



**MAYOR'S OFFICE OF EQUAL OPPORTUNITY**

**CLEVELAND AREA BUSINESS CODE**

**NOTICE TO BIDDERS**  
**&**  
**OEO SCHEDULES**

**City of Cleveland**  
**Justin M. Bibb, Mayor**

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**Tyson T. Mitchell, Director**  
Office of Equal Opportunity

## **EQUAL OPPORTUNITY CLAUSE**

**(Section 187.22(b) C.O.)**

Each Contract also shall contain the following equal opportunity clause:

“During the performance of this contract, the contractor agrees as follows:

- (1) The contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group or Vietnam-era or disabled veteran status. The contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group, or Vietnam-era or disabled veteran status. As used in this chapter, "treated" means and includes without limitation the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship, promoted, upgraded, demoted, downgraded, transferred, laid off and terminated. The contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the hiring representatives of the contractor setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal opportunity employer.
- (3) The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract, or understanding, a notice advising the labor union or worker's representative of the contractor's commitments under the equal opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) It is the policy of the City that local businesses, minority-owned businesses and female-owned businesses shall have every practicable opportunity to participate in the performance of contracts awarded by the City subject to the applicable provisions of the Cleveland Area Business Code.
- (5) The contractor shall permit access by the Director or his or her designated representative to any relevant and pertinent reports and documents to verify compliance with the Cleveland Area Business Code, and with the Regulations. All such materials provided to the Director or designee by the contractor shall be considered confidential.
- (6) The contractor will not obstruct or hinder the Director or designee in the fulfillment of the duties and responsibilities imposed by the Cleveland Area Business Code.
- (7) The contractor agrees that each subcontract will include this Equal Opportunity Clause, and the contractor will notify each subcontractor, material supplier and supplier that the subcontractor must agree to comply with and be subject to all applicable provisions of the Cleveland Area Business Code. The contractor shall take any appropriate action with respect to any subcontractor as a means of enforcing the provisions of the Code.”

**City of Cleveland  
Mayor's Office of Equal Opportunity**

**Cleveland Area Business Code**

**NOTICE TO BIDDERS**

**1. Introduction:**

The Cleveland Area Business Code contained in Chapter 187 of the Codified Ordinances of Cleveland, Ohio 1976 was enacted to increase the participation of minority-owned business enterprises, female-owned business enterprises, and local small business enterprises in City of Cleveland contracting. The Code also works to ensure that Contractors doing business with the City do not use discriminatory employment practices. Failure to comply with the Cleveland Area Business Code or with representations made on the attached Schedules may result in rejection of part or all of the bid, and/or cancellation of the contract.

**2. Definitions:**

As used in this Notice to Bidders and the attached OEO Schedules, the following words, phrases, and terms shall be defined as set forth below:

- (a) "Bidder" means a Person offering to contract with the City in response to an invitation to bid.
- (b) "Bid Discount" means the application of a percentage discount to the total amount of a bid submitted by a Bidder for a Contract solely for the purpose of bid comparisons when evaluating the lowest and best bid, or lowest responsible bid. The use of a Bid Discount for bid comparison does not alter the total amount of the bid submitted by a Bidder or the Contract executed based on a bid.
- (c) "Business Enterprise" means a firm, sole proprietorship, partnership, association, corporation, company, or other business entity of any kind including, but not limited to, a limited liability corporation, incorporated professional association, joint venture, estate, or trust.
- (d) "City" means the City of Cleveland, Ohio.
- (e) "City of Cleveland Small Business" or "CCSB" means a CSB that has its principal office located physically within the municipal boundaries of the City.
- (f) "Cleveland Area Small Business" or "CSB" means a Business Enterprise certified under division (a) of Section 187.03.
- (g) "Cleveland Contracting Market" or "Contracting Market" means the geographic market area consisting of Cuyahoga County, or the geographic market area identified in a disparity study or otherwise as provided in Section 187.28. As of June 8, 2018, the geographic market identified in a disparity study purposes for MBE and FBE certification and contracting benefits includes Cuyahoga County, Geauga County, Lake County, Lorain County, Medina County, Portage County, and Summit County, Ohio.
- (h) "Contract" means a binding agreement executed on or after the effective date of this Cleveland Area Business Code by which the City either grants a privilege or is committed to expend or does expend its funds or other resources, or confers a benefit having monetary value including, but not limited to, a grant, loan, interest in real or personal property, or tax incentive in any form for or in connection with any work, project, or public purpose.
- (i) "Contracting Department" includes any administrative department under charge of the Mayor or any office, board, or commission treated or construed as a department of City government for any purpose under the Charter or ordinances of the City for the benefit or program of which the City enters into a particular Contract.

