



OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

OFFICE OF EQUITY AND INCLUSION (OEI) FORMS – ATTACHMENT B

SMALL BUSINESS ENTERPRISE UTILIZATION CERTIFICATION

To be eligible for selection to award this contract, each respondent must complete and submit this Small Business Enterprise (SBE) Utilization Certification with its Proposal. The Commission may consider as non-responsive and reject any Proposal that does not contain a Certification (page OEI-1) and Utilization Plan (page OEI-2) that properly demonstrates that the respondent's commitments with SBEs for participation on the project if awarded the contract. The successful respondent's SBE Utilization Certification and Utilization Plan shall be incorporated as part of the resulting Contract. If the Certification and Plan fail to demonstrate a commitment to meeting or exceeding the Goal stated in the RFP, the respondent is required to complete and submit a Good Faith Efforts Demonstration (page OEI-4 and page OEI-5). **To count towards the goal, the participants must be certified as SBEs with the Commission or as SBEs or DBEs with ODOT or EDGE certified with the Ohio Department of Administrative Services at the time of bid.**

The undersigned authorized agent of the respondent represents to the Ohio Turnpike and Infrastructure Commission, as part of its Proposal, that it will perform the duties of the respondent having: (check one)

<input type="checkbox"/> attained commitments to meet or exceed the contract's SBE goal, and has documented SBE participation in the attached Utilization Plan for the project summarized as follows: SBE Participation Commitment: \$ _____ Total Dollar Value _____% Percent of Total Bid Attached is the Utilization Plan evidencing commitments with each SBE that will participate in the project in a manner that meets or exceeds the goal, and affirming the availability and planned participation of each business identified.
<input type="checkbox"/> failed to meet the contract's SBE goal despite its Good Faith Efforts to attain commitments to meet or exceed the goal, and has documented its efforts to achieve the goal in the attached Demonstration of Good Faith Efforts (page OEI-4 and page OEI-5) and documented commitments in the attached Utilization Plan to SBE participation on the project summarized as follows: SBE Participation Commitment: \$ _____ Total Dollar Value _____% Percent of Total Bid 1. Attached is the Utilization Plan evidencing commitments with each SBE that will participate in the project and affirming the availability and planned participation of each business identified; and 2. Attached is the Good Faith Efforts Demonstration evidencing those Efforts that were unsuccessful in attaining SBE participation commitments that meet or exceed the goal.

Respondent

By: _____
Signature

Name: _____

Title: _____

Date: _____

Submit the Utilization Plan (page OEI-2) and (if necessary) the Good Faith Efforts Demonstration (page OEI-4 and page OEI-5) with the Proposal using the templates and instructions that follow.

Respondent's SBE Utilization Plan
 (Complete and Submit with Utilization Certification)

BOX 1:

("Respondent")

certifies that the SBEs listed below have been engaged to participate on this project, and if the Respondent is selected for award of the Contract, it shall assure that its self-performance, subcontracts or other agreements are executed as follows:

Column 1 Name of SBE (See instructions)	Column 2 Project Role (See instructions)	Column 3 Description of Work (See instructions)	Column 4 Amount Subcontracted to SBE (See instructions)	Column 5 Amount to be Applied Towards Goal (See instructions)

BOX 2:

Small Business Enterprise Contract Goal in Dollars:

BOX 3:

Total SBE Credit Commitment:

If Box 2 is greater than Box 3, proceed to complete and submit the Good Faith Efforts Documentation Form (page OEI-4 and page OEI-5)

Instructions for Small Business Enterprise Utilization Plan

Box 1: Name of Respondent submitting Proposal.

Column 1: Name of the Small Business Enterprise (“SBE”) participating on the project. To receive credit towards contract goal, SBEs must be certified with the Commission at time of bid, or eligible for fast track certification (i.e., certified as DBE or SBE with ODOT or EDGE certified with Ohio DAS). If a SBE is performing multiple scopes, repeat the name of the SBE for each scope that will be performed and the respective amount.

Column 2: The Project Role that the SBE will be performing as follows:

- Prime Contractor
- Manufacturer or Regular Dealer
- Broker
- Subcontractor
- Trucking/Hauler

List each project role to be performed by a single SBE individually on a separate row(s). The role is used to determine what portion of the amount to be subcontracted (Column 4) may be applied toward meeting the goal (column 5).

Column 3: A description of the Work to be performed by the SBE must be consistent with the industry used for its certification. The Respondent may rely upon the descriptors listed in the Commission’s Certification List.

For example: <http://www.ohioturnpike.org/business/mbe-fbe>, or those eligible for Fast Track certification as DBE see: <http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx> as SBE, see: <http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/SBE.aspx>

A respondent subletting a portion of a bid item shall state “Partial” and describe the Work that is included (e.g., “Surveying (Partial) – Site Plan”).

Column 4: List the total amount to be subcontracted to each SBE for the services they are performing.

