

Good Faith Effort (GFE) Program, BIDDER CHECKLIST



The Bidder Checklist is provided to help the Bidder demonstrate that Good Faith Efforts have been made on their Bid. The Bidder is responsible for completing and submitting any of the GFE forms provided for this project. For purposes of this document, “submitted,” means in the physical possession of Multnomah County (the County) Central Purchasing.

MINIMUM OF SEVEN (7) DAYS BEFORE BID OPENING – FROM ALL BIDDERS

Contact a minimum of five (5) COBID-Certified Subcontractors (defined below) for each division of work which may be subcontracted. Bidders must use GFE Divisions of Work as provided in the Sourcing Event. See MULTNOMAH COUNTY GOOD FAITH EFFORT PROGRAM REQUIREMENTS Section 2 “Pre-Bid Requirements” on the following page(s) for detailed information regarding contacting subcontractors and recordkeeping.

BY 4:00 PM ON DAY OF BID OPENING – FROM ALL BIDDERS

☐ **FORM 1 – GFE SUBCONTRACTOR AND SELF-PERFORM WORK LIST**

Provide Form 1 documenting all required information. Form 1 must be completed and submitted through the Multco Marketplace Sourcing event even if the Bidder intends to self-perform ALL the work on this project.

BY 4:00 PM ON DAY OF BID OPENING – FROM ALL BIDDERS

☐ **FORM 2 – GFE COBID-CERTIFIED SUBCONTRACTORS, CONTACT AND BIDS RECEIVED LOG**

Provide Form 2 documenting all required information, including a copy of **each** solicitation letter, e-mail or FAX sent to COBID-Certified Subcontractors. Form 2 and the letter, FAX or e-mail sent to **each** COBID-Certified Subcontractors must be submitted through the Multco Marketplace Sourcing Event. Multnomah County is not responsible for delays or problems with transmissions.

DUE AFTER AWARD OF CONTRACT – FROM CONTRACTOR

Multnomah County requires all Contractors to submit required documents electrically for Certified Payroll, Subcontractor Payment & Utilization Report, along with the Monthly Utilization Employment Reports (MUER) by logging into LCP Tracker at www.lcptracker.net to access the County’s portal.

Have Questions? Call Multnomah County Central Purchasing at (503) 988-5111.

Good Faith Efforts (GFE) Program, REQUIREMENTS



1. PROGRAM DESCRIPTION

Multnomah County has a compelling government interest to ensure that contracts provide employment opportunities for business certified with the State of Oregon as Emerging Small Business (ESB), Minority/Women Business Enterprise (M/WBE), Service Disabled Veteran (SDV), and Disadvantaged Business Enterprises (DBE) (collectively COBID-Certified Subcontractors) in order to address historical underutilization. Therefore, prime contractors are required to submit documentation showing that Good Faith Efforts (GFE) have been made to contract with COBID-Certified subcontractors on projects.

For projects that are greater than \$150,000.00, this program:

- 1) Evaluates the Good Faith Efforts (GFE) required of all Bidders,
- 2) Assists the County in recording subcontractor utilization on its projects,
- 3) Requires Contractors to perform GFE on ALL of their subcontracting opportunities (regardless of value), and
- 4) Promotes the utilization and inclusion of COBID-Certified subcontractors on County projects.

2. PRE-BID REQUIREMENTS

- A. Bidders must use the GFE Divisions of Work identified in the Bidding Pages in the Sourcing Event. Bidders may identify other GFE Divisions of Work where subcontracting opportunities may exist. Bidders are required to make good faith efforts to contract with COBID-Certified subcontractors for each GFE Division of Work that Bidder intends to perform using a subcontractor.
- B. For the purposes of these specifications, “GFE Divisions of Work” shall be defined as any work item, or combination of items, that will result in a subcontract or purchase agreement should the prime Contractor be awarded this project.
- C. There may be multiple subcontract or purchase agreement opportunities within each Division of Work. Bidders are required to make good faith efforts for each opportunity. A Bidder may not use a “subcontractor” to perform any GFE Division of Work unless the Bidder has made good faith efforts as required by these specifications with respect to that GFE Division of Work.
- D. Bidders are **not** required to contact COBID-Certified subcontractors for any Division of Work that will be performed by Bidders’ own forces. If a Bidder indicates that it will self-perform work in a particular Division of Work, after Bids are due, a Bidder may add a COBID-Certified subcontractor in that Division of Work as long as Bidder complies with the requirements of Section 5, “**Addition Or Replacement of COBID-Certified Subcontractors After Bids are Due,**” below.
- E. These requirements are contractual obligations and will be included as part of the construction contract.
- F. Failure to comply may result in a rejection of Bid, and/or disqualification of the Bidder to bid on future contracts.

