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# Good Faith Efforts

Compliance with the  
MBE/WBE Procurement Program  
February 17, 2010



# Goal Setting

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- All solicitations over \$50,000 include goals**
- Goals are based on
  - MBE/WBE availability
  - Estimated Budget
  - Scopes of Work or Services
- Final determination
  - \$500K or less MBE and WBE goals
  - \$500K or above ethnic sub-goals



# Compliance Determinations

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Compliance is determined by one of the following (City Code 2-9(A-D)-21):

- Meeting Goals set for the project
  - MBE/WBE Participation/Project Specific Goals
  - Ethnic Participation/Project Specific Subgoals
- Meeting Good Faith Effort Requirements
  - Minimum Requirements
  - Additional Requirements



# Meeting Goals

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- City of Austin Certified Firms
- Certified for listed scopes of work
- Percentages meet or exceed solicitation goals
- Dollar amounts consistent with bids received
- Goals are calculated using base bid amount for construction projects
- As per City Code Chapter 2-9(A-D)-22, “Upon award of a Contract by Austin City Council that includes Goals or Subgoals that are met, the Goals and Subgoals become covenants of performance by the Contractor....”



# Good Faith Efforts

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The ability or desire of a Bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make Good Faith Efforts.



# Minimum Requirements

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- Sending written notices to MBE/WBE firms **in the Significant Local Business Presence (SLBP)** identified on the availability list not less than **5 business days** prior to bid date.
- Providing adequate information about plans and specifications, requirements of the contract, including addendas, contact information, and due date for responding.
- Taking appropriate steps to follow up the initial solicitation with interested MBEs or WBEs.
- Stating a specific and verifiable reason for not contacting each certified firm.



# Minimum Requirements

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- Selecting portions of the work consistent with MBE/WBE availability.
- Negotiating in good faith with interested MBEs and WBEs.
- Contacting SMBR for an availability list, if additional scopes of work or services are identified.
- Not rejecting MBEs or WBEs as being unqualified without sound reasons.



# Good Faith Efforts

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If the Bidder/Proposer meets less than half of any goal, SMBR may also consider the following additional factors in determining whether a Bidder/Proposer has made Good Faith Efforts.



# Additional Requirements

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- Sending written notices to MBE/WBE firms **outside the** SLBP on the availability list not less than 5 business days prior to bid date.
- Selecting portions of the work that will increase the likelihood that the MBE/WBE goals will be met.
- Efforts to assist MBE/WBEs in bonding requirements, lines of credit, and insurance where appropriate.
- Seeking the assistance of SMBR if the goals are not met.
- Seeking the services of available minority and women community organizations



# Good Faith Effort Documentation

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- Minimum Requirements
  - Fax logs and copies of documents sent to firms within the SLBP area.
  - Copies of written correspondence to certified firms (include names, addresses, and other identifying information).
  - Phone logs with responses (*Phone contacts, alone, will not be sufficient.*).
  - Lists and copies of letters sent by mail, hand delivered, or e-mailed.
  - Breakdown of negotiations made with certified firms.



# Good Faith Effort Documentation

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- Additional Requirements
  - Fax logs and copies of documents sent to firms outside the SLBP area.
  - Copies of advertisements with local newspapers, trade associations, and Chambers of Commerce.
  - Copies of all bids received in response to Bidder contacting other Firms.
  - Other communications regarding contacts with trade associations and Chambers of Commerce.



# Good Faith Effort Negotiations

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- Posted for Public Comments
- Amending MBE/WBE Procurement Program Rules, Section 9.1.2
- Defining Good Faith Effort Negotiation
  - Good Faith negotiation includes the bidder/proposer maintaining a level playing field among subcontractors; ensuring that all subcontractors have the same information concerning bidding opportunities; and giving certified subcontractors the information needed to submit a conforming and timely bid, including information regarding scope and term. The purpose of good faith negotiation is to open a dialogue between bidders/proposers and certified subcontractors regarding subcontracting opportunities. Bid shopping is prohibited.



# Reminders

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- Attach Good Faith Effort documentation if goals are not met.
- Verify MBE/WBE certifications using availability list, SMBR website, or contacting SMBR Project Representative.
- Vendors have to be certified with the City of Austin as MBE or WBE.
  - HUB certification is not accepted in lieu of MBE/WBE certification.
- Review the availability list and contact SMBR for additional lists.
- Ask non-certified subcontractors if using certified low-tier subcontractors (able to count participation).
- Contact SMBR to provide a project availability list in a Microsoft Excel format. The list includes email addresses.
- Contact SMBR for any assistance.





# Resources

<http://www.ci.austin.tx.us/snbr/>

# SMBR Website



# SMBR Staff

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## Certification Division Manager

Elton Price-974-7725

### Certification

Deanna Brown-974-7612

Kristi Samilpa – 974-7650

Amy Amaya – 974-7645



# SMBR Staff

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## Compliance Division Manager

Amelie Gonzalez Flores -974-7014

### Pre-Award

Raymond M. Young-974-9183 (Construction)

Linda Moore-974-7735 (Construction)

Joe Sanchez-974-7606 (Professional Services)

### Post-Award

Stella Richerson-Kinley-974-7256(Construction)

Harold Tolbert-974-7736(Construction)

Kenneth Kalu-974-7621(Construction)

Margaret Castillo-974-7737 (Construction)

Natalie Cuccia-974-7623 (Professional Services)



# SMBR Staff

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## Contract Compliance Manager

Thomas Owens -974-7732

## Plan Room

Hemant Motwani – 974-7745

## Outreach

Blender Hill – 974-7677



# SMBR Staff

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## Acting Director

Veronica Briseño Lara -974-2156

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\*Stephen Elkins, SMBR Director is currently Acting CIO for CTM