- (j) "Contractor" means a separate or distinguishable Business Enterprise employing one or more persons and participating in the performance of a Contract, including but not limited to CSBs, MBEs and FBEs where applicable, and shall include a party in privity with a Contractor for implementation of a Contract.
- (k) "Director" means the Director of the Office of Equal Opportunity.
- (l) "Evaluation Credit" means a predetermined number of points in the evaluation of proposals submitted by a Bidder for a Contract to be added solely for the purpose of proposal comparison when evaluating competing proposals. The use of Evaluation Credits does not alter the amount of the proposal submitted by a Bidder or the Contract executed based on the proposal.
- (m) "Female" includes only a United States citizen or lawful, permanent resident who is a member of the female gender.
- (n) "Female Business Enterprise" or "FBE" means a Business Enterprise owned, operated, and controlled by one or more Females who have 51% ownership. The one or more Females must have operational and managerial Control, interest in capital, and earnings commensurate with the percentage of Female ownership. To qualify as a Female Business Enterprise, the Business Enterprise shall be located and doing business in the Cleveland Contracting Market.
- (o) "Local Contracting Market" or "Contracting Market" means the geographic market area consisting of Cuyahoga County, Geauga County, Lake County, Lorain County, and Medina County, Ohio; provided, however, that with respect to growers or producers of food only, the geographic market area also shall include: Erie County, Huron County, Richland County, Ashland County, Wayne County, Holmes County, Stark County, Summit County, Portage County, and Tuscarawas County.
- (p) "Local Producer" means a Person that:
  - (1) has its principal office (headquarters) located physically in the Local Contracting Market and whose highest executive officers and highest level managers maintain their offices and perform their respective executive and managerial functions and duties in the Local Contracting Market; and
  - (2)
    - A. grows food or fabricates goods, whether or not finished, from organic or raw materials;
    - B. processes goods, materials, food or other products so as to increase their commercial value by not less than 50%;
    - C. supplies goods by performing a Commercially Useful Function; or
    - D. provides, by its qualified full-time employees, maintenance, repair, personal, or professional services.
- (q) "Local-Food Purchaser" means a Business Enterprise that, in implementation of its City contract, purchases Local Food in an amount comprising not less than twenty percent (20%) of the Business Enterprise's City Contract amount.
- (r) "Local Sustainable Business" means a Business Enterprise that:
  - (1) has its principal office (headquarters) located physically in the Local Contracting Market and whose highest executive officers and highest level managers maintain their offices and perform their respective executive and managerial functions and duties in the Local Contracting Market; and
  - (2) has established sustainability goals for itself and is a member of or signatory to a nationally-recognized sustainability program, which goals and program have been determined acceptable by the City Chief of Sustainability or other officer designated by the Mayor.

- (s) "Minority Business Enterprise" or "MBE" means a Business Enterprise owned, operated and controlled by one or more Minority Persons who have at least 51% ownership. The Minority Person(s) must have operational and managerial Control, interest in capital, and earnings commensurate with the percentage of ownership. To qualify as a Minority Business Enterprise, the enterprise shall be located and doing business in the Cleveland Contracting Market.
- (t) "OEO" means the Office of Equal Opportunity of the City of Cleveland.
- (u) "Proposer" means any Person proposing to contract with the City in response to a request for proposals or other similar solicitation.
- (v) "Regional Cleveland Area Small Business" or "RCSB" means a CSB that has its principal office located physically within the territorial boundaries of Cuyahoga County but outside the municipal boundaries of the City.
- (w) "Regulation" or "Regulations" means and includes the regulations implementing this Code and promulgated by the Director of Equal Opportunity under division (b)(6) of Section 123.08 of these Codified Ordinances.
- (x) "Small Business Enterprise" or "SBE" means a Business Enterprise that meets the established economic criteria for a SBE and is owned, operated and controlled by one or more persons who meet the economic criteria for SBE ownership established by the Director in the Regulations.

### **3. Required OEO Schedules:**

The following documents must be completed, signed and submitted as part of the Contractor's bid or proposal for any City of Cleveland contract over \$50,000.00. Failure to submit all OEO Schedules may result in the rejection of a bid.

#### **Schedule 1: PROJECT CONTACT INFORMATION FORM**

Schedule 1, the PROJECT CONTACT INFORMATION FORM, provides the Office of Equal Opportunity with the necessary contact information to conduct its monitoring responsibilities. Each Bidder or Proposer shall complete, sign and submit Schedule 1 and include it with its bid or proposal.

#### **Schedule 2: CERTIFIED MBE/FBE/CSB SUBCONTRACTOR PARTICIPATION COMMITMENT**

Schedule 2, the CERTIFIED MBE/FBE/CSB SUBCONTRACTOR PARTICIPATION COMMITMENT, identifies and verifies the certified MBE, FBE, and/or CSB subcontractors the Bidder or Proposer intends to use on the project. Each Bidder or Proposer must complete Schedule 2 for each and every certified MBE, FBE and/or CSB subcontractor that the Bidder or Proposer intends to use on the project. Bidders or Proposers shall include the contract specification item number(s) on which the subcontractor will participate in Part 1, the scope, or supplies/materials that the subcontractor will be responsible for will be documented on Part 2, with the corresponding dollar amount for the subcontract on Part 3. The total dollar amount in Part 3 should be an actual dollar amount, and should not be a range of values or a percentage of the contract. If an MBE or FBE plans to re-subcontract any of its work, it must indicate that on Schedule 3. Any work re-subcontracted to a non-certified subcontractor will reduce the Bidder or Proposer's participation credit to the extent of the re-subcontracting.

#### **Schedule 3: SCHEDULE OF SUBCONTRACTOR PARTICIPATION**

Schedule 3, the SCHEDULE OF SUBCONTRACTOR PARTICIPATION, documents the non-certified subcontractors that the Bidder intends to use on the project. Schedule 3 must include the contact information for the subcontractor, the Spec Item and Type of Work or Materials the subcontractor is expected to provide for the project, and the value of the subcontract. All non-certified subcontractors must be listed on Schedule 3, but certified CSB, MBE and/or FBE Subcontractors that have already been listed on a Schedule 2 do not need to be included on Schedule 3. Schedule 3 must be signed by an authorized representative of the Bidder.