Good Faith Efforts (GFE) Program, REQUIREMENTS



- G. Please go to the state's website below to locate potential COBID-Certified subcontractors for each GFE Division of Work. Search codes for each GFE Division of Work you intend to subcontract by using Keywords such as Painting, Electrical, Landscaping, etc.... If you have difficulty identifying potential COBID-Certified subcontractors, please contact Multnomah County Central Purchasing at 503-988-5111.
- H. This project is located within Multnomah County and when searching for potential subcontractors you are encouraged to contact subcontractors within the general area. If less than five (5) subcontractors are available, please expand your search perimeter.

Certification Office for Business Inclusion & Diversity (COBID):

<https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>

WHO TO CONTACT:

For **each** GFE Division of Work that will be performed by a COBID-Certified subcontractor, Bidders must contact:

- 1) Each COBID-Certified subcontractor, that attended the pre-bid meeting (if one was held) that identified itself as a COBID-Certified subcontractor in one or more specific GFE Divisions of Work that the Bidder will subcontract. The Pre-Bid Meeting Attendance List will be available to bidders on the Multnomah County Central Purchasing website, www.multco.us/purchasing **AND**
- 2) The Bidder shall contact a minimum of five (5) COBID-Certified subcontractors for each GFE Division of Work that will be subcontracted. If there are fewer than five (5) COBID-Certified subcontractors listed on the COBID website for a particular GFE Division of Work, Bidders shall contact **all** of the subcontractors that are listed in that GFE Division of Work and document the keywords searched for that Division of Work on GFE Form 2.

WHEN TO CONTACT:

Bidder shall make the first contact with each COBID-Certified subcontractor a minimum of seven (7) calendar days before the Bid opening. For example, if Bids are to be opened on Thursday, the first contact shall be on or before the Thursday of the preceding week; if opened on Tuesday then on or before the Tuesday of the preceding week.

HOW TO CONTACT:

- 1) Bidders shall contact COBID-Certified subcontractors by letter, e-mail, or FAX to advise them of potential subcontracting opportunities.
- 2) Bidders shall follow up with telephone calls to each COBID-Certified subcontractor contacted to determine if a Bid will be submitted, or if further information is required. A COBID-Certified

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subcontractor need not be contacted if that subcontractor responds to the first contact with a statement that the COBID-Certified subcontractor will not bid on this project or if a COBID-Certified subcontractor has already submitted a sub-bid.

WHAT INFORMATION TO PROVIDE:

Bidders shall ensure that COBID-Certified subcontractors have an equal opportunity to compete for work by having the same information as other subcontractors. Bidders shall inform COBID-Certified subcontractors of the date and time that sub-bids are due. (See Section 4. Submission of Required Documentation, below.)

3. OPTIONAL GOOD FAITH EFFORTS

Bidders should also consider efforts such as:

- 1) Advertisements in community-based newspapers (i.e. Portland Observer, Skanner, Asian Reporter, El Hispanic News, etc.)
- 2) Letters to Minority, Women Service-Disabled Veteran owned Community Organizations
- 3) Alternative methods of participation in Minority, Service-Disabled Veteran owned, Women or Emerging Small Businesses through arrangements such as joint ventures/partnerships, negotiated subcontract agreements and competitive Bids.
- 4) Purchase of construction materials and equipment from COBID-Certified Suppliers.

4. SUBMISSION OF REQUIRED DOCUMENTATION

FORM 1 SUBCONTRACTOR AND SELF-PERFORM WORK LIST

Due day of bid opening by 4:00 pm – from all bidders

- 1) Bidders shall submit Form 1 with their bid by 4:00 PM. on the day the Bid is due. Failure to submit Form 1 on time will result in Bid rejection.
- 2) Form 1 shall list ALL subcontractors; to include and identify COBID-Certified subcontractors, to be used on this contract regardless of the dollar amount. This is more than what is required by the State of Oregon's subcontractor disclosure form. If Bid includes alternates for additional work, Bidders shall list ALL additional subcontractors; to include and identify COBID-Certified subcontractors, who will be used if the County elects to perform the additional work.
- 3) Bidders shall list all scopes of work they intend to self-perform and separately list any GFE Divisions of Work where the identity of COBID-Certified subcontractors who will perform the work is undetermined at time of Bid.

