

PHILADELPHIA HOUSING AUTHORITY
AFFIRMATIVE ACTION SECTION

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PART I: GENERAL

1.1 POLICY

As a requirement for receiving federal funds, the U.S. Department of Housing and Urban Development ('HUD') requires that the Philadelphia Housing Authority (hereinafter 'Authority') implement an Affirmative Action Contract Compliance Program under Executive Order Nos. 11246, 12432, 12138, 11625, to promote the development of certified Minority Business Enterprises (hereinafter 'MBE'), and certified Women Business Enterprises (hereinafter 'WBE'). This program will also comply with the requirements of Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 d & e, as amended, and HUD Regulations 24 C.F.R. § 85.36(e).

The Authority by this policy affirms its commitment to maximize the utilization of certified MBEs/WBEs in Authority contracts and subcontracts. To this end, the Authority will provide such assistance as will be needed to achieve this goal.

The aim of this policy is to discover and deter any present discrimination by bidders who seek contracts with the Authority. MBE/WBE minimum participation goals (hereinafter 'MPGs') shall be used as a screening device to determine whether discrimination may have occurred. Minimum goals of MBE/WBE participation will be indicated for each contract in the bid documents, and will be based upon availability of certified MBEs/WBEs. The MPGs are a means of determining whether or not a contractor shall be presumed to have engaged in discrimination. If the information furnished is below the MPGs, the bid package shall be subject to further review, in accordance with criteria set forth in this policy, to determine whether or not there was actual discrimination.

1.2 APPLICABILITY

This program shall apply to all nonexempt contracts awarded by the Authority which are connected with federally funded or federally assisted programs. Exemptions are more fully described in Part VI of this program.

1.3 DEFINITIONS

- A. AAO:** Affirmative Action Officer, Director of the Authority's Affirmative Action Department.
- B. *Authority:*** Any department, division, unit or office of the Philadelphia Housing Authority, including the Board of Commissioners.

- C. BIDS:** A quotation, proposal, solicitation or offer by a Bidder or a Proposer to provide labor, materials, equipment, supplies or services to the Authority.
- D. BIDDER:** Any person or entity that submits a quotation, bid or proposal to provide Labor, materials, equipment, supplies or services to the Authority.
- E. BIDDER/PROPOSER AFFIRMATIVE ACTION IMPLEMENTATION PLAN:** Schedule of Participation and Binding Commitments Form and other documents submitted by Bidder /Proposer to support their Affirmative Action Plan. These submissions become an enforceable provision of the awarded contract.
- F. CERTIFIED:** Any business that has, after application to a recognized certifying agency, been determined to be owned, controlled and managed by minority(s), women, or disadvantaged person(s).
- G. CERTIFYING AGENCY:** Federal, state, local governmental or quasi-governmental agencies or authorities authorized by law to certify MBE/WBE's qualifications in terms of ownership, management and control.
- H. COMPLIANCE:** A contractor or subcontractor who performs under an Authority contract in accordance with this Affirmative Action Contract Compliance Program shall be determined to be in compliance.
- I. CONTRACTS:** Any Authority contract which is covered by this Affirmative Action Contract Compliance Program, whether competitively bid or negotiated, including contracts in the following areas:
 - 1. VENDING:** for Material, Equipment, Services, and Supplies.
 - 2. CONSTRUCTION:** for all types of construction; and
 - 3. PERSONAL AND PROFESSIONAL SERVICES.**
- J. DEBARMENT:** Exclusion from Authority contracting or subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure or the inadequacy of performance.
- K. DISCRIMINATION:** Any action or pattern of disparate treatment experienced in the solicitation for bids/proposals or in the award of a contract/subcontract because of: Race, Color, Sex, National Origin, Disability, or Religion.
- L. EXEMPTION:** Any bid/proposal in which the minimum participation goal(s) have been excluded.