#### **Schedule 4: CSB/MBE/FBE UNAVAILABILITY/IMPRACTICALITY CERTIFICATION**

Schedule 4, CSB/MBE/FBE UNAVAILABILITY/IMPRACTICALITY CERTIFICATION, allows the Bidder or Proposer to document its good faith effort to achieve the CSB, MBE, and/or FBE subcontracting goals identified for the project in the bid documents. If a Bidder or Proposer has met or exceeded the subcontracting goals for the project, the Bidder or Proposer shall indicate this in Section A of Schedule 4. If the Bidder or Proposer has not met the subcontracting goals for the project, the Bidder or Proposer shall indicate this in Section A of Schedule 4, and complete Section B.

Section B of Schedule 4 allows the Bidder or Proposer to document its efforts to solicit certified subcontractor participation for the project, thereby meeting the good faith effort requirement of the bid. Section B also allows the Bidder or Proposer to attach a written document explaining why subcontracting to the goals included in the bid or proposal documents is impossible or impractical due to the nature of the work, service or product being contracted by the bid or proposal.

Failure to submit and accurately complete OEO Schedules 1, 2, 3, and 4 may result in the rejection of all or part of the bid or proposal. Submission of incomplete, inaccurate, or inconsistent data in the Schedules may lead to a formal investigation, decertification of the Bidder or Proposer, decertification of the subcontractor, and/or a rejection of all or part of the bid. The City of Cleveland reserves the right to waive any informality or immaterial irregularity, and reserves the right to reject any or all bids.

#### **4. Equal Employment Certification:**

No Contractor shall discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group or Vietnam-era or disabled veteran status. Contractors shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group or Vietnam-era or disabled veteran status. As used in this chapter, "treated" means and includes without limitation the following: recruited whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship, promoted, upgraded, demoted, transferred, laid off and terminated. Contractors shall post in conspicuous places available to employees and applicants for employment, notices to be provided by the hiring representative of contractors setting forth the provisions of this nondiscrimination clause.

Within 60 days after entering into a Contract, each Contractor shall file a written affirmative action program containing standards and procedures ensuring that the contractor affords all qualified employees and applicants for employment equal opportunities in the contractor's recruitment, selection, and advancement processes.

Each contractor's affirmative action program shall contain the following components:

- (1) A diagnostic component that includes quantitative analyses comparing the composition of the Contractor's workforce to the composition of the Cleveland Contracting Market employment pool according to the most current census data available, grouped by EEO occupations.
- (2) Each affirmative action program shall contain placement goals as follows:
  - (i) For each non-construction contract, placement goals equal to the availability percentage for women or minorities where the percentage of women or minorities employed by the contractor in a particular job group is less than would reasonably be expected given their percentage availabilities in the corresponding Cleveland Contracting Market employment pool. Placement goals are objective targets reasonably attainable by applying a good-faith effort to implement all aspects of the affirmative action program; they are not inflexible quotas. Placement goals do not authorize or require a Contractor to grant a preference to any individual or

adversely affect an individual's employment status for an unlawful discriminatory reason.

- (ii) For each construction contract, establish placement goals for minorities and women for each trade involved in the performance of the contract equal to the goals established by the Director. Placement goals are objective targets reasonably attainable by applying a good-faith effort to implement all aspects of the affirmative action program; they are not inflexible quotas. Placement goals do not authorize or require a contractor to grant a preference to any individual or adversely affect an individual's employment status for an unlawful discriminatory reason.
- (3) Identification of problem areas through analysis of the contractor's employment process to determine if it affords or incorporates, or contains impediments to, equal employment opportunities.
- (4) Action-oriented programs consisting of practical steps the contractor will implement to address any identified problem areas or the underutilization of women or minorities in relation to their availability in the relevant labor pool.
- (5) Internal auditing and reporting systems that monitor and examine the impact the contractor's employment decisions and compensation systems have on women and minorities and their progress toward achieving a workforce that would be expected in the absence of discrimination.
- (6) Policies, practices, and procedures that the contractor will implement to ensure that all qualified applicants and employees enjoy equal opportunity in recruitment, selection, advancement, and every other term and privilege associated with employment.
- (7) Any additional requirements the Administrator may require through the Regulations or on a case-by-case review of a contractor's proposed affirmative action program.

If, 60 days after entering into a Contract, a contractor has not filed an affirmative action program, has deviated substantially from an approved affirmative action program, or has discriminated against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability, ethnic group or Vietnam-era or disabled veteran status, the Office of Equal Opportunity may take immediate enforcement action.

## **5. Good Faith Effort Evaluation**

The Office of Equal Opportunity will evaluate OEO Schedules submitted as part of a contract bid or proposal to determine whether or not the Bidder or Proposer has demonstrated a good faith effort to meet the MBE, FBE, and/or CSB subcontracting goals established in the invitation to bid or request for proposal. OEO will submit this evaluation to the contracting City Department, which may consider the results of the evaluation in determining the lowest responsible bid submitted for the contract. The City of Cleveland may reject any bid where OEO has determined that the Bidder has not demonstrated a good faith effort to meet the subcontracting goals.

