

**REQUEST FOR QUALIFICATIONS:
OUR415 COORDINATED COMMUNICATIONS**

SOURCING EVENT ID: 0000008654
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DEADLINE FOR SUBMISSION: October 2, 2023

ATTACHMENT 4 – CMD LBE Forms (CMD Attachment 2)

CITY & COUNTY OF SAN FRANCISCO CONTRACT MONITORING DIVISION



CMD ATTACHMENT 2

Requirements for Architecture, Engineering, & Professional Services Contracts

**For Contracts equal or greater than 50% of the Minimum Competitive Amount
and that are Advertised on or after July 1, 2022**

PART I. GENERAL

1.01 SAN FRANCISCO ADMINISTRATIVE CODE CHAPTERS 12B AND 14B

- A. To be eligible for this contract award, Proposers must agree to comply with the Local Business Enterprise (“LBE”) requirements sanctioned by San Francisco Administrative Code Chapter 12B, Section 12B.4 and Chapter 14B, and its implementing Rules and Regulations. Chapters 12B and 14B are administered and monitored by the San Francisco Contract Monitoring Division (“CMD”).
- B. Chapters 12B and 14B and their implementing Rules and Regulations are incorporated by reference herein as though fully set forth and provide that the failure of any Proposer or Consultant to comply in good faith with these requirements shall be deemed a material breach of contract. Copies of both Chapters 12B and 14B and their implementing Rules and Regulations are available on the CMD website at <http://www.sfgov.org/cmd>.
- C. Chapter 14B allows for a rating discount, referred to in this Attachment 2 as a "rating bonus," for CMD certified firms, subject to certain limitations and exceptions. The Certification Application is available on the CMD website at <http://www.sfgov.org/cmd>.

IMPORTANT NOTICE: In this CMD Attachment 2, the term “LBE” refers to only San Francisco (“SF”) CMD Certified LBEs and NPEs and, therefore, does not include PUC-LBEs.

*For assistance with this CMD Attachment and/or assistance
with the Equal Benefits Program, please contact the CMD Main
Office at (415) 581-2310*



1.02 SUBMISSION OF CMD FORMS – PRE-AWARD

- A. **Unless otherwise authorized** by CMD, the Proposer must submit the following CMD forms with the proposal. Failure to complete or submit any of the CMD Forms may cause the proposal to be deemed non-responsive and ineligible for contract award. Proposers are responsible for reviewing the specific instructions and requirements on each CMD form.
1. **Form 2A: CMD Contract Participation Form:** Identify LBE subconsultants, vendors, and lower tier subconsultants that the proposal relies on to meet the LBE sub participation requirement(s). If seeking a rating bonus as an LBE Proposer or LBE Joint Venture (“JV”), check the appropriate box under Rating Bonus. Please see Part III for further information. Proposer entering “To Be Determined” (“TBD”) instead of a specific dollar amount/percentage may lead to a non-responsive proposal. LBE Proposers and LBE subs must be certified as LBEs on the proposal due date to qualify for the rating bonus or to qualify to meet the LBE sub participation requirement(s). The RFP/RFP will state which LBE size category (e.g., Micro, Small, and/or SBA-LBE) can be used to meet the LBE sub participation requirement(s). Any Proposer or sub who is in the process of appealing the Director’s denial of certification or revocation of certification shall not be considered an LBE.
 2. **Form 2B: CMD “Good Faith Efforts” Requirements Form:** This form must be submitted for every solicitation that requires LBE sub participation. Proposer shall meet the specified LBE sub participation requirement(s) and shall complete and submit Form 2B in accordance with Form 2B instructions. Failure to meet the LBE sub participation requirement(s) AND demonstrate/document adequate good faith efforts shall cause the proposal to be determined non-responsive and rejected. Please see Part IV for further information. Proposers are required to sign this form under penalty of perjury.
 3. **Form 3: CMD Compliance Affidavit:** Must be signed by the Proposer under penalty of perjury.
 4. **Form 4: CMD Joint Venture Form:** Submit ONLY if the Proposer is requesting a rating bonus based on LBE participation in a Joint Venture partnership.
 5. **Form 5: CMD Employment Form:** List the key personnel and responsibilities of the Proposer, Joint Venture partners, and Subconsultants.

1.03 CMD LBE CONTRACT PERFORMANCE FORMS—POST AWARD

A. LBE Utilization Tracking

1. **FORM 7: CMD Progress Payment Form:** The Proposer awarded the Contract shall submit online using the Contract Awarding Authority’s City approved system with each payment request. Failure to upload this information with each payment request may delay progress payment processing. For any Other Direct Costs (“ODC”) or direct reimbursable expenses/items, CMD will review and determine whether it is eligible for LBE sub participation credit.
 2. **FORM 9: CMD Payment Affidavit:** Following receipt of each progress payment from the Contract Awarding Authority, a Form 9 (or the information on Form 9) must be submitted online using the Contract Awarding Authority’s City approved system with the next progress payment request. Subconsultants are then required to acknowledge payment from Contractor/Consultant online using the Contract Awarding Authority’s City approved system. Failure to submit required information may lead to withholding of progress payment, even if there are no subcontractor/subconsultant payments for the reporting period.
- B. **FORM 8: CMD Exit Report and Affidavit:** Submit with final Form 7. A separate Form 8 must be completed for each LBE subconsultant and supplier (including lower-tier subs & suppliers).



- C. **FORM 10: CMD Contract Modification Form:** This form shall be completed by the Prime Consultant when any (all) amendments, modifications, or supplemental change orders cumulatively increase the original contract amount by more than 20%, and then for all subsequent amendments, modifications or change orders that cumulatively increase the last CMD approved value by 20%.
- D. Failure to submit all required information under Section 1.03 as specified by the City may result in sanctions under Chapter 14B, including but not limited to, withholding of progress and final payments.

