



DEPARTMENT of FINANCE
DIVISION OF PURCHASES

Equal Business Opportunity Program

COMPLIANCE GUIDE

Contacts



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Equal Business Opportunity Program (EBO)

Subcontractor based procurement program established in 2018.

Promotes full and equal business opportunities for all persons doing business with the Metropolitan Government.

Sets project specific subcontracting goals for minority-owned (MBE) and woman-owned (WBE) businesses.

Goals based on divisibility of the work & market availability of certified MBE/WBEs.

Goals are not quotas. The standard for compliance is meeting the established goals and/or demonstrating Good Faith Efforts (GFE)

Compliance

Option 1

- Meet the established MBE and WBE subcontracting goals set out in the solicitation.

Option 2

- Demonstrate & document good faith efforts.
- Must complete the required forms with associated documentation.

MBE & WBE goals are *separate* and *distinct*. Overachievement in one goal is not a substitute for underachievement in the other.

If one or both goals are not fully met, documentation of good faith efforts is required to be compliant.

MBE/WBE Participation

MBE/WBE must be certified by recognized agency.

Database of certified MBE/WBEs available at Nashville.gob2g.com.

MBE/WBE must be registered in iSupplier.

Goals are calculated using base bid only on construction projects.

Dollar amounts and/or percentages reflect bids/proposals received.

Achieving MBE & WBE Goals

MBE and WBE goals are separate & distinct. Must be met individually.

Overachievement in one goal will not offset underachievement in the other.

Offerors must submit a utilization plan that meets/exceeds goals or alternatively demonstrate good faith efforts with appropriate documentation.

The total dollar value of the contract may be counted toward the specified goal when the Prime Contractor demonstrates a commercially useful function(s) for each proposed Subcontractor. This includes the fees and commissions charged for professional services, legal counsel, manufactures, financial consultants, and insurance agents.

The actual portion of MBE or WBE participation in a joint venture is counted toward the goal.

Calculating Compliance – Example 1

Goals in Solicitation:

- 15 % MBE
- 10 % WBE

Bidder's Utilization Plan:

- 20% MBE
- 10% WBE

Is the bidder's offer compliant with the EBO?

- Yes, the bidder's offer is compliant because the utilization plan meets/exceeds solicitation goals.

Calculating Compliance – Example 2

Goals in Solicitation:

- 25 % MBE
- 15 % WBE

Bidder's Utilization Plan:

- 20% MBE
- 20% WBE

Is the bidder's offer compliant with the EBO?

- No. The bidder's offer is not compliant because the utilization plan only meets/exceeds the WBE goal but does not meet/exceed the MBE goal.

Increasing MBE/WBE Participation

Search certified directory at nashville.gob2g.com.

Establish relationships with MBE/WBE firms before solicitation.

Work with MBE/WBE firms you've partnered with previously.

Advertise opportunities.

Solicit MBE/WBEs in a timely manner - at least seven (7) days in advance of solicitation closing.

Subdivide the work.

Provide relevant bidding/contract information to MBE/WBE firms.

Good Faith Effort

Necessary when one or both goals are not fully met.

Forms & documentation must be complete and demonstrate why goals were not met.

Forms & documentation must be submitted with the offer.

More information on GFE is available at BAO.Nashville.gov.

BAO Assessment of GFE

Good Faith Efforts (GFE) are those actions reasonably expected of a bidder actively attempting to meet the MBE & WBE goals.

GFE are evaluated when a first ranked bidder fails to meet the established MBE & WBE goals.

BAO staff review all documents provided by the bidder in their offer to make a determination.

Bidders will be contacted by BAO when necessary..

Pre-Award Good Faith Efforts

Attending the pre-offer meeting.

Providing solicitation & written notice to MBE & WBE suppliers.

Holding outreach events to recruit MBE & WBE suppliers.

Advertising in trade or affinity publications.

Providing MBE/WBEs with assistance on bonding, credit, and insurance.

Searching Metro's database for available MBE/WBE suppliers.

This list is not exhaustive. Metro may consider other factors as appropriate.

Pre-Award Good Faith Efforts Example 1

Goals in Solicitation:

- 15% MBE
- 05% WBE

Bidder's Utilization Plan

- 10% MBE
- 05% WBE
- Good Faith Effort Summary Sheet
 - MBE & WBEs contacted with dates, methods, & results of contact.
 - Identified several elements for subcontracting within scope of work.
 - Advertised with affinity groups & trade publications.
 - Searched Metro's directory at Nashville.gob2g.com.
 - Offered assistance with bonding, credit, and insurance to MBE/WBE firms.
 - Attended pre-offer meeting.

