



INTERIM

SUPPLIER DIVERSITY POLICY AND GUIDELINES

(INTERIM POLICY)

Effective, December 1, 2015

Louisville and Jefferson County Metropolitan Sewer District
700 West Liberty Street
Louisville, Kentucky 40203-1911

Revised 1/8/2016

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I. OVERVIEW

A. Introduction

On August 24, 2015, the MSD Board temporarily suspended MSD's Supplier Diversity Contractor Compliance Program ("CCP") for all construction contracts. The suspension was imposed due to preliminary findings of an investigation into allegations of possible MBE fraud and concerns that MSD's supplier diversity requirements were contributing to increases in MSD construction bid prices. The temporary suspension of MSD's CCP was approved pending the development of a "good faith efforts" policy and guidelines.

In light of concerns that have since been expressed by members of MSD's contractor community, however, and current legal precedent, MSD believes it is in the agency's best interest to procure a comprehensive and legally enforceable "disparity study" to evaluate whether there is a compelling interest for its program as it currently exists and that an interim policy be implemented while the study is underway. The study will include several necessary phases and likely extend over the period of twelve to eighteen months.

An early phase of the study will include an availability study to determine the availability of qualified, willing, and able MBEs and WBEs for each classification of MSD procurements in MSD's market area. It will also include an examination and assessment of MSD's procurements to determine whether there are disparities in MSD's procurements related to the race, ethnicity or gender of business owners awarded contracts by MSD. Consistent with disparity study best practices, the relevant period for the study will be five years - from July 1, 2009 through June 30, 2014. The results of the study will establish the primary basis by which MSD will continue, modify, or establish new goals governing the participation of M/WBEs in future MSD contracting.

Pending commencement of the study, an Interim Supplier Diversity Policy and Guidelines have been developed to implement a good faith efforts approach to achieving supplier diversity. The Interim Policy will include MSD's existing M/WBE procurement goals for construction, engineering and professional services, and commodity and material purchases.

Effective upon its adoption, this Interim Supplier Diversity Policy and Guidelines ("Interim Policy") shall supersede all prior supplier diversity policies including the CCP. The adoption of this Interim Policy, however, shall not constitute a departure by MSD from its long-standing commitment to diversity in its procurements. During the period of this Interim Policy, it shall continue to be MSD's policy to ensure meaningful opportunities for qualified M/WBEs to compete for and participate in its contracts and purchases.

B. Leadership

MSD's leadership shall continue to take an active and positive role in building a culture for MSD to effectively implement this Interim Policy. The Executive Director of MSD ("Executive Director") and MSD's Director of Procurement and Supplier Diversity shall:

1. Actively review the results of the performance of MSD's Interim Policy with internal management personnel on a periodic basis;
2. Include achievement of MSD's Interim Policy objectives in the individual job performance evaluation of personnel responsible for or involved in contracting and procurement for construction, engineering and professional services, commodities and material purchases;
3. Articulate in written and verbal communication, internally and externally, MSD's interest, program and performance in M/WBE procurement;
4. Issue periodic reports to the MSD Board, One Water Board, Louisville Water Company and to other internal and external stakeholders; and
5. Engage in other leadership activities contributing to increasing the utilization of MSD's Interim Policy.

C. Administration

MSD's Executive Director shall have primary responsibility for the administration of this Interim Policy and has designated the day-to-day administration of this Interim Policy to MSD's Supplier Diversity Manager and staff. The Supplier Diversity Manager shall have the authority to:

1. Establish written procedures, informal guidelines and forms that may be necessary to effectuate Interim Policy requirements;
2. Monitor compliance with the requirements of the Interim Policy;
3. Analyze and determine, in consultation with MSD's Design/Construction staff and others with procurement responsibilities, subcontractable components of a project and identify potential M/WBE subcontractors;
4. Evaluate requests for waivers and make recommendations to the Executive Director;
5. Serve as the point of contact and provide information to potential bidders, upon request, including the names and contact information of certified M/WBEs to reinforce and support outreach efforts by potential bidders;
6. Develop and implement outreach and provide technical assistance to assist businesses in gaining the ability to compete successfully for MSD contracting opportunities;
7. Perform and provide tracking and reporting on the effectiveness of this Interim Policy as measured by a review of data indicating utilization of and contractor spending with M/WBEs;

8. Provide notices of non-compliance and investigations of alleged violations of this Interim Policy; and
9. Recommend to the Director of Procurement and Supplier Diversity any further efforts needed to ensure participation by M/WBEs in contracting with MSD.

II. DEFINITIONS

The following words, terms and phrases, when used in this Interim Policy, shall have the meanings ascribed to them in this Section; except where the context clearly indicates a different meaning.

1. **Annual Supplier Diversity Participation Goals** means the targeted levels set by the MSD Board for procurement spending with minority-owned and women-owned business enterprises in construction, engineering services, professional services, other services and for commodities and materials.
2. **Bid** means written quotations, proposals or offers by a bidder or contractor to perform or provide labor, materials, equipment, supplies or services to MSD for a price submitted in response to competitive bidding or proposals issued by MSD.
3. **Bidder** means any business enterprise that submits a bid or proposal as defined herein.
4. **Brokerage Or Broker** is a firm or person who contracts with third parties on behalf of the broker's principal or a specialist who represents purchasers of goods without taking possession or ownership of those goods, or an agent employed to make bargains and contracts for compensation. A broker acts as a middleman in transactions between a buyer and a seller, generally receiving a commission or fee for work performed. An independent manufacturer's representative or distributor is not a broker.
5. **Business Enterprise** means a corporation, partnership, sole proprietorship, joint venture, professional association or any other legal entity that is directly or indirectly involved in providing goods and services to MSD with the anticipated outcome of earning a profit and is properly licensed and/or otherwise authorized to do business in the state of Kentucky.
6. **Commercially Useful Function** is a business that is directly responsible for providing the supplies or services to MSD as required by the solicitation or request for quotes, bids or proposals. An M/WBE is considered to perform a commercially

useful function 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. A business that stocks sufficient quantities of supplies in direct inventory, held for sale or resale, to cover anticipated future demands for the supplies is performing a commercially useful function. M/WBEs that engage in the business of providing brokerage shall not be deemed to perform a "commercially useful function" unless the brokerage services are those required and sought by MSD.