Column 5: This is the total dollar amount of the project each line listed in the certification that the prime intends to apply towards meeting the Contract goal. It may be that only a portion of the amount subcontracted to a SBE in Column 4 is eligible to be credited toward meeting the goal. See Notes below. The Commission will utilize the sum of this column (Box 3) to determine whether or not the respondent has met the goal. In the event of an arithmetic error in summing column 5 or an error in making appropriate reductions in the amounts in Column 4, then the sum will be corrected and the total (Box 3) will be revised accordingly.

Notes: (A) For Work self-performed by a SBE bidding as a prime contractor, the respondent may claim only 20% of the amount self-performed (Column 4) towards meeting the goal (Column 5). (B) For Work performed by SBE subcontractors, the respondent may claim 100% of the Commercially Useful Functions performed by subcontractors (i.e., the subcontractor must perform or exercises responsibility for at least 30% of the total cost of its subcontract using its own workforce, and have responsibility, for negotiating prices to purchase its materials and supplies, determining quality and quantity, ordering the material, and installing and paying for the material itself). (C) For materials supplied by a Manufacturer or a Regular Dealer, the Respondent may claim 100% of the cost of the materials or supplies (Column 4) towards meeting the goal (Column 5). (D) SBE credited for the total value of the trucking services provided using its own trucks and employees and the total value of transportation services SBE provides using non-SBE trucks that do not to exceed the value provided by SBE-owned trucks operated by its employees (i.e., no more than one non-SBE truck for each SBE truck). (E) For work contracted out to a broker, the respondent may only claim the fees paid to a broker towards meeting the goal (Column 4).

Box 2: Box 2 is the Contract goal for SBE participation goal appearing on the RFP.

Box 3: Box 3 is the sum of the values in Column 5. This value must equal or exceed the Contract goal amount written in Box 2, or Good Faith Effort Demonstration is required if insufficient SBE Participation has been achieved. See the following pages (page OEI-4 and page OEI-5) for the materials necessary for demonstrating the Respondent’s Good Faith Efforts.

DEMONSTRATION OF GOOD FAITH EFFORTS

(Complete and Submit if Utilization Certification and Plan Fail to Meet Contract Goal)

Project Name _____
Respondent Name _____

Project Number _____
Federal Tax I.D. _____

1. Opportunities: Indicate how the Respondent subdivided portions of the work or services to increase the likelihood of participation by firms certified as SBE with the Commission (or SBE or DBE with ODOT and/or EDGE with DAS) in the Project. (Attach additional pages if needed, and all supporting documentation.)

2. Availability: Indicate the services or organizations that provided assistance to you in identifying and recruiting firms certified as SBE (or DBE and EDGE) in preparing the Proposal response. (Attach additional pages if needed, and notes of each contact listed.)

A. Organization: _____ Date(s) of Contact: _____ Contact Means: _____

Subject of Inquiry: _____

B. Organization: _____ Date(s) of Contact: _____ Contact Means: _____

Subject of Inquiry: _____

C. Organization: _____ Date(s) of Contact: _____ Contact Means: _____

Subject of Inquiry: _____

3. Efforts: List all SBEs (including all DBEs and/or EDGE firms) that you supplied adequate and timely information about the scopes of work and requirements of the project. (Attach additional pages if needed, and copies of all transmittals, any shipping receipts or documentation of providing info. etc.)

A. Business _____	Contact Name _____	Date _____
B. Business _____	Contact Name _____	Date _____
C. Business _____	Contact Name _____	Date _____
D. Business _____	Contact Name _____	Date _____
E. Business _____	Contact Name _____	Date _____
F. Business _____	Contact Name _____	Date _____

4. **Efforts:** List all interested SBEs (including all DBE and EDGE entities), which you rejected to perform the Work of the Contract. Please provide the specific reason(s) for the decision to reject. (Attach additional pages if needed.)

A. Business: _____

Reason(s) for rejection: _____

B. Business: _____

Reason(s) for rejection: _____

C. Business: _____

Reason(s) for rejection: _____

5. **Efforts:** List the names, dates and telephone numbers of all SBEs (including DBEs and EDGE firms) with which you entered into negotiations for its participation on the project and the general scope of work negotiated, and the reason why negotiations were not successful. (Attach additional pages if needed.)

A. Business: _____

Contact: _____

Phone: _____

Date(s) of contact: _____

Scope of Work: _____

Reasons for ending negotiations: _____

B. Business: _____

Contact: _____

Phone: _____

Date(s) of contact: _____

Scope of Work: _____

Reasons for ending negotiations: _____

C. Business: _____

Contact: _____

Phone: _____

Date(s) of contact: _____

Scope of Work: _____

Reasons for ending negotiations: _____

D. Business: _____

Contact: _____

Phone: _____

Date(s) of contact: _____

Scope of Work: _____

Reasons for ending negotiations: _____

E. Business: _____

Contact: _____

Phone: _____

Date(s) of contact: _____

Scope of Work: _____

Reasons for ending negotiations: _____

F. Business: _____

Contact: _____

Phone: _____

Date(s) of contact: _____

Scope of Work: _____

Reasons for ending negotiations: _____

Attachment B

GUIDANCE FOR DEMONSTRATING GOOD FAITH EFFORTS TO ACHIEVE OR EXCEED THE CONTRACT GOAL

If the SBE Utilization Certification and Plan fail to document commitment to achieving the SBE Goal set forth in the request for Letters of Interest, complete the Good Faith Effort Demonstration Form to document necessary and reasonable actions that, by their scope, intensity, and appropriateness, would reasonably be expected to attain SBE participation that meets or exceeds the goal.

