

MSD

Supplier Diversity

Contractor Compliance Program (CCP)

TABLE OF CONTENTS

History.....	1
Policy Statement.....	2-3
Supplier Diversity Team.....	4
Introduction.....	5-6
Definition.....	7-8
Implementation.....	8-9
Certification.....	9
Waiver of Goals.....	9-10
Waiver Request Review Process.....	11
Other Requirements.....	12-13
Field Monitoring.....	13
M/WBE Sub contractor/Sub consultant Participation.....	13-15
Sanctions.....	15-16
Audit Provisions.....	16-17
Required Documents.....	18-26
Bid Certificate.....	27
Certification Guidelines/Assistance Agencies.....	28-30
Equipment and Workforce Utilization Report.....	31-32

Supplier Diversity

Contractor Compliance Program (CCP)

History

The Louisville and Jefferson County Metropolitan Sewer District (MSD) is committed to being the best public utility company achievable for our customers, staff and community. To do that successfully, we seek the expertise of others outside of MSD to assist us. Like the community we serve, our responsibilities are diverse to include extending sewers to unaided neighborhoods, resolving localized drainage problems, maintaining our sewer and drainage system and managing our agency and operations. When we rely on organizations outside of MSD to meet our customer needs, we look not only for the best talent available; we seek to include diverse companies and individuals in our business operations.

In 1985 MSD established a supplier diversity strategic initiative to encourage minority and woman-owned businesses to help us better serve our customers. MSD staff remains committed and embraces the initiative as a personal performance goal annually. Through these internal efforts, MSD's supplier diversity personnel identifies, registers and invites minority and women business enterprises (M/WBEs) to compete for our work.

Annually, over 20 percent of all MSD activities are performed by external contractor and consultant businesses primarily owned, managed and controlled by minorities and women. In fact, we have observed M/WBEs exceed their own expectations and make their dreams a reality for many, many years.

MSD continues to pursue certified M/WBEs that provide many products and services:

- Engineering and Professional Services
- Construction Services
- Commodities and Related Services

Supplier Diversity is a top business priority and strategy. Throughout its ranks, MSD is committed to exceeding its supplier diversity goals. We strongly believe that the power of diversity works for our customers, our operations and our community.

Policy Statement

MSD proactively seeks opportunities for M/WBEs to participate as contractors, sub contractors, consultants, sub consultants and suppliers within MSD's procurement processes. Certified M/WBEs will have maximum opportunities to compete for and participate in the procurement of construction, engineering and professional services and commodity and material purchases.

Supplier Diversity Procurement Goals:

15% MBE and 6% WBE- Construction, Engineering and Professional Services.

5% MBE and 3% WBE- Commodity and Material Purchases.

Supplier Diversity goal commitment statements for each area of the procurements referenced above is attached to this policy statement and will be reviewed annually for performance and goal setting purposes. Performance appraisals of all MSD buyers, project managers and purchasing decision makers will include goals tied to their specific buying opportunities.

MSD and its contractors shall not discriminate on the basis of race, color, ancestry, religion, gender, sexual orientation, national origin, marital status, physical disability, medical condition, age, or status as a veteran in the award and performance of MSD contracts.

MSD ensures to the fullest extent possible, that M/WBEs are informed of procurement opportunities through internet advertising, automated email and fax notifications and through community, regional and national organizations such as TMSMDC, NMSDC, WBENC, NWBOC, U.S. SBA, GLI, etc.

MSD conducts informational meetings to inform them about the certifying organizations, contractor compliance process, as well as other requirements for doing business with MSD. We provide assistance to M/WBEs by conducting outreach events that facilitate matchmaking, relationship and team building among M/WBEs, majority-owned firms and MSD decision makers and project managers.

MSD's Executive Director serves as the Supplier Diversity Champion and has designated two MSD staff positions to manage and implement the Supplier Diversity initiative. The Supplier Diversity Administrator is responsible for policy development, program oversight and overall management of the Supplier Diversity department to include being responsible for the daily management and administration of Supplier Diversity and serves as the point of contact for M/WBEs, internal staff and the business community at large. The Diversity Assistant provides administrative support for the program.

MSD board members, officers, executives, employees and agents of MSD must adhere to our Code of Conduct and conduct themselves in a manner that is not detrimental to the operation or reputation of MSD and must avoid situations which could be considered

conflicts of interest. M/WBE owners who are board members, officers, executives, employees, relatives of employees or agents of MSD will be closely scrutinized for conflicts of interest and will be handled under the direction of MSD's Legal Division.

Beverly Wheatley
Board Chair

Herbert J. Schardein, Jr.
Executive Director

Supplier Diversity Team

The Supplier Diversity Administrator functions as the Executive Director's designated Champion for Supplier Diversity and is responsible and accountable for the oversight and management of the Supplier Diversity program initiative; develops and implements policy, guidelines and process; sets the future direction of the initiative; and supervises and coaches the Diversity Assistant.

Additionally, the Supplier Diversity Administrator advises and counsels suppliers, consultants and contractors and consults on a variety of issues related to doing business with MSD; is responsible for the Supplier Diversity Contractor Compliance Program to assure compliance with contractual terms and conditions; performs audits of contracts for Supplier Diversity compliance; refers M/WBEs to community resource organizations for business and technical assistance; expedites and manages the waiver request process for the Executive Director; manages event logistics for Supplier Diversity community outreach programs and represents the Executive Director at community events.

Currently Serving:

Joy L. Walker, Supplier Diversity Administrator
502.540.6503, walker@msdlouky.org

Diana Ogburn, Diversity Assistant
502.540.6350, ogburn@msdlouky.org

Introduction

The objective of this M/WBE CCP is to encourage, facilitate and effect greater participation by M/WBEs in contracts owned by MSD. In order to comply with the intent of MSD's CCP the following positive efforts have been undertaken:

A. MSD established the following procurement goals:

Construction Services:

At least 15 percent of prime contractor's total project cost shall be provided by a certified MBE(s), and 6 percent shall be provided by a certified WBE(s) or the bidder must obtain a waiver of these goals in full or partially from MSD. (See Waiver of Goals for information on obtaining a waiver).

