DBE LANGUAGE FOR PUBLIC WORKS BIDS

The Sewerage and Water Board of New Orleans established the Economically Disadvantaged Business Program to offer Disadvantaged Business Enterprises (DBEs) the maximum allowable opportunity to compete for the award of and participation in Board contracts and subcontracts.

All solicitations for bids for contracts where DBE percentage goals have been established and recommended by the Contract Review Committee (CRC) and approved by the Board, shall inform all Bidders of the DBE requirements that must be submitted to the Board as part of the bid. The award of the contract will depend on the DBE requirements set below.

DBE Contract Percentage Goal _20%_____

See Attachment Section for DBE Forms
Each Bidder must submit the following forms in completion:

1. EDBP Participation Summary Sheet Form
    - Name, address and phone number of each DBE Firm
    - Scope of Work
    - Dollar Value for each DBE
    - Signature of Prime on Form

2. EDBP Acknowledgement of Negotiated Terms Form
    - Name, address and phone number of DBE Firm
    - Scope of Work
    - Dollar Value
    - Signatures of Prime and DBE subcontractor on Form

An Acknowledgement Form must be completed for each DBE Firm.

The Board expects Bidders to ensure every effort has been made to meet the DBE goals by utilizing the current listings of approved SLDBE and LaUCP vendors. The current listing of approved DBE vendors, DBE compliance, and instructions regarding submission of "good faith effort" are available at the Board's website at https://www.swbno.org/Business/DisadvantagedBusinesses.

Failure to complete and submit the DBE forms according to the above instructions will render your bid non-responsive.

ACKNOWLEDGEMENT
OF NEGOTIATED TERMS BETWEEN
PRIME CONTRACTOR AND DBE SUBCONTRACTOR

Solicitation: Contract #1444-West Power Complex Fuel Delivery System

This form acknowledges that the Prime _____

and DBE Subcontractor _____

Certification: ☐ SLDBE or ☐ LAUCP

have agreed to the following terms of service:

Scope of Work:

DBE Address: _____

_____

DBE Phone Number: _____

Please note: Scope of work should describe the agreed upon terms between the Prime and DBE.

Dollar Amount of DBE Work: _____

By signing this acknowledgement, the Prime Contractor and DBE Subcontractor affirm that it will perform the Scope of Work for the estimated total dollar value stated. Both parties hereby certify that the information contained herein is true and correct.

FAILURE TO SUBMIT THIS FORM COMPLETED WITH SIGNATURES WILL RENDER BID/PROPOSAL NON-RESPONSIVE.

PRIME CONTRACTOR:

Printed Name: _____

Signature: _____

Date: _____

DBE SUBCONTRACTOR:

Printed Name: _____

Signature: _____

Date: _____

ECONOMICALLY DISADVANTAGED BUSINESS PARTICIPATION SUMMARY SHEET

Minimum Percentage Goal Participation for this Contract is 20 %

Contract Name and Number # Cont. # 1444;West Power Complex Fuel Delivery System

Name and Address of Disadvantaged Business Enterprise Company	Name of Contact Person	Scope of Work to be Performed	Dollar Amount of work to be performed	Percentage of Dollar Amount to Total Bid Price

THIS FORM MUST BE COMPLETED AND SUBMITTED WITHIN TIMEFRAME STIPULATED IN BID SPECIFICATIONS. FAILURE TO DO SO WILL RENDER THE BID NON-RESPONSIVE.

NOTE: Signature required even if judged NOT APPLICABLE by the BIDDER

Prime Representative Name: _____

Prime Signature: _____

Prime Company's Name: _____

Date: _____

Prime Address: _____

E-mail: _____

_____

Telephone Number: _____

Revised December 9, 2024

Disadvantaged Business Enterprise Program Policy for Construction Projects

The Sewerage and Water Board of New Orleans has authorized the Economically Disadvantaged Business Program (EDBP) and Construction Review Committee (CRC) to establish a 15% DBE goal for this project. Bidders are required to utilize the race and gender-neutral SLDBE and/or LA-UCP directory of certified Disadvantaged Business Enterprise vendors. The awarded bidder must illustrate a plan to meet the established goal by listing certified DBEs that they have engaged to participate as subcontractors.

