

3. GOOD FAITH EFFORTS and GOOD FAITH NEGOTIATION:

IF BOTH A MBE AND SBE SUBCONTRACTING GOAL ARE ESTABLISHED, BOTH SUBCONTRACTING GOALS MUST BE MET. IF YOU DO NOT MEET THE ESTABLISHED SUBCONTRACTING GOALS, then you must earn the Minimum Good Faith Effort (GFE) Points and meet the Good Faith Negotiation requirements as set forth in Part B, Sections 4 and 5 of the CBI Policy.

Detailed information of the City's Good Faith Efforts and Good Faith Negotiation requirements can be found in the CBI Policy, Part B, Sections 4 and 5. Failure to meet the Good Faith Efforts and Good Faith Negotiation requirements will constitute grounds for rejection of your bid.

Documenting Good Faith Efforts. To demonstrate Good Faith Efforts (GFE) compliance, Bidders must complete and submit CBI Form 5: Good Faith Effort (GFE) and Statement of GFE Compliance. A minimum of fifty (50) GFE Points must be earned for each Subcontracting Goal not met. If more than one Subcontracting Goal is not met, then Bidders will be required to complete and submit a separate form for each unmet goal.

CBI Form 5 lists GFEs and the number of points attainable for each type of Good Faith Effort. The City will request your Good Faith Effort (GFE) / Statement of GFE Compliance if you are an apparent low Bidder for contract award, and you must submit CBI Form 5 and all supporting documentation within three (3) Business Days after the City requests it.

In deciding whether to award GFEs, the City will assess whether the efforts employed by the Bidder are those that a prime contractor would reasonably be expected to take if actively and aggressively trying to meet the established Subcontracting Goal for the Contract. This assessment will be made on a case-by-case basis taking all available facts into account. The focus will be on the likely effectiveness of steps taken. Mere pro forma efforts will not be sufficient.

In awarding GFEs, the City may also take into account: (1) the Bidder's past performance in meeting Subcontracting Goals; and (2) the performance of other Bidders in meeting the established Subcontracting Goal on the Contract up for award. For example, when the apparent low Bidder fails to meet the established Subcontracting Goal, but other Bidders meet it, the City may reasonably raise the question of whether, with additional reasonable efforts, the apparent low Bidder could have met the goal.

It is important that you carefully review Part B, Sections 4 and 5 of the CBI Policy in order to understand and comply with all requirements. **All actions necessary to earn the required GFE Points must be undertaken prior to Bid Opening.** Failure to comply with the requirements set forth in this section shall constitute grounds for rejecting a bid.

3.1 MSBE Contacts.

To receive credit for GFE 5.3.1, MSBE Contacts, at least ten (10) Days prior to Bid Opening, the Bidder must contact MSBE firms in a manner reasonably calculated to meet the established Subcontracting Goal for the Contract. A MSBE Vendor List can be located at www.charlottebusinessinclusion.com.

Please refer to Part B, Section 5.3.1 of the CBI Policy regarding how these Contacts must be made and documented. Contacts are to be recorded on CBI Form 2: CBI Solicitation Form, which is submitted along with CBI Form 5, within three (3) Business Days after requested by the City.

3.2 Good Faith Negotiation.

Bidders must negotiate in good faith with all interested MSBE firms. Part B, Section 4 of the CBI Policy defines what negotiating in "Good Faith" means. Among other things, it means that if a MSBE is low bid on a contract for construction or for the procurement of goods, then you must contract with that MSBE unless it is not "Qualified" within the meaning of the CBI Policy.

3.3 MSBE Assistance Organizations.

To receive credit for GFE 5.3.4, Working with MSBE Assistance Organization, the Bidder must document that it worked with one of the following organizations, as described in Part B, Section 5.3.4 of the CBI Policy:

- Metrolina Minority Contractors Association (MMCA)
- Hispanic Contractors Association of the Carolinas (HCAC)
- United Minority Contractors of North Carolina (UMCNC)
- Carolinas Association of General Contractors (CAGC)

3.4 Self-Performance.

A Bidder that intends to perform 100% of the work on a Contract with its own workforce may submit an affidavit (CBI Form 1) stating that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of work on this contract with its own current workforces. In such event the Bidder shall not be required to comply with Part B, Section 5 of the CBI Policy. However, if the Bidder is not licensed to perform each and every type of work included in the Contract, or if the City has cause to believe based on past practice or other grounds that the Bidder will not be performing all work under the Contract with its own workforce, then the City may reject the Bidder's Bid for non-compliance with the CBI Policy.