

Date of Issue: January 22, 2020

Department of General Services
Energy and Resource Management Office
401 North Street, Room 403 North Office, Harrisburg, PA 17120

Bulletin Number 2

on

Project No. GESA 2019-3 – Request for Quotes for a Guaranteed Energy Savings Project at:
PA Fish & Boat Commission, Headquarters and Various State Hatcheries, Pennsylvania

Quote Submission Deadline: Tuesday, March 24, 2020

Time of Opening: 2:00 PM

RFQ CHANGES

1. There have been changes to who qualifies as a Small Diverse Business. Service-Disabled Veteran-Owned Small Businesses are now considered both Small Diverse Businesses (SDB) and Veterans Business Enterprises (VBE).

Please replace Administrative Procedure Number 15 with Attachment A to this bulletin.

Please replace Appendix D (Summary Sheet and attachments SDB-1 through SDB-5) with Attachment B to this bulletin.

REQUEST FOR INFORMATION

1. If a firm is in the process of seeking their SDB verification but are not yet a DGS-verified SDB by the quote due date and time, can a prime receive credit toward the SDB goal for using the firm? **SDB-1, II.2.b. states that a company must have its SDB verification as of the date the work to be completed by the subcontractor, manufacturer, or supplier has commenced. This is also set forth in SDB-3: "To receive credit toward meeting the SDB participation goal, the SDB subcontractor, manufacturer, or supplier must be a DGS-verified SDB as of the date the work to be completed by the SDB has commenced." This is intended to provide more opportunity for those firms still waiting on their SDB verification and to encourage additional firms to obtain their SDB verification during the course of the project.**

R. Tomlinson

Rebecca Tomlinson, RFQ Coordinator
Energy & Resource Management Office

Please acknowledge receipt of Bulletin by email response to Becky Tomlinson at:
retomlinso@pa.gov

**ATTACHMENT A
TO
BULLETIN 2
FOR
GESA 2019-3 PA Fish & Boat**

ADMINISTRATIVE PROCEDURE NO. 15

SMALL DIVERSE BUSINESS (SDB) and VETERAN BUSINESS ENTERPRISE (VBE) PARTICIPATION

15.1 General Information: The GESA Contractor must meet or exceed the SDB participation goal and the VBE participation goal set forth on the SDB and VBE Participation Summary Sheet, unless BDISBO and the Issuing Office have granted the GESA Contractor a full or partial Good Faith Efforts Waiver. The GESA Contractor may satisfy its SDB and VBE participation requirements by utilization of DGS-verified SDBs (Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Disability-Owned Business Enterprises (DOBE), LGBT Business Enterprises (LGBTBE), and Service-Disabled Veteran-Owned Small Business Enterprises (SDVBE)) and DGS-verified VBEs (Veteran-Owned Small Business Enterprises and Service-Disabled Veteran-Owned Small Business Enterprises). The GESA Contractor must meet or exceed the SDB and VBE participation commitments prior to the date of the Final Inspection.

15.2 Small Diverse Business Utilization Report

- A. The GESA Contractor shall submit an SDB and VBE Utilization Report with each Application for Release of Payment (See section C below).
- B. The GESA Contract must begin submitting the SDB and VBE Utilization Report by the first full month after the Initial Job Conference or the first Application for Release of Payment (whichever is earlier).
- C. Each SDB and VBE Utilization Report must have current data (totals to date) identifying at least each element as follows:
 1. Detailed information including, but not limited to, any subcontracts and purchase orders documenting the dollar value commitments to SDB and VBE firms to be used toward the satisfaction of the SDB and VBE participation percentages as required by the Contract. All SDB and VBE firms listed on the SDB and VBE Utilization Report shall be retained on the Utilization Report throughout the duration of the Project.
 2. Detailed information regarding any work that is claimed to be self-performed by the GESA Contractor and therefore allegedly not eligible for subcontracting to a SDB or VBE firm.
 3. **Construction Subcontracts and Purchase Orders:**
 - a. Dollar value of all subcontracts and/or Purchase Orders awarded to date.
 - b. Total value of commitment to SDBs and VBEs, indicated as both dollars and as a percentage of the total contract value.
 - c. For each subcontract and purchase order awarded since the previous Application for Release of Payment the:
 - (1). Identity of the SDB or VBE that will be performing the work; and
 - (2). The type of work/service/material to be performed/supplied; and
 - (3). The amount paid to date on each SDB or VBE subcontract/purchase order this month.