- M. JOINT VENTURE:** A contractual partnership between the prime contractor and a certified minority-owned business enterprise and/or a certified women-owned business enterprise, which must be executed prior to the submittal of the bid/proposal.
- N. MINIMUM PARTICIPATION GOAL (MPG):** The level of participation of certified MBE/WBEs set by the AAO. MPGs shall reflect the availability of certified MBE/WBEs in the subject area, and the level, which should be attained absent discrimination. MPGs are stated as a percentage. A Bidder/Proposer will not be rejected as not responsible solely because they fail to reach the MPGs.
- O. MINORITY BUSINESS ENTERPRISE (MBE):** A business enterprise certified as a Minority Owned Business that is owned, managed and controlled by one or more socially or economically disadvantaged person(s). Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such person(s) include, but are not limited to: Blacks/African-Americans, Puerto Ricans and other Hispanics, American Indians/Native Americans, Eskimos, Aleuts, Hasidic Jews, Asian Pacific Americans, and Asian Indians.
- P. OWNED, MANAGED AND CONTROLLED:** Possession of at least fifty-one percent (51%) of the ownership of the business. Management and control of the daily for profit business operation or nonprofit organization held by one or more persons who are classified as a member of a minority group or a woman, as defined herein.
- Q. PRIME CONTRACTOR/CONTRACTOR/BIDDER OR PROPOSER:** Any person or business entity that is a party or potential party to a contract with the Authority.
- R. RESPONSIBLE:** The Bidder's/Proposer's submissions of a written commitment to meet or exceed the MPG set forth in the bid, or in the absence of meeting or exceeding the MPG, a full and complete explanation therefore in accordance with this program.
- S. RESPONSIVENESS:** The Bidder's/Proposer's submission of (in addition to the submission of any other required documentation), documentary evidence of certified MBE/WBEs who have been contacted and who are to be used on the contract. Documentation must be submitted with the bid/proposal and failure to submit evidence of "Best Efforts" and binding commitments will result in rejection of the bid/proposal and a determination made of non-responsiveness.

- T. WOMEN BUSINESS ENTERPRISE: A business enterprise certified as a Woman Owned Business that is owned controlled and managed by a woman.**

1.4 CERTIFICATION – A LEGITIMATE MBE/WBE

- A. To ensure that only businesses which are owned, managed and controlled in both form and substance by MBE/WBEs are participating in the Authority's Affirmative Action Contract Compliance Program. MBE/WBE businesses, including joint ventures and nonprofit organizations, must be certified by a governmental entity authorized to certify such enterprises.**
- B. MBE/WBE certification shall not be determinative of a Bidder's or Contractor's financial or technical ability to perform specified work. The Authority reserves the right to evaluate the Bidder's/Proposer's, Contractor's or Subcontractor's ability to satisfy financial, technical or other criteria separate and apart from certification before or after bid opening.**
- C. The Authority recognizes that certified MBE/WBEs might be de-certified by the certifying governmental entity. Any business, which has been de-certified, shall not participate in the Authority's Affirmative Action Contract Compliance Program.**
- D. The Authority reserves the right, if there is cause, to refuse a certification provided by a certifying agency.**

1.5 SUBSTITUTION OF CERTIFIED MBE/WBEs

Commitments to certified MBE/WBE firms made at the time of bidding must be maintained throughout the term of the contract, unless a change in commitment is pre-approved by the Authority's AAO. If at any time after a bid/proposal is opened by the Authority, a Contractor is unable to meet the obligations of the Contractor's Affirmative Action implementation Plan, as indicated on the Schedule of Participation and Binding Commitments Form, such Contractor may be required to present for approval to the AAO a substitute implementation Plan.

1.6 GUIDELINES FOR JOINT VENTURING

Joint Venture partnership(s) with either a certified MBE or a certified WBE must meet the following criteria in order to receive credit towards the minimum participation goals (MPGs):

- A. The MBE/WBE partner(s) must be certified by a governmental entity authorized by law to certify such enterprises prior to bid/proposal submittals.**

- B. The MBE/WBE partner(s) must be substantially involved in all phases of the contract including, but not limited to, the performance, with its own work force, a portion of the onsite work, and administrative responsibilities such as bidding, planning, staffing and daily management.**
- C. The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interests).**
- D. If the certified partner(s) is a MBE, its participation may be credited to the extent of the partner's ownership interest in the joint venture, however, it will still be required to meet the WBE goal or vice versa.**

1.7 CONTRACT LANGUAGE

Authority contracts subject to these procedures shall include language providing that compliance with MBE/WBE provisions have been met, and cooperation with the Authority on contractual matters is material to the Authority's contract. The successful Bidder's/Proposer's Affirmative Action Plan submissions will become an enforceable provision of the contract. Failure to comply with the Authority's Affirmative Action Contract Compliance Program or otherwise comply with the Bidder's/Proposer's submissions, may be grounds for a finding of contractor non-responsibility.

1.8 AMENDMENT

These procedures may be amended as may be necessary. Any amendment shall become effective upon the approval and adoption by the Philadelphia Housing Authority Board of Commissioners.

1.9 SEVERABILITY

The provisions of these procedures are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of these procedures, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of the procedures or their application to other persons.

