

APPROVED
FEB 15 2012

REPORT OF GENERAL MANAGER

NO. 12-050

DATE February 15, 2012

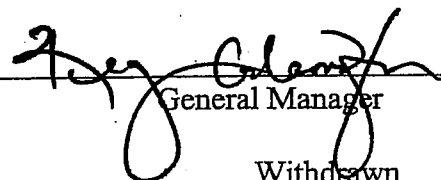
**BOARD OF RECREATION
and PARK COMMISSIONERS**

C.D. ALL

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: **ADOPTION AND IMPLEMENTATION OF THE BUSINESS INCLUSION PROGRAM**

R. Adams	_____	K. Regan	_____
H. Fujita	_____	*M. Shull	<u>mf</u>
V. Israel	_____	N. Williams	_____



General Manager

Approved _____ Disapproved _____ Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Adopt the Business Inclusion Program (BIP) as presented in Mayor's Executive Directive No. 14;
2. Adopt the following participation goals of: 25% for Small Business Enterprise (SBE), 8% for Emerging Business Enterprise (EBE), 3% for Disabled Veteran Business Enterprise (DVBE), 18% for Minority Business Enterprise (MBE) and 4% for Women Business Enterprise (WBE);
3. Direct the General Manager to implement the BIP; and,
4. Authorize staff to make the appropriate revisions to the Department's standard contracting and procurement documents based on the attached policy.

SUMMARY:

On March 30, 1985, the Board approved the implementation of the Minority Business Enterprise (MBE), Women Business Enterprise (WBE) and Other Business Enterprise (OBE) Outreach Program Policy (Board Report No. 177-89). This policy was based on Mayor Directive No. 1-B and No. 1-C. The policy was revised on February 8, 2001 (Mayor Executive Directive No. 2001-26).

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The existing MBE/WBE/OBE Policy requires that all potential bidders or proposers on Department contracts identify potential subcontracting opportunities and perform a Good Faith Effort (GFE) outreach to subcontract with certified MBEs, WBEs, and OBEs. This applies to professional, technical and personal services contracts, concession and lease contracts, procurement of materials and supplies, and construction services valued at \$100,000 or more.

On January 12, 2011, the Mayor issued Executive Directive No. 14 (attached) which established the BIP in order to ensure that all businesses, including job-creating small businesses, have an equal opportunity to do business with the City of Los Angeles. Executive Directive No. 14 revises Mayor Executive Directive No. 2001-26 by:

1. Expanding the existing business categories of MBE, WBE, and OBE to include Small Business Enterprise (SBE), Emerging Business Enterprise (EBE) and Disabled Veteran Business Enterprise (DVBE).
2. Requiring mandatory use of the Los Angeles Business Assistance Virtual Network (BAVN) for advertising contracting opportunities with the City.
3. Requiring the mandatory use of BAVN for documenting efforts by Prime Contractors to reach out to, and evaluate, potential Subcontractors.

One component of BIP is that the previous GFE outreach is replaced by the Business Inclusion Outreach (BIO). BIO will be accomplished on-line using BAVN where all registered Contractors and Subcontractors will be automatically notified by e-mail of City Contracting opportunities that fit their business profile. This will eliminate the need under the previous directive to place an advertisement; follow up with potential subcontractors; and send outreach letters to recruitment organizations. BAVN will allow any Contractor to register on-line and to create its interest and business profile including identifying itself as a MBE, WBE, OBE, SBE, EBE or DVBE.

Competition for City contracts is enhanced when all contracting opportunities are posted in one place easily accessible on the internet. The responsiveness of the Prime Contractors will be evaluated based on the seven criteria set forth in the "BIO Criteria" and each be given a pass or fail score. To be deemed a responsive bid or proposal it must satisfy each criteria. Under the previous Good Faith Effort requirements, responsiveness was based on a scoring system that required bidders and proposers to attain at least 75 out of a total possible 100 points for various specified outreach criteria. Since all of the outreach will now be performed using BAVN, verification of responsiveness will be performed on-line thus reducing City staff time requirements as well as making the BIO process more efficient while maintaining the City's goal to provide contracting opportunities to MBE, WBE, OBE, SBE, EBE or DVBE certified companies.

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For fiscal year 2011-2012, the Mayor has set annual goals for SBE, EBE, and DVBE participation in City contracts at 25 percent, 8 percent, and 3 percent, respectively. In addition, default anticipated participation levels of 18 percent for MBE and 4 percent for WBE have also been set by the Mayor for all Departments, although they allowed for the default MBE/WBE participation levels to be adjusted for individual opportunities if they are not achievable. It is important to note that anticipated participation levels are internal to the City/Department and will not deny the award of a contract to a Contractor who satisfies the BIO requirement if the anticipated participation levels are not met. It is recommended that the Board adopt the BIP policy for the Department to include the aforementioned anticipated levels of participation. Although we are recommending the adoption of participation goals in this report, staff is suggesting we review each type of contracting scenario (i.e., construction; technical, professional and personal services contracts, concessions and leases, and procurement of materials and supplies) and come back to the Board on a case by case basis should we believe a particular contracting situation warrants adjusting the goals to a more realistic anticipated level of participation.

The BIP also provides the option of a waiver, through the Mayor's Office of Economic and Business Policy (MOEBP), for potential bidders and proposers from the BIO requirement if the prime contractor is a certified SBE, EBE, or DVBE.

A steering committee consisting of members from the MOEBP and the Department of Public Works Bureau of Contract Administration, will recommend to the Mayor goals and participation levels for each Department on an annual basis. The Department will then assign the per-contract participation goal based on realistic opportunities for each contract. It should be noted that once the annual Department goals have been achieved, the BIO requirement will not have to be included for that particular business enterprise on any future contract opportunities for that year. The BIO requirement may be waived by each Department for individual contracts where subcontracting opportunities are minimal, keeping in mind that the annual goals will still need to be achieved via other contracting opportunities.

The BIP requires that the Department report to an Advisory Committee on a quarterly basis to determine compliance with using BAVN for advertised contracts and documenting efforts by potential bidders and proposers to reach out to, and evaluate, potential subcontractors. The Department will also be required to state and describe steps taken towards reaching participation goals.

It is expected that participation in the BIP will create jobs in small businesses, provide greater competition on contracts, expand opportunities for qualified and responsible contractors, and help identify and avoid contractors who have served the City poorly.

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FISCAL IMPACT STATEMENT:

The adoption and implementation of the Mayor's Executive Directive No. 14 regarding the Business Inclusion Program does not affect the Department's General Fund.

This report was jointly prepared by Finance Division and Planning, Construction and Maintenance Division.

ATTACHMENTS:

- Mayor Executive Directive No. 14
- City of Los Angeles Business Inclusion Program (BIP) for a Request for Bids (RFB)
- City of Los Angeles Business Inclusion Program (BIP) for a Request for Qualifications (RFQ) [Note: BIP for RFQ document can also be used for a Request for Proposals (RFP)]



ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE DIRECTIVE NO. 14

Issue date: January 12, 2011

SUBJECT: Business Inclusion Program

As the City of Los Angeles faces the worst economic crisis since the Great Depression, one of my top priorities is job creation. Many economists agree that more jobs are created by small businesses than large ones. The City can and should help small businesses by leveraging its procurement authority, although the City's discretion in doing so is not without limit. I have already asked Council to expand this authority through ordinance. There are, however, some changes to the City's contracting process that may be made without new legislation. These changes are the subject of this Directive.

I am creating a Business Inclusion Program to help ensure that all businesses – including job-creating small businesses – have an equal opportunity to do business with the City. The Program is based on increasing efficiency and transparency through expanded use of internet technology. City departments will use the internet to advertise contracting opportunities and verify that all interested firms, large, small, minority, women, and veteran, are made aware of them. This will ensure that these businesses have an equal chance at learning about opportunities to work for the City, and enable the City to assess with less difficulty the success of the Business Inclusion Program. In addition to my affirming the policy of the City of Los Angeles to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), and all Other Business Enterprises (OBEs) an equal opportunity to compete for and participate in city contracts, I will also be setting goals for small and disabled veteran business procurement on a departmental basis, and monitoring the success of individual departments at meeting them. I expect that implementation of this Directive will result not only in the creation of more jobs in small businesses, but also greater competition for City contracts, greater diversity in contractor participation, and thus more value to the City.

I have directed the Bureau of Contract Administration, in cooperation with the City's Information Technology Agency and my staff, to develop the guidelines for the Business Inclusion Program. The Program is attached as an appendix to this Directive. I am

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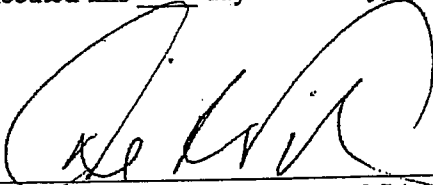
PHONE: (213) 978-0600 • FAX: (213) 978-0750

EMAIL: MAYOR@LACITY.ORG



directing that all non-proprietary City departments comply with it. In addition, I am requesting that, although they are not subject to this Directive, the board of commissioners for each of the proprietary departments (Airport, Harbor, and Water and Power) adopt policies consistent with it.

Executed this 12 day of January, 2011

A handwritten signature in black ink, appearing to read 'Antonio R. Villaraigosa', written over a horizontal line.

ANTONIO R. VILLARAIGOSA
Mayor

Supersedes Executive Directive 2001-26 (Riordan Series), dated February 8, 2001.

Appendix

Business Inclusion Program

Executive Summary

The Business Inclusion Program leverages the power of the internet and an existing internet-accessible City resource – the Los Angeles Business Assistance Virtual Network (“BAVN”) – to connect City contracting opportunities to more businesses. Stated generally, the Program requires that BAVN be used as the exclusive way to: (1) advertise contracting opportunities subject to competitive bidding requirements, and (2) document efforts by prime contractors to reach out to and evaluate potential subcontractors.

The Program also aims to widen participation in City contracts by taking steps directed specifically at small and disabled veteran businesses. Currently, a business firm that registers on BAVN may identify itself under categories such as certified minority business enterprise, and certified women business enterprise. Under the new Program, each firm will also be given the opportunity to identify itself among three additional categories of businesses: (1) a certified Small Business Enterprise (“SBE”); (2) an especially small SBE, known as a certified Emerging Business Enterprise (“EBE”); and (3) a certified Disabled Veteran-Business Enterprise (“DVBE”). For many contracting opportunities, City Departments are already required to direct prime contractors to reach out to minority, women, and other business enterprises. Now outreach must also be directed toward SBEs, EBEs, and DVBEs.

In addition, the Mayor will annually set departmental goals for small and disabled veteran business procurement and anticipated minority and women business participation levels. To encourage experimentation and innovation, each department will be given discretion in selecting the tools to reach these goals. For example, a department may wish to impose mandatory subcontracting minimums in individual contracts. Use of such race- and gender- neutral tools should lead to increased competition for city contracts, from not only small and disabled veteran businesses, but also minority and women business enterprises.

Advertising contracts and monitoring contractor outreach will be easier for the Departments to accomplish, thanks to BAVN. Through a quarterly reporting system the Mayor will in turn monitor the progress of departments in implementing the requirements of the Program and reaching the annual goals for small and disabled veteran business procurement. General Managers of the departments will be held accountable for seeing that these goals are met.

