

San Francisco Community College District



SMALL BUSINESS ENTERPRISE (SBE) PROGRAM FOR CONSTRUCTION CONTRACTING

RULES, REGULATIONS, REQUIREMENTS, AND FORMS

1.01 GENERAL INFORMATION

1. Bidders must agree to comply with the requirements of the San Francisco Community College District's (District's) SBE Program to be eligible for an award of a construction contract. The Bidder is responsible for and must comply with all the details contained in the SBE Rules, Regulations, Requirements, and Forms.

Copies of the SBE Program for construction contractors are available on the District's web site at: www.ccsf.edu/build.

2. The following agencies maintain lists of certified SBEs:

California Department of General Services (GDS) 707 Third Street West Sacramento, CA 95605-2811 (916) 376-5000 http://www.pd.dgs.ca.gov/smbus/certinq.htm	San Francisco Human Rights Commission (HRC) 25 Van Ness Avenue, # 800 San Francisco, CA 94102-6033 (415) 252-2500 http://www.sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlist_1.htm	San Francisco Community College District (SFCCD) 1999 Harrison St., Suite 1440 Oakland, CA 94612 (510) 835-9012 districtcert@mtaltd.com
---	--	---

1.02 REQUIRED FORMS TO BE SUBMITTED

1. Forms that must be submitted with the bid:

Form 1: IDENTIFICATION LISTING OF SUBCONTRACTORS, TRUCKERS, SUPPLIERS, AND SUBCONSULTANTS

Form 2: EQUAL OPPORTUNITY AND NON-DISCRIMINATION IN EMPLOYMENT AND WORKFORCE COMPLIANCE CERTIFICATION

2. Additional forms to be submitted by the successful Bidder after the execution of the contract:

Form 3: MONTHLY SUBCONTRACTOR/SUBCONSULTANT PROGRESS REPORT (submitted with each invoice listing all subcontractors, suppliers, truckers and their fees included in the invoice)

Form 4: EXIT REPORT AFFIDAVIT AND FINAL PAYMENT REPORT (submitted before release of retention listing the SBE subcontractors, suppliers, and truckers and their total payments)

1.03 INSTRUCTIONS FOR COMPLETING THE SBE FORMS

Form 1: IDENTIFICATION LISTING OF SUBCONTRACTORS, TRUCKERS, SUPPLIERS, AND SUBCONSULTANTS

Form 1 must be submitted with the bid to identify *ALL* subcontractors, suppliers, truckers and subconsultants performing on the bid. Form 1 is also used to demonstrate how the Bidder will meet the SBE subcontracting goal, as well as determining if the bidder is eligible for a bid discount. The SBE goal is set forth in the Invitation for Bid.

Form 2: EQUAL OPPORTUNITY AND NON-DISCRIMINATION IN EMPLOYMENT AND WORKFORCE COMPLIANCE CERTIFICATION

Form 2 must be submitted with the bid and signed by the Bidder.

Form 3: MONTHLY SUBCONTRACTOR/SUBCONSULTANT PROGRESS REPORT

Form 3 should be attached to each request for a progress payment. If the payment request for a subcontractor, supplier, trucker, or subconsultant is included in the requested progress payment, the amount for each business should be specified on the form. Otherwise, the form should state “not applicable.”

The directions for each field of Section II are as follows:

- *Name of Subcontractors, Truckers, Suppliers, and Subconsultants:* List each subcontractor, trucker, supplier, and subconsultant requesting payment for the reported month.
- *Work Performed this Month:* List the services provided by each subcontractor, trucker, supplier, and subconsultant.
- *Invoice No. and Amount Invoiced Current Month:* List the invoice number and the amount invoiced by the subcontractor, trucker, supplier, or subconsultant for the current month.
- *Amount Paid Current Month:* List the amount paid to the subcontractor, trucker, supplier, or subconsultant for the current month.
- *Amount Paid to Date:* List the amount paid to date to the listed subcontractor, trucker, supplier, or subconsultant.

Form 4: EXIT REPORT AFFIDAVIT AND FINAL PAYMENT REPORT

Form 4 should be submitted with the final progress payment application and signed by the Bidder, including all joint venture partners. The Bidder should list *ALL* subcontractor, supplier, trucker, and subconsultant payments to date. Final payment will not be released without submittal of this Form.

1.04 BIDDER'S CONTRACT REQUIREMENTS

The Bidder must comply with the SBE participation goals that are applied to the original contract whenever a change order is required. A revised Form 1 must be submitted with the Change Order indicating how the SBE participation percentages will be met. No payment on the Change Order will be made until the revised Form 1 is submitted and approved by the District.