7. **Conduit** means a business which purchases goods or services that are not normally purchased or sold as part of its daily business from another business (es) for the sole purpose of resale or to subcontract to MSD or a contractor doing business with MSD.
8. **Construction** is any type of newly created infrastructure, demolition, alteration, rehabilitation or repair identified by the Supplier Diversity Manager as a common unit for purchasing purposes.
9. **Contract** means and includes any agreement between MSD and a person or business enterprise to provide or procure labor, materials, equipment, supplies and services to, for or on behalf of MSD.
10. **Contractor** means any person or business enterprise that submits a bid or proposal to provide labor, goods or services to the contract for profit; and any person who supplies or provides labor, goods or services to MSD by contract for profit; and any person who is a subcontractor under any such contract.
11. **Distributors** are individuals or companies that sell or disseminate a product of another company or corporation. They can hold title and/or take possession of the product(s) they are distributing, but it is not mandatory. The term "distributor" can be distinguished from "broker". A distributor affects transactions of his own account and keeps inventory for resale; a broker affects transactions for the account of others.
12. **Good Faith Efforts** are those efforts set forth in this Interim Policy inclusive of required documentation that demonstrates a contractor's efforts to seek and utilize M/WBEs for contracts with MSD.
13. **Independent Ownership** is the degree to which M/WBEs own and participate in the management of the partnership, corporation or joint venture, by considering: 1) the M/WBE's participation in the decisions affecting day-to-day operations of the business; 2) the ability of M/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 M/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 an M/WBE, and in determining whether such M/WBE has at least 51% independent ownership and control, the Supplier Diversity Manager may use discretion in weighing the foregoing factors, as well as any other factor which, in MSD's determination, affects independent ownership and control.

14. **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. M/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.
15. **Manufacturer's Representative** is an independent sales agent for a manufacturer or a group of manufacturers (principal) in a described sales inventory who takes neither title nor possession of the merchandise he or she sells. This person or individual may not be certified.
16. **Minority Business Enterprise (MBE)** means a business enterprise which is at least 51% owned, operated and independently controlled by a person or persons who are minority group members. For these purposes, minority group members are: African Americans, Native Americans, Hispanic Americans, Asian-Pacific Americans, who are citizens.
17. **Owned, Operated And Independently Controlled** means the one or more minority persons or women who own(s) the requisite interest in or assets of a business shall possess equivalent incidents of such ownership, including an equivalent interest in profit and loss, and shall have contributed in equivalent percentage of capital or equipment and expertise to the business. The one or more minority or women shall have recognized ultimate control over all day-to-day operations by employees of the business, and by those with whom it does business. The ownership and control of the firm shall be real, substantial, and continuing and shall go beyond the pro forma ownership of the firm as related in its ownership documents.
18. **Participation** is the rate of M/WBE utilization.
19. **Subcontract** means any person or business enterprise providing goods, labor or services to a contractor if such goods, labor or services are procured in fulfillment of

the contractor's obligations arising from a contract with MSD. Subcontractor includes every level of subcontractor required to fulfill a contract with MSD.

20. **Waiver** is MSD's approval relinquishing a contractor's obligation to comply with one or more provision(s) of the M/WBE Program.
21. **Woman Business Enterprise (WBE)** means a business enterprise which is at least 51% owned, operated and independently controlled by a female or group of females who are U. S. citizens.

III. MINORITY AND WOMAN-OWNED BUSINESS PARTICIPATION REQUIREMENTS

A. Minority and Woman Business Enterprise Goals

1. The annual goals for M/WBE participation are to award to (i) MBEs, directly or indirectly through contracting or subcontracting, contracts or purchases that represent at least **15%** for Construction, Engineering and Professional Services, and **5%** for Commodity and Material Purchases; and (ii) to award to WBEs, directly or indirectly through contracting or subcontracting, contracts or purchases that represent at least **6%** for Construction, Engineering and Professional Services, and **3%** for Commodity and Material Purchases.

The goals shall be applicable to all contracts \$50,000 and greater unless otherwise noted in the solicitation.

2. All contracts and procurements awarded by MSD through competitive sealed bidding, except those for professional services, will be awarded either to the lowest, responsive, responsible bidder or the bidder receiving the highest evaluated point total.

For the procurement of professional service contracts, bid awards will be based on technical expertise and experience, using the established evaluated proposal process for contract awards in accordance with MSD's Procurement Regulations.

3. In order to be deemed responsive and responsible, a bidder must meet the M/WBE goals or, if unable to meet the goals, must demonstrate adequate Good Faith Efforts to meet the goals in accordance with Article III, Section F of this Interim Policy. In addition all bidders must meet the terms and conditions of this Interim Policy. While the inability to meet goals established under this Interim Policy will not alone

exclude a bidder from award of a contract or procurement, a bid may be rejected on the basis of a bidder's failure to demonstrate adequate Good Faith Efforts.

MSD's Supplier Diversity Manager will review all bids after the bid opening and prior to award for compliance with MSD's Interim Policy for the M/WBE participation goals.

4. Requirements for bid submissions from all bidders to MSD:

- a. Bidders who have **MET** MSD's M/WBE participation goals must submit the following documentation to be deemed responsive:

Required Documentation:	Submittal Deadline:
MSD M/WBE Goal Compliance Cover Page	At Bid Opening <i>(with sealed bid)</i>
M/WBE Proposals, M/WBE Bid Certificates and; Subcontractor Utilization Plan	* Due by 3pm <u>next</u> business day after bid opening <i>(Local Time)</i>

- b. If M/WBE Participation Goal **WILL NOT** be met; bidders must submit the following documentation:

Required Documentation:	Submittal Deadline:
MSD M/WBE Goal Compliance Cover Page	At Bid Opening <i>(with sealed bid)</i>
M/WBE Subcontractors Good Faith Efforts Summary Sheets and Waiver Request Form & Affidavit and; Subcontractor Utilization Plan	* Due by 3pm <u>next</u> business day after bid opening <i>(Local Time)</i>

- * The required documents shall be submitted to the Supplier Diversity Department no later than 3:00 p.m. local time, the next business day immediately following the bid opening. Failure to submit the required documents shall result in the bid being found non-responsive.

5. A Notice to Proceed will be issued when all finalized, signed and fully executed M/WBE subcontractor agreements are received by the Supplier Diversity Manager.

6. After contract award, Contractors must also submit on a monthly basis the Minority/Woman Business Enterprise Monthly Report on MSD Construction Projects form regarding the use of M/WBEs to the Supplier Diversity Manager with the Contractor's monthly pay estimate. If the monthly report is not in compliance, the Supplier Diversity Manager shall contact the Contractor and MSD Project Manager to discuss the reasons for non-compliance and possible solutions. Payment to the Contractor may be withheld or delayed until approval of its monthly report by the Supplier Diversity Manager.
7. When a Contractor utilizes one or more subcontractors, suppliers and/or vendors to satisfy MSD's M/WBE goals, only expenditures to M/WBEs that perform "a commercially useful function" in the satisfaction of the contract or procurement will be counted towards the M/WBE goals. The roles of M/WBEs must be meaningful and must contribute positively to successful completion of the MSD contract or procurement.

