



## Diversity Program

### Instructions to Bidders/Proposers

#### A. Overview of Policy

Houston First Corporation (“HFC”) is dedicated to promoting the growth and development of minority, women, and small and historically underutilized businesses by providing robust opportunities to participate in its procurement and service contracts. In support of this commitment, HFC has established a Diversity Program to ensure the maximum practicable inclusion of certified, diverse contractors and suppliers who can provide quality goods and services at competitive rates in all areas of its operations. It is the policy of Houston First Corporation to prohibit discrimination based on race, sex, religion, national or ethnic origin, age, or disability.

HFC’s policy is to strive for competitive pricing, qualifications and demonstrated competencies in the selection of all contractors. The Program is designed to create opportunities, while requiring competitiveness and quality of work. The Program allows HFC to target more effectively and continuously improve the participation of minorities, women and small and historically underutilized businesses in contracting and procurement activities.

As a local government corporation created by the City of Houston, HFC recognizes the City of Houston’s efforts to stimulate the growth of local small, minority, women and historically underutilized business enterprises by encouraging full participation of these businesses in various areas of city contracting. HFC has a contractual commitment to make good faith efforts to award contracts to certified minority and women-owned business enterprises and has adopted this commitment as part of this Program.

Nothing in the Program shall be construed to give a bidder or proposer (“Contractor”) any right or interest prior to the award and full execution of a contract. Compliance with all statutory and legal requirements is expected of all Contractors.

Contractors should also be sure that the MWBE subcontractor is certified as of the date that HFC receives the bid/offers and should provide verification by attaching certification certificates of all MWBEs identified to respond to meeting the Contract Goal.

To ensure that the Contractors are meeting participation goals for the project, the following enclosures are attached to these instructions:

- Contractor Utilization Plan
- Letter of Intent
- MWBE/HUB Unavailability Certification Form

**Contractors are required to submit the appropriate enclosures along with complete documentation of Good Faith Efforts accomplished to meet the goal. Failure to provide complete documentation of good faith efforts may result in your bid/proposal being deemed non-responsive.**

#### B. Contract Goal

An MWBE/HUB contract goal has been established as part of this solicitation. Accordingly, Contractors are required to use good-faith efforts to utilize certified businesses to meet the goal.

**1. Meeting the Contract Goal:**

Contractors may meet the MWBE/HUB contract goals by subcontracting portions of the work to currently certified businesses that perform a “Commercially Useful Function,” which means a discrete task or group of tasks performed by a business by using its own forces or by actively supervising on-site the work by another business for whose work the certified business is responsible. An MWBE/HUB will not be considered to be performing a Commercially Useful Function if it subcontracts more than seventy five percent (75%) of a contract being counted toward the applicable participation goal. Contractor may count toward its MWBE/HUB contract goal its expenditures for materials and supplies required under the contract and obtained from a certified business, provided that the business assumes actual responsibility for the provision of materials and supplies.

**2. The Responsive Contractor:**

To be considered a responsive Contractor as related to the MWBE/HUB contract goal, a Contractor must meet the goal referred to in the solicitation or make a documented good faith effort to attain the goal.

**3. The Responsible Contractor:**

The responsible Contractor must submit with a bid or proposal a Contractor Utilization Plan with the following to comply with the Program:

- a. Names and addresses of certified MWBE/HUB participating subcontractors and the work they are to perform,\*
- b. The dollar value of each proposed certified MWBE/HUB contract,
- c. Project work start and completion dates, and
- d. Documentation of good faith efforts, if applicable.

**\* NOTE: No changes will be allowed to the MWBE/HUB names listed after the response is submitted without prior written approval from the HFC President.**

**4. Enclosures 1 – 3:**

Requirements for the Program are addressed in Enclosures 1-3. Contractors must complete and return applicable enclosures.

**Enclosure 1 - Contractor Utilization Plan Form**

This document must be submitted by the Contractor for every MWBE/HUB subcontractor/consultant Contractor used to meet the goal. It must contain the information specified and must be signed by the Contractor. No changes may be made to the MWBE subcontractors listed and no additional MWBE/HUB subcontractors can be provided after responses have been submitted without prior written approval from the HFC President. **A copy of the current MWBE/HUB certificate for each listed entity must be attached in order for the MWBE/HUB subcontractor/consultant to be counted toward the assigned MWBE/HUB goal.**

**Enclosure 2 - Letter of Intent**

This document must be submitted by the Contractor for all the listed MWBE/HUB subcontractors/consultants listed on the **Contractor Utilization Plan Form**. This document verifies the intent of the Contractor to enter into a contract with the MWBE/HUB if awarded the contract. The Letter of Intent should be signed by both the MWBE and the non-MWBE/HUB Contractor.