The Bidder must include in any subcontract a SBE provision that provides a remedy for the Bidder's non-compliance with the commitment to utilize SBE subcontractors, suppliers, truckers, and subconsultants. This contractual provision shall include an agreement by the Bidder to compensate the SBE subcontractor, supplier, or trucker if the Bidder does not fulfill its commitment to utilize the SBE. This contractual provision shall also state that it is enforceable in a court of competent jurisdiction.

Suggested language for the agreement between the Bidder and the subcontractor, supplier, trucker, or subconsultant is as follows:

Bidder shall fulfill its commitment to utilize and compensate business name to the full extent agreed to under contract with the San Francisco City College District. In the event the Bidder does not fulfill its commitment to utilize the SBE subcontractor, the Bidder shall nonetheless compensate the subcontractor for the amount specified in its contract with the San Francisco City College District. This provision shall be enforceable in a court of competent jurisdiction.

1.05 SBE QUALIFICATION REQUIREMENTS

SBEs that are certified with State of California Department of General Services, San Francisco Human Rights Commission, or San Francisco City College District are eligible to meet the SBE goal and receive the SBE bid discount.

1.06 SUBSTITUTION, REMOVAL OR CONTRACT MODIFICATION OF SBE

- 1) No SBE subcontractor, supplier, trucker or other business listed on Form 1 is to be substituted or removed from the contract or have its contract modified in any way without prior written District approval.
- 2) Prior to District approval the subcontractor or subconsultant must be notified in writing of the proposed substitution and be provided the reason(s) for the substitution.

- 3) In the event of a SBE substitution the Bidder shall be required to make a good faith effort to replace the substituted subcontractor with another SBE.
- 4) During the term of the contract any willful failure to comply with the participation goals agreed upon by the Bidder in the bid shall be deemed a material breach of contract.

1.07 NON-COMPLIANCE AND SANCTIONS

A complaint of discrimination or non-compliance concerning SBE participation initiated by any party after the contract award will be processed in accordance with the SBE Program and the following Rules and Regulations:

- 1) If the District determines there is cause to believe that a Bidder has failed to comply with any of these requirements, the District shall attempt to resolve the non-compliance through conciliation.
- 2) If the non-compliance cannot be resolved, the District shall submit to the Bidder a written Finding of Noncompliance. The Bidder shall be given ten (10) calendar days to appeal the Finding of Noncompliance, or otherwise it will be final.

A. Willful or Bad Faith Non-Compliance

1. The District may require reports, information, and documentation from the Bidder as is reasonably necessary to determine compliance with the requirements of the District's SBE Program Rules, Regulations, Requirements, and Forms for construction contracting.
2. If the District determines that there is cause to believe that any Bidder or subcontractor/subconsultant has failed to comply in good faith with any of the requirements of the District SBE Program or contract provisions pertaining to SBE utilization, the District is empowered to conduct an investigation. After affording the Bidder notice and an opportunity to be heard, the District may impose sanctions for each violation.
3. Such sanctions shall include, but are not limited to the following:
 - a. Declare the Bidder non-responsive and ineligible to receive the award subject to possible forfeiture of the bid bond.
 - b. Declare the Bidder an irresponsible bidder and disqualify the Bidder from eligibility for providing goods or services to the District for a period of five (5) years, with a right to review and reconsideration by the District after two (2) years upon a showing of corrective action indicating violations would not recur.
 - c. Declare that the Bidder has willfully failed to comply and impose as liquidated damages, whichever is the greatest:

- 1) An amount equal to the Bidder's net profit
- 2) Ten percent (10%) to the total amount of the contract
- 3) One thousand dollars (\$1,000)

B. Appeal of Willful or Bad Faith Non-compliance Finding

1. The Bidder or subcontractor may appeal the District's decision to sustain, reverse, or modify the findings and sanctions imposed within ten (10) calendar days of the District's issuing a finding.

1.08 SBE BID PROTEST PROCEDURES

Any Bidder or subcontractor that has submitted a bid for a construction project and has knowledge of or suspects a violation by another Bidder or subcontractor, and feels that relevant bids should be rendered non-responsive because of violations of the District's SBE policy, may file a formal protest by identifying in writing the violation, particular project, and bid due date.

The District must receive the protest within ten (10) calendar days after the bid opening date. All protest notices must be sent to the attention of San Francisco Community College, Office of Facilities Management, 50 Phelan Avenue, S142, San Francisco, CA 94112.