- (4). The designation of SDB or VBE Stocking Suppliers as either a MEP (i.e., mechanical, electrical, and plumbing) Stocking Suppliers or a General Construction Stocking Supplier.
 - (5). The fee or commission paid to the Non-Stocking Supplier. No credit will be given if the fee or commission is not listed and, the maximum credit shall not exceed 10 percent of the purchase order cost.
- D. Failure to submit an SDB and VBE Utilization Report with each Application for Release of Payment will result in an incomplete Application for Release of Payment. Such incomplete Application will be returned to the GESA Contractor and no payment will be processed until a complete Application is submitted.
- E. BDISBO will credit the selected offeror for SDB and VBE participation as follows:
1. SDB or VBE subcontractors. An SDB or VBE subcontractor, through its own employees, shall perform at least 50% of the amount of the subcontract. 100% of the total subcontract amount shall be counted towards the SDB participation goal, unless the SDB or VBE subcontractor is performing one of the functions listed in paragraphs 2-4 below.
 2. SDB or VBE manufacturers. An SDB or VBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications. 100% of the total cost of the materials or supplies purchased from the SDB or VBE manufacturer shall be counted towards the SDB or VBE participation goal, as applicable.
 3. SDB or VBE stocking suppliers. An SDB or VBE stocking supplier is a firm that owns, operates or maintains a store, warehouse or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. 60% of the total cost of the materials or supplies purchased from the SDB or VBE stocking supplier shall be counted towards the SDB or VBE participation goal, as applicable.
 4. SDB or VBE nonstocking suppliers. An SDB or VBE nonstocking supplier is credited at only the amount of the fee or commission charged by the SDB or VBE nonstocking supplier for assistance in the procurement of the materials and supplies, provided that the fees or commissions are reasonable and not excessive as compared with fees customarily allowed for similar services, and with the understanding that under no circumstances shall the credit for an SDB or VBE nonstocking supplier exceed 10 percent of the purchase order cost. A nonstocking supplier does not carry inventory but orders materials from a manufacturer, manufacturer's representative, or a stocking supplier. In order for a nonstocking supplier to receive credit, it must perform a useful business function by engaging in meaningful work (i.e., negotiating price; AND determining quality and quantity; AND ordering materials; AND paying for the materials) and the fee or commission must be provided with the purchase order and the Utilization Report. Industry practices and other relevant factors will be considered.
- F. The GESA Contractor will receive credit forwards their SDB and VBE participation commitments for use of SDB or VBE firms at any tier of supply or subcontracting; however, the dollar value of any commitment to an SDB or VBE cannot be counted twice.
1. If the GESA Contractor or any of its non-SDB or VBE Subcontractors or Suppliers makes a commitment to a SDB or VBE, the credit for the subcontract/purchase order commitment, regardless of the level or tier, shall be calculated as indicated in this

Section E and credited toward the GESA Contractor's SDB or VBE participation commitments as applicable.

2. In the event that the SDB or VBE whose entire subcontract value is counted towards the SDB or VBE participation commitments then subcontracts a portion of the work or supplies associated with this subcontract to another SDB or VBE, the dollar value of the subcontract with/to this lower tier SDB or VBE is NOT counted towards the GESA Contractor's SDB or VBE participation commitments, as applicable, in order to prevent the duplicate counting of SDB or VBE commitment dollars. In this case, the dollar value of this lower tier SDB or VBE subcontract has already been included within the scope of work and dollar value of the SDB or VBE commitment already counted as a part of the GESA Contractor's SDB or VBE participation commitment as applicable.
 - a. All SDBs or VBEs must present a photocopy of their current SDB or VBE certificate from DGS to the GESA Contractor. To receive credit towards their SDB or VBE participation commitments, the SDB or VBE must be a DGS-verified SDB or VBE as of the date the work to be completed by the SDB or VBE has commenced.
- G. A GESA Contractor's SDB or VBE participation commitments are calculated by adding all or a percentage of the dollar commitments (as set forth in Section E) to DGS-verified SDB or VBE subcontractors of all tiers, DGS-verified SDB or VBE manufacturers, DGS-verified SDB or VBE stocking suppliers, and the fee or commission paid to the DGS-verified non-stocking supplier and dividing that total amount by the total Commonwealth payments to the GESA Contractor.

