FRESNO HOUSING
QUALITY HOUSING VIBRANT COMMUNITIES ENGAGED RESIDENTS

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"Good Faith Effort" Compliance Guidelines for

Minority Business Enterprise and Women Business Enterprise (MBE/WBE) Participation

Fresno Housing, hereinafter (FH), is a joint powers authority governed by the Board of Commissioners of the City of Fresno and the Board of Commissioners of the County of Fresno. *FH are committed to building strong communities by providing quality housing and empowerment opportunities to eligible families in partnership with community resource providers.*

FH is the local housing authority and maintains a substantial housing unit inventory, and is involved in many public works projects throughout the county. All this activity creates many contracting opportunities for area businesses. FH is committed to offering contracting opportunities to area businesses. And as a major recipient of federal funds, FH further makes these opportunities available to businesses owned by low-income residents and minority or women owned businesses.

This guide is designed to help bidders/offerors, and others conduct outreach to minority/women's business enterprises (MBE/WBE) as required by federal regulations. FH's commitment to this process also means that we are available to help bidders/offerors and community members realize contracting opportunities. We may be contacted at the numbers above to answer questions and provide assistance.

This document and attachments shall be included by FH as a contract provision for all construction contracts exceeding $10,000. Compliance with the requirements of this document and attachments satisfies the Federal and State of California MBE/WBE requirements. This document supersedes any conflicting requirements.

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SECTION 1 PRIME CONTRACTOR & RECIPIENT RESPONSIBILITIES

A. PARTICIPATION RESPONSIBILITIES FOR PRIMES AND THEIR SUBCONTRACTORS

All recipients of federal funds from the U. S. Department of Housing and Urban Development (HUD), as well as their prime contractors and subcontractors, must make every effort to solicit bids from eligible MBE/WBEs. This information must be documented and reported to the FH as described in this document.

B. THE MBE/WBE RESPONSIBILITIES OF THE PRIME CONTRACTOR ARE:

1. To conduct a **"Good Faith"** effort to ensure maximum **MBE/WBE** participation in the project;

2. Complete or obtain from **MBE/WBE** subcontractors all of the completed forms required in these guidelines (Forms 1-5) and submit them to the FH with Bid or Proposal; and

3. Report actual **MBE/WBE** participation on a monthly basis to the FH.

C. THE RESPONSIBILITIES OF THE HOUSING AUTHORITIES ARE:

1. To ensure that the prime contractor/sub-contractor meets the responsibilities identified in these guidelines.

2. Collect documentation identified in these guidelines from prime contractors/sub-contractor and maintain all records in the project files for later access or auditing; and

3. Collect monthly reports from the Prime Contractor/sub-contractor on **MBE/WBE** participation.

SECTION 2 "GOOD FAITH" EFFORT PROCESS

A. ANY PUBLIC OR PRIVATE AGENCY RECEIVING FEDERAL FUNDS:

Prime Contractors must demonstrate that efforts were made to attract MBE/WBEs on any federally funded projects. The process to attract MBE/WBEs is referred to as the "Good Faith" effort. This effort requires the prime contractor and any subcontractors to take the steps listed below to assure that MBE/WBEs are used

whenever possible as sources of supplies, construction, equipment, or services. Failure to take the steps outlined below and submit Forms 1-5, may cause the bid to be rejected as non-responsive. Use Forms **1 through 5** to document the process, **Form 6 is completed by FH**. If it is not practical or possible to comply with one or more of the five steps, prepare a detailed explanation and submit with the Bid or Proposal package.

1. STEP 1: Divide the total requirements, when economically feasible, into small tasks or quantities to permit maximum participation. Evidence submitted must illustrate that the work was divided into small proprietary portions (e.g. paving, electrical, landscaping).
2. STEP 2: Establish delivery schedules, when work requirements permit, which will encourage maximum MBE/WBE participation.
3. STEP 3: Use the services of the U.S. Small Business Administration (SBA), the Minority Business Development Agency (MBDA) of the U. S. Department of Commerce (DOC), or the Central California Minority Contractors Association, and the City Of Fresno-DBE Office, in soliciting qualified MBE/WBEs. Utilization of these resources is required at no cost. These agencies offer several services, including Internet access to databases of MBE/WBEs. SBA's database is (http://www.ccr.gov/).