PART II. RATING BONUS

2.01 APPLICATION

A. General

Eligibility for the LBE rating bonus: CMD certified Micro, Small, and SBA-LBEs, including certified non-profit organizations, are eligible for an LBE rating bonus (as applicable under Section 14B.7 of the Ordinance) if the LBE is CMD certified in the type of work that is specified for the Proposer by the Contract Awarding Authority. A Proposer that has a certification application pending, that has been denied certification, that has had its certification revoked or that is in the process of appealing a CMD denial or revocation at the date and time the proposal is due IS NOT an LBE and IS NOT eligible to receive the rating bonus even if the firm is later certified or ultimately prevails in its appeal. Contract Awarding Authorities shall apply these rating bonuses to each evaluation stage of the selection process, as applicable.

The rating bonus provided under Section 2.01 can be combined with each other. A Proposer may receive up to a maximum rating bonus of 13% depending on the particular application listed below.

A Proposer may only claim one rating bonus under each of the following subsections:

- Section 2.01(B) **Standard rating bonus**
- Section 2.01(D) **Prime Neighborhood/Zip Code LBE rating bonus**
- Section 2.01(E) **Subconsulting Neighborhood/Zip Code LBE rating bonus**

Note 1: The RFP/RFQ will clearly state whether the Pilot Neighborhood/Zip Code LBE Program is applicable to the specific project.

Note 2: The Mentor Protégé bid discount/rating bonus, Section 2.01(F), cannot be combined with any of the bid discounts/rating bonuses from Sections 2.01(B) through (E). The Mentor Protégé bid discount/rating bonus is not applicable to professional services contracts. However, for this CMD Attachment 2, the Mentor Protégé bid discount/rating bonus is applicable for Design-Build and/or CM/GC projects only.

B. Application of the **Standard rating bonus** shall be as follows:

1. **Contracts with an Estimated Cost in Excess of \$10,000 and Less Than or Equal to \$400,000.** A 10% rating bonus will apply to any proposals submitted by CMD certified Small or Micro-LBEs. SBA-LBEs are not eligible for a rating bonus OR
2. **Contracts with an Estimated Cost in Excess of \$400,000 and Less Than or Equal to \$10,000,000.** A 10% rating bonus will apply to any proposals submitted by CMD certified Small or Micro-LBEs. If, after the application of the 10% rating bonus to proposals submitted by Small or Micro-LBEs, the highest ranked Proposer is not a Small or Micro-LBE, a 5% rating bonus will be applied to any proposal from an SBA-LBE in accordance with the procedures and limitations set forth in Section 14B.7(E) of the Ordinance OR



3. The rating bonus for a Joint Venture (“JV”) with LBE participation that meets the requirements of Section 2.02 below is as follows for Contracts with an estimated cost of in excess of \$10,000 and Less Than or Equal to \$10,000,000:
 - a. 10% for each JV among Small and/or Micro LBE Proposers.
 - b. 5% for each JV which includes at least 35% (but less than 40%) participation by Small and/or Micro-LBE Proposers.
 - c. 7.5% for each JV that includes 40% or more in participation by Small and/or Micro-LBE proposers.

The rating bonus will be applied by adding 5%, 7.5%, or 10% (as applicable) to the score of each firm eligible for a bonus for purposes of determining the highest ranked firm. Pursuant to Section 14B.7(F) of the Ordinance, SBA-LBEs are not eligible for the rating bonus when joint venturing with a non LBE firm. However, if the SBA-LBE joint ventures with a Micro-LBE or a Small-LBE, the Joint Venture will be entitled to the Joint Venture rating bonus only to the extent of the Micro-LBE or Small-LBE participation described in Section 2.01(B)(3)(b) and (c) above. The LBE JV rating bonuses do not apply to DESIGN-BUILD AND CM/GC Contracts OR

4. **Contracts with an Estimated Cost in Excess of \$10,000,000 and Less Than or Equal to \$20,000,000.** A 2% rating bonus will apply to any proposal submitted by a Small, Micro, or SBA-LBE OR
5. **Contracts with an Estimated Cost In Excess of \$20,000,000.** The rating bonus for LBEs does not apply to Contracts estimated by the Contract Awarding Authority to exceed \$20,000,000.
6. Rating bonus is not applicable to Contracts awarded by private non-profit agencies, regardless of whether or not government funding is involved, or whether or not the firms competing for Contracts are for-profit businesses.

C. Pilot Neighborhood/Zip Code LBE Program

This pilot program is a hyper-local preference program that is to encourage participation by neighborhood businesses on City public works projects located in their neighborhood. This program may apply to Administrative Code Chapter 6 Contracts for projects located within the jurisdictional boundary of San Francisco estimated to cost in excess of \$10,000 and less than or equal to \$10,000,000. The RFP/RFQ will clearly state whether the Pilot Neighborhood/Zip Code LBE Program is applicable to the specific project. The Pilot Neighborhood/Zip Code LBE Program bid discount/rating bonus does not apply for Contracts estimated by the Contract Awarding Authority to exceed \$10,000,000. The program shall not apply to Job Order Contracts (JOC), As-Needed Contracts, or other Contracts where no specific project location is specified at the time of proposal.

The program preferences shall be available to LBEs who meet one or both of the following criteria:

1. Neighborhood LBE. A “Neighborhood LBE” means a certified Small or Micro-LBE whose principal place of business is located in the same Neighborhood as the Neighborhood in which the project is located, where “Neighborhood” is defined as any one of the 11 Supervisorial Districts as defined and established in the San Francisco Charter, Appendix E at time of proposal. In order to facilitate this, the Contract Awarding Authority is required to identify the specific address/Neighborhood(s) where the project will be located on all RFQ/RFPs, and contract documents.



