

CITY OF BEAVERTON

GOOD FAITH EFFORT PROGRAM

Program Description

The City of Beaverton is committed to a procurement strategy that provides opportunities to small businesses, is supportive of the regional economy, and is designed to achieve racial and gender equality in contracting.

The City desires to encourage and provide opportunities for firms certified by the State of Oregon Certification Office for Business Inclusion and Diversity (COBID). Therefore, the City has adopted an aspirational goal of 10 percent participation of firms certified by COBID in its overall dollar amount of contracting and purchasing activities.

For projects with a value estimated at \$100,000 and above, this Good-Faith Effort (“GFE”) Program does the following:

- Helps the City determine whether bidders made the required GFE to open subcontracting opportunities to firms certified by COBID.
- Assists the City with tracking subcontractor utilization on its projects.
- Requires Prime Contractors to provide evidence of a GFE on ALL of their subcontracting opportunities, regardless of value.

Prime Contractors must submit documentation showing that a GFE has been made to contact and contract with firms certified by COBID. Failure to comply with all of the requirements of the GFE Program may result in the bidder being disqualified or a finding that a Contractor has materially breached the contract, which may result in a claim for damages.

Pre-Bid Requirements

1. **Contact Requirements.** The City has identified Divisions of Work (“DOW”) or areas where the City has determined that subcontracting opportunities may exist for each of its projects valued over \$100,000. If the City has identified DOW, Bidders must make a GFE to contract with subcontractors certified by COBID for each DOW identified in the solicitation document.
 - a. A bidder may not use a subcontractor to perform any DOW unless the bidder has made a GFE as required by these requirements.
 - b. A bidder is not required to contact subcontractors certified by COBID for any DOW that will be performed by the bidder. If the bidder indicates that it will self-perform work for a particular DOW, it may still add a subcontractor in that DOW as long as bidder submits the required documentation as provided in the Post-Bid Requirements subsection

Please go to the State’s website to locate potential subcontractors certified by COBID for each DOW. Search the codes for each DOW you intend to subcontract (e.g. NIGP Code 91038 for Asbestos Removal). The state COBID Certification Directory is located at <http://oregon4biz.diversitysoftware.com>. If you have difficulty identifying potential subcontractors certified by COBID please contact the Purchasing Division at 503-526-2435.

Please note that this project is located within Washington County. When searching for potential subcontractors, you are encouraged to contact subcontractors from Washington County.

2. **Who to Contact.** For EACH DOW that will be performed by a subcontractor, bidders must contact:
 - a. Each subcontractor certified by COBID that attended the pre-bid meeting (if one was held) that identified itself as a subcontractor in one or more specific DOW that the bidder will subcontract. The Pre-Bid Attendance List will be available to bidders on the City's Bids page, located at www.BeavertonOregon.gov/Bids/.
 - b. A minimum of five subcontractors certified by COBID for each DOW that will be subcontracted. If there are fewer than five subcontractors listed on the State's website for a particular DOW, then bidders shall contact ALL of the subcontractors listed on the website for that DOW.
3. **When to Contact.** Bidders shall make first contact with subcontractors certified by COBID at least seven calendar days before the bid opening. For example, if the bid opening date is on Thursday, then the first contact shall be on or before the Thursday of the preceding week.
4. **How to Contact.**
 - a. Bidders shall first contact subcontractors certified by COBID by letter, fax, or email to advise them of potential subcontracting opportunities;
 - b. Bidders shall then follow up the first contact with telephone calls to each subcontractor certified by COBID to determine if a bid will be submitted or if further information is required. Bidders are not required to follow up with the first contact if the subcontractor responds to the first contact with a statement that the subcontractor will not bid on this project or if the subcontractor has already submitted a sub-bid.
5. **Provide Same Information.** Bidders shall ensure that each subcontractor certified by COBID have an equal opportunity to compete for work by having the same information as other subcontractors. Bidders shall inform subcontractors certified by COBID of the date and time that sub-bids are due.
6. **OPTIONAL.** Although not required as part of the City's GFE Program, bidders should also consider the following:
 - a. Advertising in community-based newspapers (i.e. Skanner, Asian Reporter, El Hispanic, etc.).
 - b. Providing letters to minority and women community organizations;
 - c. Using alternative methods of participations with COBID certified firms through arrangements such as joint ventures, negotiated subcontract agreements, and competitive bids.
 - d. Purchasing construction materials and equipment from COBID certified suppliers.

General Bid Requirements

Bidders shall also submit the following required forms. A checklist has been provided near the beginning of the Solicitation Document to allow Bidders to check and confirm that they have enclosed the required forms.

