



WALSH AUSTIN JOINT VENTURE DIVERSITY INCLUSION PROGRAM

It is the policy of the City of Los Angeles, Los Angeles World Airports and Walsh Austin Joint Venture to promote, encourage and provide as many growth opportunities to the local subcontracting communities as possible. In an effort to provide maximum local community participation, Walsh Austin Joint Venture (WAJV) demands its subcontractors pledge to utilize a percentage of minority participation or submit a good faith effort as described herein. Utilizing **Minority/Women Business Enterprises (M/WBE)** businesses fosters competition, enhances vendor performance, maximizes cost efficiencies and brings new ideas and technologies to the table. It is our goal to make a local economic impact and strengthen the pool of localized subcontracting resources and capabilities.

With this in mind, WAJV has designated a good faith effort process of inclusion in which all bidders will have the opportunity to further support our goal and mission in achieving the highest possible subcontractor inclusion.

All interested parties planning to bid projects to WAJV must **either** contractually commit to meeting the goals established for each package as established by WAJV **or** submit all documentation for a complete good faith effort process as stated in this document.

The performance of a good faith effort includes outreach to M/WBE subcontractors and **MUST** be completed if the subcontractor is not willingly committing to reach and comply with the established M/WBE participation goal of each bid package. Failure to submit the required documentation by the deadline indicated will render the bid non-responsive.

All good faith effort documentation must be submitted to WAJV with the bid documents submitted at the prescribed time.

NOTE: Further information and assistance for outreach can be provided by contacting the Walsh Austin Joint Venture Diversity Affairs Department at 310-426-2871 or via email at:

Malopez@walshaustinjv.com

Margarita Lopez

Diversity Affairs Coordinator



A. M/WBE Participation

WAJV policy requires the bidder to make a good faith effort to obtain participation by M/WBE firms. **Whether or not a subcontractor has achieved a sufficient level of good faith effort will be determined by WAJV. In order to make a determination of a subcontractor's good faith effort, WAJV will consider many aspects of a subcontractor's attempt to procure M/WBE participation. By way of illustration and not limitation, the following factors are considered by WAJV:**

1. Whether the subcontractor advertised in general circulation, trade association, and M/WBE focus media concerning WAJV's projects at LAX;
2. Whether the subcontractor selected portions of the work to be performed by M/WBE firms to increase the likelihood of providing contracting opportunities to those firms in areas of expertise and amount of the contracts;
3. Whether the subcontractor fairly and thoroughly investigated the interested M/WBE firms regarding their resources, expertise and evaluated the M/WBE firm in a light most favorable to the M/WBE firm;
4. Whether the subcontractor effectively used the services of available minority and women community organizations; chambers; contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of M/WBE firms in the Los Angeles area and its surrounding communities.
5. The kinds of efforts the subcontractor has made and the quality and intensity of those efforts.
 - a. WAJV will consider what the subcontractor should reasonably be expected to produce given the bid package the subcontractor is bidding on and the availability of M/WBE participants in that area of work.
 - b. WAJV will consider the participation levels achieved by competing subcontractors within the bid package the subcontractor is bidding on.

B. Resources

1. **Certification as a Minority or Women Business Enterprise:** A M/WBE must be certified by one of the following: (1) City of Los Angeles, Bureau of Contract Administration; (2) State of California Department of Transportation (CalTrans); (3) Los Angeles County Metropolitan Transportation Authority; (4) Any certifying agency that is a part of the State of California, Unified Certification Program (CUCP) so long as the certification meets all of the City of Los Angeles' M/WBE Certification requirements; or (5) Southern California Minority Business Development Council, Inc. (SCMBDC) for MBE certifications only.



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In addition to other sources, directories of M/WBE certified firms are available at the following locations:

a. City of Los Angeles

Office of Contract Compliance, 1149 S. Broadway, Suite 300, Los Angeles, CA 90015
 Telephone: (213) 847-1922 Fax: (213) 847-2777
 Internet address: <http://bca.lacity.org>

b. CalTrans

State of California, Department of Transportation, Civil Rights Group,
 1823 14th Street, Sacramento, CA 95814 Telephone: (916) 324-1700
 To order a directory, call (916) 445-3520
 Internet address: <http://www.dot.ca.gov/hq/bep/>

c. Los Angeles County Metropolitan Transportation Authority

Equal Opportunity Department, 1 Gateway Plaza, Los Angeles, CA 90012
 Telephone: (213) 922-2600 Fax: (213) 922-7660
 Internet address: <http://www.mta.net>

d. Southern California Minority Business Development Council, Inc.