2. Project Zip Code LBE. A “Project Zip Code LBE” means a certified Small or Micro-LBE whose principal place of business is located in the same zip code as the zip code in which the project is located; In order to facilitate this, the Contract Awarding Authority is required to identify the specific address/Neighborhood(s) where the project will be located on all RFQ/RFPs, and contract documents.
- D. Application of the **Prime Neighborhood/Zip Code LBE rating bonus:**
1. A 1% rating bonus to proposals from a Neighborhood LBE (or a JV where the Neighborhood LBE JV partner(s)’ participation is at least 40%) when proposing on a Contract where the project is located in the same Neighborhood as the Neighborhood LBE’s principal place of business OR
 2. A 1.5% rating bonus to proposals from a Project Zip Code LBE (or a JV where the Project Zip Code LBE JV partner(s)’ participation is at least 40%) when proposing on a Contract where the project is located in the same zip code as the Project Zip Code LBE’s principal place of business.
- E. Application of the **Subconsulting Neighborhood/Zip Code LBE rating bonus:**
1. A 0.5% rating bonus to proposals from any Proposer if the LBE sub participation in the submitted proposal includes participation by Neighborhood LBEs of at least 50% of the sum of all the LBE sub participation requirement(s) OR
 2. A 1.5% rating bonus to proposals from any Proposer if the LBE sub participation in the submitted proposal includes participation by Zip Code LBEs of at least 50% of the sum of all the LBE sub participation requirement(s).
- F. Application of the **Mentor Protégé bid discount/rating bonus for Design-Build or CM/GC contracts only:**
- For Design-Build or CM/GC contracts, a 1% bid discount/rating bonus to Bids from any Proposer who has been deemed by CMD to qualify for the bid discount/rating bonus. The bid discount/rating bonus shall not exceed \$300,000 and will not be applied if it results in an LBE losing status as the apparent low Bidder or highest ranked Proposer.

2.02 JOINT VENTURE/PRIME ASSOCIATION

- A. Each Small and/or Micro-LBE Joint Venture partner must be responsible for a clearly defined portion of the work to be performed. The rating bonus is applied only when the Small and/or Micro- LBE partner has sufficient skill, experience, and financial capacity to perform the portion of the work identified for the Small and/or Micro-LBE JV partner. This portion must be set forth in detail separately from the work to be performed by the non-LBE JV partner. Each JV partner must meet the minimum qualifications listed for the Prime or Joint Venture partner as outlined in the Bid/proposal. Each Joint Venture partner must be listed to perform Prime Level Work and each JV partner must possess the license required by the RFP (if applicable). The LBE partner(s) must be CMD LBE certified in that area that they are listed to perform in order to be eligible for the rating bonus. The Joint Venture partners must be jointly responsible for the overall project management, control, and compliance with Chapter 14B requirements.
1. The Small and/or Micro-LBE JV partner's work must be assigned a commercially significant dollar value of the prime work and use its own employees and equipment.
 2. Each member of the Joint Venture must perform a “Commercially Useful Function” as that term is defined by Section 14B.2 of the Ordinance. A Small and/or Micro-LBE JV partner that relies on the resources and personnel of a non-LBE firm will not be deemed to perform a “Commercially Useful Function.”
 3. The following actions are prohibited: i) the non-LBE JV partner performing work for the Small and/or Micro-LBE JV partner; ii) leasing of equipment or property by the Small and/or Micro-LBE JV partner from the non-LBE JV partner; and iii) the hiring of the non-LBE JV partner’s employees by the Small and/or Micro-LBE JV partner.



4. The Small and/or Micro-LBE JV partner must share in the ownership, control, management and administrative responsibilities, risks, and profit of the JV in direct proportion to its stated level of JV participation.
 5. The Small and/or Micro-LBE JV partner must perform work that is commensurate with its experience.
 6. A JV must submit an executed JV agreement and management plan detailing each JV partner's responsibilities and tasks.
 7. A JV must obtain a Federal ID number for that entity.
 8. A JV must obtain a tax registration certificate from the City Tax Collectors Office for that entity.
- B. A prime association or partnership is considered the same as a Joint Venture and must comply with all the JV requirements stated above.
- C. The proposal items to be performed by the Small and/or Micro-LBE JV partner must be identified separately and all work must be accounted for, including subconsulting work.
- D. The cost of the work to be performed by the Small and/or Micro-LBE JV partners is to be calculated as a percentage of the work to be performed by the Joint Venture partners. The Joint Venture should deduct the amount of work to be performed by subconsultants from its total contract amount. This percentage is used to determine whether or not the Joint Venture is eligible for a rating bonus. **Note that any supportive/subconsulting level work will not be counted towards the eligibility for the Joint Venture rating bonus.**

EXAMPLE:

Step 1. Calculate total JV partner work:

Total Contract Work	=	100%
Percentage of Total Contract Work Performed by Subconsultants	-	40%
Percentage of Total Contract Work Performed by JV partners	=	60%

Step 2. Calculate Small and/or Micro-LBE JV partner prime level task(s):

	A	B	C
Description of JV Partners' Scopes of Work	JV Partners' Work as a % of the Total Contract	% of Task by Non-LBE JV Partner	% of Task by Small and/or Micro-LBE JV Partner
TASK 1	5%	3%	2%
TASK 2	20%	11%	9%
TASK 3	25%	12.5%	12.5%
TASK 4	10%	6%	4%
<i>TOTAL JV Partner %</i>	<i>60%</i>	<i>32.5%</i>	<i>27.5%</i>

Step 3. Calculate Small and/or Micro-LBE JV partner work as a percentage of the total JV partner work for the rating bonus.

Total Small and/or Micro- LBE JV %	27.5%	÷	Total JV %	60%	=	45.8%
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The Small and/or Micro-LBE JV partner's participation is 45.8%. The JV is therefore eligible for a 7.5% rating bonus.



PART III LBE SUBCONTRACTOR/SUBCONSULTANT (“SUB”) PARTICIPATION

3.01 LBE SUB PARTICIPATION REQUIREMENT(S)

A. General

All proposers shall achieve the LBE sub participation requirement(s) and undertake adequate good faith outreach as set forth in Section 14B.8 of the Ordinance to select subconsultants to meet the LBE sub participation requirement(s). The RFP/RFQ will state which LBE size category (e.g., Micro, Small, and/or SBA-LBE) can be used to meet the LBE sub participation requirement(s). A Proposer’s failure to achieve their respective LBE sub participation requirement(s) shall subject the Proposer to sanctions as described in Section 14B.17 of the Ordinance. For a directory of certified LBEs, please go to: <http://www.sfgov.org/cmd>.