Form 1. Subcontractor and Self-Perform List

DUE DAY OF BID OPENING BY 4:00 P.M. FROM ALL BIDDERS

- a. All Bidders shall submit Form 1 with their bid or by 4 P.M. on the day the bid is due. Failure to timely submit Form 1 will result in the City deeming the bid non-responsive and rejecting the bid.

- b. Form 1 shall list **all subcontractors** to be used on the contract regardless of the dollar amount. This is more than what is required by the State's First-Tier Subcontractor Disclosure Form. If this bid includes bid alternates, then bidders shall list all first-tier subcontractors who will be used if the City elects to do the additional work.
- c. Bidders shall list all DOW they intend to self-perform and separately list any DOW where the identity of the subcontractor who will perform the work is undetermined at bid time.

Form 2. Contact and Bids Received Log & Solicitation Letter

DUE DAY AFTER BID OPENING BY 2:00 P.M. FROM **APPARENT LOW BIDDER**

- a. **Form 2.** The apparent low bidder shall submit Form 2 (or equivalent) on the next business day following bid submission by 2:00 P.M. Failure to timely submit Form 2 may result in the City deeming the bid non-responsive and rejecting the bid.
- b. **Solicitation Letter.** The apparent low bidder shall also submit a copy of the letter, fax, or email set to subcontractors certified by COBID to solicit bids for this project. If bidder sent more than one communication, then bidder shall submit a copy of each communication.
- c. **Procedure.** If the apparent low bidder is not awarded the contract or its bid is rejected for any reason, the City will notify the next apparent low bidder. The next apparent low bidder shall then submit Form 2 and the solicitation letter on the next business day by 2:00 P.M.

Form 3. Monthly Subcontractor Payment and Utilization Report

DUE MONTHLY FROM THE AWARDED CONTRACTOR

Contractor shall list the contract amounts and payment amounts to ALL SUBCONTRACTORS (including subcontractors certified by COBID) and second-tier subcontractors on Form 3. All first-tier subcontractors with second-tier subcontractors shall also submit Form 3 on a monthly basis. Contractor shall complete and submit a Monthly Subcontractor Payment and Utilization Reports by the 15th of each month once work has commenced.

Delivery Method

Bidders may submit documentation for the GFE Program electronically, by fax, or in person. In-person bids must be received by staff in the Utility Billing Counter on the 2nd Floor of the Beaverton Building, located at 12725 SW Millikan Way, Beaverton, OR 97005. Electronic submissions must be sent to bidmail@BeavertonOregon.gov. Fax submissions must be sent to (503) 526-2490. Bidders are responsible for ensuring that electronic or fax submissions are received by the City in a timely manner. **Hard copy submissions are highly encouraged.**

Subcontractor Changes

1. Contractor is prohibited from adding or replacing a subcontractor certified by COBID after the bid is submitted or the contract is awarded unless Contractor receives written authorization from the Purchasing Agent. The Purchasing Agent must be immediately notified in writing once Contractor has the need to substitute a firm certified by COBID acting as a subcontractor.
2. No subcontractor may be added or replaced after the bid is due unless Contractor complies with the requirements of ORS 279C.585 and makes a GFE to contract with a firm certified by COBID for the work to be performed. Contractor must create and provide documentation of a GFE to the Purchasing Agent before adding or replacing a subcontractor.

Audit

If City reasonably believes that Contractor has violated the terms and conditions of the GFE Program, then City has the right to inspect and copy the books and records of Contractor and any subcontractor employed on the project to determine whether a violation has occurred.

If Contractor or any subcontractor fails to provide the books and records for inspection and copying when requested, Contractor's failure shall constitute a material breach of this contract and City may pursue the imposition of any remedies provided in the Enforcement subsection, including withholding progress payments.

Enforcement

Contractor's Failure to meet the terms and conditions of the GFE Program constitutes a material breach of the contract. If Contractor materially breaches the contract, City may take one or more of the following actions:

1. **Withhold Progress Payments.** City may withhold progress payments until Contractor has remedied the action causing the material breach of contract. If progress payments are withheld, then Contractor shall not be entitled to interest on the progress payments. If a subcontractor is responsible for the action causing the material breach of contract, then City may choose to withhold only that portion of the progress payment.
2. **Liquidated Damages.**
 - a. **Noncompliance.** The parties agree that it would be difficult to assess the actual damage incurred by the City for Contractor's failure to comply with the GFE Program. The parties further agree that it is difficult to determine the cost to the City when contracting opportunities are not provided. Therefore, if Contractor fails to comply with the GFE requirements of the GFE Program, then Contractor agrees to pay \$1,000 for each violation. These damages are independent of any liquidated damages that may be assessed due to any delay in the project caused by Contractor's failure to comply with this or other provisions of the contract.
 - b. **Delay.** Contractor agrees that any delay due to the specified Contract Time as a result of Contractor's failure to comply with the requirements of this section subjects Contractor to liquidated damages.
3. **Other Remedies.** The remedies provided above do not limit any other remedies available to City in the event Contractor fails to meet the terms and conditions of the GFE Program.