**Enclosure 3 – MWBE/HUB Unavailability Certification Form**

This document must be submitted if the Contractor is unable to locate or contract with MWBE/HUB firms to meet the applicable goal. Contractor must document its Good Faith Effort to offer portions of the work to MWBEs/HUBs, advertise and provide information to the MWBE/HUB community regarding contract opportunities on the project.

**C. Compliance/MWBE Certification:**

The following are acceptable certification sources:

- City of Houston
- Houston Minority Supplier Development Council
- METRO's Small Business Certification Program
- Women's Business Enterprise Alliance
- Texas Department of Transportation's Unified Certification Program
- Texas Small Business Association

**D. Responsibilities of Contractors**

Contractors are required to make Good Faith Efforts to achieve their Contract Goal. The term "Good Faith Efforts" shall mean all commercially reasonable efforts necessary and practicable to increase the opportunities available to certified businesses in order to meet the applicable Contract Goal. Specific examples of Good Faith Efforts include, but are not limited to, the following:

1. Delivering of written notice of subcontracting opportunities on eligible contracts to the appropriate and industry-specific certified businesses;
2. Utilizing local or targeted newspapers, periodicals and local small business and minority and women-focused associations and websites for notice purposes regarding subcontracting opportunities;
3. Responding to requests for information from certified businesses regarding the eligible contract;
4. Ensuring that written notices contain the following:
  - a. adequate information about the plans, specifications, and relevant terms and conditions of the contract and about the work to be subcontracted to, or the goods to be obtained from, subcontractors and suppliers;
  - b. a contact person with the proposer's office to answer questions;
  - c. information regarding the proposer's bonding and insurance requirements; and
  - d. the last date for receipt by the proposer of certified business price quotations.
5. Attending any special pre-proposal meeting called to inform businesses of subcontracting or supply opportunities, if set forth in the proposal documents;
6. Dividing tasks within the eligible contract, in accordance with normal industry practice, into small, economically-feasible segments that can be performed by certified businesses;
7. Developing internal policies and procedures and designating an employee to monitor compliance with the Program;
8. Documenting and maintaining accurate and accessible records of such Good Faith Efforts to utilize women-owned, minority-owned and small-business programs;
9. Attending compliance meetings as requested by HFC;
10. Negotiating written contracts with certified businesses in good faith to provide goods or services related directly to the eligible contract; and
11. Submitting completed reports required by contract or requested by HFC completely and in a timely manner.

**E. Termination of MWBE/HUB Subcontract:**

Contractor shall not terminate a MWBE/HUB subcontractor for convenience and then perform that work with its own forces or its affiliate without the HFC President's prior written approval.

**F. Defaulting MWBE Subcontractors:**

Contractor must make a good faith effort to replace a defaulting MWBE/HUB with another certified MWBE/HUB. Contractor must notify HFC immediately of the MWBE's/HUB's inability to perform and of the intent to obtain a substitute certified MWBE/HUB. Contractor must provide HFC with reasonable documentation of the defaulting subcontractor's inability to perform, as well as Contractor's good faith efforts to come to terms with the MWBE/HUB subcontractor. The substitute MWBE/HUB must receive prior written approval by HFC's President. When Contractor obtains a substitute MWBE/HUB, Contractor will notify HFC and provide copies or descriptions of the new or amended subcontracts and a certification for each new MWBE/HUB.

**G. Failure to Comply:**

If HFC finds that Contractor has failed to comply with the requirements of this Program, then HFC will notify Contractor in writing. Contractor shall immediately take corrective action. If Contractor fails or refuses to comply in the time specified, HFC may issue an order to delay all or part of payment until satisfactory action has been taken. If Contractor continues non-compliance, HFC may recommend an issue of termination for default of contract.

**H. Records and Documents:**

It is Contractor's responsibility to maintain records and documents that indicate compliance with the Program for three (3) years following the performance of the contract. Those records shall be made available at reasonable times and places for inspection upon request by HFC, with any other compliance information that HFC may require. This reporting requirement is also extended to any certified MWBE/HUB subcontractor.

**I. Reporting:**

To ensure that the MWBE/HUB contract goal is met by Contractor, Contractor must provide the following documentation each month as a requirement for processing all invoices for payment.

**1. Progress Assessment Report of Work Subcontracted**

This form must be submitted by Contractor and will be used to provide a cumulative account of Contractor's participation level in various work categories. The form should also be signed by Contractor and submitted with each monthly invoice as a requirement for payment processing.

**2. Subcontractor/Contractor Partial Release of Liens Payment Certification**

This document must be submitted for each MWBE/HUB subcontractor/supplier on the project and submitted with each invoice. It will be required documentation for payment processing. It will be used to verify that MWBEs/HUBs are being paid and to verify the progress of their contracts.

