

## **M/WBE GOAL**

Harris Health System (“Harris Health” or “We”) strives to engage prime contractors and subcontractors that represent the diverse businesses operating in Harris County. We are committed to providing historically underutilized minority- and woman-owned businesses (M/WBEs) receive a fair and equal opportunity to participate in the Harris Health System's procurement process.

***Harris Health System requires Vendors to make a good faith effort to meet or exceed a %\_\_\_\_ goal for participation by M/WBEs on this project.***

Failure to meet the M/WBE goal or make sufficient Good Faith Effort, as such term is defined in our M/WBE Policy, at the time of bid submission will result in the rejection of the bid. The ability or desire of the Bidder to perform the project work with its own workforce does not relieve the Bidder of the responsibility to make Good Faith Efforts.

Additional definitions and guidance are provided in the Harris Health System’s Minority- and Woman-Owned Business Enterprise Policy, adopted in 2022 (M/WBE Policy). All capitalized terms that are used in this section and not defined herein are defined by the M/WBE Policy.

Minority and Women-Owned Business Enterprise (M/WBE) Utilization Plan - Bidder shall include a M/WBE Utilization Plan to meet the M/WBE goal established for this project. If the bidder is unable to meet the established M/WBE goal, the bidder must illustrate Good Faith Efforts as determined by Harris Health. ***If the M/WBE Utilization Plan or documentation of Good Faith Efforts is not submitted prior to the date and time set forth by this bid, the bid will be considered non-responsive.***

M/WBE Utilization Commitment Form - Bidder shall complete and return as specified herein.

Harris Health System will accept M/WBE certifications from the City of Houston, Historically Underutilized Business certifications (HUB) from the State of Texas, Disadvantaged Business Enterprise (DBE) certifications from the Texas Unified Certification Program and 8(a) certifications from the U.S. Small Business Administration. A copy of the proposed M/WBE’s certification and a Letter of Intent (LOI) for all M/WBE subcontractors shall accompany the bid. The business must be certified at the time of bid submission; pending applications will not be accepted.

Only certified businesses that have Significant Local Presence can be counted towards the contract goal. To establish a Significant Local Presence, a firm without a location in the Marketplace can provide documentation that it has performed at least three contracts or subcontracts, in the Marketplace (the counties of Harris, Fort Bend, Montgomery, Brazoria, and Galveston Counties, Texas) in the last three years. A location utilized solely as a post office box, mailbox, or telephone message center, or any combination thereof, with no substantial work function, shall not be construed as Significant Local Presence.

### **Participation by certified M/WBEs will be counted as follows:**

1. If the bidder is an M/WBE, it may count the entire amount of work it intends to perform with its own forces as further detailed below.
2. When an M/WBE subcontracts part of the work of its contract to another firm, the value of the sub-contracted work may be counted only if the M/WBE's subcontractor is itself an M/WBE who performs a Commercially Useful Function. Work that an M/WBE subcontracts to a non-certified firm does not count towards the M/WBE contract goal.

3. The bidder may count a M/WBE supplier towards the M/WBE goal if the supplier meets the following criteria: Negotiates Price; Determines quality and quantity; Orders the materials; Receives the invoice in the certified firm's name; Pay for the material itself; Controls delivery; and Is certified to provide the supplies in the appropriate NAICS code.
4. When an M/WBE performs as a participant in a joint venture, the joint venture bidder may count only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the M/WBE performs with its own forces. The M/WBE participant in the joint venture must be responsible for a portion of the work to be performed and such portion should be equal to its share in the ownership, control, management responsibility, risks and profits of the joint venture. Harris Health may review the profits and losses, initial capital investment, actual participation of the M/WBE joint venture partner in the performance of the contract with its own forces and for which it is separately at risk, and other pertinent factors of the joint venture. The joint venture agreement must be approved by Harris Health and it is required to operate in accordance with the approved joint venture agreement.

### **Calculating MWBE Participation:**

1. The bidder may count the entire amount of that portion of the contract that is performed by the M/WBE's own forces, including the cost of supplies and materials, or equipment leased by the M/WBE for the work of the contract. Supplies and equipment the M/WBE subcontractor purchases or leases from the prime contractor or its affiliate does not count towards the contract goal.
2. The bidder may count the entire amount of fees or commissions charged by an M/WBE for providing a *bona fide* service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, provided Harris Health determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The bidder may count the entire amount of expenditures with M/WBEs for materials or supplies, provided the M/WBE is responsible for ordering and paying for the materials and supplies in full, using its own credit and accepting all the risks of the purchase.
4. Provided that the M/WBE firm is responsible for ordering and paying for the materials and supplies in full, the bidder may count sixty percent (60%) of the cost of the goods or supplies toward M/WBE goals.
5. If the materials or supplies are obtained from a M/WBE manufacturer, the bidder may count one hundred percent (100%) of the cost of the materials or supplies toward M/WBE goals.
6. For additional information regarding credit towards M/WBE contract goals for the services of trucking firms, reference the *Harris Health System M/WBE Program Policy*.