[Questions about the GFE Program may be directed to Terry Muralt, Purchasing Agent, at \(503\) 526-2229 or \[tmuralt@BeavertonOregon.gov\]\(mailto:tmuralt@BeavertonOregon.gov\).](#)

All forms are available online on the City's website at: www.BeavertonOregon.gov/Purchasing

GFE PROGRAM: DIVISIONS OF WORK

The following Divisions of Work (“DOW”) have been selected for this project.

Bidders may search for subcontractors certified through the State’s Certification Management System (COBID) at <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp> by using the National Institute of Governmental Purchasing (NIGP) codes. Bidders may also identify potential subcontractors certified by COBID by searching COBID certified suppliers registered with ORPIN at <http://orpin.oregon.gov>.

The NIGP Codes selected below are unique to this project: [Add or remove NIGP codes as necessary]

| NIGP Codes/Work Description | |
|--|--|
| <input type="checkbox"/> 91038 Asbestos Removal | <input type="checkbox"/> 91227 Irrigation |
| <input type="checkbox"/> 91395 Asphalt Paving | <input type="checkbox"/> 98852 Landscaping |
| <input type="checkbox"/> 91313 Bridges | <input type="checkbox"/> 91047 Lead Paint Abatement |
| <input type="checkbox"/> 91427 Carpentry | <input type="checkbox"/> 91455 Masonry |
| <input type="checkbox"/> 91219 Clearing/Grubbing/Mowing/Brushing | <input type="checkbox"/> 91458 Metal Fabrication |
| <input type="checkbox"/> 91382 Concrete Cutting | <input type="checkbox"/> 91461 Painting/Wallpapering |
| <input type="checkbox"/> 92519 Concrete Pumping | <input type="checkbox"/> 91468 Plumbing |
| <input type="checkbox"/> 91430 Concrete Work | <input type="checkbox"/> 91473 Roofing |
| <input type="checkbox"/> 91240 Demolition | <input type="checkbox"/> 96826 Rock Crushing |
| <input type="checkbox"/> 91216 Drilling/Boring | <input type="checkbox"/> 91345 Sewer, Water & Storm Drain Work |
| <input type="checkbox"/> 91075 Drywall/Sheetrock | <input type="checkbox"/> 90976 Site Clean Up |
| <input type="checkbox"/> 91438 Electrical | <input type="checkbox"/> 91276 Striping |
| <input type="checkbox"/> 91244 Excavating | <input type="checkbox"/> 91479 Structural Steed (Install/Erect) |
| <input type="checkbox"/> 98815 Fencing | <input type="checkbox"/> 92586 Surveying |
| <input type="checkbox"/> 91444 Floor Coverings | <input type="checkbox"/> 91068 Tank Decommission/Removal |
| <input type="checkbox"/> 91447 Glass Services | <input type="checkbox"/> 91483 Tile/Terrazzo/Marble Work |
| <input type="checkbox"/> 91223 Grading | <input type="checkbox"/> 96884 Traffic Control Services |
| <input type="checkbox"/> 96239 Hauling Services (Trucking) | <input type="checkbox"/> 96880 Traffic Sign Installation/Removal |
| <input type="checkbox"/> 92645 Hazardous Waste Removal | <input type="checkbox"/> 91356 Utilities |
| <input type="checkbox"/> 91036 HVAC | <input type="checkbox"/> 96894 Waterproofing |
| <input type="checkbox"/> 91453 Insulation | <input type="checkbox"/> 91485 Welding |
| | <input type="checkbox"/> 87090 Window coverings |

**GFE PROGRAM: FORM 1
SUBCONTRACTOR & SELF-PERFORM LIST**

Bidder Name: _____ Bid Number: _____

Project Name: _____ Total Bid Amount: _____

Bidders must identify all DOWs to be self-performed and subcontracted. DOWs not self-performed are subject to the GFE Program requirements. Before submitting, check to ensure *all* listed DOWs for this project appear in at least one of the two tables below.

| DIVISIONS OF WORK TO BE <u>SELF-PERFORMED</u> (GFE NOT REQUIRED) | |
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Note: Divisions of Work that will **not** be Self-Performed will be itemized on the next page.

