



CONTRACT COMPLIANCE PROGRAM

COMPLIANCE PLANS
&
POST AWARD REQUIREMENTS

CONSTRUCTION SERVICES

IDENTIFIED BUSINESS ENTERPRISES (IBE)

CONTRACT COMPLIANCE DEPARTMENT

January 11, 2017

Table of Contents

Part 1: Overview

1.1 Applicability	3
1.2 Summary	3
1.3 Post Award Reporting Requirements	4
1.4 Equal Opportunity Obligation Clause	5

Part 2: Contract Compliance Program – Compliance Plans

2.1 Overview Compliance Plans I & II	6
2.2 Disclosure & Counting Lower Tier Subcontractors	6
2.3 Disclosure & Counting of Trucking Subcontractors	6
2.4 Compliance Plan I Opt-In Meet 25% Target	7
Form A	8
Form B	9
2.5 Compliance Plan II Good Faith Effort Documentation	10-11
2.5. A Reporting Good Faith Effort	
2.5. B Contacting Potential IBE(s)	
2.5. C. Forms Required -Good Faith Efforts	

Part 3: Documenting Good Faith Efforts

3.1 Requirements to Meet Good Faith Effort	12-14
Form A	15
Form B	16
Form C	17-18
Form D	19
Form E	20

Part 4: Post-Award Contract Obligations

4.1 Ongoing Responsibility	21
4.1. A. Additional Work or Supply	
4.1. B. Substitution Policy	
4.2 Post-Award Monitoring Requirement	21-23
4.2. A. IBE Liaison Staffer/Approver	
4.2. B. Prompt Payment /Access to Information	
4.2. C. Review of Prime Contractor’s IBE Involvement Efforts	
4.2. D. Payment Verification Reporting	
4.2. E. Final Invoice/Project Closeout	
4.2. F. Prevailing Wage/Certified Payroll Reporting	
4.3 IBE Target Public Reporting	23
Definitions	24-25



PART 1: OVERVIEW

Section 1.1 APPLICABILITY

The Contract Compliance Program ("Program")¹ is an equal opportunity program that shall apply to, and shall be a part of all contracts and subcontracts, purchase orders, consultant agreements, and services to the Delaware River Joint Toll Bridge Commission ("DRJTBC" or "Commission").

Section 1.2 SUMMARY

Firms or individuals submitting bids for solicitation agree to abide by the DRJTBC's Contract Compliance Program (CCP) requirements. The DRJTBC Contract Compliance Program:

- (1) Promotes and encourages Minority, Women, Small, Disadvantaged, Disabled, and Veteran owned businesses (referred to as "Identified Business Enterprises" or "IBE(s)") to participate in business opportunities with the DRJTBC.
- (2) Afford IBE(s) an equal opportunity to compete for work on DRJTBC's contracts.
- (3) Encourages contractors to provide subcontracting opportunities to certified IBE(s) by soliciting such firms for subcontracting opportunities. The DRJTBC and its contractors shall not discriminate on the basis of race, color, religion, gender, national origin, ancestry, age, marital or veteran status, medical condition, disability, sexual orientation, citizenship, or any other classification protected by law in the award and performance of contracts.

The DRJTBC encourages Bidders to meet or exceed the **twenty-five percent (25%)** IBE participation targets for Commission contracts. However, Bidders may comply without achieving the participation targets by fully evidencing and establishing their inability to meet the target in their Good Faith Efforts documentation. Bidders that **do not meet** the project's targets are subject to the Contract Compliance Department's ("CCD") Good Faith Efforts review. Prior to selection, please review Good Faith Efforts minimum requirements.

All Bidders shall select and submit an *IBE Contract Compliance Plan* I or II as part of their bid documents:

- (1) **Compliance Plan I** - the Bidder may "**Opt-In**" by agreeing to meet or exceed the **25%** participation target (complete form **A**) **or**;
- (2) **Compliance Plan II** - the Bidder must provide evidence of its **Good Faith Efforts** documentation (**forms A**) demonstrating and establishing their efforts to meet the **25%** participation target.

The Prime Contractors stated IBE participation level will be made a term of the contract agreement with the Commission. If any or all of the required *Compliance Plan* documentation is not submitted with the bid, it may be deemed non-responsive and may not be accepted for consideration. Contractor has 7 days after notification of contract award to submit their IBE documentation for review.

¹ This Program applies only to contracts funded with DRJTBC funds. In the event there are any contracts funded through the United States Department of Transportation, the federal requirements in 49 C.F.R. Part 26 will apply instead.

Section 1.3 POST AWARD REPORTING AND REQUIREMENTS

PUBLIC REPORTING

The Commission will track and publish on its **publically** available Website the IBE participation results at the completion of its contract for each Prime Contractor firm with whom the Commission does business. The information published will document the Prime Contractor's performance as follows:

- A. Exceeded the 25% Target; B. Met the 25% Target; C. Did not meet the Targets

MANDATORY REQUIREMENTS: PAYMENT VERIFICATION & REPORTING

Upon contract award, it is mandatory that all **Prime Contractors** assign a designated staffer to take the online training for the Commissions Payment Verification Reporting System via **ELATION**. The Prime designated staffer must document their payments made to **IBE(s)** in the **ELATION** system after every invoice payment received from DRJTBC.

MANDATORY REQUIREMENTS: CERTIFIED PAYROLL REPORTING

Upon contract award, it is mandatory that all **Prime Contractors** and their **Lower-Tier Subcontractors** assign designated personnel to take the online training for the Commissions Certified Payroll and Workforce Utilization Reporting System- **ELATION**. **Certified Payroll(s) must be uploaded directly to the Elation System on a weekly basis.**

Any questions regarding the *Compliance Plan(s)* should be directed to the CCD to either of the following:

Professional Services Contracts

Julio Guridy, Director
DRJTBC
Contract Compliance Department
76 Broad Street
Phillipsburg, NJ 08865
(908) 859-6417, ext. 3063 (office)
(908) 859-6458 (facsimile)
jguridy@drjtbc.org

Construction Contracts

Christine Baker, Manager
DRJTBC
Contract Compliance Department
110 Wood & Grove Streets
Morrisville, PA 19067
(267) 790-1025 (office)
(267) 790-1081 (facsimile)
cbaker@drjtbc.org

The requirements of this Program, including the successful Bidder's *Compliance Plan*, will be incorporated into the resulting contract with the DRJTBC.