1. Policy:

It is the policy of the Board that DBE firms, as defined in the Board's Disadvantaged Business Enterprise Plan, shall have the maximum allowable opportunity to compete for the award of the participation in the performance of the Board's publicly bid contracts. Consequently, the CRC and the Board have set the DBE participation goal applicable to this construction project. The Board and its contractors shall not discriminate based on race, color, national origin, or sex in the award and performance of the Board's publicly bid projects.

2. DBE Obligation:

The Board and its contractors agree to ensure that DBE's, as defined in the Board's Disadvantaged Business Enterprises Plan, shall have the maximum allowable opportunity to compete for the award of the participation in the performance of contracts and subcontracts provided under this agreement. In this regard, contractors shall take all necessary and reasonable steps in accordance with this DBE Plan to ensure that DBE's have the maximum allowable opportunity to compete for such contracts. The Board and its contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of the Board's publicly bid contracts.

3. Utilization of DBE Vendor Listings:

All bidders are required to utilize the most recent Sewerage and Water Board State-Local Disadvantaged Business Enterprise Program Approved Vendor Listings for Construction, Goods & Services/Professional Services, in their selection of DBE entities to meet DBE participation goals. The LA-UCP Certified Listing is considered an acceptable alternative. Bidders are required to utilize DBEs as subcontractors or suppliers only in the areas for which they are certified, and performing commercial useful functions which are consistent with the work required on this contract. A description of the areas of work that DBE's can provide is contained in these vendor listings. In addition, an alphabetical list

of vendors/contractors is provided indicating the name of the company, address, name of owner, telephone number, fax number, the date the company became certified, and a description of the work that these entities are certified to perform. Companies that are already certified as a DBE cannot fulfill the DBE requirements by listing themselves as the subcontractor to meet the DBE goal. The prime contractor shall select another DBE from the Sewerage and Water Board's Approved Vendor Listing.

4. Contacting DBE's and Obtaining a Firm Price

All prime contractors are required to contact DBEs and obtain a firm price before listing the DBEs on the Participation Summary Sheet. As confirmation of established contact, bidder will submit the Acknowledgement of Negotiated Terms Between Prime Contractor and DBE Subcontractor Form that reaffirms agreement of scope of work and monetary compensation. These forms, included in this bid specification, are to be submitted no later than stipulated in bid/proposal specifications to submit other additional information.

5. Setting Minimum Participation Goals:

The stated minimum percentage DBE participation goal established by CRC and approved by the Board applies to the work of this contract. The two lowest numerical bidders must complete and submit a DBE Participation Summary Sheet, and other required documents, as stipulated in bid specifications, no later than three (3) days after the bid opening (excluding Saturdays, Sundays and holidays). The DBE Participation Summary Sheet should be completed properly, showing that at least the percentage goal of the total contract bid price will be subcontracted or otherwise awarded through procurement action to DBE's. The Board's DBE Officer may, if deemed advisable, request further information, explanation or justification from any bidder. Should the bidder fail to comply with these requirements, the bid shall be considered non-responsive, unless:

a. An affidavit is furnished by the bidder with its bid showing that the DBE goals cannot be met for the following reasons:

(1) No DBE firms made offers. Here, it must be shown, documented and demonstrated that good faith efforts (as defined in Part III, D, 2. of the Board's DBE plan) were made by the bidder to obtain the participation of DBE firms and that they did not respond, or

(2) The DBE offers made and accepted for subcontract and/or material supplies do not total the stated goal for participation, but total a lesser percentage, and

(3) The bidder was unable to obtain DBE further participation, despite his or her demonstrated good faith efforts (as defined in Part III, D, 2 of the Board's DBE Plan) to obtain additional participation by DBE firms.

b. Each of the assertions made by the bidder must be supported by documentary evidence.

