAL RULES AND REGULATIONS

The City may, with the approval of the City Manager, promulgate additional rules and regulations not inconsistent with the *CDBE Utilization Policy* or any federal or state law, regulation or grant requirement, as needed. The City Manager reserves the right to review and/or remove programmatic provisions should it be found to be in the best interest of the City.

XXI. SEVERABILITY CLAUSE

In the event any provision or part of the *CDBE Utilization Policy* is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire policy will be inoperative.

XXII. PROGRAM COMPLIANCE

OBO will monitor pay applications throughout the entire contract to ensure the CDBE subcontractor goal is maintained for the duration of the contract. The successful offeror must attach a monthly subcontracting report using form 100 with all payment applications submitted to the City of Columbia. This form shall include expenditures made to any subcontractors working on the project, regardless of amount. The Office of Business Opportunities shall maintain such records and provide such reports annually to the City Manager and City Council to ensure full compliance with the CDBE Program.

XXIII. CDBE SUBCONTRACTOR SUBSTITUTION

To request a CDBE/DBE subcontractor substitution on an awarded bid, the contractor must submit a written request to the Office of Business Opportunities that includes the name of listed subcontractor, name of replacement subcontractor, reason for substitution, work type and dollar amount. A change order form (form 100B) must also be accompanied with the current pay application. The selection process for a substitute subcontractor shall be evaluated for fairness and outreach efforts.

In the case of any subcontractor substitutions, CDBE/DBE subcontractors should be considered to ensure the CDBE goal is met and/or exceeded. Substitution of any subcontractor without the prior written approval by the Office of Business Opportunities shall be deemed to constitute a material breach of contract. The harm that shall accrue to the public is difficult to accurately estimate in advance. Consequently, the contractor and the City shall jointly agree that a reasonable forecast of such damages is not less than ten (10%) percent of the subcontract price, and that the parties intend that such sum shall constitute liquidated damages as the best estimate of the harm accruing to the City.

XXIV. PROTESTED SOLICITATIONS AND AWARDS

Protests must be made in accordance with Appendix G of Procurement Regulation 1.22.

XXV. IMPACT ON OTHER CITY PROGRAMS

The *CDBE Utilization Policy* does not apply to Mentor Protégé Projects due to the limited subcontractor opportunities. When this policy is applied to the Subcontracting Outreach Program (SOP), CDBE subcontractor firms WILL NOT be counted toward the offeror's SOP subcontractors. However, where the goals are to be cumulative it will be outlined in the solicitation.

XXVI. OFFICE OF BUSINESS OPPORTUNITIES CONTACTS

Cassandra Fletcher
Compliance Administrator

1401 Main Street, 4th Floor
Columbia, SC 29201

Phone: (803) 545-4185

Fax: (803) 401-8859

Cassandra.Fletcher@columbiasc.gov

LaTonya Germany
Program Compliance Specialist

1401 Main Street, 4th Floor
Columbia, SC 29201

Phone: (803) 545-3049

Fax: (803) 401-8859

Latonya.Germany@columbiasc.gov

APPENDIX A: EXAMPLE FOR GOAL METHODOLOGY

EXAMPLE FOR GOAL METHODOLOGY

	Anticipated Project Cost	Percentage of Weight	Number of DBE firms	Total Firms	Relative Availability	Weight	Relative Availability (multiplied by weight)
Construction	\$2,000,000	80.00%	29	328	0.08841463	0.8	0.070731707
Trucking	\$500,000	20.00%	30	60	0.5	0.2	0.1
Total Project	\$2,500,000		59	388	0.152061856	1	0.170731707

Goal Using
Relative
Availability
and Weight

17.07%

APPENDIX B: CDBE GOAL AFFIDAVIT

Project Name: _____

Bid Number: _____

Company Email Address: _____

Company Phone Number: _____

State of _____

County of _____

I, _____ being first duly sworn, deposes and says on this _____ day of _____, 20____ that:

(1) The offeror _____ of _____
(Name of Offeror) (Name of Company)

located at _____ agrees to all information below:
Address City, State & Zip

- a) The offeror agrees to meet or exceed the ____% CDBE goal placed on this solicitation. The CDBE goal that the offeror agrees to meet is_%. If selected, offeror agrees to maintain or increase their CDBE goal percentage throughout the duration of the project.
- b) The offeror agrees to meet at least 50% or more of the ____% CDBE goal placed on this solicitation. The CDBE percentage that the offeror agrees to meet is ____%. If selected, offeror agrees to work towards increasing their CDBE goal percentage throughout the duration of the project.
- c) The offeror states that they have not met or exceeded the goal and have secured less than 50% of the ____% CDBE goal placed on this solicitation. The CDBE percentage that the offeror agrees to meet is _%. In accordance with the CDBE guidelines, offeror agrees to submit their *Good Faith Efforts (GFE) required documentation* with this affidavit during the bid opening). If selected, offeror agrees to work towards increasing their CDBE goal percentage throughout the duration of the project.

(2) The offeror agrees by checking the box below, that the CDBEs/DBEs included in bid will self-perform a minimum of 50% of their portion of the project.

- Offeror agrees to ensure that the CDBE/DBE subcontractors are self-performing a minimum of 50% of their portion of the project. By checking this box, any offeror acknowledges that if the CDBE/DBE subcontractors fail to self-perform a minimum of 50% of their portion of the project, the offeror is in material breach of its agreement and can be barred from participation in the project.