1.4 EQUAL OPPORTUNITY OBLIGATION CLAUSE

Prime Contractors who are engaged or otherwise contracted to perform work for the Commission shall be subject to the Equal Opportunity Obligation Clause and shall include the Equal Opportunity Obligation Clause in all contracts with subcontractors.

During the performance of this contract, [Contractor] agrees as follows:

a) [Contractor] will not discriminate against any worker or applicant for work because of race, color, religion, gender, national origin, ancestry, age, marital or veteran status, medical condition, disability, sexual orientation, citizenship, or any other classification protected by law. [Contractor] will take positive steps to ensure that workers are treated during employment, without regard to their race, color, religion, gender, national origin, ancestry, age, marital or veteran status, medical condition, disability, sexual orientation, citizenship, or any other classification protected by law. Such steps shall be taken in connection with all terms and conditions of employment, including, but not be limited to, the following: employment, promotion, demotion, suspension or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. [Contractor] agrees to post in conspicuous places, available to workers and applicants for work, notices to be provided setting forth the provisions of this Equal Opportunity Obligation Clause;

b) [Contractor] will endeavor to maintain a work site free of harassment or intimidation on the basis of race, color, religion, gender, national origin, ancestry, age, marital or veteran status, medical condition, disability, sexual orientation, citizenship, or any other classification protected by law. [Contractor] shall take immediate corrective action against any employee or worker who engages in any conduct that violates this Equal Opportunity Obligation Clause. [Contractor] shall maintain a process for reporting harassment or intimidation and for the expeditious resolution of worker grievances related to such harassment or intimidation.

c) [Contractor] will furnish all information and reports required by the Commission, and will permit access to [Contractor]'s books, records, and accounts by the Commission for purposes of investigation to ascertain compliance with this Policy and the Commission's rules, regulations, and orders.

d) [Contractor] agrees to include the provisions of subparagraphs (a)-(c) of this Equal Opportunity Clause in every subcontract or purchase order, so that such provisions will be binding upon each subcontractor or vendor. In the event a purchase order is used in lieu of a subcontract, a letter incorporating subparagraphs (a)-(c) of this Equal Opportunity Obligation Clause by reference and confirming that the subcontractor or vendor agrees to be bound by subparagraphs (a)-(c) of this Equal Opportunity Obligation Clause in the performance of services or supply effort, must be submitted in addition to the purchase order.

Name: _____

Firm Name: _____

Title: _____ Date: _____

PART 2: CONTRACT COMPLIANCE PROGRAM

Section 2.1 OVERVIEW COMPLIANCE PLANS I & II

The Commission is seeking at a minimum, **twenty-five percent (25%)** IBE participation in all Commission projects. When submitting a bid to the Commission, a Prime Contractor must identify the amount of IBE participation it intends to use in the project as part of their IBE Contract Compliance Plan I or II ("**Compliance Plan**"), "Opt-In" or Good Faith Efforts documentation.

Compliance Plan I - ("Opt-In") commit to meet/exceed the **twenty-five percent (25%)** IBE participation target and submit **Forms A and B (List all Lower Tier IBE and Non- IBE Subcontractors)**.

Compliance Plan II – (“Good Faith Efforts Documentation”) Selecting Compliance Plan II, the Prime Contractor must demonstrate and establish through its Good Faith Efforts documentation their inability to meet the 25% IBE project target (**complete Forms A through E and List all Lower Tier IBE and Non- IBE Subcontractors**).

The targeted IBE participation is a target, not a prerequisite for submission of a bid. If a Prime Contractor is the apparent low bidder and elects not to submit Compliance Plan I or II (Opt-In or supply Good Faith Efforts documentation), the Commission will be entitled to any and all available contractual remedies for non-compliance with these terms.

Section 2.2 Disclosure & Counting of Lower-Tier Subcontractor(s) (If Applicable)

If a Bidder knows that one (1) or more of its subcontractors will subcontract part of their contract work to lower-tier subcontractors, then it must identify the lower-tier contractors by the legal name under which they are registered to do business.

When an IBE subcontractor subcontracts part of the work of its contract to another IBE firm, the value of that lower-tier subcontracted work may be counted toward the targets based on the initial subcontractor's MBE/WBE/SBE/DBE/DsBE/VBE certification. **The Commission does not accept self-certifications.** Work that an IBE subcontracts to a **Non-IBE firm does not count** toward the Good Faith Efforts target. Work that an IBE subcontractor contracts to another certified firm shall not be counted twice towards the target.

Section 2.3 Disclosure & Counting of Primary and Alternate Trucking Subcontractors

If the project includes trucking or hauling services as a scope of work, then the Bidder must provide information regarding its primary and alternate trucking subcontractors. Each time this scope of work is required on the project, the Bidder must contact the firm listed as the primary trucking subcontractor. If the primary trucking subcontractor is not available or cannot perform the entirety of the work at the time required, the Bidder may contact the alternate trucking subcontractors in the order that the Bidder lists them in their Compliance Plan (**Form B**).

The Bidder must identify primary and alternate trucking subcontractors by the legal name under which they will be registered to do business. The Bidder must contact the primary trucking subcontractor at least twenty-four (24) hours before the work is to be performed. The Bidder will not need to upload a **Request for Change (in B2GNOW)** to use the alternate trucking subcontractors if the Bidder contacted the primary trucking subcontractor first and then proceeded to contact the alternates in the order the Bidder listed them in form B.

For purposes of meeting the Bidder's Good Faith Efforts at the *Compliance Plan* stage, the entire value of this scope of work shall be assigned to the primary trucking subcontractor. At contract close-out, IBE participation will be counted based on the actual usage of the primary and alternate trucking subcontractors.