15.3 Remedies

- A. The DGS may, in accordance with the General Conditions for the GESA Contract (Payments Withheld), decline to approve an Application for Release of Payment in whole or in part if the SDB and VBE Utilization Report is not included and return the incomplete Application for Release of Payment.
- B. If after the first three months following Contract execution, the GESA Contractor fails to progress in achieving their SDB and VBE commitments (based upon the data supplied in the SDB and VBE Utilization Report), the Funding Agency may withhold payments until the GESA Contractor and the Funding Agency discuss the reasons for lack of progress and achieve a resolution. The GESA Contractor is not entitled to interest on any funds withheld due to their failure to submit a properly completed SDB and VBE Utilization Report or their failure to progress in achieving the SDB and VBE participation commitments.
- C. The GESA Contractor's compliance with requirements of the SDB and VBE participation commitments, including the fulfillment of any SDB and VBE commitments in all subcontracts and purchase orders is material to the contract between the GESA Contractor and the Funding Agency. Any failure to comply with these requirements constitutes a substantial breach of the Contract. It is further understood and agreed that in the event the Funding Agency determines that the GESA Contractor has failed to comply with these requirements, the Funding Agency may, in addition to any other rights and remedies the Funding Agency may have under the contract, any bond filed in connection therewith, or at law or in equity, impose remedies as applicable on the GESA Contractor. Remedies for breach of this component may include entry into the CRP, termination, suspension, default, penalties, and/or debarment from future contracting opportunities with the Commonwealth of Pennsylvania. The remedies enumerated herein are for the sole benefit of the Funding Agency and the Funding Agency's enforcement of any provision or the Funding Agency's indulgence of any non-compliance with any provision hereunder shall not operate as a waiver of any of the Funding Agency's rights in connection with the Contract, nor shall it give rise to actions by any third parties, including any SDB or VBE firms.

**ATTACHMENT B
TO
BULLETIN 2
FOR
GESA 2019-3 PA Fish & Boat**

APPENDIX D

Small Diverse Business and Veteran Business Enterprise

Participation Summary Sheet and Attachments:

SDB-1: Instructions for Completing the Small Diverse Business (SDB) Participation Submittal

SDB-2: SDB Participation Submittal

SDB-3: SDB Utilization Schedule

SDB-4: Guidance for Documenting Good Faith Efforts to Meet the Small Diverse Business (SDB) Participation Goal

SDB-5: Good Faith Efforts Documentation to Support Waiver Request of SDB Participation Goal

VBE-1: Instructions for Completing the Veteran Business Enterprise (VBE) Participation Submittal and Utilization Schedule

VBE-2: VBE Participation Submittal

VBE-3: VBE Utilization Schedule

VBE-4: Guidance for Documenting Good Faith Efforts to Meet the Veteran Business Enterprise (VBE) Participation Goal

VBE-5: Good Faith Efforts Documentation to Support Waiver Request of VBE Participation Goal

Small Diverse Business (SDB) and Veteran Business Enterprise (VBE)

Participation Summary Sheet

The Issuing Office and BDISBO have set SDB and VBE Participation Goals for this RFQ. This is a significant programmatic change from the SDB and SB Participation program contained in prior best value solicitations issued by the Commonwealth. Bidders/Offerors now must agree to meet the SDB and VBE Participation Goals in full or demonstrate they have made Good Faith Efforts to meet both Goals. Important information regarding this new program is set forth in Section 3 of the RFQ and the Attachments listed below.

Solicitation/Project #: GESA 2019-3

Issuing Agency: DGS on behalf of PA Fish & Boat Commission

Name of Procurement/Project: GESA 2019-3 PA Fish & Boat

SDB Participation Goal (for MBE, WBE, LGBTBE, DOBE, and SDVBE): 16 %

VBE Participation Goal (for VBE and SDVBE): 4 %

* The Issuing Office and BDISBO will re-assess the SDB and VBE Participation Goals after the completing of the IGA and may lower either or both Participation Goals but will not increase either Participation Goal.

Bidder/Offeror Company Name: _____

Bidder/Offeror Contact Name: _____

Bidder/Offeror Contact Email: _____

Bidder/Offeror Contact Phone Number: _____

Attachments:

- SDB-1 Instructions for completing SDB Participation Submittal and SDB Utilization Schedule
- SDB-2 SDB Participation Submittal
- SDB-3 SDB Utilization Schedule
- SDB-4 Guidance for Documenting Good Faith Efforts to meet the SDB Participation goal
- SDB-5 Good Faith Efforts Documentation to Support Waiver Request of SDB Participation Goal

- VBE-1 Instructions for completing VBE Participation Submittal and VBE Utilization Schedule
- VBE-2 VBE Participation Submittal
- VBE-3 VBE Utilization Schedule
- VBE-4 Guidance for Documenting Good Faith Efforts to meet the VBE participation goal
- VBE-5 Good Faith Efforts Documentation to Support Waiver Request of VBE Participation Goal

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
PARTICIPATION SUBMITTAL.

PLEASE READ BEFORE COMPLETING THESE DOCUMENTS

The following instructions include details for completing the SDB Participation Submittal which Bidders or Offerors must submit in order to be considered responsive.

This form also includes instructions for completing the SDB Utilization Schedule, which Bidders or Offerors must submit for any portion of the SDB participation goal the Bidder or Offeror commits to meeting.

