

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. See “ATTACHMENT 3: Supplemental Information for Submission of Documentation” for detailed information regarding contacting COBID-Certified firms and completing ATTACHMENT 1: SUBCONTRACTOR AND SELF-PERFORM WORK LIST and ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG. For purposes of this document, “submitted,” means in the physical possession of Multnomah County (the County) Central Purchasing. Multnomah County is not responsible for delays or problems with transmissions.

Minimum of Seven (7) Days Before Bid Closing/Due Date – From All Bidders

Contact a minimum of five (5) businesses certified by the Oregon Certification Office for Business Inclusion and Diversity (COBID) for each division of work which may be subcontracted. If identified in the Sourcing Event, Bidders must use Divisions of Work as provided. See ATTACHMENT 3 for detailed information regarding contacting subcontractors and recordkeeping.

By 4:00 PM On Day of Bid Closing/Due Date – From All Bidders

ATTACHMENT 1: SUBCONTRACTOR AND SELF-PERFORM WORK LIST

ATTACHMENT 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. Failure to submit ATTACHMENT 1 on time will result in Bid rejection.

ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG

ATTACHMENT 2 must be completed, **including a copy of each** solicitation letter, e-mail or fax sent to COBID-Certified firms, and submitted through the Multco Marketplace Sourcing Event. Failure to submit ATTACHMENT 2 on time will result in Bid rejection.

ATTACHMENT 3 is provided to aid in the preparation of ATTACHMENT 1 and ATTACHMENT 2.

Due After Award of Contract – From Contractor

Multnomah County requires all Contractors to report Subcontractor utilization by reporting all payments made to lower tier subcontractors on a monthly basis through the online contract compliance reporting system B2Gnow at multco.diversitycompliance.com. After the bid has been awarded and the contract fully executed, the awarded contractor will be invited to the B2Gnow system. **Have Questions?** Call Multnomah County Central Purchasing at (503) 988-5111.

Good Faith Effort (GFE) Program Requirements

1. PROGRAM DESCRIPTION

Multnomah County has a compelling government interest to ensure that contracts provide employment opportunities for businesses certified with the State of Oregon Certification Office for Business Inclusion and Diversity (COBID) as an Emerging Small Business (ESB), Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Veteran Business Enterprise (VBE) (formerly Service Disabled Veteran (SDVBE)) (collectively COBID-Certified firms) in order to address historical underutilization. Therefore, prime contractors are required to submit documentation showing that good faith efforts have been made to contract with COBID-Certified subcontractors on County projects.

For projects that are greater than \$250,000, this program:

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

2. PRE-BID REQUIREMENTS

- a. For the purposes of these specifications, "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.
- b. If identified, Bidders must use the Divisions of Work identified in the Sourcing Event. Bidders may identify other Divisions of Work where subcontracting opportunities may exist. Bidders are required to make good faith efforts to contract with COBID-Certified subcontractors for each Division of Work that Bidder intends to perform using a subcontractor.
- 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 Division of Work unless the Bidder has made good faith efforts as required by these specifications.
- d. Bidders are **not** required to contact COBID-Certified firms 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.
- e. Bidders must comply with the submission of required documents identified in Section 3 - SUBMISSION OF REQUIRED DOCUMENTATION.
- f. These requirements are contractual obligations and will be included as part of the construction contract.
- g. Failure to comply may result in a rejection of Bid, and/or disqualification of the Bidder to bid on future contracts.

3. SUBMISSION OF REQUIRED DOCUMENTATION

a. ATTACHMENT 1: SUBCONTRACTOR AND SELF-PERFORM WORK LIST

- i. Bidders shall submit ATTACHMENT 1 with their bid by 4:00 P.M. on the day the Bid is due. Failure to submit ATTACHMENT 1 on time will result in Bid rejection.
- ii. ATTACHMENT 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.

- iii. Bidders shall list all scopes of work they intend to self-perform and separately list any Divisions of Work where the identity of subcontractors who will perform the work is undetermined at time of Bid.

b. **ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG**

- i. Failure to submit ATTACHMENT 2 will result in Bid rejection. Failure to submit the solicitation letter, email or fax may result in Bid rejection, at 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.
- ii. Completed ATTACHMENT 2 must demonstrate the Bidder has met the Good Faith Effort outreach requirements outlined in this document. The County strongly encourages the use of COBID-Certified firms in all of its contracting processes.
- iii. All Bidders shall submit one copy of the solicitation letter, email or fax sent to **each** COBID-Certified firm 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.

4. **REPLACEMENT OF COBID-CERTIFIED SUBCONTRACTORS AFTER BIDS ARE DUE**

- a. The selected Bidder will not be permitted to 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.
- b. No COBID-Certified subcontractor may be **replaced** after the Bid is due unless the Bidder complies with the requirements of ORS 279C.585 and makes Good Faith Efforts to contract with a COBID-Certified replacement 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 replacing a COBID-Certified subcontractor.

5. **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:

a. **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.

b. **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 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.

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c. **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.

d. **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.

6. 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 5 above, including the withholding of all or part of any progress payment(s).