Professional and Engineering Services:

At least 15 percent of the prime consultant's total project cost shall be provided by a certified MBE(s) and 6 percent shall be provided by a certified WBE(s) or the bidder must obtain a waiver of these goals (in full or partially) from MSD. (See Waiver of Goals for information on obtaining a waiver).

- B. The Supplier Diversity Administrator manages and administers MSD's CCP. All inquiries should be directed to 502/540-6503.
- C. MSD's CCP is included in all solicitations for bids and the appropriate provisions for implementing the program are included in the bid documents.
- D. A list of prospective bidders/plan holders who have acquired copies of bid documents for MSD projects is available through MSD's internet at [MSD Planroom: Construction](#), click on the project name, click on Display Planholders link. Bid documents instruct bidders to source certified M/WBEs at [Find Certified M/WBEs](#). M/WBEs will be notified of bid opportunities through internet advertising, automated email and fax notifications and through community organizations (i.e. TSMSDC, NMSDC, WBENC, NWBOC, WBENC).
- E. On federally funded projects, the Regional Office of the Environmental Protection Agency (EPA) in Atlanta will be informed of all contracts awarded to M/WBEs and will be sent all documentation as required by their policy.
- F. All M/WBEs who participate on MSD projects must be certified. (See MSD's Supplier Diversity Policy Statement).
- G. MSD's M/WBE CCP is considered one of the elements of responsiveness in a bid. Failure to fully comply is grounds for rejection of the bid as non-responsive. MSD reserves the right to make inquiries to the contractor regarding the CCP as deemed appropriate.

- H. The bidder commits to the goals for minority and women business participation contained herein and all other requirements, terms, and conditions of the Bid Conditions by submitting a properly signed bid.
- I. M/WBE prime bidder must also comply with the stipulations of the CCP. Therefore, when an M/WBE plans on bidding as a general/prime contractor, the M/WBE prime must also meet MSD's M/WBE construction goals of 15% MBE and 6% WBE, or M/WBE professional services goals of 15% MBE and 6% WBE, or obtain a waiver of these goals in full or partially from MSD. (See Waiver of Goals for more information). Waiver requests made on the basis of race or gender will not be approved.
- J. Change orders shall not reduce the original M/WBE participation percentages. Every effort shall be made to meet or exceed the original participation percentages as agreed upon in the contract. Change orders that do not continue to meet the originally agreed upon M/WBE participation goals will require the Supplier Diversity Administrator's review and approval. If the goals fall below the original participation percentages, full justification must accompany the change order for Supplier Diversity approval. The Supplier Diversity Administrator will assist the prime contractor and Design/Construction staff with M/WBE sourcing for work performed under change orders if requested to do so prior to the execution of the change order.

In cases of automatic Supplier Diversity waivers (contracts with an engineers estimate below \$50,000) every effort will be made to include M/WBE participation once a contract exceeds \$50,000 due to change orders. Therefore, change orders, either individually or cumulatively, of a 20 percent increase or more for any contract shall be subject to review by the Supplier Diversity Administrator prior to the execution of the change order. Justification must accompany those change orders that fail to include M/WBE participation for Supplier Diversity approval.

- K. Sanctions have been included in this program to be utilized in the event of noncompliance. (See Sanctions for further explanation).
- L. For the purpose of reaching MSD's M/WBE goals, it is not permissible to combine the goals and meet one combined goal by utilizing one certified M/WBE. For example, a minority-female certified business enterprise must be counted either as a WBE or as an MBE but cannot be counted as both. At a minimum, prime contractors will utilize at least two separate and distinct subcontractors (one MBE and one WBE) to meet each goal.

Definitions

For the purpose of MSD's CCP, the following definitions apply.

- A. Certification - The process by which a business enterprise is determined to be by one of the following organizations, and maintains a current M/WBE certification certificate:

National Minority Supplier Development Council (NMSDC)
National Women Business Owners' Council (NWBOC)
Women's Business Enterprise National Council (WBENC)
United States Small Business Administration 8a (U.S. SBA 8A)

- B. Commercially Useful Function – The work performed by a M/WBE firm in a particular transaction or contractual role that in consideration of standard industry practice and other relevant factors, has a necessary and useful roll in the transaction.

- C. Good Faith Effort - The efforts exercised by the bidder in their attempt to attain the minimum M/WBE goals on each project. These efforts can only be presented to MSD in the form of a Waiver Request. (See Waiver of Goals for further explanation).

- D. Joint Venture - An association of an M/WBE with one or more businesses (i.e. sole proprietorships, partnerships, limited liability companies, corporations or any combination) formed to carry on a single for-profit business activity which is limited in scope and duration. For MSD's reporting purposes, payments to joint ventures of M/WBE firms with non-M/WBE firms shall be credited towards M/WBE expenditures based on the proportion of the M/WBE's share in the profit, share of risk of loss and control/management of responsibilities in the joint venture. The percentage of the joint venture contract credited as M/WBE participation may be adjusted to reflect risk of loss and/or control or management where an M/WBE's share of profit is not commensurate with its overall contribution to the performance of the joint venture contract. (See Other Requirements for a further explanation of how credit will be applied for M/WBE joint ventures). All parties involved in a joint venture are bound to MSD for the term of the project.

- E. Minority Business Enterprise (MBE) – A minority business enterprise is determined to be certified by one of the following organizations, and maintains a current M/WBE certification certificate:

National Minority Supplier Development Council (NMSDC)
National Women Business Owners' Council (NWBOC)
Women's Business Enterprise National Council (WBENC)
United States Small Business Administration 8a (U.S. SBA 8A)

The business must perform a commercially useful business function according to custom and practice in the industry. Acting merely as a conduit of funds to a majority-owned firm

when that is unnecessary to accomplish the business transaction does not constitute a “useful business function according to custom and practice in the industry.”