FORM 2 COBID-CERTIFIED SUBCONTRACTORS, CONTACT AND BIDS RECEIVED LOG

Due day of bid opening by 4:00 pm – from all bidders

- 1) Completed Form 2 must demonstrate the Bidder has met the Good Faith Effort requirements outlined in this document. Form 2 is NOT required from Bidders who will be self-performing all work. However, the County strongly encourages the use of COBID-Certified firms in all of

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its contracting processes.

- 2) **Solicitation letter, email, or FAX:** All Bidders shall submit one copy of the letter, email or FAX sent to **each** COBID-Certified Subcontractor indicating the date initial contact was solicited for this project. If multiple forms of letter, email or FAX contacts were sent, submit a copy of each.
- 3) Unless self-performing all work, failure to timely submit Form 2 will result in Bid rejection. Failure to timely submit the solicitation letter, email or FAX may result in Bid rejection, in the County's discretion. Contractors shall submit additional information upon request if the County believes it needs to clarify the Bidder's Good Faith Efforts.
- 4) If for any reason the apparent low Bidder is not awarded the contract or their Bid is rejected, the next apparent low Bidder shall be contacted.

5. ADDITION OR REPLACEMENT OF COBID-CERTIFIED SUBCONTRACTORS AFTER BIDS ARE DUE

- 1) The selected Bidder will not be permitted to add or replace a COBID-Certified subcontractor after Bids are due without the consent of the Central Purchasing Manager. The Central Purchasing Manager must be notified in writing immediately upon the need to substitute a COBID-Certified subcontractor.
- 2) No COBID-Certified subcontractor may be **added** or **replaced** after the Bid is due unless the Bidder complies with the requirements of ORS 279C.585 and makes GFE to contract with a COBID-Certified subcontractor for the work to be performed. Documentation of good faith efforts is required and must be submitted to the Central Purchasing Manager prior to adding or replacing a COBID-Certified subcontractor.

6. ENFORCEMENT AFTER CONTRACT AWARD

The County's commitment to this program is reflected, in part, by the cost of administering the program. Failure to meet the requirements of this section of the Contract negates such funding and impairs the County's efforts to promote contracting diversity and to provide fair and equal opportunities to the public as a whole as a result of the expenditure of public funds. Therefore, the parties mutually agree that failure to meet the requirements of this section of the Contract, including but not limited to the submission of required documentation, constitutes a material breach of Contract. In the event of a breach of Contract, the County may take any or all of the following actions:

1) Withholding Liquidated Damages from Progress Payments

The County may withhold all or part of any progress payment or payments as liquidated damages (defined in Section IV.B), to the extent necessary in the County's opinion to protect the County from any loss, damage or claim that may result from the Contractor's failure to comply with these Good Faith Effort requirements, until the Contractor has remedied the breach.

2) Liquidated Damages – GFE Program Non-Compliance

The parties mutually agree that it would be difficult, if not impossible, to assess the actual damage incurred by the County for the Contractor's failure to comply with the Good Faith Effort Program.

The parties further agree that it is difficult, if not impossible; to determine the cost to the County

Good Faith Efforts (GFE) Program, REQUIREMENTS



when contracting opportunities are not provided. Therefore, if the Contractor fails to utilize any of its COBID-Certified subcontractors as part of Contractor's first-tier subcontractor disclosures under ORS 279C.370, and fails to properly obtain approval for replacement or substitution of a COBID-Certified subcontractor as outlined above, this constitutes a violation of the GFE program and the Contractor agrees to pay the sum of \$1,000 for each noncompliant subcontractor. These damages are independent of and in addition to any liquidated damages that may be assessed due to any delay in the project caused by the Contractor's failure to comply with this or other provisions of the Contract.

3) Possible Debarment

Failure to comply with the requirements of this portion of the Contract may lead to the Contractor's disqualification from bidding on and receiving other County contracts.

4) Other Remedies

In addition to the Liquidated Damages clause above, failing to meet the Good Faith Effort requirements constitutes a material breach of the Contract and entitles the County to terminate the Contract for cause.

7. REVIEW OF RECORDS

In the event that the County reasonably believes that a violation of the requirements of this section has occurred, the County is entitled to review the books and records of the Contractor and any subcontractors employed on the project to which the requirements of this section are applicable to determine whether such a violation has or has not occurred.