1.09 FREQUENTLY ASKED QUESTIONS

What is an SBE?

A Small Business Enterprise is defined as an independently owned and operated business which is not dominant in its field of operation. The principal office must be located in California, and the officers must be domiciled in California. With its affiliates, the business must have 100 or fewer employees and the following average annual gross receipts of \$10 million or less in the previous three years.

If I am a SBE Bidder, can I count myself towards the SBE goals?

Yes, both SBE Bidders and their SBE subcontractors can be counted toward the goal. However, in order to be eligible for the bid discount, the Bidder must be a certified SBE and must meet the SBE subcontracting goals with certified SBE subcontractors.

What firms count towards the SBE subcontracting goals?

SBE subcontractors and truckers that perform a commercially useful function count towards the SBE subcontracting goal. The District will consider that a commercially useful function as a distinct element of the work required by the bid specifications in accordance with normal industry practice.

The District will count sixty percent (60%) of the materials, supplies, and services purchased from SBE suppliers. A supplier is a firm that owns, operates, or maintains a warehouse or store in which the materials, supplies, or equipment described in the specifications and required under the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

Do I have to meet the SBE goals if I do not plan to use any subcontractors?

Yes, you do need to meet the SBE goal or provide the Good Faith Effort. If you do not contract with SBE subcontractors to meet the participation goal and do not document a Good Faith Effort, your bid could be passed over

What is considered proof of certification?

A letter or certificate stating the expiration date of the certification is considered adequate proof of certification. Proof of certification for each SBE subcontractor used to meet the goals must be attached to Form 1. Firms certified by the San Francisco Human Rights Commission are required to include a Certification Affidavit as to meeting the District's size standard.

Where can I find qualified SBEs?

The California Department of General Services maintains a list of firms accessible from the Internet at <http://www.pd.dgs.ca.gov/smbus/certinq.htm>.

The San Francisco Human Rights Commission maintains a list of firms at http://www.sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlist_1.htm. In addition, the

District's contract compliance consultant, Mason Tillman Associates, maintains the District's certification list and can be contacted at districtcert@mtaltd.com.

How is the bid discount applied?

The bid discount is given to SBE bidders who have met the SBE goal using SBE subcontractors. Eligible bidders receive a bid discount of five percent up to \$50,000 on their base bid. Bid tabulations will take into account the apparent low bid based upon the bid discount adjustments. The contractor receiving the bid discount would still be paid the amount bid, if deemed the lowest responsible bidder.

Who do I contact to get more Information?

For more information, contact the District's Contract Compliance Consultant at (510) 835-9012.

FORM 1: IDENTIFICATION LISTING OF SUBCONTRACTORS, TRUCKERS, SUPPLIERS, AND SUBCONSULTANTS

Project Name: _____ Bid Date: _____

Bidder/Consultant Information

Bidder/Consultant Company Name:		
Business Address:		
Telephone:	Facsimile:	E-Mail:
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female	Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Joint Venture Participation Yes No

Joint Ventures complete this section and attach a copy of the Joint Venture agreement form.

List All Joint Venture Partners	SBE / SLBE Certification	Address, Telephone, Fax and E-Mail	Percent of Contract Dollars Awarded to Each Partner
	<input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD		
	<input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD		
	<input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD		

Subcontractor/Subconsultant Trucker, and Supplier Information

SBE Goal Met: Yes No

Complete this section for *ALL* proposed subcontractors, truckers, suppliers, and subconsultants to work on the contract.

Company Name:		E-Mail:
Business Address:		Type of Work:
Phone Number/Facsimile:	Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female	Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Company Name:		E-Mail:
Business Address:		Type of Work:
Phone Number/Facsimile:	Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female	Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

***Ethnicity Codes**
 (Tracking Purposes Only)
 CH = Chinese
 AI = American Indian
 ME = Middle Eastern
 AA = African American
 FA = Filipino American
 JA= Japanese
 CA= Caucasian
 HA= Hispanic American
 OT= Other

- Certification Agencies**
- California Department of General Services (DGS)
 - San Francisco Human Rights Commission (HRC)
 - San Francisco Community College District (SFCCD)

