

APPENDIX H
CITY & COUNTY OF SAN FRANCISCO
CONTRACT MONITORING DIVISION



CMD ATTACHMENT 5
Requirements for Micro-LBE Set-Aside
Architecture, Engineering, Professional Services Contracts
FOR CONTRACTS \$110,000 AND LESS THAT ARE ADVERTISED ON OR AFTER August 1, 2016
&
General Services Contracts
FOR CONTRACTS \$600,000 AND LESS THAT ARE ADVERTISED ON OR AFTER AUGUST 1, 2016

PART I. GENERAL

1.01 SAN FRANCISCO ADMINISTRATIVE CODE CHAPTERS 12B AND 14B

- A. To be eligible for this contract award, prime proposers must agree to comply with the Local Business Enterprise (“LBE”) requirements sanctioned by San Francisco Administrative Code Chapter 12B, Section 12B.4 and Chapter 14B, and its implementing Rules and Regulations. Chapters 12B and 14B are administered and monitored by the San Francisco Contract Monitoring Division (“CMD”).
- B. Chapters 12B and 14B and their implementing Rules and Regulations are incorporated by reference herein as though fully set forth and provide that the failure of any proposer or consultant to comply in good faith with these requirements shall be deemed a material breach of contract. Copies of both Chapters 12B and 14B and their implementing Rules and Regulations are available on the CMD website at <http://www.sfgov.org/cmd>.
- C. Micro-LBE Set-Aside Program
Under Section 14B.7(K)(2) of the Ordinance, the City may set-aside for competitive award to Micro-LBEs: (1) Architecture, Engineering, and Professional contracts estimated by the Contract Awarding Authority to be \$110,000 or less; and (2) General Services contracts estimated by the Contract Awarding Authority to be \$440,000 or less (for contracts that are advertised on July 1, 2015 to July 31, 2015) and \$600,000 or less (for contracts that are advertised on or after August 1, 2015). The Certification application is available on the CMD website at <http://www.sfgov.org/cmd>.

The competitive award requirements of the Municipal Code shall otherwise apply to contracts for the set-aside program, except that if (a) fewer than two Micro-LBEs submit bids, or (b) the contract awarding authority determines that the contract would not be awarded at a fair market price, then the Contract Awarding Authority may reject all bids and remove the contract from the set-aside program.

*For assistance with this CMD Attachment
and/or assistance with the Equal Benefits Program,
please contact the CMD Main Office at (415) 581-2310*



Contracts that are set-aside for award to Micro-LBEs shall not be subject to the LBE subcontracting participation requirement under Section 14B.8. Micro-LBEs that subcontract any portion of a set-aside contract should subcontract to businesses certified as Micro-LBEs to the maximum extent possible. Micro-LBEs that subcontract any portion of a set-aside contract must serve a commercially useful function based on the contract's scope of work.

The Micro-LBE Prime must perform at least 25% of the contract work. Additionally, there should be no modifications to increase the contract amount unless there is an unforeseen situation—any such modification must have prior CMD approval.

IMPORTANT NOTICE: In this CMD Attachment 5, the term “LBE” refers to only San Francisco (“SF”) CMD Certified Micro-LBEs/NPEs and, therefore, does not include SFPUC Micro-LBEs.

1.02 MICRO SET-ASIDE CONTRACT ELIGIBILITY

To be eligible for a micro set-aside contract the bidder must be a CMD Certified Micro-LBE in a certification category that corresponds with the scope of work called out by the Contract Awarding Authority. A bidder that has a certification application pending, that has been denied certification, that has had its certification revoked or that is in the process of appealing a CMD denial or revocation at the date and time the bid is due is not a Micro-LBE and is not eligible to bid on the contract even if the firm is later certified or ultimately prevails in its appeal.

1.03 CMD FORM SUBMITTAL, LBE UTILIZATION TRACKING SYSTEM AND CONTRACT PERFORMANCE FORMS:

- A. Unless otherwise authorized by CMD, the prime proposer must submit the following CMD forms in a separate sealed envelope marked “CMD Forms” with the proposal. Failure to complete or submit any of the forms may cause the proposer to be deemed non-responsive and ineligible for contract award.

Review the specific instructions and requirements on each CMD form.