- F. Subcontract – A formal agreement that includes terms and conditions for the provision of all materials and service work contracted for by the prime contractor with a third party contractor in the execution of work under the prime contract.
- G. Waiver Request - A document submitted to MSD, no later than six (6) working days before the bids are due on a contract which contains a bidder’s “good faith efforts” (see Waiver of Goals for further explanation).
- H. Woman Business Enterprise (WBE) - A woman-owned business enterprise is determined to be certified by one of the following organizations, and maintains a current M/WBE certification certificate:

National Minority Supplier Development Council (NMSDC)
National Women Business Owners’ Council (NWBOC)
Women’s Business Enterprise National Council (WBENC)
United States Small Business Administration 8a (U.S. SBA 8A)

The business must perform a commercially useful business function according to custom and practice in the industry. For example, acting merely as a conduit of funds to a majority-owned firm when that is unnecessary to accomplish the business transaction, does not constitute a “useful business function according to custom and practice in the industry.”

Implementation

Prior to execution, all contracts are to be reviewed by Supplier Diversity for compliance language with Equal Employment Opportunity/Affirmative Action and Supplier Diversity goals as approved by the MSD Board.

For the competitive bid process, MSD requires all bidders to provide detailed documentation of efforts taken to comply with the objectives of this program. Bidders who have met the designated M/WBE goals must submit the following complete information in their Bid to be considered responsive:

- A. Fully completed and signed Data Sheet Number I and IA (Bid Proposal forms) to report the MBE and the WBE firm name, monetary amount of participation, percent of MBE and WBE participation and a description of the services and/or materials to be supplied.
- B. A copy of the signed proposal from each M/WBE participant stating the terms of the Agreement between the bidder and the M/WBE sub and the monetary amount for the services and/or materials to be supplied.

- C. A copy of the Bid Certificate certifying that the M/WBE sub is responsible for estimating their material, equipment and labor costs, and that these costs are not provided by the prime contractor.

Bidders who have not received a complete waiver of the designated M/WBE goals must comply with the above requirements to be considered responsive to the bid.

For the request for qualifications (RFQ) or request for proposal (RFP) process, MSD will provide an explanation of the evaluated criteria including the rating factors that will be used to evaluate and select the most responsive proposer. The rating factor for Supplier Diversity is 25% of the total percentage points are only assigned towards the M/WBE Subcontracting Plan for the evaluation criteria. The Supplier Diversity Administrator or designee, is the only authorized reviewer of this criterion; and proposers are required to submit the following information:

1. The proposer's Supplier Diversity subcontracting plan for utilizing certified M/WBEs.

Proposers who have not received a waiver of the designated M/WBE goals must comply with the above requirements to be considered responsive to the RFQ/RFP.

2. The Equal Employment Opportunity Reporting Requirement is a term and condition of all MSD contracts. MSD complies with Executive Order 11246, Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 503 of the Rehabilitation Act of 1973.

Certification

- A. Bid documents instruct bidders to source nationally and federally certified M/WBEs at [Find Certified M/WBEs](#) or any of the national certifying organizations' databases (see contact list). The Supplier Diversity department's supplier diversity database of certified M/WBEs is available to the public through MSD's internet homepage.
- B. Bidders and proposers must utilize M/WBEs who are currently certified. MSD will only allow the bidder credit for expenditures toward meeting the goals through proposed utilization of currently certified M/WBEs. MSD will allow the prime contractor credit for expenditures retroactive to the first of the year in which the M/WBE is approved for certification in cases where subs are certified after the contract has commenced.

Waiver of Goals

- A. MSD's CCP is applicable to all contracts. However on behalf of the MSD Board, the Executive Director shall have the authority to approve waivers of the Supplier Diversity goals. Waiver requests must be submitted in writing to Supplier Diversity which will then initiate a thorough review of the project's M/WBE participation potential. Waivers will be fully documented and disclosed to the MSD Board.

- B. The Bid Documents will indicate such exemption in the following sections:
1. Advertisement and Invitation to Bid section;
 2. Information for Bidders section; and
 3. General Conditions and Standard Specifications sections.
- C. In procurements where MSD is purchasing goods and services under existing state or federal government contracts, the Supplier Diversity goals are automatically waived. This waiver does not apply to government professional, engineering and construction service contracts.
- D. In the event a bidder is unable to satisfy the M/WBE goals set out in the CCP, the bidder must deliver to MSD a request in writing for a full or partial waiver of these goals. A waiver request must be received by Supplier Diversity no later than six (6) working days before the bid opening date. The waiver request deadline on each contract will appear in the invitation to bid section. If no waiver requests are received by the deadline, no waiver will be considered and the bidder must satisfy the M/WBE goals in order to be considered responsive.
- E. The bidder seeking the waiver should provide to MSD the following information:
1. Cover letter explaining how the bidder views and evaluates the subcontractable components of the project;
 2. Narrative statements describing the “good faith efforts” put forth by the bidder in their attempt to secure M/WBE participation and all supporting documents. The bidder must make every reasonable effort to meet the M/WBE goals. Efforts that are merely pro forma are not “good faith efforts.” The bidder must demonstrate that, given all relevant circumstances, they actively and aggressively sought to meet the goals. The criteria that will be used as a guide for determining whether a Bidder has put forth “good faith efforts” is as follows:
 - a. Attending the pre-bid meeting regarding the specific project;
 - b. Providing written notice (certified mail preferred) to a reasonable number of certified M/WBEs regarding subcontracting opportunities;
 - c. Allowing sufficient time for M/WBEs to respond to written notice. “Sufficient time” will be considered no less than three (3) working days;
 - d. Following up written notification with telephone calls or other means;