The Business Inclusion Program applies to every Department. “Department” refers to the following: every Board or Commission of the City of Los Angeles, and every employee or officer of the City of Los Angeles, including the Purchasing Agent of the City of Los Angeles, who makes or enters into any contract or agreement for the provision of any

goods or services of any kind or nature whatsoever for or on behalf of the City of Los Angeles. Although they are not subject to the Program, the board of commissioners for each of the Proprietary Departments (Airport, Harbor, and Water and Power) should be requested to adopt policies consistent with it.

The specific requirements of the Program are set out below.

Mandatory Use of the Los Angeles Business Assistance Virtual Network ("BAVN") for Advertising Competitively Bid Contracts ("Advertised Contracts")

Competition for City contracts is enhanced when all contracting opportunities are posted in one place easily accessible on the internet. Some Departments already post contracting opportunities on the Los Angeles Business Assistance Virtual Network ("BAVN"). Contracting opportunities posted there are viewable by the public. Further, businesses that register on BAVN are automatically notified by email of City contracting opportunities that fit their business profile. BAVN should be the one-stop shop for all city contracting opportunities that must be advertised.

Accordingly, every Department will utilize BAVN as the exclusive means for posting all opportunities for bid, requests for proposals ("RFPs"), and requests for qualifications ("RFQs") that are subject to advertising requirements (collectively, "Advertised Contracts").

Departments will implement this immediately. Each Department shall modify its existing contracting program to the extent such programs are inconsistent with this. The Bureau of Contract Administration and ITA will offer training on BAVN to all Departments that are not already familiar with it.

Mandatory Use of BAVN for Documenting Efforts by Prime Contractors to Reach Out To and Evaluate Potential Subcontractors

Competition for City contracts also is enhanced when opportunities for subcontracting are widely disseminated and potential subcontractors are fairly evaluated.

The Office of the Mayor has long directed, through mandates to Departments advertising certain City contracting opportunities, that prospective City contractors document efforts to reach out to three categories of potential subcontractors. These categories are: Minority Business Enterprises ("MBEs"), Women Business Enterprises ("WBEs"), and Other Business Enterprises ("OBEs"). This requirement has come to be known as "Good Faith Effort," or "GFE." The directive setting out the process by which compliance with GFE is verified and scored was last updated by Executive Directive No. 2001-26 ("ED 2001-26"), in 2001.

Outreach under ED 2001-26 is fairly limited in scope, aimed at only three categories of firms. It is in the City's interest to broaden subcontractor outreach to include a variety of small and disabled veteran businesses, including Small Business Enterprises ("SBEs"),

Emerging Business Enterprises ("EBEs"), which are a subset of SBEs, and Disabled Veteran Business Enterprises ("DVBEs").

Outreach should also be simplified. Under ED 2001-26, verifying and scoring compliance has proven to be burdensome on Departments, a burden that weighs all the heavier in these difficult budgetary times for the City. This burden can be eased by revamping the existing GFE process into a more efficient process of "Business Inclusion Outreach." Prime Contractors will be required to perform and document outreach using BAVN. This will lighten the burden on contractors by making outreach more efficient. It will also make it easier for the City to verify that the required outreach has been performed.

BAVN is well suited to facilitate and verify outreach. It already allows any business to register (a "BAVN-Registered Business" or "Registered Business"), indicate whether it is interested in subcontracting opportunities (a "Registered Subcontractor"), and identify itself as a certified MBE or WBE. Further, BAVN enables any Registered Business responding directly to the City regarding City contracting opportunities (a "Registered Prime") to invite Registered Subcontractors to participate with it. These invitations are sent electronically by BAVN. Registered Subcontractors may also submit their bids and proposals in response to these invitations through BAVN. For each response rejected, a Registered Prime may indicate on BAVN the reasons. All of this activity is recorded by BAVN and may be readily accessed by the City.

To expand outreach, the Bureau of Contract Administration and ITA will enhance BAVN to allow businesses to register as certified SBEs, EBEs, and DVBEs, as defined by the Bureau of Contract Administration.

To make outreach simpler, Business Inclusion Outreach will be verified as follows: When evaluating the responsiveness of any bid or proposal responding to an Advertised Contract with subcontracting requirements or opportunities (a "Prime Bid/Proposal"), each Department shall apply the seven (7) criteria set out below (collectively, the "Business Inclusion Outreach Criteria" or "BIO Criteria"):

1. The party submitting the Prime Bid/Proposal (the "Prime Contractor") is registered on BAVN.
2. The Prime Contractor attended a pre-solicitation or pre-bid meeting scheduled by the Department to inform all bidders or proposers of the requirements for the project for which the contract will be awarded. The Department may waive this requirement if the Prime Contractor certifies it is informed as to those project requirements and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months.
3. The Prime Contractor has identified the minimum number, as determined by the Department, of specific items of work that will be performed by

subcontractors. This will ensure an opportunity for subcontractor participation among MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs.

4. The Prime Contractor has notified the minimum number, as determined by the Department, of MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs of subcontracting opportunities utilizing BAVN.
5. All notifications must be provided utilizing BAVN, and made not less than 15 calendar days prior to the date the Prime Bid/Proposal is required to be submitted. In all instances, the Prime Contractor must document that invitations for subcontracting bids were sent to available MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs for each item of work to be performed. Each solicitation notification shall include information about the availability of plans, specifications, and requirements for the selected subcontracting work. Each notification shall also include an offer of assistance in obtaining bonds, lines of credit, and insurance required by the Department or Prime Contractor.
6. The Prime Contractor has responded to every unsolicited offer sent by a Registered Subcontractor using BAVN.
7. The Prime Contractor has evaluated in good faith bids or proposals submitted by interested MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Bidders and proposers must not unjustifiably reject as unsatisfactory a bid or proposal offered by a Registered Subcontractor, as determined by the Department. The Prime Contractor must submit a list of all subcontractors for each item of work, including dollar amounts of potential work for MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs, and a copy of any and all bids or proposals received. This list must include an explanation of the evaluation that led to the bid or proposal being rejected and the explanation must have been communicated to the subcontractor using BAVN.

The Mayor's Office of Economic and Business Policy may waive the Business Inclusion Outreach Criteria requirement if the Prime Contractor is a certified SBE, EBE, or DVBE.

Exempt from the Business Inclusion Outreach Criteria is any Prime Bid/Proposal for which use of BAVN would be barred by federal law, including any contract or grant condition imposed by the federal government.

The Business Inclusion Outreach Criteria are to be applied on a pass/fail basis. That is, a Prime Bid/Proposal must fully satisfy each of the Criteria to be deemed responsive. Failure to satisfy fully any one of the BIO Criteria will result in the Prime Bid/Proposal being deemed non-responsive. No partial credit is to be awarded.

Implementation of this Program should lead to greater participation in City contracts by small, minority, and women business enterprises. Departments may, on individual contracts, anticipate certain levels of participation by these types of firms. In no case,

however, shall a Department deny award of a contract to a Prime Contractor who satisfies the BIO Criteria solely because the Prime Contractor failed to meet the anticipated levels of participation of MBEs and WBEs.

BAVN is meant to be a tool for use by Departmental staff, not a substitute for staff review. Further, nothing in the Business Inclusion Program is intended to restrict the discretion of the Department to reject all bids or proposals in accordance with provisions of the City Charter and Administrative Code.

Establishment of a Program for Small and Disabled Veteran Business Procurement

Competition for City contracts is enhanced when all segments of the business community have a real opportunity to participate. Steps will be taken to increase the participation by small and disabled veteran businesses. Use of additional race- and gender- neutral tools should lead to increased competition for City contracts from a wide variety of businesses—not only small and disabled veteran businesses, but also minority and women business enterprises.

Goals for small and disabled veteran business participation in City contracting should be established and, as part of a continuous review process, periodically revised to ensure that they are both realistic and aggressive. Information about what is working to meet those goals and what is failing must be shared across City departments.

The Bureau of Contract Administration (“BCA”) has already been involved in setting goals and sharing information. To strengthen these efforts on an ongoing basis, it is recommended that the Mayor establish a Small and Disabled Veteran Business Procurement Advisory Committee (“Advisory Committee”). The Advisory Committee will be co-chaired by the heads of the Mayor’s Office of Economic and Business Policy and the BCA, or their designees. Other members will include the Purchasing Agent or his or her designee, and others to be designated by the Mayor. It is recommended that that the Mayor invite the Manager of Procurement at the Los Angeles World Airports, the Director of Supply Chain Services at the Los Angeles Department of Water and Power, and the Director of Contracts and Purchasing at the Port of Los Angeles to join the Advisory Committee, after their respective board of commissioners adopts rules and procedures consistent with the Business Inclusion Program.

On an annual basis beginning February 1, 2011:

1. the Bureau of Contract Administration will recommend to the Mayor the criteria for certifying businesses as Small Business Enterprises (“SBEs”), Emerging Business Enterprises (“EBEs”), and Disabled Veteran Business Enterprises (“DVBEs”) as appropriate; and
2. the Advisory Committee will recommend to the Mayor annual goals for SBE, EBE, and DVBE participation in City contracts for each Department

("Procurement Goals") and anticipated MBE and WBE participation levels.

On a quarterly basis beginning July 1, 2011, the Advisory Committee will report to the Mayor on progress toward achieving the Procurement Goals and what tools are working toward achieving them.

Departmental Action, Monitoring, and Accountability

Competition for City contracts is also enhanced when programs instituted to that end are monitored and those responsible for implementing them are held accountable and take action. Each Department and the Advisory Committee will play an important role.

Each Department will report to the Advisory Committee on a quarterly basis. The report should indicate whether the Department has complied with the requirements of the Business Inclusion Program. This should address the Department's use of BAVN for Advertised Contracts and for documenting efforts by prime contractors to reach out to and evaluate potential subcontractors. It should also state whether the Department's Procurement Goals have been met, and describe the steps that have been taken toward reaching them. This report should further state the Department's progress in achieving anticipated levels of participation for women and minority owned businesses including the number and dollar value of contracts awarded or completed. These quarterly reports should be made readily available to the public.

This Program aims to expand opportunities for qualified and responsible contractors. The City's existing Contractor Performance Evaluation Ordinance already requires Departments to contribute to databases on contractor performance. Full compliance with this Ordinance by each Department will help all Departments identify and avoid contractors that have served the City poorly, as well as help keep track of the amount of contracting dollars actually received by the various categories of contractor businesses identified in the Business Inclusion Program.

The steps taken to reach the Procurement Goals will be chosen by each Department. Merely by extending contracting opportunities to all businesses, it is expected that more of these contracting opportunities will be secured by small and disabled veteran businesses. Experimentation and innovation are encouraged. Accordingly, beyond the steps already described in this Business Inclusion Program, no detailed directions should be issued. In reaching its assigned goal, every Department will enjoy flexibility and discretion to choose the tools best suited to it.

Commensurate with the importance of increasing competition for City contracts through this Program, the Mayor's assessment of the performance of each Department's General Manager should be partially based on compliance with the Business Inclusion Program and success at meeting the Procurement Goals.

**CITY OF LOS ANGELES BUSINESS INCLUSION PROGRAM (BIP) FOR
A REQUEST FOR BIDS (RFB)**

Performance of a BIP outreach to Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Small Business Enterprises (SBE), Emerging Business Enterprises (EBE), Disabled Veteran Business Enterprises (DVBE), and Other Business Enterprises (OBE) subcontractors must be completed on the Business Assistance Virtual Network (BAVN), www.labavn.org.

All BIP outreach documentation must be submitted on the BAVN by 4:30 p.m. on the calendar day following the date bids are received by the Awarding Authority.