The City of Cleveland may award a contract to a Bidder who has not demonstrated a good faith effort to meet the subcontracting goals where the City determines that the bid otherwise remains the lowest responsible bid for the contract.

## **6. CSB Certification:**

Each Bidder, Proposer or subcontractor representing itself as a Cleveland Area Small Business (CSB) in the OEO Schedules shall be certified with the Office of Equal Opportunity as a CSB prior to the bid opening. Certification applications must be completed online through the City's Certification and Compliance Monitoring System at <https://cleveland.diversitycompliance.com/>.

There are two classifications of CSBs:

A **City of Cleveland Small Business (CCSB)** is a CSB headquartered within the City of Cleveland.

A **Regional Cleveland Small Business (RCSB)** is a CSB headquartered within Cuyahoga County, but not within the City itself.

A business is eligible for certification as a Cleveland Area Small Business (CSB) if it meets the following criteria:

- (1) It is a Small Business Enterprise;
- (2) It has its principal office located physically in Cuyahoga County; and
- (3) Its chief executive officer and highest level managers maintain their offices and perform their managerial functions in Cuyahoga County.

A business qualifies as a Small Business Enterprise if it meets size requirements of the US Small Business Administration, or separate economic criteria as established by the Director of the Office of Equal Opportunity in the Regulations. You can find the current SBA size standards here: <http://www.sba.gov/content/small-business-size-standards>

## **7. CSB Contract Participation**

In an effort to promote the participation of Cleveland-area Small Businesses (CSBs) in City contracts, each Contracting Department of the City will use its best efforts to contract with CSB Bidders and Proposers, and Bidders and Proposers that have committed to subcontracting with certified CSBs.

Where other, project-specific goals have not been set in the bid or proposal documents, the standard CSB subcontractor participation goals are:

Construction Contracts:	<b>30% CSB Subcontractor Participation</b>
Professional Services Contracts:	<b>10% CSB Subcontractor Participation</b>
All Other Contracts:	<b>20% CSB Subcontractor Participation</b>

The Contracting Departments may, in consultation with the Director, increase or decrease these participation goals for a particular contract. When the goals are changed, the change will be noted in the bid or proposal documents.

## **8. MBE/FBE Certification:**

Each Bidder, Proposer or subcontractor representing itself as a Minority Business Enterprise (MBE) or Female Business Enterprise (FBE) in the OEO Schedules shall be certified with the Office of Equal Opportunity as an MBE and/or FBE prior to the bid opening. Certification applications must be completed online through the City's Certification and Compliance Monitoring System at <https://cleveland.diversitycompliance.com/>.

A business is eligible for certification as a Minority Business Enterprise (MBE) if:

- (1) The Business Enterprise is owned, operated and controlled by one or more Minority Persons who have at least 51% ownership;
- (2) The Minority Persons who own the Business Enterprise have operational and managerial control, interest in capital, and earnings commensurate with the percentage of ownership; and
- (3) The Business Enterprise is located and doing business in the Cleveland Contracting Market.

A business is eligible for certification as a Female Business Enterprise (FBE) if:

- (1) The Business Enterprise is owned, operated and controlled by one or more Females who



- have at least 51% ownership;
- (2) The Female owners have operational and managerial control, interest in capital, and earnings commensurate with the percentage of ownership; and
- (3) The Business Enterprise is located and doing business in the Cleveland Contracting Market.

## **9. MBE and FBE Contract Participation**

The City of Cleveland is firmly committed to assisting Minority Business Enterprises (MBEs) and Female Business Enterprises (FBEs) through its contracting activities, and the City intends to Contract with firms that share that commitment. Under this policy, each Contracting Department will use its best efforts to promote the participation of MBEs and FBEs as both prime contractors and subcontractors in all City Contracts. In turn, Bidders and Proposers shall make every effort to use MBEs and FBEs as subcontractors where available and practical.

Some City contracts will have specific MBE and/or FBE subcontractor participation goals. **These goals will be expressly stated in the Invitation to Bid (ITB) or Request for Proposal (RFP) in each contract where the goals are applicable.**

When there are specific MBE and/or FBE goals on a City contract, those goals will be considered in lieu of an equivalent portion of the CSB goals for the contract. Please review the bid or proposal documents for the final MBE, FBE and/or CSB subcontracting goals for the project.

## **10. MBE/FBE Bid Discounts:**

Contracting Departments may apply a Bid Discount of five percent (5%) for bids received from certified MBE and FBE Bidders to remediate past or present discrimination, where the City has developed or obtained a legally sufficient basis in evidence to demonstrate past or present discrimination. The CSB/MBE/FBE Registry denotes which MBEs and FBEs are eligible for Bid Discounts.

## **11. MBE/FBE Evaluation Credits:**

Contracting Departments may apply an Evaluation Credit of five percent (5%) of the total points awarded for proposals received from MBE and FBE Proposers to remediate past or present discrimination, where evidence of contracting disparity has been adequately demonstrated.

## **12. MBE/FBE Subcontracting Bid Discounts and Additional Retainage:**

Contracting departments may apply a bid discount for bids received for public improvement contracts in the amount of five percent (5%) of the portion of the total amount of the goods, labor, and materials that the bidder represents it will subcontract to one or more MBEs and FBEs, where the City has developed or obtained a legally sufficient basis in evidence to demonstrate past or present discrimination.

