Contract Compliance Program

Including

Equal Employment Opportunity Program
Disadvantaged Business Enterprise Program
Targeted Small Business Program

Updated June 2017

The Des Moines City Council adopted this Contract Compliance Program on June 26, 2017, under Roll Call No. 17-1038

Engineering Department

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CITY OF DES MOINES, IOWA

CONTRACT COMPLIANCE PROGRAM

POLICY STATEMENT

The City of Des Moines, Iowa, through its City Council, Mayor, and City Manager, is committed to the principles embodied in the concept of equal opportunity. It is the policy of the City of Des Moines to refrain from discrimination on the basis of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, or disability in the award and performance of contracts and procurement of goods and services. The City of Des Moines (City) is committed and mandated by applicable Local, State and Federal Laws, to require equal opportunity to be extended to contractors, subcontractors, suppliers, vendors, and professional service providers who engage in business with the City, as well as employees of those firms doing business with the City.

To fulfill this commitment, the City Council has directed development of this Contract Compliance Program. This Contract Compliance Program applies to persons or businesses contracting with, or providing goods and services to, the City of Des Moines. The City Council has charged the Engineering Department with the administration of this Contract Compliance Program, and the City Engineer shall serve as the program administrator for this program.

Any reference to this Contract Compliance Program shall equally mean and include both the Equal Employment Opportunity (EEO) Program and either the Targeted Small Business (TSB) Program, or the Disadvantaged Business Enterprise (DBE) Program, depending on the funding source.

The following statement was adopted by the Des Moines City Council on December 17, 2012. This statement is in accordance with the Iowa Department of Transportation Instructional Memorandum (I.M.) No. 1.070, page 6 of 10, dated July 20, 2012, and also in accordance with the Iowa Department of Transportation Form 131023 (Standard DOT Title VI Assurances), Item 2, pages 1 and 2 of 9, dated July 2012:


To this end, the City of Des Moines assures that no person shall on the grounds of race, color, national origin, sex, age, and disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City of Des Moines service, program, or activity regardless of whether those programs and activities are Federally funded or not.

The City of Des Moines also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies, and activities on minority and low-income populations. In addition, the department will take reasonable steps to provide meaningful access to services for persons with Limited English Proficiency. The City of Des Moines will, where necessary and appropriate, revise, update, and incorporate nondiscrimination requirements into appropriate manuals, directives, and regulations.
I. GENERAL

Equal Employment Opportunity requirements are mandated by Federal, State and Local Law. The requirements set forth in this Equal Employment Opportunity Program shall constitute the specific requirements for contracts with the City of Des Moines.

It is the policy of the City of Des Moines, through its City Council, Mayor, and City Manager, to ensure equal employment opportunities for all persons without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, gender identity, familial status, or disability. Such protections extend to those persons employed by, or seeking employment with, each contractor who provides goods or services to the City of Des Moines and who comes within the jurisdictional boundaries of this program. Each contractor who receives a City of Des Moines contract shall comply with this Equal Employment Opportunity Program. Specifically, each contractor, and each of its subcontractors, is required to comply with the Des Moines Human Rights Ordinance, Chapter 62 of the Des Moines Municipal Code.

II. PROGRAM EXECUTION

A. Each bid specification/bid document submitted to prospective bidders by the Engineering Department or Purchasing Department, as appropriate, shall contain notification to bidders of the requirements of this Equal Employment Opportunity Program. The bid documents include the requirements of the EEO Program and non-discrimination clause, and the bidder acknowledges and agrees with these requirements when signing the proposal.

B. The contractor shall not perform on the contract unless and until the contract is fully executed, where the contract includes the requirements of the EEO Program and non-discrimination clause and the contractor acknowledges and agrees with these requirements when signing the contract.

III. CITY OF DES MOINES (CITY) RESPONSIBILITIES

The City of Des Moines, through its Engineering Department, shall:

A. Ensure that this Equal Employment Opportunity Program is implemented and enforced and that the guidelines and procedures are followed.

B. Provide technical assistance and educational information upon request to contractors, individuals, and organizations interested in contracting with the City of Des Moines, including, but not limited to, the provision of information concerning the City of Des Moines’ efforts and concerns in the area of equal employment opportunity.

C. Provide technical assistance to various City of Des Moines departments upon request regarding this Equal Employment Opportunity Program.
IV. CONTRACTOR RESPONSIBILITIES - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

To be in compliance with this Equal Employment Opportunity Program, the Contractor shall:

A. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor’s employees are assigned to work.

B. Ensure that applicants and employees are treated without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, gender identity, familial status, or disability in matters including but not limited to employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

C. Make every effort to state in solicitations or advertisements for employment that all qualified applicants will receive consideration for employment without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, gender identity, familial status, or disability.

D. Send a notice advising of the Contractor’s commitments under this Equal Employment Opportunity Program to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding.