800 W. 6th Street, Suite 850, Los Angeles, CA 90017
 Telephone: (213) 689-6960 Fax: (213) 689-1707
 Internet address: www.scmbdc.org

e. In addition, bidders can find a list of advocacy community partners on the www.walshaustinjv.com that can further assist the bidders in finding qualified M/WBE firms.

2. **M/WBE Participation Recognition:**

- a. Recognition for materials and/or supplies is limited to **60 percent** of the amount to be paid to the vendor for such materials/supplies in computing the levels of M/WBE participation, unless the vendor manufactures or substantially alters the materials/supplies.



- b. M/WBE credit for brokers required for performance of the contract **is limited to the reasonable fee or commission charged**, as not considered excessive, as compared with fees customarily allowed for similar services.
- c. A firm which qualified as both a MBE and a WBE will be credited as MBE participation or as WBE participation, **but will not be credited for both**.

C. **Good Faith Effort Documentation**

For this project, it is the policy of WAJV, supported by LAWA and the City of Los Angeles, to provide all MBEs and WBEs an equal opportunity to participate in the performance of this LAX project contract. Bidders shall assist WAJV in implementing this policy by taking all reasonable steps to ensure that all available business enterprises, including MBEs and WBEs, have an equal opportunity to compete for and participate in this project. A bidder's good faith efforts to reach out to and provide inclusion of MBEs and WBEs shall be determined by their complete compliance with each of the following good faith effort documentation items/process:

Failure to meet expected M/WBE participation levels will not by itself be the basis for disqualification or determination of noncompliance with this policy but will be rated as a PASS / FAIL.

However, if the subcontractor does not agree to the established participation goal for the bid package and fails to include all supporting documentation of a good faith effort, as described in this section and satisfactory to WAJV, will render the bid non-responsive and will result in its rejection. The adequacy of a bidder's good faith effort will be determined by WAJV as a PASS / FAIL evaluation.

Good Faith Effort documentation is NOT required if the bidder has contractually committed to the M/WBE participation levels.



COMMITMENT TO PARTICIPATION – OPTION ONE

1	CONTRACTUALLY OBLIGATE TO MBE/WBE PARTICIPATION
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If the bidder contractually commits to the minimum M/WBE participation for the specific bid package the subcontractor is bidding, then the bidder is not under obligation to provide good faith effort documentation,

Required Documentation: No good faith effort documentation is required from the bidder aside from stating their inclusion commitment in their bid submittal. If the bidder is committed to the full inclusion goal, they have PASSED the good faith effort and no further action is required at this time. Subcontractor will be required to provide WAJV with their plan to achieve the committed participation within thirty (30) calendar days from issuance of a subcontract from WAJV. This plan will include verification documentation; for example, copies of subcontract agreements, purchase orders, invoices, executed letters of intent to contract (see attached), or other documentation as requested by WAJV.

GOOD FAITH EFFORT – OPTION TWO

1	CORPORATE DIVERSITY PROGRAM
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All subcontractors who are submitting good faith effort documentation MUST provide WAJV a copy of their corporate diversity program. Failure to submit a copy of the subcontractor's corporate diversity program will render a subcontractor's good faith effort documentation a FAIL.

2	ADVERTISEMENT OF OPPORTUNITY
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The bidder must provide proof of its advertisement in the following: general circulation; trade association; and M/WBE focus media concerning bid opportunities. In addition to contacting specific M/WBE firms, the subcontractor must make efforts to inform the community at large about the bid package(s) the subcontractor is bidding on.

Required Documentation: Copies of trade periodicals or any other media the subcontractor has placed advertisements or information in regarding the bid opportunity for M/WBE firms.



3	WRITTEN NOTICES TO SUBCONTRACTORS
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The bidder must provide written notice of its interest in receiving bids from those M/WBE firms that may be interested in participating in the selected work type. All notices of interest shall be provided not less than **ten (10) calendar days** prior to the date the bids and good faith effort documentation are required to be submitted to WAJV. In all instances, bidders are to document that information concerning their interest in subcontracting work was sent to available M/WBEs for every work area to be performed.

Required Documentation: E-mails, fax confirmations, or USPS Certified Mail receipts in each of the selected work areas to available M/WBEs for each work area to be performed. Letters must contain types of work selected to be subcontracted, project name, name of the bidder, and contact person's name, address, and telephone number. Bidders are required to send notifications to a sufficient number of M/WBE firms in every work area. WAJV will determine what is considered sufficient by, among other factors, comparing the notification efforts of competing subcontractors within a particular bid package.

