

# **Hamilton County Minority & Women Business Enterprise Program Policies and Procedures**



Economic Inclusion & Equity Department

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**Hamilton County**  
**Minority and Women Business Enterprise Program**  
**Policies and Procedures**

**Chapter 1. Overview**

**Section 1. Minority and Women Business Enterprise Program Purpose**

The Board of County Commissioners of Hamilton County, Ohio, (“Board”) is committed to promoting the economic inclusion of all people in Hamilton County (“County”) regardless of race, gender, disability, national origin, sexual orientation, or gender identity. It established the Economic Inclusion & Equity Department (“EIED”) to promote inclusion in County procurement and employment practices.

The Board finds Minority Business Enterprises (“MBEs”) and Women Business Enterprises (“WBEs”) provide employment and economic growth in Hamilton County, Ohio. The Board further finds that encouraging the participation of minority and women businesses in Hamilton County construction, professional services, and goods and services procurement will benefit all residents of Hamilton County, Ohio. Hamilton County is an equal business opportunity governmental entity, and has strived to provide, and will continue to provide, equal business opportunities to diverse groups within our region.

Where procurement involves the expenditure of state or federal assistance or contract funds, the County shall comply with such state or federal law and authorized regulations which are mandatorily applicable, and which are not presently reflected in these Policies and Procedures. Where a procurement involves the expenditure of funds, which are the proceeds of bonds or certificates of participation, or other financing instruments or documents, the County shall comply with the terms of such financing as they relate to the disbursement of funds and/or management of projects, insofar as such terms are mandatorily applicable and which are not presently reflected in these Policies and Procedures.

**Section 2. Leadership of MBE/WBE Program**

In support of the County’s desire to promote equal opportunity for minority- and women-owned businesses, County leadership shall take an active role in building a culture for the organization to understand and implement these MBE/WBE Program Policies and Procedures. The Hamilton County Administrator (“Administrator”) and individuals who report directly to him/her shall:

1. Support, in good faith, the objectives and procedures of the MBE/WBE Program, including ensuring the proper execution of any administrative processes by County personnel responsible for doing so.

2. Participate in internal training (as designated in Section 3, item 3).
3. Actively review the results of the MBE/WBE Program performance with internal management personnel on no less than a quarterly basis.
4. Include performance of MBE/WBE objectives into the evaluation of individual job performance among personnel responsible for or involved in contracting and procurement of construction, professional services, and goods and services.
5. Articulate in written and verbal communication, both internally and externally, the County's interest, program and performance in MBE/WBE procurement.
6. Issue an annual "State of the MBE/WBE Program" report to internal and external stakeholders.
7. Engage in other leadership activities contributing to increasing the utilization of Minority and Women Business Enterprises.

### **Section 3. Administration of the MBE/WBE Program**

The Director of Economic Inclusion and Equity Department ("Director") shall be appointed by the Administrator and shall have the authority to administer and enforce the MBE/WBE Program Policies and Procedures, including:

1. Establishment of written procedures, informal guidelines, and forms as may be necessary to effectuate the MBE/WBE Program and requirements set forth in these Policies and Procedures.
2. Development and implementation of outreach and technical assistance programs to assist businesses in gaining the ability to compete successfully in the marketplace and to promote equal contracting opportunities for all businesses who want to do business with the County.
3. Training and development of County and department senior leadership on the Policies and Procedures for the MBE/WBE Program.
4. Monitor compliance with the requirements of the MBE/WBE Program.
5. Provision of information to potential respondents, upon request by the potential respondent, which shall include names and contact information of certified MBEs and WBEs to reinforce and support outreach efforts by potential respondents.
6. Promulgate, amend, and enforce such procedures consistent with the Policies and Procedures as may be necessary and appropriate to promote the equitable practice

of contracting and subcontracting and to carry out the provisions, intents, and purposes of this MBE/WBE Program.

7. Investigation of alleged violations of this MBE/WBE Program, and the issuance of written statements following any determination of such investigation, stating the reasons therefore and recommendations of any penalty to be imposed.
8. Promulgate tracking and reporting on the effectiveness of this MBE/WBE Program as measured by a review of data indicating Contractor and subcontractor spending with MBEs and WBEs as required by Section 23.
9. Submit an annual report and scorecard to the Administrator and to department management, reviewing the performance of each department and the County in meeting the goals established under the MBE/WBE Program.
10. Recommend to the Administrator annual goals for the MBE/WBE Program.
11. Recommend to the Administrator any further efforts needed to ensure participation by MBEs and WBEs in contracting with the County.

#### **Section 4. Non-Discrimination Policy**

##### I. Overview

The County is committed to a policy of non-discrimination. Every contract and subcontract for or on behalf of the County, for construction, professional services, and goods and services shall contain provisions by which the contractor agrees to both of the following:

- A. That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 153.59 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;
- B. That no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 153.59 of the Ohio Revised Code, or color.

##### II. Non-Discrimination Policy for Contracting

No respondent, vendor, and/or Contractor doing business with the County who competes for or is awarded a public contract shall discriminate or retaliate against a MBE/WBE/SBE.

If a respondent is found to be in violation of this policy, either in the awarding of the subcontract in connection with an opportunity advertised by the County or in a contract between the County and the respondent, the County reserves the right to use all remedies legally available under the law to address the policy violations.

The County may not allege or investigate an allegation of an occurrence of discrimination or retaliation in subcontracting as a basis for debarring or disqualifying a respondent more than three (3) years after the alleged discriminatory or retaliatory conduct occurred or more than three (3) years after the County, in the exercise of reasonable diligence, should have discovered the conduct, whichever is later.

A respondent shall certify in the documents accompanying the respondent's offer to enter into a public contract that the respondent has not discriminated or retaliated and will not discriminate or retaliate against any MBE/WBE/SBE in obtaining any required subcontract.

After a respondent is awarded a public contract, if the respondent violates the certification provisions of these Policies and Procedures, the County may regard the violation as a breach of contract that permits one or more actions in Section 27.

### III. Complaints of Discrimination or Retaliation

Any adult person, business entity, association, organization, or government agency may file a complaint with the Director of EIED stating facts showing or tending to show that a respondent has, within the preceding three (3) year period from the date of the complaint, engaged in discrimination or retaliation in connection with a County contract or solicitation. Within ten (10) business days, the Director, or his/her designee, shall notify the respondent against whom the complaint was filed that a complaint has been received.

### IV. Complaint Procedure, Initial Findings and Recommendations

The complaint will be sent to EIED to review and determine whether there is noncompliance of the contract. See the noncompliance process in Section 27 and the appeal process in Section 28 for additional information about complaint procedures, findings, and recommendations.

## **Chapter 2. Minority and Women Business Enterprise Program Components**

### **Section 5. Minority and Women Business Enterprise Annual Goals**

The annual goals for MBE/WBE participation are to achieve contract payments to MBEs and WBEs, through contracting, subcontracting and/or procurement activities of Contractors, contracts and procurements of at least 29% for minority- and woman-owned business enterprises combined across all contract payments in any fiscal year, with a goal of 16% utilization for minority-owned businesses and of 13% utilization for woman-owned businesses.

In addition, an annual goal for MBE/WBE contract payment participation of 27% for Construction, 33% for Professional Services and 28% for Goods and Services of the aggregate dollars spent annually for each of the categories.

**MBE and WBE Annual Goals**

	<u>Total</u>	<u>Construction</u>	<u>Professional Services</u>	<u>Goods/Services</u>
MBE	16%	13%	27%	14%
WBE	13%	14%	6%	14%
Total MBE/WBE	29%	27%	33%	28%

Attainment of the annual MBE/WBE Goals will be based on a combination of contract dollars paid and contracts awarded. In order to achieve the MBE/WBE Goals, the County will use multiple means to include minority-owned businesses and women-owned businesses described in Section 18. Also, the County will encourage prime contractors to use minority- and women-owned businesses in the performance of County contracts awarded to them.

The annual MBE/WBE Goals will be reviewed each year before March 1<sup>st</sup> by the Director of EIED, or his/her designee, and the County Administrator. These overall goals are only intended to be benchmarks for evaluating overall performance of the MBE/WBE Program on an annual basis. These participation goals are not and shall not be quotas. Any recommendation for change of any annual goal above shall be presented to the Board of County Commissioners for approval.

The following factors may be used by the County as part of its goal-setting methodology in establishing annual MBE/WBE goals: 1) the number of minority and women businesses certified or eligible for certification; 2) the availability of minority and women businesses eligible for certification that are willing to do business with the County; 3) annual participation figures for qualified minority and women businesses in both County contracting and the private marketplace; 4) analysis of disparities between the availability and participation of qualified minority and women businesses; 5) the findings and conclusions contained in Procurement Disparity Studies; 6) reviews and analysis of the reports generated by the Director of EIED; and 7) other relevant factors. Procedures for establishing goals are provided in the *Hamilton County MBE/WBE/SBE Programs Administrative Procedures Manual*.

The following commodity categories are hereby established to identify the contracting and procurement activities covered by these MBE/WBE Policies and Procedures, which categories may be amended from time-to-time by the County:

Construction: Including, but not limited to, any and all contracts relating to: Building construction; highway, street, and bridge construction; plumbing and HVAC; electrical work; concrete work; concrete, asphalt, sand, and gravel products; other construction services; other construction materials; painting, striping, marking, and weatherproofing; excavation, drilling,

wrecking, and demolition, roofing, siding, and floor contracting; electrical equipment and supplies, water, sewer, and utility lines, landscaping services; and remediation and cleaning.

Professional Services: Including, but not limited to, any and all services for which applicable selection criteria may require a respondent or Contractor to possess a license or other certificate of competency, such as in the areas of architecture and engineering, insurance, laboratory, legal services, IT and data services, finance and accounting/ auditing, appraisal services, human resources and job training services, business services, consulting, construction management, advertising, marketing, public relations, environmental services.