Bidder/Offeror shall agree to achieve the SDB participation goal set forth in the **SDB and VBE Participation Summary Sheet** or request a waiver from meeting the entire or a portion of the goal.

A Bidder/Offeror's failure to meet the SDB participation goal in full or receive an approved Good Faith Efforts waiver for any unmet portion of the SDB participation goal will result in the rejection of the Bid or Proposal as nonresponsive.

- I. **SDB Participation Goal:** The SDB participation goal is set forth in the **SDB and VBE Participation Summary Sheet**. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the SDB classifications to meet the SDB participation goal.

- II. **SDB Eligibility:**
 1. **Finding SDB firms:** The directory of **DGS-verified** SDB firms can be accessed from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.

 2. **Only SDBs verified by DGS** and as defined herein may be counted for purposes of achieving the SDB participation goal. In order to be counted for purposes of achieving the SDB participation goal, the SDB firm, including an SDB prime, must be DGS-verified for the subcontracting services, materials or supplies that it is committed to perform.
 - a. **SDB prime bidders or offerors.** An SDB prime firm whose SDB verification is pending or incomplete as of the bid or proposal due date and time may not satisfy the SDB participation goal through its own performance. A self-certified SB prime that does not have its SDB verification as of the bid or proposal due date and time cannot satisfy the SDB participation goal through its own performance.

 - b. **SDB subcontractors, manufacturers, or suppliers.** To receive credit toward meeting the SDB participation goal, the SDB subcontractor, manufacturer, or supplier must be a DGS-verified SDB as of the date the work to be completed by the SDB has commenced. A self-certified SB subcontractor, manufacturer, or supplier that does not have its SDB verification as of the date the work to be completed by the subcontractor, manufacturer, or supplier has commenced cannot be used to satisfy the SDB participation goal.

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
PARTICIPATION SUBMITTAL.

3. SDB Requirements: To be considered an SDB, a firm must be a **DGS-verified** small minority business enterprise (MBE), woman business enterprise (WBE), LGBT business enterprise (LGBTBE), Disability-owned business enterprise (DOBE), or Service-Disabled Veteran-Owned Small Business (SDVBE).

Additional information on the DGS verification process can be found at:

<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

4. Dually verified firms. If a DGS-verified SDB is dually verified as a VBE, the firm may receive credit towards both the SDB participation goal and the VBE participation goal as set forth on the SDB and VBE Participation Summary Sheet.

Example: The SDB participation goal is separate and independent from the VBE participation goal. Therefore, an SDB firm also verified as a VBE may be used towards fulfilling both the SDB participation goal and the VBE participation goal. However, an SDB firm verified as both a WBE and MBE may not be double counted toward satisfying the SDB participation goal.

5. Participation by SDB firms as prime bidders/offerors or subcontractors. A Bidder/Offeror that qualifies as an SDB and submits a bid or proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Bidders/Offerors. An SDB may be included as a subcontractor with as many prime contractors as it chooses in separate bids or proposals.
6. Questions about SDB verification. Questions regarding the SDB program, including questions about the self-certification and verification processes can be directed to:

Department of General Services
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)
Room 611, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: RA-BDISBOVerification@pa.gov
Website: www.dgs.pa.gov

III. Guidelines Regarding SDB Prime Contractor Self-Performance.

1. An SDB firm participating as a prime bidder or offeror on a procurement may receive credit towards the SDB Participation goal established for the procurement through their own self-performance.

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
PARTICIPATION SUBMITTAL.

Example: A solicitation has a 15% SDB participation goal and a 4% VBE participation goal. An SDB prime offeror self-performing only 10% of the work on the contract (if permitted by the solicitation documents) must still satisfy the remaining 5% SDB participation goal and the total 4% VBE participation goal through subcontracting or must request a Good Faith Efforts Waiver for the unmet SDB and VBE participation goals.

2. For an SDB prime bidder or offeror to receive credit for self-performance, the SDB prime bidder or offeror must be a **DGS-verified** SDB as of the solicitation due date and time and must list itself in the **SDB Utilization Schedule**.
3. The SDB prime bidder or offeror must also include the classification category (MBE, WBE, LGBTBE, DOBE, and/or SDVBE) under which it is self-performing and include information regarding the work it will self-perform. For any portion of the SDB participation goal not met through the SDB prime bidder or offeror's self-performance, the SDB bidder or offeror must also identify on the **SDB Utilization Schedule** the portion of the SDB participation goal that will be performed by SDB subcontractors, manufacturers, or suppliers it will use to meet the unmet portion of the goal or must request a Good Faith Efforts waiver.