If a Contracting Department applies the MBE/FBE subcontracting Bid Discount to the bid of a Bidder that would not have otherwise been the lowest and the Bidder is awarded the Public Improvement Contract, the City shall retain as Additional Retainage an amount equal to the total dollar amount by which the bid was adjusted for bid comparison in addition to the contract retainage required under Section 185.41 of the Codified Ordinances of the City of Cleveland. Release of this retainage shall be managed under the provisions established in Section 187.05(e) of the Codified Ordinances.

## **13. CSB Bid Discounts:**

If a Contracting Department does not apply an MBE or FBE Bid Discount to one or more bids for the award of a Contract, the Contracting Department may apply a Bid Discount in the following amounts for bids received from CSB prime contractors:

A Bid Discount of five percent (5%) for bids received from CCSBs.

A Bid Discount of five percent (5%) for bids received from RCSBs, provided no bids are received from

CCSBs.

**14. CSB Evaluation Credits:**

If a Contracting Department *does not apply an MBE or FBE Evaluation Credit* to one or more proposals for the award of a Contract, the Contracting Department may apply Evaluation Credits as follows for proposals received from CSB prime contractors:

- (1) An Evaluation Credit of five percent (5%) of the total points awarded for proposals received from CCSBs.
- (2) An Evaluation Credit of five percent (5%) of the total points awarded for proposals received from RCSBs, provided no proposals are received from CCSBs.

**15. CSB Subcontracting Bid Discounts and Additional Retainage:**

Contracting Departments may apply a Bid Discount to bids received for a Public Improvement Contract in the amount of five percent (5%) of the portion of the total amount of labor and materials that the Bidder represents it will subcontract to one or more CSBs. This provision does not apply, however, if a Bid Discount has been applied for MBE or FBE subcontractor participation,

If a Contracting Department applies the CSB subcontracting Bid Discount to the bid of a Bidder that would not have otherwise been the lowest and the Bidder is awarded the Public Improvement Contract, the City shall retain as Additional Retainage an amount equal to the total dollar amount by which the bid was adjusted for bid comparison in addition to the retainage required under Section 185.41 of the Codified Ordinances. Release of this retainage shall be managed under the provisions established in Section 187.03(d) of the Codified Ordinances.

**16. LPE and SUBE Certification:**

A Bidder or Proposer may qualify as a Local Producer, a Local-Food Purchaser or a Local Sustainable Business under the Local Producer, Local-Food Purchaser, and Sustainable Business Preference Code, Chapter 187A of the Codified Ordinances of the City of Cleveland. Each Bidder or Proposer representing itself as a Local Producer (LPE), or a Local Sustainable Business (SUBE) shall be certified with the Office of Equal Opportunity prior to the bid opening. Certification applications must be completed online through the City's Certification and Compliance Monitoring System at <https://cleveland.diversitycompliance.com/>.

**17. LPE and SUBE Bid Discounts:**

The Contracting Department shall apply a Bid Discount in the following amounts for bids received from LPE and/or SUBE prime contractors:

- A Bid Discount of two percent (2%) for bids received from LPEs.
- A Bid Discount of two percent (2%) for bids received from SUBEs.

**18. LPE and SUBE Evaluation Credits:**

The Contracting Department shall apply an Evaluation Credit in the following amounts for proposals received from LPE and/or SUBE prime contractors:

- An Evaluation Credit of two percent (2%) for proposals received from LPEs.
- An Evaluation Credit of two percent (2%) for proposals received from SUBEs.

**19. Maximum Annual Subcontracting Program Benefit:**

In an effort to encourage wide participation in the CSB, MBE and FBE subcontracting programs, the City of Cleveland has a policy which may limit the amount of subcontracting credit that a single CSB, MBE and/or FBE subcontractor can provide in a single year. When the CSB, MBE and/or FBE subcontractor has reached this maximum subcontracting dollar value, its participation in future contracts will not be

counted towards a Bidder or Proposer's CSB, MBE and/or FBE participation goals.

The Director may apply credit toward the CSB, MBE and/or FBE subcontractor participation goals upon written request of a Bidder or Proposer attesting that no other certified CSBs, MBEs or FBEs are available to perform the work or supply the materials required for the Contract, or in an emergency, or for such other reasons that the Director determines require use of that CSB, MBE or FBE.

Nothing prohibits a Bidder or Proposer from subcontracting to a CSB, MBE or FBE that has reached the cap, or prohibits the CSB, MBE or FBE from performing work or supplying materials under any contract. But that participation will not count towards the Bidder or Proposer's subcontracting goals.

## **20. CSB/MBE/FBE Manufacturer and Supplier Participation:**

Under the Cleveland Area Business Code, the entire amount of expenditures to certified CSB, MBE, or FBE manufacturers will be counted towards CSB, MBE or FBE participation goals on the contract. A manufacturer is an enterprise that produces goods from raw materials and adds value by substantially altering them before resale.

**Sixty percent (60%) of expenditures to certified CSB, MBE or FBE suppliers that are not manufacturers will be counted towards CSB, MBE or FBE participation goals on the contract, provided that the CSB, MBE or FBE supplier performs a commercially useful function in the supply process.** A business enterprise is a supplier performing a commercially useful function in the supply process" when it:

- (1) Assumes the actual and contractual responsibility for furnishing the supplies or materials; and
- (2) Is recognized as a supplier, distributor or reseller by the manufacturer or producer of the contracted supplies and materials; and
- (3) Owns or leases a warehouse, yard, building or other facilities or uses such as means as are customary in the industry for the purpose of maintaining an inventory of or supplying such supplies or materials from which it supplies its customers; and
- (4) Distributes, delivers, and/or services products primarily with its own staff and/or equipment.