B. Approval of M/WBE Subcontractors/Suppliers/Vendors

1. All M/WBEs who participate in MSD contracts and other procurements must be certified and MSD recognized and approved by MSD's Supplier Diversity Manager before submitting a bid, quote and/or proposal and commencing work on an MSD contract.
2. MSD does not certify M/WBE businesses. MSD will accept national and federal certifications from the following organizations and their regional affiliate offices:
 - National Minority Supplier Development Council (NMSDC)
 - National Women Business Owners' Council (NWBOC)
 - Women's Business Enterprise National Council (WBENC)
 - U.S. Small Business Administration 8(a) Program (U.S. SBA 8(a))

C. Waiver Request Review Process

The MSD Engineering Design/Construction management team to include project manager will consult with the Supplier Diversity Manager to analyze the subcontractable components of the project and identify potential M/WBE subs. An analysis of their findings will be presented to the area Director for which the procurement is being made. The Supplier Diversity Manager will determine if a full or partial waiver is justifiable, and will submit a written recommendation for the waiver including full justification for Executive Director approval. These documents will be included in the Board Action.

If the bidder will not meet the M/WBE participation goals, in addition to its Subcontractor Utilization Plan Form, the bidder shall also submit with its bids: 1) a fully completed Waiver Request Form and Affidavit; and 2) fully completed M/WBE Subcontractors Good Faith Efforts Summary Sheets to include the Waiver Request Form and Affidavit and the bidder shall indicate the Good Faith Efforts that it made prior to submission of its bid to meet the M/WBE goals for the contract. The bidder shall also submit with its bid all documentary evidence to support those Good Faith Efforts made by the bidder, as declared on the M/WBE Subcontractors Good Faith Efforts Summary Sheets. The Supplier Diversity Manager will review the documents submitted and make his/her determination of adequate Good Faith Efforts based on those submitted documents. When considering whether a bidder made adequate Good Faith Efforts to meet the M/WBE participation goal, MSD will use a responsive bidder approach. Additional submittals will not be permitted, with the exception of evidence requested by the Supplier Diversity Manager pursuant to applicable provisions of this Interim Policy or as provided in the M/WBE Subcontractors Good Faith Efforts Summary Sheets and Waiver Request Form and Affidavit.

D. Participation Counted Towards Goals

A bidder is required to either meet the goal or demonstrate adequate Good Faith Efforts to meet the goal for subcontracting of M/WBEs as set by MSD. When an M/WBE participates in a contract, only the payments to the M/WBE for value of the work actually performed shall be counted towards the goal, in accordance with the following provisions:

1. The Supplier Diversity Manager shall count the entire amount of that portion of a Construction, Services, or Professional Services contract that is performed by the M/WBE's own forces. The Supplier Diversity Manager shall include the cost of supplies and materials obtained by the M/WBE for the work of the contract, including supplies purchased or equipment leased by the M/WBE (except supplies and equipment the M/WBE purchases or leases from the Contractor or its affiliates).
2. The Supplier Diversity Manager shall count the entire amount of fees or commissions charged by an M/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 M/WBE goals, provided the fee was determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When calculating participation, M/WBE subcontractors, suppliers, and/or vendors must be 1st tier subcontractors, suppliers, and/or vendors. When an M/WBE performs as a participant in a joint-venture, the Supplier Diversity Manager 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 M/WBE performs with its own forces toward the M/WBE goals. For example, if an M/WBE-non M/WBE business

joint venture proposes to perform 100% of a project quoted at \$500,000, and 25% of the work is to be performed by the M/WBE partner in the joint venture, the M/WBE participation will be credited as 25% of the work, or \$125,000.

4. The Supplier Diversity Manager shall count expenditures to an M/WBE Contractor toward M/WBE goals only if M/WBE is performing a commercially useful function on that contract. To determine whether an M/WBE is performing a commercially useful function, the Supplier Diversity Manager will look at any relevant factors including those listed in this section. The following factors that must be considered in making this determination are:
 - a. 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, negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an M/WBE is performing a commercially useful function, the following factors may be considered:
 - The amount of work subcontracted;
 - That the work conforms to industry standards and practices;
 - That the amount the M/WBE is to be paid under the contract is commensurate with the work it is actually performing; and
 - The amount of M/WBE credit claimed for its performance of the work.
 - b. An M/WBE does not perform a commercially useful function if its role is limited to that of a conduit or an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of M/WBE participation. In determining whether an M/WBE is such an extra participant, the Supplier Diversity Manager will examine similar transactions, particularly those in which M/WBE do not participate.
 - c. If an M/WBE does not perform or exercise responsibility for at least 75% of the total cost of its contract with its own work force, or the M/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 Supplier Diversity Manager shall presume that it is not performing a commercially useful function.
 - d. When an M/WBE is presumed to not be performing a commercially useful function as provided herein, the M/WBE may present evidence to rebut this presumption. The Supplier Diversity Manager may upon further review determine that the business is performing a commercially useful function given the type of work involved and normal industry practices.

5. The Supplier Diversity Manager shall count expenditures by M/WBE for materials or supplies toward the M/WBE goals as provided in the following:

- a. If the materials or supplies are obtained from an M/WBE manufacturer, the Supplier Diversity Manager shall count 100% of the cost of the materials or supplies toward M/WBE goals.

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.

- b. If the materials or supplies are purchased from an MBE/WBE Supplier, 60% percentage of the cost of the materials or supplies from the certified M/WBE supplier will be counted toward the MBE/WBE goals. MSD reserves the right to make announced or unannounced field site visits to M/WBE firms' business location to ensure they have the business capacity.

For purposes of this section, a supplier 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.

To be a supplier, 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.

A person may be a supplier in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided herein if the person both owns and operates distribution equipment for the products. Any supplementing of suppliers' own distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis.

Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not suppliers within the meaning of this Section.

- c. With respect to materials or supplies purchased from an M/WBE, which is neither a manufacturer nor a supplier, the Supplier Diversity Manager 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 M/WBE goals, provided the Supplier Diversity Manager determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services.

However, the Supplier Diversity Manager shall not count any portion of the cost of the materials and supplies themselves toward M/WBE goals.

- d. A Contractor may count 100% of the amount contracted for trucking services. Specifically, a contract for distribution services including the cost of the drivers, trucks, insurance, bonding and any other requirement for doing business as a trucking company.

A Contractor may not count any amount of the cost of the materials being transported unless the M/WBE trucking company is also certified as an M/WBE supplier. In that case, 100% of the cost of the materials may be counted.

Where the scope of work is greater than the capacity of the M/WBE trucking company, the Supplier Diversity Manager will review all contract opportunities. Provided the M/WBE trucking company has acceptable, at arm's-length lease or sub-agreements with other firms for the additional resources needed to perform their contract, the Supplier Diversity Manager may authorize contracts where the M/WBE trucking company is self-performing less than 50% of their subcontract, but in control of and managing through third tier contractual relationships, their entire scope of work.