1. **FORM 2A: CMD Contract Participation Form:** Identify the Prime and all Subconsultants. The Micro-LBE Prime must perform at least 25% of the contract work or the proposal will be deemed non-responsive. Micro-LBE Prime must specify the percentage and portion of work to be self-performed.
2. **FORM 3: CMD Compliance Affidavit:** Must be signed by Proposer under penalty of perjury.
3. **FORM 5: CMD Employment Form:** List the key personnel designated to work on this project for the entire project team (prime proposers, joint venture partners, subconsultants, and vendors).
4. **CMD 12B-101 Form:** Submit only if the Prime Consultant is not already in compliance with Equal Benefits Requirements. This form is available on the CMD website at <http://www.sfgov.org/cmd>.
5. **FORM 7: CMD Progress Payment Form:** Contractor shall submit online using the LBEUTS with each payment request. Failure to upload this information with each payment request may delay progress payment processing.
6. **FORM 9: CMD Payment Affidavit:** Following receipt of each progress payment from the Contract Awarding Authority, a Form 9 (or the information on Form 9) must be submitted online using the LBEUTS with the next progress payment request. Subcontractors are then



- required to acknowledge payment from Contractor online using the LBEUTS. Failure to submit required information may lead to partial withholding of progress payment, even if there are no subcontractor payments for the reporting period.
7. **FORM 8: CMD Exit Report and Affidavit: Submit with final Form 7. A separate Form 8 must be** completed for each LBE subconsultant and vendor (including lower-tier subconsultants & vendors).
 8. **FORM 10: CMD Contract Modification Form:** No modification without prior CMD approval.

1.04 NON COMPLIANCE AND SANCTIONS

A. Non-Compliance with Chapter 14B

1. A complaint of non-compliance concerning LBE participation initiated by any party after contract award will be processed in accordance with Chapter 14B and its implementing Rules and Regulations.
 - a. If the CMD Director determines that there is cause to believe that a consultant has failed to comply with any of the requirements of the Chapter 14B Ordinance, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, the CMD Director shall notify the contract awarding authority and attempt to resolve the non-compliance through conference and conciliation.
 - b. If the non-compliance is not resolved through conference and conciliation, the CMD Director shall conduct an investigation and, where the Director so finds, issue a written Finding of Non-Compliance.
 - c. The Director's finding shall indicate whether the consultant acted in good faith or whether noncompliance was based on bad faith noncompliance with the requirements of the Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation.
2. Where the Director finds that the consultant acted in good faith, after affording the consultant notice and an opportunity to be heard, the Director shall recommend that the contract awarding authority take appropriate action. Where the Director finds bad faith noncompliance, the Director shall impose sanctions for each violation of the ordinance, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, which may include:
 - a. suspend a contract;
 - b. withhold funds;
 - c. assess penalties;
 - d. debarment;
 - e. revoke CMD certification; or
 - f. pursuant to 14B.7(H)(2), assess liquidated damages in an amount equal to the consultant's net profit on the contract, 10% of the total amount of the contract or \$1,000, whichever is greatest as determined by CMD.
3. The Director's determination of non-compliance is subject to appeal to the City Administrator pursuant to CMD Rules and Regulations.
4. An appeal by a consultant to the City Administrator shall not stay the Director's findings.



5. The CMD Director may require such reports, information and documentation from consultants, subconsultants, contract awarding authorities, and heads of departments, divisions, and offices of the City and County as are reasonably necessary to determine compliance with the requirements of Chapter 14B.

B. Procedure for the collection of penalties is as follows:

1. The CMD Director shall send a written notice to the Controller, the Mayor and to all contract awarding authorities or City and County department officials overseeing any contract with the consultant that a determination of non-compliance has been made and that all payments due the consultant shall be withheld.
2. The CMD Director shall transmit a report to the Controller and other applicable City departments to ensure that the liquidated damages are paid to the City.

PART II. RATING BONUS

2.01 The Rating Bonus does not apply.

PART III. LBE SUBCONSULTANT PARTICIPATION

3.01 The LBE subconsulting participation requirement does not apply.

3.02 Substitution, removal, or contract modification of LBE: No listed subconsultants listed on Form 2A shall be substituted, removed from the contract or have its contract, purchase order or other form of agreement modified in any way without prior CMD approval. In addition, any new subconsultants must have CMD's prior approval.



FORM 2A: CMD CONTRACT PARTICIPATION FORM

Section 1: This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Prime Proposer must perform at least 25% of the work and must be listed below demonstrating that it will meet this requirement. Subconsultants, Vendors, and lower sub tiers should be listed on this form.

Contract:			
Firm:			
Contact Person:			
Address:		<input type="checkbox"/> Check if you are a Certified Micro-LBE <input type="checkbox"/> Minority-owned = MBE <input type="checkbox"/> Woman- owned = WBE <input type="checkbox"/> Other Business-owned = OBE	
City/ZIP			
Phone			

*Type: Identify if Prime (P), Subconsultant (S), or Vendor (V)

TYPE *	Prime, Subconsultant, Vendor	PORTION OF WORK (describe scope(s) of work)	INDICATE MICRO-LBE OR SMALL LBE	**If an LBE Identify MBE, WBE, or OBE	% OF WORK
					%
					%
					%
					%
					%
					%
					%
Total Contract Amount					100%

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above consultants for the portions of work and amounts as reflected in the Proposal for this Contract.