The Commission's determination of Good Faith Efforts is based on consideration of the quality, quantity, and intensity of the different kinds of actions taken. The activities or efforts undertaken to when making a Good Faith Effort must be those that one could reasonably expect to deploy when seriously, actively and aggressively attempting to obtain SBE participation in relative proportion to those that are Available to capably perform Commercially Useful Functions under the Opportunities presented in given contract.

The analysis for determining whether the respondent fulfilled its obligation to use Good Faith Efforts, the Commission will consider the demonstration of the following, which the form is intended to illicit from the respondents:

1. **“Opportunities”** means the subcomponents of the project that are identifiable as economically viable scopes of work that may interest subcontractors in responding to the respondent's solicitations to participate in the Project. The unique opportunities each project presents is determined based on the nature of the project using in-house expertise and the aggregation of those that the respondents may identify.
2. **“Availability”** means the degree of ready, willing and able SBEs available to capitalize on the opportunities presented under each project. The availability consideration examines the amount of SBEs in the relevant marketplace using (1) the Commission's list of certified SBEs (available at <http://www.ohioturnpike.org/business/doing-business-with-us/mbe-fbe>); (2) the Unified Certification Program's DBE Directory (<http://www.dot.state.oh.us/DBE/pages/DBE-Directory.aspx>); (3) the Department of Administrative Service's directory of EDGE certified businesses: <http://eodreporting.oit.ohio.gov/searchEDGE.aspx>; the Ohio Department of Transportation's registry of SBEs: http://odotextrpt.dot.state.oh.us/ViewReport.aspx?reportPath=%2fprd%2fpreconstruction%2fpublic%2fsbe_vendor_list; and (5) any other Ohio-centric database that the Commission recognizes as using standards that are substantially similar to the requirements for certification with the Commission.
3. **“Efforts”** means the documented attempt to meaningfully and earnestly solicit the interest of available SBEs to fulfill the opportunities presented to perform on the Project, including making a sufficient number of contacts to follow up with any available but non-responsive SBEs and negotiating in good faith with available SBEs to reach reasonably agreeable terms for their participation.
4. **“Commitments”** means the respondent representations in the Utilization Certification and Plan to have successfully achieved commitment(s) to utilize verified SBEs to perform on the project.

The determination that a given respondent satisfactorily used and demonstrated its Good Faith Efforts is based on the holistic review of the Opportunities, Availability, Effort and Commitment documented in the bid or proposal documents.

D. Opportunities and Availability

This assessment of opportunities and availability compiles those SBEs that the respondents may identify in their Utilization Plan and Good Faith Efforts Demonstration forms, but also may go outside the form to identify additional possible opportunities under the project and recognized certification registries for possible untapped available firms.

A respondent can demonstrate fulfilling the Opportunity component by documenting that the respondent performed actions that include the following:

- a. Selected and packaged portions of the work in order to increase the likelihood that the SBEs will respond to solicitations expressing interest in participating on the project. This includes, where appropriate, breaking out contract work into economically feasible units to facilitate participation through subcontracting.
- b. Soliciting the interest of all SBE entities available to perform on the project through reasonable, meaningful and available means and providing a reasonable and meaningful time to respond.

The means for a respondent to fulfill the Availability component of demonstrating good faith efforts includes the following:

- a. Searching recognized registries identifying certified SBEs that potentially could fulfill the opportunities under the project.
- b. Identifying other possible ready, willing and able SBEs through the effective use of the services of available from plan rooms, community organizations, contractors' groups, local, state, and Federal minority/women business assistance offices, and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and utilization of SBE entities.

E. Efforts and Commitment

Respondents must document level of exertion used to engage the Availability pool on the Opportunities presented under the project. The Efforts component considers the active attempts to successfully reach terms with interested SBE firms, which may include the following:

- a. Negotiating in good faith with interested SBE entities so as to facilitate their participation on the Project.
- b. Not rejecting SBE entities without sound reasons based on a thorough investigation of their capabilities.
- c. Assisting SBE entities in obtaining bonding, lines of credit, or insurance as required.

The Commitment component provides a cross-check on the identified and documented Opportunities, Availability and Efforts. Unless the analyses under the Opportunities, Availability and Efforts prongs demonstrate otherwise, the utilization of Good Faith Efforts is expected to result in the respondent successfully representing its achievement of SBE participation goal for the contract. The respondent must provide justification for any lack of Commitment by showing that the failure occurred despite its Good Faith Efforts through the demonstration under the Opportunity, Availability and Efforts prongs of the test.