Goods and Services: Including, but not limited to the purchase of all goods, equipment, office and other supplies, art, furniture, and other tangible personal property, and services such as the procurement of printing, non-construction repairs, janitorial services, computer and information systems security, shipping and mailing, microfiche and microfilm, courier, storage, travel, and other non-professional services. Transit services; parking services; computers and computer peripherals; office equipment and supplies; automobiles; cleaning and janitorial services; petroleum products; printing, copying and mailing services; waste and sewer treatment machinery; security guard services; industrial equipment; and machinery; uniforms and apparel; cleaning and janitorial supplies; facilities management; security systems services; catering and restaurants; and office supplies.

## **Section 6. Minority and Women Business Enterprise Contract Goals**

The MBE/WBE Program goal setting applies to all competitively bid County-funded contracts of \$75,000.00 or more. The Director of EIED, or his/her designee, will set MBE/WBE contracting and procurement goals for each specific prime contract, including those with subcontracting and/or supplier possibilities. Respondents shall be fully informed of the MBE/WBE Program and of any MBE/WBE contract goals, in all County bid documents. When State and/or Federal funding sources require affirmative action goals, those goals, as defined in the contract documents, replace the requirements of the MBE/WBE Goals Program. Procedures for establishing contract-by-contract goals are provided in the *Hamilton County MBE/WBE/SBE Programs Administrative Procedures Manual*.

Every respondent shall be required to submit to the County, with its bid, a plan for the engagement of MBEs/WBEs in connection with the contract, known as the *MBE/WBE/SBE Goal Compliance Plan*. The *MBE/WBE/SBE Goal Compliance Plan* form, which shall include, among other things, the names, addresses, phone number, Tax I.D. number, and certification numbers, if applicable, of certified businesses, and any other information required by the Director, EIED, as set forth in the bid solicitation documents. If awarded a contract or procurement with the County, a Contractor shall use its Good Faith Efforts at all times to implement and accomplish the objectives with respect to the use of MBEs and WBEs as set forth in the *MBE/WBE/SBE Goal Compliance Plan*. Following the award, the *MBE/WBE/SBE Goal Compliance Plan* shall become a part of the contract between the Contractor and the



County. Documents must be approved by EIED before the award is finalized. **Failure to comply with the above requirements shall result in the respondent being deemed nonresponsive.**

Every Department must ensure that ITBs, RFPs or RFQs originating with the Department comply with the following:

All ITBs, RFPs, or RFQs shall include a requirement that, if an MBE/WBE contract participation goal is applicable, the respondent must:

- A. With its bid, submit a signed *MBE/WBE/SBE Goal Compliance Plan* form, showing its commitment to meet or exceed the goals for the project or contract.
- B. Make Good Faith Efforts, before the opening of bids or submittal of proposals, to meet the applicable contract participation goal(s); and
- C. Keep records of its Good Faith Efforts adequate to permit a determination of compliance with the *MBE/WBE/SBE Goal Compliance Plan*. If a contract goal will not be met, a respondent shall be required to submit with its bid a signed *MBE/WBE/SBE Goal Compliance Plan* form, and the *Application for MBE/WBE/SBE Program Waiver* form for approval by EIED. The respondent must submit its Good Faith Efforts documentation for review by EIED with the bid document.

As such, Construction, Professional Services, and Goods and Services contracts of \$75,000.00 or greater to be awarded competitively shall be reviewed by the EIED for MBE/WBE utilization responsiveness. After its review of the *MBE/WBE/SBE Goal Compliance Plan* and the *Application for MBE/WBE/SBE Program Waiver* form, EIED shall make a recommendation to the Purchasing Department and the Department of the respondent's responsiveness.

While the inability of a respondent to meet goals established under the MBE/WBE Program may not alone exclude a respondent from award of a contract or procurement, the respondent's adequate Good Faith Efforts to meet the goal will be considered in determining award of the contract. For the procurement of goods and services, and/or the award of construction contracts valued at \$75,000.00 or more, public notice of the opportunity to bid on such procurements or contracts will be given and the procurement or contract will be awarded to the respondent that submits the applicable bidding standard.

Where price quotes for purchases estimated to cost between \$2,500.00 and \$74,999.99 apply, departments are required to obtain a minimum of three (3) quotes from vendors and must adhere to the Small Contract Enhancement Program process in Section 24.

The competitive solicitation requirements of the MBE/WBE Program do not apply to individual contracts and/or procurements valued at \$2,499.99 or less. For these, the County uses micro-purchasing methods.

Procedures for establishing and managing contract-by-contract goals are provided in the *Hamilton County MBE/WBE/SBE Programs Administrative Procedures Manual*.

### **Section 7. Procedures for Establishing Percentage Goals**

The procedures to be used for establishing goals for annual participation and for contract goals are provided in the *Hamilton County MBE/WBE/SBE Programs Administrative Procedures Manual*. The procedures are a guideline for the County to follow and may be amended from time to time based on approval by the County Administrator, the Director of EIED, and the Director of Purchasing.

### **Section 8. Request for Waivers to MBE/WBE Contract Goals**

If the respondent will not meet the MBE/WBE participation goals, in addition to its *MBE/WBE/SBE Goal Compliance Plan*, the respondent shall also submit with its bid a fully completed *Application for MBE/WBE/SBE Program Waiver* form (see Appendix B for applicable forms). The respondent shall indicate on the *Application for MBE/WBE/SBE Program Waiver* form, the Good Faith Efforts that it made prior to submission of its bid, to meet the MBE/WBE goals for the contract. The respondent shall also submit all documentary evidence to support those Good Faith Efforts made by the respondent, as declared on the *Application for MBE/WBE/SBE Program Waiver* form with its bid or the respondent will be deemed nonresponsive. The Director of EIED, the Director of Purchasing, or their designees, will review the documents submitted and make its determination of the *Application for MBE/WBE/SBE Program Waiver* request based on those submitted documents. When considering whether a respondent made adequate Good Faith Efforts to achieve the MBE/WBE participation goals, the County will evaluate the described efforts and documentation provided by contractors.

### **Section 9. Counting Towards MBE/WBE Goals**

When a MBE/WBE participates in a contract, awards and payments to the MBE/WBE for value of the work performed shall be counted towards the goal, in accordance with the following provisions:

1. The Director of EIED, or his/her designee, shall count the entire amount of that portion of a Construction, Goods and Services, or Professional Services contract that is performed by the MBE/WBE's own forces. The Director of EIED, or his/her designee, shall include the cost of supplies and materials obtained by the MBE/WBE for the work of the contract, including supplies purchased or equipment leased by the MBE/WBE (except supplies and equipment the MBE/WBE purchases or leases from the Contractor or its affiliate).
2. The Director of EIED, or his/her designee, shall count the entire amount of fees or commissions charged by a 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 contract toward MBE/WBE goals,

provided the fee was determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. When a MBE/WBE subcontracts part of the work of its contract to another business it is subject to the determined goal for subcontracting as well, and the value of the subcontracted work may be counted toward the MBE/WBE goals only if the MBE/WBE's subcontractor is itself a certified MBE/WBE. Work that a MBE/WBE subcontracts to a non- MBE/WBE business does not count toward the MBE/WBE goals.
4. When calculating participation, MBE/WBE contractors, subcontractors, and suppliers will count toward MBE/WBE goals.
  - i. When a MBE/WBE performs as a participant in a joint venture, the Director of EIED, or his/her designee, shall count a portion of the total dollar value of the contract equal to the distinct, clearly- defined portion of the work of the contract that the MBE/WBE performs with its own forces toward the MBE/WBE goals.
5. The Director of EIED, or his/her designee, shall count expenditures to a MBE/WBE Contractor toward MBE/WBE goals only if the MBE/WBE is performing a commercially useful function on that contract. To determine whether a MBE/WBE is performing a commercially useful function the Director of EIED, or his/her designee, will look at any relevant factors including those listed in this section. The following factors that must be considered in making this determination are:
  - i. A MBE/WBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the MBE/WBE must also be responsible with respect to materials and supplies used on the contract, negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a MBE/WBE is performing a commercially useful function, the following factors may be considered:
    - a. The amount of work subcontracted;
    - b. That the work conforms to industry standards and practices;
    - c. That the amount the MBE/WBE is to be paid under the contract is commensurate with the work it is actually performing; and
    - d. The amount of MBE/WBE credit claimed for its performance of the work.
  - ii. A MBE/WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of MBE/WBE participation. In determining whether a MBE/WBE is such an extra participant,

the Director of EIED, or his/her designee, will examine similar transactions, particularly those in which MBE/WBEs do not participate.

- iii. If a MBE/WBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or the MBE/WBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Director of EIED, or his/her designee, shall presume that it is not performing a commercially useful function.
  - iv. When a MBE/WBE is presumed to not be performing a commercially useful function as defined in Section 30 herein, the MBE/WBE may present evidence to rebut this presumption. The Director of EIED, or his/her designee, may determine that the business is performing a commercially useful function given the type of work involved and normal industry practices.
6. The Director of EIED, or his/her designee, shall count expenditures by MBE/WBEs for materials or supplies toward MBE/WBE goals as provided in the following:
- i. If the materials or supplies are obtained from a MBE/WBE manufacturer, the Director of EIED, or his/her designee, shall count 100% of the cost of the materials or supplies toward MBE/WBE goals.
    - a. For purposes of this section, a manufacturer is a business that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications
  - ii. If the materials or supplies are purchased from a MBE/WBE regular dealer, the Director of EIED, or his/her designee, shall count 60% of the cost of the materials or supplies toward MBE/WBE goals.
    - a. For purposes of this section, a regular dealer is a business that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
      - 1. To be a regular dealer, the business must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
      - 2. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment

shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis.