Owner/Authorized Representative (Signature): _____ Date: _____
 Print Name and Title: _____ Title: _____

**MBE=Minority Business Enterprise, WBE=Women Business Enterprise, OBE=Other Business Enterprise. See LBE Directory on CMD website <http://sfgov.org/cmd> for each firm's status.



Section 2. Prime Proposer, Subconsultant, and Vendor Information

Provide information for each firm listed in Section 1 of this form. Use additional sheets if necessary.

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	FAX:	_____



FORM 3: CMD COMPLIANCE AFFIDAVIT

1. I will ensure that my firm complies fully with the provisions of Chapter 14B and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
2. Upon request, I will provide the CMD with copies of contracts, subcontract agreements, certified payroll records and other documents requested so the HRC and CMD (as applicable) may investigate claims of discrimination or non-compliance with either Chapter 12B or Chapter 14B.
3. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the Contract Monitoring Division shall be payable to the City and County of San Francisco upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any contract with the City and County of San Francisco.
4. I declare and swear under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

Signature of Owner/Authorized Representative: _____

Owner/Authorized Representative (Print) _____

Name of Firm (Print) _____

Title and Position _____

Address, City, ZIP _____

Federal Employer Identification Number (FEIN): _____

Date: _____



FORM 5: CMD EMPLOYMENT FORM

This form is submitted with the proposal.

1. Indicate key personnel designated to work on this project for the entire project team (prime proposers, joint venture partners, subconsultants, and vendors).

The employees listed should include all those listed in other sections of the proposal.

NAME OF FIRM	NAME OF EMPLOYEE	PROJECT ROLE	RACE	SEX

Prime must sign below including each joint venture partner.

 Owner/Authorized Representative (Signature)

 Owner/Authorized Representative (Signature)

 Name and Title (Print)

 Name and Title (Print)

 Firm Name

 Firm Name

 Telephone

 Date

 Telephone

 Date



FORM 7: CMD PROGRESS PAYMENT FORM

To be submitted electronically using the LBEUTS. FOR INFORMATION VISIT WWW.SFGOV.ORG/LBEUTS

TRANSMITTAL

TO: Project Manager/Designee COPY TO: CMD Contract Compliance Officer
 Firm: _____ Date: _____

SECTION 1. Fill in all the blanks

Contract Number: _____ Contract Name: _____
 Reporting Period From: _____ To: _____ Progress Payment No: _____

The information submitted on Sections 1 and 2 of this form must be cumulative for the entire contract as opposed to individual task orders. Additionally, the information submitted on Sections 1 and 2 of this form must be consistent. See next page for Section 2.

1. Original Contract Award Amount:	\$
2. Amount of Amendments and Modifications to Date:	\$
3. Total Contract to Date including Amendments and Modifications (Line 1 + Line 2):	\$
4. Sub-total Amount Invoiced this submittal period: Professional Fees	\$
5. Sub-total Amount Invoiced this submittal period: Reimbursable Expenses	\$
6. Gross Amount Invoiced this submittal period (Line 4 + Line 5):	\$
7. All Previous Gross Amounts Invoiced:	\$
8. Total Gross Amounts of Progress Payments Invoiced to Date (Line 6 + Line 7):	\$
9. Percent Completed (Line 8 ÷ Line 3):	%

Consultant, including each joint venture partner, must sign this form.

_____ Owner/Authorized Representative (Signature) _____ Name (Print) _____ Title (Print) _____ Firm Name _____ Telephone Fax _____ Date	_____ Owner/Authorized Representative (Signature) _____ Name (Print) _____ Title (Print) _____ Firm Name _____ Telephone Fax _____ Date
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SECTION 2. For column "A", list the Prime Consultant, each joint venture partner and ALL subconsultants and vendors including 2nd and 3rd tier subconsultants. Make copies if more space is needed. Prime Consultant must retain copies of all the prime and subconsultant invoices supporting the information tabulated for this progress payment. CMD reserves the right to request and review this information up to five (5) years following project completion and, upon request, Prime Consultant shall submit the requested information to CMD within 10 business days.

- Notes: 1) ALL firms must be CONTINUOUSLY listed on column "A" regardless if a firm is not requesting payment and
 2) Failure to submit all required information may lead to partial withholding of progress or final payment.

A	B	C	D	E	F	G	H
Name of Firm. List prime consultant, including each JV partner, and all subconsultants including lower tier LBEs. Indicate if the firm is an LBE.	Service Performed	Amount of Contract or Purchase Order at Time of Award	Amount of Modifications to Date	Total Amount of Contract or Purchase Order to Date +/- Modifications (C + D) or (C-D)	Amount Invoiced this Reporting Period	Amount Invoiced to Date, including Amount Invoiced this Reporting Period (F).	Percent Complete to Date (G÷E)
							%
							%
							%
							%
							%
							%
							%
LBE Sub-Totals							%
Professional Fees							%
Reimbursable Expenses							%
CONTRACT TOTALS							%



FORM 9: CMD PAYMENT AFFIDAVIT

To be submitted electronically using the LBEUTS. For more information visit www.sfgov.org/LBEUTS.