COMPLIANCE PLAN I

Section 2.4 “OPT-IN” – Agree to Meet the 25% IBE Target

A Prime Contractor "Opts-In" by agreeing that it will meet or exceed the 25% IBE participation level identified in the bid. If a Prime Contractor is the apparent low bidder and elects to “Opt-In as part of its bid, the Prime Contractor must submit Compliance Plan I **Forms A and on form B (List all IBE and Non-IBE Subcontractors and Lower Tier Subcontractors-see instructions below)**. A Prime Contractor selecting this option (Compliance Plan I) need not submit evidence of Good Faith Efforts, but will be required to provide documentation supporting its representations regarding the IBE participation levels on forms **A and B**. The Prime Contractors stated IBE participation level will be made a term of the contract agreement with the Commission. The following are the required forms:

Form A: IBE Compliance Plan, Bidder Certification & Summary

- Select **Opt-In** and designate the total percentage of IBE participation in the IBE Project Target(s).

Form B: Letter of Intent (LOI) – Disclosure of Subcontractors

The LOI (**Form B**) is to be signed by authorized representatives of both parties (Prime Contractor, Subcontractor(s), Lower Tier Subcontractor(s), Supplier(s) and Manufacturer(s). The LOI must be submitted on **Form B** and must contain all information requested.

A separate LOI (form B) is required for each IBE and Non-IBE Subcontractors, Lower Tier Subcontractor(s), Supplier(s), and Manufacturer(s), etc. The amount and scope of work indicated on each LOI shall be the actual amount indicated as part of the *Compliance Plan Contract Award* submitted with the bid and approved by the Commission. Please provide copies of all IBE certifications with the Compliance Plan submittals.



IBE COMPLIANCE PLANS-BIDDER CERTIFICATION & SUMMARY - Form A

Section I — Project:

Project Name	
Contract Number	

Section II — Prime Company Information

Name of Company	
Address	
City, State, Zip	
Phone	
E-mail/Fax	
Name of Contact Person	
Is prime company certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> If so, identify certification:

COMPLIANCE PLAN I

Opt-In - Bidder agrees to meet or exceed the twenty-five percent (25%) Target as documented below (**Project Targets**) and will provide a completed Compliance Plan I with its IBE subcontractors (**Forms A and B** Letter of Intent - Disclosure of all Subcontractors to be included as part of its bid submittal).

COMPLIANCE PLAN II

Good Faith Efforts Documentation - Bidder will provide a completed Compliance Plan II (**Forms A through F**) and list its IBE subcontractors (**Project Targets**) as documented below to be included as part of its bid submittal.

PROJECT TARGETS – FILL OUT TARGET % BELOW for COMPLIANCE PLANS I or II and TOA:

MBE		%
WBE		%
SBE		%
DBE		%
DsBE		%
VBE		%

For participation, percentages use an EXACT number. DO NOT USE: approximate, plus or minus (+ -), up to, to be determined (TBD), < >, or any other qualifying language. *Compliance Plans* not complying with these requirements shall be rejected as non-responsive.

I certify that the information included in this Compliance Plan is true and complete to the best of my knowledge and belief. I further understand and agree that this Compliance Plan shall become a part of my contract with the Delaware River Joint Toll Bridge Commission.

Name and Title of Authorized Representative

Date

For CCD Use Only:						
I have reviewed this Compliance Plan and found that the Bidder HAS <input type="checkbox"/> or HAS NOT <input type="checkbox"/> complied.						
Manager _____			Date _____			
Director _____			Date _____			
MBE _____%	WBE _____%	SBE _____%	DBE _____%	DsBE _____%	VBE _____%	



LETTER OF INTENT – DISCLOSURE OF SUBCONTRACTOR(S) Form B

PLEASE COMPLETE FOR EACH SUBCONTRACTORS, LOWER-TIER SUBCONTRACTORS, SUPPLIERS & MANUFACTURERS
(Duplicate as Needed)

- All sections are mandatory; please fill in all the blanks.
- Complete this form for all IBE and Non-IBE subcontractors.
- For project participation numbers, use an EXACT number. DO NOT USE approximate, plus or minus (+/-), up to, to be determined (TBD), < >, or any other qualifying language.
- *FILL-IN PRIME CONTRACTOR NAME & INFORMATION BELOW WITH THE CONTRACTOR THAT DIRECTLY CONTRACTED WITH YOU*

Prime Contractor Name: _____ Contract Number: _____

Address: _____
Street City State Zip Code

Contact Person: _____ Telephone: _____ Email: _____

Project Name: _____

Legal Name of Firm:						Tier:		
Sub-contractor Name:								
Address/ City / State / Zip:								
Contact Person:		Phone #:		Email:				
Describe the Services to be Provided:								
Percentage Amount of Subcontract:	_____ %	Start Date:		Ethnicity:		Gender:		
IBE Certified. If yes, identify:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> DBE	<input type="checkbox"/> DsBE	<input type="checkbox"/> VBE
If no, document the reason an IBE was not used (only if target not met):								
Tax ID Number:		NAICS/NIGP Code(s):						

Prime Contractor Signature:						Date	
Subcontractor Signature:						Date	

The Prime Contractor/Contractor and Subcontractor listed above agree that they will enter into a Contract for the above terms if awarded the Contract.

COMPLIANCE PLAN II

Section 2.5 Good Faith Efforts Documentation

If a Prime Contractor is the apparent low bidder and elects Compliance Plan II to document its “Good Faith Efforts” as part of its bid, documentation submitted must evidence the effort the Prime Contractor has expended to attain the 25% IBE participation target. This information shall be submitted as a part of the bid documents and shall include, but is not limited to, its solicitation of and commitments with IBEs by completing **(Forms A through E)**. **A separate LOI (form B) is required for all IBE and Non-IBE Subcontractors, Lower Tier Subcontractor(s), Supplier(s), and Manufacturer(s), etc.**

Section 2.5.A Reporting Good Faith Efforts

Prime Contractors shall follow the "Instructions for Good Faith Efforts" set forth below in order to document evidence of their commitment to attain its Good Faith Efforts. **A responsive submission is one in which the Prime Contractor demonstrated by their documentation to the satisfaction of the Commission that it has made Good Faith Efforts to achieve Meaningful and Substantial participation of IBE(s) in each work or supply area of its bid.** The Prime Contractor is required to identify all of the IBEs that the Prime Contractor has agreed will perform elements of its bid, detailing the work or supply effort as it relates to a distinct element of the Prime Contract.

