

CITY OF AUSTIN



CITY CODE CHAPTER 2-9A AND 2-9B

ALTERNATIVE DELIVERY METHOD DESIGN/BUILD

(PROFESSIONAL SERVICES/CONSTRUCTION)

MBE/WBE PROCUREMENT PROGRAM

Solicitation Name: Mueller Energy Center Chiller Capacity Addition

Solicitation Number: RFQS 6100 CLMA038

Issue Date: 6/8/2020

Table of Contents

MBE/WBE GOALS	3
OVERVIEW	3
MBE/WBE COMPLIANCE PLAN INSTRUCTIONS	5
Section I Project Identification and Goals.....	5
Section II Proposer Information.....	5
Section III MBE/WBE Compliance Plan Summary & Statement of Responsibility.....	5
Section IV Disclosure of MBE and WBE Subconsultants.....	5
Section V Disclosure of Non-Certified Subconsultants.....	7
Section VI Disclosure of Second-Level Subconsultants.....	7
Section VII MBE/WBE Compliance Plan Checklist.....	7
GOOD FAITH EFFORTS INSTRUCTIONS	8
Contacting Potential MBE/WBE Subconsultants.....	8
Good Faith Efforts Review.....	9
POST-AWARD INSTRUCTIONS	11
Confirmation Letters.....	11
Post-Award Monitoring.....	11
▪ Payment Verification.....	11
▪ Change Order/Contract Amendments.....	11
▪ Progressive Sanctions.....	12
MBE/WBE COMPLIANCE PLAN	13
LETTER TO POTENTIAL SUBCONSULTANTS	20
CONFIRMATION LETTER	21

MBE/WBE GOALS

Annual/Project Participation Goals		Annual/Project Participation			
		Subgoals			
MBE	%	OR	African American	1.90	%
WBE	%		Hispanic	9.00	%
Combined MBE/WBE	%		Asian/Native American	4.90	%
			WBE	15.80	%

OVERVIEW

This document should be read in conjunction with the City of Austin’s Minority-owned and Women-owned Business Enterprise Procurement Program Ordinance for Commodities (Chapter 2-9A & 2-9B of the Austin City Code) and the Small and Minority Business Resources Department (SMBR) Rules. The definitions contained in Chapter 2-9A & 2-9B apply to this document. The City Code and Rules are amended from time to time and the Proposer is responsible for ensuring they have the most up to date version. The City Code and Rules are incorporated into this document by reference. Copies of Chapter 2-9A & 2-9B and SMBR Rules may be obtained online at <http://www.austintexas.gov/smbrdocuments> or from SMBR, 4201 Ed Bluestein, Austin, Texas 78721 (512) 974-7600.

Design-Build Project: The City has issued initial MBE/WBE goals for the Design Phase of this project and the Proposer shall submit with its qualifications response a MBE/WBE Compliance Plan meeting such goals or documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals.

Additionally, the City has determined that subcontracting opportunities will arise for Construction Phase for this project; however the specific scopes of work and the magnitude of the scopes of work cannot be determined until the design for the project has been substantially completed. When the design documents have been substantially completed, the City will establish appropriate MBE/WBE goals, and the Design-Builder shall submit a MBE/WBE Compliance Plan meeting the goals or documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals.

Firms or individuals submitting responses to this Solicitation agree to abide by the City’s Minority-owned and Women-owned Business Enterprise (MBE/WBE) Procurement Program and Rules. The City’s MBE/WBE Program is intended (1) to promote and encourage MBEs and WBEs to participate in business opportunities with the City of Austin; (2) to afford MBEs and WBEs an equal opportunity to compete for work on City contracts; and (3) to encourage contractors to provide subcontracting opportunities to certified MBEs and WBEs by soliciting such Firm for subcontracting opportunities. The City of Austin and its contractors shall not discriminate on the basis of race, color, national origin, disability, or gender in the award and performance of contracts.

The City encourages Proposers to achieve the MBE/WBE participation goals and subgoals for this contract. However, Proposers may comply with the City Code and Rules without achieving the participation goals so long as they make and document Good Faith Efforts that would allow MBE and WBE participation per Section 2-9A & 2-9B-21 of the City Code and Section 9.1 of the Rules. Proposers that do not meet the project’s goals and subgoals are subject to Good Faith Efforts review.