6. Determination of Efforts to Meet Goals:

Initial determination of bidder efforts to meet the DBE participation goal shall be based on the DBE participation representations submitted by the two lowest numerical bidders no later than three (3) days after the bid opening (excluding Saturdays, Sundays and holidays). Bidders shall submit all the forms required herein no later than three (3) days after the bid opening (excluding Saturdays, Sundays and holidays), and the DBE Office will examine the contents thereof. The Board's DBE Officer may, if deemed advisable, request further information, explanation or justification from any bidder. Bidders shall submit all documents as instructed above, unless stated otherwise within Bid Specification.

7. Good Faith Efforts:

The Board expects bidders to meet the established DBE participation goal or demonstrate a good faith effort to meet the goal. If proposers are unable to meet the goal, Documentation of Good Faith Effort must be submitted along with all required bid documents. The policy and required forms can be found on the SWBNO website at Disadvantaged Businesses - Sewerage & Water Board of New Orleans .

8. Failure to Comply with DBE Bid Specifications:

All bidders for this Board contract are hereby notified that failure to comply with the above DBE specifications may constitute the bid as being non-responsive, and sufficient cause for rejection.

9. Other Clauses Unaffected:

Nothing contained herein shall invalidate, change, annul, release, restrict, or affect the liability on the bonds or insurance given by the contractor, or the time required for completion of the contract.

10. Contract Monitoring:

The Board's DBE Office will monitor contractor during the operation of the contract to ensure that the contractor meets all of its DBE obligations as specified in the contract bid. The Board's DBE office shall establish rules and regulations, to be approved by the Board, for the ongoing monitoring of contractor compliance.

Disadvantaged Business Enterprise Program Office personnel or their designated representative shall be allowed to conduct periodic monitoring of contractors' compliance with the agreed to Disadvantaged Business Enterprise Program participation requirements. Contractors shall be required to complete and return to the Disadvantaged Business Enterprise Program Office in the time required all requests for information and data relative to the contractors' activities in meeting the required Disadvantaged Business Enterprise participation goal.

Additionally, Disadvantaged Business Enterprise Office personnel or their designated representative shall have access to contractor and subcontractor(s) records pertaining to, but not specifically limited to labor, costs and materials supplied and used on the Board contract, as well as inspection and photocopying of any and all contracts, agreements and correspondence relative to the Disadvantaged Business Enterprise contract participation requirements. Such inspection will be performed during normal business hours and will be conducted in such a fashion so as to minimize interference with production of the contract. Visits may be made to job sites, as well as to administrative offices of the contractor and subcontractor(s) participants. Such inspection and on-site visits may be scheduled with or without prior notice to the contractor or Disadvantaged Business Enterprise subcontractor participant. Contractors' failure to comply with these monitoring requirements may result in termination of the contract or such other remedy as deemed appropriate by Board.

11. Maintaining Records:

Subsequent to the completion of a contract, contractors are required to maintain for three (3) years such records as are necessary to determine compliance with their DBE obligations. During construction, or performance of the DBE obligations, contractors shall submit reports as requested to enable the DBE Office to monitor this compliance.

12. Umbrella Bonding:

On contracts where subcontracting exists and where practicable (i.e., when a substantial risk or financial hardship would not be incurred by the prime contractor), the contractor may use an umbrella bond to encompass the DBE firm.

13. Board Action to Seek Compliance:

The contractor consents to such appropriate actions taken to ensure that prime contractors and subcontractors comply with the DBE provisions, to include but not limited to:

a. desk audits to review all material, and information concerning the contractor's compliance;

b. on-site reviews that may include interviews, visits to project locations, and inspection of documents and/or information not available at the desk audit that pertains to the contractor's compliance;

c. any additional investigation that may be called for by a lack of proper record keeping, failure of the prime contractor to cooperate; failure of DBEs to cooperate; visible evidence unsatisfactory performance; other evidence as may warrant further investigation.