**3. Subcontractor/Consultant Payment Certification**

This document must be submitted for each MWBE/HUB subcontractor/consultant on the project and submitted with each invoice. It will be required documentation for payment processing. It will be used to verify that each MWBE/HUB is being paid and to verify the progress of their contracts.

**Additionally, the following documents are required as indicated.**

**1. Affidavit of MWBE/HUB Contractor Change**

This document is used by the Contractor to request approval for changing a MWBE/HUB subcontractor presently working on the project. The document should include the name of the

subcontractor removed from the project, the scope of work performed by the subcontractor, the existing contract value, and the reason for the change.

2. Each Contractor shall, upon request, provide a copy of the MWBE/HUB firm's scope of work and subcontract agreement or letter of intent that describes the anticipated services the MWBE/HUB firm will provide.
3. When the contract expires or is terminated, an "End-of-Contract Report" must be submitted to HFC. The "End-of-Contract Report" must include all information noted on the Progress Assessment Report. This report will list final payments to all MWBE/HUB subcontractors to ensure that the actual amount paid to the MWBE/HUB subcontractors equals or exceeds the dollar amounts stated in the Enclosure. All discrepancies must be noted and explained.

**J. Payments:**

Contractor must pay MWBEs/HUBs for satisfactory performance of their contracts by contract or no later than ten business days from the receipt of payment made to Contractor by HFC. Prompt return of retainage payments from Contractor to the MWBE/HUB shall be made by contract or within ten business days after the subcontractor's work is satisfactorily completed. Failure to comply with the above may be considered to be a breach of contract.



**CONTRACTOR UTILIZATION PLAN**

Respondents' Total Bid Value: \_\_\_\_\_

	<b>BUSINESS TYPE (Prime, Subcontractor, Supplier, Consultant)</b>	<b>BUSINESS STATUS (MWBE, HUB)</b>	<b>TYPE OF MEANINGFUL WORK TO BE PERFORMED</b>	<b>START DATE</b>	<b>END DATE</b>	<b>APPROX. DOLLAR VALUE</b>	<b>% OF PRIME BID VALUE</b>
<b>Business Name:</b>							
<b>Business Address:</b>							
<b>Telephone #:</b>							
<b>Contact Person:</b>							
<b>Business Name:</b>							
<b>Business Address:</b>							
<b>Telephone #:</b>							
<b>Contact Person:</b>							
<b>Business Name:</b>							
<b>Business Address:</b>							
<b>Telephone #:</b>							
<b>Contact Person:</b>							
<b>TOTAL CONSULTANT</b>							
<b>TOTAL SUB-CONTRACTOR</b>							
<b>TOTAL SUPPLIER</b>							
<b>GRAND TOTAL</b>							

Company Name: \_\_\_\_\_

\_\_\_\_\_  
 (Signature) (Title) (Date)



**LETTER OF INTENT**

The undersigned contractor and MWBE/HUB subcontractor will enter into a formal agreement for the work listed on the Contractor / Consultant / Supplier Utilization Plan form conditioned upon the contractor's execution of a contract with Houston First Corporation (HFC).

MWBE/HUB Name: \_\_\_\_\_

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

\_\_\_\_\_

Telephone #: \_\_\_\_\_

Scope of Work: \_\_\_\_\_

\_\_\_\_\_

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

Projected Completion Date: \_\_\_\_\_

Estimated Contract Value: \_\_\_\_\_

**NOTICE**  
\_\_\_\_\_% of the dollar value of this MWBE/HUB subcontract will be sublet and/or awarded to a non-MWBE contractor and/or non-MWBE supplier/consultant

MWBE/HUB Subcontractor Company Name: \_\_\_\_\_

\_\_\_\_\_  
[signature] [title] [date]

Contractor Name: \_\_\_\_\_

\_\_\_\_\_  
[signature] [title] [date]





- Made efforts to assist interested MWBEs/HUBs in obtaining bonding, lines of credit, insurance or any necessary equipment, supplies, materials, etc.:

[list any specific offers made by respondent]

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- Solicited the following MWBEs/HUBs:

Date Contacted	Name of MWBE/HUB Firm	Contact Person	Phone #	Work Category

- Followed up with initial contacts:

Date	Name of MWBE/HUB	Phone #	Bidding (Yes or No)	Additional Comments

- Contacted the following other agencies, organizations in recruitment of MWBEs/HUBs:

Date	Organization	Phone #

As shown by the documentation provided to HFC, we feel that we have made good faith efforts to attain the MWBE/HUB Goal.

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

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