

RESOLUTION R-2003-021

*Adopting and incorporating the Subcontracting Outreach Program
into the City Procurement Regulations*

BE IT RESOLVED by the Mayor and City Council of the City of Columbia, South Carolina
this 19th day of March, 2003 that the Subcontracting Outreach Program is hereby adopted and
incorporated into the City Procurement Regulations effective immediately.

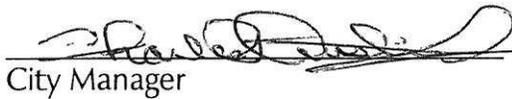
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Requested by:



MAYOR

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 3/19/2003

Final Reading: 3/19/2003

CITY ADMINISTRATIVE POLICIES AND PROCEDURES§19-3

City of Columbia, South Carolina

SUBCONTRACTING OUTREACH PROGRAM

April 2002

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SUBCONTRACTING OUTREACH PROGRAM SUMMARY

The Subcontracting Outreach Program applies to City-funded construction contracts of Two Hundred Thousand and No/100 (\$200,000.00) Dollars or more. When Federal or State funding sources impose additional requirements, those requirements as defined in the contract documents replace the requirements of this program.

The City of Columbia is committed to maximizing subcontracting opportunities for all qualified and available firms. Bidders should be fully informed of the Subcontracting Outreach Program as set forth in this document.

Subcontract 20%:

To be eligible for award of this project, the bidder must subcontract a minimum percentage of its bid to qualified available subcontractors, as indicated below. These subcontractor participation levels will be evaluated on an annual basis to ensure the appropriateness of those levels. The bidder must list all subcontractors, regardless of amount. Failure to list subcontractors and subcontracting amounts with the bid sufficient to meet or exceed the mandatory subcontracting participation level will cause a bid to be rejected as non-responsive.

Parks 20%
Pipelines (water and sewer)20%
Pump Stations 20%
Street Improvements 20%
Traffic Signals/Street Lighting 20%
Buildings Project by project (not to exceed 49%)
Miscellaneous projects 20%

Submit Outreach Documentation

To be eligible for award of this project, the bidder must submit documentation of its subcontractor outreach effort either with the bid proposal, or separately with the City agency receiving the bids within five (5) calendar days following the close of business on the day bids are opened. Failure to submit required documentation within this time frame will cause a bid to be rejected as non-responsive. For assistance or further information about the Subcontracting Outreach Program, contact the Equal Business Opportunity Office.

SUBCONTRACTING OUTREACH PROGRAM

A. General

This program is subject to policies and requirements established by the City Manager's Office. The City is committed to ensuring full and equitable participation by subcontracting businesses in provision of goods and services on a contractual basis. Bidders shall be fully informed of the Subcontracting Outreach Program as set forth in this document. Failure to comply with the City's Subcontracting Outreach Program will cause a bid to be rejected as non-responsive.

Terms and conditions of this Subcontracting Outreach Program apply to City-funded construction projects of Two Hundred Thousand and No/100 (\$200,000.00) Dollars or more. At the City's sole discretion, these requirements may be waived in advance on projects deemed inappropriate for subcontracting participation at the specified level. When State and/or Federal funding sources require affirmative action goals, those goals as defined in the contract documents replace requirements of this Subcontracting Outreach Program.

B. Subcontractor Outreach and Participation

This Subcontracting Outreach Program requires bidders to make subcontracting opportunities available to a broad base of qualified subcontractors and achieve a minimum of 20% (may be higher for construction of buildings) subcontractor participation.

C. Definitions

1. **Disadvantaged Business Enterprise (DBE):** A business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party or parties. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by and the business operated by socially and economically disadvantaged individuals.
2. **Disabled Veteran Business Enterprise (DVBE):** A business which is at least fifty-one percent (51%) owned and operated by one or more veterans with a service-related disability and whose management and daily business operation is controlled by the qualifying party or parties.
3. **Other Business Enterprise (OBE):** A business which does not otherwise qualify as a Disadvantaged Business Enterprise or a Disabled Veteran Business Enterprise.
4. **Subcontractor Outreach Efforts:** Affirmative steps taken by a bidder prior to bid opening to ensure maximum effort to recruit subcontractors, including Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs) and Other Business Enterprises (OBEs), as sources of

supplies, construction and other services whenever possible. Required steps for documenting outreach efforts are outlined in Paragraph E of this document.