For additional assistance, the recipient or contractor can telephone the local offices or agencies in their area. The Internet web sites also include names, addresses, and phone or fax numbers of local SBA and MBDA centers. **Do not write to these sources.**

- The prime contractor *must* provide documentation that the local SBA/MBDA/CCMCA offices or web sites were notified of the contracting bid opportunity **prior to bid opening** and solicitation to **MBE/WBE** subcontractors **prior to bid opening**. Documentation must not only include the efforts to contact the information sources and list the contract opportunity, but also the solicitation and response to the bid request.

4. STEP 4: Include qualified MBE/WBEs on solicitation lists (**Form 1**) and record the information. Solicitations should be as broad as possible. The following web sites include a list of available sources for expanding the search for eligible MBE/WBEs: http://www.sba.gov. http://www.ccr.gov or http://www.mbda.gov. If **MBE/WBE** sources are *not* located, explain why and describe in detail the efforts made. See Step 5, for more detailed information.

   For all contracts, the prime contractor must send invitations to at least three (or all, if less than three) **MBE/WBE** vendors for each item of work referred by sources contacted. The invitations must adequately specify the items for which bids are requested. The record of "**good faith**" efforts must indicate a real desire for a positive response, such as a certified mail

receipt or a documented telephone conversation identifying the date of the call, the person spoken to, and the title of the person. **(A regular letter or an unanswered telephone call is *not* an adequate "Good Faith" effort)**. A list of all sub-bidders, including the bidders **not** selected and non **MBE/WBE** subcontractors, and bid amount for each item of work must be submitted on Form 5. A sample list is shown in Form 5, Sample Summary of Bids Received from Subcontractors. If a low bid was not accepted, a detailed explanation must be provided.

5. STEP 5: **MBE/WBE** potential resource centers are listed in the following table. Solicit available MBEs and WBEs whenever they are potential sources. The prime contractor must provide invitations to **MBE/WBE** sub-bidders prior to the bid opening date.

Federal Agencies (must be contacted):

Name and Address	**Telephone and Web Site**
U.S. Small Business Administration	(415) 744-6820 Extension 0
455 Market Street, Suite 600	PRO-Net Database: http://www.ccr.gov/
San Francisco, CA 94105	Bid Notification: http://web.sba.gov/subnet/
RE: Minority Enterprise Development Offices	
U.S. Department of Commerce	(415) 744-3001
Minority Business Development Agency	Phoenix/ Opportunity Database:
211 Main Street, Room 1280	http://www.mbda.gov
San Francisco, CA 94105	RE: Business Development Centers

State Agencies:

Name and Address	**Telephone and Web Site**
California Department of Transportation	Mailing Address: PO Box 942874
(CALTRANS) Business Enterprise Program	Sacramento, CA 94274-0015
1820 Alhambra Blvd.	(916) 227-9599
Sacramento, CA 95816	www.dot.ca.gov/hq/bep
CA Public Utilities Commission (CPUC)	
505 Van Ness Avenue	http://www.cpuc.ca.gov/static/supplierdiversity
San Francisco, CA 94102-3298	

Non-Governmental Local Contacts

Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Resources

The following organizations provide services to identify potential MBE/WBEs. Services provided, may include the entire Good Faith effort process for recipients that need comprehensive assistance.

Central California Minority Business Association

Public Utilities Commission

Fresno Builders Exchange

Hispanic Chamber of Commerce

Black Chamber of Commerce

Lao American Coalition

Asian Business Institute and Resource Center

Section 3: Reporting Requirements

Once a bidder is selected, FH shall review the successful bidder's records closely to be sure that, prior to awarding the contract, all required "good faith" efforts were made. Failure of either the bidder or prime contractor/subcontractor to follow the process and provide the necessary information to the FH could jeopardize the bidding process. The following situations and circumstances require actions as indicated:

A. All requests for services, supplies, equipment, or construction solicited by the FH, other governmental agencies, non-profit agencies, or private businesses are subject to the MBE/WBE requirements. **These requirements apply to the prime contractor and all subcontractors**.