Failure to submit the required documentation by 4:30 p.m. on the calendar day following the date bids are received by the Awarding Authority will render the bid non-responsive.

The [enter Department Name] anticipated levels of

MBE Participation:	<u> ? </u> %
WBE Participation:	<u> ? </u> %
SBE Participation:	<u> ? </u> %
EBE Participation:	<u> ? </u> %
DVBE Participation:	<u> ? </u> %

NOTE: BIP outreach information and/or assistance may be obtained through [enter Department contact name and information]. Technical assistance in using the BAVN may be obtained through the e-mail link on the BAVN's website.

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CITY OF LOS ANGELES BUSINESS INCLUSION PROGRAM (BIP) FOR USE ON CITY-FUNDED REQUEST FOR BIDS CONTRACTS

A. General

This project is subject to the City of Los Angeles, BIP outreach requirements which are to be followed by bidders on advertised Request for Bids. The City is committed to ensuring full and equitable participation by minority, women, small, emerging, disabled veteran, and other sub-bid or subcontracting businesses in the provision of all goods and services to the City on a contractual basis. The BIP is set forth herein. Bidders shall be fully informed concerning the requirements of this Program. Bidders are encouraged to use MBE/WBE/SBE/EBE/DVBE firms whenever there is a need to subcontract portions of the work. **Failure to comply with the City's BIP Outreach requirements will render the bid non-responsive.**

B. MBE/WBE/SBE/EBE/DVBE/OBE Participation

The BIP outreach policy requires the bidder to make an outreach in order to include sub-bid participation by MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs which is anticipated by the City to produce levels of participation as stated on Page 1.

C. Definitions

1. **Minority or Women Business Enterprise (MBE or WBE):** For the purpose of this program, means a business enterprise that meets both of the following criteria:
 - a. A business that is at least 51 percent owned by one or more minority persons or women, in the case of any business whose stock is held, at least 51 percent of the stock is owned by one or more minority persons or women; and
 - b. A business whose management and daily business operations are controlled by one or more minority persons or women.
2. **Small Business Enterprise (SBE):** For the purpose of this program, Small Business Enterprise shall mean a business enterprise that meets the following criteria:
 - a. A business (personal or professional services, manufacturer, supplier, vendor) whose three (3) year average annual gross revenues does not exceed \$7 million.
 - b. A business (construction contractors) whose three (3) year average annual gross revenues does not exceed \$14 million.
3. **Emerging Business Enterprise (EBE):** For the purpose of this program, Emerging Business Enterprise shall mean a business enterprise whose three (3) year average annual gross revenues do not exceed \$3.5 million.

4. Disabled Veteran Business Enterprise (DVBE): For the purpose of this program, Disabled Veteran Business Enterprise shall mean a business enterprise that meets the following criteria:
 - a. A business that is at least 51 percent owned by one or more disabled veterans.
 - b. A business whose daily business operations must be managed and controlled by one or more disabled veterans.
5. Other Business Enterprise (OBE): For the purpose of this program, means any business which does not otherwise qualify or has not been certified as a Minority, Women, Small, Emerging, and/or Disabled Veteran Business Enterprise.
6. Minority person: For the purposes of this program, the term "Minority person" means African Americans; Hispanic Americans; Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians); Asian Pacific Americans (including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas); and Subcontinent Asian Americans (including persons whose origins are from India, Pakistan and Bangladesh).
7. Disabled Veteran: For the purpose of this program, the term "Disabled Veteran" shall mean a veteran of the U.S. military, naval, or air services; the veteran must have a service-connected disability of at least 10% or more, and the veteran must reside in California.
8. Certifications must be current **on the date bids for the project are opened** if recognition is to be given towards MBE/WBE participation on this project.
 - a. Certification as a Minority or Women Business Enterprise: An MBE/WBE must be certified by 1) City of Los Angeles, Bureau of Contract Administration; 2) State of California Department of Transportation (CalTrans); 3) Los Angeles County Metropolitan Transportation Authority (Metro); 4) Any certifying agency that is a part of the State of California, Unified Certification Program (CUCP) so long as the certification meets all of the City of Los Angeles' MBE/WBE certification requirements; or 5) Southern California Minority Business Development Council, Inc. (SCMBDC) for MBE certifications only.

Applications for certification and directories of MBE/WBE certified firms are available at the following locations:

1. City of Los Angeles
Office of Contract Compliance, 1149 S. Broadway, Suite 300, Los Angeles, CA 90015 Telephone: (213) 847-2684 Fax: (213) 847-2777
Internet address: <http://bca.lacity.org>

2. CalTrans
State of California, Department of Transportation, Civil Rights Group,
1823 14th Street, Sacramento, CA 95814
Telephone: (916) 324-1700 To order a directory, call (916) 445-3520
Internet address: <http://www.dot.ca.gov/hq/bep/>
3. Los Angeles County Metropolitan Transportation Authority
Equal Opportunity Department, 1 Gateway Plaza, Los Angeles, CA 90012
Telephone: (213) 922-2600 Fax: (213) 922-7660
Internet address: <http://www.mta.net>
4. Southern California Minority Business Development Council, Inc. (for a fee)
800 W. 6th Street, Suite 850, Los Angeles, CA 90017
Telephone: (213)689-6960 Fax: (213) 689-1707
Internet address: www.scmbdc.org

- b. Certification as a Small or Emerging Business Enterprise: An SBE must be certified by either: 1) City of Los Angeles, Bureau of Contract Administration; or 2) State of California, Office of Small Business & Disabled Veterans Business Enterprise Services so long as the certification meets all of the City of Los Angeles' SBE and EBE certification criteria.

Note: The State of California does not offer EBE certifications. For the purposes of this program, the State's Microbusiness certification will be considered synonymous with the City's EBE certification.

- c. Certification as a Disabled Veteran Business Enterprise: A DVBE must be certified by State of California, Office of Small Business & Disabled Veterans Business Enterprise Services.
9. Business Inclusion Program Outreach Documentation: The bidder must take affirmative steps prior to bid opening to ensure that a maximum effort is made to recruit sub-bidder/subcontractors. Minority, women, small, emerging, disabled veteran owned and controlled businesses must be considered along with other business enterprises whenever possible as sources of supplies, construction and other services. The required affirmative steps for BIP Outreach documentation are outlined in Paragraph D herein. The BIP Outreach documentation must be submitted as described in Paragraph D herein. Failure to submit the BIP Outreach documentation as described will render the response non-responsive.
 10. Subcontract: For the purpose of this program, the term "Subcontract" denotes an agreement between the prime Contractor and an individual, firm or corporation for the performance of a particular portion(s) of the work which the prime Contractor has obligated itself.
 11. Subcontractor: An individual, firm, or corporation having a direct contract with the contractor for the performance of a part of the work which is proposed to be constructed or done under

the contract or permit, including the furnishing of all labor, materials, or equipment.

12. Vendor and/or supplier: 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 bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the 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 owns or operates distribution equipment.
13. Manufacturer: A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
14. Broker: A firm that charges for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, insurance or bonds, materials or supplies required for performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.
15. Participation Recognition: This applies to recognition as an MBE, WBE, SBE, EBE, DVBE, and OBE.
 - a. All listed MBE, WBE, SBE, EBE, and/or DVBE firms must be certified as defined under Paragraph C, Definitions, Item 8, on the date bids for the project are opened before credit may be allowed toward the respective MBE, WBE, SBE, EBE, and/or DVBE participation level.
 - b. Work performed by a MBE, WBE, SBE, EBE, and/or DVBE prime contractor will not be a consideration when determining a prime contractor's BIP Outreach. The prime contractor will be required to make a BIP Outreach to obtain certified MBEs, WBEs, SBEs, EBEs, and DVBEs through subcontracting or materials and supplies acquisition to reach anticipated participation levels.
 - c. A listed MBE, WBE, SBE, EBE, DVBE, and/or OBE firm must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
 - d. Recognition for materials and/or supplies is limited to 60 percent of the amount to be paid to the vendor for such materials/supplies in computing the levels of MBE, WBE, SBE, EBE, DVBE, and OBE participation, unless the vendor manufactures or substantially alters the materials/supplies.
 - e. MBE and/or WBE credit shall not be given to a Joint Venture partner listed as a subcontractor by a Joint Venture bidder.

- f. MBE, WBE, SBE, EBE, and/or DVBE credit for brokers required for performance of the contract is limited to the reasonable fee or commission charged, as not considered excessive, as compared with fees customarily allowed for similar services.
- g. A firm which qualifies as both a MBE and a WBE will be credited as either MBE participation or as WBE participation, but will not be credited for both. However, a MBE and/or WBE firm may also receive SBE, EBE and/or DVBE credit if so qualified.
- h. A SBE, EBE, DVBE prime contractor shall receive pledged participation credit for the work performed by its own workforce.

D. BIP Outreach Documentation

It is the policy of the City of Los Angeles to provide Minority Business Enterprises (MBEs), Woman Business Enterprises (WBEs), Small Business Enterprises (SBEs), Emerging Business Enterprises (EBEs), Disabled Veteran Business Enterprises (DVBEs), and Other Business Enterprises (OBEs) an equal opportunity to participate in the performance of City contracts. In order to maximize this participation while minimizing the administrative impact on city staff and bidders alike, the Mayor's Office has developed a Business Inclusion Program (BIP). The BIP requires City departments to set anticipated participation levels based on the opportunities presented in their advertised contracts and department's achievement of its annual goals. A bidder's BIP Outreach to MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs shall be determined by their compliance with the following BIP Outreach process which will be performed on the City's Business Assistance Virtual Network (BAVN). The BAVN can be accessed at www.labavn.org or by going to the City's Webpage (www.lacity.org) and linking onto "Bids, RFPs & Grants." Failure to meet the anticipated MBE, WBE, SBE, EBE, and/or DVBE participation levels will not by itself be the basis for disqualification or determination of noncompliance with this policy. **However, failure to comply with the BIP Outreach documentation requirements as described in this section will render the bid non-responsive and will result in its rejection.** *Compliance with the BIP Outreach requirements is required even if the bidder has achieved the anticipated MBE, WBE, SBE, EBE, and DVBE participation levels.* Adequacy of a bidder's BIP Outreach will be determined by the Board after consideration of the indicators of BIP Outreach as set forth below.

Any technical difficulties while utilizing the BAVN should be reported immediately using the following steps:

1. Email BAVN Support at ITA.BAVN@lacity.org.
2. Email [enter Department contact name and e-mail address].
3. If you are not contacted within 15 minutes during normal City working hours (7:00 a.m. to 4:30 p.m. Monday-Friday), call [enter Department contact name and phone number].

If the above procedures are not followed as stipulated, incomplete outreach and/or incomplete documentation may not be accepted.

Each indicator (2-7) is evaluated on a pass/fail basis. All indicators (2-7) must be passed to be deemed responsive. Only BIP Outreach documentation submitted under the bidders name will be evaluated. Therefore, submission by a third party will result in the bidder being deemed non-responsive.

1	LEVEL OF ANTICIPATED MBE, WBE, SBE, EBE, and DVBE PARTICIPATION
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The bidder has performed a BIP Outreach in an attempt to obtain sub-bid/subcontract participation by MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs which could be expected by the Awarding Authority to produce a reasonable level of participation by interested business enterprises, including the MBE, WBE, SBE, EBE and DVBE anticipated percentages set forth on Page 1 herein and to have the bidder meet the subcontracting expectations for the project.

