

**Subcontractor Equity Program**

The Metro Council is committed to doing business with firms certified by the State of Oregon Office for Business Inclusion and Diversity as minority-owned businesses, woman-owned businesses, service-disabled veteran owned businesses, and emerging small businesses (COBID Certified Businesses). The Council recognizes that supporting these businesses will result in a stronger economy and increased competition. To this end, Metro has established these procedures to maximize utilization of COBID Certified Businesses for Metro projects. The program incorporates the standards for good faith efforts described in ORS 200.045. The following steps are required to help Metro monitor the usage of these firms.

**Subcontractor Equity Program Steps:**

1. Identify divisions of work for which the Bidder intends to use subcontractors.
2. IF THE PRIME CONTRACTOR INTENDS TO SUBCONTRACT ANY WORK, THEN COMPLETE THE FOLLOWING STEPS:
3. Contact all COBID Certified Businesses who attend the project's pre-bid meeting who indicate an interest in ANY subcontracting to solicit bids for subcontracting or material supply opportunities;
4. Provide written notice of the subcontracting opportunities to a reasonable number of specific COBID Certified Businesses in sufficient time to allow such enterprises or businesses to participate effectively;
5. Follow up on initial solicitations of interest to determine with certainty whether the COBID Certified Businesses are interested in the subcontracting opportunities.
6. Provide interested COBID Certified Businesses with adequate information about plans, specifications and requirements for subcontracting or material supply work in connection with the public improvement contract;
7. Negotiate with interested, available and capable COBID Certified Businesses who submit competitive bids.
8. Report to Metro all sub-contractors contacted. Include their response, price quoted and if the Bidder intends to use their bid.

Please note a selected COBID Certified Business must be used unless Metro authorizes a substitution after contract award. Metro will determine if any offer or proposal complies with requirements of the Subcontractor Equity Program. If the Subcontractor Equity Program documentation submitted by the offeror fails to substantially comply with the requirements of the solicitation document, the Bidder shall be deemed non-responsible and rejected. Compliance with the Subcontractor Equity Program must be maintained during the entire period of the contract. Non-compliance may constitute a breach of contract. Contractor shall be required to complete a Monthly Utilization Report, a sample of which is attached to these Subcontractor Equity Program forms.

The following Program forms must be completed and returned as part of your Bid. Contact Procurement Services at [bidsandproposals@oregonmetro.gov](mailto:bidsandproposals@oregonmetro.gov) if additional information is required.

For Reference – Subcontractor Equity Program excerpts from Formal ITB for Public Improvement

**Subcontractor Equity Program Form**

**THIS IS A REQUIRED FORM TO BE SUBMITTED WITHIN TWO HOURS OF BID CLOSING**

Bidder/Proposer \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Bid Closing Date and Time: AS INDICATED ON THE ITB COVER PAGE.**

1. Identify divisions of work in which you intend to use sub-contractors.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. It is recommended that firms attend the Pre-Bid meeting, if held, to meet any COBID Certified Businesses at the Pre-Bid meeting. Attendance is not required for voluntary Pre-Bid meetings.

Name of person who attended Pre-Bid (if applicable):

\_\_\_\_\_

3. List the manners in which plans, specifications and requirements were provided to interested COBID Certified Businesses (examples are: announcements at chamber events and other contractor gatherings, notifying pre-qualified subcontractors, providing plans in main office, hosting an open house). Be specific: include dates, outlets and other identifying information.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Complete Subcontractor Contact Log to record all firms contacted for sub-contracting work. Note: All COBID Certified Businesses attending the pre-bid meeting that indicate an interest in ANY subcontracting work must be contacted. (use more sheets if necessary)



## **ARTICLE 13** of Construction Contract General Conditions SUBCONTRACTOR EQUITY PROGRAM

**13.1 Subcontractor Equity Program.** Metro's Subcontractor Equity Program incorporates the standard for good faith efforts described in ORS 200.045. The purpose of this Subcontractor Equity Program is to provide equitable opportunities for COBID Certified Businesses to participate in the subcontract opportunities created through Metro public improvement contracts. Contractor shall comply with this Article and all applicable provisions contained in Metro's Equity in Contracting Administrative Rules, which are by this reference expressly incorporated into this Contract. Metro reserves the right, at all times during the period of this Contract, to monitor Contractor's compliance with the terms of this Subcontractor Equity Program and Metro's Equity in Contracting Rules and enforce them if Contractor should fail to so comply. Contractor shall be bound by any and all representations made concerning its compliance with the program prior to Contract Award and any and all representations made by Contractor concerning the replacement of a COBID Business Subcontractor during the performance of this Contract.