In the event that the Contractor or any subcontractor fails to provide the books and records for inspection and copying when requested, such failure shall constitute a material breach of this Contract and permit the imposition of any of the remedies noted in Section 6 above, including the withholding of all or part of any progress payment(s).

ATTACHMENTS:

FORM 1: GFE SUBCONTRACTOR AND SELF-PERFORM WORK LIST

FORM 2: GFE COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG

All forms, including the optional PDF fillable format, are available on the Multnomah County Central Purchasing website:

<https://multco.us/purchasing/supplier-diversity-program>

FORM 1

Good Faith Effort (GFE) Program, SUBCONTRACTOR AND SELF PREFORM WORK LIST



Failure to submit this form by 4:00 pm on the day the bid is due shall result in the bid being rejected as non-responsive.

Bidder Name			Total Bid Amount	\$
Bid Number		Project Name		

- Bidders must use the GFE Divisions of Work identified in the Sourcing Event's Bidding Pages.
- Bidders may identify other GFE Divisions of Work where subcontracting opportunities may exist.
- Bidder must also identify all scopes of work it will self-perform (these may be different from the Technical Specifications Divisions of Work).
- GFE Divisions of Work not being self-performed require Good Faith Efforts.
- If Bidders have not determined who will perform one or more GFE Divisions of Work at the time of Bid submission, Bidders must list those GFE Divisions of Work as "Undetermined." Bidders must also reach out to at least 5 COBID-Certified Firms for each "Undetermined" GFE Divisions of Work and submit this outreach on Form 2.
- All work that will be subcontracted, or secured through a purchase agreement, must be documented and submitted according to GFE Program Requirements.

Divisions Of Work: Bidder Will Self-Perform (GFE not required)

If the bidder is not using any subcontractors on this project, write the words "self-performing all work" below.

Divisions Of Work: Undetermined Who Will Perform (GFE is required unless self-performed)

Divisions Of Work: Bidder Will Subcontract (GFE required)

Each division of work listed below requires GFE outreach to at least 5 COBID-Certified Firms.

FORM 1

Good Faith Effort (GFE) Program, SUBCONTRACTOR AND SELF PREFORM WORK LIST



ALL subcontractors must be listed below, including COBID-Certified subcontractors, which the Bidder intends to use on the project. For each subcontractor, include the address, phone #, email, CCB #, the GFE Division of Work to be done, name and contact information for the Payroll Administrator and the dollar amount of the subcontract regardless of the total amount of the Contract. If this Bid includes alternates for additional work, follow the same instructions as above. ***Additional copies of this form may be used if needed.***

Legal Business Name		GFE Division of Work Painting, Electrical, Landscaping, etc., Use Keyword Description		
Address				
City/State/Zip				
Phone #				
Email				
CCB #		Dollar Amount of Subcontract		
Name, Phone & Email of Payroll Administrator		\$		
If subcontractor is COBID-Certified, check certification box below.				
ESB	MBE	WBE	SDV	DBE
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Legal Business Name		GFE Division of work Painting, Electrical, Landscaping, etc., Use Keyword Description		
Address				
City/State/Zip				
Phone #				
E-mail				
CCB#		Dollar Amount of Subcontract		
Name, Phone & Email of Payroll Administrator		\$		
If subcontractor is COBID-Certified, check certification box below.				
ESB	MBE	WBE	SDV	DBE
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FORM 2**Good Faith Effort (GFE) Program,
COBID-CERTIFIED SUBCONTRACTORS, CONTACT AND BIDS RECEIVED LOG**

Failure to submit this form by 4:00 pm on the day the bid is due shall result in the bid being rejected as non-responsive.

Bidder Name		Bid Number	
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Bidders shall record their contacts with COBID-Certified subcontractors through the use of this log. All columns must be completed.

Additional copies of this form may be used if needed.

Name of COBID-Certified Firm	Division of Work (Painting, Electrical, HVAC, etc...)	Date Initial letter, email, or FAX sent	Follow up Phone Contact		Bid Activity				
			Date of call	Person receiving call	Will Bid	Bid Received	Bid Used	Bid Amount	Reason Firm not used, use the space below to add details.
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	<input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	<input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other
					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	<input type="checkbox"/> Price <input type="checkbox"/> Scope <input type="checkbox"/> Other
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