- b. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section.
  - iii. With respect to materials or supplies purchased from a MBE/WBE which is neither a manufacturer nor a regular dealer, the Director of EIED, or his/her designee, shall count only the amount of 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, towards MBE/WBE goals, provided the Director of EIED, or his/her designee, determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. However, the Director of EIED, or his/her designee, shall not count any portion of the cost of the materials and supplies themselves toward MBE/WBE goals.
7. The Director of EIED, or his/her designee, shall not count the dollar amount of work performed under a contract with a MBE/WBE after it has ceased to be a certified MBE/WBE.
  8. The Director of EIED, or his/her designee, shall not count the participation of a MBE/WBE subcontractor toward a Contractor's final compliance with its MBE/WBE obligations on a contract until the amount being counted has actually been paid to the MBE/WBE.
  9. For purposes of meeting established MBE/WBE goals at the time of bid, the County will only count the participation of MBE/WBE businesses that are certified at the time of bid. However, for the purpose of contract compliance, should a business become certified as a MBE/WBE at any point during the contract performance, its total participation on the contract, including participation prior to certification, will be counted towards the contract goals. Credit towards contract goals will be given only for work performed by the certified MBE/WBE's in the work area (scopes of services) for which they have been certified. The same requirements with respect to obtaining the goal apply for a contractor that is certified as a MBE/WBE. An MBE/WBE contractor must either achieve the goal utilizing other MBE/WBE firms or demonstrate that the goals could not be met despite good faith efforts.

## **Section 10. Good Faith Efforts Documentation**

All respondents must document the Good Faith Efforts it took to obtain MBE/WBE participation. As part of the selection process, a review of the respondent's *MBE/WBE/SBE Goal Compliance Plan* form is performed to determine the respondent's commitment to meeting the MBE/WBE goals for the contract. If the respondent will not meet the MBE/WBE

participation goal, the *Application for MBE/WBE/SBE Program Waiver* form must be submitted with the bid.

Such Good Faith Efforts may include, but are not limited to the following:

- A. Respondent's attendance at pre-bid conference;
- B. Advertisement in general circulation media, trade publications, and minority focused media at least two (2) weeks before bids or proposals are due;
- C. Tailored mailings to MBE/WBE firms notifying them of contracting opportunities at least two (2) weeks before bids or proposals are due;
- D. Efforts made to select portions of the work proposed to be performed by MBE/WBE firms in order to increase the likelihood of achieving the stated goal(s);
- E. Efforts to negotiate with MBE/WBE firms for specific sub-bids, including at a minimum:
  - 1. The names, addresses and telephone numbers of MBE/WBE firms that were contacted;
  - 2. A description of the information provided to MBE/WBE firms regarding the plans and specifications for portions of the work to be performed; and/or
  - 3. A statement of why additional agreements with MBE/WBE firms were not reached.
- F. If the respondent rejected any MBE/WBE firm(s) as unqualified, they must submit the reason(s) for this conclusion.
- G. The respondent must also document technical assistance provided to the MBE/WBE firms in obtaining bonding or insurance required by the County.
- H. Providing interested MBE/WBEs with prompt access to the plans, specifications, scope of work, and requirements of the contract.
- I. Follow up to initial solicitations and copy of call logs.
- J. Has a joint venture agreement or partnership for the contract with an MBE/WBE firm. Commercially useful function participation by the MBE/WBE must be 30% or greater.
- K. Has a mentor-protégé agreement with an MBE/WBE firm for the contract.

Failure to provide the *Application for MBE/WBE/SBE Program Waiver* at the time of bid submission will result in the bid being determined to be nonresponsive.

Respondents' Good Faith Efforts to meet MBE/WBE/SBE participation goals will be a factor in determining the award of the contract. In determining whether a respondent has made adequate Good Faith Efforts, the County may consider the performance of other respondents in meeting the MBE/WBE participation goals for the same solicitation. Respondents that fail to meet MBE/WBE goals and fail to demonstrate adequate Good Faith Efforts shall be deemed nonresponsive to the County's solicitation for bids and shall not be eligible to be awarded the contract.

### **Section 11. MBE/WBE Program Records and Reports**

The effectiveness of this program will be measured by a review of data indicating Contractor and subcontractor spending with MBE/WBEs. Program effectiveness measurements will also include efforts by the County staff to provide Contractor opportunities for MBE/WBEs. In order to ensure the effective tracking of these efforts, the following shall be done:

1. Each Contractor shall continuously maintain, compile, and provide to the County monthly information, utilizing the procurement software system (when available) relating to its use of MBE/WBEs as stated in this section, item 4. This information shall include without limitation the following information for each of the MBE/WBE subcontractors, suppliers, and/or vendors utilized by the Contractor: a description of the categories of contracts awarded to and spent with MBE/WBEs; the dollar value of contracts awarded to and spent with MBE/WBEs; the contract number(s), and contact information for the MBE/WBEs. Additionally, the Contractor shall provide information regarding its progress toward attaining the MBE/WBE goal for the contract.
2. Within thirty (30) days after the end of a contract in which there were MBE/WBE goals, each contractor shall provide the County with a report including by not limited to the following information: the identity of and contact information for each MBE/WBE to whom the contractor has awarded a subcontract or supplier agreement; the type of work performed or supplies provided by each subcontractor/supplier; the dollar value of each of the subcontracts/supplier agreements; and the total percentage of the value of the County contract subcontracted to MBE/WBE subcontractors, suppliers, and/or vendors.
3. Each department administrator, either directly or indirectly through the Purchasing Department, shall provide the Director, EIED, or his/her designee, with information regarding every County contract or procurement on which the Contractor is an MBE/WBE or on which an MBE/WBE is part of a joint venture or strategic partnership team serving as the Contractor. The information shall include the name and contact information of the MBE/WBE, the type of contract, and the dollar value of the contract.
4. The Director, EIED shall prepare and present to the County Administrator quarterly consolidated reports based on a compilation and analysis of data and/or reports

provided by the County's procurement software system and by information submitted by each Contractor and information from the Purchasing Department of purchases regarding the County's use of MBE/WBEs as contractors and subcontractors. The consolidated reports will identify and assess the awards and payments to MBE/WBEs of County contracts; Contractors' use of MBE/WBE subcontractors and suppliers, and/or vendors; Contractors' progress in achieving MBE/WBE subcontract goals, and other MBE/WBE development and contracting efforts. Specifically, the Director, EIED, or his/her designee, will maintain records and prepare reports showing information such as, but not limited to:

- a. Awards and payments to MBE/WBE Contractors, subcontractors, suppliers, and/or vendors including the contract name and number, names of Contractor and subcontractors, contact persons, nature of the work/services performed, and the dollars and percentage of MBE/WBE participation per contract. The Director, EIED, or his/her designee, will obtain regular reports from Contractors on their progress in meeting contractual MBE/WBE commitments;
  - b. Summary of all correspondence by Contractors to MBE/WBEs regarding MBE/WBE utilization and/or outreach;
  - c. Requests for assistance from MBE/WBEs interested in bidding/proposing on County contracts and subcontracts;
  - d. Workshops, seminars and training programs conducted for MBE/WBEs;
  - e. Efforts to assist MBE/WBEs in acquiring bonding and insurance; and,
  - f. Any additional information gained in relation to assistance and outreach by the County per Sections 14 and 15.
5. The Director, EIED, will submit an annual MBE/WBE Utilization Report to the County Administrator. These reports shall include a summary of the information described in this section, item 4 above, plus an analysis of the total dollar value of the County contracts/subcontracts awarded and paid to MBE/WBEs during the preceding year, categorized by prime contracting dollars and subcontracting dollars. The percentage of the total dollar value of these contracts that were awarded and paid to MBE/WBEs during the preceding year shall also be provided.

## **Section 12. Database Management and Directory**

The Director, EIED, or his/her designee, will maintain a database of MBE/WBEs to assist respondents in identifying MBE/WBEs with capabilities commensurate with general contracting and procurement requirements. The website for the database shall be developed



and maintained. A list from the database will be made available to respondents to assist them in their efforts to use MBE/WBEs. This list is not exhaustive and will be frequently updated. Therefore, if a respondent desires to use a firm not listed in the database, the respondent should confer with the Director, EIED or his/her designee, to ascertain whether the firm has been certified as an MBE/WBE in accordance with these Policies and Procedures or whether the firm may be eligible for such MBE/WBE certification.

### **Section 13. Payments to Subcontractors/Prompt Pay**

A Contractor shall be required to certify electronically or in writing that all of its subcontractors, suppliers, and/or vendors have been paid for work and materials in relation to the County contract by the Contractor for previous disbursements before additional disbursements of contract and/or procurement payments are made to the Contractor. This section requires Hamilton County to make every effort to make payments to Contractors within thirty (30) days of receipt of a complete and responsive invoice.

If a subcontractor or material supplier submits an application or request for payment or an invoice for materials to a contractor in sufficient time to allow the contractor to include the application, request, or invoice in the contractor's own pay request submitted to an owner, the contractor, within ten calendar days after receipt of payment from the owner for improvements to the property, shall pay to the:

- A. Subcontractor, an amount that is equal to the percentage of completion of the subcontractor's contract allowed by the owner for the amount of labor or work performed;
- B. Material supplier, an amount that is equal to all or that portion of the invoice for materials that represents the materials furnished by the material supplier.

If the contractor fails to comply with this provision, the contractor shall pay the subcontractor or material supplier, in addition to the payment due, interest in the amount of eighteen percent per annum of the payment due, beginning on the eleventh day following the receipt of payment from the owner and ending on the date of full payment of the payment due plus interest to the subcontractor or material supplier. *Refer to Ohio Revised Code, Section 4113.61: Time limitations for payments to subcontractors and materialmen.*

During the contract and upon completion of the contract, the County may request documentation to certify payment to subcontractors or suppliers. The subcontractor or supplier may be required to sign off on the certification of payment form or affidavit, by the subcontractor or supplier, to attest to the receipt of payment from the Contractor.

### **Section 14. Assistance to MBE/WBEs by County Management and Staff**

The County is committed to maximizing procurement opportunities, to include prime and subcontracting opportunities, for all qualified and available MBE/WBEs. The County may establish MBE and WBE goals for each contract where there is an opportunity to do so. The

County considers information distributed and communicated with MBE/WBEs as an integral part of the MBE/WBE Program.