IV. Calculating SDB participation during compliance. BDISBO will credit the selected offeror for SDB participation as follows:

1. **SDB subcontractors.** An SDB subcontractor, through its own employees, shall perform at least 50% of the amount of the subcontract. 100% of the total subcontract amount shall be counted towards the SDB participation goal, unless the SDB subcontractor is performing one of the functions listed in paragraphs 2-4 below.
2. **SDB manufacturers.** An SDB manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications. 100% of the total cost of the materials or supplies purchased from the SDB manufacturer shall be counted towards the SDB participation goal.
3. **SDB stocking suppliers.** An SDB stocking supplier is a firm that owns, operates or maintains a store, warehouse or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. 60% of the total cost of the materials or supplies purchased from the SDB stocking supplier shall be counted towards the SDB participation goal.

Example for illustrative purposes of applying the 60% rule:
Overall contract value: \$2,000,000
Total value of supplies: \$100,000
Apply 60% Rule: \$100,000 x 60% = \$60,000

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
PARTICIPATION SUBMITTAL.

Divide 60% Rule result by contract value: $\$60,000/\$2,000,000 = 3\%$

In this example, 3% would be counted towards the SDB participation goal for the SDB supplier.

4. **SDB nonstocking suppliers.** An SDB nonstocking supplier is credited at only the amount of the fee or commission charged by the SDB nonstocking supplier for assistance in the procurement of the materials and supplies, provided that the fees or commissions are reasonable and not excessive as compared with fees customarily allowed for similar services, and with the understanding that under no circumstances shall the credit for an SDB nonstocking supplier exceed 10 percent of the purchase order cost. A nonstocking supplier does not carry inventory but orders materials from a manufacturer, manufacturer's representative, or a stocking supplier. In order for a nonstocking supplier to receive credit, it must perform a useful business function by engaging in meaningful work (i.e., negotiating price; AND determining quality and quantity; AND ordering materials; AND paying for the materials) and the fee or commission must be provided with the purchase order and the Utilization Report. Industry practices and other relevant factors will be considered.

V. Document Submittal Errors.

1. **Fatal errors.** The following errors will result in rejection of a bid or proposal as non-responsive:
 - a. Failure to submit a completed **SDB Participation Submittal**;
 - b. Failure to submit an **SDB Utilization Schedule**, unless the bidder or offer is seeking a complete Good Faith Efforts waiver;
 - c. Failure to submit a **Good Faith Efforts waiver request** when not agreeing to meet, in full, the SDB participation goal.
2. **Potentially curable errors.** The Issuing Office and BDISBO will provide Bidders or Offerors 72 hours to provide clarifications or to correct errors not listed as fatal errors above. In the event that the additionally submitted information does not adequately clarify or address the curable error, the bid or proposal will be rejected. **Bidders or Offerors are not permitted to make material changes during clarifications and corrections in order to meet the SDB Participation Goal.**

SDB-2
SDB PARTICIPATION SUBMITTAL

CHECK ONE, AND ONLY ONE, BOX. FAILURE TO SUBMIT A COMPLETED SDB PARTICIPATION SUBMITTAL WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.

I agree to meet the SDB participation goal in full.

I have completed and am submitting with my bid or proposal an **SDB Utilization Schedule (SDB-3)**, which is required in order to be considered for award.

I am requesting a partial waiver of the SDB participation goal.

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve the total SDB participation goal for this solicitation and am requesting a partial waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:

1. an **SDB Utilization Schedule (SDB-3)** for that portion of the SDB participation goal for which I intend to meet; AND
2. a **Good Faith Efforts Waiver Request** for any portion of the SDB participation goals that I do not intend to meet.

I am requesting a full waiver of the SDB participation goal

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve any part of the SDB participation goal for this solicitation and am requesting a full waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal a **Good Faith Efforts Waiver Request** for the complete SDB participation goal, which is required in order to be considered for award.

NOTE: SDB primes who are submitting as bidders or offerors must complete an **SDB Utilization Schedule (SDB-3)** identifying any self-performance towards the SDB participation goal.

SDB-3
SDB UTILIZATION SCHEDULE

Bidder/Offeror to complete the following:

Amount of SDB participation goal to be met through the use of SDB subcontractors, suppliers, or manufacturers: Bidders/offerors are not required to identify the specific SDB subcontractors, suppliers, or manufacturers within this SDB Utilization Schedule, but must identify the total percentage (%) of work to be performed by SDB subcontractors, suppliers, or manufacturers. However, the selected bidder/offeror must submit Utilization Reports identifying the SDB subcontractors, suppliers, or manufacturers used to meet the portion of the SDB participation goal listed below. To receive credit toward meeting the SDB participation goal, the SDB subcontractor, manufacturer, or supplier must be a DGS-verified SDB as of the date the work to be completed by the SDB has commenced.