TO: Project Manager/Designee
 Firm: _____

COPY TO: CMD Contract Compliance Officer
 Date: _____

List the following information for each progress payment received from the Contract Awarding Authority. Use additional sheets to include complete payment information for all LBE subconsultants and vendors (including lower tiers utilized on this Contract. Failure to submit all required information may lead to partial withholding of progress payment.

Contract Number: _____ Contract Name: _____

Contract Awarding Department: _____

Progress Payment No.: _____ Period Ending: _____

Amount Received: \$ _____ Date: _____ Warrant/Check No.: _____

Check box and sign below if there is no sub payment for this reporting period.

Subconsultant/Vendor Name	Business Address	Amount Paid	Payment Date	Check Number
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		

I/We declare, under penalty of perjury under the laws of the State of California that the above information is complete, that the tabulated amounts paid to date are accurate and correct.

Prime consultant, including each joint venture partner, must sign this form (use additional sheets if necessary)

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Date

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Date



FORM 8: CMD EXIT REPORT AND AFFIDAVIT

Prime Consultant must complete and sign this form (Sections 1 and 4) for each LBE subconsultant (incl. lower tier LBEs). All LBEs must complete and sign Sections 2 and 3 of this form. These forms should be submitted to the Contract Awarding Authority with the final progress payment request.

TRANSMITTAL

TO: Project Manger/Designee COPY: CMD Contract Compliance Officer
 FROM (Consultant): _____ Date Transmitted: _____

SECTION 1. Please check this box if there are no LBE subconsultants for this contract:

Reporting Date: _____ Contract Name: _____
 Name of LBE: _____ Portion of Work (Trade): _____
 Original LBE Contract Amount: \$ _____
 Change Orders, Amendments, Modifications \$ _____
 Final LBE Contract Amount: \$ _____
 Amount of Progress Payments Paid to Date: \$ _____
 Amount Owing including all Change Orders, Amendments and Modifications \$ _____

Explanation by Consultant if the final contract amount for this LBE is less than the original contract amount:

SECTION 2. Please check one:

- I did NOT subcontract out ANY portion of our work to another subcontractor.
 I DID subcontract out our work to:

Name of Firm: _____ Amount Subcontracted: \$ _____
 Name of Firm: _____ Amount Subcontracted: \$ _____

SECTION 3.

To be signed by the LBE Subconsultant or vendor:

- I agree I disagree

Explanation by LBE if it is in disagreement with the above explanation, or with the information on this form. LBE must complete this section within 5 business days after it has received it from the Prime. It is the LBE's responsibility to address any discrepancies within 5 business days concerning the final amount owed. If the LBE fails to submit the form within 5 business days, the Prime will note this on the form and submit the form as is with the final progress payment:

 Owner/Authorized Representative (Signature)

 Name and Title (Print)

 Firm Name

 Telephone

 Date



SECTION 4.

If this form is submitted without the LBE's signature, the Prime must enclose verification of delivery of this form to the subconsultant.

I declare, under penalty of perjury under the laws of the State of California, that the information contained in Section 1 of this form is complete, that the tabulated amounts paid to date are accurate and correct, and that the tabulated amounts owing will be paid within three (3) days after receipt of the City's final payment under the Contract.

Owner/Authorized Representative (Signature)

Name and Title (Print)

Firm Name

Telephone

Date



FORM 10: CMD CONTRACT MODIFICATION FORM

Contractor must submit this form with the required supporting documentation and obtain prior CMD approval when processing amendments, modifications or change orders that cumulatively increase the original contract amount by more than 20%, and then for all subsequent amendments, modifications or change orders that cumulatively increase the last CMD approved value by 20%. This form must be completed prior to the approval of such amendments, modifications or change orders.

Name of Project/Contract Title: _____

Original Contract Amount: _____

Contract Amount as Modified to Date: _____

Amount of Current Modification Request: _____

REQUIRED ATTACHMENTS:

1. A list reflecting the new overall contract amounts for the prime consultant, subconsultants, and vendors.
2. A list of all prior contract amendments, modifications, supplements, and/or change orders leading up to this modification, including those leading up to the amendment which increased the original contract amount by more than 20%.
3. A spreadsheet showing each firm's participation for the overall contract, including each firm's participation to date and proposed participation under the modification.
4. A brief description of the work to be performed under this amendment, modification, or change order.

Owner/Authorized Representative (Signature)

Name (Print) Title

Firm Name

Telephone Date