The dollar value of work performed under a contract with a certified firm after it has ceased to be certified can count toward the contract goal if the bidder's contract with Harris Health System was executed prior to removal of the firm's certification, except in situations where fraud is the reason why the firm is no longer certified.

M/WBE Subcontractor participation only counts toward a prime contractor's compliance with its Utilization Plan when the amount being counted has actually been paid to the M/WBE.

**Commercially Useful Function:**

Only expenditures to an M/WBE that is performing a commercially useful function shall be counted towards the contract goal. To perform a commercially useful function, the M/WBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price (if applicable), determining quality and quantity (if applicable), ordering the material, and installing and paying for the material itself. To determine whether an M/WBE is performing a commercially useful function, Harris Health will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the M/WBE credit claimed for its performance of the work, and other relevant factors.

An M/WBE does not perform a commercially useful function if its role is limited to that of an extra participant in the contract through which funds are passed in order to obtain the appearance of M/WBE participation. In determining whether an M/WBE is such an extra participant, Harris Health will examine similar transactions, particularly those in which M/WBEs do not participate. The prime contractor is responsible for ensuring that the firm is performing a commercially useful function. If the M/WBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the M/WBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, Harris Health will presume that it is not performing a commercially useful function.

The bidder shall submit a Utilization Plan, Attachment j, with the bid. The Utilization Plan must demonstrate how it will meet the contract goal or demonstrate its Good Faith Efforts to do so, as described below. The bidder must also submit a signed Letter of Intent for each M/WBE firm specified in the Utilization Plan, with a copy of each M/WBE's current Letter of Certification from a state or local government or agency recognized by Harris Health as listed above.

When an M/WBE is presumed not to be performing a commercially useful function, the M/WBE may present evidence to rebut this presumption. Harris Health's determination that an M/WBE is not performing a commercially useful function shall be final.

**Good Faith Effort:**

When a bidder cannot achieve the contract goal, the bidder must document its good faith efforts to meet the contract goal. Evaluations of good faith efforts will consider, at a minimum, the bidder's efforts to do the following:

1. Attend pre-bid or pre-proposal meetings scheduled by Harris Health to acquaint Contractors with M/WBEs available to provide relevant goods and services and to inform M/WBEs of subcontracting opportunities.
2. Solicit through at least two reasonable, available and verifiable means, providing M/WBEs at least seven (7) business days prior to the bid opening date to allow the M/WBEs to respond to the bid.
3. Provide interested M/WBEs adequate information about the bid documents and requirements,

including addenda, in a timely manner to assist them in responding to the bid.

4. Follow up with the initial solicitations of interest by contacting the M/WBEs to determine, with certainty, their interest in responding.
5. Negotiate in good faith with interested M/WBEs that have submitted bids to the bidder.
6. Make efforts to assist interested M/WBEs regarding bonding, lines of credit, insurance, etc., where appropriate.
7. Make efforts to assist interested M/WBEs obtain necessary equipment, supplies, materials, or access to manufacturer's pricing, where appropriate.
8. Not reject M/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
9. Make economically feasible portions of the work available to M/WBE subcontractors to select those portions of the work consistent with the available M/WBE subcontractors, so as to facilitate meeting the goal.
10. The ability or desire of the bidder to perform the project work with its own organization does not relieve the bidder of the responsibility to make good faith efforts.
11. Bidders are not required to accept higher quotes in order to meet the contract goal.
12. Effectively using the services of minority/women community organizations; minority/women contractor groups; local, state and federal minority/women business assistance offices; and other organizations to provide assistance in solicitation and utilization of M/WBEs.

**MINORITY- AND WOMAN-OWNED BUSINESS ENTERPRISE  
UTILIZATION COMMITMENT FORM**

The undersigned has satisfied the requirements of the specifications in the following manner (please check the appropriate space):

The bidder is committed to M/WBE participation on this project equal to or greater than the goal stated in the bid and has submitted WITH ITS BID a Letter of Intent for each M/WBE listed on the utilization form.

*OR –*

The bidder is unable to meet the contract goal, is committed to a minimum of \_\_\_\_\_% M/WBE participation on this contract, and has submitted WITH ITS BID documentation of the bidder's efforts with respect to each of the good faith effort actions listed in the Good Faith Efforts Checklist in Attachment K.

Bidder: \_\_\_\_\_

By: \_\_\_\_\_  
Signature Date

Address: \_\_\_\_\_

\_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Email address: \_\_\_\_\_

**M/WBE UTILIZATION PLAN**

The *M/WBE Utilization Plan* must be completed and submitted by the time specified in the solicitation documents. If the goal was not achieved, good faith efforts documentation must be submitted with the *M/WBE Utilization Plan*. All questions in the Good Faith Efforts Checklist MUST be completed and submitted with the *M/WBE Utilization Plan* if the goal is not met. Attach additional sheets as necessary.