Section 2.5.B Contacting Potential IBE Subcontractors

Bidders can search for potential subcontractors at some of the applicable certification website(s) (www.paucp.com; www.njucp.com; and/or www.nj.gov (nj savi) to determine all the IBE firms certified to perform their selected scopes of work. The certification list is not all-inclusive and should not be considered exhaustive.

The Commission neither warrants the capacity nor guarantees the performance of any firm certified by the Pennsylvania Unified Certification Program (“PAUCP”), PENNDOT, the State of New Jersey Department of Treasury, the New Jersey Unified Certification Program (“NJUCP”), NJDOT or any other certification programs or agencies. The Commission does not accept self-certifications.

If the Bidder wants to use a subcontractor but it is not certain of its certification status, the Bidder may either request the subcontractor to furnish proof of certification or request such information from the CCD.

Julio Guridy - Professional Services Contracts (908) 859-6417 e-mail jguridy@drjtbc.org.

Christine Baker - Construction Contracts (267) 790-1025 e-mail cbaker@drjtbc.org.

Section 2.5.C Forms required for Good Faith Efforts Documentation

The following are the required forms to complete for Good Faith Effort documentation:

Form A: IBE Compliance Plan, Bidder Certification & Summary

Select Opt-In and designate the total percentage of IBE participation in the IBE Project Target(s).

Form B: Letter of Intent (LOI) – Disclosure of Subcontractors

The LOI **(Form B)** is to be signed by authorized representatives of both parties (Prime Contractor, Subcontractor(s), and Lower Tier Subcontractor(s), Supplier(s), or Manufacturer(s)). The LOI must be in the format shown on **Form B** and must contain all information requested. **A separate LOI (form B) is required**

to be completed for each IBE and Non-IBE Subcontractors, Lower Tier Subcontractor(s), Supplier(s), or Manufacturer(s), etc., working on the project.

The amount and scope of work indicated on each LOI shall be the actual amount indicated as part of the *Compliance Plan Contract Award* submitted with the bid for approval by the DRJTBC. List the legal name under which they are registered to do business and the value of the work they will be performing themselves. **Please include copies of all IBEs' certifications.** By listing firms on the Compliance Plan documents, the Bidder confirms that both parties acknowledge the price and scope of work and that they are prepared to contract if awarded the project to said Bidder. Unit price subcontracts are acceptable if appropriate to the type of work being performed

Form C: IBE Compliance Plan Checklist

Submit all of **Form C's** instructions/questions to evidence Good Faith Efforts documentation

Form D: Letter to Potential Subcontractors

Form D must provide potential Subcontractors a detailed description of the scope, schedule, location, and type of work you require for them to bid. The **Letter to Potential Subcontractors (Form D)** is an example of the information provided to Subcontractors regarding the bid. The information must be provided to potential subcontractors at least **seven (7) business days** prior to the submission of the *Compliance Plan II to the Commission*.

Form E: IBE Unavailability Certification - Good Faith Effort

Complete **Form E** for all subcontractor(s) contacted that are unavailable to provide a bid for the project solicited. Fax failures are not contacts.

ALL FORMS MUST BE COMPLETED:

- DOCUMENT, DATE, TIME, AND LOG PHONE CALLS/EMAILS, etc.
- COMPANY NAME
- CONTACT PERSON
- PHONE NUMBER
- DOCUMENT IBE SCOPE OF WORK REQUESTED FOR EACH CONTACT
- SUBMIT EMAIL DOCUMENTATION
- SUBMIT FAXES (DO NOT SUBMIT FAX FAILURES)
- FAX NUMBER
- ATTACH ADVERTISEMENTS
- IBE RESPONSES
- PROVIDE A WRITTEN SUMMARY OF IBE EFFORT

Part 3: DOCUMENTING GOOD FAITH EFFORTS

Section 3.1 REQUIREMENTS

The Bidder has a responsibility to make a portion(s) of the work available to IBE subcontractors as to facilitate and demonstrate their efforts in meeting the targets. The Bidder submitting their Good Faith Efforts documentation to the CCD will undergo a thorough review of every document, page, website, advertisement and contact described in their Compliance Plan submittal for verification.

The CCD will review the documentation provided and determine if the Bidder provided sufficient evidence of Good Faith Efforts. That there may be some additional costs involved in soliciting and using IBEs is not a sufficient reason for a Bidder's failure to meet the targets, as long as such costs are reasonable. However, a Bidder is not required to accept a higher quote from a subcontractor in order to meet the targets.

The Commission reserves the right to confirm any and all commitments and solicitations of IBEs. The Commission, at its sole discretion, reserves the right to allow the Prime Contractor to submit additional information, after the time for submission at any time prior to award, solely for the purpose of clarifying or explaining its IBE participation arrangements and Good Faith Efforts. The sufficiency of a Bidder's Good Faith Efforts will be evaluated by the Commission in consideration of this Policy.

-MINIMUM GOOD FAITH EFFORTS DOCUMENTATION REQUIREMENT-

The CCD will consider, at a minimum, the Bidder's efforts to do the following:

- (A) Provide interested IBE(s) with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner, to assist them in responding and submitting a bid.
- (B) Negotiate in good faith with interested IBE(s) that have submitted bids/proposals to the Bidder. An IBE that has submitted a bid to a Bidder but have not been contacted within **five (5) business days** of submission of the bid may contact the CCD to request a meeting with the Bidder. Evidence of good faith negotiation includes the names, addresses, and telephone numbers of IBE(s) that were considered; a copy of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for IBE(s) to perform the work. **Bid shopping is prohibited.**
- (C) Select portions of the work to be performed by IBE(s) in order to increase the likelihood that the IBE targets will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate IBE participation, even when the Bidder might otherwise prefer to perform these work items with its own forces.
- (D) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via electronic/social media) that do business with IBE type Subcontractors.
- (E) Use the services of available community organizations; minority/women/small/disadvantaged/veteran contractors' groups; local, state, and federal minority/women/small/disadvantaged/disabled/veteran business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of IBE(s).