Required Documentation: No documentation is required from the bidder.

2	ATTENDED PRE-BID MEETING
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The bidder attended the pre-bid meeting scheduled by the Project Manager to inform all bidders of the requirements for the project for which the contract will be awarded. This requirement may be waived if the bidder certified it is informed as to those project requirements and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months.

Required Documentation: An employee of the bidder's company must attend the pre-bid meeting scheduled for this project. Credit may not be given if the employee arrives late or fails to sign the pre-bid meeting attendance roster. This requirement will be waived if the bidder certifies in writing that it is informed as to the BIP Outreach requirements for the project and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months as is evidenced by the event attendance documents.

Note: If the RFB states that the pre-bid meeting is mandatory, then attendance at the pre-bid meeting is the only way to pass this indicator.

3	SUFFICIENT WORK IDENTIFIED FOR SUBCONTRACTORS
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The bidder has identified the minimum number, as determined by the Awarding Authority, of specific items of work that will be performed by sub-bidders/subcontractors. This will ensure an opportunity for subcontractor participation among MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs.

Required Documentation: Outreach via e-mail in the selected work areas. This outreach must be performed using the BAVN's BIP Outreach system. The outreach must be to potential MBE, WBE, SBE, EBE, DVBE, and OBE sub-bidders/subcontractors that are currently registered on the BAVN. Failure of the bidder to outreach in all of the work areas selected by the City as potential subcontracting work areas may result in the bid being deemed non-responsive.

Note: City staff will access the BAVN and verify compliance with this indicator after the BIP Outreach submission deadline.

4	WRITTEN NOTICES TO SUBCONTRACTORS
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All notifications must be provided utilizing BAVN, and made not less than **fifteen (15) calendar days** prior to the date the Prime Bid/Proposal is required to be submitted to the Awarding Authority. In all instances, bidders must document that invitations for subcontracting bids were sent to available MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs for each item of work to be performed.

Required Documentation: E-mail notification in each of the selected work areas to available MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs for each anticipated work area to be performed. The notification must be performed using the BAVN’s BIP Outreach system. The notification must be to potential sub-bidders/subcontractors currently registered on the BAVN. If the bidder is aware of a potential subcontractor that is not currently registered on the BAVN, it is the bidder’s responsibility to encourage the potential subcontractor to become registered so that the bidder can include them as part of their BIP Outreach. Notifications must contain areas of work selected to be subcontracted, City of Los Angeles project name, name of the bidder, and contact person’s name, address, and telephone number. Bidders are required to send notifications to a sufficient number of MBE, WBE, SBE, EBE, DVBE and OBE firms in each work area chosen, as determined by the City. What is considered sufficient will be determined by the total number of subcontractors registered on the BAVN in each specific work area.

The City will determine each work area by the North American Industry Classification System (NAICS) code. The following table shows the sufficient number of MBE, WBE, SBE, EBE, DVBE and OBE subcontractors that need to be notified for each work area.

# of Subcontractors in NAICS Code	% Prime Must Notify	Number Prime Must Notify
1-10	100%	1-10
11-20	80%	9-16
21-50	60%	13-30
51-100	40%	21-40
101-200	25%	26-50
>200	10%	20+

A bidder’s failure to utilize this notification function will result in their bid being deemed non-responsive.

Note: Bidders will not be able to utilize the BAVN’s BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the bid submittal deadline. In utilizing the BAVN’s notification function, bidders will receive a message if they have failed to outreach to a sufficient number of firms when they go to view their summary sheet. Bidders will be given an opportunity to include their own customized statements when utilizing the notification function. However, the City

will take into consideration the wording and may deem a bidder non-responsive if the wording is perceived to seriously limit subcontractor responses. City staff will access the BAVN and verify compliance with this indicator after the bid submission deadline. In case of technical error, please follow the process for reporting these errors as outlined in Section D.

5	PLANS, SPECIFICATIONS AND REQUIREMENTS
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The bidder provided interested sub-bid enterprises/subcontractors with information about the plans, specifications and requirements for the selected sub-bid/subcontracting work.

Required Documentation: Include in Indicator No. 4, information detailing how, where and when the bidder will make the required information available to interested subcontractors. The notification must be performed using the BAVN's BIP Outreach system.

Note: At the time a bidder utilizes the BAVN's BIP Outreach notification function, the required information will automatically be included in the notification. Bidders will not be able to utilize the BAVN's BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the bid submittal deadline. City staff will access the BAVN and verify compliance with this indicator after the bid submittal deadline.

6	NEGOTIATE IN GOOD FAITH
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The bidder has responded to every unsolicited offer sent by a Registered Subcontractor using BAVN and has evaluated in good faith bids or quotes submitted by interested MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Bidders must not unjustifiably reject as unsatisfactory a bid or quote offered by a Registered Subcontractor, as determined by the Awarding Authority. The bidder must submit a list of all subcontractors for each item of work, including dollar amounts of potential work for MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs, and a copy of any and all bids or quotes received. This list must include an explanation of the evaluation that lead to the bid or quote being rejected and the explanation must have been communicated to the subcontractor using BAVN.

Required Documentation:

- a) An online Summary Sheet organized by work area, listing the following:
 - the bids and/or quotes received;
 - the name of the subcontractor who submitted the bid/quote;
 - the dollar amount of the bid/quote;
 - a brief reason given for selection/non-selection as a subcontractor;
 - the subcontractor selected for that work area.

- b) Copies of all MBE, WBE, SBE, EBE, DVBE, and OBE bids or quotes must be submitted prior to the bidder being awarded the contract.

The bidder will be given a choice of responses to indicate 1) No Response received; 2) Response

received; but no subcontractor bid submitted; or 3) Submit Bid and include bid amount.

The reasons for selection/non-selection should be included in the notes section of the online Summary Sheet. If the bidder elects to perform a work area with its own forces and they received a sub-bid, they must include a bid that shows their own costs for the work. **All bids received, regardless of whether or not the bidder outreached to the subcontractor, must be submitted and included on the on-line Summary Sheet.** To that extent, the City expects the bidder to submit a bid from each subcontractor listed on the online Summary Sheet. **All potential subcontractors with whom the bidder has had contact outside of the BAVN must be documented on the online Summary Sheet.**

The Summary Sheet must be performed using the BAVN's BIP Outreach system and must be submitted by 4:30 p.m. on the first calendar day following the day of the bid submittal deadline. If a bid is submitted by a sub-bidder/subcontractor that is not registered with the BAVN, the contractor is required to add that firm to their online Summary Sheet. A bidder's failure to utilize the BAVN's Summary Sheet function will result in their bid being deemed non-responsive.

Note: City staff may request copies of all of the bids received from sub-bidders/subcontractors as part of the BIP Outreach evaluation process. Bidders will not be able to edit their Summary Sheet on the BAVN's BIP Outreach Summary Sheet function after 4:30 p.m. on the first calendar day following the day of the bid submittal deadline. City staff will access the BAVN and verify compliance with the summary sheet provision of this indicator after the bid submittal deadline. Contractors are required to have each one of their bid-listed subcontractors registered on the BAVN prior to the bidder being awarded the contract. In case of technical error, bidders must follow the process for reporting these errors as outlined in Section D.

7

BOND, LINES OF CREDIT, AND INSURANCE ASSISTANCE

Each notification by the bidder shall also include an offer of assistance to interested potential MBEs, WBEs, SBEs, EBEs, DVBES, and OBEs in obtaining bonds, lines of credit, and insurance required by the Awarding Authority or bidder.

Required Documentation: Include in Indicator No. 4, information about the bidder's efforts to assist with bonds, lines of credit and insurance. The notification must be performed using the BAVN's BIP Outreach notification system.

Note: At the time a bidder utilizes the BAVN's BIP Outreach notification function, the required information will automatically be included in the notification. Bidders will not be able to utilize the BAVN's BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the bid submittal deadline. Bidders will be given an opportunity to include their own customized statements when utilizing the notification function. However, the City will take into consideration the wording and may deem a bidder non-responsive if the wording is perceived to seriously limit subcontractor responses or is deemed contrary to the intent of this indicator. City staff will access the BAVN and verify compliance with this indicator after the bid submittal deadline.

The bidders shall submit completed BIP Outreach documentation either via the BAVN's BIP Outreach system or prior to being awarded the contract, as specified for each indicator. The Awarding Authority

in its review of the BIP Outreach documentation may request additional information to validate and/or clarify that the BIP Outreach submission was adequate. Any additional information submitted after the specified deadline will be treated at a higher level of scrutiny and may require third party documentation in order to substantiate. Such information shall be submitted promptly upon request by the Awarding Authority.

E. Award of Contract

The Awarding Authority reserves the right to reject any and all bids. The award of a contract will be to the lowest responsive, responsible bidder whose proposal complies with all requirements prescribed herein. This includes compliance with the required BIP Outreach requirements. A positive and adequate demonstration to the satisfaction of the Awarding Authority that a BIP Outreach to include MBE, WBE, SBE, EBE, DVBE and OBE subcontractors' participation was made is a condition for eligibility for award of the contract. Contractors are required to have each one of their subcontractors register on the BAVN prior to the award of the contract.

In the event that the Awarding Authority considers awarding away from the apparent low bidder because of the bidder's failure to supply adequate BIP Outreach documentation, the Awarding Authority shall afford the bidder an opportunity to present further evidence to the Awarding Authority prior to a public hearing of the bidder's BIP Outreach.

F. Subcontractors

In addition to the requirements set forth in the provisions pertaining to the listing of subcontractors, the following shall apply for the purpose of this project:

1. All Subcontractors who will be working on the Project shall be approved in writing by the Awarding Authority or its designee prior to any work being performed by said subcontractor, regardless of the dollar amount of work to be performed, and whether or not they were listed in the original bid.
 - A. No other entity, including, but not limited to, the Project Engineer, Program Manager, or Construction Manager, is authorized to grant either initial approval of Subcontractor(s) or Subcontractor substitution(s), unless so designated by the Awarding Authority.
2. Any reduction, increase, or other change to any Subcontract amount without prior approval of the Awarding Authority or its designee is considered an Unauthorized Subcontractor Substitution and is subject to a penalty of ten (10) percent of the Subcontract amount, whether bid-listed or not. A subcontract dollar value increased or reduced as the result of a Change Order issued by the Engineer to add or delete from the original scope of work shall not be subject to a penalty for an Unauthorized Subcontractor Substitution.
 - A. A penalty in the amount of ten (10) percent of the subcontract amount will be assessed for each subcontractor when it is found the Contractor did not pay the entire Bid-listed and/or approved dollar amount of the respective subcontractor and there has been no approval by the Awarding Authority or its designee for a reduction in the subcontract dollar amount.