14. Non-Compliance Finding:

The Board staff will make compliance determinations regarding its prime contractors. Documentation of noncompliance will include the specific areas in which the contractors failed to comply. In these instances, appropriate legal action consistent with the DBE and other contract provisions will be taken.

15. Contractor's Duties

Record Keeping
Successful bidders shall establish and maintain records and submit regular reports to the DBE office as required, which will identify and assess progress in achieving DBE subcontract goals and other DBE participation efforts.

Failure To Comply With EDBP Participation Requirements

Failure to comply with any of the EDBP requirements of this contract shall constitute a violation of the terms and conditions of this contract and a cause for the termination of the contract at the option of the Board.

Such violations shall include, but not limited to:

- Failing to meet the percentage participation requirements as set out in the contract documents.

- Failing to use certified EDBP contractors/vendors in performing the scope of work as identified in the contract documents (EDBP participation summary sheet).

- Failing to comply with the "monitoring of EDBP requirements" included herein as part of the contract, such as contractors:

- Failure to submit monitoring reports and any other necessary reports timely and adequately as required by the EDBP Office.

- Failure to grant access to contractor/subcontractor records by EDBP Office personnel, and

- Failure to allow on-site investigations and visits, etc.

- Failing to report the removal or termination of a certified EDBP vendor /subcontractor.

- Failing to secure authorization for replacement of certified EDBP subcontractors from the Director of the Economically Disadvantaged Business Program.

In Lieu of termination the Board, through the EDBP Office, may impose the following penalties:

- Withhold from the contractor in violation up to 10% of all future payments due to the contractor, until such time as the violations have been corrected.

- Withhold from the contractor in violation, all future payments until such time as the violations have been corrected.

Subcontract Clause
All bidders and potential contractors must assure the Board that they will include the above clauses in all agreements, which offer further subcontracting opportunities.

Contract Award
Bidders are hereby advised that meeting DBE subcontract goals or making a demonstrated good faith effort to meet such goals are conditions of being awarded and maintaining construction, procurement, or professional services contracts by the Board.

Restrictions on DBE Subcontracting
No **DBE** subcontractor or vendor selected to perform work as a **DBE** on a Sewerage and Water Board contract will be allowed to subcontract any portion of its work to a non-Board

certified **DBE**, unless the work to be performed is necessary for the execution of the contract and there are no Board certified **DBE's** available to perform such work.

This process will require that each **DBE** participant performing work on a Sewerage and Water Board funded contract submit a request to subcontract out any portion of work deemed necessary for execution of the contract to the Board's **EDBP** office. On a form provided by the **EDBP** office, the **DBE** contractor or vendor will indicate the dollar amount of work to be subcontracted, the specific scope or nature of the work, the percentage of the total amount of work to be performed by the **DBE** subcontractor and vendor, and the entity to whom the work will be subcontracted.

Both prime and **DBE** subcontractors are advised that the failure to comply with these requirements may result in the loss of **DBE** certification and non-compliance by the prime contractor in meeting **DBE** contractual obligations.

Changes In DBE Participation
The Prime Contractor will not be allowed to make changes in DBE participation without submittal of a written request explaining reason, a revised Participation Summary Sheet and approval by the Director of the Economically Disadvantaged Business Program. Failure to comply with these requirements may result in non-compliance by the Prime Contractor in meeting DBE contractual obligations.

16. Failure to Carry Out DBE Policy:

All bidders, contractors, or subcontractors for this Board contract are hereby notified that failure to comply with the DBE policy and DBE obligations, set forth above, shall constitute a breach of contract which may result in termination of the contract or such other remedy as deemed appropriate by the Board, to include excluding bidder from bidding on future Board contracts.