**13.2 COBID Business Participation in the Contract.** It is Metro's policy that Contractor shall take reasonable steps to ensure that COBID Certified Subcontractors have the opportunity to participate in the Work. Contractor submitted a Diversity in Workforce and Subcontracting Plan for the Work as part of its response to Metro's solicitation for the Project. Contractor shall perform the Work according to the means and methods described in the Diversity in Workforce and Contracting Plan as proposed, which shall be part of the Contract, unless changes are requested or approved in writing in advance by Metro or are required by applicable laws, ordinances, codes, regulations, rules, standards, or Metro Specifications. The Plan shall include a narrative description committing to the following:

**13.2.1** A utilization target, as a percentage of estimated total construction contract amount, for COBID firms, along with the divisions of Work Contractor intends to subcontract.

**13.2.2** A plan for outreach, bid document availability and mentoring to COBID Certified Businesses regarding subcontracting opportunities, including coordination of outreach with the Metro Procurement Office satisfactory to the Metro Procurement Officer. Including, at a minimum:

**13.2.2.1** Contractor advertises the Project subcontracting opportunities in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minorities, women, service-disabled veterans and emerging small businesses.

**13.2.2.2** Contractor provides written notice of the subcontracting opportunities to a reasonable number of specific COBID Certified Businesses in sufficient time to allow such enterprises or businesses to participate effectively.

**13.2.2.3** Contractor follows up on its initial solicitations of interest by contacting the enterprises or businesses to which the bidder or proposer provided notice to determine with certainty whether the enterprises or businesses are interested in the subcontracting opportunities.

**13.2.2.4** Contractor contacts all COBID Businesses who attend the project's pre-solicitation or pre-bid meeting to solicit bids for subcontracting or material supply opportunities.

**13.2.2.5** Contractor provides interested COBID Certified Businesses with adequate information about plans, specifications and requirements for subcontracting or material supply work in connection with the public improvement contract.

**13.2.2.6** Contractor uses the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other

organizations that Metro identifies as providing assistance in recruiting COBID Certified Businesses for participation in public improvement contracts.

13.2.2.7 Contractor negotiates with interested COBID Business Subcontractors, and does not without justifiable reason reject as unsatisfactory bids or proposals that COBID Business Subcontractors prepare.

13.2.2.8 A description of how subcontracts will be packaged to make them attractive to small contractors, including at a minimum, identifying and selecting specific economically feasible units of the public improvement contract that COBID Business Subcontractors may perform in order to increase the likelihood that COBID Business Subcontractors will participate in the public improvement contract.

13.2.2.9 Contractor shall advise and assist interested COBID Business Subcontractors to obtain, when necessary, bonding, lines of credit or insurance that the contracting agency or contractor requires and shall identify subcontracting opportunities for which bonding or insurance coverage as otherwise required in this Contract should be reduced to remove barriers to participation, including a process for proposing and obtaining approval of such reductions from Metro.

13.2.2.10 A description of how partnerships, mentorships and/or other technical assistance will be provided to support COBID Certified Business.

13.2.2.11 The name and experience of the COBID Certified Business liaison officer who will administer the Contractor's COBID Certified Business program.

13.3 **Documentation and Reporting.** The Contractor shall submit a completed "Metro Monthly Subcontractor Payment and Utilization Report," on Metro's form. Contractor shall submit the form no later than the fifth day of each month. At the completion of the Project, Contractors shall submit a final form indicating the total amounts paid to all subcontractors and suppliers.