If a CSB, MBE or FBE supplier is not a manufacturer and is not performing a commercially useful function in the supply process, the supplier's participation will not be counted towards the CSB, MBE or FBE participation on the contract.

## **21. Joint Ventures:**

Participation of CSBs, MBEs and FBEs in joint ventures is encouraged. To receive credit for CSB, MBE and/or FBE participation in a joint venture, the joint venture must be certified by the Office of Equal Opportunity. The CSB/MBE/FBE Joint Venture Certification Application is available from the Office of Equal Opportunity, and applications for joint venture certification must be received by the Office of Equal Opportunity no later than 10 days prior to the bid opening.

## **22. Use of General Contractors as Subcontractors for CSB/ MBE/FBE Prohibited:**

Consistent with the U.S. Bureau of Census Standard Industrial Classifications, the City considers that a "general contractor" assumes responsibility for an entire construction contract, although it may subcontract part or all of the actual work to special trades or other contractors. The City does not consider that certification as a "general contractor" assumes or includes certification for any other trade or work. In order to qualify as a CSB, MBE or FBE Subcontractor, the CSB, MBE or FBE must be certified for the specific type of work indicated on Schedule 2, the Certified MBE/FBE/CSB Subcontractor Participation Commitment.

## **23. Subcontractor Participation Compliance Monitoring**

Once a contract is awarded through the bid or proposal process, the winning contractor is obligated to use the certified CSB, MBE or FBE subcontractors listed on the OEO Schedules and in the same participation amount indicated in the OEO Schedules. OEO will monitor this subcontractor participation throughout the

course of the contract to ensure that the listed subcontractors are performing work on the project, and that they are being properly compensated for that work.

The City of Cleveland uses a web-based contractor certification and contract compliance monitoring system, colloquially known as B2Gnow, to monitor compliance on City contracts. Contractors can access the system at <http://cleveland.diversitycompliance.com>, or through a link on the Office of Equal Opportunity's website at <http://city.cleveland.oh.us/oeo>.

Each month during the contract, the prime contractor (or direct contract-holder with the City) will report payments to ALL subcontractors through the B2Gnow system. This monthly reporting information includes total payment in dollars made to the subcontractor, record of invoices satisfied, record of checks or other payment methods used to satisfy invoices, payment dates, and any additional information required by OEO to verify payment to subcontractors. The prime contractor will enter this payment information into the B2Gnow system, and the subcontractors will verify this payment information in the system.

OEO offers regular training sessions in the use of the B2Gnow system. Please contact OEO at 216-664-4152 to schedule training. Online training options are also available through the B2Gnow system.

Please note that use of the B2Gnow system requires an email account and access to a personal computer with internet connectivity. This requirement applies to both prime contractors and subcontractors. The City will provide for access to a computer and internet connection at Cleveland City Hall, upon appointment, for those contractors who do not otherwise have access to the required technology.

Questions about the certification process or the OEO Schedules should be directed to the Office of Equal Opportunity (OEO) at (216) 664-4152.



City of Cleveland  
Office of Equal Opportunity  
Schedules

**THE OEO SCHEDULES ARE NOW  
AVAILABLE AS FILLABLE PDF  
DOCUMENTS AT THE OFFICE OF  
EQUAL OPPORTUNITY WEBSITE.**

**THIS IS THE PREFERRED FORMAT  
FOR SUBMITTING YOUR OEO  
SCHEDULES AS PART OF YOUR BID.**

**[WWW.CLEVELANDOHIO.GOV/OEO](http://WWW.CLEVELANDOHIO.GOV/OEO)**



**City of Cleveland  
Office of Equal Opportunity  
Schedules Checklist**

This checklist will guide you through the Office of Equal Opportunity Schedules that must be completed and submitted as part of your bid or proposal.

**Schedule 1: Project Contact Information Form**

- ☐ Is all requested contact information included?
- ☐ Is the form complete and signed?

**Schedule 2: Certified MBE/FBE/CSB Subcontractor Participation Commitment**

- ☐ Did you specify the total dollar amounts for each subcontract?
- ☐ Did you verify that each subcontractor is certified for the type of work to be performed?
- ☐ If applicable, has the re-subcontracting section been completed?
- ☐ Is the form complete and signed by the subcontractor?

**Schedule 3: Schedule of Subcontractor Participation**

- ☐ Did you specify the total dollar amount of the subcontract?

**Schedule 4: CSB/MBE/FBE Subcontractor Unavailability/Impracticality Certification**

- ☐ Did you list all companies you have contacted? (If additional space is needed, attach a separate sheet)
- ☐ If you are claiming that subcontracting is not available or practical on this contract, have you provided an explanation on a separate, attached sheet?
- ☐ Is the form complete and signed?

