COMPLIANCE PLAN II

Section 1.1 GOOD FAITH EFFORTS DOCUMENTATION:

If the Prime Consultant / Contractor is awarded the Contract by the Commission and elects Compliance Plan II to document its "Good Faith Efforts" as part of its submitted proposal / bid documentation it must evidence the efforts expended to attain the 25% IBE Participation Target.

This information shall be included as part of the submitted proposal / bid documents and shall include, but is not limited to, its solicitation of, and commitments with IBEs by completing **Forms A through F (*Select either Professional Services or Construction documents for your submittal*).**

A separate LOI (form B) is required for all IBE and Non-IBE Subconsultants / Subcontractors, Lower Tier Subconsultants / Subcontractor(s), Supplier(s), and Manufacturer(s), etc.

Section 1.2 REPORTING GOOD FAITH EFFORTS:

Prime Consultant / 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 Consultant / 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 submittal.

The Prime Consultant / Contractor is required to identify all of the IBEs that the Prime Consultant / Contractor has agreed will perform elements of its proposal / bid submittal, detailing the work or supply effort as it relates to a distinct element of the Prime Contract.

Section 1.3 CONTACTING POTENTIAL IBE SUBCONSULTANT(S) / SUBCONTRACTOR(S):

Prime Consultants / Contractors can search for potential subconsultants / 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 Consultant / Contractor wants to use a subconsultant / subcontractor but it is not certain of its certification status, the Consultant / Contractor may either request the subconsultant / subcontractor to furnish proof of certification or request such information from the CCD.

Section 1.4 REQUIRED FORMS DOCUMENTING GOOD FAITH EFFORTS:
The following are the required forms to complete for Good Faith Effort documentation:

- **Form A: IBE Compliance Plan - Consultant / Contractor 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 Subconsultants / Subcontractors**

The LOI **(Form B)** is to be signed by authorized representatives of both parties (Prime Consultant(s) / Contractor(s), Subconsultant(s) / Subcontractor(s), and Lower Tier Subconsultant(s) / 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 Subconsultant(s) / Subcontractor(s), Lower Tier Subconsultant(s) / 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 proposal / 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 Consultant / Contractor confirms that both parties acknowledge the price and scope of work and that they are prepared to contract if awarded the project to said subconsultant / subcontractor.

- **Form C: Disclosure of Subconsultants / Subcontractors**

Please Note: All sections on **Form C** are mandatory. Please complete fields for all subconsultants / subcontractors.

- **Form D: IBE Compliance Plan Checklist**

The IBE **Contract Compliance Plan Checklist** must be completed, signed, and submitted by the date specified in the Contract documents. If the targets were not achieved, Bidder's Good Faith Efforts documentation must be submitted with the IBE Compliance Plan. **All questions in Section IV *must* be completed and submitted with the Contract Compliance Plan if targets are not met.**

- **Form E: Letter to Potential Subconsultants / Subcontractors**

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

- **Form F: IBE Unavailability Certification - Good Faith Efforts**

Complete **Form F** for all Subconsultants / Subcontractor(s) contacted that are unavailable to provide a proposal / bid submittal for the project solicited. **Please note that confirmation of fax failures will not be considered as contact attempts.**

Delaware River Joint Toll Bridge Commission

PART 3: DOCUMENTING GOOD FAITH EFFORTS

Section 2.1 REQUIREMENTS:

The Consultant / Contractor has a responsibility to make a portion(s) of the work available to IBE subconsultant / subcontractors as to facilitate and demonstrate their efforts in meeting the targets. The Consultant / Contractor 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 Consultant / Contractor provided sufficient evidence of Good Faith Efforts. Additional costs involved in soliciting and using IBEs is not a sufficient reason for a Consultant / Contractor's failure to meet the targets, as long as such costs are reasonable. However, a Consultant / Contractor 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 Consultant / 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 Consultant / Contractor's Good Faith Efforts will be evaluated by the Commission in consideration of this Policy.

Section 2.2 MINIMUM GOOD FAITH EFFORTS DOCUMENTATION REQUIREMENTS:

The CCD will consider, at a minimum, the Consultant / Contractor'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 proposal / bid.

(B) Negotiate in good faith with interested IBE(s) that have submitted proposals / bids to the Consultant / Contractor. An IBE that has submitted a proposal / bid to a Consultant / Contractor but have not been contacted within **five (5) business days** of submission of the proposal / bid may contact the CCD to request a meeting with the Consultant / Contractor.

(C) 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 subconsulting / subcontracting; and evidence as to why additional agreements could not be reached for IBE(s) to perform the work. **Bid shopping is prohibited**.

(D) 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 Consultant / Contractor might otherwise prefer to perform these work items with its own forces.

(E) Publish solicitation notice in a local publication (i.e. newspaper, trade association publication, or via electronic/social media) that do business with IBE type Subconsultants / Subcontractors.

(F) 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).

(G) Seek guidance from the CCD on how it can meet the target. In assessing minimum Good Faith Efforts, the CCD may consider whether the Consultant / Contractor 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 Consultant(s) / Contractor(s) successfully meeting the targets.

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

Consultant / Contractors 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 proposals / bids in the Consultant's / Contractor's efforts to meet the project targets.

At a minimum, the following should be submitted to support Consultant / Contractor'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