5. **Subcontract:** Agreement between a prime contractor and an individual, firm or corporation for performance of particular portion or portions of work for which prime contractor has obligated itself.
6. **Subcontractor:** An individual, firm or corporation having a direct contract with prime contractor for performance of portion or portions of work to be constructed under the contract, including furnishing of labor, materials or equipment.
7. **Vendor and/or Supplier:** A firm that owns, operates or maintains a store, warehouse or other establishment in which materials or supplies required for performance of the contract are brought, kept in stock and regularly sold to the public in the usual course of business. As its principal business and in its own name, the firm must engage in purchase and sale of products in question. A vendor and/or supplier of bulk items such as steel, cement, stone and petroleum products need not keep such products in stock if it operates distribution equipment.
8. **Manufacturer:** An individual, firm or corporation operating or maintaining a factory or establishment that produces on the premises materials or supplies obtained by the contractor.
9. **Subcontractor Participation:** Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs) and Other Business Enterprises (OBEs) will be recognized as participants in a contract according to the following criteria:
 - (a) For credit to be allowed toward respective subcontractor participation levels as a DBE or DVBE firm, such entities must be certified by the City in accordance with the definitions under Paragraph C, Items 1 and 2, and identified by the bidder as such in bid documents for data collection purposes.
 - (b) A subcontractor must perform a commercially useful function for credit to be allowed toward subcontractor participation levels. A subcontractor must be responsible for execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work.
 - (c) In computing level of subcontractor participation, recognition for materials and/or supplies is limited to sixty percent (60%) of amount to be paid to vendor for such materials/supplies unless vendor manufactures or substantially alters materials/supplies.

D. Mandatory Subcontractor Participation Goal

The City has incorporated a mandatory subcontractor participation goal to enhance competition and maximize subcontracting opportunities. Based on review of subcontractor usage on City projects, the mandatory goal is:

**MANDATORY
Subcontractor Participation Goal**

20%

(May be higher for construction of building projects)

Failure to meet the subcontractor participation goal will cause a bid to be rejected as non-responsive.

Based on availability data for the preceding three years, the Chief of the Equal Business Opportunity Office shall annually establish advisory subcontract participation levels on an industry basis (e.g., construction, goods, services, and professional services) for each of the following classifications of firms: Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), and Other Business Enterprise (OBE). These DBE, DVBE, and OBE advisory subcontract participation levels shall be advisory only and shall not constitute a basis for determination of non-compliance or disqualification.

E. Documentation of Subcontractor Outreach Efforts

All documentation must be submitted with the bid proposal or within five (5) calendar days following close of business on the day bids are opened. Failure to submit required documentation to the contracting agency within this time frame will render a bid non-responsive. The City may request additional information to validate or clarify; such information must be submitted promptly upon request.

It is the policy of the City of Columbia to provide all subcontractors an equal opportunity to participate in performance of City contracts. Bidders assist the City in implementing this policy by taking reasonable steps to ensure all qualified businesses, including Disadvantaged Business Enterprises (DBEs), Disabled Veteran Business Enterprises (DVBEs), and Other Business Enterprises (OBEs), have equal opportunity to compete for and participate in City contracts.

Documentation of a bidder's outreach efforts will be reviewed by the Chief of the Equal Business Opportunity Office or the appropriate procurement officer, according to the indicators listed below to verify that bidder made subcontracting opportunities available to a broad base of qualified subcontractors, negotiated in good faith with interested subcontractors, and did not reject any bid for

unlawful discriminatory reasons.

Failure to achieve a minimum of 80 out of 100 points will render a bid non-responsive and will result in its rejection. Indicator points are awarded on a pass/fail basis, i.e., either full or zero points can be achieved for compliance with each item as set forth below:

Indicator	Points
1. Achievement of advisory DBE/DVBE/OBE subcontractor participation levels	No Points
2. Pre-Bid Meeting attendance	5 Points
3. Identification of sufficient subcontracting work	10 Points
4. Broad-based advertisement	10 Points
5. Written notice to subcontractors	10 Points
6. Follow-up to initial solicitations	10 Points
7. Provision of plans, specifications and requirements	10 Points
8. Request for assistance form recruitment/placement agencies	10 Points
9. Documentation of subcontractor negotiation	25 Points
10. Assistance with bonds, credit lines and insurance	10 Points
POSSIBLE TOTAL	100 Points

1. Achievement of advisory DBE/DVBE/OBE subcontractor participation levels No Points

Failure to meet advisory DBE/DVBE/OBE subcontractor participation levels is not a basis for disqualification or determination of non-compliance with this policy.

2. Pre-Bid Meeting attendance 5 Points

Bidder attended pre-bid meeting scheduled by the City to inform all bidders of requirements for subject project. If bidder certifies in writing prior to pre-bid meeting that it was already informed of project requirements, the City may waive requirement for pre-bid meeting attendance.

Required documentation: a) Attend pre-bid meeting and be listed on attendance sheet; or b) Submit letter requesting waiver prior to pre-bid meeting.

3. Identification of sufficient subcontracting work 10 Points

Bidder identification and selected specific work items in subject project to be performed by sub-bidders. Bidder subdivided total contract work requirements into smaller portions or quantities to permit maximum active participation.

Required documentation: Content of advertisements (Indicator 4) and written notices to subcontractors (Indicator 5) will demonstrate compliance with this objective.