B. For the duration of the contract, all primary and subcontractors will be required to report progress made in fulfilling the "good faith" effort in their monthly reports. Failure to provide this information as stipulated in the contract language will be cause for contract termination. FH staff will provide recipients with the forms and instructions to report their "good faith" efforts.

C. If the apparent successful low bidder was rejected a complete explanation must be provided.

D. If additional subcontracts become necessary after the award of the prime contract, provide Form 2 to the FH within ten working days following the award of each new subcontract.

E. Any deviation from the information provided at the time of the bid shall not result in a reduction of MBE/WBE participation without prior approval of FH.

F. Failure of the apparent low bidder to perform the five "good faith" effort steps and submittal of Forms required, may result in its bid being declared non-responsive. The contract may then be awarded to the next low, responsive, responsible bidder that meets the requirements or FH may re-advertise the project.

G. The apparent successful low bidder must have submitted documentation to FH showing that all required "good faith" efforts were made.

Section 4: Definitions

A bona fide minority or women-owned business enterprise MBE/WBE is a:

1. MBE or WBE that has been certified by D.O.T., Caltrans, or the P.U.C.

2. MBE or WBE that has submitted a "Minority or Women-Owned Business Enterprise Contractor Self-Certification" **Form 3**, and has been accepted as a bona fide MBE or WBE by the prime contractor.

3. Determination of whether a business is at least 51% owned by a woman or women shall be made without regard to community property laws. An otherwise qualified WBE which is 51% owned by a married woman in a community property state will not be disqualified because her husband has a 50% interest in her share. Similarly, a business that is 51% owned by a married man and 49% by an unmarried woman does not become a qualified WBE by virtue of the wife's 50% interest in the husband's share of the business.

Control means exercising the power to make policy decisions.

Operate means being actively involved in the day-to-day management of the business.

Joint Venture is a business enterprise formed by a combination of firms under a joint venture agreement. To qualify as a bona fide MBE/WBE, the minority-owned or women-owned and controlled firms in the joint venture must:

Satisfy all requirements for bona fide MBE/WBE participation in their own rights.

Share a clearly defined percentage of the ownership, management responsibilities, risks, and profits of the joint venture. Only this percentage of ownership will be credited towards the MBE/WBE goal.

A minority group member is a citizen of the United States and one of the following:

Native American consists of American Indian, Eskimo, Aleut, and native Hawaiian. To qualify, the person must meet one of the following criteria:

1. Native Americans are at least one-fourth Indian descent (as evidenced by registration with the Bureau of Indian Affairs).

2. Membership in a tribe, band, or group of American Indians (recognized by the Federal Government), as evidenced by a tribal enrollment number or similar indication.

African-American consists of individuals having origins in any of the black racial groups of Africa.

Asian-Pacific American consists of individuals having origins in any of the original peoples of the Far East, Southeast Asia, and the Indian subcontinent. This area includes, for example, China, Japan, Korea, the Philippines, Vietnam, Samoa, Guam, U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan. The Indian subcontinent takes in the countries of India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan.

Hispanic American consists of individuals with origins from Puerto Rico, Mexico, Cuba, and South or Central America. Only those persons from Central and South American countries who are of Spanish origin, descent, or culture should be included in this category. Persons from Brazil, Guyana, Surinam, or Trinidad, for example, would be classified according to their race and would not necessarily be included in the Hispanic category. In addition, this category does not include persons from Portugal, who should be classified according to race.

In cases where a firm is owned and controlled by a minority woman or women, the percentage may be credited towards MBE participation or as WBE participation, or allocated, but may not be credited fully to both.

Contractor refers to any entity who will participate in some phase of construction. The contractor receiving funds directly from the FH for construction is the prime contractor. Contractors working for the prime contractor are subcontractors.

Project Manager the FH staff member responsible for managing the project. The Project/Contract Manager is responsible for review during the planning, design and construction contract development phases.

Section 5: MBE/WBE Forms

The following forms are provided to report project MBE/WBE information. They are available in electronic form from the FH. If you have any questions about completing these forms, please contact the **Project Manager**.