PART II: RESPONSIBILITIES

2.1 AFFIRMATIVE ACTION OFFICER

The AAO reports directly to the General Manager of Contracts/Procurement for the Philadelphia Housing Authority. The AAO is authorized and shall perform functions, which include, but are not limited to:

- A. Establish or modify minimum participation goals (MPGs) for Authority contracts based upon the dictates of market availability of certified MBE/WBEs and/or applicable laws and regulations to perform various elements of the contract.**
- B. The AAO will engage in the review of bid/proposal packages to ensure that the packages provide maximum opportunity for certified MBE/WBE participation and shall have the authority to recommend approval or disapproval of any bid package to ensure compliance with this program.**
- C. Attend all Pre-bid and Pre-construction meetings.**
- D. Monitor and audit contractor's performance including site and business office visits to ascertain whether the contractor has discriminated or has practices which have had a disparaging or discriminating effect, and to determine that the certified MBE/WBE is performing its function in accordance with authorized standard industry practices.**
- E. Maintain participation records and prepare periodic reports that include, but are not limited to the following data:**
 - 1. A summary of contracts awarded specifying the percentage of participation.**
 - 2. A survey comparing past and current contract participation goals of certified businesses.**
 - 3. Any relevant recommendation that may enhance efficiency and effectiveness of the Affirmative Action Contract Compliance Program.**
- F. For Comprehensive Improvement Modernization Program (hereinafter "CIAP") funded contracts, prepare and report the Authority's MBE/WBE progress on HUD Form #2516 – Contract and Subcontract Activity Report for Public and Indian Housing Programs.**
- G. Receive, document and evaluate complaints relative to violations of the Affirmative Action Contract Compliance Program.**

H. Report findings of discrimination, in writing, to the Executive Director through the General Manager of Contracts/Procurement.

I. Interact with city, state, and federal agencies involved in the administration of certified MBE/WBE programs.

2.2 CONTRACTING OFFICER

A. SOLICITATION – The Authority’s Contracting Officer shall actively solicit certified MBE/WBEs to compete for contracting opportunities as Prime/General Contractors.

B. REPORTS – The Affirmative Action Officer shall gather information required to prepare various reports that detail:

- 1. The original total dollar amount of each contract awarded according to the categories of vending, construction, personal services and professional services, including the total dollar amount of each contract resulting from any contract amendment or change orders subsequent to award.**
- 2. The original total dollar amount of each contract awarded to each certified MBE/WBE as a Prime/General Contractor, as well as the actual dollar amount of each contract including contract amendments or change order(s).**

2.3 COORDINATION WITH CONTRACT CONTROL SPECIALISTS

A. The AAO shall coordinate with the Contract Control Specialist for information as may be required in the performance of the AAO function. Such information may include, but is not limited to:

- 1. Explanation of the elements of the work to be performed under a contract.**
- 2. A reasonable estimate of costs, type(s) and quantity of supplies, materials and equipment required for performance under a contract.**
- 3. A reasonable estimate of employees and their classifications required for performance under a contract.**

B. The Authority’s Contracting Officer shall also do the following, with or without coordination with the AAO:

- 1. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by certified MBE/WBEs.**

- 2. Establish delivery schedules, where the requirement permits, which encourage participation by certified MBE/WBEs.**
- 3. Use the services and assistance of the Small Business Administration and Minority Business Development Agency of the Department Commerce.**

**PART III: BIDDER/PROPOSER AFFIRMATIVE ACTION
IMPLEMENTATION PLAN**

3.1 GENERAL REQUIREMENTS

Each Bidder's/Proposer's Affirmative Action implementation Plan shall include the following:

- A. The business name, address, contact person, telephone number, certification number, certifying agency(s), and Internal Revenue Service Employer's Identification Number (E.I.N.).**
- B. A description of the work that will be performed by each designated contractor/subcontractor.**
- C. The date of solicitation, contact person's name, whether contact was by phone or mail, and if a quote was received from the designated MBE/WBE.**
- D. Confirmation of commitment made as to the level of certified MBE/WBE participation described as a percentage of the total base contract proposal dollar amount and percentage of commitments.**
- E. If no commitment is made to meet or exceed the stated MPG's, the Bidder/Proposer must provide documentation that the following steps were taken:**
 - 1. Requested and attended a briefing and information meeting with the Authority staff designed to explain the Affirmative Action Contract Compliance Program pertaining to certified MBE/WBE participation.**
 - 2. Advertised in general circulation, media, trade association publications, and minority/women-focused media concerning subcontracting and supplier opportunities.**
 - 3. Participated in Authority sponsored conferences and seminars designed specifically for the promotion of the Authority's Affirmative Action Contract Compliance Program pertaining to certified MBE/WBE participation.**
 - 4. Notified certified MBE/WBEs and solicited their participation in the reference contract. The names, addresses, telephone numbers, and contact persons of the firms notified must be provided.**
 - 5. Provided complete information about plans, specifications, and requirements of the contract to interested certified MBE/WBEs.**