Purchasing, County management, and County staff involved in any contracting and/or procurement activities shall do the following to assist in meeting the outcomes included in these Policies and Procedures:

1. Notifications to SBEs will be included in all direct notifications to vendors.
2. Provide that Purchasing management and County staff actively participate in trade fairs and association meetings for small, minority, and women-owned businesses.
3. Maintain a tracking chart of the number of MBE/WBEs contacted, including the quotes received, which data can be classified into the different commodity categories.
4. Require public solicitations for purchases \$75,000 and over.
5. Conduct annual, in-house training sessions for County staff involved in contracting and procurement, including activities to ensure awareness of the MBE/WBE Program Policies and Procedures.
6. Evaluate the effectiveness and performance of all County departments involved in any contracting and/or procurement activities in utilizing MBE/WBEs in purchasing all services through a MBE/WBE Utilization Scorecard.
7. Implement procedures which will provide increased opportunities to include MBE/WBE participation in all contracts and procurements funded by the County, where feasible.
8. Provide feedback, where feasible, to unsuccessful MBE/WBE respondents about their proposal upon request. Conduct debriefing sessions with the cooperation of the functional unit involved to explain and analyze why certain MBE/WBE bids were unsuccessful.
9. Directly involve the Director of EIED, or his/her designee, in the contract or procurement review process for solicitations of \$250,000.00 or more.
10. Permit MBE/WBEs and all other vendors, upon request, to review and evaluate successful bids through public records requests.
11. Ensure that all vendors are contacted for solicitation at least ten (10) business days prior to the bid due date.

## **Section 15. Outreach to MBE/WBEs by the EIED**

To ensure that opportunities to participate with County contracts and procurements are available to the widest feasible universe of interested, available, and qualified businesses, the Director of EIED shall develop and implement a written comprehensive outreach program aimed at increasing MBE/WBE participation in the County's prime and subcontracting and in the procurement process. This program may include, without limitation, any or all of the following:

1. The County may disseminate at community events, trade shows, and other appropriate business functions, and publish at regular intervals in print and in electronic media (including publications or electronic media targeted to MBE/WBEs), information describing the County MBE/WBE Program, and the functions of the EIED.
2. The Director of EIED, or his/her designee, may establish a procedure to engage in continuous recruitment and outreach efforts directed at business assistance organizations, such as: Allied Construction Industries; Ohio Minority Supplier Development Council; the Greater Cincinnati & Northern Kentucky African American Chamber of Commerce; Cincinnati USA Hispanic Chamber of Commerce; Cincinnati USA Regional Chamber of Commerce; Small Business Administration; SCORE; Minority Contractors Business Assistance Program, and others, to increase the pool of businesses available to do business with the County. The Director of EIED, or his/her designee, may identify suppliers through regional business development organizations and participation at various trade shows, supplier diversity groups, and work with various local, state, and national supplier development counsels and organizations.
3. The Director of EIED, or his/her designee, may disseminate at community events, trade shows, and other appropriate business functions, and publish at regular intervals in print and in electronic media, information identifying ongoing contracting opportunities with the County, and providing contact information by which businesses may obtain additional information from the Director of EIED, or his/her designee. To the extent feasible, the Director of EIED may enter into arrangements to share data regarding upcoming Director of EIED projects and subcontracting opportunities on County projects, with other businesses and agencies or jurisdictions in the region.
4. The Director of EIED, or his/her designee, may assist businesses in submitting bids for eligible projects by disseminating information in print and electronic form, by referring vendors to outside agencies for guidance and support, and/or by conducting seminars regarding the process for submitting a bid and how to do business on a County project.
5. The Director of EIED, or his/her designee, shall encourage all businesses to attend pre-bid conferences, and provide one-on-one meeting opportunities with department staff that oversee the overall contracting and procurement process of their departments.

6. The Director of EIED shall establish and implement training and awareness programs with the employees of the County to educate them with regard to increasing utilization of a wide array of businesses. The Director of EIED, or his/her designee, will include training and awareness activities in its annual report as stated in Section 11, item 4, above.
7. The Director of EIED, or his/her designee, may provide information and advice to the various procurement divisions regarding the effectiveness of current bidding procedures in facilitating bids on eligible projects with the widest feasible universe of interested businesses. This information may include suggestions regarding how to arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules, in ways that facilitate the participation of all interested businesses.
8. The Director of EIED, or his/her designee, may create workshops for businesses located within the region to instruct them on how to compete for bids, including advice on marketing, soliciting, and preparing a bid. The Director of EIED, or his/her designee, may establish a program that will incorporate business and entrepreneurial training and assistance mentoring, matchmaking, individual consulting, and regular training workshops and seminars. To accomplish this, the Director of EIED, or his/her designee, may reach out to and collaborate with the organizations mentioned in this section, item 2, as well as regional higher education institutions, state and national supplier development councils, and similar organizations.
9. The Director of EIED, or his/her designee, may develop communications and other written materials that are meant to encourage and provide information to Contractors to increase their utilization of MBE/WBE subcontractors. In addition, the Director of EIED may sponsor networking events that allow businesses to meet each other, and which create an opportunity for Contractors to discuss their upcoming needs with MBE/WBE subcontractors.
10. The Director of EIED, or his/her designee, may recommend to the County Administrator policies to prohibit discrimination in the provision of credit or bonding for County contracts.
11. The Director of EIED, or his/her designee may work with existing service providers in the region to:
  - a. Make referrals to outside technical assistance programs that can help prepare small businesses to compete;
  - b. Make referrals to supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for businesses;

- c. Develop and provide services to help businesses improve their long- term development, to increase their opportunities to participate in a variety of work, to handle increasingly significant projects, and to achieve self-sufficiency;
  - d. Establish a program to assist new, start-up, or emerging businesses; and,
  - e. Assist businesses in developing their capability to utilize technology and conduct business through electronic media.
12. The Director of EIED, or his/her designee, may create and maintain records of all subcontractor participation on County projects. The Director of EIED may perform investigations regarding the actual utilization of MBE/WBE prime contractors or subcontractors during the term of the contract as compared with the anticipated use of MBE/WBE subcontractors at the time of bid submittal. MBE/WBE subcontractors shall report or provide confirmation of the amount of work they anticipate performing on the contract and will report or confirm the actual work performed and the amount billed. The Director of EIED will allow MBE/WBE subcontractors to confirm the status of their subcontracts and the payments received thereunder.
13. The Director of EIED, or his/her designee, may continue to develop its website to provide general information on: doing business with the County, the bid process, how to get certified, a directory of MBE/WBEs to provide a calendar of events, bid lists, bid status reports, to post solicitation notices, and to provide downloadable forms and other appropriate information. In addition, Contractors that have been awarded County contracts may be posted on the website to allow a MBE/WBE business to target their marketing efforts to Contractors that have worked with the County.
14. The Director of EIED, or his/her designee, may be available to assist MBE/WBEs in gaining access to training and technical assistance in the areas of cost estimating and bonding. In addition, the Director of EIED, or his/her designee, may provide some technical assistance to MBE/WBEs through the collection, organization, and dissemination of information regarding available capital or financing resources. The Director of EIED, or his/her designee, may provide such other general assistance to MBE/WBEs to enhance the participation of MBE/WBEs in doing business with the County.

#### **Section 16. Subcontractor Substitution**

If a contractor must substitute a subcontractor after the contract has been awarded, the contractor shall request approval for any substitution of a MBE/WBE subcontractor, supplier, or vendor used or proposed to be used by a Contractor, by completing and submitting a copy of the *Prime Contractor Substitution Request* form. The *Prime Contractor Substitution Request* form and instructions for completing the request will be included in the contract at the time of award.

## **Section 17. Change Orders and Amendments to Contracts**

This rule applies to contracts valued at \$100,000.00 and greater. Whenever a contract is amended, any single change order is issued, or subsidiary agreement is authorized that increases the total original contract cost by more than ten percent (10%), the MBE/WBE contract goal regarding the work, services, or supplies to be paid for through such amendment, modification, change order, or subsidiary agreement will remain the same; and, Good Faith Efforts will be made to ensure that it maintains the same percentage of MBE/WBE participation in performing the additional work, services, or supplies.

## **Chapter 3. Certification**

### **Section 18. General**

The County does not conduct its own MBE or WBE certification process but does accept MBE and WBE certifications from other County-approved agencies.

The requirements for County approved MBE certification are:

1. The applicant is an independent operating business and must have been in business for at least one year before applying for certification.
2. The owner is a sole proprietorship that is independently owned and controlled by an individual who is a minority group member; a joint venture that is at least 51% independently owned and controlled by minority group members; or a partnership, limited liability company or corporation that is at least 51% independently owned and controlled by minority group members;
3. The minority owners have interest in capital and earnings commensurate with the minority group members' percentage of ownership;
4. The firm performs a commercially useful function;
5. Each owner of the firm must be United States citizens or lawfully admitted permanent residents;
6. The firm has a valid and current MBE or WBE certification or both with at least one of the County-approved certification agencies (see Appendix A. Certification Agencies).

The requirements for County approved WBE certification are:

1. The applicant is an independent operating business and must have been in business for at least one year before applying for certification.
2. The owner is a sole proprietorship that is independently owned and controlled by an individual(s) who is a woman; a joint venture that is at least 51% independently owned and controlled by a woman; or a partnership, limited liability company or corporation that is at least 51% independently owned and controlled by a woman;

3. The woman owners have interest in capital and earnings commensurate with the woman's percentage of ownership;
4. The firm performs a commercially useful function;
5. Each owner of the firm must be United States citizens or lawfully admitted permanent resident;
6. The firm has a valid and current WBE certification with at least one of the County-approved certification agencies (see Appendix A. Certification Agencies).