- (F) Seek guidance from the CCD on how it can meet the target. In assessing minimum Good Faith Efforts, the CCD may consider whether the Bidder sought assistance from the CCD on their questions related to compliance with this section. In addition, the CCD may also consider the performance of other Bidders successfully meeting the targets.

The ability or desire of a Bidder to perform the work of a contract with its own organization does not relieve the Bidder of the responsibility to make Good Faith Efforts.

Bidders may reject IBE(s) as unqualified only following thorough documented investigation of their capabilities. The IBEs' membership or lack of membership in specific groups, organizations, or associations, and political or social affiliations (for example, union or non-union employee status), are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Bidder's efforts to meet the project targets.

At a minimum, the following should be submitted to support Bidder's Good Faith Efforts documentation (documentation is not limited to this list):

- Dated Facsimile logs, e-mails, and/or copies of documents sent to firms detailing who was contacted and their response. Faxes that do not go through is not considered a contact.
- Copies of written correspondence to certified firms (include names, addresses, and other identifying information)
- Dated Telephone logs with telephone numbers and responses (*Telephone contacts, alone, will not be sufficient.*)
- Lists and copies of letters sent by mail, hand delivered, or e-mailed
- Documentation of Breakdown of negotiations made with certified firms
- Copies of advertisements with local newspapers, trade associations, Chambers of Commerce and/or any other public media that have relationships with IBE businesses.
- Other communications regarding contacts with trade associations and Chambers of Commerce

How to Count IBE Participation

(A) Only the value of the work actually performed by the IBE shall be counted toward the Target. This includes:

- (1) Work performed by the IBE's own forces;
- (2) the cost of supplies, materials, or equipment purchased, leased, or otherwise obtained by the IBE for the work of the contract (except that supplies, materials, and equipment purchased or leased from the prime contractor or its affiliate may not be counted toward the Good Faith Efforts); and
- (3) fees or commissions charged by an IBE for providing a Bona Fide Service (as that phrase is defined herein), such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

(B) When a Bidder purchases supplies, materials, or equipment from an IBE, the cost of those supplies, materials, or equipment shall be counted toward the Target as follows:

- (1) If the supplies, materials, or equipment are obtained from an IBE that is a Manufacturer or Regular Dealer (as those phrases are defined herein), one hundred percent (100%) of the payment for the supplies, materials, or equipment shall be counted toward the Target.
- (2) If the supplies, materials, or equipment is obtained from an IBE that is neither a Manufacturer nor a Regular Dealer, the cost of the materials and supplies themselves shall not be counted toward the targets. However, fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, may be counted toward the Target if the payment of such fees is a customary industry practice and such fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

(C) When an IBE subcontractor listed on the *Compliance Plan* subcontracts part of the work of its contract to another IBE firm, the value of that second-level subcontracted work may be counted toward the targets based on the initial subcontractor's IBE certification.

(D) A firm owned by a minority, woman, small, disadvantaged or veteran business owner may have more than one certification (MBE/WBE/SBE/DBE/DsBE/VBE - dual certified). On a single contract, the value of the work performed by a dual certified subcontractor may only be counted toward one certification (MBE/WBE/SBE/DBE/DsBE or VBE). The Bidder must decide which designation in the *Compliance Plan* for the purpose of meeting the target. That designation may not be changed for the duration of the contract.

(E) When an IBE performs as a participant in a certified joint venture, only the portion of the contract value that is the result of the distinct, clearly defined portion of the work that the IBE performs with its own forces and for which it is at risk shall be counted towards the project targets.

(F) Only expenditures to an IBE contractor that is performing a Commercially Useful Function shall be counted toward the IBE project target. If the CCD makes an initial determination that an IBE is not performing a Commercially Useful Function given the type of work involved and normal industry practices, the IBE may present evidence to rebut this presumption.

(G) To be counted toward Good Faith Efforts, the IBEs must be certified prior to the due date to submit the *Compliance Plan* as specified in the Commission's solicitation documents. A firm that is certified as an MBE/WBE/SBE/DBE/DsBE/VBE at the time that the *Compliance Plan* is filed may cease to be a certified firm before the contract is completed. Only the value of the work performed by such a firm while it is certified may be counted toward the project targets. Within fifteen (15) days after notification by the Commission of the IBE's ineligibility, the Prime Contractor is required to make every reasonable effort to satisfy the IBE target. The Prime Contractor's efforts to continue to meet the IBE target shall be coordinated with the Commission.

The scopes of work will be considered subcontracting opportunities for IBEs unless it is demonstrated that certified IBEs are unavailable or do not possess the requirements in the technical portion of the solicitation to perform the work involved. If the Bidder did not meet the Good Faith Efforts, the Bidder must explain in the space provided in Form C why IBE(s) were not used as subcontractors.



IBE COMPLIANCE PLANS-BIDDER CERTIFICATION & SUMMARY Form A

Section I — Project:

Project Name	
Contract Number	

Section II — Prime Company Information

Name of Company	
Address	
City, State, Zip	
Phone	
E-mail/Fax	
Name of Contact Person	
Is prime company certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> If so, identify certification:

COMPLIANCE PLAN I

Opt-In - Bidder agrees to meet or exceed the twenty-five percent (25%) Target as documented below (**Project Targets**) and will provide a completed Compliance Plan I with its IBE subcontractors (**Forms A and B** Letter of Intent - Disclosure of all Subcontractors to be included as part of its bid submittal).

COMPLIANCE PLAN II

Good Faith Efforts Documentation - Bidder will provide a completed Compliance Plan II (**Forms A through F**) and list its IBE subcontractors (**Project Targets**) as documented below to be included as part of its bid submittal.