- e. Under no circumstances shall an M/WBE subcontract out more than 25% of the total work identified in their subcontract, nor shall an M/WBE subcontract work directly to the Contractor, or subcontract any work to another contractor whose principals have any ownership interest in the M/WBE.
6. If a business is not currently certified and MSD recognized by the Supplier Diversity Office as an M/WBE at the local time of the bid opening, the Supplier Diversity Manager shall not count the business' participation toward the M/WBE goals.
7. The Supplier Diversity Manager shall not count the dollar amount of work performed under a contract with an M/WBE after it has ceased to be a certified M/WBE, if the MSD contract extends beyond the current fiscal year.
8. The Supplier Diversity Manager shall not count the participation of an M/WBE subcontractor toward a Contractor's final compliance with its M/WBE obligations on a contract until the amount being counted has actually been paid to the M/WBE.

E. Payment to Contractors/Subcontractors

A Contractor shall be required to certify in writing that all of its subcontractors, suppliers, and/or vendors have been paid for work and materials by the Contractor for previous disbursements before additional disbursements of contract and/or procurement payments are made to the Contractor. During the contract and upon completion of the contract, MSD may request documentation to certify payment to subcontractors or suppliers. The subcontractor or supplier may be required to sign off on a certification of payment form or affidavit, by the subcontractor or supplier, to attest to the receipt of payment from the Contractor.

MSD encourages M/WBEs to negotiate the best terms of payment possible with their prime contractors. It is not unreasonable for M/WBE subcontractors to expect payment for services within thirty (30) days of receipt of an invoice for acceptable work product or service. At a minimum, however; Contractors are required to pay M/WBEs immediately upon receipt of payment from MSD for work performed by the M/WBE.

F. Good Faith Efforts

For all contracts and procurements for which M/WBE contract goals have been established, the bidder shall be required to submit the forms required under Section III, A.4.b. To be eligible for award of a contract or procurement in a case where the M/WBE goals will not be met, a bidder must submit all documentation of its M/WBE outreach efforts with its bid or proposal. Failure to submit required documentation may cause a bid to be rejected as non-responsive. Outreach and Good Faith Efforts include, but are not limited to, the following:

1. Identification of sufficient subcontracting work: Bidder has identified and selected specific work items to be performed and/or procurement to be filled by an M/WBE. Bidder subdivided total contract work requirements and/or procurements into smaller portions or quantities to permit maximum active participation by M/WBE. Content of advertisements and written notices to subcontractors may demonstrate compliance with this objective.
2. (*Optional*) Bidder conducted an advertising campaign designed to reach all segments of the community by advertising in newspapers, trade association publications, special interest publications, trade journals, community papers, or other media. Advertisement must be specific to the MSD contract or procurement, not generic, and may not be a plan holder advertisement provided by the publication. Advertisement must be worded to ensure it does not exclude or limit the number of potential respondents, and must include the project name; the name of the bidder; areas of work available for subcontracting; contact person's name and phone number; information on the availability of plans and specifications; date the subcontractor's interest and written bid/estimate are due to the bidder; and the bidder's policy concerning assistance to subcontractors, suppliers, and vendors in obtaining bonds, financing, and/or insurance. Bidders are encourage to advertise not less than ten days (10) prior to the MSD bid opening date or within the MSD advertisement date. Documentation that may satisfy this requirement includes copies of advertisements and proof of publication dates.
3. Written notice to M/WBE subcontractors, suppliers, and vendors: Not less than ten (10) days prior to the MSD bid opening date or within the MSD advertisement date, bidder provided written notice of its interest in receiving subcontractor, supplier, and vendor bids related to the MSD contract or procurement to M/WBEs with an interest in performing identified work items. Contents of the notice must include the project name; the name of the bidder, areas of work available for subcontracting and procurement opportunities; contact person's name and phone number; information on availability of plans and specifications; date the subcontractor's interest and written bid/estimate are due to the bidder; and bidder's policy concerning assistance to

subcontractors, suppliers, and vendors, in obtaining bonds, financing, and/or insurance. Bidders are encouraged to go to the MSD website at <http://www.msdlouky.org/insidemsd/diverse/find.html> to view a list of M/WBEs available for use to meet the M/WBE subcontractor participation goals. Documentation that will demonstrate satisfaction of this requirement includes, but is not limited to, a copy of each notice sent to subcontractors by the bidder for each item of work to be performed or each procurement. If there is only one master notification, the bidder should submit a copy with a list of its recipients. Faxed copies of the notice and copies sent by electronic transmission or e-mail must include fax transmittal confirmation slip or written confirmation of receipt by e-mail, as the case may be, from the recipient, showing the date of transmission. The due date for subcontractor written bid/estimate to the bidder should not be less than seventy-two (72) hours prior to the bidder's bid submittal due date to MSD. Additionally, evidence M/WBE firms were invited to meetings.

4. Follow-up to initial solicitations: Bidder followed up to initial written notices to M/WBE subcontractors, suppliers, and vendors to determine interest in specific portions of project work and/or procurement; answered questions, recorded phone quotes; and recorded interest of subcontractors, suppliers, and/or vendors in bidding on any portion of subject project. Required documentation shall include a copy of telephone logs, including name of caller, name of and telephone number of subcontractor, supplier or vendor's contact person. Telephone logs must be submitted to demonstrate follow-up with all subcontractors, suppliers, and vendors to whom bidder sent written notices.
5. Provision of plans, specifications, and requirements: Bidder provided interested M/WBE subcontractors, suppliers, and/or vendors with access to plans, specifications, and requirements for the subject project. Documentation that will demonstrate compliance with this requirement includes the content of advertisements and written notices to subcontractors, suppliers, and vendors.
6. Assistance with bonds, financing, and insurance: Bidders made efforts to advise and assist interested subcontractors, suppliers, and vendors in obtaining information regarding bonds, financing, and insurance required for the subject project. Documentation that will demonstrate compliance with this requirement includes, but is not limited to, the content of advertisements and written notices to the M/WBE subcontractors, suppliers, and vendors. Such efforts include, but are not limited to, introducing M/WBEs to professionals in these fields.
7. Not rejecting M/WBE as being unqualified without sound reasons based on a thorough investigation of their capabilities. The M/WBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for rejection or non-solicitation of bids in the Contractor's efforts to meet the project goal.

8. Effectively using the services of community organizations; contractors' groups; local, state, and Federal business assistance offices; and other organizations as allowed on a case-by case basis to provide assistance in the recruitment and placement of M/WBEs. Required documentation shall include a copy of telephone logs, including name of caller and name of and telephone number of the organization's and/or agency's contact person.
9. Ongoing Mentor Protégé Relationships: The bidder is actively participating in an ongoing mentor/protégé relationship with an MSD Louisville registered M/WBE(s) in the assistance of their business growth and development.