ATTACHMENTS:

ATTACHMENT 1: SUBCONTRACTOR AND SELF-PERFORM WORK LIST

ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG

ATTACHMENT 3: SUPPLEMENTAL INFORMATION FOR SUBMISSION OF DOCUMENTATION

All forms, including the optional PDF fillable format, are available on the Multnomah County Supplier Diversity Programs website:

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

ATTACHMENT 1: SUBCONTRACTOR AND SELF-PERFORM WORK LIST

Failure to submit this attachment 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 _____
Project Name _____ Bid Number _____

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

ALL work will be self-performed, the Bidder is not using any subcontractors on this project

List each division of work that will be self-performed.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

Divisions Of Work: Undetermined Who Will Perform (GFE is required)

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

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

Divisions Of Work: Bidder Will Subcontract (GFE is required)

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

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

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ALL subcontractors which the Bidder intends to use on the project regardless of the total amount of the Contract must be listed below. ***Additional copies of this form may be used if needed.***

Legal Business Name _____ TAX ID# _____

Division of Work _____ Subcontract Value _____

Business Administrator Name _____ Phone# _____

Business Administrator Email _____

If applicable, COBID Certification ID# _____ Certification Type: MBE WBE VBE/SDVBE ESB

Legal Business Name _____ TAX ID# _____

Division of Work _____ Subcontract Value _____

Business Administrator Name _____ Phone# _____

Business Administrator Email _____

If applicable, COBID Certification ID# _____ Certification Type: MBE WBE VBE/SDVBE ESB

Legal Business Name _____ TAX ID# _____

Division of Work _____ Subcontract Value _____

Business Administrator Name _____ Phone# _____

Business Administrator Email _____

If applicable, COBID Certification ID# _____ Certification Type: MBE WBE VBE/SDVBE ESB

Legal Business Name _____ TAX ID# _____

Division of Work _____ Subcontract Value _____

Business Administrator Name _____ Phone# _____

Business Administrator Email _____

If applicable, COBID Certification ID# _____ Certification Type: MBE WBE VBE/SDVBE ESB

ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG

Failure to submit this attachment 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 _____

ATTACHMENT 2 and the solicitation letter, fax or e-mail sent to each potential COBID-Certified Subcontractor must be submitted through the Multco Marketplace Sourcing Event. Additional copies of this form may be used if needed.

ALL work will be self-performed, the bidder is not using any subcontractors on this project.

Division of Work (Painting, Inside Electrical, HVAC, etc.)	Name of COBID-Certified Firm	COBID Certification ID Number	Dates of Outreach	Method of Outreach	Bid Amount	Contracting Outcome (Provide short explanation for non- awarded bids)
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	
				Email: _____ Phone: (____) ____ - _____	\$	

ATTACHMENT 3: SUPPLEMENTAL INSTRUCTIONS FOR SUBMISSION OF ATTACHMENTS

Completing ATTACHMENT 1: SUBCONTRACTOR AND SELF-PERFORM WORK LIST

1. If identified, Bidders must use the potential Divisions of Work identified in the Sourcing Event's Bidding Pages to complete this attachment.
2. All work that will be subcontracted or secured through a purchase agreement must be documented on this attachment.
3. Bidders must identify
 - a. Divisions of Work that will be self-performed by Bidder. Good Faith Efforts regarding COBID outreach are not required.
 - b. Divisions of Work where Bidder has not determined who will perform at the time of Bid submission must be listed under the "Undetermined" section. Good Faith Efforts to contact 5 COBID-Certified Firms for subcontracting opportunities must be made seven (7) days before Bid closing and documented on ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG.
 - c. Divisions of Work where Bidder will subcontract must be listed. Good Faith Efforts to contact five (5) COBID-Certified Firms for subcontracting opportunities must be made seven (7) days before Bid submission and documented on ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG.
4. **ALL subcontractors (COBID and Non-COBID)** which the Bidder intends to use on the project regardless of the total amount of the Contract must be listed on page 2 of ATTACHMENT 1.
 - a. TAX ID# for each subcontractor is critical information that must be provided.

Completing ATTACHMENT 2: COBID-CERTIFIED SUBCONTRACTORS CONTACT AND BIDS RECEIVED LOG

Bidders shall record their contacts with COBID-Certified subcontractors using ATTACHMENT 2. All columns must be completed on the attachment.

1. **Who to Contact**
 - a. For **each** Division of Work that a subcontractor may perform, Bidders must contact five (5) COBID-Certified firms to provide an opportunity to provide a subcontracting bid/proposal.
 - b. Contact each COBID-Certified subcontractor that attended the pre-bid meeting (if one was held) and identified itself as a COBID-Certified subcontractor in one or more specific Division of Work that the Bidder will subcontract. The Pre-Bid Meeting Attendance List will be available to Bidders on the Multco Marketplace Sourcing Event for the Bid.
 - c. If there are fewer than five (5) COBID-Certified contractors listed on the COBID website for a particular Division of Work, Bidders shall contact **all** of the listed contractors and provide a copy of the COBID directory results page.
2. **When to Contact**
 - a. Bidder shall make the first contact with each COBID-Certified subcontractor a minimum of seven (7) calendar days before the Bid closing/due date.
3. **How to Contact**
 - a. To obtain a list of COBID-Certified firms for each Division of Work that will be subcontracted, visit the State COBID Directory at <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>.
 - i. Results should be filtered for: Emerging Small Business (ESB), Women Business Enterprise (WBE), Minority Business Enterprise (MBE), Veteran Business Enterprise (VBE) or Service-Disabled Veteran Business Enterprise (SDVBE).
 - ii. 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.

- iii. Search broad category terms such as Painting, Electrical, Landscaping, etc. Shorter, more concise key terms work best for this database. If you have difficulty identifying any potential COBID-Certified subcontractors, please contact Multnomah County Central Purchasing at 503-988-5111.
- iv. Bidders shall contact COBID-Certified subcontractors by letter, e-mail, or fax to advise them of potential subcontracting opportunities.
- v. Bidders shall follow up with telephone calls to each COBID-Certified subcontractor contacted to determine if a Bid will be submitted if no response is received, or if further information is required.

4. What Information to Provide

- a. 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.

5. Optional Good Faith Efforts

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