Proposals that do not meet the LBE sub participation requirement(s) set under Section 14B.8(A) of the Ordinance will be rejected as non-responsive pursuant to Chapter 14B and its accompanying Rules and Regulations.

1. Proposers must identify on Form 2A the particular LBE subconsultants and lower tier subconsultants to be utilized in performing the Contract, specify for each the percentage of participation, the type of work to be performed and such information as the CMD reasonably shall require to determine the responsiveness of the proposal. For a Proposer to receive LBE sub participation credit towards the LBE sub participation requirement(s), a listed LBE subconsultant must be CMD certified in the scopes of services/disciplines specified on Form 2A. Additionally, a sub(s) may be listed by more than one Proposer.
2. A Proposer must contact an LBE before listing that LBE as a subconsultant in the proposal. A proposal that fails to comply with this requirement will not receive LBE sub participation credit for the referenced LBE. LBEs must be certified with CMD on the proposal due date to receive LBE sub participation credit.
3. Proposers are responsible for verifying the LBE status of a sub prior to submitting a proposal. A subconsultant that has a certification application pending, that has been denied certification, that has had its certification revoked or that is in the process of appealing a CMD denial or revocation at the date and time the proposal is due is not an LBE and cannot be counted as an LBE for purposes of achieving LBE sub participation requirement(s) even if the firm is later certified or ultimately prevails in its appeal.
4. CMD may require the successful Proposer to submit performance reports (e.g., Form 7, etc.) on actual LBE participation at 30%, 50%, 70%, and 90% completion to the Contracting Awarding Authority and CMD.

B. Determination and Calculation of LBE Subcontractor/Subconsultant Participation

General Rules and Commercially Useful Function

1. All LBE Proposers/JVs with LBE participation must meet the LBE sub requirement(s). Any LBE Proposer/JV with LBE participation may not count its participation towards meeting the LBE sub participation requirement(s). An SBA-LBE Proposer may not count its participation towards the LBE sub participation requirement(s).
2. If a Proposer owns or controls more than one business that is CMD certified as an LBE, the Proposer will not receive LBE sub participation credit if it lists its other firms to meet the LBE sub participation requirement(s) when submitting as a Proposer. In determining ownership of a business, a business owned by Proposer’s spouse or domestic partner shall be deemed to be owned by the Proposer.
3. For a Proposer to receive LBE sub participation credit towards the LBE sub participation requirement(s), a listed LBE sub must be CMD certified in the scopes of services/discipline(s)



listed on Form 2A. The LBE sub shall be listed to perform task(s), which is described in the RFP or RFQ.

4. The LBE subconsultant must be utilized on the Contract to perform a Commercially Useful Function. An LBE sub performs a Commercially Useful Function if it is directly responsible for providing the materials, equipment, supplies or services to the project as required by the RFP/RFQ or contract documents. To perform a Commercially Useful Function, an LBE sub must be solely responsible for execution of a distinct element of the contract work, and must actually perform, manage, and supervise the work involved in accordance with normal industry practice.
5. To determine whether an LBE sub is performing a Commercially Useful Function, the CMD will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing and the LBE credit claimed for its performance of the work, and other relevant factors. What constitutes a Commercially Useful Function will vary depending on the type of LBE sub.
6. An LBE sub does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of LBE participation. In determining whether an LBE is such an extra participant, the CMD will examine similar transactions and determine whether or not non-LBEs would normally participate in such transactions. No LBE sub participation credit will be given for an LBE that serves as a pass-through.
7. If the LBE subconsultant forms a Joint Venture with a non-LBE subconsultant, the LBE subconsultant Joint Venture partner will be credited only for its portion of the work, as follows:

EXAMPLE:

If the total subcontract amount = \$ 1,000,000 of which

\$510,000 is the LBE JV subcontract amount and \$490,000 is the non-LBE subcontract amount, then \$510,000 is credited toward the LBE sub participation requirement(s).

8. Only the dollar amount of work to be performed by the LBE sub will be credited toward meeting the LBE sub participation requirement(s).
EXAMPLE: Proposer lists an LBE sub for \$1,000,000, but the LBE sub will perform \$510,000 of that amount. The remaining \$490,000 will be further subbed out to a lower-tier non-LBE sub. Only \$510,000 will be credited toward the LBE sub participation requirement(s).
9. All work done by lower-tier LBE subconsultants will be credited toward meeting the LBE sub participation requirement(s).
EXAMPLE: A non-LBE sub is listed for \$1,000,000 and will perform \$800,000 of that amount. The remaining \$200,000 will be further subbed out to a lower-tier LBE sub. Only \$200,000 will be credited toward the LBE sub participation requirement(s), provided that the lower-tier LBE sub was listed on Form 2A at the time of proposal.

3.02 SUBSTITUTION, REMOVAL, OR CONTRACT MODIFICATION OF LBE

No LBE subconsultant, supplier or vendor listed on Form 2A shall be substituted, removed from the Contract or have its Contract, purchase order or other form of agreement modified in any way without prior CMD approval. Consultant must conduct good faith efforts to replace an LBE sub with another LBE sub to comply with the LBE sub participation requirement(s). Additionally, no new subconsultants shall be added without prior CMD approval.



PART IV "GOOD FAITH EFFORTS" REQUIREMENTS

All proposers shall undertake adequate good faith efforts as set forth in Section 14B.8 of the Ordinance.

Under Section 14B.8(C) of the Ordinance, proposals that do not meet the LBE sub participation requirement(s) will be rejected as non-responsive pursuant to Chapter 14B and its accompanying Rules and Regulations.

Proposers must perform at least one of the three good faith efforts approaches outlined on Form 2B (35% Approach, Inclusion of Micro-LBE Approach and/or the Good Faith Negotiation(s) Approach). Note: A Proposer may be waived from the good faith efforts if it has been deemed by CMD to have met the requirements in the Mentor Protégé Program. A Proposer shall provide the CMD proof of eligibility.