Percentage of work to be performed by SDB subcontractors, suppliers, or manufacturers:
_____ %

If the Prime Bidder/Offeror is a DGS-verified SDB, complete the following:

SAP Vendor Number (6-digit number): _____

SDB Verification Number (located on DGS SDB verification):

Type of SDB: ___ MBE
 ___ WBE
 ___ LGBTBE
 ___ DOBE
 ___ SDVBE

Description of Work to be Performed (Statement of Work/Specification reference):

Percentage of work to be self-performed by SDB bidder/offeror: _____ %

SDB-4

GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL

In order to show that the Bidder/Offeror has made Good Faith Efforts to meet the SDB participation goal on a solicitation, the Offeror must either (1) agree to meet the SDB participation goal and document its commitments for participation of SDB firms, or (2) when it does not agree to meet the SDB participation goal, submit a Good Faith Efforts waiver request as set forth in Section IV below and the Good Faith Efforts Documentation to Support Waiver Request of SDB Participation Goal.

I. Definitions

SDB participation goal – “SDB participation goal” refers to the SDB participation goal set for a procurement for MBE, WBE, LGBTBE, DOBE, and SDVBE utilization.

Good Faith Efforts - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the SDB participation goal. Those steps are considered necessary and reasonable when their scope, intensity, and relevance could reasonably be expected to obtain sufficient SDB participation, even if those steps were not fully successful. The Issuing Agency and Department of General Services’ Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) will determine whether or not the Offeror that requests a “Good Faith Efforts” waiver made adequate Good Faith Efforts by considering the quality, quantity, and intensity of the Offeror’s efforts. Mere *pro forma* efforts are not Good Faith Efforts to meet the SDB participation requirements. The determination concerning the sufficiency of the Offeror's Good Faith Efforts is subjective; meeting quantitative formulas is not required.

Identified Items of Work – all of the items of work the Offeror identified as possible items of work for performance by SDBs and should include all reasonably identifiable work opportunities.

Identified SDBs– all of the SDBs the Offeror identified as available to perform the Identified Items of Work and should include all DGS-verified SDBs that are reasonably identifiable.

Offeror – for purposes of this **Good Faith Efforts Documentation to Support Waiver Request**, the term “Offeror” includes any entity responding to a solicitation, including invitations for bids, requests for proposals, and other types of best value solicitations.

SDB – “SDB” refers to Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Disability-Owned Business Enterprises (DOBE), LGBT-Owned Business Enterprises (LGBTBE), and Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE) verified by BDISBO.

II. Types of Actions Agency and BDISBO will Consider

The following are types of actions the procuring agency and BDISBO will consider as part of the Offeror's Good Faith Efforts when the Offeror does not agree to meet, in full or in part, the SDB participation goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Identify Proposal Items as Anticipated Scopes of Work for SDBs

1. Anticipated Scopes of Work

SDB-4
GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL

- (a) Offerors should reasonably identify sufficient anticipated scopes of work to be performed by SDBs. These anticipated scopes of work should include SDB subcontracting opportunities in addition to the provision of supplies.
- (b) Where appropriate, Offerors should break out anticipated scopes of work into economically feasible units to facilitate SDB participation, rather than perform these work items with their own forces. **The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the SDB participation goal.**

B. Identify SDBs to Solicit

1. Identified SDBs

- (a) Offerors should reasonably identify SDBs that are available to perform the Anticipated Scopes of Work.
- (b) Any SDBs identified as available by the Offeror should be certified to perform the Anticipated Scopes of Work.

C. Solicit SDBs

- 1. Solicit all Identified SDBs for all Anticipated Scopes of Work by providing written notice. The Offeror should:
 - (a) provide the written solicitation to the Identified SDBs at least 10 calendar days prior to Bid or Proposal due date to allow sufficient time for the Identified SDB to respond;
 - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the BDISBO Directory, unless the Offeror has a valid basis for using different contact information; and
 - (c) provide adequate information about the Anticipated Scopes of Work to assist Identified SDBs in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)
- 2. “All” Identified SDBs includes any SDB Firms the Offeror identifies as potentially available to perform the Anticipated Scopes of Work, but it does not include Identified SDBs who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
- 3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested SDB cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested SDB.

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4. Follow up on initial written solicitations by contacting Identified SDBs to determine their interest in the Anticipated Scopes of Work. The follow up contact may be made:
 - (a) by telephone using the contact information in BDISBO's Directory, unless the Offeror has a valid basis for using different contact information; or
 - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up set forth in C.4, use all other reasonable and available means to solicit the interest of Identified SDBs certified to perform the anticipated scopes of work. Examples of other means include:
 - (a) attending any Supplier Forums, or Pre-Proposal or Pre-Bid conferences at which SDBs could be informed of contracting and subcontracting opportunities; and
 - (b) if recommended by the procurement, advertising with or effectively using the services of at least two diversity-focused entities or media, including trade associations, minority/women/disability/LGBT community organizations, minority/women/disability/LGBT contractors' groups, and local, state, and federal minority/women/disability/LGBT business assistance offices.