A business that desires approval by Hamilton County through its Economic Inclusion and Equity Department as a MBE or WBE or both must complete and submit a County Vendor Registration form and provide a current MBE or WBE certification (or both) from a County-approved agency to:

**Economic Inclusion and Equity Department**  
**Attn: Director**  
**County Administration Building**  
**138 Court Street, Room 603**  
**Cincinnati, OH. 45202**

The County approves MBE and WBE applicants in three categories:

- a. Construction
- b. Professional Services
- c. Goods and services

### **Section 19. Certification Process**

The County will accept certifications from those certifying agencies that meet the requirements for MBE and WBE certification as stated in Section 18 of these Policies and Procedures. Any business seeking approval of its MBE or WBE certification must complete the designated forms and provide the latest copy of its certification or a copy of the letter of certification from the certifying agency to the County. EIED will verify that the certifying agency meets its standards as stated above.

After it makes a certification acceptance decision, EIED will send a notice of acceptance to the firm or business, or a letter of denial in accordance with Section 21.

EIED accepts those firms and businesses meeting the eligibility requirements documented in Section 18, above. The Director of EIED, or his/her designee, may accept applications from firms or businesses seeking to be approved by the County as a MBE or WBE, or from firms or businesses seeking to have a joint venture approved. Registrations may be obtained online at <https://hamiltoncountyohio.gob2g.com/> or at the office of the Economic Inclusion and Equity Department, County Administration Building, 138 Court Street, Room 603, Cincinnati, OH.

In considering each application for certification approval, the EIED Director, or his/her designee, will determine whether the applicant is a MBE or WBE as defined above by reviewing the

application and accompanying documentation, the results of staff investigations (which may include a site inspection), and other relevant information.

The Director, or his/her designee, may approve the applicant or provide the applicant with written justification of denial, within ten (10) business days after the date EIED receives a satisfactorily-completed registration forms and certification documents from the applicant.

### **Section 20. Certification Expirations and Renewals**

Upon the expiration of a third-party certification, it is the responsibility of the certified MBE or WBE to submit all recertifications to EIED. Upon expiration the business will no longer be listed as a certified MBE or WBE until they submit another third-party certification to EIED. Any changes in the ownership or control of an MBE or WBE will require a new registration with EIED.

### **Section 21. Certification Denials**

When it is determined that an applicant does not meet the criteria for approval as an MBE or WBE, the applicant will be notified by EIED within ten (10) business days. The notification will include the specific reason(s) for the denial.

### **Section 22. Certification Termination**

An approved certified MBE or WBE shall provide written notice to the Director, or his/her designee, of any change in ownership or control of the MBE or WBE within ten (10) business days of such change. Upon such notification the business will no longer be listed as a certified MBE or WBE until they submit another third-party certification to EIED.

## **Chapter 4. Other Components**

### **Section 23. Department Reporting**

An internal reporting procedure has been designed to assist in the evaluation of the County's efforts to increase the utilization of MBE and WBE firms. It is required that all County reporting units report quarterly information, as requested, to EIED.

Completed quarterly reports will be used by the EIED to evaluate the progress of utilization efforts made by reporting units. Report preparation and submittal involves all County reporting units, and information required by EIED for its quarterly reports shall be submitted to EIED no later than the 20<sup>th</sup> of the month from the previous quarter. Prior to issuing the reports, EIED will make a request to each department to confirm that all information for the reporting period is complete; after which, the EIED will finalize its report for the quarter.

The status of progress made will be submitted to the County Administrator, the Economic Inclusion Advisory Board, and reporting units.



In addition, the following procedures are to be followed by the reporting units:

- A. The previous year's quarterly data must be available for EIED for review before the last day of February of the current year.
- B. Quarterly reports from all departments are due to EIED by the 20<sup>th</sup> of the month following the end of the reporting period. Any department unable to submit their report by the 20<sup>th</sup> of the month must notify EIED.
- C. To allow for proper review and updates of each department, each quarter, a department will have until the last day of the month following the end of the reporting period to amend its report.
- D. EIED provides quarterly report training, and it is up to each department to make a request if this is needed.
- E. If there is a change to the quarterly reporting person, a department must notify EIED within ten (10) business days of the change. In addition, a department quarterly report backup person must be identified.
- F. All departments are responsible for submitting subcontractor data with supporting documents to EIED to receive MBE/WBE participation credit.

#### **Section 24. Small Contract Enhancement Program**

Hamilton County departments are required to obtain a minimum of three quotes for purchases between \$2,500 and \$74,999.99. At least one quote shall be from a certified MBE/WBE/SBE. It is encouraged that two quotes come from this group, if possible. If the lowest and best quote is from a non-MBE/WBE/SBE, and the next lowest quote is from an MBE/WBE/SBE that is within 10% of the lowest quote, then that MBE/WBE/SBE shall have the opportunity to match the lowest quote and receive the award. If the MBE/WBE/SBE does not agree to match the lowest quote, the non-MBE/WBE/SBE with that quote will receive the award.

#### **Section 25. Selection Criteria and Evaluation**

Hamilton County will consider past compliance with MBE/WBE/SBE programs in determining contract awards.

For RFPs, selection criteria and evaluation will include a criterion for the respondent's commitment to the MBE/WBE contract goals and will be worth no less than 10% of the selection evaluation total points.

## **Chapter 5. Remedies**

### **Section 26. Falsification of MBE and WBE Subcontracts**

Falsification or misrepresentation of an agreement with a subcontractor as to company name, contract amount and/or actual work performed by subcontractor, submitted on any contracts or forms required or otherwise requested by the County, will result in the County utilizing any and all remedies available under the law to enforce EIED policies.

### **Section 27. MBE/WBE/SBE Program Noncompliance Process**

If EIED or the contracting department determines that a contractor has failed to comply with the terms of the MBE/WBE/SBE programs, EIED and the contracting department shall meet to discuss the contract, issues of noncompliance, and the options for correcting contract noncompliance.

A contractor may be found in noncompliance with the MBE/WBE/SBE Programs in the following ways without limitation:

1. By evidence found by the contracting department or by EIED through the course of regular monitoring of the execution of such contract;
2. By complaint submitted to the contracting department or EIED, where the party responsible for the complaint submits any evidence or documentation they possess in support of their claim;
3. Contractor fails to notify Hamilton County of debarment or suspension by the State of Ohio, City of Cincinnati, or any other municipality before or during the contract period.

If EIED and/or the contracting department through their discussion find evidence of noncompliance with Hamilton County's MBE/WBE/SBE programs, The Director of EIED may at this stage request that the contractor participates in a meeting to discuss its progress towards meeting its proposed MBE/WBE/SBE utilization goals. If EIED and the contractor agree on corrective measures, the contractor shall, within ten (10) business days, submit a letter to the Project Manager and Director of EIED documenting the corrective measures to be taken by the contractor along with an agreed-upon timeline for implementation.

If no agreement can be reached, EIED shall serve a written notice of MBE/WBE/SBE program noncompliance to the contractor. The written notice will include all instances of noncompliance and potential options for rectification. Contractors shall have ten (10) business days from the date of the written notice of MBE/WBE/SBE program noncompliance to determine and communicate a method for remedying all instances of noncompliance. The contractor must include within their communication a plan that is agreed to by EIED to remedy all instances of MBE/WBE/SBE program noncompliance within thirty (30) days of their response. If the contractor cannot remedy all instances within thirty (30) days of the notice of MBE/WBE/SBE program noncompliance, the Director of EIED and Program Manager, may, at their discretion, negotiate a new timeframe to achieve MBE/WBE/SBE program compliance with the contractor.

If a contractor fails to remedy all instances of MBE/WBE/SBE program noncompliance within thirty (30) days of the date of the written notice or within the newly negotiated timeframe,

EIED shall make a determination of noncompliance which will be sent to the contractor in writing.

Once a determination of noncompliance is made, EIED may use all available legal remedies including but not limiting to:

- a. Withhold all or part of all future payments to the contractor;
- b. Require contractor payment of liquidation damages,

If appropriate, EIED will refer the matter to the appropriate authorities for potential criminal investigation and prosecution.

### **Section 28. Appeal Process for Determinations of Noncompliance**

Any contractor who is determined to be noncompliant in connection with the performance of a contract shall be allowed ten (10) business days from receipt of the EIED notice of MBE/WBE/SBE program noncompliance to file a written appeal of that determination. Filing of the appeal shall be accomplished by delivery (paper or electronic) of a notice of appeal to EIED.

The notice of appeal by the contractor shall be in writing and shall briefly state all the facts or other basis upon which the contractor contests the EIED finding of noncompliance. Supporting documentation must be included.

The EIED Director, with the input of the Purchasing Director and the Project Manager, shall consider the contractor's appeal and shall make a written decision no later than thirty (30) days after receipt concerning the merits of the contractor's appeal. Hamilton County staff may, at their discretion, meet with the contractor to discuss the appeal.

A copy of the appeal decision shall be sent to the contractor. If the EIED upholds the finding of noncompliance, the EIED Director shall inform the contractor of the decision which shall be final, and the appropriate penalties shall be applied.

If Hamilton County accepts the appeal, then the contractor will be informed. If Hamilton County's determination is not made within thirty (30) days after receipt of the appeal, then the contractor will not be held accountable.

## **Chapter 6. Sunset Provision**

### **Section 29. Provisions for Sunset**

These Policies and Procedures, including any resolutions, ordinances or other legislative acts approved and incorporated into the MBE/WBE Program following its initial inception shall be subject to review and/or modification in five-year intervals following initial approval by the Board of County Commissioners in 2023. Data may become irrelevant or stale after five years, therefore, conducting new disparity studies in five-year intervals is seen as a best practice. This sunset provision is not intended to restrict the Board's ability to evaluate and review these policies whenever necessary.

## **Chapter 7. Definitions**

### **Section 30. Definitions**

**Administrator** – refers to the position of County Administrator of Hamilton County, OH.

**African American** – is a U.S. citizen or lawfully admitted permanent resident whose ancestry originates from any of the black racial groups of Africa.

**Asian American** – is a U.S. citizen or lawfully admitted permanent resident whose ancestry originates from, but is not limited to, Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, Hong Kong, India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.

**Best Effort** – that effort which demonstrates an exhaustive search of possible means to locate and contract with MBE/WBEs and other diverse contractors in an effort to achieve inclusion on the project. (Similar to the term Good Faith Efforts.)