In determining whether a bidder has made adequate Good Faith Efforts, MSD may, in its sole discretion, consider any or all of the foregoing efforts as well as the performance of other bidders in meeting the M/WBE participation goals as submitted with their bids. For example, when the apparent low bidder fails to meet the contract goal, but other bidders meet it, it may reasonably raise the question of whether, with additional reasonable efforts, the apparent low bidder could have met the goal. If the apparent low bidder fails to meet the goal, but meets or exceeds the average M/WBE participation obtained by other bidders, MSD may view this, in conjunction with other factors, as evidence of the apparent low bidder having made adequate Good Faith Efforts. Bidders that fail to meet M/WBE goals or fail to demonstrate adequate Good Faith Efforts may be deemed non-responsive to MSD's solicitation for bids and may not be eligible to be awarded the contract.

G. Determination of Good Faith Efforts

The GFE will be determined on a point system. Points are awarded for Indicators 1 through 10 when required and completed documentation is submitted at the time the partial or full waiver is being requested by the bidder at the MSD bid opening.

Points are awarded for each Indicator on an “all or nothing” basis. Points are not awarded for bid documentation deemed to be partially completed. There are 10 Indicators for the GFE documentation. Indicators 1 through 10 award points when the required documentation is submitted. Failure to include the required and completed GFE documentation and failure to achieve a minimum of 90 out of 125 points may render the bid non-responsive and could result in its rejection.

Points for Each Indicator:

Indicator:	1	2	3	4	5	6	7	8	9	10	Total
Points:	15	5	15	15	15	10	10	15	10	15	125

Each Indicator has a different point value equal to 5, 10 or 15.

Without sufficient documentation for the indicators (including all M/WBE firms that submitted bids and a summary sheet) your firm will not be able to achieve the minimum 90 points.

Indicator	GFE Criteria Summary Description
1	Identification of sufficient M/WBE subcontracting work
2	<i>(Optional)</i> Evidence of advertisement campaign regarding subcontracting opportunities
3	Written notice to M/WBE subcontractors, suppliers and vendors of prime contractor's interest
4	Follow-up to initial solicitations (written notices) to M/WBE subcontractors, suppliers and vendors
5	Provisions of plans, specifications and requirements provided to M/WBE subcontractors, suppliers and vendors with access to plans/specifications/requirements for the MSD project
6	Assistance to M/WBEs to obtain information regarding bonding, financing and insurance
7	Evidence of justifiable rejection of bid and not rejecting M/WBE as being unqualified without sound reasons based on a thorough investigation of their capabilities
8	Evidence of ongoing Mentor Protégé Relationships with MSD Louisville registered M/WBE(s) in the assistance of their business growth and development.
9	Evidence M/WBE firms were invited to meetings
10	Verification of utilization of the services of community organizations; contractor's group; local, state and Federal business assistance offices; and other organizations as allowed to provide assistance in the recruitment and placement of M/WBE

H. Guidelines for Completing the Good Faith Efforts Documentation Forms and Other Submittals:

1. Bidders and Proposers are prohibited from requiring prospective sub-contractor(s), sub-consultant(s) or supplier(s) pre-signed with ink or a pre-signed photocopy of blank M/WBE Proposals and M/WBE Bid Certificates.
2. Bidders and Proposers are prohibited from maintaining on file pre-signed blank M/WBE Proposals and M/WBE Bid Certificates.
3. Bidders and Proposers must complete and submit (with sealed bid or by 3pm the next business day) an original, signed MSD M/WBE Goal Compliance Plan Cover Page, Subcontractor Utilization Plan, Waiver Request Form and Affidavit, and MSD M/WBE Subcontractors Good Faith Effort Summary Sheets, as applicable.

I. Purpose, Rating and Good Faith Efforts Criteria

1	Identification of sufficient M/WBE subcontracting work	Total Points 15
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Purpose: To ensure the Bidder/Proposer has determined and communicated to potential M/WBEs which products or services are available for subcontract, sub consultant and/or supplier opportunities.

Criteria: Provide the list of opportunities that the Prime Contractor (Bidder and/or Proposer) had in regards to the portion of the project they intended to subcontract out. What areas would be better served by an entity that may have specialized services. (i.e. trucking, paving, special supplies, electrical engineering, or asbestos abatement).

2	(Optional) Evidence of advertisement campaign regarding subcontracting opportunities	Total Points: 5
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Purpose: To ensure the public/business community is well-informed and made aware of MSD projects and to outreach to M/WBE firms for potential subcontract, subconsultant and/or supplier opportunities.

Criteria: Provide a copy of the advertisement(s) in local and/or trade publications and the services that they are attempting to subcontract. This effort would need to be made well in advance of pre-bid meetings, and at the very least, well before the bid or proposal due date.

3	Written notice to M/WBE subcontractors, suppliers and vendors of prime contractor's interest	Total Points: 15
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Purpose: To ensure the Bidder/Proposer has provided potential subcontracting firms with information about MSD projects it intends to bid on.

Criteria: Submit a copy of information that was forwarded to the list of potential subcontracting firms. This step is to illustrate that adequate information was provided to firms that were contacted.

4	Follow-up to initial solicitations (written notices) to M/WBE subcontractors, suppliers & vendors	Total Points: 15
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Purpose: To ensure the Bidder/Proposer has provided sufficient notification to potential M/WBEs of the Bidder's/Proposer's interest in bidding on an MSD project to facilitate the M/WBE's decision to participate and preparation of a bid for subcontracting.

Criteria: Provide documentation of written notice, to a reasonable number of specific M/WBE firms of the Bidder’s interest in the Contract that is being solicited; in sufficient time in order to allow M/WBE firms to participate effectively.

5	Provisions of plans specifications and requirements provided to M/WBE subcontractors, suppliers and vendors with access to plans/specifications/requirements for the MSD project	Total Points: 15
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Purpose: To ensure the Bidder/Proposer has provided bid plans, specifications and other pertinent requirements to M/WBE firms.

Criteria: Provide a copy of all plans, specifications and other documentation that was provided to a reasonable number of M/WBE firms of the Bidder’s interest in the Contract that is being solicited.

6	Assistance to M/WBEs to obtain information regarding bonding, financing and insurance	Total Points: 10
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Purpose: To ensure the Bidder/Proposer has extended efforts to advise and assist interested M/WBEs in obtaining bonds and/or insurance as required by MSD on specific projects.

Criteria: Demonstrate attempts were made to assist interested M/WBE firms with obtaining bonding and/or insurance that the Bidder/Proposer may make as a requirement of the M/WBE firm to subcontract.

7	Evidence of justifiable rejection of bid and not rejecting M/WBE as being unqualified without sound reasons based on a thorough investigation of their capabilities	Total Points: 10
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Purpose: To ensure the Bidder/Proposer has taken all appropriate measures to include potential M/WBEs identified and contacted on MSD projects, but determined sound reason(s) for exclusion.

Criteria: Provide evidence that no bid was rejected without a sound reason.