The instructions for the Inclusion of Micro-LBE Approach and the Good Faith Negotiation(s) Approach are clearly outlined on Form 2B. Proposer must submit all good faith documentation as specified on Form 2B. For the 35% Approach listed above, if a Proposer demonstrates in its Proposal that it exceeds the sum of all the established LBE sub participation requirement(s) by 35% or more, such Proposer is not required to conduct the other good faith efforts approaches.

Example: The sum of all the LBE sub participation requirement(s) is 10%. Good faith efforts requirements will be met if the Proposer:

- 1) Meets the LBE sub participation requirement(s); **AND**
- 2) Has a total LBE participation that equals or exceeds 13.5% of the total proposal amount. The 13.5% represents the 10% LBE sub participation requirement plus 35% of that 10% sub participation requirement.

The sum of all LBE sub participation requirement(s) set for the project:	10.0%
35% of the 10% LBE sub participation requirement(s):	3.5%
Total LBE participation must equal or exceed:	13.5%

A Small or Micro-LBE Bidder/Proposer may count its own contract work toward the 35% good faith outreach exception portion, but may not count its own contract work toward the LBE sub participation requirement portion. An SBA-LBE Bidder/Proposer may not count its own contract work towards the LBE sub participation requirement portion or the 35% good faith outreach exception portion. SBA-LBE subs may count towards the 35% good faith outreach exception portion if the Director permitted Bidders/Proposers to list SBA-LBE firms to satisfy the LBE sub participation requirement.

PART V NON-COMPLIANCE AND SANCTIONS

A. Non-Compliance with Chapter 14B

- 1. A complaint of non-compliance concerning LBE participation initiated by any party after contract award will be processed in accordance with Chapter 14B and its implementing Rules and Regulations.
 - a. If the CMD Director determines that there is cause to believe that a Consultant has failed to comply with any of the requirements of the Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, the CMD Director shall notify the Contract Awarding Authority and attempt to resolve the non-compliance through conference and conciliation.



- b. If the non-compliance is not resolved through conference and conciliation, the CMD Director shall conduct an investigation and, where the Director so finds, issue a written Finding of Non-Compliance.
 - c. The Director's finding shall indicate whether the Consultant acted in good faith or whether noncompliance was based on bad faith noncompliance with the requirements of Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation.
2. Where the Director finds that the Consultant acted in good faith, after affording the Consultant notice and an opportunity to be heard, the Director shall recommend that the Contract Awarding Authority take appropriate action. Where the Director finds bad faith noncompliance, the Director shall impose sanctions for each violation of the Ordinance, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, which may include:
 - a. Issuing an Order of Debarment prohibiting the Consultant and affiliates from participating in City Contracting for a period not to exceed five years and terminating any existing Contracts or Subcontracts with the debarred Consultant, in accordance with the Administrative Debarment provisions and procedures set forth in Administrative Code Chapter 28.
 - b. Determining that the Consultant has failed to comply with the provisions of Chapter 14B, sanctions are as follows:
 - i) suspend a Contract;
 - ii) withhold funds;
 - iii) assess penalties;
 - iv) debarment;
 - v) revoke CMD certification; or
 - vi) pursuant to 14B.7(H)(2) of the Ordinance, assess liquidated damages in an amount up to 25% of the total amount of the Contract or subcontract, as applicable, or \$1,000, whichever is greatest as determined by CMD.
 3. The Director's determination of non-compliance is subject to appeal to the City Administrator pursuant to CMD Rules and Regulations.
 4. An appeal by a Consultant to the City Administrator shall not stay the Director's findings.
 5. The CMD Director may require such reports, information and documentation from Consultants, subconsultants, Contract Awarding Authorities, and heads of departments, divisions, and offices of the City and County as are reasonably necessary to determine compliance with the requirements of Chapter 14B.
- B. Procedure for the collection of penalties is as follows:**
1. The CMD Director shall send a written notice to the Controller, the Mayor and to all Contract Awarding Authorities or City and County department officials overseeing any Contract with the Consultant that a determination of non-compliance has been made and that all payments due the Consultant shall be withheld.
 2. The CMD Director shall transmit a report to the Controller and other applicable City departments to ensure that the liquidated damages are paid to the City.



FORM 2A: CMD CONTRACT PARTICIPATION FORM

Section 1: This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Proposer, each Joint Venture partner, Subconsultants, Vendors, and lower sub tiers must be listed on this form. The RFP/RFQ will state which LBE size category (e.g., Micro, Small, and/or SBA-LBE) can be used to meet the LBE sub participation requirement(s). All LBE Proposers/JVs with LBE participation must meet the LBE sub participation requirement(s). Any LBE Proposer/JV with LBE participation may not count its participation towards meeting the LBE sub participation requirement(s). Be sure to check the appropriate box for Rating Bonus under Section 2. If more space is needed for Section 1, attach additional copies of this form.

Contract No.:		
Contract Title:		LBE SUBPARTICIPATION REQUIREMENT(S)
Firm:		<input type="checkbox"/> Micro and Small-LBE Sub Requirement - ___%
Contact Person:		<input type="checkbox"/> Micro, Small, SBA-LBE Sub Requirement - ___%
Address:		<input type="checkbox"/> Micro-LBE Sub Requirement - ___%
City/ZIP:		<input type="checkbox"/> Small-LBE Sub Requirement - ___%
Phone, Email:		<input type="checkbox"/> SBA-LBE Sub Requirement - ___%

*Type: Identify if Prime (P), JV partner (J), Subconsultant (S), or Vendor (V)

TYPE *	Firm	Portion of Work (Describe Scope(s) of Work)	% of Work	Indicate LBE or Non-LBE. If LBE, identify MBE, WBE, or OBE; AND Micro, Small, or SBA.	% of LBE Subwork (Carry-Over from % OF Work Column)		
					Micro	Small	SBA
			%		%	%	%
			%		%	%	%
			%		%	%	%
			%		%	%	%
		Total % of Work:	100%	Total LBE Sub Participation:	%	%	%

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above Consultants for the portions of work and amounts as reflected in the proposal for this Contract.