(Signed) (Title)

(Date)

Subscribed and sworn to before me

this _____ day of _____, 20_____

(Notary Public)

My commission expires _____

APPENDIX C: GOOD FAITH EFFORTS (GFE) CHECKLIST

GFE CHECKLIST COVERSHEET (SUBMIT GFE REQUIRED DOCUMENTATION):

GFE documentation must be submitted, in accordance with the CDBE guidelines, by any offeror that fails to meet at least 50% of the CDBE participation goal placed on a project. This documentation should also be maintained for a period of three (3) years.

The following *GFE Checklist Coversheet* must be submitted with your GFE documentation at the time of bid opening. GFE documentation should be in the order listed in the checklist and labeled accordingly. If you should have any questions while preparing your GFE please contact the Office of Business Opportunities at 803-545-3950.

All other offerors that did not meet or exceed the CDBE goal, those at 50% - 99%, are not required to submit GFE documentation but are required to maintain the documentation for a period of three (3) years.

AUDIT OF GOOD FAITH EFFORTS

The City reserves the right to audit GFE paperwork at any time it deems necessary. Offerors that repeatedly fail to meet or exceed the specified CDBE utilization goal placed on CDBE projects will be audited. Audit findings may result in suspension of offeror's participation in future CDBE projects.

An audit of GFE paperwork will be triggered when the offeror fails to meet the CDBE goal placed on three (3) CDBE projects over the course of a fiscal year (July 1 – June 30). The GFE committee will review the GFE paperwork and perform the audit.

DBE Directories

If you are unable to obtain CDBE subcontractors to meet the CDBE project's goal you must submit good faith efforts as defined in the CDBE guidelines and use certified DBEs to meet the project's CDBE goal. The SCDOT DBE and SMBCC directory website links can be used to help you find certified DBEs.

SCDOT DBE Directory

<http://dbw.scdot.org/dbesearch/DirectoryQuery.aspx>

SMBCC Directory:

<http://osmba.sc.gov/directory.html>

If you have any questions pertaining to the Columbia Disadvantaged Business Enterprise Program, please contact the Office of Business Opportunities at 1-803-545-3950. Please note that OBO cannot answer any questions pertaining to open procurements.

Good Faith Efforts Checklist Coversheet

[\(Click here for link to fillable form\)](#)

Offeror Name: _____ Date: _____

Please use the GFE requirement as outline in the CDBE guidelines for detailed information on each item below:

ITEM #	Good Faith Efforts	Offeror to Provide:	Yes	No	<u>NA</u>
1	<u>Attendance at Pre-bid/Pre-solicitation and/or Outreach Event:</u>	a. Signed attendance or virtual roster sheet for pre-bid/pre-solicitation included; b. Copy of letter attached requesting waiver prior to pre-bid meeting; or c. If applicable, signed attendance or virtual roster sheet included of outreach event.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	<u>Broad-based Advertisement:</u>	Advertisement Contains: a. Proof of advertisement published on three (3) separate days in a newspaper of general circulation (including digital); b. Name of offeror; c. City of Columbia's project name and publication dates; d. Areas listed of work available for subcontracting; e. Offeror's contact person's name, phone number, and email address listed; f. Link to City's eBid to access plans and specifications: https://columbiasc.ionwave.net g. Offeror's policy concerning assistance to subcontractors in obtaining bonds and credit lines and/or insurance included; h. Offeror's statement seeking Minority and Women Business Enterprises; i. Offeror's statement that selected CDBE/DBE subcontractors must self-perform a minimum of 50% percent of their portion of the project. j. Statement that offeror does not discriminate in the recruitment or hiring of subcontractors based on race, creed, color, religion, ancestry, sex, sexual orientation, or national origin; and k. Statement that offeror will take affirmative steps to ensure against discrimination in all aspects of offeror's operations including subcontracts for service work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ITEM #	Good Faith Efforts	Offeror to Provide:	Yes	No	NA
4	<u>Follow-up to Initial Solicitation</u>	a. Offeror indicates on GFE Communication Log that follow-up was made with the same CDBEs/DBEs listed on Solicitation Log Sheet(s); b. The log includes name of caller, name of company called, phone number, contact person, time, date, and result of conversation; c. A notarized statement provided from the owner or a principal of the offeror stating that the owner or principal does not hold a financial interest in, does not have ownership of or a controlling interest in or is not significantly involved in the operation of the subcontractor; and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	<u>Request for Assistance</u>	Included all items in the broad-based advertisement section (b – k) in the written notice requesting assistance from at least one relevant agency; a. Request for assistance was sent not less than fifteen (15) calendar days prior to bid submittal. (Bid Submittal Date: _____; 15 Days Prior to Bid _____); b. Offeror made request for assistance from at least one relevant agency; (submit copy of email or fax)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	<u>Utilizing Certified DBEs</u>	a. Offeror provides copies of current certifications of DBEs that will be utilized to meet the CDBE project goal.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Good Faith Efforts Committee is responsible for determining if the offeror has met the GFE requirements based on the GFE documentation provided. The Committee’s review will be objective in nature, either the required information has been provided or it has not.

Name of offeror submitting GFE documentation: _____

Have you submitted a CDBE bid(s) over the past 12 months? Yes No

If so, please list the project name and number(s): _____

Did you meet or exceed the CDBE goal placed on those projects? Yes No

Offeror’s signature (required): _____ Date: _____