- 6. Made reasonable efforts to negotiate with certified MBE/WBEs for specific sub-bids. All such contacts must be fully documented. If a sub-bid of a certified MBE/WBE is rejected, the Bidder/Proposer must document and explain the reason for the rejection. Rejection based solely on the initial response from a certified MBE/WBE will not be sufficient to establish non-discrimination and “Best Efforts” toward compliance.**
- F. Attest to the fact that the certified MBE/WBE will perform work, which is necessary and required for contractor to fulfill their obligation under the applicable contract and specification.**

**PART IV: CONSTRUCTION CONTRACT AFFIRMATIVE ACTION
IMPLEMENTATION PLAN**

4.1 MINIMUM PARTICIPATION GOALS

The AAO shall set MPGs for Specifications/Contracts/Request for Proposals.

(MODERNIZATION FUNDS)

The MPGs which have been set by the AAO as of the date of implementation of this program, are and shall be, until or unless they are revised, as follows:

<u>MBE</u>	<u>WBE</u>
20%	10%

- A. A Bidder/Proposer will not be rejected as non-responsive solely because they fail to reach the MPGs. However, a contractor may be considered not responsive if the MPGs are not met and no acceptable justification is offered for a lack of compliance.**
- B. When a firm/company contracts with an enterprise that is both a certified MBE and a certified WBE, credit toward the MPG will be received for one category only. Bidders/Proposers shall indicate in their plan which category is being credited.**
- C. A certified MBE/WBE firm bidding as a prime/general contractor shall still be required to submit an Affirmative Action Implementation Plan. However, where the primary contract is awarded to either a certified MBE or a certified WBE the Authority shall count the entire dollar amount of the contract towards meeting the MPG.**
- D. Certified MBE/WBE subcontractors shall perform at least seventy-five percent (75%) of the cost of the subcontract, not including cost of materials, with their own employees. This provision shall not apply to suppliers or distributors.**

4.2 CONSTRUCTION CONTRACT BIDDER/PROPOSER RESPONSIVENESS

- A. Bidders/Proposers must submit information indicating certified MBE/WBE firms, which have been solicited, quotes that have received (solicited and unsolicited), and firms to which commitments have been made. Documentation of such solicitations, quotes, and commitments must be submitted concurrently with the bid/proposal. Failure to submit the required information is sufficient cause for rejection of the bid as non-responsive.**
- B. Mailings to large numbers of certified MBE/WBEs which are intended to provide notice of a contractor's interest in bidding on a construction**

contract will not be deemed solicitation, but will be treated as informational notification only.

- C. A Bidder/Proposer should only solicit certified MBE/WBE subcontractors, manufacturers or supplies whose work, materials or supplies are within the project scope and are related to project line items or portions thereof, and which the Bidder/Proposer reasonable believes it will choose to subcontract with or purchase from.**
- D. Bidders/Proposers failing to meet the MPGs must submit concurrently with the bid submissions, the information required under Part III, Section E, of the Affirmative Action Contract Compliance Program.**

4.3 CONSTRUCTION CONTRACT BIDDER/PROPOSER RESPONSIBILITY

The submittals of each Bidder/Proposer are subject to review to determine whether the Bidder/Proposer has discriminated in the selection of manufacturers, subcontractors or suppliers, or has taken affirmative steps in the utilization of certified MBE/WBEs to ensure compliance with this policy. If a Bidder/Proposer has met the MPGs, the Authority's Contracting Officer may presume that the Bidder has not discriminated in its selections. A Bidder/Proposer who fails to meet the MPGs shall satisfactorily provide the documentation set forth in Part III, Section E, of this program. The AAO shall perform a review of the submitted documentation to determine whether discrimination has occurred. If appropriate, the AAO may invoke the provisions of Part VII, Section 7.3 (Willful Non-Compliance) and recommend sanctions contained therein.

**PART V: VENDING AND PERSONAL/PROFESSIONAL
SERVICES CONTRACT AFFIRMATIVE ACTION
IMPLEMENTATION PLAN**

5.1 MINIMUM PARTICIPATION GOALS

The AAO shall set MPG's for Specifications/Contracts/Request for Proposals.