4. Broad-based advertisement 10 Points

Not less than ten (10) calendar days prior to bid submittal, bidder conducted an advertising campaign designed to reach all segments of the Columbia community by advertising in newspapers, trade association publications, special interest publications, trade journals, community papers or other media. Advertisements must be specific to the project, not generic, and may not be a plan holder advertisement provided by the publication. Advertisements shall be published on at least three (3) separate days in newspapers of general circulation; one of such newspapers shall be of daily circulation. Advertisements must be worded to ensure it does not

exclude or limit potential number of potential respondents and must include:

Required documentation: Submit copies of advertisements and proof of publication dates.

5. Written notice to subcontractors

10 Points

Not less than ten (10) calendar days prior to bid submittal, bidder provided written notice of its interest in receiving sub-bids on subject contract to DBE, DVBE, and OBE business enterprises with an interest in performance of identified work items. Contents of letters must include:

- City of Columbia's project name;
- Name of bidder;
- Areas of work available for subcontracting;
- Contact person's name and phone number;
- Information on availability of plans and specifications; and
- Bidder's policy concerning assistance to subcontractors in obtaining bonds, credit lines and/or insurance.

Required documentation: Submit copy of each letter sent to subcontractors for each item of work to be performed. If only one master notification, submit letter with list of recipients. Faxed copies must include fax transmittal confirmation slip showing date and time of transmission. Mailed letters must include copies of metered envelopes or certified mail receipts.

6. Follow-up to initial solicitations

10 Points

Bidder followed up initial solicitations of written notice to subcontractors to determine interest in specific portions of project work, answered questions, recorded phone quotes, and recorded subcontractor's interest in bidding on any portion of subject project.

Required documentation: Submit copy of telephone logs including name of caller, name of company called, phone number, contact person, time, date, and result of conversation. Telephone logs must be submitted to demonstrate follow-up with all contractors to whom written notices were sent.

7. Provisions of plans, specifications, and requirements

10 Points

Bidder provided interested sub-bidders with access to plans, specifications, and requirements for subject project.

Required documentation: Content of advertisements (Indicator 4) and written notices to subcontractors (Indicator 5) will demonstrate compliance with this Indicator.

8. Request for assistance from recruitment/placement agencies 10 Points

Not less than fifteen (15) calendar days prior to bid submittal, bidder requested and retained assistance from agencies that recruit and place subcontractors. Other organizations and trade associations that promote subcontractor participation may also be contacted.

Required documentation: Submit copy of each letter sent to outreach agencies requesting assistance in recruiting subcontractors. Faxed copies must include fax transmittal confirmation slip showing date and time of transmission. Mailed letters must include copies of metered envelopes or certified mail receipts. Content of letters must include City of Columbia's project name, name of bidder, and contact person's name and phone number.

9. Documentation of subcontractor negotiation 25 Points

Bidder negotiated in good faith with interested subcontractors and has rejected no bid for other than legitimate business reasons.

Required documentation: Submit a) Copies of all subcontractor bids or quotes received; and b) Summary sheet organized by work type listing subcontractor company names with bid amounts for each work type. Identify selected subcontractor for each work type. If bidder elects to use own forces to perform a work type, include bid to show own costs for the work.

10. Assistance with bonds, credit lines, and insurance 10 Points

Bidder made efforts to advise and assist interested subcontractors in obtaining bonds, credit lines, and insurance required for subject project.

Required documentation: Content of advertisements (Indicator 4) and written notices to subcontractors (Indicator 5) will determine compliance with this objective.

F. Contract Award

The City reserves the right to reject any and all bids. Award of contract will be to the lowest responsible bidder whose proposal complies with the city policies as determined by evaluation of submitted documentation.

G. Subcontractor Substitution

The level of listed subcontractor participation shall be maintained for duration of the contract.

1. Contractor shall request prior approval from the City contracting agency for all substitutions of subcontractors.
2. Written request shall provide name of listed subcontractor, name of replacement subcontractor, reason for substitution, work type and dollar amount.
3. The selection process for a substitute subcontractor shall be evaluated for fairness and outreach efforts.
 - (a) Contractor shall submit all documentation of subcontractor outreach efforts to the Chief of the Equal Business Opportunity Office for review.
 - (b) Evidence of fraud or unlawful discrimination in substitution of subcontractors will result in sanctions including assessment of penalty fines, termination of contract, or debarment.
4. Substitution of any subcontractor without the prior written approval of the City Manager shall be deemed to constitute a material breach of contract. The harm that shall accrue to the public is difficult to accurately estimate in advance. Consequently, the Contractor and the City shall jointly agree that a reasonable forecast of such damages is not less than ten (10%) percent of the subcontract price, and that the parties intend that such sum shall constitute liquidated damages as the best estimate of the harm accruing to the City.
5. This section does not replace applicable South Carolina Procurement Code provisions.

H. Falsification of Sub-Agreement

Falsification or misrepresentation of a sub-agreement as to company name, contract amount, and /or actual work performed by subcontractor will result in sanctions including assessment of penalty fines, termination of contract, or debarment.

I. Submission of Final Subcontracting Report

Contractor must submit Final Subcontracting Report to City contracting agency within fifteen (15) calendar days after final inspection of contract work. Failure to comply will result in assessment of liquidated damages.