8	Evidence of ongoing Mentor Protégé Relationships with MSD Louisville registered M/WBE(s) in the assistance of their business growth and development.	Total Points: 15
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Purpose: To ensure the Bidder/Proposer that is more experienced has paired with a newer business for a mutually beneficial relationship. The Protégé or M/WBE business may receive ongoing technical, management assistance, etc. from Bidder/Proposer in obtaining local, state and/or federal contracts or subcontracts as a subcontractor/supplier/vendor.

Criteria: Demonstrate that they (Prime Contractor – Bidder and/or Proposer) has an ongoing mentor protégé agreement(s) with M/WBEs registered with MSD Louisville and provide documentation of such agreements and other related supporting information.

9	Evidence of M/WBE firms were invited to meetings	Total Points: 10
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Purpose: To ensure the Bidder/Proposer provided access to M/WBEs to informational sessions regarding specific subcontracting opportunities.

Criteria: Provide documentation that M/WBE firms were invited, where appropriate, to meetings/conference to inform them of subcontracting opportunities.

10	Verification of utilization of the services of community organizations; contractor’s group; local, State and Federal business assistance offices; and other organizations as allowed to provide assistance in the recruitment and placement of M/WBE	Total Points: 15
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Purpose: To ensure the Bidder/Proposer has requested services of community organizations; contractor’s group; local, state and Federal business assistance offices; and other resources to access of their respective database of registered firms interested to conduct business as a Prime or subcontract opportunity and from the primary organization with MSD to help identify and link potential to M/WBEs.

Criteria: Demonstrate that they (Prime Contractor – Bidder and/or Proposer) utilized the services of the community organizations; contractor’s group; local, state and Federal business assistance offices; or any successor web-based compliance system thereto, or one of the certifying agencies recognized by MSD in establishing the initial contact list. Provide a copy of the information that was furnished by these agencies and was used in contacting Bidders.

J. Evaluated Bids

For the Request for Qualifications (RFQ) or Request for Proposal (RFP) process, MSD will provide an explanation of the evaluated criteria including the rating factors that will be used to evaluate and select the most responsive proposer. The rating factor for Supplier Diversity is 25% of the total percentage points are only assigned towards M/WBE Subcontracting Plan for the evaluation criteria. The Supplier Diversity Manager or his/her designee, is the only authorized reviewer of this criterion.

K. Equal Employment Opportunity Reporting Requirement

The Equal Employment Opportunity Reporting Requirement is a term and condition of all MSD contracts. MSD complies with Executive Order 11246, Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 503 of the Rehabilitation Act of 1973.

L. M/WBE Records and Reports

The effectiveness of this Interim Policy will be measured by a review of data indicating Contractor and subcontractor spending with M/WBEs. Program effectiveness measurements will also include efforts by the MSD staff to provide Contractor opportunities for M/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 MSD monthly information relating to its use of M/WBEs as stated in this Interim Policy. This information shall include without limitation the following information for each of the M/WBE subcontractors, suppliers, and/or vendors utilized by the Contractor: a description of the categories of contracts awarded to and spent with M/WBEs; the dollar value of contracts awarded to and spent with M/WBEs; the contract number(s), if applicable, and contact information for the M/WBEs. Additionally, the Contractor shall provide information regarding its progress toward attaining the M/WBE goal for the contract.
2. Within thirty (30) days after the end of a contract in which there were M/WBE goals, each Contractor shall provide the Supplier Diversity Manager with a report that summarizes the information provided pursuant to this Interim Policy above, including without limitation: the identity of and contact information for each M/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 MSD contract subcontracted to M/WBE subcontractors, suppliers, and/or vendors.
3. The Supplier Diversity Manager shall prepare and present to the Director of Procurement and Supplier Diversity, or his/her designee, monthly reports regarding MSD's use of M/WBEs as contractors and subcontractors. The consolidated reports will identify and assess the awards and payments to the M/WBEs; Contractors' use of M/WBE subcontractors and suppliers, and/or vendors; Contractors' progress in achieving M/WBE subcontract goals, and other M/WBE development and contracting efforts.

4. The Supplier Diversity Manager will also submit an annual M/WBE Utilization Report to the Director of Procurement and Supplier Diversity. These reports shall include a summary of the information described in Article III, Section 3, plus an analysis of the total dollar value of MSD contracts/subcontracts awarded and paid to M/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 M/WBEs during the preceding year shall also be provided.

IV. COMPLIANCE MONITORING/AUDITING

A. Monitoring

1. The Supplier Diversity Manager his/her designee, and other representatives of MSD, may at any time, and with or without notice, monitor the Contractor, subcontractor, supplier and/or vendor performing the contract in the field and make site visits to the Contractor's respective business location.

In addition, when MSD has reason to believe the Contractor or any subcontractor, supplier, or vendor is not operating in compliance with the terms, conditions or requirements of this Interim Policy, MSD will conduct an investigation, which may include an audit of the Contractor's records. If MSD finds that the Contractor or any subcontractor, supplier, or vendor is not in compliance with this Interim Policy or contract provisions, MSD will notify the Contractor in writing. When a Contractor receives such writing, the Contractor should schedule a conference with the Supplier Diversity Manager or his/her designee to discuss corrective action within the period set forth in MSD's notice.

Depending on the severity of the non-compliance and/or contract violation, MSD reserves the right to withhold payment and to exercise any and all rights under the contract including terminating the Contractor's performance.

2. In the event that MSD finds, or has found, evidence of fraud committed against MSD through monitoring and audit processes, MSD reserves the right to suspend the business, its officers, owners, shareholders and employees from participating in its contracts and its supplier diversity initiative as a certified M/WBE.

B. Auditing

1. Contractors' and M/WBEs' records pertaining to services performed shall be made available to MSD or MSD's authorized representative upon request, and at no cost to MSD.
2. Contractors' and M/WBEs' records subject to audit shall include but not be limited to records which may have a bearing on matters of interest to MSD in connection with the M/WBEs' work for MSD and shall be open to inspection and subject to audit and/or reproduction by MSD's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of 1) M/WBEs compliance with contract requirements, 2) Contractors compliance with contract requirements, 3) compliance with MSD's business ethics policies, 4) any and all other matters of concern to MSD.
3. Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this contract. In those situations where such records have been generated from computerized data (whether mainframe, mini computer or PC based computer systems), MSD shall be provided with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange formats.
4. MSD or its designee shall be entitled to audit all of the Contractor's or M/WBE's records, and shall be allowed to interview any of their employees, pursuant to the provisions of this Interim Policy and the contract for a period of five years after final payment. Such audits may require inspections and photo copying of selected documents from time to time at reasonable times and places.

V. COMPLAINTS

MSD is committed to enforcing this Interim Policy as written, and in turn, encourages all M/WBEs, firms, or individuals to promptly report any suspected unlawful or illegal activities by others.

Any person or organization with information which supports the unlawful or illegal participation by a business enterprise, firm or individual in MSD's Supplier Diversity Program should provide

a detailed statement in writing to the Supplier Diversity Manager specifying such unlawful or illegal acts and explaining the basis for such claim or statement.