- B. In the event it is found that the Contractor did not pay any of the Bid-listed and/or approved dollar amount of a subcontract without a change in scope of the original Contract, which resulted in a deletion of the subcontract work, a Change Order to the contract shall be issued deleting the unpaid dollar amount of the subcontract. In addition, the Contractor shall be penalized ten (10) percent of the subcontract amount and the City may impose sanctions as a result of such action.
3. If the contractor fails to specify a Subcontractor, or if the Contractor specifies more than one Subcontractor for the same portion of Work to be performed under the contract in excess of one-half or 1 percent of the Contractor's total original bid or \$10,000.00, whichever is greater, the Contractor agrees that it is fully qualified to perform that portion of work itself, and that it shall perform that portion itself.
4. Subletting or subcontracting of any portion of the Work with a total value of more than ½ of 1 percent of the Contractor's total original bid, or \$10,000.00, whichever is greater, for which no Subcontractor was designated in the original Bid will be permitted only in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the Awarding Authority or its designee setting forth the facts constituting the emergency or necessity.
5. All requests for approval of Subcontractors must contain the following information:
- A. Project Name
 - B. Project Work Order Number
 - C. Subcontractor's Name
 - D. Subcontractor's Business Address
 - E. Subcontractor's Business Phone Number
 - F. Subcontractor's Status (MBE, WBE, SBE, EBE, DVBE, OBE)
 - G. Subcontractor's State of California Contractor License Number
 - H. Subcontractor's City of Los Angeles Business Tax Receipt Certificate Number
 - I. Dollar Amount of Work to be performed
 - J. Description of Work to be performed
6. No Bid-listed Subcontractor will be approved for a dollar amount of work less than that specified in the original Bid.
7. Failure to obtain approval of the Awarding Authority or its designee in writing prior to each Subcontractor performing work on the project may result in suspension of work by that subcontractor, removal of work performed by the unapproved subcontractor, a penalty of ten (10) percent of the unapproved subcontract amount, and possible sanctions against the contractor.
8. The contractor shall set forth in its bid the following: The name, location of the place of business, telephone number, California State Contractor's License Number, and dollar amount of each Subcontractor who will perform work, labor, service, and/or supply specifically fabricated materials or equipment in an amount in excess of one-half of 1 percent of the contractor's total bid, or \$10,000.00, whichever is greater, for all subcontractors listed.

9. It shall be considered an Illegal Subcontractor Substitution for anyone other than the bid-listed or approved subcontractor(s), including the prime contractor, to perform any portion of the work designated to be performed by said subcontractor without prior approval of the Awarding Authority or its designee. An Illegal Subcontractor Substitution is subject to a penalty of ten (10) percent of the subcontract amount, whether bid listed or not.
10. Failure of the Contractor to request and obtain approval from the Awarding Authority or its designee for a reduction in either a Bid-listed Subcontract amount or the Subcontract amount of a Subcontractor added after the date of the original Bid will result in a penalty of ten (10) percent of the Subcontract amount and possible sanctions against the Contractor.
11. Additional Subcontractors may be added after the time of the original Bid. The dollar value of Work to be performed by any additional subcontractor(s) may not be greater than ½ of 1 percent of the Contractor's original total Bid, or \$10,000.00, whichever is greater, unless the Subcontractor will be performing Work added by Change Order causing changes or deviations from the original Contract.
 - A. No approval(s) for additional Subcontractor(s) will be granted which will result in the Prime Participation Level falling below that required by the original Contract.

G. Subcontractor Substitution

In addition to the requirements for obtaining approval of all subcontractors prior to their working on the project, the following shall apply regarding substitution of any subcontractor, whether Bid-listed or not, during construction:

It is considered a substitution if anyone other than the Bid-listed and/or approved Subcontractor(s), including the Contractor, performs any portion of the work designated to be performed by said Subcontractor, or if the contractor reduces the dollar amount of any subcontractor without written approval of the Inspector.

All substitutions of Subcontractors, whether bid-listed or approved after the date of the original Bid opening, shall be approved in writing by the Awarding Authority or its designee prior to any Work being performed by the substituting Subcontractor.

Failure to obtain approval for any Subcontractor substitution, regardless of the dollar amount of the work performed, may result in rejection of the affected work, a penalty of ten (10) percent of the subcontract amount, and possible sanctions against the contractor.

There shall be no decrease in dollar value of Work to be performed by Subcontractor(s) approved as a substitute for any Subcontractor, whether Bid-listed or approved after the original date of Bid opening, without a change in scope of the Work to be performed by the originally Bid-listed or approved Subcontractor. Written evidence of a change of scope must be provided by the Engineer prior to approval of a change in dollar value of a Subcontractor either Bid-listed or approved after the original date of Bid opening.

1. A Contractor whose Bid is accepted may not:
 - A. Reduce the dollar amount of any subcontractor without the written approval of the Awarding Authority or its designee.
 - B. Substitute any person as Subcontractor in place of a subcontractor listed in the original bid or approved to work on the project after award, except that the Awarding Authority or its designee, may consent to the substitution of another subcontractor for one of the following situations:
 - a. When the subcontractor listed in the original bid or proposal or approved after award after having had a reasonable opportunity to do so fails or refuses to execute a written contract, when that written contract, based on the general terms, conditions, plans and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the contractor.
 - b. When the subcontractor becomes bankrupt or insolvent.
 - c. When the subcontractor fails or refuses to perform its subcontract.
 - d. When the subcontractor fails or refuses to meet the bond requirements of the contractor.
 - e. When the contractor demonstrates to the Awarding Authority or its designee's satisfaction that the name of the subcontractor was listed as the result of an inadvertent clerical error.
 - f. When the subcontractor is not licensed pursuant to the State of California Contractor's License Law to perform the work designated.
 - g. When the subcontractor refuses to obtain a City of Los Angeles Business Tax Receipt Certificate (BTRC).
 - h. When the Awarding Authority or its designee concurs with the contractor that the work being performed by the subcontractor is unsatisfactory and not in substantial accordance with the Contract Documents, or the subcontractor is delaying or disrupting progress of the work.
 - i. When the subcontractor fails to submit an Affirmative Action Plan acceptable to the Awarding Authority.
 - j. When the Awarding Authority determines the subcontractor is not a responsible contractor.
 - C. Permit a subcontract to be voluntarily assigned or transferred, or allow it to be performed by anyone other than the original subcontractor listed in the original bid or approved to perform that portion of work after award, without the consent of the Awarding Authority or its

designee.

D. Other than in the performance of Change Orders causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of 1 half of 1 percent of the contractor's total original bid as to which its original bid did not designate a subcontractor.

2. A request for substitution of any Subcontractor, whether Bid-listed or not, must be made in writing to the Awarding Authority or its designee, and must include letter(s) of explanation as to the reason for the requested substitution.

3. The Contractor shall conduct a BIP Outreach prior to requesting any Subcontractor substitution, regardless of the status (MBE, WBE, SBE, EBE, DVBE, OBE) of the Subcontractor being substituted for.

A. The Contractor shall contact some of each of the following: certified MBE, certified WBE, certified SBE, certified EBE, certified DVBE, and OBE sub-bid prospects from each trade for which sub-bid/subcontracting work is available, and document the following for submittal to the Awarding Authority or its designee along with all other required documentation:

a. The name of the company contacted, the contact person, telephone number, date and time of contact.

b. Response for each item of work that was solicited, including dollar amount(s).

c. Reason for selection or rejection of each sub-bid prospect.

d. In the event the Contractor is unable to find certified MBE, certified WBE, certified SBE, certified EBE, certified DVBE and/or OBE sub-bid prospects (first from the BIP Outreach Summary Sheet, then from other outreach methods) for each trade, the Contractor is advised to contact the Awarding Authority or its designee for assistance prior to certifying under penalty of perjury that it was unable to fully meet this requirement.

B. In the event that a subcontract is reduced due to a project change that will not be specified in a Change Order, the Contractor shall request approval for reducing the Subcontract by submitting the following:

a. The name of the company for which the reduction in the Subcontract amount is requested and the dollar amount of the requested reduction.

b. The reason for the reduction. Specific details of the reason for the requested reduction are required in order for the request to be considered.

C. All documentation shall be submitted to the Awarding Authority or its designee.

- a. Failure to provide all required information will result in rejection of the Substitution request until such time as all information is submitted.
- D. The information required for requesting substitution of any Subcontractor, whether Bid-listed or approved after the original date of Bid opening is:
- a. Project Name
 - b. Project Work Order Number
 - c. Original Subcontractor's Name
 - d. Original Subcontractor's Business Address
 - e. Original Subcontractor's Business Phone Number
 - f. Original Subcontractor's Status (MBE, WBE, SBE, EBE, DVBE, OBE)
 - g. Letter of withdrawal from original Subcontractor (when applicable)
 - h. Letter of explanation from the Prime Contractor stating reason(s) for request
 - i. Substituting Subcontractor's Name
 - j. Substituting Subcontractor's Business Address
 - k. Substituting Subcontractor's Business Phone Number
 - l. Substituting Subcontractor's State of California Contractor's License Number
 - m. Substituting Subcontractor's Status (MBE, WBE, SBE, EBE, DVBE, OBE)
 - n. Substituting Subcontractor's City of Los Angeles Business Tax Receipt Certificate Number (BTRC)
 - o. Dollar amount of Work to be performed by substituting Subcontractor
 - p. Description of Work to be performed by substituting Subcontractor
 - q. BIP Outreach Documentation

4. Penalties:

A Contractor violating any provision(s) of this subsection shall be deemed in violation of the Contract, and the Awarding Authority at its discretion may:

- A. Cancel the Contract.
- B. Assess the Contractor a penalty of not more than ten (10) percent of the amount of the Subcontract(s) involved.

5. Potential Penalties:

At the end of each construction project, before calculation of any actual final subcontracting penalties, the City may withhold as disputed funds 15% of all subcontract(s) that appear to be in violation of any subcontracting provision of the project, and 15% of all subcontract(s) which performed work on the project without, or prior to, approval by the Awarding Authority or its designee.

H. Submittal Documents

- 1. List of Subcontractors: Bidders will submit with their Bid the List of Subcontractors. The Bidder shall list the name, business address, business telephone, contact person and a

description of work or supplies to be provided by each of the firms which will perform more than ½ of 1 percent, or \$10,000, whichever is greater, of the original Bid amount on the project. This list is considered the bidder's list of subcontractors that will be utilized on the project, and bidders are expected to use the firms, for the total dollar amounts, listed on the List of Subcontractors.

2. Subcontractors/Subcontractor Substitutions: Bidders will be required to submit this form prior to contract award. The bidder shall complete, sign, and submit this form to the Awarding Authority or its designee. A request for this form by City staff should not be construed as a recommendation for award. This form is a summary of the requirements listed under Section F. Subcontractors, and Section G. Subcontractor Substitutions, and does not supersede any of the procedures or requirements listed in those sections.

I. Sub-agreement Falsification

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subcontractor will result in sanctions set forth in provisions pertaining to listing of subcontractors.

J. Final Subcontracting Report Submittal

The Contractor must submit the Final Subcontracting Report, attached as page 19, to the Awarding Authority or its designee, within **fifteen (15) calendar days** after the issuance of the Statement of Completion or a request for the report by the Awarding Authority, whichever comes first. Failure to comply may result in the assessment of liquidated damages in the amount of **\$100.00** per day by the Awarding Authority.

SUBCONTRACTORS / SUBCONTRACTOR SUBSTITUTIONS
(MUST BE SUBMITTED PRIOR TO AWARD OF A CONTRACT)

Project Name _____

Work Order Number _____

Contractor _____

Acceptance by the City of Los Angeles of this Contractor's Bid does not indicate automatic approval of the subcontractor(s) listed in the Bid-proposal.

By acknowledging with the signature of an authorized representative below, the Contractor understands that it must obtain approval for **all** Subcontractors, at all levels, whether Bid-Listed or not, from the Awarding Authority or its designee prior to the Subcontractor(s) performing any work on this project.

The Contractor understands that no entity other than the Awarding Authority or its designee has the authority to approve either an original request for approval or request for substitution of any subcontractor(s).