(MANAGEMENT FUNDS)

The MPG's which have been set by the AAO as of the date of implementation of this program, are and shall be until or unless they are revised, as follows:

<u>MBE</u>	<u>WBE</u>
10%	10%

- A. A Bidder/Proposer will not be rejected as non-responsive solely because they fail to reach the MPG's. However, a contractor may be considered non-responsible if the MPG's are not met, and they are not in compliance with Part III, Section E.**
- B. When a firm/company contracts with an enterprise that is both a certified MBE and a certified WBE, credit toward the MPG will be received for one category only. Bidders/Proposers shall indicate in their Plan which category is being credited.**
- C. A certified MBE/WBE firm bidding as a prime contractor shall still be required to submit an Affirmative Action Implementation Plan. However, where the primary contract is awarded to either a certified MBE or a certified WBE the Authority shall count the entire dollar amount of the contract towards meeting the MPG.**

**5.2 VENDING AND PERSONAL/PROFESSIONAL SERVICES CONTRACT
AFFIRMATIVE ACTION BIDDER/PROPOSER RESPONSIVENESS**

- A. Bidders/Proposers must complete and submit with the bid/proposal, certified MBE/WBE Schedule of Participation and Binding Commitments Form. Failure to submit these forms with the bid/proposal may result in the bid being rejected as non-responsive.**
- B. Mailings to large number of certified MBE/WBE's which are intended to provide notice of a contractor's interest in bidding on a vending and personal/professional service contract will not be deemed solicitation, but will be treated as informational notification only.**
- C. A Bidder/Proposer should only solicit certified MBE/WBE subcontractors, vendors, manufacturers or suppliers whose services, materials or supplies are**

within the scope of work bidden on, and which the Bidder/Proposer reasonably believes it will choose to subcontract with or purchase from.

- D. Bidders/Proposers failing to meet the MPGs must submit concurrently with the bid submissions the information required under Part III, Section E, of the Affirmative Action Contract Compliance Program.**

5.3 VENDING AND PERSONAL/PROFESSIONAL SERVICE CONTRACT AFFIRMATIVE ACTION BIDDER/PROPOSER RESPONSIBILITY

The submittals of each Bidder/Proposer are subject to review to determine whether the Bidder/Proposer has discriminated in the selection of manufacturers, subcontractors or suppliers, or has taken affirmative steps in the utilization of certified MBE/WBEs to ensure compliance with this policy. If a Bidder/Proposer has met the MPGs, the Authority's Contracting Officer may presume that the Bidder/Proposer has not discriminated in its selections. A Bidder/Proposer who fails to meet the MPGs shall satisfactorily provide the documentation set forth in Part III, Section E, of this program. The AAO shall perform a review of the submitted documentation to determine whether discrimination has occurred. If appropriate, the AAO may invoke the provisions of Part VII, Section 7.3 (Willful Non-Compliance) and recommend sanctions contained therein.

PART VI: EXEMPTIONS

6.1 EXEMPTED CONTRACTS

The Authority recognizes that in certain limited circumstances, compliance with this Affirmative Action Contract Compliance Program will not be feasible, nor in the best interest of the Authority or its residents. With the approval of the Executive Director, Contracting Officer and the Affirmative Action Officer, the following contracts may be exempted:

- A. A vending contract, for equipment, materials, services and supplies where the total dollar amount of the contract is less than Ten Thousand Dollars (\$10,000.00).**
- B. A construction contract where the total dollar amount of the contract is less than Ten Thousand Dollars (\$10,000.00).**
- C. A professional or personal services contract where the total dollar amount of the contract is less than Ten Thousand Dollars (\$ 10,000.00).**
- D. Any public exigency or emergency contract where the nature of the emergency will not allow for a delay, which would occur from competitive solicitation.**

PART VII: COMPLIANCE REVIEW

7.1 STANDARDS FOR REASONABLE CAUSE: AFTER A CONTRACT HAS BEEN AWARDED

- A. The AAO may find that a Contractor is not in compliance with contract requirements for reasons, which include, but are not limited to:**
- 1. Documentation of information furnished by the contractor, which does not demonstrate that, a certified MBE/WBE is performing the work actually contracted.**
 - 2. Failure or refusal by a contractor to furnish information requested by the Authority.**
 - 3. Discovery of information, which is contrary to compliance information previously submitted by the contractor.**
 - 4. Contractor's failure, neglect or refusal to pay certified MBE/WBE subcontractor(s) for completed and approved work within seven (7) working days after payment by the Authority to the contractor.**
 - 5. Other facts discovered by the Authority's AAO.**
- B. Whenever the AAO determines it has reasonable cause to believe that a contractor is not in compliance or that the contractor has discriminated against certified WBE/MBEs, the AAO shall promptly prepare a written notice to be signed by the Contracting Officer and sent by certified mail to the contractor. The notice shall state the reasons for the AAO's belief that the contractor is not in compliance and/or has discriminated against certified MBE/WBEs. In response to said notice, the contractor shall be required to show cause within seven (7) working days why it should not be found:**
- 1. In breach of contract, or**
 - 2. To have discriminated against certified MBE/WBEs.**
- C. Based upon information supplied by the contractor, if any, and other documentation and/or information, and with the approval of the General Manager of Contracts/Procurement, the AAO shall proceed expeditiously with an investigatory, evaluative review to clarify the allegations. In the event that the allegations are found to be valid by the AAO, said officer shall notify the Contracting Officer and Executive Director who shall send notification of such finding(s) to the contractor setting forth the appropriate remedial action.**

