

## **H.12 MANDATORY SUBCONTRACTING REQUIREMENTS**

### **H.12.1 Mandatory Subcontracting Requirements**

- H.12.1.1** For Contracts in excess of \$250,000, at least 35% of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises.
- H.12.1.2** If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph H.12.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- H.12.1.3** A prime Contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of Sections H.12.1.1 and H.12.1.2.

### **H.12.2 Subcontracting Plan**

If the prime Contractor is required by law to subcontract under this Contract, it must subcontract at least 35% of the dollar volume of this Contract in accordance with the provisions of Section H.12.1. The prime Contractor responding to this Solicitation which is required to subcontract shall be required to submit with its Bid, a notarized statement detailing its subcontracting plan. Bids responding to this solicitation shall be deemed nonresponsive and shall be rejected if the Bidder is required to subcontract, but fails to submit a subcontracting plan with its Bid. Once the plan is approved by the Director/ACCO, changes to the plan shall only occur with the prior written approval of the Director/ACCO and the Director of DSLBD. Each subcontracting plan shall include the following:

- H.12.2.1** A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- H.12.2.2** A statement of the dollar value of the bid that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;

- H.12.2.3** The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- H.12.2.4** The name of the individual employed by the prime Contractor who shall administer the subcontracting plan and a description of the duties of the individual;
- H.12.2.5** A description of the efforts the prime Contractor shall make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises shall have an equitable opportunity to compete for subcontracts;
- H.12.2.6** In all subcontracts that offer further subcontracting opportunities, assurances that the prime Contractor shall include a statement, approved by the Contracting Officer, that the subcontractor shall adopt a subcontracting plan similar to the subcontracting plan required by the Contract;
- H.12.2.7** Assurances that the prime Contractor shall cooperate in any studies or surveys that may be required by the Director/ACCO and submit periodic reports, as requested by the Director/ACCO, to allow the District to determine the extent of compliance by the prime Contractor with the subcontracting plan;
- H.12.2.8** A list of the type of records the prime Contractor shall maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan and assurances that the prime Contractor shall make such records available for review upon the District's request; and
- H.10.2.9** A description of the prime Contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises and to award subcontracts to them.

### **H.12.3 Subcontracting Plan Compliance Reporting**

If the Contractor has an approved subcontracting plan required by law under this Contract, the Contractor shall submit to the Director/ACCO and the Director of DSLBD, no later than the 21<sup>st</sup> of each month following execution of the Contract, a Subcontracting Plan Compliance Report to verify its compliance with the subcontracting requirements for the preceding month. The monthly Subcontracting Plan Compliance Report shall include the following information:

- H.12.3.1** The dollar amount of the Contract or procurement;

- H.12.3.2 A brief description of the goods procured or the services contracted for;
- H.12.3.3 The name of the business enterprise from which the goods were procured or services contracted;
- H.12.3.4 Whether the subcontractors to the Contract are currently certified business enterprises;
- H.12.3.5 The dollar percentage of the Contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- H.12.3.6 A description of the activities the Contractor engaged in, in order to achieve the subcontracting requirements set forth in its plan; and
- H.12.3.7 A description of any changes to the activities the Contractor intends to make by the next month to achieve the requirements set forth in its plan.

#### **H.12.4 Subcontractor Standards**

A prime Contractor shall ensure that subcontractors meet the criteria for responsibility described in D.C. Official Code § 2-353.01.

#### **H.12.5 Enforcement and Penalties for Breach of Subcontracting Plan**

- H.12.5.1 If during the performance of this Contract, the Contractor fails to comply with its approved subcontracting plan and the Director/ACCO determines the Contractor's failure to be a material breach of the Contract, the Director/ACCO shall have cause to terminate the Contract under the default clause of the Standard Contract Provisions.
- H.12.5.2 There shall be a rebuttable presumption that a Contractor willfully breached its approved subcontracting plan if the Contractor (i) fails to submit any required monitoring or compliance report; or (ii) submits a monitoring or compliance report with the intent to defraud.
- H.12.5.3 A Contractor that is found to have willfully breached its approved subcontracting plan for utilization of certified business enterprises in the performance of a Contract shall be subject to the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the Contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach.

# SUBCONTRACTING PLAN

PRIME CONTRACTOR INFORMATION:	
Company: _____ Street Address: _____ City & Zip Code: : _____ Phone Number: _____ Fax: _____ Email Address: _____	Solicitation Number: _____ Contractor's Tax ID Number: _____ Caption of Plan: _____ _____ _____
Project Name: _____ Address: _____ _____ Project Descriptions: _____ _____ _____	Duration of the Plan: From _____ to _____ Total Prime Contract Value: \$ _____ Amount of Contract (excluding the cost of materials, goods, supplies and equipment) \$ _____ Amount of all Subcontracts: \$ _____ LSDBE Total: \$ _____ equals _____ % <div style="display: flex; justify-content: space-around; width: 100%;"> <span>LSDBE Subcontract Value</span> <span>Percentage Set Aside</span> </div>

(List each subcontractor at any tier that will be awarded a subcontract to meet your total set aside goal.)

SUBCONTRACTOR INFORMATION: (use continuation sheet for additional subcontractors)										
Name	Address & Telephone No.	Type of Work	NIGP Code(s)	Description of Work						
Total Amount Set Aside: \$ _____ Percentage of Total Set Aside Amount : _____ %    Tier: : _____ <span style="margin-left: 150px;">1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup></span> LSDBE Certification Number: _____ Certification Status: <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px;">SBE:</td> <td style="padding: 2px;">LBE:</td> <td style="padding: 2px;">DBE:</td> <td style="padding: 2px;">DZE:</td> <td style="padding: 2px;">ROB:</td> <td style="padding: 2px;">LRB:</td> </tr> </table> (check all that apply)			SBE:	LBE:	DBE:	DZE:	ROB:	LRB:	Point of Contact: _____ <span style="margin-left: 150px;">Name (Print)</span> Contact Telephone Number: _____ Fax Number: _____ Email Address: _____	
SBE:	LBE:	DBE:	DZE:	ROB:	LRB:					

## CERTIFICATIONS

The prime contractor shall attach a **notarized** statement including the following:

- a. A **description of the efforts** the prime contractor will make to ensure that LBEs, DBEs, ROBs, SBEs, LRBs, or DZEs will have an equitable opportunity to compete for subcontracts;
- b. In all subcontracts that offer **further subcontracting opportunities**, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- c. **Assurances** that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of **compliance** by the prime contractor with the subcontracting plan;
- d. Listing of the type of **records** the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and include assurances that the prime contractor will make such records available for review upon the District's request; and
- e. A description of the prime contractor's recent **efforts to locate LBEs, DBEs, SBEs, DZEs, LRBs, and ROBs, and to award subcontracts to them.**

PERSON PREPARING THE SUBCONTRACTING PLAN:	
Name: _____ <span style="margin-left: 150px;">(Print)</span> Telephone Number: (    ) _____ - _____ Fax Number: (    ) _____ - _____ Email Address: _____	Signature: _____ Title: _____ Date: _____

## FOR CONTRACTING OFFICER USE ONLY

Date Plan Received by Contracting Officer: _____		
Report: <input type="checkbox"/> Acceptable <input type="checkbox"/> Not Acceptable	Contract Number: _____	
Name & Title of Contracting Officer	Signature	Date

(SUBCONTRACTORS LIST CONTINUED)

(List each subcontractor that will be awarded a subcontract to meet your total set aside goal.)

**SUBCONTRACTOR INFORMATION: (use continuation sheet for additional subcontracts)**

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