Project Name:	
Bidder/Proposer Name:	

## Part I: Bidder Information

Contractor's Full Legal Name:						
Contractor's Address:				Federal Tax ID Number (EIN):		
City:				State and Zip:		
Contractor's Principal Officer Name:				Phone Number:		
Contractor's Main Email Address:						
Contractor's Authorized OEO Representative Name:				Phone Number:		
Authorized OEO Representative Email Address:						
Are you Certified with the Office of Equal Opportunity? Check all that apply:	<input type="checkbox"/> CSB	<input type="checkbox"/> MBE	<input type="checkbox"/> FBE	<input type="checkbox"/> SUBE	<input type="checkbox"/> LPE	<input type="checkbox"/> SFP

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Bidder/Proposer Representative: \_\_\_\_\_

\_\_\_\_\_  
Title: \_\_\_\_\_



**City of Cleveland - Office of Equal Opportunity**  
**SCHEDULE 2: Certified MBE/FBE/CSB Subcontractor Participation Commitment**

Project Name:	
Bidder/Proposer Name:	

The subcontractor listed below is intended to fulfill the Minority-owned Business Enterprise (MBE), Female-owned Business Enterprise (FBE) and/or Cleveland-Area Small Business (CSB) participation goals established for this bid. Eligible subcontractors must be certified by the City of Cleveland Office of Equal Opportunity (OEO), both generally and for the specific type of work or supply furnished for the contract. The appropriate NAICS code should be included for the type of work listed below, or the bidder may not receive credit for the subcontractor's participation on the contract. **NOTE: Material Suppliers (not manufacturers) will receive credit for 60% of the value listed for its material supply subcontract amount in Part 4.**

<b>Subcontractor:</b>	
Address:	
City, State, Zip:	
OEO Compliance Contact:	
Contact Email Address:	
Contact Phone:	
OEO Certification: CSB <input type="checkbox"/> MBE <input type="checkbox"/> FBE <input type="checkbox"/>	
Federal Tax ID#/EIN:	

Part 1: Contract Spec Item #	Part 2: NAICS Code	Part 3: Type of Work Performed and/or Materials Supplied	Part 4: Subcontract Amount
			\$
			\$
			\$
	TOTAL		\$

The Bidder **may not substitute subcontractors** between the submission of bids and award of the contract. After the contract is awarded, the Bidder may not substitute or shift subcontractors without written approval of the Director of OEO.

The undersigned subcontractor is confirming that it is certified as a MBE, FBE, and/or CSB firm with the Office of Equal Opportunity, and is certified in the appropriate category, defined by NAICS codes, to provide the goods or services listed above. Both undersigned parties agree that, if awarded a contract, they will enter into a written agreement confirming the intentions documented above.

**RE-SUBCONTRACTING**

The undersigned prospective subcontractor will re-subcontract work on this contract:

- ☐ **Yes** If Yes, the subcontractor must complete additional Schedule 2 and/or Schedule 3 forms documenting the resubcontracting of work to certified and/or non-certified subcontractors. Failure to do so will be considered a lack of good faith effort to meet the MBE, FBE, and/or CSB subcontracting goals for this bid.
- ☐ **No**

Authorized Bidder Representative:			
Signature:		Date:	

  

Authorized Subcontractor Representative:			
Signature:		Date:	

Revision Date: January 3, 2022





**City of Cleveland - Office of Equal Opportunity**  
**SCHEDULE 3: Schedule of Subcontractor Participation**

Project Name:	
Bidder/Proposer Name:	

List ALL PROSPECTIVE NON-CERTIFIED SUBCONTRACTORS and/or SUBCONSULTANTS expected to participate on this contract.

Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
Contact Email Address:			\$
Contact Phone:			\$
Federal Tax ID#/EIN:	TOTAL		\$
Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
Contact Email Address:			\$
Contact Phone:			\$
Federal Tax ID#/EIN:	TOTAL		\$
Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
Contact Email Address:			\$
Contact Phone:			\$
Federal Tax ID#/EIN:	TOTAL		\$
Subcontractor:	Part 1: SPEC ITEM #	Part 2: TYPE OF WORK OR MATERIALS/SUPPLIES	Part 3: SUBCONTRACT AMOUNT
Address:			\$
City, State, Zip:			\$
Contact Email Address:			\$
Contact Phone:			\$
Federal Tax ID#/EIN:	TOTAL		\$



**City of Cleveland - Office of Equal Opportunity**  
**SCHEDULE 4: CSB/MBE/FBE SUBCONTRACTOR**  
**UNAVAILABILITY/IMPRACTICALITY CERTIFICATION**

Project Name:	
Bidder/Proposer Name:	

Note: Prime contractors are expected to make a good faith effort to utilize CSBs, MBEs and FBEs as subcontractors whenever there are CSB, MBE and/or FBE participation goals established in the bid specifications. There may be instances, however, where Prime Contractors will not be able to achieve the CSB, MBE and/or FBE participation goals for a particular contract. This Schedule 4 allows Prime Contractors to demonstrate their good faith efforts in identifying and soliciting CSBs, MBEs and FBEs to work on the contract. If the subcontracting goals for this contract are not met, failure to complete this schedule fully and completely may impact the evaluation of this bid or proposal.

**Section A:**

Please check one of the following:

- ☐ 1. Prime Contractor has submitted Schedules 1 and 2 indicating CSB/MBE/FBE Subcontractor participation **MEETING OR EXCEEDING** the goals set forth in the bid documents.
- ☐ 2. Prime contractor has submitted Schedules 1 and 2 indicating CSB/MBE/FBE Subcontractor participation that **DOES NOT MEET** the goals set forth in the bid documents.