Prior to the due date and time specified in the City’s solicitation documents, all Proposers (including those Firms certified as MBE/WBEs) shall submit: (1) an *MBE/WBE Compliance Plan* (Appendix A) and (2) if it is anticipated the project goals will not be met, all appropriate documentation to demonstrate Good Faith Efforts to meet the project goals. Any questions regarding preparation of the *MBE/WBE Compliance Plan* should be directed to SMBR at SMBRComplianceDocuments@austintexas.gov. Such contact is not a violation of the Anti-Lobbying Ordinance.

The City has implemented Anti-Lobbying Ordinance (Chapter 2-7 of the Austin City Code). Under Chapter 2-7, there is a “no-contact” period from the date the City issues a solicitation until the contract is executed. During the “no-contact” period, a person responding to a City solicitation can speak only to the contract’s authorized contact person regarding their solicitation response. Chapter 2-7 allows certain exceptions; for instance, a person responding to a City solicitation may speak to SMBR regarding this *MBE/WBE Compliance Plan*. See the full language of the City Code or solicitation documents for further details.

MBE/WBE COMPLIANCE PLAN INSTRUCTIONS

(See Appendix A)

If the *MBE/WBE Compliance Plan* and Good Faith Efforts documentation are not submitted prior to the due date specified in the solicitation documents, the bid will be deemed non-responsive and not be accepted for consideration.

SMBR may request written clarification of items listed on the *MBE/WBE Compliance Plan*. However, there will be no further opportunity for the Proposer to augment the MBE/WBE participation originally listed in the *MBE/WBE Compliance Plan* or to demonstrate Good Faith Efforts that were not made prior to the submission of the *MBE/WBE Compliance Plan*. Changes to the *MBE/WBE Compliance Plan* are permitted only after contract execution and only with prior written approval of SMBR.

Please type or clearly print all information, use “none” or “N/A” where appropriate, and sign and date the *MBE/WBE Compliance Plan* as indicated. ***MBE/WBE Compliance Plans* not complying with the *MBE/WBE Compliance Plan* Instructions shall be rejected as non-responsive. Submissions not utilizing the forms provided with the solicitation may render the submission nonresponsive or noncompliant.**

Section I Project Identification and Goals

This section includes the pre-printed Project Name, Project/Solicitation Number, and goals and/or subgoals. The Proposer does not need to fill in any information under Section I.

Section II Proposer Information

The Proposer should complete this section with its information and sign in the space provided. The portion of Section II marked as “Reserved for City of Austin SMBR Only” should be left blank.

Section III MBE/WBE Compliance Plan Summary & Statement of Responsibility

This section is a summary of subconsultant participation for this proposal. Proposer should complete Sections IV-VII, described below, before attempting to complete Section III. After completing Sections IV-VI, calculate the percentage of MBE/WBE participation for each goal and enter the information in the blanks provided. Because Section III is a summary, if there are any inconsistencies between Sections IV-VI and Section III, the calculations contained in Sections IV-VII will prevail. If the Proposer indicates that they do not anticipate meeting the goals with certified MBE/WBE firms, then the Proposer shall submit documentation detailing their Good Faith Efforts to meet the established MBE/WBE goals. The MBE/WBE Compliance Plan will be reviewed and approved by the Small and Minority Business Resources Department.

Section IV Disclosure of MBE and WBE Subconsultants

Please list all certified MBE/WBEs subconsultants using the legal name under which they are registered to do business with the City of Austin and the value of the work they will be performing themselves. Do not include the value of work that the MBE/WBE’s subconsultants will be subcontracting to second-level subconsultants. By listing certified MBE and WBE Firms on the MBE/WBE Compliance Plan, the Proposer indicates that both parties acknowledge the price and scope of service and that they are prepared to contract for that percentage and scope if the City awards the project to the Proposer. A Confirmation Letter does not replace a subcontract agreement between a prime consultant and a subconsultant.