All Forms, where applicable, must have original signature and date.

The following table provides information on who completes each form and where the forms are to be sent:

Form#	Description	Completed By	Submit To
1	Bids Received List	Prime	Housing Authorities
2	Subcontractors Solicited	Prime	Housing Authorities
3	Contractor Self- Certification	MBE/WBE – Subs	Prime
4	Selected Subcontractors	Prime (with bid)	Housing Authorities
5 and 5A	Summary & Sample	Prime	Housing Authorities
6	"Good Faith" Effort Certification	Housing Authorities	

FORM 1

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE)

"GOOD FAITH" EFFORT BIDS RECEIVED LIST

Contractor Name	Category (MBE or WBE)	Task Description	Bid Amount	Selected (Check)	Explanation for Not Selecting

Form required to be submitted within five (5) days after bid opening.

FORM 2

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (MBE/WBE)
"GOOD FAITH" EFFORT LIST OF SUBCONTRACTORS SOLICITED

Contractor Name	Contractor Address	Category (MBE or WBE)	How Located	Date of Contact	Contact Method	Task Description	Response (Yes/No)

Form required to be submitted within five (5) days after bid opening.

FORM 3

MINORITY- OR WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)

CONTRACTOR SELF-CERTIFICATION

Firm Name:	Phone:
Address:	
Principal Service or Product:	Bid Amount $
PLEASE INDICATE PERCENTAGE OF OWNERSHIP	
o MBE _____% Ownership	o WBE _____% Ownership
o Prime Contractor	o Supplier of Material/Service
o Subcontractor	o Broker
o Sole Ownership	o Corporation
o Partnership	o Joint Venture
I hereby certify that this firm is a Minority or Women Business Enterprise as defined in Public Contract Code, Section 10115.1. In making this certification, I am aware of Sections 12650 et seq. of the Government Code, providing for the imposition of treble damages for making false claims against the State and Section 10115.10 of the Public Contract Code, making it a crime to, intentionally make an untrue statement in this certificate.	

Certified by:		Title:	

MBE/WBE Sub (Original Signature and Date Required)

Name:		Date:	

Additional proof may be required upon written challenge of this certification by any person or agency. Falsification of this certification by a firm selected to perform federally funded work may result in a determination that the firm is non-responsive and ineligible for future contracts.

Form required to be submitted within five (5) days after bid opening.

FORM 4

PRIME CONTRACTOR/RECIPIENT

SELECTED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MBE/WBEs)

CONTRACT RECIPIENTS NAME:		CONTRACT NO.:
PROJECT DESCRIPTION:		PROJECT LOCATION:
PRIME CONTRACTOR INFORMATION		
NAME AND ADDRESS (Include ZIP Code, Federal Employer Tax ID #)		o MBE o WBE
PHONE		AMOUNT OF CONTRACT$
MBE/WBE INFORMATION		
o NONE*		
o MBE	o WBE	NAME AND ADDRESS (Include ZIP Code)
o SUBCONTRACTOR o JOINT VENTURE	o SUPPLIER/SERVICE o BROKER	
AMOUNT OF CONTRACT $		PHONE
WORK TO BE PERFORMED		
o MBE	o WBE	NAME AND ADDRESS (Include ZIP Code)
o SUBCONTRACTOR o JOINT VENTURE	o SUPPLIER/SERVICE o BROKER	
AMOUNT OF CONTRACT $		PHONE
WORK TO BE PERFORMED		
o SUBCONTRACTOR o JOINT VENTURE	o SUPPLIER/SERVICE o BROKER	
AMOUNT OF CONTRACT $		PHONE
WORK TO BE PERFORMED		
TOTAL MBE AMOUNT:$_____	TOTAL WBE AMOUNT:$_____	
SIGNATURE OF PERSON COMPLETING FORM:		
TITLE:_____	PHONE:_____	DATE:_____

*Negative reports are required. **ORIGINAL SIGNATURE AND DATE REQUIRED Form required to be submitted within five (5) days after bid opening.**