The Contractor further understands that Subcontractors approved for work on any other project for the City of Los Angeles does not constitute approval to work on this project also, and that there are no "blanket approvals" of Subcontractors for this, or any other, project.

The Contractor also understands that it may not substitute any Subcontractor, at any level, whether Bid-listed or not, without the approval of the Awarding Authority or its designee.

The Contractor understands and acknowledges that there may be a penalty assessed of no more than ten (10) percent of the subcontract amount of each Subcontractor for any of the following:

1. Failure to obtain approval for any Subcontractor(s), at any level, whether Bid-listed or not, from the Awarding Authority or its designee prior to the subcontractor(s) beginning work on the project.
2. Performing the work of any subcontractor(s) at any level, whether Bid-listed or not, without the approval of the Awarding Authority or its designee.
3. Reducing the Bid-listed and/or approved dollar amount of work to be performed by any Subcontractor(s), at any level, whether Bid-listed or not, for any reason, without the approval of the Awarding Authority or its designee.
4. Substituting for any Subcontractor(s), at any level, whether Bid-listed or not, without the approval of the Awarding Authority or its designee.
5. Assigning the work of any Subcontractor(s), at any level, whether Bid-listed or not, to anyone other than said Subcontractor, without the approval of the Awarding Authority or its designee.

Authorized Contractor Representative (Print Name)

Authorized Contractor Representative Signature

Date

FINAL SUBCONTRACTING REPORT

(SUBMIT WITHIN 15 DAYS OF ISSUANCE OF THE STATEMENT OF COMPLETION or WHEN REQUESTED BY THE AWARDING AUTHORITY)

Project Title: _____ Work Order No.: _____ Contact Name: _____
 Contractor: _____ Address: _____

Name, Address and Telephone # of Bid-listed Subcontractor/Supplier/Trucker	Description of Work	MBE/WBE SBE/EBE DVBE/OBE	Original \$ Amount	Final \$ Amount	Reason For Discrepancy (Change Order Nos. and \$)

I certify that the above information is complete and correct.

Signature _____ Title _____ Telephone Number _____ Date _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">For City of Los Angeles use only:</td> <td style="width: 50%; text-align: right;">Final \$ Amounts</td> <td style="width: 50%; text-align: right;">% Achieved</td> <td style="width: 50%; text-align: right;">% Pledged</td> </tr> <tr> <td>Final Contract \$</td> <td>Final Contract \$</td> <td>Final Contract \$</td> <td>Final Contract \$</td> </tr> <tr> <td> </td> <td>EBE \$</td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td>DVBE \$</td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td>OBE \$</td> <td> </td> <td> </td> </tr> </table>	For City of Los Angeles use only:	Final \$ Amounts	% Achieved	% Pledged	Final Contract \$	Final Contract \$	Final Contract \$	Final Contract \$		EBE \$				DVBE \$				OBE \$			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Total Cash Allowances Paid to Contractor \$</td> <td style="width: 50%;">Final Contract less Cash Allowances Paid to Contractor \$</td> </tr> <tr> <td>Final Contract \$</td> <td>MSM \$</td> </tr> </table>	Total Cash Allowances Paid to Contractor \$	Final Contract less Cash Allowances Paid to Contractor \$	Final Contract \$	MSM \$
For City of Los Angeles use only:	Final \$ Amounts	% Achieved	% Pledged																							
Final Contract \$	Final Contract \$	Final Contract \$	Final Contract \$																							
	EBE \$																									
	DVBE \$																									
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**CITY OF LOS ANGELES BUSINESS INCLUSION PROGRAM (BIP)
FOR A REQUEST FOR QUALIFICATIONS (RFQ)**

Performance of a BIP outreach to Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), Small Business Enterprise (SBE), Emerging Business Enterprise (EBE), Disabled Veteran Business Enterprise (DVBE), and Other Business Enterprise (OBE) subconsultants must be completed on the Business Assistance Virtual Network (BAVN), www.labavn.org.

All BIP Outreach documentation must be submitted on the BAVN by 4:30 p.m. on the first calendar day following the day of the RFQ response submittal deadline.

The [Enter Department Name] anticipated levels of

MBE Participation:	__%
WBE Participation:	__%
SBE Participation:	__%
EBE Participation:	__%
DVBE Participation:	__%

NOTE: It is recognized that it is not possible at the time of submission of the RFQ response to accurately predict the amount of work that can be subconsulted for any subsequent contract awarded as a result of this RFQ. BIP Outreach Program information and/or assistance may be obtained through [enter Department contact name and information].

**CITY OF LOS ANGELES' POLICY
BUSINESS INCLUSION PROGRAM FOR A REQUEST FOR QUALIFICATIONS (RFQ)**

SUMMARY

This policy sets forth the City of Los Angeles' rules and procedures to be followed by respondents on advertised personal services contracts in regards to the City's BIP outreach requirements. In general, this policy provides that respondents for contracts must demonstrate compliance with the indicators relating to an active outreach program to obtain participation by MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Failure to demonstrate outreach on the BAVN to comply with the indicators will render the RFQ response submission non-responsive.

A. GENERAL

This policy statement explains how the City's BIP will be administered within the City of Los Angeles for personal services contracts. The Awarding Authority is committed to ensuring full and equitable participation by minority, women, small, emerging, disabled veteran, and other businesses in the provision of all goods and services to the City on a contractual basis. This BIP is set forth in this policy Statement. Respondents to this department shall be fully informed concerning the requirements of this Program. **Failure to comply with the City's BIP outreach requirements will render the response non-responsive and result in its rejection.**

B. DEFINITIONS

1. Minority or Women Business Enterprise (MBE or WBE): For the purpose of this program, Minority or Women Business Enterprise shall mean a business enterprise that meets both of the following criteria:
 - a. A business that is at least 51 percent owned by one or more minority persons or women, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority persons or women; and
 - b. A business whose management and daily business operations are controlled by one or more minority persons or women.
2. Small Business Enterprise (SBE): For the purpose of this program, Small Business Enterprise shall mean a business enterprise that meets the following criteria:
 - a. A business (personal or professional services, manufacturer, supplier, or vendor) whose three (3) year average annual gross revenues does not exceed \$7 million.
 - b. A business (construction contractors) whose three (3) year average annual gross revenues does not exceed \$14 million.
3. Emerging Business Enterprise (EBE): For the purpose of this program, Emerging Business Enterprise shall mean a business enterprise whose three (3) year average annual gross revenues does not exceed \$3.5 million.
4. Disabled Veteran Business Enterprise (DVBE): For the purpose of this program, Disabled Veteran Business Enterprise shall mean a business enterprise that meets the following criteria:
 - a. A business that is at least 51 percent owned by one or more disabled veterans.

- b. A business whose daily business operations must be managed and controlled by one or more disabled veterans.
5. Other Business Enterprise (OBE): For the purpose of this program, Other Business Enterprise shall mean any business enterprise which either does not otherwise qualify or has not been certified as a Minority, Women, Small, Emerging, and/or Disabled Veteran Business Enterprise.
 6. Minority person: For the purpose of this program, the term "Minority person" shall mean African Americans; Hispanic Americans; Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians); Asian-Pacific Americans (including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas); and Subcontinent Asian Americans (including persons whose origins are from India, Pakistan and Bangladesh).
 7. Disabled Veteran: For the purpose of this program, the term "Disabled Veteran" shall mean a veteran of the U.S. military, naval, or air service; the veteran must have a service-connected disability of at least 10% or more, and the veteran must reside in California.
 8. Certification must be current on the date the task work order for the project is assigned if credit is to be allowed towards the anticipated levels of MBE, WBE, SBE, EBE, and/or DVBE participation on this contract.
 - a. Certification as a Minority or Women Business Enterprise: an MBE/WBE must be certified by 1) City of Los Angeles, Bureau of Contract Administration; 2) State of California Department of Transportation (CalTrans); 3) Los Angeles County Metropolitan Transportation Authority (Metro); 4) Southern California Minority Business Development Council; or 5) any certifying agency that is a part of the State of California Unified Certification Program (CUCP) so long as the certification meets all of the City of Los Angeles' MBE/WBE certification requirements.

Applications for certification and directories of MBE/WBE certified firms are available at the following locations:

- a. City of Los Angeles
 Bureau of Contract Administration, Office of Contract Compliance
 1149 S. Broadway, Suite 300, Los Angeles, CA 90015
 Telephone: (213) 847-2684 FAX: (213) 847-2777
 Internet address: <http://www.lacity.org/BCA>
- b. CalTrans
 State of California, Department of Transportation, Civil Rights Group
 1823 14th Street, Sacramento, CA 95814
 Telephone (916) 324-1700
 To order a directory, call (916) 445-3520
 Internet address: <http://www.dot.ca.gov/hq/bep/>
- c. Los Angeles County Metropolitan Transportation Authority
 Equal Opportunity Department
 1 Gateway Plaza, Los Angeles, CA 90012
 Telephone: (213) 922-2600 FAX: (213) 922-7660

Internet address: <http://www.mta.net>

- d. Southern California Minority Business Development Council, Inc. (for a fee)
800 W. 6th Street, Suite 850, Los Angeles, CA 90017
Telephone: (213)689-6960 Fax: (213) 689-1707
Internet address: www.scmbdc.org

9. Business Inclusion Program Outreach Documentation: The respondent must take affirmative steps prior to submission of their RFQ response to ensure that a maximum effort is made to recruit potential subconsultants. Minority, women, small, emerging, disabled veteran owned and controlled businesses must be considered along with other business enterprises whenever possible as sources of subconsulting services. Affirmative steps for BIP Outreach Documentation are outlined in Paragraph C herein. The BIP Outreach Documentation must be submitted as described in Paragraph C herein. Failure to submit the BIP Outreach Documentation will render the response non-responsive.
10. Subcontract: For the purpose of this program, the term "Subcontract" denotes an agreement between the prime Consultant and an individual, firm or corporation for the performance of a particular portion(s) of the work which the prime Consultant has obligated itself.
11. Subconsultant: An individual, firm, or corporation having a direct contract with the consultant for the performance of a part of the work which is proposed to be constructed or done under the contract or permit, including the furnishing of all labor, materials, or equipment. For the purposes of this Program, a subconsultant may also be referred to as a subcontractor.
12. Vendor and/or supplier: 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 bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and its own name, the purchase and sale of the 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 owns or operates distribution equipment.
13. Manufacturer: A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
14. Broker: A firm that charges for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, insurance or bonds, materials or supplies required for performance of the contract. The fee or commission is to be reasonable and not excessive as compared with fees customarily allowed for similar services.
15. Participation Recognition: This applies to recognition as an MBE, WBE, SBE, EBE, DVBE.
- a. All listed MBE, WBE, SBE, EBE, and/or DVBE firms must be certified as defined under Paragraph B, Definitions, Item 4, on the date the task work order for the project is assigned before credit may be allowed toward the respective MBE, WBE, SBE, EBE, and/or DVBE pledged participation level.
- b. Work performed by a MBE, WBE, SBE, EBE, and/or DVBE prime consultant will not be considered when determining a prime consultant's BIP Outreach. The prime consultant will be required to make a BIP Outreach to obtain reasonable anticipated MBE, WBE, SBE, EBE, and/or

DVBE participation levels through subconsulting or materials and supplies acquisition.