2-9A and 2-9B

Before completing Section IV of the *MBE/WBE Compliance Plan*, please read the following instructions regarding how to count MBE/WBE participation: (Note: Some areas are applicable for construction phase only.)

- (A) Only the value of the work actually performed by the MBE/WBE shall be counted toward the goals. This includes when applicable:
- (1) work performed by the MBE/WBE's own forces;
 - (2) the cost of supplies, materials, or equipment purchased, leased, or otherwise obtained by the MBE/WBE for the work of the contract (except that supplies, materials, and equipment purchased or leased from the prime contractor or its affiliate may not be counted toward the goal); and
 - (3) fees or commissions charged by an MBE/WBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- (B) When a Proposer purchases supplies, materials, or equipment from an MBE/WBE, the cost of those supplies, materials, or equipment shall be counted toward the goals as follows:
- (1) If the supplies, materials, or equipment are obtained from an MBE/WBE that is a Manufacturer or Regular Dealer, 100 percent of the payment for the supplies, materials, or equipment shall be counted toward the goals.
 - (2) If the supplies, materials, or equipment are obtained from an MBE/WBE that is neither a Manufacturer nor a Regular Dealer, the cost of the materials and supplies themselves shall not be counted toward the goals. However, fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, may be counted toward the goals if the payment of such fees is a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.
- (C) When an MBE/WBE subconsultant listed on the MBE/WBE Compliance Plan subcontracts part of the work of its contract to another Firm, the value of that second-level subcontracted work may not be counted toward the goals based on the initial subconsultant's MBE/WBE certification. Please see Section VI for an explanation of how to count the value of second-level subcontractors' work.
- (D) A Firm owned by a minority woman may be certified as both an MBE and a WBE (dual certified). On a single contract, the value of the work performed by a dual certified subconsultant may not be counted toward both the MBE and the WBE goals. The Proposer must decide whether to designate the dual certified subconsultant as an MBE or a WBE in the MBE/WBE Compliance Plan for the purpose of meeting the goals set for that contract. That designation may not be changed for the duration of the contract.
- (E) When an MBE/WBE performs as a participant in a certified Joint Venture, only the portion of the contract value that is the result of the distinct, clearly defined portion of the work that the MBE/WBE performs with its own forces and for which it is at risk shall be counted towards the project goals. For more specific information regarding requirements and evaluations of certified MBE/WBE Joint Ventures, please see the City's MBE/WBE Procurement Program Rules or contact SMBR's Certification Division.

(F) Only expenditures to an MBE/WBE subconsultant that is performing a Commercially Useful Function shall be counted toward the project goals. If SMBR makes an initial determination that an MBE/WBE is not performing a Commercially Useful Function given the type of work involved and normal industry practices, the MBE/WBE may present evidence to rebut this presumption.

(G) To be counted toward project goals, MBE/WBEs must be certified by SMBR prior to the due date to submit the MBE/WBE Compliance Plan as specified in the City’s solicitation documents. A Firm that is certified as an MBE/WBE at the time that the MBE/WBE Compliance Plan is filed may cease to be a certified Firm before the contract is completed. Only the value of the work performed by such a Firm while it is certified may be counted toward the project goals.

Section V Disclosure of Non-Certified Subconsultants

Please list all known non-certified subconsultants, using the legal name under which they are registered to do business with the City of Austin, to be used in the performance of this contract. If Proposer will not use any non-certified Firms, please write “N/A” in the first box on this page.

The scopes of service indicated in Section V will be considered subcontracting opportunities for MBEs and WBEs, unless it is demonstrated that certified MBEs or WBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved. If Proposer did not meet the project goals, Proposer must explain in the space provided why MBEs/WBEs were not used as subcontractors and ***submit documentation for the stated reason if applicable***. If Proposer did meet the project goals, please indicate “Goals Met” in the space provided.

Section VI Disclosure of Second-Level Subconsultants

Please complete this section if Proposer knows that one or more of Proposer’s subconsultants will subcontract part of the work of their contracts to second-level subconsultant. In the last line of each entry box, please write the name of the first-level subconsultant that will be subcontracting work to the second-level subconsultant. Identify second-level subconsultant by the legal name under which they will be registered to do business with the City. The first-level subconsultant should be listed in Section IV or Section V. If Proposer is not aware of any second-level subconsultant, please write “N/A” in the first box on this page.