PROJECT TARGETS – FILL OUT TARGET % BELOW for COMPLIANCE PLANS I or II and TOA:

MBE	_____ %
WBE	_____ %
SBE	_____ %
DBE	_____ %
DsBE	_____ %
VBE	_____ %

For participation, percentages use an EXACT number. DO NOT USE: approximate, plus or minus (+ -), up to, to be determined (TBD), < >, or any other qualifying language. *Compliance Plans* not complying with these requirements shall be rejected as non-responsive.

I certify that the information included in this Compliance Plan is true and complete to the best of my knowledge and belief. I further understand and agree that this Compliance Plan shall become a part of my contract with the Delaware River Joint Toll Bridge Commission.

Name and Title of Authorized Representative _____
Date

For CCD Use Only:

I have reviewed this Compliance Plan and found that the Bidder **HAS** or **HAS NOT** complied.

Manager _____ Date _____

Director _____ Date _____

MBE _____% WBE _____% SBE _____% DBE _____% DsBE _____% VBE _____%



LETTER OF INTENT – DISCLOSURE OF SUBCONTRACTOR(S) Form B

PLEASE COMPLETE FOR EACH SUBCONTRACTORS, LOWER-TIER SUBCONTRACTORS, SUPPLIERS & MANUFACTURERS
(Duplicate as Needed)

- All sections are mandatory; please fill in all the blanks.
- Complete this form for all IBE and Non-IBE subcontractors.
- For project participation numbers, use an EXACT number. DO NOT USE approximate, plus or minus (+/-), up to, to be determined (TBD), < >, or any other qualifying language.
- *FILL-IN PRIME CONTRACTOR NAME & INFORMATION BELOW WITH THE CONTRACTOR THAT DIRECTLY CONTRACTED WITH YOU*

Prime Contractor Name: _____ Contract Number: _____

Address: _____
Street City State Zip Code

Contact Person: _____ Telephone: _____ Email: _____

Project Name: _____

Legal Name of Firm:						Tier:		
Sub-contractor Name:								
Address/ City / State / Zip:								
Contact Person:		Phone #:		Email:				
Describe the Services to be Provided:								
Percentage Amount of Subcontract:	_____ %	Start Date:		Ethnicity:		Gender:		
IBE Certified. If yes, identify:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> DBE	<input type="checkbox"/> DsBE	<input type="checkbox"/> VBE
If no, document the reason an IBE was not used:								
Tax ID Number:		NAICS/NIGP Code(s):						

Prime Contractor Signature:		Date	
Subcontractor Signature:		Date	

The Prime Contractor/Contractor and Subcontractor listed above agree that they will enter into a Contract for the above terms if awarded the Contract.

SECTION III — IBE COMPLIANCE PLAN CHECKLIST**(Form C)**

The IBE *Contract Compliance Plan* must be completed, signed, and submitted by the date specified in the Contract documents. ***All questions in must be completed and submitted with the Contract Compliance Plan if targets are not met.***

1. Were written notices sent to all IBEs in the local business area at least seven (7) business days prior to the submission of this *Compliance Plan*? Attach documentation

Yes No

2. Were at least two (2) separate methods used to contact all IBEs at least seven (7) business days prior to the submission of this *Compliance Plan*? Please list two (2) methods used to contact IBEs. (*i.e., facsimile, e-mail, mail, and/or telephone*)? Attach Documentation

Yes No

List Methods: _____

3. Were steps taken to follow up with interested IBEs? Yes No

List Methods: _____

4. Were advertisements placed with a local publication? (*i.e., newspaper, minority or women organizations, or electronic/social media*)?

Yes No

List Methods: _____

5. Were written notices sent to Minority, Women, Small, Disadvantaged, Disabled, or Veteran organizations? Yes If yes, provide notices No

6. Were additional elements of work identified to achieve the targets?

Yes No

If yes, please list and explain: -

7. Summarize your Good Faith Efforts - Attach additional paper if necessary

SECTION IV — IBE COMPLIANCE PLAN CHECKLIST ((Form C CONTINUED))

8. Was Contract Compliance Department contacted for assistance? Yes No

If yes, complete following:

Contact Person(s): _____

Date(s) of Contact: _____

Summary of Request(s): _____

9. Were Minority, Women, Small, Disadvantaged, Disabled, or Veteran organizations contacted for assistance?

Yes No

If yes, complete following:

Organization(s): _____

Contact Info, Date(s): _____

Summary of Request(s): _____

10. Is the following documentation attached to support Good Faith Efforts requirements to achieve targets? (*Documentation is not limited to this list.*)

Yes No Copy of written solicitation sent to IBE(s).

Yes No Copy of dated phone logs and contact person

Yes No All completed Contract Compliance forms (A through E) attached.

Yes No Copy of fax submittals – fax failures are not contacts.

Yes No Copy of any additional formats sent to IBE(s).

Yes No Two (2) separate methods of notices sent to IBE(s) in the local business area (facsimile transmittals, e-mails, and/or telephone log(s)).

Yes No Copy of advertisements.

Yes No Copy of notices sent to Minority, Women, Small, Disadvantaged, Disabled, and/or Veteran organizations.

Yes No Documentation that demonstrates efforts made to reach agreements with the IBEs who responded to Bidder's written notice (i.e., copy of bids/proposals, spreadsheet breakdown of IBE(s) considered follow-up e-mails/telephone logs, and/or correspondence between Bidder and interested IBE(s)).



LETTER TO POTENTIAL SUBCONTRACTORS (Form D)

_____ is soliciting Minority, Women, Small, Disadvantaged, Disabled, and Veteran-Owned Business Enterprise to participate in the following Delaware River Joint Toll Bridge Commission project.