13.3.1 Prior to start of the Construction Phase, Contractor shall submit Contractor's project schedule showing the Work commencement date and estimated completion date for each COBID Business Subcontractor that will perform Work on the Project.

13.4 **Termination and Substitution of COBID Certified Businesses.** The Contractor shall notify Metro in writing and confer with Metro before terminating or replacing a COBID Certified Business that has a signed contract with the Contractor. Contractor shall not replace a COBID Business Subcontractor with another Subcontractor, either before Contract Award or during Contract performance, without prior written approval of Metro. If a COBID Business Subcontractor is replaced, Contractor shall substitute another COBID Business Subcontractor or make good faith efforts to do so. Failure to do so shall constitute Contractor's default of this Contract, and Metro, at its option, may terminate this Contract under the procedures set out in Article 15.

13.5 **Changes in Work Committed to COBID Certified Businesses.** Metro will consider the impact on COBID Certified Business participation in instances where Metro changes, reduces, or deletes Work contracted to COBID Certified Businesses at the time of Contract Award. In such instances, the Contractor shall not be required to replace the Work but is encouraged to do so. If the Contractor proposes any changes that involve a contracted COBID Certified Business, the Contractor shall notify the COBID Certified Business of the proposed change, reduction, or deletion of any Work committed at the time of Contract Award prior to executing the Change Order. The Contractor can choose to enable the affected COBID Certified Business to participate in the Change Order request and is requested to make every effort to maintain the contracted COBID Certified Business utilization percentage.

13.6 **Contractor Payments to COBID Business Subcontractors.** The Contractor shall maintain records of all subcontracts entered into with COBID Business Subcontractors and records of

# Construction Contract



For Reference – Subcontractor Equity Program excerpts from Public Improvement Contract

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materials purchased from COBID Business suppliers. Such records shall show the name and business address of each COBID Business Subcontractor or vendor and the total dollar amount actually paid to each COBID Business Subcontractors or vendor. The Contractor shall pay each COBID Business Subcontractor for satisfactory performance of its contract no later than ten (10) calendar days from receipt of each payment the Contractor receives from Metro. Contractor shall promptly apply to Metro for a partial release of retainage equivalent to the retainage held by Metro for each COBID Business Subcontractor, as each such COBID subcontractor's work is satisfactorily completed. The Contractor shall return retainage payments to each such COBID Business Subcontractor within ten (10) calendar days' after receipt from Metro. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the Metro Project Manager.

# Construction Contract



**Metro**

600 NE Grand Ave.  
Portland, OR 97232-2736

For Reference – Subcontractor Equity Program Sample Monthly Utilization Report (MUR)

Contractor Name:		0 Metro Contract #:		0 Project Name:		0		0					
Total Contract Amounts		Eligible MWESB Amounts		Actual MWESB Amounts		Current Payment		Estimated Completion:					
Contract	Change Orders	Revised Contract	Non-Eligible Work	Scope of Work:	Cert Type: Select from list	Original Contract Amount	Change Orders MWESB Firms	Revised Contract Amount	Current Payment	Current Payment Date	Previous Payments	Total Payments	Percent of Total Eligible
Contract	Change Orders	Revised Contract	Non-Eligible Work	Scope of Work:	Cert Type: Select from list	Original Contract Amount	Change Orders MWESB Firms	Revised Contract Amount	Current Payment	Current Payment Date	Previous Payments	Total Payments	Percent of Total Eligible
1	Example company	Paving	WBE	110259	5,247	115,506	-	-	-	-	40,089	40,089	#DIV/0!
2	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
3	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
4	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
5	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
6	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
7	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
8	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
9	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
10	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
11	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
12	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
13	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
14	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
15	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
16	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
17	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
18	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
19	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
20	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
21	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
22	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
23	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
24	0	0	0	0	0	0	0	0	0	-	-	-	#DIV/0!
<b>Totals</b>				110,259	5,247	115,506					40,089	40,089	#DIV/0!
		<b>Contracts</b>											

Construction Start: 0%

Construction Completion: 0%