**Bid Document** – is a quotation, proposal, or offer by a respondent, vendor, or contractor to perform or provide labor, material, services, or goods to Hamilton County for a price.

**Business Enterprise** – means a firm, sole proprietorship, partnership, association, corporation, company, or other business entity of any kind including, but not limited to, a limited liability corporation, incorporated professional association, joint venture, estate, or trust.

**Certification** – means the status of a minority or women business enterprise that meets the qualification criteria set forth by the Hamilton County MBE/WBE/SBE Programs Policies and Procedures for participation in the MBE/WBE program in the appropriate construction, professional services, and goods and services categories. Certification is formally approved by the director of EIED or the director's designee as having met such criteria. Certification or recertification relate to qualifications regarding ownership and control of the business and/or business size, and not the quality of the service or product offered.

**Commercially Useful Function** – means a business provides a commercially useful function when it meets all of the following: when it is directly responsible for providing the actual services to the County as required by the solicitation or request for quotes, bids, or proposals; when it is responsible for the execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved; and when it performs work that is normally or usually performed by a business within the industry in which the business operates. A business does not provide a commercially useful function if it subcontracts a portion of the work that is greater than that expected to be subcontracted by normal industry practices. A business which stocks sufficient quantities of supplies in direct inventory, held for sale or resale, to cover anticipated future demands for the supplies performs a commercially useful function. MBEs/WBEs that are brokers shall not be

deemed to perform a “commercially useful function” unless the brokerage services are those required and sought by the County.

Compliance – means a determination by the Director of EIED that a participation or utilization plan for MBE/WBE participation in a particular contract has correctly implemented the requirements of the Hamilton County MBE/WBE Program Policies and Procedures.

Commodity – means goods and services sought by the County. Any type of supplies, materials, equipment or services identified by a common commodity code number as a common unit for purchasing purposes.

Contract – means a legal agreement to provide services for a specified price to the County in the following areas:

- (a) Construction
- (b) Professional Services
- (c) Goods and Services

Contract Goal – is a condition-of-award percentage goal for the participation of eligible MBE/WBE/SBEs in an individual contract or procurement. The County may set contract goals on a specific contract or procurement based on the availability of MBE/WBE/SBEs for the work, the size of the contract or procurement, and other factors.

Contractor – means a person or business entity that contracts with a County department to provide goods or services in construction, professional services, or goods and services.

Control – relates to the ownership of a business by those who are members of a minority group, and women individuals means that such individuals: a) Possess and actively and continuously exercise the legal authority and power to direct or cause the direction of the management and policies of the business and to make day-to-day and long-term decisions for the business on matters of management, policy and operations; b) Are not subject to any formal or informal restrictions that limit the discretion customarily within the purview of a business owner; and c) Are not restricted, whether by agreement, by-laws, resolutions or other arrangements from making business decisions without the cooperation or vote of any owner.

Director – means the Director of the Economic Inclusion and Equity Department (EIED).

Fixed Office – is a constant or permanent office location, owned or leased by the business, in an established, non-portable building where the regular business function (commerce) of a firm is carried out or performed, where the firm’s owner, management, or the firm’s employees are present and conduct the firm’s business on a regular and frequent basis, and where supporting documentation can be provided for the office location such as: deed, lease agreements, utility bills, rent receipts and/or cancelled checks for rent payments. In addition, the firm must have evidence of paying local taxes (property taxes, payroll taxes, sales taxes, earnings taxes, etc.) as applicable. Appropriate documentation demonstrating the payment of taxes must be provided when requested.

A residence may qualify as a fixed office provided that all the following conditions are met: (a) the business conducted in the residence complies with the local zoning regulations relating to home occupations; (b) the residence is the primary (main) business location of the business (c) the residence is owned or leased by an owner of the business; and (d) the residence is used on a full-time basis during typical business hours for the specific industry of the business. A fixed office can also be a fixed distribution point. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping and receiving of goods and commodities on behalf of the business occurs and the owner and employees regularly conduct distribution of goods and commodities on behalf of the business.

Post Office boxes, temporary locations, and moveable work sites are not fixed offices. Further, a local office that principally serves to market the firm locally does not meet the definition of fixed office, unless the office is used full-time by principals and employees of the firm, the firm pays local taxes, and the office is used for the current performance of work in the local area. A firm that is doing business from a local telework center (virtual office) or similar facility in which businesses share facilities, such as receptionists or copiers, on a short- or long-term basis will not meet the definition of having a fixed office, unless the firm's principals and employees use it on a full-time basis.

Front Organization – means any MBE/WBE that is certified for a specific commercially useful function but the MBE/WBE is not actually owned and operated by a MBE/WBE individual.

Good Faith Effort – similar to Best Efforts. It refers to the efforts set forth in the Hamilton County MBE/WBE/SBE Program Policies and Procedures inclusive of required documentation that demonstrates a contractor's best efforts to utilize MBE/WBE/SBEs.

Hispanic American – means a U.S. citizen or lawfully admitted permanent resident whose ancestry originates from Mexico, Puerto Rico, Cuba, the Dominican Republic, Central America, South America, Spain, Portugal, or other Spanish or Portuguese culture, regardless of race.

Independent Ownership – means the degree to which MBE/WBEs own and participate in the management of the partnership, corporation or joint venture, by considering: 1) the MBE/WBE's participation in the decisions affecting day-to-day operations of the business; 2) the ability of MBE/WBEs to function and carry out daily business activities without assistance from the majority partner, other than in ways specified in the partnership or corporation papers; and 3) the MBE/WBE's proportionate interest in the capital, assets, profits and losses of the business. In determining whether a partnership or corporation is at least 51% independently owned and controlled by a MBE/WBE, and in determining whether such MBE/WBE has at least 51% independent ownership and control, the Director of EIED, may use discretion in weighing the foregoing factors, as well as any other factor which, in the County's determination, affects independent ownership and control.

Joint Venture – is an association of two or more businesses established to carry on a single business activity that is limited in scope and duration. MBE/WBE participation in a joint venture shall be based on the sharing of real economic interests in the venture and shall

include proportionate control over management, interest in capital acquired by the joint venture, and interest in earnings.

Minority Business Enterprise (MBE) – means a business that meets each of the following criteria: a) Is an independent operating business; b) Is a sole proprietorship that is independently owned and controlled by an individual who is a minority group member; a joint venture that is at least 51% independently owned and controlled by minority group members; or a partnership, limited liability company or corporation that is at least 51% independently owned and controlled by minority group members; c) The minority owners have interest in capital and earnings commensurate with the minority group members' percentage of ownership; d) Has been in operation for at least 1 year before applying for certification; e) Has been at least 51% minority-owned for at least 1 year before applying for certification; f) Performs a commercially useful function; and, must be United States citizens or lawfully admitted permanent residents.

Minority Person – an individual who identifies with one of the following racial/ethnic groups: Asian American, Black American, Hispanic American, Native American, or other non-white racial or ethnic groups.

Native American – means a U.S. citizen or lawfully admitted permanent resident whose ancestry originates from the original people of North America and who maintains cultural identification through tribal affiliation.

Operate – means to be actively involved in the day-to-day management of the business.

Own – means to have possession of the business. Ownership is interpreted to ensure that the small business member(s) enjoy the normal and customary incidents of ownership.

Participation – is the rate of MBE/WBE utilization.

Pass-through – means an MBE/WBE does not perform a commercially useful function and its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of MBE/WBE participation.

Prime Contractor – means the vendor or contractor to which a purchase order or contract is issued by the County for purposes of providing goods or services to the County.

Purchasing Division – refers to the Purchasing Division of Hamilton County, OH.

Respondent – refers to any person, or company, who responds to a request for quotes, request to bid, request for purchase, or any other solicitation for the procurement of construction, professional services, and goods and services issued by the County.

Small Business Enterprise (SBE) – means a firm for which the gross revenues or number of employees averaged over the past three years, inclusive of any affiliates as defined by 13 C.F.R.

Sec. 121.201, and does not exceed the size standards as defined pursuant to Section 3 of the SBE Act, and personal net worth of each owner and his or her spouse cannot exceed \$750,000, exclusive of specified assets (equity in primary residence, retirement accounts subject to a significant withdrawal penalty, equity in the business for which they are applying). The applicant for SBE certification must have been in business for at least one year, during which time it maintained a fixed office for the same period; the applicant(s) must be a citizen of the United States; such business must perform a commercially useful function; and such business has been certified by the County.

Subcontractor – means any vendor or contractor that is providing goods or services to a prime contractor in furtherance of the prime contractor's performance under a purchase order or contract with the County.

Utilization – Utilization refers to the percentage of total dollars that were spent with a specific group of businesses.

Waiver – refers to County approval relinquishing a contractor's obligation to comply with one or more provision(s) of the MBE/WBE Program Policies and Procedures.

Women Business Enterprise (WBE) – means a business that meets each of the following criteria: a) Is an independent operating business; b) Is a sole proprietorship that is independently owned and controlled by a woman; a joint venture which is at least 51% independently owned and controlled by women; or a partnership, limited liability company or corporation that is at least 51% independently owned and controlled by women; c) The women owners have interest in capital and earnings commensurate with the women's percentage of ownership; d) Has been in operation for at least 1 year before applying for certification; e) Has been at least 51% women-owned for at least 1 year before applying for certification; f) Performs a commercially useful function; and, g) The women owners must be United States citizens and lawfully admitted permanent residents.