**If Box 1 is checked**, no further documentation is necessary. **Where Box 2 is checked**, the Prime Contractor must provide a detailed explanation in Section B.

**Section B:**

If you checked Box 2 on Section A, you must check one of the following:

The Prime Contractor **did not meet** the CSB, MBE and/or FBE subcontractor participation goals for this contract because:

- ☐ 1. The Prime Contractor has made an honest, purposeful attempt to solicit CSB, MBE and/or FBE subcontractor participation, but was unable to find subcontractors to perform the work for the reasons noted below. **Please use the unavailability letter codes found on the following page.**

CONTACTED CONTRACTOR	PROPOSED WORK/SUPPLIES	REASON FOR UNAVAILABILITY	DATE OF CONTACT	DATE RESPONSE RECEIVED
1.				
2.				
3.				
4.				

- ☐ 2. The Prime Contractor made an honest, purposeful attempt to solicit CSB, MBE and/or FBE subcontractor participation, but due to the nature of the work, service, or product contracted, additional subcontracting with CSBs, MBEs or FBEs is either impossible or impractical. The Prime Contractor has provided a **detailed explanation** of the nature of the work and the reasons that additional subcontracting is not possible **on a separate attached page.**

Authorized Representative:			
Signature:		Date:	

**SCHEDULE 4**  
**CSB/MBE/FBE SUBCONTRACTOR UNAVAILABILITY/IMPRACTICALITY**  
**CERTIFICATION**

REASONS FOR **CSB/MBE/FBE** SUBCONTRACTOR UNAVAILABILITY

Instructions:

You may insert in Schedule 4, under the column Reasons for Unavailability, all letters identifying the reason why each prospective subcontractor listed on Schedule 4 was unable to prepare a bid or unavailable to participate on the City contract for which you are bidding.

Example Reasons for Unavailability

- A. Subcontractor did not respond to the Bidder's request for a quotation.
- B. Subcontractor responded to the Bidder's request but not as to the type of work or supplies for which requested.
- C. Subcontractor does not perform the specific work or furnish the specific supplies the Bidder requested, as part of the type(s) of work or supplies for which OEO has certified it as a CSB/MBE/FBE.
- D. Subcontractor is unavailable because its workforce is or will be fully employed on other work during time of contract performance.
- E. Subcontractor stated it had insufficient time or information on which to prepare a bid. F. Subcontractor's bid price(s) were too high to be competitive (Explain in detail).
- G. Other. (Explain in detail)

# Office of Equal Opportunity Reporting Submission Schedule

- Monthly Subcontractor Payment Reports in B2Gnow
- Certified Payroll Reports in LCPtracker

All required Office of Equal Opportunity (OEO) monthly reporting shall be submitted via the B2Gnow Contract Compliance Monitoring System ([cleveland.diversitycompliance.com](http://cleveland.diversitycompliance.com)) and the LCPtracker Certified Payroll Tracking System ([www.LCPtracker.net](http://www.LCPtracker.net) – for Construction Contracts over \$100,000) according to the following schedule:

<b><u>REPORTING MONTH</u></b>	<b><u>B2Gnow Monthly Audit Available</u></b>	<b><u>B2Gnow and LCPtracker REPORTING DUE</u></b>
<b>JANUARY</b>	1 <sup>st</sup> Monday in the <b>FEB.</b>	3 <sup>rd</sup> Friday in the <b>FEBRUARY</b>
<b>FEBRUARY</b>	1 <sup>st</sup> Monday in the <b>MAR.</b>	3 <sup>rd</sup> Friday in the <b>MARCH</b>
<b>MARCH</b>	1 <sup>st</sup> Monday in the <b>APRIL</b>	3 <sup>rd</sup> Friday in the <b>APRIL</b>
<b>APRIL</b>	1 <sup>st</sup> Monday in the <b>MAY</b>	3 <sup>rd</sup> Friday in the <b>MAY</b>
<b>MAY</b>	1 <sup>st</sup> Monday in the <b>JUNE</b>	3 <sup>rd</sup> Friday in the <b>JUNE</b>
<b>JUNE</b>	1 <sup>st</sup> Monday in the <b>JULY</b>	3 <sup>rd</sup> Friday in the <b>JULY</b>
<b>JULY</b>	1 <sup>st</sup> Monday in the <b>AUG.</b>	3 <sup>rd</sup> Friday in the <b>AUGUST</b>
<b>AUGUST</b>	1 <sup>st</sup> Monday in the <b>SEPT.</b>	3 <sup>rd</sup> Friday in the <b>SEPTEMBER</b>
<b>SEPTEMBER</b>	1 <sup>st</sup> Monday in the <b>OCT.</b>	3 <sup>rd</sup> Friday in the <b>OCTOBER</b>
<b>OCTOBER</b>	1 <sup>st</sup> Monday in the <b>NOV.</b>	3 <sup>rd</sup> Friday in the <b>NOVEMBER</b>
<b>NOVEMBER</b>	1 <sup>st</sup> Monday in the <b>DEC.</b>	3 <sup>rd</sup> Friday in the <b>DECEMBER</b>
<b>DECEMBER</b>	1 <sup>st</sup> Monday in the <b>JAN.</b>	3 <sup>rd</sup> Friday in the <b>JANUARY</b>