Owner/Authorized Representative (Signature): _____ Date: _____

Print Name and Title: _____

** MBE = Minority Business Enterprise, WBE = Women Business Enterprise, OBE = Other Business Enterprise. See CMD website: <http://www.sfgov.org/cmd> for each firm's status



Section 2. Rating Bonus

Check applicable boxes.

- A. **NO Rating Bonus Requested 0%**
- B. **Contracts with an Estimated Cost in Excess of \$400,000 and Less Than or Equal to \$10,000,000.** See instructions in Sections 2.01 and 2.02.
- Micro or Small-LBE 10%**
 - Joint Venture 7.5%**
 - Joint Venture 5%**
 - Joint Venture (Micro or Small-LBEs only) 10%**
 - SBA-LBE 5%**
- C. **Contracts with an Estimated Cost in Excess of \$10,000 and Less Than or Equal to \$10,000,000.** The below rating bonuses DO NOT apply to Chapter 21 contracts and only apply to Chapter 6 contracts, including Chapter 6.40. See instructions in Section 2.01 for details. This Neighborhood/Zip Code LBE Program shall apply to projects located within the jurisdictional boundary of San Francisco. The program shall not apply to Job Order Contracts (JOC), As-Needed contracts, or other contracts where no specific project location is specified at the time of proposal. The RFP/RFQ will clearly state whether the Pilot Neighborhood/Zip Code LBE Program is applicable to the specific project. A Proposer may receive up to a maximum rating bonus of 13% depending on the particular application.

Prime Neighborhood/Zip Code LBE rating bonus:

- Prime Neighborhood LBE (or a JV where the Neighborhood LBE JV partner(s)' participation is at least 40%) 1%**

OR

- Prime Zip Code LBE (or a JV where the Prime Zip Code LBE JV partner(s)' participation is at least 40%) 1.5%**

Subconsulting Neighborhood/Zip Code LBE rating bonus:

- Sub Neighborhood LBE 0.5%**

OR

- Sub Zip Code LBE 1.5%**

- D. **Contracts in Excess of \$10,000,000 and Less Than or Equal to \$20,000,000.** See instructions in Section 2.01.
- Micro, Small, or SBA-LBE 2%**
- E. **Mentor-Protégé Program Bid Discount/Rating Bonus.** The Mentor Protégé rating bonus is not applicable to professional services contracts. However, for this CMD Attachment 2, the Mentor Protégé rating bonus/bid discount is applicable for Design-Build and/or CM/GC projects only. See instructions in Section 2.01.
- Mentors of the Mentor-Protégé Program 1%**



Section 3. Proposer, Joint Venture Partners, Subconsultant, and Vendor Information

Provide information for each firm listed in Section 1 of this form. Firms which have previously worked on City contracts may already have a vendor number. Vendor numbers of LBE firms are located on the CMD LBE website at <http://www.sfgov.org/cmd>. Use additional sheets if necessary.

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____



FORM 2B: “GOOD FAITH EFFORTS” REQUIREMENTS FORM

This “Good Faith Efforts” form, along with the required supporting documentation, must be completed and submitted per the instructions in this form, EVEN IF the LBE subcontracting/subconsulting participation requirement has been met (Section 14B.8 of the San Francisco Administrative Code). At the time of bid/proposal, Bidders/Proposers must submit this form along with its Bid/Proposal to be responsive. Failure to fulfill at least one of the three different approaches below may deem the Bid/Proposal nonresponsive.

To assist Bidders/Proposers with outreach to LBEs, the CMD website has a directory of certified LBEs: <https://sfgov.org/cmd/>.

Choose one of the three approaches listed below on this form. Approaches B and C require submittal of supporting documentation.

Approach A - 35% Approach

This approach is codified in Section 14B.8 of the San Francisco Administrative Code.

Under Approach A, a Bidder/Proposer must demonstrate that the total LBE participation requirement established for this project will be exceeded by at least 35%. This approach is illustrated in this CMD Attachment under Part IV.

- If a Contract has *separate* LBE sub participation requirements, the Bidder/Proposer must exceed by at least 35% the total sum of all the LBE sub participation requirements.
- A Small or Micro-LBE Prime Bidder/Proposer may not count its own contract work toward the LBE sub participation requirement portion, but may count its own contract work for the portion that exceeds the LBE sub participation requirement (i.e., 35% good faith outreach exception portion).
- An SBA-LBE Prime Bidder/Proposer may not count its own contract work towards the LBE sub participation requirement portion or the 35% good faith outreach exception portion.
- An SBA-LBE sub may count its participation towards the 35% good faith outreach exception portion if the Contract Monitoring Division Director permitted Bidders/Proposers to list SBA-LBE firms to satisfy the LBE sub participation requirement.

Select the boxes that apply:

Does your Bid/Proposal demonstrate that you have exceeded the established LBE sub participation requirement(s) by 35% or more in accordance with Section 14B.8(B)? YES NO

I am a Small or Micro-LBE Prime Bidder/Proposer. I have listed LBE subs on Section 00 43 36/Form 2A/equivalent form to meet the established LBE sub participation requirement(s). I am relying on self-performed contract work to meet the 35% good faith outreach approach. Below is the total value of contract work I will perform with my own forces:

Percent (%) or Amount (\$) of Work: _____

I am NOT a Small or Micro-LBE Bidder/Proposer. I have demonstrated on Section 00 43 36/Form 2A/equivalent form that the proposed LBE sub participation exceeds the sum of the established LBE sub participation requirements by at least 35%.

Approach B - Inclusion of Micro-LBE



This approach establishes that the Prime is utilizing Micro-LBEs on their projects.

Under Approach B, the Bidder's/Proposer's good faith efforts must be demonstrated by listing a different Micro-LBE subcontractor/subconsultant on this Bid or Proposal than they have listed in the last five (5) most recently awarded CCSF Contracts with LBE sub participation requirements.