- c. Recognition for materials and/or supplies is limited to 60 percent of the amount to be paid to the vendor for such materials/supplies in computing the pledged levels of MBE, WBE, SBE, EBE, and/or DVBE participation, unless the vendor manufactures or substantially alters the materials/supplies.
- d. MBE, WBE, SBE, EBE, and/or DVBE credit for brokers required for performance of the contract is limited to the reasonable fee or commission charged, as not considered excessive, as compared with fees customarily allowed for similar services.
- e. A firm which qualified as both a MBE and a WBE will be credited as either MBE participation or as WBE participation, but will not be credited for both. However, a MBE and/or WBE firm may also receive SBE, EBE and/or DVBE credit if so qualified.
- f. A listed MBE, WBE, SBE, EBE, and/or DVBE firm must be potentially available to perform a commercially useful function, i.e., must be potentially responsible for the execution of a distinct element of the work and potentially available to carry out its responsibility by performing, managing and supervising the work.
- g. MBE/WBE credit shall not be given to a Joint Venture partner listed as a subconsultant by a Joint Venture respondent.
- h. A SBE, EBE, DVBE prime consultant shall receive pledged participation credit for the work performed by its own workforce.

C. BIP OUTREACH DOCUMENTATION

It is the policy of the City of Los Angeles to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Small Business Enterprises (SBEs), Emerging Business Enterprises (EBEs), Disabled Veteran Business Enterprises (DVBEs), and all Other Business Enterprises (OBEs) an equal opportunity to participate in the performance of City contracts. In order to maximize this participation while minimizing the administrative impact on city staff and RFQ respondents alike, the Mayor's Office has developed a Business Inclusion Program (BIP). The BIP requires City departments to set anticipated participation levels based on the opportunities presented in their advertised contracts and department's achievement of its annual goals. A respondent's BIP Outreach to MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs shall be determined by their compliance with the following BIP Outreach process which will be performed on the City's Business Assistance Virtual Network (BAVN). The BAVN can be accessed by going to the City's Webpage (www.lacity.org) and linking onto "Bids, RFPs & Grants" or directly at www.labavn.org. Failure to meet the anticipated MBE, WBE, SBE, EBE, and/or DVBE participation levels will not by itself be the basis for disqualification or determination of noncompliance with this policy. **However, failure to comply with the BIP Outreach documentation requirements as described in this section will render the RFQ response non-responsive and will result in its rejection.** *Compliance with the BIP Outreach requirements is required even if the proposer has achieved the anticipated MBE, WBE, SBE, EBE, and DVBE participation levels.* Adequacy of a bidder's BIP Outreach will be determined by the Board after consideration of the indicators of BIP Outreach as set forth below.

Any technical difficulties while utilizing the BAVN should be reported immediately using the following steps:

1. Email BAVN Support at ITA.BAVN@lacity.org.
2. Email [enter Department contact name and e-mail address].

3. If you are not contacted within 15 minutes during normal City working hours (7:00 a.m. to 4:30 p.m. Monday-Friday), call [enter Department contact name and e-mail address].

If the above procedures are not followed as stipulated, incomplete outreach and/or incomplete documentation may not be accepted.

Each indicator (2-7) is evaluated on a pass/fail basis. All indicators (2-7) must be passed to be deemed responsive. Only BIP Outreach documentation submitted under the bidders name will be evaluated. Therefore, submission by a third party will result in the bidder being deemed non-responsive.

1	LEVEL OF ANTICIPATED MBE, WBE, SBE, EBE, and DVBE PARTICIPATION
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The proposer has performed a BIP Outreach in an attempt to obtain potential subconsultant participation by MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs which could be expected by the City to produce a reasonable level of participation by interested business enterprises, including the MBE, WBE, SBE, EBE and DVBE anticipated percentages set forth on Page 1 herein and to have the proposer meet the subconsulting expectations for the project.

2	ATTENDED PRE-BID MEETING
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The proposer attended the pre-proposal meeting scheduled by the Project Manager to inform all proposers of the requirements for the project for which the contract will be awarded. This requirement may be waived if the proposer certifies it is informed as to those project requirements and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months.

Required Documentation: An employee of the proposer's company must attend the pre-submittal meeting scheduled for this project. Credit may not be given if the employee arrives late or fails to sign the pre-submittal meeting attendance roster. This requirement will be waived if the proposer both certifies in writing that it is informed as to the BIP Outreach requirements for the project and has participated in a City-sponsored or City-approved matchmaking event in the prior 12 months as is evidenced by the event attendance documents.

Note: If the RFQ states that the pre-submittal meeting is mandatory, then attendance at the pre-submittal meeting is the only way to pass this indicator.

3	SUFFICIENT WORK IDENTIFIED FOR SUBCONSULTANTS
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The proposer has identified the minimum number, as determined by the Department, of specific items of work that will be performed by subconsultants. This will ensure an opportunity for subconsultant participation among MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs.

Required Documentation: Outreach via e-mail in the selected potential work items. This outreach must be performed using the BAVN's BIP Outreach system. The outreach must be to potential MBE, WBE, SBE, EBE, DVBE, and OBE subconsultants who are currently registered on the BAVN. Failure of the proposer to outreach in all of the potential work items selected by the City as potential subconsulting work items may result in the RFQ response being deemed non-responsive.

Note: City staff will access the BAVN and verify compliance with this indicator after the RFQ submission deadline.

4	WRITTEN NOTICES TO SUBCONSULTANTS
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All notifications must be provided utilizing BAVN, and made not less than **fifteen (15) calendar days** prior to the date the RFQ responses are required to be submitted. In all instances, proposers must document that invitations for subconsulting bids were sent to available MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs for each item of work to be performed.

Required Documentation: E-mail notification in each of the selected potential work items to potentially available MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs for each anticipated work item to be performed. The notification must be performed using the BAVN's BIP Outreach system. The notification must be to potential subconsultants currently registered on the BAVN. If the proposer is aware of a potential subconsultant that is not currently registered on the BAVN, it is the proposer's responsibility to encourage the potential subconsultant to become registered so that the proposer can include them as part of their outreach. Notifications must contain areas of work anticipated to be subconsulted, City of Los Angeles project name, name of the proposer, and contact person's name, address, and telephone number. Proposers are required to send notifications to a sufficient number of firms comprised of MBEs, WBEs, SBEs, EBEs, DVBEs and OBEs in each potential work item chosen, as determined by the City. What is considered sufficient will be determined by the total number of potential subconsultants in each specific work item.

The City will determine each work area by the North American Industry Classification System (NAICS) code. The following table shows the sufficient number of MBE, WBE, SBE, EBE, DVBE and OBE subcontractors that need to be notified for each work area.

# of Subcontractors in NAICS Code	% Prime Must Notify	Number Prime Must Notify
1-10	100%	1-10
11-20	80%	9-16
21-50	60%	13-30
51-100	40%	21-40
101-200	25%	26-50
>200	10%	20+

A proposer's failure to utilize this notification function will result in their RFQ response being deemed non-responsive.

Note: Proposers will not be able to utilize the BAVN's BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the RFQ response submittal deadline. In utilizing the BAVN's notification function, proposers will receive a message if they have failed to outreach to a sufficient number of firms when they go to view their summary sheet. Proposers will be given an opportunity to include their own customized statements when utilizing the notification function. However, the City will take into consideration the wording and may deem a proposer non-responsive if the wording is perceived to seriously limit potential subconsultant responses. City staff will access the BAVN and verify compliance with this indicator after the RFQ submission deadline. Proposers are encouraged to print their BIP Outreach summary sheet prior to logging out as documented proof of their progress.

5	PLANS, SPECIFICATIONS AND REQUIREMENTS
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The proposer provided interested potential subconsultants with information about the availability of project scope, services requested, and other requirements for the anticipated subconsulting work.

Required Documentation: Include in Indicator 4, information detailing how, where and when the proposer will make the required information available to interested potential subconsultants. The notification must be performed using the BAVN's BIP Outreach system.

Note: For purposes of RFQs, making a copy of the RFQ available to potential subconsultants will meet this requirement. At the time a proposer utilizes the BAVN's BIP Outreach notification function, the required information will automatically be included in the notification. Proposers will not be able to utilize the BAVN's BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the RFQ response submittal deadline. City staff will access the BAVN and verify compliance with this indicator after the RFQ submission deadline.

6	NEGOTIATED IN GOOD FAITH
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The proposer has responded to every unsolicited offer sent by a Registered Subcontractor using BAVN and has evaluated in good faith bids or proposals submitted by interested potential MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs. Proposers must not unjustifiably reject as unsatisfactory a bid or proposal offered by a Registered Subcontractor, as determined by the Awarding Authority. The proposer must submit a list of all subcontractors for each item of work, including dollar amounts of bids or proposals received. This list must include an explanation of the evaluation that lead to the bid or proposal being rejected and the explanation must have been communicated to the subcontractor using BAVN.

Required Documentation:

- a) Schedule A List of Potential MBE/WBE/SBE/EBE/DVBE/OBE Subconsultants;
- b) An online Summary Sheet organized by work area, listing the following:
 - 1) The responses and/or bids received;
 - 2) The name of the subconsultant who submitted the bid/quote;
 - 3) A brief reason given for selection/non-selection as a subconsultant;
- c) Copies of all potential MBE/WBE/SBE/EBE/DVBE/OBE bids or quotes received must be submitted prior to award of a contract by the City;

The reasons for selection/non-selection should be included in the notes section of the online Summary Sheet. If the proposer elects to perform a listed work area with its own forces, they must include a bid/quote for comparison purposes and an explanation must be provided and included on the summary sheet. **All bids/quotes received, regardless of whether or not the proposer outreached to the subconsultant, must be submitted and included on the on-line Summary Sheet.** To that extent, the City expects the proposer to submit a bid from each subconsultant listed on the online Summary Sheet, including those listed on the proposer's Schedule A. **All potential subcontractors with whom the bidder has had contact outside of the BAVN must be documented on the online Summary Sheet.**

The summary sheet must be performed using the BAVN's BIP Outreach system and must be submitted by 4:30 p.m. on the first calendar day following the day of the RFQ response submittal deadline. If a bid/quote is

submitted by a firm that is not registered with the BAVN, the proposer is required to add that firm to their summary sheet. A proposer's failure to utilize the BAVN's summary sheet function will result in their RFQ response being deemed non-responsive.

Note: For the purposes of this RFQ only, letters of intent acknowledging a potential subconsultant's interest in being contacted for work and/or hourly rates for their type of work will be considered the "bids or quotes received." Staff will request copies of all of the bids/quotes received as part of the BIP Outreach evaluation process. Proposers must have a bid/quote from each potential subconsultant listed on their Schedule A prior to submission of the Schedule A. The submission of the Schedule A is outlined in G herein. Proposers are encouraged to submit all of their bids/quotes with their RFQ response submittal. Proposers will not be able to edit their summary sheet on the BAVN's BIP Outreach summary sheet function after 4:30 p.m. on the first calendar day following the day of the RFQ response submittal deadline. City staff will access the BAVN and verify compliance with the summary sheet provision of this indicator after the RFQ submission deadline. Proposers are required to have each of the subconsultants on their Schedule A registered on the BAVN prior to being awarded the contract.

7	BOND, LINES OF CREDIT, AND INSURANCE ASSISTANCE
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Each notification by the proposer shall also include an offer of assistance to interested potential MBEs, WBEs, SBEs, EBEs, DVBEs, and OBEs in obtaining bonds, lines of credit, or insurance required by the Awarding Authority or proposer.

Required Documentation: Include in Indicator 4, information about the proposer's efforts to assist with bonds, lines of credit and insurance. The notification must be performed using the BAVN's BIP Outreach system.