- e. Contacting the M/WBE Assistance Agencies/Organizations (see attachment) and Supplier Diversity for assistance in finding certified M/WBE firms;
 - f. Selecting portions of the work to be performed by M/WBEs in order to increase the likelihood of meeting the goals, which may include work generally performed by the prime contractor;
 - g. Providing M/WBEs with ample project information when requesting quotations (i.e., identifying sub trades, niche opportunities, new technologies, cost estimations, etc.)
 - h. Advertising in general circulation media and media aimed at M/WBEs at least 20 days, or as early as possible, before bids or proposals are due.
 - i. Making efforts to assist M/WBEs in obtaining bonding, credit or insurance;
 - j. Making efforts to meet and negotiate with potential M/WBEs prior to the contract execution;
 - k. Making efforts to expand the search for M/WBEs beyond usual geographic boundaries.
- F. The above steps serve as a guide, and do not represent all the “good faith efforts” a bidder could take in securing M/WBE participation.
- G. The bidder must fully justify a 100 percent waiver of the goals by clear and convincing evidence of their “good faith efforts” to reach the M/WBE goals.

Waiver Request Review Process

- A. The Design/Construction staff or project manager will consult with the Supplier Diversity Administrator to analyze the subcontractable components of the project and identify potential M/WBE subs. An analysis of their findings will be presented to the area Director for which the procurement is being made.
- B. The Supplier Diversity Administrator will determine if a full or partial waiver is justifiable, and will submit a written recommendation for the waiver including full justification for Executive Director approval. These documents will be included in the Board Action.
- C. Each bidder submitting a waiver request will be informed of the decision by MSD’s Supplier Diversity Administrator as soon as the Executive Director has made a decision. Notifications will be given by telephone and followed up by letter. Should the waiver be denied, the bidder will be required to satisfy the M/WBE goals set out in the CCP, or be considered non-responsive.

Other Requirements

- A. In the event a change occurs relating to an M/WBE previously identified as being utilized by a bidder; the bidder's M/WBE changes (whether it be a substitution of the originally submitted M/WBE or the cancellation of the proposed sub agreement between the bidder and the reported M/WBE); the change must be approved in writing by MSD's Supplier Diversity Administrator prior to being accepted. Failure to comply with this requirement shall be grounds for rejection of the bid as non-responsive.
- B. Any bidder who submits an M/WBE as a potential sub in their bid, without knowledge or permission from that M/WBE to do so, will have their bid rejected as non-responsive because of misrepresentation.
- C. The degree of goal attainment by joint ventures including certified M/WBEs, M/WBE suppliers, M/WBE manufacturers, M/WBE trucking companies and other service providers will be calculated as follows:

1. Joint Ventures

A joint venture consisting of M/WBEs and majority business enterprises functioning as a prime contractor, will be credited with M/WBE participation on the basis of percentage of the dollar amount of the work to be performed by the M/WBE. For example, if an M/WBE-majority joint venture proposes to perform 100% of a project quoted at \$500,000.00, and 25% of the work is to be performed by the M/WBE partner in the joint venture, minority participation will be credited as 25% of the work, or \$125,000.

2. M/WBE Suppliers

A prime may count toward its M/WBE goals 100 % of its expenditures for materials and supplies required under a contract and obtained from a certified M/WBE supplier. A supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are brought, kept in stock, and regularly sold to the public. The supplier in this situation must be supplying materials or goods that are inventoried in their storage facility or warehouse. Any other form of supplying arrangement/transaction will not be credited to the contractor. To be a regular supplier, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular supplier in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as suppliers within the meaning of this definition.

3. M/WBE Manufacturers

A prime may count toward its M/WBE goals 100% of its expenditures to a certified M/WBE manufacturer. A manufacturer is a firm that operates or maintains a factory or establishment that produces on their premise the materials or supplies obtained by the contractor. Brokers and packagers shall not be regarded as manufacturers within the meaning of this definition.

4. M/WBE Trucking Company Credit

A prime may count 100% of the amount contracted for trucking services. Specifically, a contract for distribution services including the cost of the drivers, trucks, insurance, bonding and any other requirement for doing business as a trucking company.

A prime may not count any amount of the cost of the materials being transported unless the M/WBE trucking company is also certified as an M/WBE supplier. In that case, 100% of the cost of the materials may be counted.

5. Other Bona Fide Services

A prime may count the fees or commissions charged for providing a bona fide service such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials and supplies required for performance of the contract. MSD reserves the right to review the fees and determine that they are reasonable, at a fair market value, and not excessive as compared with fees customarily allowed for similar services. This includes the fees and commissions charged by brokers of products or services or manufacturers' agents.

Field Monitoring

This section will outline monitoring of all MSD contracts (except for those contracts where the M/WBE goals have been completely waived) for M/WBE subcontractor/sub consultant participation.

M/WBE Sub contractor/Sub consultant Participation

The lowest responsive, responsible bidder must provide copies of the finalized M/WBE sub agreements within fifteen (15) calendar days of the award of MSD's contract. The prime will not be issued a Notice to Proceed until all finalized M/WBE sub agreements are received by MSD's Supplier Diversity Administrator. MSD will not execute a contract without full compliance with this provision.

To ensure that all M/WBE subcontractors/sub consultants perform the work and/or supply the materials as stipulated in their finalized sub agreement(s) with their prime contractors, the following requirements must be adhered to by the prime contractors and M/WBE sub(s).

1. Prior to the start-up of each contract, the Field Monitoring requirements will be reviewed and explained to the prime contractor.
2. The prime contractor is encouraged to invite their M/WBE subs to the pre-construction, pre-planning meetings held prior to the start-up of the contract.
3. All M/WBE subs shall perform 100% of the work identified in their subcontract(s) with their own equipment, supplies and workforce. If this is not possible, M/WBE subs must submit written notification to the Supplier Diversity Administrator of the details of the subcontracted components of their agreement (i.e., copies of agreements for equipment, supplies and contracted labor).