Prime Contractor: _____ Phone# _____

Name of Project: _____ Contract Number: _____

Request a Bid for the following Scopes of Work, Trucking or Supplies:

Pre-bid Meeting Location: _____ Bid Date and Time: _____

Provide a Bid for the Following Scopes of Service:

- | | |
|---|---|
| <input type="checkbox"/> Asbestos Abatement | <input type="checkbox"/> HVAC |
| <input type="checkbox"/> Carpentry | <input type="checkbox"/> Insulation |
| <input type="checkbox"/> Trucking | <input type="checkbox"/> Lab and Field Testing Services |
| <input type="checkbox"/> Concrete | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Demolition Services | <input type="checkbox"/> Disposal Services |
| <input type="checkbox"/> Equipment | <input type="checkbox"/> Millwork |
| <input type="checkbox"/> Drilling | <input type="checkbox"/> Painting |
| <input type="checkbox"/> Environmental | <input type="checkbox"/> Paving and Resurfacing |
| <input type="checkbox"/> Electrical | <input type="checkbox"/> Plumbing |
| <input type="checkbox"/> Excavation Services | <input type="checkbox"/> Roofing |
| <input type="checkbox"/> Fabricated Steel | <input type="checkbox"/> Stone |
| <input type="checkbox"/> Deck/Joint Replacement | <input type="checkbox"/> Safety |
| <input type="checkbox"/> Glazing Services | <input type="checkbox"/> Signage |
| <input type="checkbox"/> Hardware | <input type="checkbox"/> Welding |
| <input type="checkbox"/> Heavy Construction Equipment | <input type="checkbox"/> Traffic Control |

Contact our office for detailed information on the plan specifications and the relevant terms and conditions of the contract.

Please contact: _____ at _____ or _____
(Name) (Telephone) (Facsimile)

All bids **MUST** be received by _____



IBE UNAVAILABILITY CERTIFICATION - GOOD FAITH EFFORT

Contract Number: _____

Project Title: _____

Name: _____ **Title:** _____

Of _____
(Prime Contractor)

Certify that, on _____, I contacted the below named IBE to obtain a
(Date)
Bid/Proposal for work items to be performed on the Project named above.

IBE: _____
(Firm Name & Contact Person)

Type of Work Requested to be performed: _____

To the best of my knowledge and belief, said IBE was unavailable for work on this project, *exclusive of unavailability due to lack of agreement on price*, and/or was unable to prepare a bid for the following reason(s):

Signature of Prime Contractor

Date

The above statement is a true and accurate account of why I did not submit a bid on this project. (Below is to be signed by IBE firm only)

Signature of IBE Representative

Name of IBE Firm

Print Name

Date

Address

Telephone

Email Address

PART 4: POST-AWARD CONTRACT OBLIGATIONS

4.1 ONGOING RESPONSIBILITY

4.1. A. Additional Work or Supply

When additional work or supply is required for any category of work or supply effort in which an IBE is committed, all of this additional work or supply effort will be performed by the same IBE unless the IBE submits, in writing, that it cannot perform the work or supply effort due to its own capacity. CCD review is required for a change of original Compliance Plan IBE subcontractors. You can access **ELATION** at www.elationsys.com to update the IBE contract changes.

The targets on this contract shall also apply to change orders that require work beyond the scope(s) of trades originally required to accomplish the project. The Prime Contractor is required to make every effort to obtain IBE participation for additional scopes of work.

Change orders that do not alter the type of trades originally required to accomplish the project may be undertaken using the subcontractors already under contract to the Prime Contractor.

4.1. B. Substitution Policy

The IBE commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including approved change orders and amendments). Changes to the *Compliance Plans*, including additions, deletions, contract changes, or substitutions of subcontractors, suppliers, or manufacturers are permitted only after contract execution. Changes to the *Compliance Plans* must be uploaded to ELATION Systems at www.elationsys.com to update contract changes for all levels of subcontracting. Additionally Form B (LOI(s) – Disclosure of Subcontractors must be submitted for all changes of subcontractors, suppliers, or manufacturers to the *Compliance Plan* prior to the start of work.

4.2 POST-AWARD MONITORING REQUIREMENTS

4.2. A. IBE Liaison Staffer/Approver: MANDATORY

The Prime Contractor must designate an IBE Liaison Staffer/Approver and provide their contact information at the Kick-Off meeting. The IBE Liaison Staffer/Approver must be a person authorized to submit to **ELATION** System their IBE invoice payment data for Payment Verification.

In addition, a Staffer/Approver must be designated to upload Certified Payroll(s) on a weekly basis to the **ELATION** System for the Prime Contractor and all of their Lower – Tier Subcontractors. The IBE Liaison Staffer/Approver will be responsible to the Commission regarding IBE(s), Payment Verification and Certified Payroll(s)/Prevailing Wage matters. The Contract Compliance Department (CCD) will provide the format of training for the **ELATION System**.

4.2. B. Prompt Payment Act Requirement/Access to Information

The Prime Contractor must deliver within seven (7) business days the proportionate share of the payment for the work performed by IBE specified in the contract. In the event that the Prime Contractor has not made such payments, he or she must provide a written satisfactory explanation to the Commission's Project Manager for failure to make such payments.

The Prime Contractor and/or any subcontractor whose subcontracts are being counted toward the IBE requirements shall allow the DRJTBC access to records relating to the contract, including, but not limited to, subcontracts, payroll records, tax information, and accounting records, for determining whether the IBEs are performing the scheduled subcontract work.

4.2. C. Review of Prime Contractor's IBE Involvement Efforts

To ensure that all obligations under subcontracts awarded to IBEs are met, the CCD shall review the Prime Contractor's IBE involvement efforts throughout the performance of the contract (**ELATION – Payment Verification & Certified Payroll/Prevailing Wage System**). In determining achievement of IBE targets, the participation of an IBE subcontractor shall not be counted until the amount, being counted toward the target has been paid.

4.2. D. ELATION SYSTEM – PAYMENT VERIFICATION REPORTING

The Prime Contractor shall promptly pay IBE(s) for work satisfactorily performed under the contract. When a Prime Contractor who has contracted with the Commission has received a payment or payments from the Commission for work performed, the Commission will notify appropriate IBE(s) via ELATION (e-mail) that payments has been made as follows:

- A. Prime Contractors will receive monthly reporting notices by email with a link to click and login
- B. Prime Contractor enters the payments made to a displayed list of their Subcontractors
- C. After the Prime Contractor completes his/her reporting, an email notice is sent to each Subcontractor with an email link to click and login
- D. The Subcontractor confirms receipt of payment reported by the Prime

4.2. E. Final Invoice Project Close-Out

At the completion of the project, the Prime Contractor must complete a **Close-Out Report** with its final invoice through ELATION (www.elationsys.com). If a Prime Contractor awarded a contract has failed to meet the targeted IBE participation level in its *Compliance Plan*, then the Prime Contractor is required to provide detailed Good Faith Efforts documentation (**Forms A through E**) in accordance with **sub-part 2.4**, together with its **Close-Out Report**.