E. Include these provisions in every subcontract or purchase order associated with the City contract so that such provisions will be binding upon each subcontractor, supplier, vendor, or professional service provider with which the Contractor does business. The Contractor shall take such action as necessary to ensure compliance with said subcontract or purchase order.

F. Comply with all provisions, rules, regulations and relevant orders contained in this Equal Employment Opportunity Program.

G. Make every effort to ensure that its facilities and activities are non-segregated.

V. COMPLAINTS OF DISCRIMINATION AND REMEDIES FOR NON-COMPLIANCE

If an applicant or employee of a Contractor believes that he or she is the victim of illegal discrimination in violation of the Des Moines Human Rights Ordinance or corresponding state or federal civil rights laws, he or she may file a complaint of discrimination with one of the agencies responsible for investigating such claims. If the Contractor is found by one of these agencies to be engaging in illegal discrimination, the Contractor will be in breach of its contract with the City of Des Moines and appropriate action will be taken.

VI. ADMINISTRATION

The City Engineering Department shall be the administrative department for this Equal Employment Opportunity Program and the City Engineer may promulgate rules and procedures to govern, expedite, and effectuate the provisions of said program.
VII. DEFINITIONS

Contract means any agreement or modification thereof between the City of Des Moines and a contractor for the furnishing of services or supplies.

Contractor means unless otherwise indicated a prime contractor, subcontractor, supplier, vendor, or professional service provider.

Goods means things that are movable and have intrinsic value, including without limitation, equipment, materials, supplies, computer programs, and intellectual property and excluding real property, money, securities, documents, negotiable instruments and other intangibles.

Services means useful labor, such as repair, construction, or maintenance work; or work that results in the creation of intellectual property, including without limitation architectural or engineering designs, but does not result in the production of a tangible commodity or item of personal property.
CITY OF DES MOINES, IOWA

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM AND TARGETED SMALL BUSINESS PROGRAM

I. GENERAL

It is the policy of the City of Des Moines that Disadvantaged Business Enterprises and Targeted Small Businesses, as defined in this program, shall have the maximum opportunity to participate in the performance of City contracts and procurements, and that the goal of the Disadvantaged Business Enterprise (DBE) Program and Targeted Small Business (TSB) Program as set forth herein, and contractors are encouraged to participate and utilize DBEs and TSBs on City contracts.

A. The purpose of this Program is to encourage, to the maximum extent possible, equal opportunity to DBEs and TSBs. DBEs and TSBs, as defined in this program, shall have the maximum opportunity to participate in the performance of applicable contracts and procurements awarded by the City. The City’s Program makes it possible for the City of Des Moines to actively contribute to the economic improvement of the minority and female business communities and, thus, the minority and female communities in general.

B. The City follows the applicable federal and/or state requirements for those projects funded in whole or in part by the U.S. Department of Transportation or another federal agency. The contract documents for each such project will include the applicable DBE requirements and goals for that project, if any. All DBEs shall be certified in accordance with the Iowa Unified Certification Program by the Iowa Department of Transportation (IDOT), which is the only DBE certifying agency in Iowa. In implementation of this program, the Engineering Department shall, where appropriate, utilize the federal regulations appearing in 49 CFR Part 26 and any related administrative or judicial decisions in accordance with the project funding and also as follows:

1. On only those federally funded projects where the Iowa Department of Transportation (IDOT) receives bids on behalf of the City, the contract documents shall include the IDOT DBE Program requirements in effect at the time bids are received. If a DBE contract goal is established, it will be set by the IDOT for each such contract.

2. On other federally funded projects, the contract documents shall include the DBE requirements of the appropriate Federal agency.

C. The City follows the applicable federal and/or state requirements for those projects funded in whole or in part by state funds. The contract documents for each such project will include the TSB requirements and goals for that project, if any. All TSBs shall be certified by the Iowa Department of Inspections and Appeals, which is the only TSB certifying agency in Iowa. In implementing this program, the Engineering Department shall:

1. On only those state funded projects administered through the IDOT, the contract documents include the IDOT TSB Program requirements in effect at the time bids are received. If a TSB contract goal is established, the IDOT will establish the TSB goal for each such contract.

2. On other state funded projects, the contract documents include the TSB requirements of the state agency.
D. On City of Des Moines funded projects, participation is encouraged to utilize DBE/TSB subcontractors and suppliers as described in this City of Des Moines DBE/TSB Program.

E. The City Council has charged the Engineering Department with the responsibility of implementing and administering the TSB and DBE Program.

II. CITY OF DES MOINES (CITY) DISADVANTAGED BUSINESS ENTERPRISE/TARGETED SMALL BUSINESS (DBE/TSB) PROGRAM

The City of Des Moines Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB) Program is based on the following:

1. The City DBE/TSB Program recognizes both certified DBEs and certified TSBs as equally eligible under the program. Wherever the term DBE/TSB is utilized, it shall mean either a certified DBE or a certified TSB, or both.