Under no circumstance shall an M/WBE subcontract out more than 50% of the total work identified in their subcontract, nor shall an M/WBE subcontract work directly to the prime contractor, or subcontract any work to another contractor whose principals have any ownership interest in the M/WBE.

In the case of certified M/WBE trucking companies, Supplier Diversity Administrator will review all contract opportunities where the scope of work is greater than the capacity of the M/WBE trucking company. Provided the M/WBE trucking company has acceptable lease or sub-agreements with other firms for the additional resources needed to perform their contract, Supplier Diversity may authorize contracts where the M/WBE trucking company is self-performing less than 50% of their subcontract, but in control of and managing through third tier contractual relationships, their entire scope of work.

4. In businesses where there are multiple owners, and owners share ownership among a majority-owned company and a minority-owned company, MSD views these relationships as a conflict of interest and will not allow subcontracting between or among the businesses on MSD contracts.
5. In order to stimulate competition among M/WBEs in the marketplace, all M/WBE subs are responsible for obtaining quotes for materials, equipment and labor to perform their sub agreements. General contractors are not to compute costs for the subs. Should MSD determine that prime contractors are providing the M/WBE quotes, MSD reserves the right to reject the bid based on findings that the bid is not responsible.

All M/WBE subs are required to submit the form, Equipment and Workforce Utilization Report (see attachment) which monitors their workforce and equipment utilization throughout the life of their contracts with their prime contractor.

6. This report must be submitted monthly by each M/WBE sub to MSD's Supplier Diversity Administrator during the life of the contract with their prime contractor. Also, this report is to be utilized by the M/WBE sub to advise MSD's Supplier Diversity Administrator whenever any prior agreed to contractual condition(s) changes.
7. The prime contractor is required to submit M/WBE subcontractor information and the dollar value of each sub agreement and work performed to date on their monthly pay estimate. Pay estimates are submitted to the Design/Construction staff for payment processing. A sample pay estimate is included as information.
8. If the M/WBE is the prime contractor, they also must submit this information for payment. Also, this report will be utilized by the prime contractor to advise MSD's Supplier Diversity Administrator whenever any prior agreed to contractual condition(s) change.
9. Failure of either the M/WBE sub or the prime contractor to submit reports in a timely fashion, as stipulated above, could result in a delay in payments.
10. MSD encourages M/WBE subs to negotiate the best terms of payment possible with their prime contractors. It is not unreasonable for M/WBE subs to expect payment for services within 30 days of receipt of an acceptable work product. However at a minimum, prime contractors are required to pay M/WBEs immediately upon receipt of payment from MSD for work performed by the M/WBE.
11. At the completion of the contract, an evaluation form will be sent to the prime contractor and the M/WBE subs in an effort to gather feedback on the project and contractor performance.
12. MSD's Supplier Diversity Administrator manages and administers MSD's M/WBE Field Monitoring program and all inquiries should be directed to 502/540-6503.

Sanctions

Bidders who fail to follow the requirements outlined under Implementation, and fail to execute "good faith efforts," shall have their bids rejected as non-responsive. In that event, MSD will promptly advise the bidder, in writing, of the basis of the non-responsive determination.

The prime awarded the contract must continue to comply with the terms and conditions of MSD's CCP throughout the life of the contract. Any alteration, change or termination of an agreement with an M/WBE throughout the life of the contract with MSD must first be reported to, and approved in writing by, MSD's Supplier Diversity Administrator and Executive Director.

The prime's position in these cases must be fully explained and supported with adequate documentation. In the event a contract with an M/WBE leads to termination or is altered in

such a way as to effect the prime's initially achieved M/WBE participation, the prime must report such termination or alteration to MSD's Supplier Diversity Administrator, and the prime will be required to make reasonable "good faith efforts" to replace the M/WBE with other certified M/WBE(s). Failure to fully comply with these provisions will be considered a material breach of the contract and may be cause for withholding progress payments or other sanctions.

Whenever a prime is found to be in violation of a requirement under the Field Monitoring, their company could be debarred under MSD's debarment procedures. If a prime has been determined to be in violation of a Field Monitoring requirement, they will be given adequate notice. Please see MSD's Debarment Procedures for addressing concerns relative to debarment.

At MSD's discretion, prime contractors and M/WBEs may be allowed to finish their work on the contract under which a Field Monitoring requirement violation has been found. The penalties will either be imposed immediately or after completion of the project in question.

In the event that MSD finds, or has found, evidence of fraud committed against MSD through the Contractor Compliance field monitoring and audit processes, MSD reserves the right to suspend the business, its officers, owners, shareholders and employees from participating in its contracts and its supplier diversity initiative as a certified M/WBE.

Audit Provisions

- A. Contractors' and M/WBEs' records pertaining to services performed shall be made available to MSD or MSD's authorized representative upon request, and at no cost to MSD.
- B. Contractors' and M/WBEs' records subject to audit shall include but not be limited to records which may have a bearing on matters of interest to MSD in connection with the M/WBEs' work for MSD and shall be open to inspection and subject to audit and/or reproduction by MSD's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of 1) M/WBEs compliance with contract requirements, 2) Contractors compliance with contract requirements, 3) compliance with MSD's business ethics policies, 4) any and all other matters of concern to MSD.
- C. Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this contract. In those situations where such records have been generated from computerized data (whether mainframe, mini computer, or PC based computer systems), MSD shall be provided with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange formats.

D. MSD or its designee shall be entitled to audit all of the Contractor's or M/WBE's records, and shall be allowed to interview any of their employees, pursuant to the provisions of this article throughout the term of this contract and for a period of five years after final payment. Such audits may require inspections and photo copying of selected documents from time to time at reasonable times and places.