4.2. F. CERTIFIED PAYROLL REPORTING – COMING SOON

Prime and Subcontractor Prevailing Wage Reporting Requirements:

Each contractor (**IBE and Non-IBE**) and every lower-tier subcontractor (**IBE and Non-IBE**) will be required to submit certified payrolls and labor compliance documentation electronically. Electronic payroll submittals will occur via a web-based system, accessed on the World Wide Web by a web browser. Each contractor and subcontractor will be given a Log On identification and password to access the LCPtracker system. Again, **this requirement will be 'flowed down' to every lower-tier subcontractor** and vendor required to provide labor compliance documentation for this project.

As part of the Commission's ongoing monitoring efforts, the Prime Contractor and all subcontractors shall maintain at the job site payrolls, which may be inspected by the Commission, its representatives, agents, and designees. The Commission shall have the right to make site visits to the Prime Contractor's place of business

and/or job site and obtain documents and information from any bidder, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain Bidder responsibility.

DRJTBC holds all licensing agreement(s) and the use of their system will be **free and is offered at no expense to our contractors and subcontractors.**

Use of the system will involve data entry of weekly payroll information including; employee identification, labor classification, total hours worked and hours worked on this project, wage and benefit rates paid, etc. Prevailing Wage software can interface with most payroll and accounting software programs that are capable of generating a 'comma delimited file (.csv).' If your program does not have this capability, Prevailing Wage software can likely build an interface to communicate with your accounting software.

The Prime Contractor and each of its subcontractor(s) shall maintain Certified Payrolls and basic payroll records for all employees performing work in connection with the contract and shall maintain all such records for a period of three (3) years following acceptance of final payment. The Prime Contractor and its subcontractor(s) shall make the records described in this paragraph available for inspection, copying or transcription by the CCD upon request.

The requirements of this Program, including the successful Bidder's *Compliance Plan*, will be incorporated into the resulting contract with the DRJTBC.

4.3 PUBLIC REPORTING

CONTRACT CLOSE-OUT IBE TARGET PUBLIC REPORTING

The Commission will publish on its publically available website the IBE participation results at the completion of its contract for each Prime Contractor firm with whom the Commission does business. The information published will document the Prime Contractor's performance as follows:

A. Exceeded the 25% Target; B. Met the 25% Target; C. Did not meet the Target

DEFINITIONS

“ELATION” – The ELATION System is a Certified Payroll and Payment Monitoring system designed for Prime Contractor payments to IBE(s) and payroll record keeping.

"Bid Opening" - Date all Prime Contractor bids are opened to determine the low bidder.

"Bona Fide Services" - Means professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of the contract, fees charged for delivery or materials and supplies required on a job site (but not the cost of the materials and supplies themselves).

“Commercially Useful Function” – Means a function where an IBE is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. The IBE must perform at least fifty-one percent (51%) of its contract/subcontract with its own workforce.

"Construction Contract" - Means any contract to which the Commission is a party involving any construction, renovation, reconstruction, rehabilitation, alteration, conversion, extension, demolition, repair or other changes or improvements of any kind whatsoever of any structure or facility. The term also includes contracts for consultant services, for the supervision, inspection, and other functions incidental to actual construction.

"Consultant"- Means an architect, engineer, construction manager, or other provider of technical and professional services in support of a design or construction.

“Equal Opportunity Clause” - Means the contractual obligation, as stated in this Policy, that all Contracts/Vendors agree to follow and include in any and all contracts entered into with the Commission.

“Good Faith Efforts” – Means the requirement on Prime Contractor doing business with the Commission to make necessary and reasonable efforts which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain fair representation and inclusion by IBEs to assure equal opportunity in Commission projects.

“IBE” - Means a business enterprise certified by the Commonwealth of Pennsylvania's Department of General Services, Bureau of Minority and Women Business Opportunities (“BMWBO”), the Pennsylvania Unified Certification Program (“PAUCP”), the State of New Jersey Department of Treasury, the New Jersey Unified Certification Program (“NJUCP”), or other certification programs acceptable to the Commission, as being a traditionally disadvantaged enterprise in connection with public contracts. Such business enterprises include, but are not limited to, a Minority Business Enterprise (“MBE”), Women Business Enterprise (“WBE”), Small Business Enterprise (“SBE”), Disadvantaged Business Enterprise (“DBE”), Disabled Business Enterprise (DsBE) or Veteran Business Enterprise (“VBE”).

"Kick-Off Meeting" - Means the initial meeting held with the low Bidder (Prime Contractor), IBE Liaison Officer and all subcontractors in the project after the award of the contract.

“Coming Soon”– Prevailing Wage and Workforce Utilization System

"Manufacturer" - Means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.

"Meaningful and Substantial" - Means a level of participation of IBEs that represents the fair and robust use of such businesses in a competitive marketplace that is unimpeded by discrimination or business practices having a disparate impact on such businesses.

"Prime Contractor" – Means the contractor entering into a contract with the Commission after being determined to be the low bidder.

"Program Participant" – Means contractors, vendors, suppliers, and consultants doing business directly with the Commission that are subject to the Program.

"Regular Dealer" - Means an entity that owns, operates or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. A "regular dealer" is a firm that engages in, as its principal business, and in its own name, the purchase and sale of the products in question.

"Subcontractor" - Means a third party that is engaged by a contractor or consultant to perform all or part of the work or to provide supplies, materials or equipment included in a construction-related contract with the Commission.

"Target" - Means the twenty-five percent (25%) level of Identified Business Enterprise participation.