As discussed in Section IV above, when an MBE/WBE subconsultants subcontracts part of the work of its contract to another Firm, the value of that second-level subconsultant work may not be counted toward the goals based on the initial subconsultant MBE/WBE certification. The value of the second-level subconsultant work may be counted toward the project goals only based on the second-level subconsultants own MBE/WBE certification, if any. Work that an MBE/WBE subcontracts to a non-certified firm does not count toward the goals. Work that an MBE/WBE subcontracts to another certified firm shall not be counted twice towards the goal.

Section VII MBE/WBE Compliance Plan Checklist

Please complete the *MBE/WBE Compliance Plan Checklist* with the information requested if the stated project goal(s) are not met.

GOOD FAITH EFFORTS INSTRUCTIONS

(See Appendices B and D)

The Proposer has a responsibility to make a portion of the work available to MBE/WBE subconsultants so as to facilitate meeting the goals or subgoals. If the Proposer cannot achieve the goals or subgoals, documentation of the Proposer's Good Faith Efforts to achieve the goals or subgoals must be submitted at the same time as the MBE/WBE Compliance Plan. The SMBR Director will review the documentation provided and determine if the Proposer made sufficient Good Faith Efforts. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a Proposer's failure to meet the goals and subgoals, as long as such costs are reasonable. However, a Proposer is not required to accept a higher quote from a subconsultant in order to meet a goal or subgoal.

Contacting Potential MBE/WBE Subconsultants

The City has determined the scopes of services for this project and provided an Availability List of all the MBE and WBE firms certified to perform those scopes. The *Availability List* (Appendix D) is included with the solicitation documents and has two sections: *Vendors Within the Significant Local Business Presence (SLBP) Area* and *Vendors Outside the Significant Local Business Presence (SLBP) Area*. As part of Good Faith Efforts, Proposers **must** contact **all** firms listed in the *Vendors Within the SLBP Area* section. Please note that every firm on the Availability List – outside the SLBP – is City-certified as an MBE or WBE for purposes of meeting the project goals, and Proposers are encouraged to contact all the firms. If a Proposer identifies an additional scope of services for this project not identified in the solicitation, the Proposer must request from SMBR an Availability List for that scope of work and contact all firms, if any, on such list. The SMBR Director determines whether the Proposer has made sufficient Good Faith Efforts if goals or subgoals are not met.

The City neither warrants the capacity or availability of any Firm, nor does the City guarantee the performance of any Firm indicated on the availability list.

The availability list is sorted in numerical sequence by National Institute of Governmental Purchasing (NIGP) Commodity Code. It includes all certified MBE/WBE vendors for the scopes of work identified by the City as being potentially applicable to this project. However, the availability list is not a comprehensive identification of all areas of potential subcontracting opportunities. If a Proposer identifies one or more work areas that are appropriate subcontracting opportunities that not included on the availability list, the Proposer shall contact SMBR to request the availability list for MBE and WBE Firms in those areas. Requests for supplemental availability lists will be evaluated as a part of the Proposer's Good Faith Efforts to meet the goals.

If the Proposer believes any of the work areas on the availability list are not applicable to the project's scope of work or if the Proposer believes that the lists are inaccurate, the Proposer shall notify the authorized contact person of the concern immediately and prior to submission of the response to the solicitation. All Proposers will be notified in writing of any inaccuracy by addendum to the solicitation. Concerns about a particular MBEs/WBE's certification status may be addressed to SMBR at SMBRComplianceDocuments@austintexas.gov. If the Proposer wants to use a certified subconsultant that does not appear on this list, Proposer may request from SMBR or visit https://www.ci.austin.tx.us/financeonline/vendor_connection/search/vendors/certvendor.cfm for proof of certification and the specific work areas for which the subconsultant has been certified.