**Louisville and Jefferson County
Metropolitan Sewer District's (MSD's)
Minority and Woman Business Enterprise (MBE/WBE)
Contractor Compliance**

Required Documents

MSD requires all Bidders to provide detailed documentation concerning the efforts taken to comply with the objectives of this program. Bidders who have met the designated MBE/WBE goals must submit the following complete information in their Bid proposal to be considered responsive:

- A. Fully completed and signed Data Sheet Number 1 (Bid Proposal forms) to report MBE firm's name(s), monetary amount of participation, and a description of the services and/or materials supplied.
- B. Fully completed and signed Data Sheet Number 1A (Bid Proposal forms) to report WBE firm's name(s), monetary amount of participation, and a description of the services and/or materials supplied.
- **C. A copy of the signed proposal from each MBE/WBE participant stating the terms of the Agreement between the Bidder and the MBE/WBE and the monetary amount for the services and/or materials supplied.

Bidders who have not received a complete waiver of the designated MBE/WBE goals must comply with the above requirements to be considered responsive to the Bid.

For further information regarding the requirements of this program, see the MBE/WBE CCP section of this Contract, or call MSD's Supplier Diversity Administrator at (502) 540-6503

**A proposal is a signed and dated letter or proposed sub agreement from each MBE/WBE participant stating the terms of the Agreement between the Bidder and the MBE/WBE and the monetary amount for the services/materials to be supplied.

Metropolitan Sewer District MBE Data Sheet Number 1

The MBE goal being met, the prime Contractor must submit the following information concerning the MBE firms to be used:

1. Total dollar amount of Contract: _____
2. Total dollar amount of MBE participation: _____
3. Total Percentage of MBE participation: _____

Description of Construction Work to be performed is as follows:

MBE Subcontractor	Contact Person	Item	Quantity	Unit / Unit Price	Total Cost
				TOTAL	

Contract No. _____

Contractor _____

This Data Sheet must be signed by an authorized representative of the Bidder.

I, _____, affirm that I am the authorized representative of _____
_____. I have reviewed the information contained in the attached
Metropolitan Sewer District MBE Data Sheet and affirm that the information contained therein
is accurate.

_____ Signature _____ Title

_____ Address: _____ Phone

COMMONWEALTH OF KENTUCKY)
) ss
COUNTY OF JEFFERSON)

I, the undersigned Notary Public, within and for the Commonwealth and County aforesaid, do hereby certify that the foregoing instrument was this day presented to me in said Commonwealth and County by _____, who, being by me first duly sworn, declared that _____ is the authorized representative of _____, and acknowledged execution of said instrument as being his true and proper act and deed.

WITNESS my hand this _____ day of _____, 20 ____.

My Commission Expires: _____.

NOTARY PUBLIC

(SEAL)

Contract No. _____

Contractor _____

This Data Sheet must be signed by an authorized representative of the Bidder.

I, _____, affirm that I am the authorized representative of _____ . I have reviewed the information contained in the attached Metropolitan Sewer District WBE Data Sheet and affirm that the information contained therein is accurate.

_____Signature _____Title

_____Address _____Phone

COMMONWEALTH OF KENTUCKY)
) ss
COUNTY OF JEFFERSON)

I, the undersigned Notary Public, within and for the Commonwealth and County aforesaid, do hereby certify that the foregoing instrument was this day presented to me in said Commonwealth and County by _____, who, being by me first duly sworn, declared that _____ is the authorized representative of _____, and acknowledged execution of said instrument as being his true and proper act and deed.

WITNESS my hand this ____ day of _____, 20 ____.

My Commission Expires: _____.

NOTARY PUBLIC

(SEAL)

Contract No. _____

Contractor _____

Certificate of Compliance

As a recipient of federal funds and in accordance with Executive Order 11246, as amended, the undersigned and the Metropolitan Sewer District agree that during the period of one year from the date of execution of this Certificate, the following provisions will be considered to be a part of all applicable contracts, subcontracts, or purchase orders, between the undersigned and MSD.

Section A. Certificate of Nonsegregated Facilities:

The undersigned bidder, offeror, applicant, seller or subcontractor certifies to MSD that it does not maintain or provide for its employees any segregated facilities at any establishment, and that it does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The undersigned bidder, offeror, applicant, seller or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in any of the contracts between the undersigned and MSD. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, religion, color, or national origin because of habit, local custom or otherwise. The undersigned further agrees that (except where it has obtained identical certification from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause: that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice To Prospective Subcontractors of Requirement For Certification On Nonsegregated Facilities. A Certificate of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).

Section B. Equal Employment Opportunity Clause:

Unless exempt by the terms of Executive Order 11246 of September 24, 1965, as amended, the undersigned agrees that:

1. The undersigned will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The undersigned will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of

pay or other forms of compensation; and selection for training, including apprenticeship. The undersigned agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary of Labor, setting forth the provisions of this non-discrimination clause.

2. The undersigned will, in all solicitations or advertisements for employees placed by or on behalf of it, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The undersigned will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, a notice to be provided by the agency Secretary of Labor, advising the said labor union or workers' representative of the undersigned's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The undersigned will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The undersigned will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain in compliance with such rules, regulations and orders.
6. In the event of the undersigned's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this order may be canceled, terminated, or suspended, in whole or in part, and the undersigned may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The undersigned will include the provisions of paragraphs 1 through 7. In every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The undersigned will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event the undersigned becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the undersigned may request the United States to enter into such litigation to protect the interests of the United States.

Section C. Affirmative Action Compliance Program:

Unless exempt by the terms of Executive Order No. 11246, as amended, and the regulations promulgated hereunder, the undersigned certifies to MSD that:

1. Upon receipt of any contract, subcontract, or purchase order amounting to \$50,000 or more with MSD, it will file with the appropriate federal agency on or before March 31st of each year, or within such other period permitted or required by Executive Order No. 11246, as amended, complete and accurate reports on Standard Form 100(EEO-1) or such other forms as may be required.
2. It has developed and is currently maintaining a written Affirmative Action Program at each of its establishments pursuant to all the terms of the regulations promulgated under Executive Order No. 11246, as amended. In accordance with those regulations, the undersigned agrees and certifies that if such a program has not been developed; such a program or programs will be developed within 120 days from the commencement of a contract, subcontract or purchase order with MSD in the amount of \$50,000 or more.