VI. SUSPENSION/DEBARMENT

MSD may temporarily suspend or debar a Contractor, manufacturer, subcontractor, supplier, owners or principals (at the time of debarment) and those owners or principals of future companies from participating in the bid process and from contract awards for a period of three (3) years for violation of MSD's Interim Policy, contract provisions, and/or pursuant to applicable provisions of its Procurement Regulations. Debarment is not meant to be punitive, but a procedure to ensure that the MSD's Supplier Diversity Program is conducted legally with responsible parties, maintaining the integrity of MSD's procurement process.

At MSD's discretion Contractors and M/WBE may be allowed to finish their work on contracts awarded prior to notice of temporary suspension and/or debarment.

APPENDICES

(Required “M/WBE” Bid Documentation and Forms)

Note: Provided on following pages.

MSD Louisville
MBE/WBE Goal Compliance Plan Cover Page
(Due With Sealed Bid at Bid Opening)

PROJECT INFORMATION

Project Name:

Established Participation Goals: (Check Boxes) 15% MBE and 6% WBE - **OR** -

(Indicate other %) Other: % MBE, % WBE

BIDDER INFORMATION

Bidder Name:

Bidder Firm is a (check) MBE: WBE: Joint Venture: N/A

Bidder's Contact Person:

Contact Person Phone Number:

Contact Person Email Address:

Contact Person Fax Number:

Bidder Company Address:

City: _____ State: _____ Zip Code: _____

BID, MBE AND WBE PARTICIPATION

Total Base Bid Price: \$ _____

MBE Participation: _____

WBE Participation: _____

MBE/WBE Participation is the MBE/WBE Subcontractor(s) Amounts, Scope and %

Check One: Will **Meet** MBE/WBE Participation Goal Will **NOT** Meet MBE/WBE Participation Goal

If the MBE/WBE Subcontractor is not registered with and part of the MSD Supplier Diversity Program with an MBE/WBE national and/or federal certification as recognized by MSD, usage will not be acceptable as MBE/WBE Participation. Visit <http://www.msdlouky.org/insidemsd/diverse/index.html> to view the current listing of MSD recognized MBE and WBE certified businesses.

THIS PLAN MUST BE SIGNED AND SUBMITTED WITH YOUR BID

I certify that the information included in this MBE/WBE Compliance Plan is true and complete to the best of my knowledge and belief. I further understand and agree that this MBE/WBE Goal Compliance Plan shall become a part of my Contract with the Louisville and Jefferson County Metropolitan Sewer District Louisville.

 Print Name and Title of Authorized Representative

 Signature

 Date:

MSD USE ONLY

Subcontracting Plan: Approved Not Approved

Review Initials: _____ Date: _____

BID CERTIFICATE

The undersigned, having been certified as a Minority or Woman owned Business Enterprise in accordance with **MSD Interim Supplier Diversity Policy and Guidelines (Interim Policy)** as approved and adopted by the Board of Directors of MSD, does hereby certify as follows:

That he/she is fully familiar with all of the requirements of the **Interim Policy**; and

That he/she has independently developed the bid and pricing information submitted to the Prime Contractor for use in determining its bid for MSD Project # _____; and

That he/she fully intends to perform the work set out in the subcontract submitted by the Prime Contractor for the said MSD Project with his/her own equipment, supplies and workforce as required by the Interim Policy; and

That he/she will provide all necessary supervision and direction of the workforce provided under the said subcontract to ensure compliance with all MSD Standard Specifications and Drawings as pertains to the said MSD Project; and

That he/she will submit all records, forms and information required or requested by the MSD Supplier Diversity Manager for purposes of monitoring workforce and equipment utilization and determining value of the work performed during the term of the said subcontract; and

That he/she has independently negotiated the terms and conditions of the subcontract entered into with the Prime Contractor for the said MSD Project and accepts the terms and conditions of the said subcontract without exception or reservation.

IN WITNESS WHEREOF, the undersigned has affixed his/her signature this ___ day of _____, 20__ , on behalf of _____.

(Company Name)

NAME: _____

TITLE: _____

MSD LOUISVILLE
SUBCONTRACTOR UTILIZATION PLAN
 (STATEMENT OF INTENT TO UTILIZE FIRMS)

Page _____ of _____

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED BY ALL BIDDERS
 BY 3:00PM THE NEXT BUSINESS DAY AFTER THE BID OPENING**

Project Name:	Project Description:	
Company Name:	Date Submitted:	Total Value:
Address:	Federal Tax ID#	
Contact Person:	Email:	Phone #:

The above named company will execute a formal agreement with the firms listed below. This form must be submitted by **3:00pm the next business day after the bid opening**. The bidder must list **ALL SUBCONTRACTORS**, Regardless of the amount or service. Failure to complete this form with all the pertinent-requested information [as indicated in each column], shall cause a bid to be non-responsive. This document will be included as part of the contract.

Company Name/Address/Contact Person/Phone/Email	Federal Tax ID#	Describe Exact Type of Work/*Supplier	Check if Supplier Only	Consultant/ *Subconsultant Amount		MBE	WBE	Non-M/WBE	For Office Use Only (Calculation)
				Amount	Percentage				
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Please Note: If the materials or supplies are obtained from an MBE/WBE manufacturer, 100% of the cost of the materials or supplies shall count toward MBE/WBE goals. If the materials or supplies are purchased from an MBE/WBE that is not a manufacturer, 60% percentage of the cost of the materials or supplies from a certified M/WBE supplier will be counted toward the MBE/WBE goals. MSD reserves the right to make announced or unannounced field site visits to M/WBE firms' business locations. I certify that the above information is true to the best of my knowledge. The company acknowledges and agrees that if awarded the contract the information provided on this Subcontractor Utilization Plan shall be incorporated into the terms and conditions of the final contract between MSD and the Company. All firms checked MBE/WBE must be registered with MSD's Supplier Diversity Office and certified with national and federal certification organizations as recognized by MSD. I acknowledge and agree that any changes to the above information must be submitted on the MSD Subcontractor Substitution Form and approved in advance by MSD.

Signature: _____ Title: _____

Print Name: _____ Date: _____

**MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEET**

Page: 1 of 11

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
1.	Identification of M/WBE Subcontracting Work: Selected portions of the work to be performed by MBE/WBEs in order to increase the likelihood that the MBE/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 15

For each MSD Louisville registered MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone/Email	Type of Business	Type of Work/Service(s) Solicited	How Business was contacted (i.e. email, phone, letter, etc.?)	Response to Solicitation (i.e. will submit bid, no response, not interested)	Bid/Quote Amount	Company Selected (Write Yes or No)

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____

Print Name: _____ Date: _____

**MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEET**

Page: 2 of 11

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
2.	<i>(Optional)</i> Advertisement: Evidence of advertisement campaign regarding subcontracting opportunities	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 5

List all information requested below related to the above project. If additional space is required, this form may be duplicated.