D. Evaluate/negotiate with SDBs

Offerors must evaluate/negotiate in good faith with interested SDBs.

1. Evidence of evaluation/negotiation includes but is not limited to the following:
 - (a) the names, addresses, and telephone numbers of SDBs that were considered as potentially available to perform the Anticipated Scopes of Work;
 - (b) a description of the information provided regarding the plans and specifications for the Anticipated Scopes of Work and the means used to provide that information;
 - (c) efforts to divide Anticipated Scopes of Work into small tasks or quantities;
 - (d) efforts to identify the interest and availability of SDBs to perform the Anticipated Scopes of Work; and
 - (e) efforts to investigate the capability of SDBs to perform the Anticipated Scopes of Work.
2. Additional costs incurred in finding and using SDBs are not sufficient justification for the Offeror's failure to meet the SDB participation goal, as long as such costs are reasonable.
3. The Offeror may not use its price for self-performing work as a basis for rejecting an SDB.

The Offeror shall not reject an SDB as unqualified without sound justification based on a thorough investigation of the firm's capabilities. For each SDB that is rejected as unqualified

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the Offeror must provide a written detailed statement outlining the justification for this conclusion.

- (a) The factors to take into consideration when assessing the capabilities of an SDB include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
- (b) The SDB's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of SDBs in the efforts to meet the SDB participation goal.

E. Assisting Interested SDBs

When appropriate under the circumstances, the procuring agency and BDISBO will consider whether the Offeror made reasonable efforts to assist interested SDBs in obtaining:

- 1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
- 2. Necessary equipment, supplies, materials, or related assistance or services.

III. Other Considerations

In making a determination of Good Faith Efforts, the procuring agency and BDISBO may consider engineering estimates, catalogue prices, general market availability and availability of certified SDBs in the area in which the work is to be performed; offers or costs substantiating significant variances between SDB and non-SDB costs of participation and their impact on the overall cost of the contract to the Commonwealth; and any other relevant factors.

The procuring agency and BDISBO may consider whether the Offeror decided to self-perform subcontract work with its own forces. The procuring agency and BDISBO also may consider the performance of other Offerors in meeting the SDB participation goal. For example, when one Offeror fails to meet the SDB participation goal, but others meet it, this raises the question of whether, with additional reasonable efforts, the Offeror could have met the SDB participation goal. An Offeror's ability to meet or exceed the average SDB participation obtained by other Offerors, when viewed in conjunction with other factors, could be evidence of the Offeror having made Good Faith Efforts.

IV. Documenting Good Faith Efforts

At a minimum, the Offeror seeking a Good Faith Efforts waiver of the SDB participation goal or a portion thereof must provide written documentation of its Good Faith Efforts along with its bid or proposal, which may include the following:

A. Anticipated Scopes of Work (complete SDB 5, Part 1 – Identified Items of Work Offeror Made Available to SDBs)

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A detailed statement of the efforts made to select anticipated scopes of work proposed to be performed by SDBs in order to increase the likelihood of achieving the SDB participation goal.

B. Outreach/Solicitation/Evaluation/Negotiation

1. A detailed statement of the efforts made to contact, evaluate, and negotiate with SDBs including:
 - (a) the names, addresses, and telephone numbers of the SDBs who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) (**complete SDB 5, Part 2 – Identified SDB Firms and Records of Solicitations. Include letters, fax cover sheets, e-mails, etc. documenting solicitations**); and
 - (b) a description of the information provided to SDBs regarding the anticipated scopes of work to be performed and the means used to provide that information.
2. The record of the Offeror's compliance with the outreach efforts set forth in **SDB 5, Part 3 - Outreach Efforts Compliance Statement**.

C. Rejected SDBs (complete SDB 5, Part 4 - Additional Information Regarding Rejected SDBs)

1. For each SDB that the Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Offeror's conclusion, including the steps taken to verify the capabilities of the SDB and non-SDB firms who perform similar work.

D. Unavailable SDBs (complete SDB 5, Part 5 – SDB Subcontractor Unavailability Certificate)

1. **For each SDB that the Offeror contacted but found to be unavailable, submit an SDB Subcontractor Unavailability Certificate** or other form of communication signed by the SDB, an email from the SDB indicating the SDB is unavailable, or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate or failed to respond.