Pre-Award Good Faith Efforts Example 1

Is the bidder's offer compliant with EBO?

- Yes, the bidder's offer is compliant.
- Although the bidder did not meet the MBE goal, they did provide sufficient documentation relative to good faith effort.

Pre-Award Good Faith Efforts Example 2

Goals in Solicitation:

- 20% MBE
- 15% WBE

Bidder's Utilization Plan

- 10% MBE
- 05% WBE
- Good Faith Effort Summary Sheet
 - No content. Only signed & dated form.
 - Bidder states they will perform all work and subcontract nothing.
 - Bidder says they did outreach but provides no corroborating documentation.
 - Bidder did not attend the pre-offer meeting.

Pre-Award Good Faith Efforts

Example 2

Is the bidder's offer compliant with EBO?

- No, the bidder's offer is not compliant.
- The bidder did not meet the goal and did not provide sufficient evidence of good faith efforts.

Post Award Good Faith Efforts

Post award good faith efforts are actions taken to achieve MBE and WBE goals throughout the duration of the contract.

If the prime contractor does not meet MBE & WBE goals during the life of the contract, they must demonstrate that their failure is due to factors beyond their control.

Post Award Good Faith Efforts

Submit letters of intent to perform within two (2) days of award notification.

Ensure that MBE/WBE firms are performing their commercially useful function.

Contact BAO compliance officer as issues arise & respond to inquiries in a timely manner.

Attend all meetings & mediations requested by Metro.

Designate an MBE/WBE liaison for your business.

Provide up to date utilization reports & timely enter payment data into B2GNow.

Utilize all MBE/WBE firms on your utilization schedule unless substitution approved.

Request substitutions or deviations in a timely manner.

Maintain all records for at least three (3) years after completion of contract.

Common Causes of Failed Good Faith Efforts

Not responding to BAO compliance officer in a timely manner.

Not executing subcontracting agreements with MBE/WBE firms.

Listing MBE/WBE firms on utilization forms without notifying them.

Not submitting substitution or deviation requests for changes in utilization plan.

Not submitting payment data regularly and on-time in B2GNow.

MBE/WBE's performing outside their commercially useful functions.

Not looking for MBE/WBE opportunities on additional work.

Not documenting changes that affect goal credit for MBE/WBEs.

Assessment of Post Award Good Faith Efforts

Efforts to meet MBE/WBE goals will be assessed at the end of the contract as:

- **Outstanding** → Exceeds MBE/WBE goals.
- **Satisfactory** → Meets MBE/WBE goals.
- **Satisfactory - GFE** → Did not meet MBE/WBE goals, but did demonstrate GFE.
- **Unsatisfactory** → Did not meet MBE/WBE goals or demonstrate GFE.

An unsatisfactory compliance rating may affect whether Metro awards future contracts to your company.

An unsatisfactory compliance rating may be appealed directly to the purchasing agent within 14-calendar days of such rating being assessed.

Assessment of Post Award Good Faith Efforts

Example 1 – Outstanding

Bidder's Utilization Plan

- 10% MBE
- 08% WBE

Bidder's Achievement at Contract Closeout

- 12% MBE
- 09% WBE
- Used MBE/WBE's to maximum extent possible.
- Provided updated utilization schedules as required.

Assessment of Post Award Good Faith Efforts

Example 2 – Satisfactory GFE

Bidder's Utilization Plan

- 20% MBE
- 05% WBE

Bidder's Achievement at Contract Closeout

- 18% MBE
- 05% WBE
- Used MBE/WBE's to maximum extent possible but underperformed due to scope changes.
- Provided updated utilization schedules as required.
- Requested substitutions as required.

Assessment of Post Award Good Faith Efforts

Example 3 – Unsatisfactory

Bidder's Utilization Plan

- 20% MBE
- 05% WBE

Bidder's Achievement at Contract Closeout

- 10% MBE
- 00% WBE
- Did not utilize WBE's in utilization plan.
- Did not document why WBE's not utilized.
- Did not document underutilization of MBE's.
- Did not respond to BAO compliance staff in a timely manner.