Appendix B provides a format for collecting required information from the subconsultants on the *Availability List*. The information must be obtained at least seven (7) business days prior to the submission of the *MBE/WBE Compliance Plan*; alternate formats may be acceptable as long as they gather the same required information. Included with the solicitation documents is an alphabetized list containing the names and addresses of the MBE/WBE Firms listed on the Appendix D. This list is in label format and is designed to facilitate the printing of mailing labels.

The following codes are used on the availability lists:

F	Female	M	Male
AA/B	African American	H	Hispanic
A/NA	Asian/Native American	W/C	Caucasian
LOC	A firm's two-digit location code (e.g., SL or TX)	AU	Austin
SL	Significant Local Business Presence (SLBP)	TX	Outside SLBP
MBE	A firm certified as a Minority-owned Business Enterprise	WBE	A firm certified as a Woman-owned Business Enterprise
MWB	A firm certified as both a Minority-owned & Woman-owned Business Enterprise	WMB	A firm certified as both a Woman-owned & Minority-owned Business Enterprise
MWDB	A firm certified as a Minority-owned, Woman-owned, and Disadvantaged Business Enterprise	WMDB	A firm certified as a Woman-owned, Minority-owned, and Disadvantaged Business Enterprise

Good Faith Efforts Review

If goals are not met, SMBR will examine the *MBE/WBE Compliance Plan* and the Good Faith Efforts documentation submitted with the *MBE/WBE Compliance Plan* to ensure that the Proposer made Good Faith Efforts to meet the project goals or subgoals. In determining whether the Proposer has made Good Faith Efforts, SMBR will consider, at a minimum, the Proposer's efforts to do the following:

- (A) Solicit certified MBE/WBE subconsultants with a Significant Local Business Presence (SLBP) and request a response from those interested subconsultants who believe they have the capability to perform the work of the contract through at least two reasonable, available, and verifiable means. The Proposer must solicit this interest more than seven (7) business days prior to submission of the *MBE/WBE Compliance Plan* to allow sufficient time for the MBEs or WBEs to respond. (The date bids/proposals are due to the City should not be included in the seven day solicitation criteria). The Proposer must state a specific and verifiable reason for not contacting each certified Firm with a significant local business presence.
- (B) Provide interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner, to assist them in responding and submitting a proposal.
- (C) Negotiate in good faith with interested MBEs/WBEs that have submitted bids/proposals to the Proposer. An MBE/WBE that has submitted a bid to a Proposer but has not been contacted within five (5) business days of submission of the bid may contact SMBR to request a meeting with the Proposer. Evidence of good faith negotiation includes the names, addresses, and telephone numbers of MBEs/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs/WBEs to perform the work. Bid shopping is prohibited.
- (D) Select portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the MBE/WBE goals or subgoals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the Proposer might otherwise prefer to perform these work items with its own forces.

- (E) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via electronic/social media).
- (F) Use the services of available community organizations; minority persons/women consultants' or groups in the applicable field for the type of work described in this solicitation; local, state, and federal minority persons/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs.
- (G) Seek guidance from SMBR on any questions regarding compliance with this section.

The following factors may also be considered by SMBR in determining compliance through good faith efforts; however, they are not intended to be a mandatory checklist, nor are they intended to be exclusive or exhaustive, if applicable:

- (A) Whether the Proposer made efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or consultant.
- (B) Whether the Proposer made efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

In assessing minimum good faith efforts, SMBR may consider whether the Proposer sought assistance from SMBR on any questions related to compliance with this section. In addition, SMBR may also consider the performance of other Proposers successfully meeting the goals.

The ability or desire of a Proposer to perform the work of a contract with its own organization does not relieve the Proposer of the responsibility to make Good Faith Efforts.

Proposers may reject MBE/WBEs as unqualified only following thorough investigation of their capabilities. The MBE/WBE's membership or lack of membership in specific groups, organizations, or associations, and political or social affiliations (for example union or non-union employee status), are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Proposer's efforts to meet the project goals or subgoals.