## **Appendix A. Certification Agencies**

***Below are certification agencies we recognize  
as outlined in our Hamilton County Economic Inclusion Policy:***

### **City of Cincinnati**

Department of Economic Inclusion  
805 Central Avenue, Suite 600  
2 Centennial Plaza  
Cincinnati, OH 45202  
Phone: (513) 352-3154  
Email: [cincinnati@diversitycompliance.com](mailto:cincinnati@diversitycompliance.com)  
Website:  
<https://cincinnati.diversitycompliance.com/>  
**Certifies SBEs, MBEs, WBEs**

### **U.S. Small Business Administration (SBA)**

Columbus District Office  
8(a) Business Development Program  
2 Nationwide Plaza, Suite 1400  
Columbus, OH 43215  
Phone: (614) 469-6860  
Email: [answerdesk@sba.gov](mailto:answerdesk@sba.gov)  
Website: <https://certify.sba.gov/>  
**Certifies WOSBs**

### **Women's Business Enterprise Council Ohio River Valley (WBEC ORV)**

3458 Reading Road  
Cincinnati, OH 45229  
Phone: (513) 487-6503  
Email: [crudisell@wbec-orv.org](mailto:crudisell@wbec-orv.org)  
Website: <https://www.wbecorv.org/how-to-apply/>  
**Certifies SBEs, WBEs**

#### **Abbreviations:**

**SBE-** Small Business Enterprise  
**MBE-** Minority Business Enterprise  
**WBE-** Women's Business Enterprise  
**DBE** – Disadvantage Business Enterprise  
**EDGE** –Encouraging Diversity, Growth  
and Equity

### **Ohio Department of Transportation (ODOT)**

Office of Equal Opportunity  
1980 West Broad Street  
Columbus, OH 43223  
Phone: (614) 644-8436 or 1-800-459-3778  
Email: [DOT.SDBE@dot.ohio.gov](mailto:DOT.SDBE@dot.ohio.gov)  
Website: <https://www.transportation.ohio.gov/programs/business-economic-opportunity/business-economic-opportunity>  
**Certifies SBEs, DBEs**

### **Ohio Minority Supplier Development Council**

Chase Building  
100 East Broad Street, Suite 2460  
Columbus, OH 43215  
Phone: (614)-225-6959, Ext.208  
Email: [certification@ohiomsc.org](mailto:certification@ohiomsc.org)  
Website: <https://thh.3df.myftpupload.com/certificationprocess/>  
**Certifies SBEs, MBEs**

### **Ohio Department of Development**

Equal Opportunity Division  
30 East Broad Street, 18<sup>th</sup> Floor  
Columbus, OH 43215  
Phone: (614) 466-838  
Email:  
[Donald.Stinsonjr@development.ohio.gov](mailto:Donald.Stinsonjr@development.ohio.gov)  
Website: <https://development.ohio.gov/business/minoritybusiness/certifications>  
**Certifies MBEs,**

# MBE/WBE/SBE GOAL COMPLIANCE PLAN

*Failure to complete this form in its entirety may result in your bid being deemed non-responsive.*

(Page 1 of 3)

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**Bidder must achieve, or show good faith efforts to achieve, all goals. All sections of this form must be completed and returned as part of the bid. MBE/WBE firms that are also certified as SBEs may be used to achieve both the MBE/WBE goal and the SBE goal. Firms that are certified as both MBE and WBE will be counted towards the MBE goal and not the WBE goal. If you are not able to meet one or more of the stated goals, you must include the Application for SBE/MBE/WBE Program Waiver with your bid package.**

Bidder must list the following information for **every** firm that will perform work, labor, render services, or provide materials as part of the contract or project, including certified MBE/WBE/SBE firms; non-certified small, minority-, or woman-owned firms; and any other firms. Bidder must also include any work to be self-performed and any work performed by a joint venture (JV) partner.

For projects under \$1 million, bidders must submit a completed Letter of Intent (LOI) for all subcontractors/suppliers listed in their bid package at the time of submission. For larger projects over \$1 million, bidders must include a completed LOI for all MBE/WBE/SBE subcontractors/suppliers listed in the Goal Compliance Plan at the time of submission. The LOI for all other subcontractors can be submitted after the time of submission, but before the contract is awarded. This applies to any subcontractors/suppliers that are substitutions or additions to the plan made after award and prior to the start of work.

Bidder must ensure that all firms whose participation is being counted towards the MBE, WBE, and SBE goals are certified as an MBE, WBE, or SBE with one of the certification agencies recognized by Hamilton County and are registered as a certified company with Hamilton County.

If you plan to perform 100% of the work yourself, you must submit the Goal Compliance Plan and indicate this in the self-performance section. In addition, you must successfully complete the the Application for Program Waiver by selecting the goals you would like to waive and signing and dating the Application for Program Waiver.

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# MBE/WBE/SBE GOAL COMPLIANCE PLAN

*Failure to complete this form in its entirety may result in your bid being deemed non-responsive.*

(Page 2 of 3)

Bid Number: \_\_\_\_\_

Project Title: \_\_\_\_\_

Total Bid Amount: \_\_\_\_\_

Bidder Name: \_\_\_\_\_

Primary Contact Name: \_\_\_\_\_

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

Bidder Email: \_\_\_\_\_

Bidder Phone: \_\_\_\_\_

Certification Type (if applicable):

MBE  WBE  SBE

Race/Ethnicity (if MBE): \_\_\_\_\_

Description of Self-Performed Work (if applicable):

Dollar Amount: \_\_\_\_\_

Percent of Total Bid: \_\_\_\_\_

## STATED COMMITMENT TO MBEs/WBEs/SBEs

MBE goal stated in solicitation: \_\_\_\_\_

WBE goal stated in solicitation: \_\_\_\_\_

Total \$ amount committed to MBEs: \_\_\_\_\_

Total \$ amount committed to WBEs: \_\_\_\_\_

% total bid amount committed to MBEs: \_\_\_\_\_

% total bid amount committed WBEs: \_\_\_\_\_

SBE goal stated in solicitation: \_\_\_\_\_

Total \$ amount committed to SBEs: \_\_\_\_\_

% total bid amount committed to SBEs: \_\_\_\_\_

**PARTICIPATING FIRMS**

(Page 3 of 3)

Bidder should add additional firms using the same format as needed.

Company Name, Address, and Telephone Number	JV Partner, Subcontractor, or Supplier	Certification Type (MBE/WBE/SBE) *Select all that apply	Race/Ethnicity (if MBE)	Description of Work	Dollar Amount	Percent of Total Bid	EIED APPROVED *EIED use only
Name: Address:  Phone:	<input type="checkbox"/> JV Partner <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> N/A					
Name: Address:  Phone:	<input type="checkbox"/> JV Partner <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> N/A					
Name: Address:  Phone:	<input type="checkbox"/> JV Partner <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> N/A					
Name: Address:  Phone:	<input type="checkbox"/> JV Partner <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> N/A					
Name: Address:  Phone:	<input type="checkbox"/> JV Partner <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> N/A					

By signing below, the Bidder certifies that the information included in this form is accurate and complete to the best of their knowledge.

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

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

Title: \_\_\_\_\_

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

# HAMILTON COUNTY MBE/WBE/SBE PROGRAMS Application for Program Waiver

(Page 1 of 6)

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At the time of bid submission, Bidders **that do not meet one or more of the MBE, WBE, or SBE goals** must request a waiver from achieving the MBE, WBE, and/or SBE goal(s) by documenting the Good Faith Efforts they made to achieve the goal(s) and document, with specificity, the Good Faith Efforts they made to achieve the goal(s). "Good Faith Efforts" means the efforts a bidder made to utilize MBEs, WBEs, and SBEs in response to the solicitation. Bidders that request a waiver must demonstrate they took reasonable steps to achieve the MBE/WBE/SBE goal(s) specified within the bid/RFP, and that the scope, intensity, and appropriateness of their efforts could reasonably be expected to result in MBE/WBE/SBE participation sufficient to achieve the goal(s), even if they were not successful in doing so. In considering waiver approval, among the totality of Good Faith Efforts bidders make, Hamilton County will consider the specific efforts the bidder made.

**Bidders requesting a waiver must complete this form to document their Good Faith Efforts with specificity, or their bid will be deemed non-responsive. Every item marked on the checklist must have associated documentation in order to receive points.**

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# HAMILTON COUNTY MBE/WBE/SBE PROGRAMS

## Application for Program Waiver

(Page 2 of 6)

Bid/RFP Name: \_\_\_\_\_ Bid/RFP Number: \_\_\_\_\_

Bidder Name: \_\_\_\_\_ Bidder Address: \_\_\_\_\_

Primary Contact Name: \_\_\_\_\_

Bidder Phone: \_\_\_\_\_ Bidder Email: \_\_\_\_\_

**Bidder is requesting a waiver for: (select all that apply)**

MBE goal

WBE goal

SBE goal

In attempting to meet the projected goal(s), the bidder made the following good faith efforts:  
***Check all that apply. Minimum score required to establish "good faith" effort is 70 points.***

Item	Points	Score (EIED USE ONLY)
• Respondent's attendance at pre-bid conference;	10	
• Advertisement in general circulation media, trade publications, and minority-focused media at least two (2) weeks before bids or proposals are due;	10	
• Tailored mailings to MBE/WBE/SBE firms notifying them of contracting opportunities at least two (2) weeks before bids or proposals are due;	10	
• Efforts made to select portions of the work proposed to be performed by MBE/WBE/SBE firms in order to increase the likelihood of achieving the stated goal(s);	10	
• Efforts to negotiate with MBE/WBE/SBE firms for specific sub-bids, including at a minimum: The names, addresses, and telephone numbers of MBE/WBE/SBE firms that were contacted; A description of the information provided to MBE/WBE/SBE firms regarding the plans and specifications for portions of the work to be performed and/or; A statement of why additional agreements with MBE/WBE/SBE firms were not reached.	15	
• If the respondent rejected any MBE/WBE/SBE firm(s) as unqualified, they must submit the reason(s) for this conclusion.	10	
• The respondent must also document technical assistance provided to the MBE/WBE/SBE firms in obtaining bonding or insurance required by the County.	15	
• Providing interested MBE/WBE/SBEs with prompt access to the plans, specifications, scope of work, and requirements of the contract.	10	
• Follow up to initial solicitations and copy of call logs.	10	
• Has a joint venture agreement or partnership for the contract with an MBE/WBE/SBE firm where the commercially useful function participation by the MBE/WBE must be 30% or greater.	15	
• Has a mentor-protégé agreement with an MBE/WBE/SBE firm for the contract.	10	
<b>TOTAL</b>		

Document the nature of Good Faith Efforts made to achieve participation with MBEs, WBEs, and SBEs, and attach copies of any documentation of those efforts, including copies of emails, written communications, advertisements, call logs, and outcomes of in-person/telephone negotiations.