7.2 GOOD FAITH NON-COMPLIANCE

- A. In cases where the AAO has cause to believe that a contractor, acting in good faith, has failed to comply with the provisions of the procedures, the AAO with the assistance and involvement of the Authority's Contracting Officer shall attempt to resolve the non-compliance through conciliation and persuasion.**
- B. In conciliation, the contractor must satisfy the Authority that they have made their "Best Efforts" to achieve the agreed upon participation goals by certified MBE/WBEs. "Best Efforts" on the part of the contractor include:**
 - 1. Entering a contractual relationship with the designated MBE/WBE in a timely manner, and fulfilling all contractual requirements.**
 - 2. Notifying both the certified MBE/WBEs subcontractor and the Authority's AAO of any problems in a timely manner.**
 - 3. Requesting assistance from the AAO in resolving any problems with certified MBE/WBEs.**
 - 4. Making every reasonable effort to assist the certified MBE/WBE in the performance of its contract with the Authority.**

7.3 WILLFUL NON-COMPLIANCE

- A. In cases where the AAO has cause to believe that any Bidder, Proposer, or Contractor has failed to comply with the provisions of these procedures, said officer shall be empowered to conduct an investigation subsequent to written direction of the General Manager of Contracting/Procurement.**
- B. After affording the Bidder, Proposer or Contractor notice and an opportunity to be heard, the AAO will be authorized to recommend sanctions for each violation of these procedures. Such sanctions may include, but are not limited to:**
 - 1. Declare the bid or proposal as non-responsible and the Bidder/Proposer ineligible to receive the award of the contract or any other future contracts.**
 - 2. Suspension from doing business with the Authority for a set period of time.**
 - 3. Debarment.**
 - 4. Withholding of payments under the contract.**
 - 5. Other relief the AAO deems necessary, proper, and in the best interest of the Authority.**

PART VIII: APPEALS

8.1 STANDARDS OF APPEAL: AFTER THE CONTRACT HAS BEEN AWARDED

A Bidder, Proposer, or Contractor may appeal a decision pursuant to any action taken under the provisions of Part VII: Compliance Review, by filing a written grievance with the AAO. An appeal by the Bidder, Proposer or Contractor under this section shall not stay the AAO's finding(s).

8.2 WRITTEN GRIEVANCE

- A. The grievance shall set forth the reasons supporting it. The grievance shall be filed within ten (10) working days of the date that the finding, recommendation, proposal or other relief becomes effective. Failure to grieve in a timely manner shall be deemed a waiver of said right or breach of the conditions of this policy.**
- B. If a person requests a hearing at the time the grievance is filed, the AAO shall schedule a hearing within seven (7) working days of the date the grievance is filed, unless the person requesting a hearing agrees to a continuance provided it is not contrary to best interest of the Authority to permit the delay. The AAO shall notify in writing, the person filing the grievance, of the date, time and place of the hearing.**
- C. If a hearing is not requested, the AAO shall make a determination and notify the contractor within (7) working days.**

8.3 HEARING

Five (5) working days prior to a scheduled hearing, the AAO shall issue and serve a written notice, together with a copy of the grievance as filed, to all persons named in the grievance. Such persons may be required to appear before a hearing panel at the date, time and place specific in the notice.

8.3.1 PANEL

- A. The Executive Director shall designate a panel of three (3) or more individuals, one (1) of whom will be a member of the Affirmative Action Oversight Committee, to preside at such hearing, and to render a written decision on the grievance.**
- B. A party may request testimony from any person when it is determined that such testimony may assist in the resolution of the grievance. All proceedings will be transcribed and a record shall be maintained.**
- C. Any person or heads of departments named in the grievance may file a written answer to the grievance, and may appear at such hearing in person.**
- D. The panel shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.**

8.3.2 TESTIMONY

- A. The testimony taken at the hearing shall be under oath.**
- B. The parties have a right to request that the notes of testimony be transcribed.**
- C. Testimony shall be taken by the panel and the person filing the grievance and person (s) and heads of departments named in the grievance shall be given an opportunity to be heard.**

8.4 DECISION

- A. Within twenty (20) working days after the conclusion of the hearing, the panel shall render a written decision as to the validity of the grievance, as well as an appropriate recommendation.**
- B. A copy of the decision shall be sent by U.S. certified mail, returned receipt requested, to the grievant.**

8.5 EFFECT OF A PENDING DECISION

Pending a decision by the panel, the Philadelphia Housing Authority's Executive Director may stay any action pertaining to the grievance, if such stay is determined to be in the best interest of the Authority.