At a minimum, the following should be submitted to support Good Faith Effort documentation (documentation is not limited to this list):

- Fax logs, emails, and/or copies of documents sent to firms within the SLBP area
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information)
- Phone logs with responses (*Phone contacts, alone, will not be sufficient.*)
- Lists and copies of letters sent by mail, hand delivered, or e-mailed
- Breakdown of negotiations made with certified firms
- Copies of advertisements with local newspapers, trade associations, Chambers of Commerce and/or any other public media
- Other communications regarding contacts with trade associations and Chambers of Commerce

The following additional Good Faith Efforts factors may also be considered, if applicable:

- Copies of emails or phone logs regarding assistance in bonding, lines of credit, or insurance (as required by City or Consultant)
- Copies of emails or phone logs regarding assistance in obtaining equipment, supplies, materials, or services
- Copies of all proposals received in response to Proposer contacting other Firms

POST-AWARD INSTRUCTIONS

(See Appendix C)

Confirmation Letters

All Proposers are required to include copies of the confirmation letters received from subconsultants, confirming the Subconsultants' willingness to provide services should the contract be awarded.

Changes to the *MBE/WBE Compliance Plan* including additions, deletions, contract changes, or substitutions of subconsultants are permitted only after contract execution and only with prior written approval of SMBR. Request for changes to the *MBE/WBE Compliance Plan* must be submitted on the Request for Change of *MBE/WBE Compliance Plan* Form for all levels of subcontracting and must be approved by the SMBR Director prior to adding, deleting, changing or substituting any subconsultant.

Post-Award Monitoring

The City will monitor post-award compliance information regarding the use of certified MBE/WBE Firm(s) listed on the *MBE/WBE Compliance Plan*. The Proposer will be required to submit post award reports detailing the utilization of all subconsultants. The reports and other information regarding post-award compliance will be discussed with the successful Proposer. The following information on Payment Verification, Change Order, if applicable/Contract Amendments, and Progressive Sanctions provides an overview of some of the post-award monitoring process.

▪ Payment Verification

Proposers are advised that the contract resulting from this solicitation includes a subconsultant payments clause. This clause requires all subconsultants to be paid within ten (10) calendar days from the date that the Proposer has been paid by the City for invoices submitted by subconsultants.

The Proposer shall submit a *Subcontractor/Supplier Awards and Expenditures Report* to the project manager and/or contract administrator at the time specified by the managing department. The report shall be in the format required by the City and shall include all awards and payments to subconsultants for services provided under the contract during the previous month. This report may be used by the City to verify utilization of and payment to MBEs and WBEs.

The Proposer and/or any subconsultants whose subcontracts are being counted toward the MBE/WBE requirements shall allow the City access to records relating to the contract, including but not limited to, subcontracts, payroll records, tax information, and accounting records, for the purpose of determining whether the MBEs/WBEs are performing the scheduled subcontracted work.

In determining achievement of MBE/WBE goals, the participation of an MBE/WBE subconsultant shall not be counted until the amount being counted toward the goal has been paid.

▪ Change Order/Contract Amendments

The goals on this contract shall also apply to change orders that require work beyond the scope(s) of trades originally required to accomplish the project when applicable. The Proposer is required to make Good Faith Efforts to obtain MBE/WBE participation for additional scopes of work or service.

Change orders that do not alter the type of trades originally required to accomplish the project may be undertaken using the subconsultants already under contract to the Proposer. Project managers will have automatic SMBR approval to authorize any change order that **increases** the contract amount for an **existing** certified subconsultant and is **within** the existing scope being performed by that subconsultant.

▪ **Progressive Sanctions**

The successful Proposer's MBE/WBE Compliance Plan will be incorporated into the resulting contract with the City and shall be considered part of the consultant's performance requirements. Progressive sanctions may be imposed for failure to comply with Chapter 2-9A & 2-9B of the City Code, including:

- Providing false or misleading information in Good Faith Efforts documentation, post award compliance, or other Program operations;
- Substituting Subconsultants without first receiving approval for such substitutions, which may include the addition of an unapproved Subconsultants and failure to use a Subconsultant listed in the approved MBE/WBE Compliance Plan ; and
- Failure to comply with the approved MBE/WBE Compliance Plan without an approved Request for Change, an approved Change Order, if applicable, or other approved change to the Contract.