- A Prime Bidder/Proposer that has been awarded at least five (5) CCSF Contracts at the time of the current Bid/Proposal must list at least one (1) Micro-LBE firm on its team that the Prime Bidder/Proposer has not listed on its last five (5) most recently awarded CCSF Contracts.
- A Prime Bidder/Proposer that has been awarded four (4) or less CCSF Contracts at the time of the current Bid/Proposal must list at least one (1) Micro-LBE firm on its team that the Prime Bidder/Proposer has not listed on any of its previously awarded CCSF Contracts and must indicate below the number of CCSF Contracts that it has been previously awarded.

Enter exact number of CCSF awarded Contracts: _____

- If there are separate LBE sub participation requirements on this Bid/Proposal, the Prime Bidder/Proposer is only required to list at least one Micro-LBE on its team to meet the "Good Faith Efforts" requirement.
- A Prime Bidder/Proposer that has never listed a Micro-LBE sub on any of its CCSF awarded Contracts or that has never bid on a CCSF Contract, may also utilize this approach.

A Bidder/Proposer must list the last five (5) most recently awarded CCSF Contracts below. If a Bidder/Proposer has four (4) or less CCSF awarded Contracts, it must list below all of its CCSF awarded Contracts. This includes Contracts where the Bidder/Proposer received a notification of award, even if work has not begun or if the Contract is not yet complete.

- CCSF Contracts that do not have an LBE sub participation requirement are excluded from this approach.
- Contracts where a Micro-LBE was utilized for a substitution, firm addition, or a trade package for CM/GC or DB projects are excluded from this approach.

Contract Awarding Department	Contract Title	Contract Number	Contract Awarding Department's Award Date
1.			
2.			
3.			
4.			
5.			

Bidder/Proposer must submit the following supporting documents for verification purposes; failure to submit this documentation may result in the Bid/Proposal found non-responsive:



- For each of the Contracts listed above, the Prime Bidder/Proposer must include Section 00 43 36/CMD Form 2A/equivalent form submitted to the Contract Awarding Department.
- The Section 00 43 36, CMD Form 2A, or equivalent form must indicate the Contract Awarding Department, the Project Title and the Contract Number.

The Micro-LBE sub listed for Approach B must sign below. By signing below, the Micro-LBE is verifying that it has not been utilized on the Prime Bidder's/Proposal's projects provided above.

Contract Number and Name: _____

Signature of Micro-LBE Owner/Authorized Representative: _____

Micro-LBE Owner/Authorized Representative (Print): _____

Name of Firm (Print): _____

Title and Position: _____

Address, City, ZIP: _____

Telephone/E-mail: _____

Date: _____

Approach C - Good Faith Negotiation(s)

This approach awards points for negotiating with LBEs in good faith.

Under Approach C, the Bidder's/Proposer's good faith outreach will be evaluated based on the entire team listed for the contract, even if the contract includes separate LBE sub participation requirement(s).

- A Bidder/Proposer must achieve at least 50 points with any combination of Items #1 through #3 below, as determined by CMD, to be deemed compliant with the "good faith outreach" requirements. A Bidder/Proposer who fails to achieve at least 50 points will be declared nonresponsive, and the Bid/Proposal will be rejected. Please check "yes" or "no" for each item listed below. Supporting documentation for Items #1 through #3 below must be submitted with the Bid/Proposal.



<p>1. Did your firm contact CMD certified LBE firms, not less than 10 calendar days prior to the due date of the Bid/Proposal? If so, you must include email documentation showing the date of the contact with your Bid/Proposal to verify that contacts were made timely.</p> <p>The purpose of contacting LBE firms is to provide notice of interest in bidding/proposing for this project. When contacting LBEs, you should provide adequate information about the plans, specifications, and requirements for the work.</p> <p>A Bidder/Proposer will receive 1 point for each LBE firm contacted, not less than 10 calendar days prior to the due date of the Bids/Proposals. The Bidder/Proposer may receive up to a maximum of 10 points for this item. There is no limitation to how many LBE firms a Bidder/Proposer can contact. Where there are fewer than 10 LBE firms available for subcontracting, and CMD has confirmed as such prior to the bid/proposal due date, the bidder/proposer will receive the 10 points as long as all potential LBE firms are contacted.</p> <p>If the City gave public notice of the project less than 15 calendar days prior to the Bid/Proposal due date, the allocation of points above still applies, except that the Bidder/Proposer may contact those LBE firms identified less than 10 calendar days prior to the due date of the Bid/Proposal.</p>	<p><input type="checkbox"/> Yes (Maximum of 10 points)</p>	<p><input type="checkbox"/> No (0 points)</p>
<p>2. Did your firm follow-up/negotiate in good faith with interested LBEs*? Your follow-up contact(s) with interested LBEs should include, but are not limited to correspondence regarding: the scope of work/services, quotes/billing rates, qualifications and/or expectations; the City's bonding and financial assistance program(s); assistance available to potential LBE subcontractors/subconsultants to properly mobilize; reduction of your firm's pre-qualification standards; etc.</p> <p>The Bidder/Proposer shall submit the following documentation:</p> <ul style="list-style-type: none"> a) Identify each interested LBE firm you are submitting email correspondence/documentation for; b) Copies of <u>ALL</u> email correspondence for each LBE identified for Item #2 (Note that the initial email correspondence from Items #1 above will not count towards the subject Item)—At a minimum, the Bidder/Proposer must include email documentation showing a response to the interested LBE; c) A full and complete statement of the reason(s) why any of the LBE firms identified for Item #2 was not selected for the subject project. <p>For each interested LBE firm that the Bidder/Proposer does follow-up with, the Bidder/Proposer will receive 10 points. There is no maximum amount of points/limitation to how many LBE firms a Bidder/Proposer can correspond with and follow-up/negotiate in good faith.</p> <p>A Bidder/Proposer who does not perform any follow-up contact with interested LBEs will receive zero points for Item #2.</p> <p>* "Interested LBE" shall mean an LBE firm that expresses interest in being a subcontractor/subconsultant/supplier to the Bidder/Proposer for the subject solicitation.</p>	<p><input type="checkbox"/> Yes (Minimum of 10 points to no Maximum)</p>	<p><input type="checkbox"/> No (0 points)</p>



