**CITY OF BILOXI**

**SECTION 904 - NOTICE TO BIDDERS NO. 6**

**DATE: 08/24/2023**

**SUBJECT: MBE/DBE/WBE REQUIREMENTS**

While this project does not have a minimum MBE/DBE/WBE participation goal to meet, CONTRACTOR and OWNER are required to show good faith efforts to employ MBE/DBE/WBE firms in this project. In order to show good faith efforts to meet Minority Business Enterprise (MBE)/Disadvantage Business Enterprise (DBE)/Women’s Business Enterprise (WBE) participations on this contract, CONTRACTOR must document good faith efforts to employ MBE/DBE/WBE firms in accordance with 2 CFR Part 200.321.

“Good faith efforts” means the CONTRACTOR shall take all necessary and reasonable steps to:

(1) Place qualified small and minority businesses and women’s’ business enterprises on solicitation lists:

(2) Assure that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

(3) Divide total requirements, when economically feasible into small tasks, or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;

(4) Establish delivery schedules, where the requirement permits, which encourages participation by small and minority businesses, and women’s business enterprises:

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and the Office of Civil Right of the Mississippi Department of Transportation

BIDDERS are responsible for making relevant portions of the work available to MBE/DBE/WBE subcontractors and suppliers so as to facilitate MBE/DBE/WBE participation. The following list of actions may be considered as a part of the BIDDERS/CONTRACTORS good faith efforts. This is list is not mandatory, nor is it intended to be exclusive or exhaustive, other factors or types of efforts may be relevant in appropriate cases.

1. BIDDERS should identify items of work to be performed by MBE/DBE/WBE firms. BIDDERS should break out contract work items into economically feasible units to facility MBE/DBE/WBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own forces does not relieve the BIDDER/CONTRACTOR of the responsibility to make good faith efforts.
2. BIDDERS should include a list of identified MBE/DBE/WBE firms that are available to perform the identified items of work. BIDDERS should include proof of MBE/DBE/WBE certification and proof of ability to perform identified items of work.
3. BIDDERS should provide written solicitation to all identified firms at least ten (10) days prior to bid opening to allow sufficient time for MBE/DBE/WBE firms to respond. Written solicitation should be sent by first-class mail, facsimile, or email.
4. BIDDERS should provide adequate information to the MBE/DBE/WBE firms about the project including but not limited to plans, specifications, time schedule, etc for the portions of work to be performed by the MBE/DBE/WBE in order to assist the firms in responding.
5. BIDDERS should use all reasonable and available means to solicit and follow up on solicitations sent to identified firms.
6. BIDDERS should negotiate in good faith with interested MBE/DBE/WBE firms and provide evidence of negotiation including but not limited to:
   1. The names, addresses, emails, and telephone numbers of MBE/DBE/WBE firms that were considered;
   2. A description of the information provided regarding the plans and specification for the work selected for subcontracting and the means used to provide that information;
   3. Dates and method of contact (letter, fax, email, telephone, meeting, etc.)
   4. Detailed statement as to why agreements could not be reached for those MBE/DBE/WBE firms not selected.

The fact that there may be some additional costs involved in finding and using MBE/DBE/WBE firms is not in itself sufficient reason for a BIDDER’S failure to meet these requirements, as long as the costs are reasonable. BIDDERS may not use its price for self-performing work solely as a basis for rejecting an MBE/DBE/WBE firms’ quote as excessive or unreasonable.

Factors to take into consideration when assessing the capabilities of an MBE/DBE/WBE firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.

In making a determination of good faith effort, the OWNER may take into account the good faith effort of other BIDDERS in meeting these requirements. If the apparent low BIDDER meets or exceeds the average MBE/DBE participation obtained by other BIDDERS, this could be viewed as evidence of the apparent low bidder having made good faith effort. If the apparent low BIDDER fails to meet good faith efforts, but other BIDDERS meet it, this reasonably raises the question to whether with addition reasonable efforts the apparent low BIDDER could have met the goal.

BIDDERS shall submit the forms found in Section 905G – 905I with their bid package to demonstrate that they took good faith efforts to employ MBE/DBE/WBE participation. Failure to submit said forms may result in disqualification of bid.