Please refer to Section 2-9A & 2-9B-25 of the City Code and SMBR Rule 11.5 for additional information.

MBE/WBE COMPLIANCE PLAN

All applicable sections must be completed and submitted by the due date and time as indicated in the solicitation documents.

Section I — Project Identification and Goals

Project Name	
Solicitation Number	

Project Goals or Subgoals	
Combined MBE/WBE	%
MBE	%
African American	1.90 %
Hispanic	9.00 %
Asian/Native American	4.90 %
WBE	15.80 %

Section II — Proposer Company Information

Company Name		
Address		
City, State Zip		
Phone		
Fax		E-Mail
Name of Contact Person		
Is your company registered on Vendor Connection?	Yes <input type="checkbox"/> No <input type="checkbox"/> <i>If yes, provide Vendor Code _____</i> If No, please note: All vendors; subcontractors and consultants must register with COA's Vendor Connect prior to award. See Link for registration information at https://www.ci.austin.tx.us/financeonline/finance/index.cfm	
Is your company COA M/WBE certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> <i>If yes, please indicate:</i> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>	

I certify that the information included in this *MBE/WBE Compliance Plan* is true and complete to the best of my knowledge and belief. I further understand and agree that this *MBE/WBE Compliance Plan* shall become a part of my contract with the City of Austin.

Name and Title of Authorized Representative

Signature

Date

For City of Austin SMBR Use Only:	
<i>I have reviewed this Compliance Plan and found that the Proposer HAS <input type="checkbox"/> HAS NOT <input type="checkbox"/> complied as per the City Code Chapter 2-9A & 2-9B through GFE.</i>	
Reviewing Counselor _____	Date _____
<i>I have reviewed this Compliance Plan and have found the Proposer COMPLIANT <input type="checkbox"/> NON-COMPLIANT <input type="checkbox"/></i>	
Director / Assistant Director _____	Date _____

Section III — MBE/WBE STATEMENT OF RESPONSIBILITY

STATEMENT OF RESPONSIBILITY

Initial one of the following Statement of Responsibility options below as applicable.

A. Goals Met

_____ I understand I am responding to a Design Build solicitation. I understand and affirm I have filled out this Compliance Plan in accordance with applicable City Code and Program Rule requirements, and must comply with the MBE/WBE Program in order to be considered for selection of this solicitation. If chosen for this Solicitaion, compliance with the City's MBE/WBE Procurement Program ordinances and rules is required. When scopes of work or subcontracting opportunities are identified for construction, I agree to contact SMBR for an availability list at snbrcompliance@cityofaustin.gov to request a goal determination and construction compliance plan. Good faith efforts will be performed any time a goal cannot be met. At this time, I agree to meet the solicitation goals specified in the chart below utilizing the firms listed on the Compliance Plan as design scopes of work or service.

Proposed Participation	
Combined MBE/WBE	%
MBE	%
African American	%
Hispanic	%
Asian/Native American	%
WBE	%

B. Good Faith Efforts

_____ I understand I am responding to a Design Build solicitation. I do not anticipate meeting the goals with certified MBE/WBE firms; therefore I am submitting Good Faith Efforts documentation demonstrating my efforts to meet the established MBE/WBE goals. I understand and affirm I have filled out this Compliance Plan in accordance with applicable City Code and Program Rule requirements, and must comply with the MBE/WBE Program in order to be considered for selection for this solicitation. When scopes of work or subcontracting opportunities are identified for construction, I agree to contact SMBR for an availability list at snbrcompliance@cityofaustin.gov to request a goal determination and construction compliance plan. Good faith efforts will be performed any time a goal cannot be met.

This signed Statement of Responsibility is my commitment to the requirements of the MBE/WBE Procurement Program which will become a part of my contract with the City of Austin, if selected.

Name and Title of Authorized Representative (Print or Type)

Signature

Date

**Section IV — Disclosure of MBE and WBE Subconsultants
(Duplicate as Needed)**

- Note:
- Fill in all the blanks (use “none” or “N/A” where appropriate).
 - MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
 - Fill in names of MBE/WBE certified Firms as registered with City of Austin Vendor Connection.
 - Select either MBE or WBE for dually certified firms to indicate which certification will count towards the MBE or WBE goal.
 - Contact SMBR to request an availability list of certified Firms for additional scopes of work that were not included on the original availability list.