<p>3. As part of your Bid/Proposal, did your firm list an LBE identified from Item #2 above?</p> <p>For each LBE that is identified under Item #2 above, the Bidder/Proposer will receive 30 points for listing said LBE for the subject solicitation on the specified sub listing form such as Section 00 43 36/CMD Form 2A/equivalent form.</p> <p>A Bidder/Proposer who does not list any LBEs from Item #2 above for the subject solicitation on Section 00 43 36/CMD Form 2A/equivalent form, will receive zero points for Item #3.</p> <p>The Bidder/Proposer shall submit the following documentation:</p> <ul style="list-style-type: none"> a) Copies of all email correspondence between your firm and the LBE listed for the project, including written bids/quotes; b) A full and complete statement of the reasons for selection of the subcontractor(s)/subconsultant(s)/supplier(s). If the reasons are based on relative qualifications, the statement must address the particular qualification at issue. If the reason is based on the bid/quote amounts, the statement must include the amounts and describe the similarities and/or dissimilarities in the scope of work covered by the bids/quotes. c) Email notification to LBE that it will be listed on Section 00 43 36/CMD Form 2A/equivalent form and include the listed LBE's scope of work and dollar value/percentage. <p>Pursuant to Section 14B.8(E) of the Ordinance, all Bidders/Proposers shall maintain the documentation described under this item for three years following submission of the Bid or completion of the Contract, whichever is later.</p>	<p><input type="checkbox"/> Yes (Minimum of 30 points to no maximum)</p>	<p><input type="checkbox"/> No (0 points)</p>
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For Approaches A through C, the Prime Bidder/Proposer declares and swears under penalty of perjury under the laws of the State of California that the foregoing statements/documentation are true and correct and accurately reflect its good faith efforts as required in this CMD Attachment, in Section 14B.8 and the accompanying Chapter 14B's Rules and Regulations.

Owner/Authorized Representative (Signature)	Owner/Authorized Representative (Signature)
Name (Print) and Title	Name (Print) and Title
Firm Name	Firm Name
Telephone Email	Telephone Email



FORM 4: CMD JOINT VENTURE FORM

This form must be submitted ONLY if the Proposer is requesting a Joint Venture partnership with a Small and/or Micro- LBE firm for the rating bonus. The Joint Venture partners must submit a Joint Venture agreement and management plan with the proposal. All work must be accounted for including subconsulting work.

1. Name of Contract or Project: _____

2. Name of all JV partners: (Check LBE if applicable)

	LBE <input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>
	<input type="checkbox"/>

3. Attach a copy of Joint Venture Agreement and Management plans.

4. The management plan must include the following information:

- a. Describe in detail how decisions will be made for work distribution and compliance of Small and/or Micro-LBE Joint Venture participation.
- b. Provide each Joint Venture partner’s specific duties and responsibilities (include organizational chart).
- c. Identify the Location of Joint Venture Office.
- d. Provide in detail how decision will be made for work distribution to LBE subconsultants and/or vendors.
- e. Submit copies of bank signature cards with authorized names, titles, and address/city of the bank (required after award of Contract.)

5. Calculation of the Rating Bonus. See §2.02(D) of CMD Attachment 2 for an example.

If the Joint Venture partners are dividing the work according to a different formula than that described below, please contact CMD staff and describe the arrangement in detail prior to submittal of proposal.

Joint venture partners are encouraged to meet with CMD regarding their Joint Venture prior to submitting their proposal.

The rating bonus is awarded based on the Small and/or Micro-LBE JV partner tasks calculated as a percentage of the total JV partner tasks.

Joint Venture partners may be in different industries provided that each Joint Venture partner meets the minimum qualifications in the Bid or proposal, and each is acting as a prime. The LBE Joint Venture partner must perform Prime Level Work and be CMD certified for the scope of work they are proposing to perform in order to be eligible for the rating bonus. “Prime Level Work” means any portion of work that is listed in the prime’s minimum qualification section in the RFQ/RFP. Joint Ventures receive rating bonuses depending upon the LBE percentage of prime level participation as set forth in Section 14B.7(F) of the Ordinance. Note that any supportive/subconsulting level work will not be counted towards the eligibility for the Joint Venture rating bonus.



Step 1. Calculate total JV partner tasks.

Total Contract Tasks	=	100 %
Percentage of Total Work to be Performed by Subconsultants	-	%
Percentage of JV partner tasks	=	%

Step 2. Calculate Small and/or Micro-LBE JV partner prime level task(s):

	A	B	C
Description of JV Partner Scopes of Work (Specific Details of Work)	JV Partners' Work as a % of the Total Project	% of Task by Non-LBE JV Partner	% of Task by Small and/or Micro-LBE JV Partner
	%	%	%
	%	%	%
	%	%	%
	%	%	%
	%	%	%
TOTAL JV %	%	%	%

Step 3. Calculate Small and/or Micro-LBE JV partner work as a percentage of the total JV partner work for the rating bonus.

Total Small and/or Micro-LBE JV Partner %	÷	Total JV %	=	%
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JOINT VENTURE PARTNERS MUST SIGN THIS FORM

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Email

 Date

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Email

 Date



FORM 5: CMD EMPLOYMENT FORM

This form is to be submitted with the proposal.

Indicate key personnel designated to work on this project for the entire project team (Proposer, Joint Venture partners, subconsultants, and vendors).

The employees listed should include all those listed in other sections of the proposal.

NAME OF FIRM	NAME OF EMPLOYEE	PROJECT ROLE	RACE	SEX

Sign below including each Joint Venture partner.

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Email

 Date

 Owner/Authorized Representative (Signature)

 Name (Print) Title

 Firm Name

 Telephone Email

 Date