FORM 5

SUMMARY OF BIDS RECEIVED FROM SUBCONTRACTORS, SUPPLIERS, AND BROKERS (MBE/WBE & NON-MBE/WBE)

THIS SUMMARY IS PREPARED BY THE PRIME CONTRACTOR

Type of Job	Company Name	Selected	Bid Amount	MBE	WBE	NON

List type of jobs alphabetically, from low to high in each category and selected low bidder. All other types of bidders such as DBE, SWBE SMBE, and Non-MBE/WBE should be shown in the "Non" column. **Form required to be submitted within five (5) days after bid opening.**

FORM 5A (SAMPLE)

SUMMARY OF BIDS RECEIVED FROM SUBCONTRACTORS, SUPPLIERS, AND BROKERS (MBE/WBE & NON-MBE/WBE)

THIS SUMMARY IS PREPARED BY THE PRIME CONTRACTOR

Type of Job	Company Name	Selected	Bid Amount	MBE	WBE	NON
Asphalt	**Gillerti & Sons**	**X**	**$123,750**	**X**		
	Americash		$131,850			**X**
	Caltex		$176,775			**X**
Bore & Jack	**State Boring**	**X**	**$208,870**			**X**
	Jack Bore		$208,870			**X**
	Alotta Boring		$227,472	**X**		
Electrical	Square Fasteners, Inc		$20,190	**X**		
	REM Sleep Co	**X***	**$24,189**		**X**	
	Tram Electric		$30,120			**X**
Masonry	**Welch, Inc.**	**X**	**$20,383**		**X**	
	Cheatum		$36,000	**X**		
Pipe (Supplier)	**Cal-Pipe Co.**	**X**	**$203,200**	**X**		
	Norcal Pipe Co.		$260,00			**X**
Striping	**Orange Peel**	**X**	**$8,597**			**X**
	Crispy Boys Co.		$9,370			**X**
	Sweat Co.		$11,785	**X**		

*REM Sleep Co. selected over Square Fasteners, Inc. due to incomplete bid by Square Fasteners.

List type of jobs alphabetically, from low to high in each category and selected low bidder. All other types of bidders such as DBE, SWBE SMBE, and Non-MBE/WBE should be shown in the "Non" column. **Form required to be submitted within five (5) days after bid opening.**

FORM 6

MINORITY BUSINESS ENTERPRISE/WOMEN BUSINESS ENTERPRISE (MBE/WBE)

"GOOD FAITH" EFFORT CERTIFICATION BY CONTRACTOR

The apparent successful low bidder on HUD funded project number _____ is _____.
(Name of bidder)

Before Fresno Housing Authority can consider approval to award to any bidder, the contractor must certify to the following:

MINORITY BUSINESS ENTERPRISE (MBE)
The bidder has obtained _____% of MBE participation for this contract.

WOMEN BUSINESS ENTERPRISE (WBE)
The bidder has obtained _____% of WBE participation for this contract.

Also submitted are Forms 3 and 4 that contain a complete list of those MBE and WBE firms subcontracted with or with whom other types of agreements were made. The list includes the names of the firm, address, phone number, and dollar amount involved.

The following affirmative steps as required by 40 CFR 35.3150 (d) have been taken:

(1) The contractor divided total requirements when economically feasible, into small tasks or quantities to permit maximum participation of minority and women's businesses.

(2) The contractor established delivery schedules, where the requirements of the work permitted, which encouraged participation by minority and women's business.

(3) The contractor included qualified minority and women's businesses on solicitation lists.

(4) The contractor assures that minority and women's businesses were solicited, whenever they were potential sources.

(5) The contractor used the services and assistance of the Small Business Administration and the Office of Minority Business Development Agency of the U.S. Department of Commerce.

It must be understood that the contractor assumes primary responsibility to achieve an acceptable level of MBE/WBE utilization. This primary responsibility is a basic condition of the award of any contract involving HUD Funds. Where a contractor fails to meet its obligations under these requirements the contractor may be declared non-responsive.

In accepting these responsibilities, I hereby certify to the above.

Name of Contractor

Signature of Authorized Representative

Date

Name and Title of Authorized Representative

Form required to be submitted within five (5) days after bid opening.