Portion of Work to be Performed by MBE/WBEs:						

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

MSD LOUISVILLE M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS SUMMARY SHEET

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
3.	Solicitations, Written Notices, etc: Solicited, through all reasonable and available means to including, but not limited to the following examples: attendance at pre-bid meetings, accessed http://www.msdlouky.org/insidemsd/diverse/index.html , advertising and/or written notices the interest of all MSD Louisville MBE/WBEs who have the capability to perform the work of the contract. To be considered reasonable, the bidder should solicit this interest, ten (10) days or within the MSD bid advertisement date in order to allow MBE/WBEs sufficient time to respond to the solicitation. [To receive credit for this effort, the bidder must determine with certainty if the MBE/WBEs are interested by documenting and taking the appropriate steps to follow up initial solicitations.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 15

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/ Address/Contact Person/Phone/Email	Type of Business	Type of Work/Service(s) Solicited	How Business was contacted (i.e. email, phone, letter, etc.?)	Response to Solicitation (i.e. will submit bid, no response, not interested)	Bid/Quote Amount	Company Selected (Write Yes or No)

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

**MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEET**

Page: 4 of 11

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
4.	Follow-up: Follow-up to initial solicitations (written notices) to M/WBE subcontractors, suppliers and vendors.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 15

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	Description of information provided	If Agreement Reached, Yes. If No, Why Not?

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

MSD LOUISVILLE M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS SUMMARY SHEET

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
5.	Adequate Information Provided: Provided interested MSD Louisville registered MBE/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation for MBE/WBEs participation.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 15

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	Type of Work/Service(s) Considered	If Agreement Reached, Yes. If No, Why Not?

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

MSD LOUISVILLE

**M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEET**

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
		Yes	No	Total
6.	Assistance: Bonding/Lines of Credit/Insurance: Made efforts to assist interested MSD Louisville registered MBE/WBEs in obtaining bonding, lines of credit, or insurance as required by MSD Louisville or the contractor.	<input type="checkbox"/>	<input type="checkbox"/>	10

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	If Agreement Reached, Yes. If No, Why Not?

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

**MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEETS**

**THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)**

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
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GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
7.	Evidence of Justifiable for Bid Rejection: If participation of specific MBE/WBEs was considered, the bidder did not reject MBE/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. An MBE/WBE subcontractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations [for example, union vs., non-union employee status] are not legitimate causes for the rejection or non-solicitation of MBE/WBE subcontractor proposals when considering the contractor's efforts to meet the project goal.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 10

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	If Bid(s) Rejected? If Yes, Why? Provided detailed information.

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

**MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEETS**

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Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
8.	Ongoing Mentor Protégé Relationships: The bidder is actively participating in an ongoing mentor/protégé relationship with an MSD Louisville M/WBE in the assistance of their business growth and development.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 15

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	Type of Assistance	If Mentor Protégé Agreement Reached, Yes. If No, Why Not? Please provide copy.

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEETS

Page: 9 of 11

THIS DOCUMENT MUST BE ACCURATELY COMPLETED, SIGNED AND SUBMITTED WITH THE BID OR PROPOSAL
(DUE BY 3PM NEXT BUSINESS DAY AFTER BID OPENING)

Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
Address:		Federal Tax ID#:	
Contact Person:	Email:	Phone #:	

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
9.	Meeting Invitations: Evidence M/WBE firms were invited to meetings	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 10

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	Description of Meeting Notices for M/WBEs	Date M/WBE Attended, as applicable

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

**MSD LOUISVILLE
M/WBE SUBCONTRACTORS GOOD FAITH EFFORTS
SUMMARY SHEETS**

Page: 10 of 11

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Project Name and # [if applicable]:		Project Description:	
Company Name:		Date Submitted:	Total Contract Value:
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Contact Person:		Email:	Phone #:

GOOD FAITH EFFORTS SUMMARY SHEET CHECKLIST

Number	Bidder Action(s)	Points		
10.	Community and Other Organizational Services Support: Effectively used the services of community organizations, contractors' groups, local, state and federal business assistance offices, and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBE/WBEs.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Total 15

For each MBE/WBE firm contacted, list the name(s) and all information requested below related to the above project. If additional space is required, this form may be duplicated.

Company Name/Address/Contact Person/Phone Number/Email	Type of Business

It is hereby certified that the above firms were contacted and offered an opportunity to respond on the above project. We further certify that the above statements are a true account of all firms' responses to our solicitation. Copies of all bids and/or quotes will be made available upon request.

Signature: _____ Title: _____ Print Name: _____ Date: _____

MSD LOUISVILLE WAIVER REQUEST FORM AND AFFIDAVIT

Bidders who do not meet the MSD Supplier Diversity subcontracting goals of 15% MBE and 6% WBE participation with utilization from two separate companies **must earn a minimum of ninety (90) points** in the categories outlined and described above on the "M/WBE Subcontractors Good Faith Efforts Summary Sheet(s)" and they must be completed in their entirety for MSD to determine if adequate "Good Faith Efforts" (GFE) were demonstrated towards meeting the Established MBE/WBE Participation Goals. MSD Executive Director shall approve the Waiver Request.

I, _____, having been duly authorized to complete the foregoing "M/WBE Subcontractors Good Faith Efforts Summary Sheet(s)", do hereby swear that all of the information provided in the "M/WBE Subcontractors Good Faith Efforts was provided by me; that all of the statements contained in the M/WBE Subcontractors Good Faith Efforts and all attachments hereto are true, complete and accurate; and that I have not knowingly concealed or in any way falsified or misrepresented the summary sheets or status of:

_____.

I acknowledge that the following acts may constitute fraud and that if committed by me or any employee, member or principal of my company, may permanently disqualify my company from participation in MSD procurement or contract in accordance with the MSD Procurement Regulations and MSD Interim Supplier Diversity Policy and Guidelines:

- (1) Willfully and/or knowingly making a false or misleading statement, and whether by affidavit, or by oral or written report or other representation, to an MSD representative for the purpose of influencing MSD's acceptance/rejection of this Waiver Request.
- (2) Fraudulently obtaining, attempting to obtain or aiding another person or entity in fraudulently obtaining or attempting to obtain public monies or services, or a certified MBE/WBE to include non-M/WBEs and any community/nonprofit/service organization, etc. and/or any affiliate of such agency.

[This document shall be notarized by a Notary Public, in good standing.]

Name: _____ Title: _____ Signature: _____ Date: _____

State of: _____ County of: _____

The foregoing Waiver Request Form and Affidavit was acknowledged before me this _____ day of _____, 20__ by _____
[Name of Affiant]

as _____ of _____ as his/her voluntary and proper act and deed on behalf of the Company.
[Title] [Name of Company]

My Commission Expires: _____ Notary Public: _____

[SEAL] State of: _____