2. All DBEs shall be certified in accordance with the Iowa Unified Certification Program by the Iowa Department of Transportation (IDOT), which is the only DBE certifying agency in Iowa. The DBE certification process, with its associated definitions and administrative rules, is the only part of the IDOT DBE Program that applies under the City DBE/TSB Program.

3. All TSBs shall be certified by the Iowa Department of Inspections and Appeals, which is the only TSB certifying agency in Iowa. The TSB certification process, with its associated definitions and administrative rules, is the only part of the Iowa Department of Inspections and Appeals TSB Program that applies under the City DBE/TSB Program.

4. All of the provisions of the City DBE/TSB Program are included in Sections III through VII of this document below.

5. The City Engineering Department shall be the administrative department for the City DBE/TSB Program and the City Engineer may promulgate rules and procedures to govern, expedite, and effectuate the provisions of said program.

III. RESPONSIBILITIES OF THE CITY OF DES MOINES (CITY)

The City Council has charged the Engineering Department with the responsibility of implementing and administering the DBE/TSB Program. The Engineering Department shall:

A. Post on its website, and make available upon request, a list of future project information notices to DBEs and TSBs.

B. Provide technical assistance to contractors and subcontractors upon request. This may include assistance to bidders in recruiting DBEs/TSBs; and providing information to DBEs/TSBs on obtaining plans and specifications, names of persons to contact concerning questions on bid documents, and the identity of potential bidders for general contract work and for the particular bid solicitation.

D. Send notices to those certified DBEs/TSBs in the metropolitan Des Moines area that appear qualified to do some portion of the work involved in each bid solicitation.
E. Make available, upon request, a list of plan holders to DBEs/TSBs.

F. Maintain records for City Council review to document progress toward the program objectives.

IV. GOALS OF THE CONTRACTOR

A. Place an ad/announcement soliciting DBE/TSB participation in general media circulation and minority-focus media when appropriate.

B. Contact DBEs and TSBs regarding the Contractor’s intent to submit a bid and provide adequate information about the plans, specifications and requirements of the contract. Contact DBEs and TSBs who appear by their asserted areas of expertise to be qualified to do some project work, and who could reasonably be expected to perform such work, to ascertain their interests, availability, and capability to participate as a subcontractor and/or vendor for those supplies and/or services being solicited by the Contractor.

C. Make all reasonable efforts to solicit quotes for subcontracting from interested DBEs/TSBs.

V. RESPONSIBILITIES OF DBEs/TSBs

To participate in this Program, the DBE/TSB shall:

A. To be recognized as a DBE or a TSB, the contractor shall seek and maintain certification, as either a DBE by the Iowa Department of Transportation in accordance with the Iowa Unified Certification Program, or a TSB by the State of Iowa Department of Inspections and Appeals, in order to participate in this City DBE/TSB Program.

B. Submit bids to the City as a Contractor, or submit quotes as a potential subcontractor to other Contractors, for City projects and perform the work on the project. The DBE/TSB cannot act as a broker by subcontracting out its subcontract to any other firm. Only those DBE/TSB firms performing a useful business function according to custom and practice in the industry shall be considered under this Program. Acting merely as a conduit of funds to some other non-DBE/TSB firm where such activity is unnecessary to accomplish the project does not constitute a useful business function according to custom and practice in the industry.

C. Be responsible to obtain plans, specifications, and a list of plan holders from the City Engineering Department.

D. Notify the plan holders and bidders of its interest to subcontract portions of the work. The DBE/TSB shall actively promote its business with bidders throughout the industry.
VI. DEFINITIONS

Contract: Any agreement or supplemental agreement between the City and its contractors, subcontractors, suppliers, vendors, and professional service providers. The term “services” as used in this program includes but is not limited to construction and professional services.

Contractor: The individual, firm, co-partnership, or corporation, and his, her, their, or its heirs, executors, administrators, successors, and assignees, or the lawful agent of any such individual, firm, partnership, covenantor, or corporation, or his, her, their, or its surety under the contract bond, constituting one of the principals to the contract and undertaking to perform the work herein specified. Where any pronoun is used as referring to the word “Contractor,” it shall mean the Contractor as defined above.

Disadvantaged Business Enterprise (DBE): A DBE is defined, in 49 CFR 26.5.

Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB): A DBE/TSB is defined as either a DBE or TSB as defined herein.

Subcontractor: The subcontractor is any individual, firm, partnership, joint venture, corporation, or association to whom the contractor, with the written consent of the City, sublets a part of the work.

Targeted Small Business (TSB): A TSB is as defined in Iowa Code §15.102.

Socially and economically disadvantaged individual as defined in 49 CFR 26.5.