Note: At the time a proposer utilizes the BAVN's BIP Outreach notification function, the required information will automatically be included in the notification. Proposers will not be able to utilize the BAVN's BIP Outreach notification function if there are less than fifteen (15) calendar days prior to the RFQ response submittal deadline. Proposers will be given an opportunity to include their own customized statements when utilizing the notification function. However, the City will take into consideration the wording and may deem a proposer non-responsive if the wording seriously limits potential subconsultant responses or is deemed contrary to the intent of this indicator. City staff will access the BAVN and verify compliance with this indicator after the RFQ submission deadline.

The proposer shall submit completed BIP Outreach documentation either via the BAVN's BIP Outreach system or prior to award, as specified for each indicator. The Awarding Authority in its review of the BIP Outreach documentation may request additional information to validate and/or clarify that the BIP Outreach submission was adequate. Any additional information submitted after the response due date and time will be treated at a higher level of scrutiny and may require third Party documentation in order to substantiate its authenticity. Such information shall be submitted promptly upon request by the Awarding Authority.

D. AWARD OF CONTRACT

The Awarding Authority reserves the right to reject any and all RFQ responses. The award of a contract will be to the responsive, responsible proposer whose proposal complies with all requirements prescribed herein. This includes compliance with the required Business Inclusion Program Outreach. A positive and adequate demonstration to the satisfaction of the Awarding Authority that a BIP Outreach to include potential MBE/WBE/SBE/EBE/DVBE/OBE subconsultants' participation was made is a condition for eligibility for award of the contract.

In the event that the Awarding Authority considers awarding away from a proposer because of the proposer's failure to supply adequate BIP Outreach documentation, the Awarding Authority shall afford the proposer an opportunity to present further evidence to the Awarding Authority prior to a public hearing of the proposer's BIP Outreach evaluation.

E. SUBCONSULTANT SUBSTITUTION

In addition to the requirements set forth in the provisions pertaining to the listing of potential subconsultants, the following shall apply for the purpose of this program:

1. Substitution During Contract Duration: The contract award requires that the level of all subconsultant participation shall be maintained throughout the duration of the contract. To this extent, any unapproved reduction in the listed subcontract amount will be considered an unauthorized substitution.
 - a. The Consultant shall request approval of the Awarding Authority or its designee for all substitutions of bid-listed (Schedule B) subconsultants.
 - b. The request shall be in writing and submitted to the designated Project Manager for the Awarding Authority. The request shall give the reason for the substitution, the name of the subconsultant and the name of the replacement.
2. MBE/WBE/SBE/EBE/DVBE/OBE Subconsultant Substitution: The Awarding Authority requires that whenever the Consultant seeks to substitute a bid-listed (Schedule B) subconsultant, the Consultant must make a BIP Outreach to replace the subconsultant.
 - a. The Consultant shall contact some of each of the following: certified MBE, certified WBE, certified SBE, certified EBE, certified DVBE, and OBE sub-bid prospects from each trade (see Schedule A) for which sub-bid/subconsulting work is available and document the following for submittal:
 1. Name of company contacted; contact person and telephone number; date and time of contact.
 2. Response for each item of work which was solicited, including dollar amounts.
 3. Reason for selection or rejection of sub-bid prospect.
 4. In the event that the Consultant is unable to find some certified MBE, certified WBE, certified SBE, certified EBE, certified DVBE, and OBE sub-bid prospects, (first from their Schedule A, then from other outreach methods) for each trade, the Consultant should contact the Awarding Authority for assistance prior to certifying under penalty of perjury that it was unable to fully meet this requirement.
 - b. The Consultant shall submit all documentation to the Awarding Authority's Project Manager for review and approval.
3. In the event that a subcontract is reduced due to a project change that will not be specified in a change order, the Consultant shall request approval for reducing the subcontract by documenting the following for submittal:

- a. The name of the company for which the subcontract reduction is requested and the dollar amount of the reduction.
- b. The reason for the reduction. Specific details should be given in order for the Consultant's request to be processed promptly.
- c. The Consultant shall submit all documentation to the Awarding Authority's Project Manager for review and approval.

F. SUB-AGREEMENT FALSIFICATION

Falsification or misrepresentation of a sub-agreement as to company name, contract amount and/or actual work to be done by the sub-bidder/subconsultant will result in sanctions set forth in provisions pertaining to listing of subconsultants.

G. SUBMITTAL DOCUMENTS

1. List of Potential MBE/WBE/SBE/EBE/DVBE/OBE Subconsultants (Schedule A)

Proposers shall submit with their RFQ response the List of Potential MBE/WBE/SBE/EBE/DVBE/OBE Subconsultants, provided here in as Schedule A. The proposer shall list the name, address, telephone, contact person and a description of work or supplies to be provided by each of the firms which may be utilized to perform portions of work in a specific bid. This list is considered the proposers list of prequalified subconsultants which will be utilized when preparing a proposal for a specific project or task work order. For this reason, it is expected that the proposer will list multiple potential subconsultants for each specific area of work. Proposers are expected to only use the firms listed on the Schedule A when preparing a proposal for a specific project or task work order. In the event that the proposer has either a desire to update their Schedule A or a need to solicit subconsultants that are not on the Schedule A, the proposer will be expected to perform an outreach which, at a minimum, conforms to the requirements set forth under "E. Subconsultant Substitution" of this document.

2. Task Work Order List of Subconsultants (Schedule B)

At the time a specific task work order is assigned to the consultant, the consultant must submit the Task Work Order List of Subconsultants (Schedule B). The Schedule B is required prior to commencement of work. The consultant is committing itself to utilizing the subconsultants listed on this schedule for the portions of work and subcontract amounts for which they are listed. It is expected that the subconsultants listed on the Schedule B will be from the pool of potential subconsultants listed on the Schedule A. If the consultant needs to list subconsultants that are not on their Schedule A, the consultant needs to refer to the directions included under "1. List of Potential MBE/WBE/SBE/EBE/DVBE/OBE Subconsultants (Schedule A)" for additional details on the process for adding subconsultants to their Schedule A.

3. MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile (Schedule C)

During the term of the contract, the consultant must submit a separate MBE/WBE/SBE/EBE/DVBE/OBE Utilization Profile (Schedule C) for each Task Work Order when submitting an invoice to the City.

4. Final Subconsulting Report (Schedule D)

Upon completion of each task work order, a summary of these records shall be prepared on the "Final Report of Subconsulting and Purchases" form (Schedule D) and certified correct by the consultant or its

authorized representative. The completed form shall be furnished to the Awarding Authority within 15 working days after completion of the task work order.

H. RESPONSIBILITY FOR IMPLEMENTATION AND MONITORING

The Awarding Authority which acts as the City's Project Manager for the resulting contract will be the responsible entity for proper implementation and monitoring of the policy.

I. AWARD OF CONTRACT

Nothing herein restricts the discretion of the Awarding Authority to reject all proposals in accordance with Charter Section 371.

Schedule A
LIST OF POTENTIAL MBE/WBE/SBE/EBE/DVBE/OBE SUBCONSULTANTS
 (NOTE: COPY THIS PAGE AND ADD ADDITIONAL SHEETS AS NECESSARY, SIGN ALL SHEETS)

Name of Consultant/Contractor: _____

No.	Company Name Address Telephone/Contact Person	License No.	MBE/WBE/ SBE/EBE/ DVBE/OBE	Description of work to be performed.

NOTE: I hereby declare that I will be utilizing this list to solicit proposals from these subconsultants before responding to (a specific project/individual Task Work Orders) under the [Insert RFQ Name].

Signature of Person Completing this Form

Printed Name of Person Completing this Form

Title

Date

MUST BE SUBMITTED WITH BID

SCHEDULE B
TASK WORK ORDER LIST OF SUBCONSULTANTS
 (NOTE: COPY THIS PAGE AND ADD ADDITIONAL SHEETS AS NECESSARY, SIGN ALL SHEETS)

Project Title	Work Order Number
---------------	-------------------

Contractor	Address
Contact Person	Phone/Fax

LIST OF ALL SUBCONSULTANTS (SERVICE PROVIDERS/SUPPLIERS/ETC.)				
NAME, ADDRESS, TELEPHONE NO. OF SUBCONSULTANT	DESCRIPTION OF WORK OR SUPPLY	MBE/WBE/SBE/EBE/DVBE/OBE	CALTRANS/CITY/MTA CERT. NO.	DOLLAR VALUE OF SUBCONTRACT

PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION		
	DOLLARS	PERCENT
TOTAL MBE AMOUNT	\$	%
TOTAL WBE AMOUNT	\$	%
TOTAL SBE AMOUNT	\$	%
TOTAL EBE AMOUNT	\$	%
TOTAL DVBE AMOUNT	\$	%
TOTAL OBE AMOUNT	\$	%
BASE BID AMOUNT	\$	

Signature of Person Completing this Form

Printed Name of Person Completing this Form

Title Date

MUST BE SUBMITTED PRIOR TO THE ISSUANCE OF THE NOTICE TO PROCEED

**SCHEDULE C
MBE/WBE/SBE/EBE/DVBE/OBE UTILIZATION PROFILE**

Project Title	Contract No.
----------------------	---------------------

Consultant	Address
Contact Person	Phone/Fax

CONTRACT AMOUNT (INCLUDING AMENDMENTS)	THIS INVOICE AMOUNT	INVOICED TO DATE AMOUNT (INCLUDE THIS INVOICE)

MBE/WBE/SBE/EBE/DVBE/OBE SUBCONTRACTORS (LIST ALL SUBS)					
NAME OF SUBCONTRACTOR	MBE/WBE/ SBE/EBE/ DVBE/OBE	ORIGINAL SUBCONTRACT AMOUNT	THIS INVOICE (AMOUNT NOW DUE)	INVOICED TO DATE (INCLUDE THIS INVOICE)	SCHEDULED PARTICIPATION TO DATE

CURRENT PERCENTAGE OF MBE/WBE/SBE/EBE/DVBE/OBE PARTICIPATION TO DATE			Signature of Person Completing this Form:
	DOLLARS	PERCENT	
TOTAL MBE PARTICIPATION	\$	%	Printed Name of Person Completing this Form:
TOTAL WBE PARTICIPATION	\$	%	
TOTAL SBE PARTICIPATION	\$	%	
TOTAL EBE PARTICIPATION	\$	%	
TOTAL DVBE PARTICIPATION	\$	%	
TOTAL OBE PARTICIPATION	\$	%	
			Title: _____ Date: _____

MUST BE SUBMITTED WITH EACH INVOICE

**SCHEDULE D
FINAL SUBCONTRACTING REPORT**

Project Title		Contract No.
Company Name	Address	
Contact Person	Phone	

Name, Address, Telephone No. of all Subconsultants Listed on Schedule C	Description of Work or Supply	MBE/WBE/SBE/EBE/DVBE/OBE	Original Dollar Value of Subcontract	Actual Dollar Value of Subcontract*

* If the actual dollar value differs from the original dollar value, explain the differences and give details.

	Total Dollars	Achieved Levels	Pledged Levels		Total Dollars	Achieved Levels	Pledged Levels
MBE Participation				WBE Participation			
SBE Participation				EBE Participation			
DVBE Participation				OBE Participation			

Signature of Person Completing this Form Printed Name Title Date

SUBMIT WITHIN 15 DAYS OF TASK WORK ORDER COMPLETION