PART IX: AFFIRMATIVE ACTION OVERSIGHT COMMITTEE

The Philadelphia Housing Authority Board of Commissioners shall appoint an Affirmative Action Oversight Committee to monitor and evaluate the implementation and administration of the Affirmative Action Contract Compliance Program. The Oversight Committee shall have as its membership, at least one (1) member of the Board of Commissioners, Executive Director, General Counsel, and other individuals from the Authority's community at large. The Committee will prepare periodic reports for the Board and address related issues as requested by the Board of Commissioners.

**SCHEDULE OF PARTICIPATION
“CERTIFICATION OF BEST EFFORTS”**

Specification Number: _____
Bidder: _____

Name

of

MBE/WBE	Detailed Description of Work	M/WBE PARTICIPATION		
		DOLLAR AMOUNT \$	PERCENT	
			MBE%	WBE%
NAME:	<div style="display: flex; justify-content: space-between;"> <div>YES</div> <div>NO</div> </div> <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/></div> <div><input type="checkbox"/></div> <div>Will any of this work be subcontracted by the M/WBE? (See Note #3)</div> </div> <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/></div> <div><input type="checkbox"/></div> <div>Will bidder assist M/WBE with any of this work? (See Note #4)</div> </div>			
ADDRESS:				
PHONE NO:				
IRS ID#:				
CERT. NO.:				
CERT. AGCY:	<div style="display: flex; justify-content: space-between;"> <div>YES</div> <div>NO</div> </div> <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/></div> <div><input type="checkbox"/></div> <div>Will any of this work be subcontracted by the M/WBE? (See Note#3)</div> </div> <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/></div> <div><input type="checkbox"/></div> <div>Will bidder assist M/WBE with any of this work? (See Note #4)</div> </div>			
NAME:				
ADDRESS:				
PHONE NO.:				
IRS ID#:				
CERT. NO.:				

DUPLICATE THIS FORM IF YOU ARE LISTING MORE THAN TWO (2) M/WBE SUBCONTRACTORS

PLEASE NOTE:

1. A binding commitment must have been achieved with the M/WBE for the detailed work and dollar amount stated on this form.
2. M/WBE listed above must be certified by a certifying agency in order to be credited towards the required minimum participation goals.
3. If the M/WBE intends to subcontract more than 10% of the work detailed on this form, such subcontractors, description of work, and dollar amount must be listed on a duplicate copy of this form.
4. If the bidder plans to supply the M/WBE with materials, personnel or equipment, such assistance must be listed on this form in the block marked “Detailed Description of work.”
5. Any change to this schedule (the named M/WBE, description of work, or dollar amount) must be approved in advance by the Affirmative Action Officer (AAO).

**SCHEDULE OF BINDING COMMITMENTS WITH MINORITY AND WOMEN OWNED BUSINESSES
“CERTIFICATION OF BEST EFFORTS”**

Specification Number: _____

Name of Bidder: _____

NAME OF CERTIFIED MINORITY/WOMEN OWNED FIRMS* (INCLUDE CONTRACTING AGENT'S NAME)	TYPE OF CONTRACT WORK SPECIFY CONSTRUCTION, INSTALLATION, SUPPLY, ETC.	TOTAL DOLLAR AMOUNT OF PARTICIPATION	PERCENTAGE OF TOTAL PARTICIPATION	
			MINORITY OWNED BUSINESSES	WOMEN OWNED BUSINESSES

***Bidder's are hereby notified that all firms listed above will be contacted to verify their level of participation.**

Signature: _____

Name: _____

Title: _____

DOCUMENTATION OF BEST EFFORTS

Specification

Number: _____

Name

of Bidder: _____

CERTIFIED MINORITY/WOMEN OWNED BUSINESSES UNAVAILABLE TO PARTICIPATE IN THE CONTRACT.

List below the name of all certified minority/women owned businesses whose interest in the contract were solicited, but who were unavailable to work on this project or were unable to prepare a quote. State the reasons for the unavailability of certified minority/women owned businesses. In order to facilitate verification and avoid delays in contract awards, it is requested that each business listed below be identified on the "Affidavit of Unavailability of Certified Minority/Women Owned Businesses" (Page K-28).

**INFORMATION AND ASSISTANCE PROVIDED TO CERTIFIED
MINORITY/WOMEN OWNED BUSINESSES.**

Include names and addresses of all certified minority/women owned businesses that you provided with plans, specifications, and requirements of the contract. Detail all assistance you provided to interested certified minority/women owned businesses and all your efforts at negotiation for specific sub-bids, and include any advertisements soliciting their participation.