Section D. Affirmative Action For Handicapped Workers:

It is further agreed that the following provision, set forth in Section 503 of the Rehabilitation Act of 1973, as amended, is made a part of any existing or future contract between the undersigned and MSD. The undersigned certifies that in employing persons to carry out contracts entered into with MSD, it will take affirmative action to employ and advance in employment qualified "handicapped individuals," defined as any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. The undersigned further certifies that it will obtain identical certifications from proposed subcontractors prior to the award of subcontractors exceeding \$2,500 covering the procurement of personal property and non-personal services.

Section E. Affirmative Action For Disabled Veterans and Veterans of The Vietnam Era:

As provided by the Code of Federal Regulations, Title 41, Section 41 CFR 60-250.1 et seq., the undersigned agrees not to discriminate in employment against disabled veterans and veterans of the Vietnam Era and agrees to take affirmative action to employ, advance in employment and otherwise treat qualified veterans without discrimination in all employment policies. Further, the undersigned agrees that all employment openings of the undersigned which exist at the time of execution of this contract and those which occur during the performance of this contract, including those not generated by the contract, as well as those occurring at an establishment of the undersigned other than the one wherein the contract is being performed, but excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at the appropriate local office of the state employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required; provided, that this provision shall not apply to openings paying more than \$25,000 per year or openings

which the undersigned fills from within the undersigned's organization or which are filled pursuant to a customary and traditional employer-union hiring arrangement.

The undersigned agrees further to place the above provisions in any contract or purchase order of \$10,000 or more.

(Company Name and Date)

Signature and Title of Authorized Representative

Contract No. _____

Contractor _____

Bid Certificate

The undersigned, having been certified as a Minority or Woman owned Business Enterprise in accordance with MSD Supplier Diversity Policy and Guidelines as approved and adopted by the Board of Directors of MSD, does hereby certify as follows:

That he/she is fully familiar with all of the requirements of the MSD Supplier Diversity Contractor Compliance Program; and

That he/she has independently developed the bid and pricing information submitted to the Prime Contractor for use in determining its bid for MSD Project #_____; and

That he/she fully intends to perform the work set out in the subcontract submitted by the Prime Contractor for the said MSD Project with his/her own equipment, supplies and workforce as required by the MSD Supplier Diversity Contractor Compliance Program; and

That he/she will provide all necessary supervision and direction of the workforce provided under the said subcontract to ensure compliance with all MSD Standard Specifications and Drawings as pertains to the said MSD Project; and

That he/she will submit all records, forms and information required or requested by the MSD Supplier Diversity Administrator for purposes of monitoring workforce and equipment utilization and determining value of the work performed during the term of the said subcontract; and

That he/she has independently negotiated the terms and conditions of the subcontract entered into with the Prime Contractor for the said MSD Project and accepts the terms and conditions of the said subcontract without exception or reservation.

IN WITNESS WHEREOF, the undersigned has affixed his/her signature this __ day of _____, 200_, on behalf of _____.

(Company Name)

(Signature and Title)

Certification Guidelines

I. General Policy- Refer to MSD Supplier Diversity Policy Statement.

ASSISTANCE AGENCIES

<p>U.S. Equal Employment Opportunity Commission (EEOC) 600 Dr. Martin Luther King, Jr. Pl., Suite 268 Louisville, KY 40202 502-582-6082; Fax: 502-582-5895; TDD: 502-582-6285</p> <p>Contact Person – Marcia Hall-Craig</p>	<p>Associated Builders & Contractors 1810 Taylor Avenue Louisville, KY 40213 502-456-5200</p> <p>Contact Person – Phil Anderson</p>
<p>Equal Opportunity Finance 50 E. River Center Blvd. P. O Box 391 Covington, KY 41012 859-815-3434</p> <p>Contact Person - Don Davis</p>	<p>Tri-State Minority Supplier Development Council (TSMSSDC) 614 W. Main Street, Suite 5500 Louisville, KY 40202 502-625-0135</p> <p>Contact Person – Sonya Brown</p> <p>Certify MBE</p>
<p>Kentucky Cabinet for Economic Development Capital Plaza Tower, 23rd Floor 500 Mero Street Frankfort, KY 40601 502-564-2064</p> <p>Contact Person – John Cole</p>	<p>Small Business Administration 600 Martin Luther King Jr. Place, Rm 188 Louisville, KY 40202 502-582-5971</p> <p>Contact Person – Robert Coffey</p> <p>8 (a) Certification</p>
<p>Louisville Urban League 1535 West Broadway Louisville, KY 40203 502-585-4622</p> <p>Contact Person - Benjamin Richmond</p>	<p>Louisville Enterprise Group 2900 W. Broadway Louisville, KY 40210 502-776-6000</p> <p>Contact Person – Sharon Johnson</p>
<p>Louisville & Jefferson County Human Relations Commission – Lou. Metro 410 West Chestnut Street, Suite 300A Louisville, KY 40202 502-574-2385</p> <p>Contact Person – Carolyn Miller Cooper, Executive Director Certify MBE, WBE and HBE</p>	<p>Greater Louisville Small Business Development Center 123 East Main Street Louisville, KY 40202 502-625-0030, Fax: 502-625-1181</p> <p>Contact Person – Toni Cardell</p>