**Pre-bid and Pre-solicitation Meeting Attendance**

List date, time, and location of pre-bid/pre-solicitation meetings attended for this solicitation. (EIED to verify attendance using sign-in sheets.)

Meeting Date	Meeting Time	Meeting Location

**Advertisements**

Provide the following information for each advertisement.

Newspaper/Publication Name	Date(s) on which ad was published

*Attach copies of published advertisements.*

**Communication Efforts to MBE/WBE/SBEs**

How many MBEs did you contact?

How many WBEs did you contact?

How Many SBEs did you contact?

*Provide the following information for each contact made:*

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Scope of Work / Line of Work	Dates of Contact	Contact Method	Contract Plans / Requirements	Negotiation	Selected	Reasons for Outcome
Name: Phone: Email: Address:			Initial:  Follow-up:		<input type="checkbox"/> Requested  <input type="checkbox"/> Sent	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
Name: Phone: Email: Address:			Initial:  Follow-up:		<input type="checkbox"/> Requested  <input type="checkbox"/> Sent	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
Name: Phone: Email: Address:			Initial:  Follow-up:		<input type="checkbox"/> Requested  <input type="checkbox"/> Sent	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
Name: Phone: Email: Address:			Initial:  Follow-up:		<input type="checkbox"/> Requested  <input type="checkbox"/> Sent	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
Name: Phone: Email: Address:			Initial:  Follow-up:		<input type="checkbox"/> Requested  <input type="checkbox"/> Sent	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

*Attach additional pages using the same format as necessary. **Attach copies of all correspondence.***



**Assistance to MBE/WBE/SBEs (including bonding, insurance, financial equipment, or other resources)**

Provide information below regarding any assistance provided to MBE/WBE/SBEs in obtaining bonding and insurance required for the solicitation.

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Type of Assistance Provided
Name: Phone: Email: Address:		
Name: Phone: Email: Address:		
Name: Phone: Email: Address:		

*Attach additional pages using the same format as necessary.*

**Segmenting Scope(s) of Work for MBE/WBE/SBE Participation**

Describe efforts made to segment scope(s) of work to enable MBE/WBE/SBE participation.

**Joint Venture Agreements with MBE/WBE/SBEs**

List MBE/WBE/SBEs involved in the joint venture agreement.

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Scope of Work	% of Total Bid
Name: Phone: Email: Address:			
Name: Phone: Email: Address:			
Name: Phone: Email: Address:			

*Attach agreement documents for the joint venture agreement.*

**Mentor-Protégé Agreements with MBE/WBE/SBEs**

List any mentor-protégé agreements with MBE/WBE/SBEs and provide supporting documentation.

Name and Contact of MBE/WBE/SBE	Certification Type (MBE/WBE/SBE) *list all that apply	Describe nature of mentor-protégé agreement
Name: Phone: Email: Address:		
Name: Phone: Email: Address:		

By signing below, the Bidder agrees that the information included in this form is accurate and complete to the best of their knowledge:

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

**Printed Name:** \_\_\_\_\_

**Title/Position:** \_\_\_\_\_

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

**FOR EIED USE ONLY**

Application for Program Waiver approved:

Yes     No

If no, provide reasons for rejection:

**Director of EIED Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

# Letter of Intent (LOI) Between Prime Contractor and Subcontractor/Supplier

(Page 1 of 3)

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The following Letter of Intent (LOI) is to be used by Prime Contractors and their subcontractors/suppliers. For projects under \$1 million, signed and notarized LOIs between Bidder and all subcontractors/supplies must be included in their Goal Compliance Plan at the time of submission. For larger projects above \$1 million, bidders must submit a completed LOI for all MBE/WBE/SBE subcontractors/suppliers listed in the Goal Compliance Plan at the time of submission. The LOI for all other subcontractors can be submitted after the time of submission, but before the contract is awarded. Submit a separate form for each distinct subcontractor/supplier.

**Any changes to the MBE/WBE/SBE Goal Compliance Plan, including substitution or addition of an MBE/WBE/SBE subcontractor/supplier must be submitted to the Contract Administrator and approved by Hamilton County's Director of Economic Inclusion (EIED). LOIs must be submitted prior to the start of work for changes of MBE/WBE/SBEs stated in the Goal Compliance Plan.**

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# Letter of Intent (LOI) Between Prime Contractor and Subcontractor/Supplier

(Page 2 of 3)

Prime Contractor: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Proposed Contract Amount: \$ \_\_\_\_\_

Project Solicitation Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

Type of Agreement: \_\_\_\_\_  
(Lump Sum/Unit Price/Commodity/Professional Service)

Period of Performance: \_\_\_\_\_

Name of Subcontractor/Supplier: \_\_\_\_\_

Certification Type (select all that apply):  MBE  WBE  SBE  N/A

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Proposed Contract Amount: \$ \_\_\_\_\_

Description of work to be performed under Subcontract:

By signing below, the Prime Contractor and the subcontractor/supplier agree that they intend to enter into a contract by which the Prime Contractor agrees to pay the contract amount and the subcontractor/supplier agrees to perform the work described herein.

Prime Contractor: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_  
(Signature)

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Subcontractor/Supplier: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_  
(Signature)

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public \_\_\_\_\_

Printed Name of Notary \_\_\_\_\_

# Prime Contractor Substitution Request Form

(Page 1 of 4)

## APPLICABLE POST AWARD

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No changes to the *MBE/WBE/SBE Goal Compliance Plan* are permitted after submittal of the Bid and before the award of the Trade Contract. After Trade Contract award, changes to the *MBE/WBE/SBE Goal Compliance Plan* must be requested through the Contract Administrator and approved by Hamilton County's Director of Economic Inclusion (EIED).

### **Submission and Evaluation of Requests**

Where a Bidder discovers after award of the Trade Contract that the *MBE/WBE/SBE Goal Compliance Plan* must be changed or a substitution must occur, the Bidder must request changes through the Contract Administrator and receive approval by the Director of EIED using the attached form. The form must be notarized.

The written request must state specific reasons for the proposed change or substitution. Sworn statements from the subcontractor/supplier to be substituted stating why it cannot perform on the Project may be submitted to support the request. The facts supporting the request must not have been known nor reasonably should have been known by the Bidder and/or proposed subcontractor/supplier prior to the submission of the *MBE/WBE/SBE Goal Compliance Plan*.

The following conditions constitute examples of acceptable reasons for changes:

- Unavailability of subcontractor/supplier after receipt of reasonable notice to proceed;
- Failure to perform the scope(s) of work;
- Financial incapacity;
- Failure to honor bid or proposal price within a reasonable period of time after original submittal;
- Failure of subcontractor/supplier to meet bonding, insurance, or licensing requirements specified in the solicitation;
- Withdrawal of bid or proposal by subcontractor/supplier;
- When the County determines that it is in the best interest of the Program and the County.

Where the reason is a valid mistake or disagreement on the scope(s) of work, the request must document all efforts made by the parties to reach an agreement for a reasonable price for the corrected scope(s) of work.

### **Good Faith Efforts on Substitutions and Additions of MBE/WBE/SBE Subcontractor/Suppliers**

When a change or substitution of an MBE/WBE/SBE is requested, the Prime Contractor still must continue to make Good Faith Efforts to meet the goal as submitted in the *MBE/WBE/SBE Goal Compliance Plan*.

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# Prime Contractor Substitution Request Form

(Page 2 of 4)

Project Solicitation Number: \_\_\_\_\_ Date: \_\_\_\_\_

Project Name: \_\_\_\_\_

Prime Contractor: \_\_\_\_\_

Total Trade Contract Price: \_\_\_\_\_

**Participation Goals Stated in Solicitation:** MBE: \_\_\_\_\_ WBE: \_\_\_\_\_ SBE: \_\_\_\_\_

**Actual Participation Prior to Proposed Change:** MBE: \_\_\_\_\_ WBE: \_\_\_\_\_ SBE: \_\_\_\_\_

**Participation After Proposed Change:** MBE: \_\_\_\_\_ WBE: \_\_\_\_\_ SBE: \_\_\_\_\_

The Prime Contractor on the above Project requests approval of the following addition and/or deletion of subcontractor/suppliers as submitted in the MBE/WBE/SBE Goal Compliance Plan included in the Bid. (Submit a separate form for each proposed change.)

## PROPOSED DELETION:

Name of subcontractor/supplier: \_\_\_\_\_

Certification Type (select all that apply):  MBE  WBE  SBE  N/A

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Amount of Subcontract: \$ \_\_\_\_\_ Percent of Trade Contract: \_\_\_\_\_

Description of Work: \_\_\_\_\_

**PROPOSED ADDITION:** Attach Good Faith Efforts documentation, if applicable. See preceding page for instructions.

Name of subcontractor/supplier: \_\_\_\_\_

Certification Type (select all that apply):  MBE  WBE  SBE  N/A

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Amount of Subcontract: \$ \_\_\_\_\_ Percent of Trade Contract: \_\_\_\_\_

Description of Work: \_\_\_\_\_

**REASONS FOR REQUESTING CHANGE:** Attach supporting documentation as necessary. A statement from the subcontractor/supplier to be removed stating why it cannot perform on the Project may be submitted to support the request.

**AFFIDAVIT**

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that this affidavit shall become a part of my Trade Contract with Hamilton County.

Name and Title (Print): \_\_\_\_\_

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

State of: \_\_\_\_\_

County of: \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared and having been duly sworn by me, subscribed to the foregoing affidavit and has stated that the facts stated therein are true and correct.

Notary Public: \_\_\_\_\_

Printed Name of Notary: \_\_\_\_\_



**FOR EIED USE ONLY:**

Substitution Request Form Approved:

Yes

No

COMMENTS:

**Director of EIED Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_