FORM 1: IDENTIFICATION LISTING OF SUBCONTRACTORS, TRUCKERS, SUPPLIERS, AND SUBCONSULTANTS

Subcontractor/Subconsultant, Trucker, and Supplier Information

Company Name:		E-Mail:	
Business Address:		Type of Work:	
Phone Number/Facsimile:		Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Company Name:		E-Mail:	
Business Address:		Type of Work:	
Phone Number/Facsimile:		Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Company Name:		E-Mail:	
Business Address:		Type of Work:	
Phone Number/Facsimile:		Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Company Name:		E-Mail:	
Business Address:		Type of Work:	
Phone Number/Facsimile:		Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Company Name:		E-Mail:	
Business Address:		Type of Work:	
Phone Number/Facsimile:		Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

Company Name:		E-Mail:	
Business Address:		Type of Work:	
Phone Number/Facsimile:		Award or Percent of Work:	
Gender of Owner: <input type="checkbox"/> Male <input type="checkbox"/> Female		Ethnicity of Owner:	Certification: <input type="checkbox"/> DGS <input type="checkbox"/> HRC <input type="checkbox"/> SFCCD

***Ethnicity Codes** (Tracking Purposes Only)

CH = Chinese	JA= Japanese
AI = American Indian	CA= Caucasian
ME = Middle Eastern	HA= Hispanic American
AA = African American	OT= Other
FA = Filipino American	

- Certification Agencies**
- California Department of General Services (DGS)
 - San Francisco Human Rights Commission (HRC)
 - San Francisco Community College District (SFCCD)

FORM 2: EQUAL OPPORTUNITY AND NON-DISCRIMINATION IN EMPLOYMENT AND WORKFORCE COMPLIANCE CERTIFICATION

The San Francisco Community College District recognizes that it must be build an equal opportunity. (Board Policy 3.02) It is the intent of the Board of Trustees that all prospective bidders shall be in compliance with the provisions of the Equal Employment Opportunity Commission guidelines. (Board Policy 7.09) Each business, prior to being awarded a contract must certify that it does not engage in discriminatory employment practices and it must provide information that verifies its compliance as an equal opportunity employer. The undersigned represents that affirmative steps will be taken to accomplish these policy objectives:

CERTIFICATION

The undersigned is authorized to execute this certificate on behalf of (insert company name) _____ and does hereby certify that the information stated herein are true and correct. The undersigned does further certify that (insert company name) _____ shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, national origin, gender, age, marital status, disability, or sexual orientation, and shall comply with all applicable provisions of State and Federal requirements regarding equal employment opportunity and affirmative action reporting and compliance programs.

Furthermore, the undersigned acknowledges the following hiring policy and will take affirmative steps to accomplish said policy objectives:

“It is the policy of the San Francisco Community College District to encourage its Construction and Construction-related Contractors to recruit and hire students and graduates of San Francisco City College as well as residents of the City and County of San Francisco as their employees.”

Project Name: _____

Company Name: _____

Owner or Authorized Representative: _____

Title: _____

Telephone: (_____) _____

Address: _____

By:

Signature

Title

Printed Name

Date Signed

FORM 3: MONTHLY SUBCONTRACTOR/SUBCONSULTANT PROGRESS REPORT

The Prime Contractor/Consultant must complete the Prime Monthly Subcontractor, Trucker, Supplier and Subconsultant Progress Report with the monthly progress payment application.

Project Name: _____

SECTION I

Prime Name and Address	Telephone Number, Email Address and Facsimile	Amount Invoiced This Month	Total Paid to Date

SECTION II

Name of Subcontractors, Truckers, Suppliers and Subconsultants	Work Performed this Month	Invoice No. and Amount Invoiced Current Month	Amount Paid Current Month	Amount Paid to Date

Signature of Owner or Authorized Representative

Title

Date

For further instructions on completing FORM 3 please see page 3 of this document. Further questions should be directed to the District’s compliance consultant at (510) 835-9012.

FORM 4: EXIT REPORT AFFIDAVIT AND FINAL PAYMENT REPORT CONTINUED...

PART 3: Exit Report Affidavit

I declare, under penalty of perjury under the laws of the State of California, that the information on this Form is complete and accurate, and that the amounts owed to the subcontractors, truckers, suppliers, and subconsultants will be paid within 15 days of receiving SFCCD's final payment under the Contract. The Prime Contractor/Consultant, including each joint venture partner, must sign this form

Owner/Authorized Representative (Signature)

Owner/Authorized Representative (Signature)

Name (Please Print)

Name (Please Print)

Title

Title

Firm Name

Firm Name

() _____
Telephone

() _____
Telephone

Date

Date

Owner/Authorized Representative (Signature)

Owner/Authorized Representative (Signature)

Name (Please Print)

Name (Please Print)

Title

Title

Firm Name

Firm Name

() _____
Telephone

() _____
Telephone

Date

Date