ASSISTANCE AGENCIES

<p>Kentucky Procurement Assistance Program - KPAP 614 West Main Street, Suite 6000 Louisville, KY 40202 502-625-0158 Fax: 502-625-0211</p> <p>Contact Person – Marisa Midkiff Neal</p>	<p>Women’s Business Enterprise National Council (WBENC) - Headquarters 1120 Connecticut Avenue, NW Washington, DC 20036 202-872-5515 Fax: 202-872-5505</p> <p>Contact Person: Linda Jennings</p> <p>Certify WBE Only</p>
<p>National Women Business Owners Corporation (WBOC) 1001 West Jasmine Drive, Suite G Lake Park, FL 33403 561-848-5066; Fax: 561-881-7364 Web site: www.nwboc.org</p> <p>Contact Person - Janet Harris-Lange</p> <p>Certify WBE Only</p>	<p>The Association for Service Disabled Veterans (ASDV) P. O. Box 20312 Stanford, CA 94309 650-961-3751; Fax: 650-967-0336 Web site: www.asdv.org</p> <p>Contact Person – John Lopez</p> <p>Certify as Disabled Veteran</p>
<p>Kentucky Education Cabinet - Office of Vocational Rehabilitation 200 Juneau Drive, #2 Louisville, KY 40243 502-254-3195; Fax: 502-245-4804 Email: debbiej.chandler@mail.state.ky.us</p> <p>Contact Person – Debbie Chandler</p>	<p>Kentucky Department of Transportation - Office of Business & Occupational Development 200 Mero Street Frankfort, KY 40622 502-564-3601</p> <p>Contact Person – Reed Hampton</p>
<p>Community Ventures Corporation 429 South 2nd Street Louisville, KY 40202 502-566-6076; Fax: 502-566-6078 Email: jroberts@cvcky.org Web Site: www.cvcky.org</p> <p>Contact Person – Johnetta Roberts</p>	<p>Commonwealth of Kentucky – Office of Finance and Administration Cabinet 702 Capitol Avenue, Room 395 Frankfort, KY 40601 502-564-2874; Fax: 502-564-1055 Email: Anita.Collins@ky.gov</p> <p>Contact Person – Anita Collins</p>
<p>Commonwealth of Kentucky – Governor’s Office of Minority Empowerment 700 Capitol Avenue, Suite 138 Frankfort, KY 40601 502.564.2611; Fax: 502.564.0437 Email: delquan.Dorsey@ky.gov Web Site: www.ome.ky.gov</p> <p>Contact Person – Delquan Dorsey</p>	<p>Greater Louisville Inc. - The Metro Chamber of Commerce - Membership Services 614 W. Main Street, Suite 6000 Louisville, KY 40202 502-625-0000</p> <p>Contact Person – Lydia Reid</p>

ASSISTANCE AGENCIES

<p>Indiana – DOT Indiana Government Center North Room N750 100 North Senate Avenue Indianapolis IN 46204 317-233-3563; Cell: 317-694-8197 Email: groney@indot.state.in.us</p> <p>Contact Person – George Roney</p> <p>Certify DBE only</p>	<p>Indiana – Dept of Administration 402 W. Washington Street Room W469 Indianapolis IN 46204 317-232-3061</p> <p>Contact Person: Nancy Walker</p> <p>Certify MBE/WBE</p>
<p>Workforce Development Cabinet Department Of Vocational Rehabilitation 200 Juneau Drive, 32 Louisville, KY 40243 502-254-3195</p> <p>Contact Person – Debbie Chandler</p>	<p>Job Corps – Kentucky Outreach and Admissions and Career Transition Services 2900 W. Broadway, Room 207 Louisville, KY 40211 502-774-1886; Fax: 502-774-3275; Cell: 502-432-5272 Email: buschman.david@jobcorps.org</p> <p>Contact Person – David Buschman</p>
<p>Center for Accessible Living 502-589-6620; Fax: 502-589-3980 Website: www.calky.org/</p> <p>Contact Person: Keith Hosey,</p> <p>Connects Disabled with Employment</p>	<p>Veterans Administration – Regional Office 800-827-1000</p> <p>Contact Person – Keith Thompson, Director</p>
<p>Veterans Center 1347 South 3rd Street Louisville, KY 40217 502-634-1916</p> <p>Contact Person – Phil Goudeau</p>	<p>Louisville Metro Government Economic Development Department 444 South 5th Street, Suite 600 Louisville, KY 40202 502-574-1141; Fax: 502574-1418 Email: verna.goatley@louisvilleky.gov Website: www.louisvilleky.gov</p> <p>Contact Person – Verna Goatley</p>
<p>NMSDC (National Minority Supplier Development Council) 1040 Avenue of the Americas, 2nd Floor New York, New York, 10018 212-944-2430 Fax: 212-719-9611 Website: www.nmsdcus.org</p>	

Louisville and Jefferson County Metropolitan Sewer District

EQUIPMENT AND WORKFORCE UTILIZATION REPORT

(To be completed by the MBE/WBE Subcontractor or Subconsultant)

Company Name		Date	
Address		<input type="checkbox"/> MBE	or <input type="checkbox"/> WBE
City	State	Zip Code	
Contract No.(/Work Order No.) (/Project Title)		Location of this Project	

Please Answer All Questions Listed Below, If A Question Is Not Applicable, Please Mark N/A

Original Subcontract Amount	Amount (Invoiced) To Date	Estimated Dollar Amount of Work Left To Be Completed

List Below The Starting and Completion Date of Your Firm's Work On This Project:

Start Date	Completion Date

1. Are you performing, at a minimum, 50% of the work identified in your subagreement with your own workforce and equipment?

YES NO IF NO, Please Explain:

2. Are any of your employees, formerly an employee or presently an employee of the general contractor/prime consultant on this project?

YES NO IF YES, Please Explain:

3. Have you been paid by the general contractor/prime consultant according to the stipulations under your subagreement with them?

YES NO IF NO, Please Explain:

**Return to: MSD – Supplier Diversity Administrator
700 West Liberty Street
Louisville, KY 40203-1913
(502) 540-6503 (Phone)
(502) 540-6232 (Fax)**