Name of MBE/WBE Certified Firm	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%

Name of MBE/WBE Certified Firm	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%

Name of MBE/WBE Certified Firm	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%

Name of MBE/WBE Certified Firm	
City of Austin Certification Data	<input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%

**Section V — Disclosure of Non-Certified Subconsultants
(Duplicate as Needed)**

Note:

- Fill in all the blanks (use “none” or “N/A” where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Are Goals Met? Yes No If no, state reason(s) below and attach documentation:

Name of Non-Certified Subconsultant	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
Reason Certified Firm not used	
Name of Non-Certified Subconsultant	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
Reason Certified Firm not used	
Name of Non-Certified Subconsultant	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
Reason Certified Firm not used	

Name of Non-Certified Subconsultant	
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
Reason Certified Firm not used	

Section VI — Disclosure of Second-Level Subconsultants
(Duplicate as Needed)

Note:

- Fill in all the blanks (use “none” or “N/A” where appropriate).
- MBE/WBE Compliance Plans not complying with these requirements shall be rejected as non-responsive.
- Fill in names of Second-Level Subcontractors as registered with the City of Austin.

Name of Second-Level Subconsultant	
City of Austin Certified? (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
First-Level Subconsultant	
Name of Second-Level Subconsultant	
City of Austin Certified? (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
First-Level Subconsultant	
Name of Second-Level Subconsultant	
City of Austin Certified? (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
First-Level Subconsultant	

Name of Second-Level Subconsultant	
City of Austin Certified? (choose one)	<input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE Gender/ Ethnicity:
Vendor Code	
Address/ City / State / Zip	
Contact Person & Phone #	
Fax & Email Address	
Commodity Codes	
Commodity Codes Descriptions	
Percentage of Subcontract	%
First-Level Subconsultant	

Section VII — MBE/WBE Compliance Plan Check List

Is the stated project goal of the solicitation met?

Yes No

(If no, complete and submit Section VII Compliance Plan Check List)

If the goals or subgoals were not achieved, all questions in Section VII **must** be completed and **Good Faith Efforts documentation must be submitted with the MBE/WBE Compliance Plan.** The completion and submission of this form is not required if the above question is answered *Yes*.

Is the following documentation attached to support good faith effort requirements to achieve goals or subgoals?		
<ul style="list-style-type: none"> • Copy of written solicitation sent to MBE/WBEs in SLBP area 7 business days prior to the submission of this Compliance Plan 	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> • Two separate methods of notices sent to MBE/WBEs in SLBP area Indicate notice types: fax transmittals emails phone log letters 	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> • Copy of advertisements placed in local publication 	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> • Copy of notices sent to Minority and Women organizations 	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<ul style="list-style-type: none"> • Documentation that demonstrates additional GFEs, if applicable: <ul style="list-style-type: none"> ○ Efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the City or contractor ○ Efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services ○ Efforts made to reach agreements with the MBE/WBEs who responded to Proposer’s written notice 	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Were additional elements of work identified to achieve the goals or subgoals? Yes No

If yes, please explain: _____

Was SMBR contacted for assistance? Yes No

If yes, complete following:

Contact Person: _____

Date of Contact: _____

Summary of Request: _____

Were Minority or Women organizations contacted for additional assistance? Yes No

If yes, complete following:

Organization(s): _____

Date of Contact: _____

Summary of Request _____

CONFIRMATION LETTER

(Printed on Subconsultant letterhead)

Date

Contact Name
Business Name
Street Address
City, State, Zip

Re: Solicitation # _____

Dear (Contact Name):

This letter is to confirm that (insert Subconsultant name here) is pleased to provide (insert Prime Consultant name here) (insert service here) for the above-referenced solicitation.

This is a Design Build project and we understand that we will be completing _____% of the design for this project.

We look forward to working with you and the City of Austin should your team be awarded the project.

Sincerely,

(Insert signature)

Contact Name
Title
Business Name