E. Other Documentation

1. Submit any other documentation requested by BDISBO or the Procuring Agency to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help BDISBO or the Procuring Agency ascertain its Good Faith Efforts.

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Project Description:	
Commonwealth Agency Name:	
Solicitation #:	
Solicitation Due Date and Time:	

Bidder/Offeror Company Name:	
Bidder/Offeror Contact Name:	
Bidder/Offeror Contact Email:	
Bidder/Offeror Contact Phone Number:	

Part 1 – Anticipated Scopes of Work Offeror Made Available to SDBs

Identify the anticipated scopes of work that the Offeror made available to SDBs, including subcontracting, manufacturing, and the provision of supplies. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the SDB participation. It is the Offeror’s responsibility to demonstrate that the total percentage of the anticipated scopes of work identified for SDB participation met or exceeded the SDB participation goal set for the procurement.

Anticipated Scopes of Work	Does Offeror normally self-perform this work?	Was this work made available to SDB Firms? If not, explain why.
	Yes No	Yes No

Attach additional sheets if necessary.

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Part 2 – Identified SDBs and Record of Solicitations

Identify the SDBs solicited to demonstrate interest to perform the Anticipated Scopes of Work made available for SDB participation. Include the name of the SDB solicited, anticipated scopes of work for which the Offeror solicited interest, date and manner of initial and follow-up, whether the SDB provided a response, and whether the SDB will be used toward meeting the SDB participation goal.

Note: Copies of all written solicitations and documentation of follow-up calls to SDBs must be attached to this form. For each Identified SDB listed below that Offeror is not using to meet the SDB participation goal, Offeror should submit an SDB Subcontractor Unavailability Certificate signed by the SDB or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

Name of Identified SDB and Classification	Describe Anticipated Scope of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	SDB interested in Anticipated Scope of Work?	Will SDB be Used?	Reason SDB Rejected
SDB Name: __ MBE __ WBE __ LGBTBE __ DOBE __ SDVBE		Date: __ mail __ email __ fax	Date: __ mail __ email __ fax	Date and Time of Call: Spoke with: Left Message:	 __ yes __ no	 __ yes __ no	 __ Used other SDB __ Used non-SDB __ Self performing
SDB Name: __ MBE __ WBE __ LGBTBE __ DOBE __ SDVBE		Date: __ mail __ email __ fax	Date: __ mail __ email __ fax	Date and Time of Call: Spoke with: Left Message:	 __ yes __ no	 __ yes __ no	 __ Used other SDB __ Used non-SDB __ Self performing

Attach additional sheets as necessary.

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Part 3 – SDB Outreach Compliance Statement

- 1. List the Anticipated Scopes of Work (subcontracting opportunities) for the solicitation along with specific work categories:**

- 2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified SDBs for these anticipated scopes of work.**

- 3. Offeror made the following attempts to personally contact the Identified SDBs:**

- 4. Bonding Requirements (Please Check One):**

_____ This project does not involve bonding requirements.

_____ Offeror assisted Identified SDBs to fulfill or seek waiver of bonding requirements.
(DESCRIBE EFFORTS):

- 5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):**

_____ Offeror did attend the pre-Bid/Proposal conference or Supplier Forum

_____ No pre-Bid/Proposal conference or Supplier Forum was held

_____ Offeror did not attend the pre-Bid/Proposal conference or Supplier Forum

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Part 4 – Additional Information Regarding Rejected SDBs

This form must be completed if Part 2 indicates that an SDB was rejected because the Offeror will use a non-SDB or will self-perform the Anticipated Scopes of Work. List the Anticipated Scopes of Work, indicate whether the work will be performed by a non-SDB or will be self-performed, and if applicable, state the name of the non-SDB firm.

Describe Anticipated Scope of Work not being performed by SDBs	Self-performing or using non-SDB (provide name of non-SDB if applicable)	Reason why SDB was not used for anticipated scope of work along with brief explanation
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name: _____	<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name: _____	<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name: _____	<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name: _____	<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name: _____	<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other

Attach additional sheets as necessary.

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Part 5 – SDB Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of _____
(Name of SDB)

located at _____
(Number) (Street)

_____ was offered an opportunity to provide
(City) (State) (Zip)

_____ on Solicitation No. _____
(anticipated scope of work)

by _____
(Name of Prime Contractor's Firm)

2. _____ (SDB), is unavailable for the anticipated scope of work
for this project for the following reason(s):

(Signature of SDB's Representative) (Title) (Date)

(DGS SDB Verification #) (Telephone #)

3. If the SDB does not complete this form, the prime contractor must complete the following:

To the best of my knowledge and belief, the above-listed SDB is either unavailable for the anticipated
scope of work for this project or did not provide a quote or response.

(Signature of Prime Contractor) (Title) (Date)