I do hereby attest that I have exerted best efforts, but have been unable to obtain the required minimum participation goals for the following reason: *

Company Name

Specification Number

Name (Signature)

Title

***You may attach supplemental pages and documentation if necessary.**

**AFFIDAVIT OF UNAVAILABILITY OF CERTIFIED
MINORITY/WOMEN OWNED BUSINESSES**

**Specification
Number:** _____

**Name
of Bidder:** _____

I, _____, do hereby attest that

I was offered an opportunity to bid on the contract for:

(Description of Contract)

by _____
(Name of Prime Bidder)

but was unavailable to participate/unable to prepare a quote (strike inappropriate phrase) for the following reasons:*

Name of Certified Minority/Women Owned Business

Address and Phone Number

**Signature of Principal of Certified
Minority/Women Owned Business**

Title

Certifying Agency and Number

***You may attach supplemental pages and documentation if necessary.**

GUIDELINES FOR JOINT VENTURING

BETWEEN A PRIME CONTRACTOR AND A CERTIFIED MINORITY/WOMAN-OWNED BUSINESS ENTERPRISE

If a Prime Contractor has made arrangements to enter into a joint venture partnership with either a certified MBE or WBE, the following criteria must be met in order to receive credit towards the minimum participation goals (MPGs):

- A. The MBE/WBE partner(s) must be certified by a governmental entity authorized by law to certify such enterprises prior to bid/proposal submittals.**
- B. The MBE/WBE partner(s) must be substantially involved in all phases of the contract including, but not limited to, the performance, with it own work force, a portion of the on-site work, and administrative responsibilities such as bidding, planning, staffing and daily management.**
- C. The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interests).**
- D. If the certified partner(s) is a MBE, its participation may be credited to the extent of the partner's ownership interest in the joint venture. However, it will still be required to meet the WBE goal or vice versa.**

JOINT VENTURE QUESTIONNAIRE

If you intend to receive credit towards the minimum participation goals (MPGs) by entering into a joint venture partnership with a certified MBE/WBE, you must complete this questionnaire and submit it along with your bid/proposal.

1. NAME OF THE JOINT VENTURE

2. ADDRESS OF THE JOINT VENTURE

3. TELEPHONE NUMBER ()

4. CONTACT PERSON & TITLE

5. IDENTIFY BELOW ALL OF THE FIRMS WHICH COMPRISE THE JOINT VENTURE PARTNERSHIP(S). IDENTIFY WHETHER THE FIRM IS A CERTIFIED MBE/WBE. INCLUDE CERTIFICATION NUMBER AND AGENCY WHERE APPLICABLE, AND INDICATE THE PERCENTAGE OF JOINT OWNERSHIP INTEREST.

NAME:

ADDRESS:

TELEPHONE NUMBER:

MBE _____ WBE _____

IRS ID#

CERTIFICATION NUMBER:

**PERCENTAGE
OF OWNERSHIP _____**

CERTIFYING AGENCY:

NAME:

ADDRESS:

TELEPHONE NUMBER:

MBE _____ WBE _____

IRS ID#

CERTIFICATION NUMBER:

**PERCENTAGE
OF OWNERSHIP _____**

CERTIFYING AGENCY:

NAME:

ADDRESS:

TELEPHONE NUMBER:

MBE _____ WBE _____

IRS ID#

CERTIFICATION NUMBER:

**PERCENTAGE
OF OWNERSHIP _____**

CERTIFYING AGENCY:

6. DESCRIBE, IN DETAIL, THE BUSINESS PURPOSE OF THE JOINT VENTURE PARTNERSHIP AND THE ROLE OF EACH FIRM IN THE JOINT VENTURE. INCLUDE INFORMATION REGARDING DAILY MANAGEMENT, BIDDING, PLANNING, ON-SITE WORK, AND STAFFING. ATTACH SUPPLEMENTAL PAGES IF NECESSARY.
7. ATTACH A COPY OF THE JOINT VENTURE AGREEMENT.

Any changes to the joint venture agreement attached hereto or to this questionnaire, including changes in any of the arrangements described herein, must be approved in advance by the Authority's Affirmative Action Officer.

Each undersigned does hereby attest that the foregoing statements are true and correct.

NAME OF FIRM

NAME OF FIRM

SIGNATURE OF FIRM'S
AUTHORIZED AGENT

SIGNATURE OF FIRM'S
AUTHORIZED AGENT

PRINTED NAME

PRINTED NAME

TITLE

TITLE

DATE

DATE