4	FOLLOW-UP ON INITIAL SOLICITATION
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The bidder documented efforts to follow up initial solicitations made in Option 2 - Requirement No. 3 by contacting the subcontractors to determine with certainty whether said enterprises were interested in performing specific portions of the project work, were provided bid opportunities and assisted, if necessary, not less than **three (3) calendar days** prior to the date the bids are required to be submitted.

Required Documentation: The bidder must provide documentation of the follow-up efforts with all subcontractors to whom they sent notifications. (Example of follow up are phone logs or emails indicating detailed follow-up; include company name, company phone number, who was spoken to, their title, date, time, summary of discussion and any other pertinent information.)

5	PLANS, SPECIFICATIONS AND REQUIREMENTS
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The bidder provided interested sub-bid enterprises/subcontractors with detailed information about the plans, specifications and requirements for the selected sub-bid/subcontracting work. The



bidder must be very clear as to how the subcontractors can find specs and specifications on the scope to be performed.

Required Documentation: Proof of the dissemination of the plans and specifications is essential to satisfy this requirement. For example, if the documents were disseminated via a website, then the subcontractor must submit proof of the correspondence indicating where an M/WBE firm was informed of that website and also how to find and obtain the documents on that website. The method of dissemination cannot be of a type that may exclude availability to some interested M/WBE firms. Therefore, it is recommended that multiple methods be used.

6	NEGOTIATE IN GOOD FAITH
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The bidder has to negotiate in good faith with interested M/WBEs and not unjustifiably reject as unsatisfactory bids prepared by any enterprise.

Required Documentation: This section's documentation must be provided to WAJV before 2:00 PM (Pacific Time) of the second weekday after the required bid submission date.

a) A Summary Sheet organized by work area, listing the following:

- The responses and/or bids received;
- The name of the subcontractor who submitted the bid;
- The dollar amount of the bid;
- A brief reason given for selection/non-selection as a subcontractor; and
- The subcontractor actually selected for that work area.
- Scope review notes.

b) Copies of all M/WBE bids or quotes must be submitted.

The reasons for selection or non-selection should be included in the notes section of the Summary Sheet. If the bidder elects to perform a work area with its own forces and they received a sub-bid, they must include a bid that shows their own costs for the work. **All bids received, regardless of whether or not the bidder**

outreached to the subcontractor, must be submitted and included on the Summary Sheet. To that extent, WAJV expects the bidder to submit a bid from each subcontractor listed on the Summary Sheet. **All potential subcontractors with whom the bidder has had contact must be documented on the Summary Sheet.**



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BOND, LINES OF CREDIT, AND INSURANCE ASSISTANCE

The bidder shall have documented efforts to advise and assist interested M/WBEs in obtaining bonds, lines of credit and insurance required by WAJV.

Required Documentation: The bidder must provide verification of efforts made, information about the bidder's efforts to assist with bonds, and lines of credit and insurance.

D. Award of Contract

WAJV reserves the right to reject any and all bids. **The award of a contract can only be to a subcontractor whose bid complies with all requirements prescribed in the pertinent bid package.** This includes compliance with the required subcontractor good faith effort requirement.

Unless the subcontractor contractually obligates itself to the prescribed participation level, a demonstration to the satisfaction of WAJV that a good faith effort to include M/WBE subcontractors' participation was made is a condition for eligibility for award of the contract.

E. Commercially Useful Function

California requires that all contractors, subcontractors and suppliers that bid on or participate in a state contract regardless of the procurement approach or the payment method must perform a commercially useful function. The purpose of the commercially useful function requirement is to prevent certified businesses from acting as a "pass through" or "front" when identified as the prime bidder or when identified as a subcontractor from providing artificial or incidental participation to meet the socio-economic objective of a solicitation or contract.

An M/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 M/WBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, ordering the materials, and installing (where applicable) and paying for the materials itself.

An M/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 M/WBE participation. If a bidder utilizes subcontractors that DO



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NOT perform a commercially useful function, that subcontractor will not receive credit toward satisfying the subcontractor's contractual participation commitment.

F. Sub-agreement Falsification

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subcontractor will result in sanctions set forth in provisions pertaining to listing of subcontractors and/or cancelation of a contract.

END OF DOCUMENT