

Good Faith Efforts Guide

This is only a guide and is not meant to convey an absolute as to the efforts to be made in contacting and contracting with an eligible Disadvantaged Business Enterprise.

Each contractor submitting a bid to the City of Sioux Falls or their recipient for a project covered by this plan, shall exercise good faith efforts to subcontract at a minimum a portion of the project equal to the percentage goal indicated in the Bidders Notice for DBE participation. Nothing in this subsection is intended to preclude or discourage a contractor from engaging in additional activities to achieve or exceed this goal.

To determine whether a competitor has failed to meet DBE participation, the City must decide whether the efforts made by the competitor to obtain DBE participation (Form B) were “good faith efforts.” **Efforts that are of usual and normal occurrence are not ordinarily considered good faith efforts to meet the goals.** The City will determine, given all relevant circumstances, if the efforts reasonably produced a level of DBE participation sufficient to meet the goals.

The City presents here a list of the examples of “good faith efforts” that contractors may make in obtaining DBE participation. It is not intended to be a mandatory checklist. The City does not insist that a contractor do any one or any particular combination of the things on the list, nor is the list intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a contractor has made "Good Faith Efforts", it will usually be important for the City to look not only at the different kinds of efforts that the contractor has made, but also the quantity and intensity of those efforts. Therefore, documentation specific to each DBE contacted should be submitted with Form B.

1. Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled by the City of Sioux Falls or recipient to inform DBEs of contracting and subcontracting opportunities;
2. Whether the contractor advertised in general circulation, trade association, and disadvantaged-focus media concerning the subcontracting opportunities. Simple placement of an ad in an above mentioned outlet does not constitute good faith efforts. Follow-up contacts must be made, responses documented, and provided with Form B;
3. Whether the contractor provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited in sufficient time to allow the DBEs to participate effectively;
4. Whether the contractor followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
5. Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
6. Whether the contractor provided interested DBEs with adequate information about the plans, specifications, and requirements of the contract;

7. Whether the contractor negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified or overpriced without sound reasons based on a thorough investigation of their capabilities. **Sufficient documentation must be provided to prove a statement of overpricing (i.e., quotes from other subs for exactly the same work);**
8. Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the City, their recipient, or contractor; and
9. Whether the contractor effectively used the services of available disadvantaged/women community organizations; disadvantaged/women contractor groups; local, state, and federal Disadvantaged Business Enterprise assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

The Contract Compliance Specialist will be responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

The Contract Compliance Specialist will ensure that all information is complete, accurate, and adequately documents the bidder's/offeror's good faith efforts before committing to the performance of a contract by the bidder/offeror.