GFE PROGRAM: FORM 1 (CONTINUED)

Bidder Name: _____ Solicitation Number: _____

Project Name: _____ Contact Person: _____

DIVISIONS OF WORK NOT TO BE SELF-PERFORMED
 (LIST ALL SUBCONTRACTORS—CERTIFIED AND NON-CERTIFIED)

| ALL SUBCONTRACTORS (Use the Subcontractor's complete legal name) | DIVISIONS OF WORK (PROVIDE DESCRIPTION) | DOLLAR VALUE OF SUBCONTRACT | LIST ALL CERTIFICATIONS (ESB; MBE, WBE, SDV, DBE, ACDBE) |
|--|--|--------------------------------|---|
| Name _____ Address _____ City/St/Zip _____ Phone _____ CCB# _____ | | | |
| Name _____ Address _____ City/St/Zip _____ Phone _____ CCB# _____ | | | |
| Name _____ Address _____ City/St/Zip _____ Phone _____ CCB# _____ | | | |

***ESB**: Emerging Small Business; **MBE**: Minority-owned Business; **WBE**: Women-Owned Business; **SDV**: Service-Disabled Veteran-Owned Business;
DBE or ACDBE: Disadvantaged Business Enterprise

GFE PROGRAM: FORM 1 (CONTINUED)

Bidder Name: _____ Solicitation Number: _____

Project Name: _____ Contact Person: _____

DIVISIONS OF WORK *NOT TO BE SELF-PERFORMED*
 (LIST ALL SUBCONTRACTORS—CERTIFIED AND NON-CERTIFIED)

| ALL SUBCONTRACTORS (Use the Subcontractor's complete legal name) | DIVISIONS OF WORK (PROVIDE DESCRIPTION) | DOLLAR VALUE OF SUBCONTRACT | LIST ALL CERTIFICATIONS (ESB; MBE, WBE, SDV, DBE, ACDBE) |
|--|---|--|--|
| Name _____ Address _____ City/St/Zip _____ Phone _____ CCB# _____ | | | |
| Name _____ Address _____ City/St/Zip _____ Phone _____ CCB# _____ | | | |
| Name _____ Address _____ City/St/Zip _____ Phone _____ CCB# _____ | | | |

***ESB**: Emerging Small Business; **MBE**: Minority-owned Business; **WBE**: Women-Owned Business; **SDV**: Service-Disabled Veteran-Owned Business;
DBE or ACDBE: Disadvantaged Business Enterprise

GFE PROGRAM: FORM 2 CONTACT & BIDS RECEIVED LOG

Bidder Name: _____ Solicitation Number: _____

Project Name: _____ Contact Person: _____

| COBID CERTIFIED SUBCONTRACTOR BUSINESS NAME | CONTACT NAME & DATE OF CONTACT | DIVISIONS OF WORK | DATE SOLICITATION WAS SENT | BID ACTIVITY (YES / NO) | | | REJECTED BIDS | |
|---|---|-------------------------|----------------------------------|----------------------------|--------------|-------------|---------------|--|
| | | PROVIDE DESCRIPTION* | | WILL BID | BID REC'D | BID USED | BID AMOUNT | REASON NOT USED (If "Other," please explain) |
| | | | | | | | | <input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other |
| | | | | | | | | <input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other |
| | | | | | | | | <input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other |
| | | | | | | | | <input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other |
| | | | | | | | | <input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other |
| | | | | | | | | <input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other |

* When possible, subcontractors contacted for the same or similar DOW should be grouped together.

GFE PROGRAM: FORM 3 MONTHLY SUBCONTRACTOR PAYMENT AND UTILIZATION REPORT

Date Submitted: _____ Report for FY: _____ Month: _____

Project Name: _____ Contract Number: _____

Prime Contractor: _____ Total Contract Amt.: _____

Progress Report No.: _____ Final Progress Report? Yes No

| NAME OF SUBCONTRACTOR* (INCLUDE <u>ALL</u> LISTED ON BID PLAN) | COBID Certified | LIST ALL CERTIFICATION(S) (List all that apply) | ORIGINAL AWARD AMOUNT | AMENDED AWARD AMOUNT (IF APPLICABLE) | TOTAL AMOUNT PAID THIS PAY PERIOD <u>ONLY</u> |
|---|--|---|-----------------------------|--|--|
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | |

* Before replacing, substituting, or adding any subcontractor, Contractor must receive written authorization from the Purchasing Agent.

** ESB: Emerging Small Business; MBE: Minority-owned Business; WBE: Women-Owned Business; SDV: Service-Disabled Veteran-Owned Business; DBE or ACDBE: Disadvantaged Business Enterprise

BY SIGNING BELOW, I HEREBY CERTIFY THAT THE BUSINESS HAS UTILIZED THE ABOVE LISTED FIRMS IN THE AMOUNTS REPRESENTED ABOVE AND THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE AND ACCURATE.

Authorized Signature of Contractor: _____ Date: _____

Printed Name of Signatory _____