**Section I — Project Identification and Goal**

<b>Project Name</b>	
<b>Solicitation Number</b>	

<b>Project Goal</b>	
M/WBE	%

**Section II — Prime Company Information**

Name of Company	
Address	
City, State Zip	
Phone	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Is prime company M/WBE certified? (MBE/WBE, DBE, HUB, or 8(a))	Yes <input type="checkbox"/> No <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>

**I certify that the information included in this *Utilization Plan* is true and complete to the best of my knowledge and belief. I further understand and agree that this *Utilization Plan* shall become a part of my contract with Harris Health System.**

\_\_\_\_\_  
**Name and Title of Authorized Representative**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

*Tips: Use the name of the firm as listed in the directory.  
 Ensure the firm is certified in the area in which they are participating on this project.  
 Ensure the firm's participation is in line with the scope and germane to the project.*

**Section III — Utilization Plan Summary**

<b>Goals: Proposed Participation</b>		
Bidder's own participation in project		%
M/WBE(s): (MBE/WBE, DBE, HUB, or 8(a))		%
Non-Certified Subcontractor(s)		%
<b>Total Participation</b>	<b>Must equal 100%</b>	<b>%</b>

**Is the stated M/WBE contract goal of the solicitation met?** *(If no, provide an explanation below, attach the Good Faith Efforts checklist, and documentation of good faith efforts)*

Yes       No

**Explanation for not meeting the M/WBE Goal:**

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**For Harris Health System Use Only:**

I have reviewed this Utilization Plan and found that the Bidder **HAS** or **HAS NOT** complied as per Harris Health System M/WBE Policy.

Verified M/WBE Goal Attainment: \_\_\_\_\_ %

Reviewer: \_\_\_\_\_ Date: \_\_\_\_\_

**Section IV — Disclosure of M/WBE Participation**  
Please list all M/WBE subcontractors below & Duplicate as Needed

*Tips: Use the name of the firm as listed in the directory.  
Ensure the firm is certified in the area in which they are participating on this project.  
Ensure the firm's participation is in line with the scope and germane to the project.*

Name of MBE/WBE Certified Firm	
Certified by:	
Address/ City / State / Zip	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Percent of Contract	
Description of services	
6-digit NAICS code for work to be performed	

Name of MBE/WBE Certified Firm	
Certified by:	
Address/ City / State / Zip	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Percent of Contract	
Description of services	
6-digit NAICS code for work to be performed	

Name of MBE/WBE Certified Firm	
Certified by:	
Address/ City / State / Zip	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Percent of Contract	
Description of services	
6-digit NAICS code for work to be performed	

**SECTION V — Disclosure of Non-Certified Sub-contractors**  
Please list any additional subcontractors below & Duplicate as Needed

Name of Non-Certified Firm	
Address/ City / State / Zip	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Percent of Contract	
Description of services	
6-digit NAICS code for work to be performed	

Name of Non-Certified Firm	
Address/ City / State / Zip	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Percent of Contract	
Description of services	
6-digit NAICS code for work to be performed	

Name of Non-Certified Firm	
Address/ City / State / Zip	
Name of Contact Person	
Email address for Contract Person	
Telephone number for Contract Person	
Percent of Contract	
Description of services	
6-digit NAICS code for work to be performed	

## SECTION VI—GOOD FAITH EFFORTS CHECK LIST

If the M/WBE goal was not achieved, this good faith efforts checklist and supporting documents must be submitted with the bid. Failure to do so will render the bid non-responsive and cause it to be rejected. Additional efforts after bid submission will not be considered in determining award of this contract. Attach additional sheets as necessary.

\_\_\_ Attended pre-bid or pre-proposal meetings scheduled by Harris Health System to acquaint Contractors with M/WBEs available to provide relevant goods and services and to inform M/WBEs of subcontracting opportunities.

\_\_\_ Solicited through reasonable and available means (*e.g.*, written notices, advertisements) M/WBEs certified in the anticipated scopes of subcontracting of the contract, within sufficient time to allow them to respond. **Attach detailed Contacts Log, including date, method of contact, person contacted and contact information, and the result of the contact.**

\_\_\_ Provided timely and adequate information about the plans, specifications and requirements of the contract. Followed up initial solicitations to answer questions and encourage M/WBEs to submit bids or proposals. **Attach evidence of information provided, including the date, e.g., letters, emails, telephone logs, etc.**

\_\_\_ Negotiated in good faith with interested M/WBEs that have submitted bids or proposals and thoroughly investigated their capabilities. Evidence of such negotiations includes the names, addresses and telephone numbers of M/WBEs with whom the vendor negotiated; a description of the information provided to M/WBEs regarding the work selected for subcontracting; and explanations as to why agreements could not be reached with M/WBEs to perform the work.

\_\_\_ Selected those portions of the contract consistent with the available M/WBEs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate M/WBE participation even when the bidder would prefer to perform those scopes with its own forces. **Provide description of work selected.**

\_\_\_ Made efforts to assist interested M/WBEs in obtaining bonding, lines of credit, or insurance as required by Harris Health System or the vendor for performance of the contract (if applicable).

\_\_\_ Made efforts to assist interested M/WBEs obtain necessary equipment, supplies, materials, or access to manufacturer's pricing, where appropriate.

\_\_\_ Effectively used the services of M/WBE assistance groups; local, state, and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of M/WBEs.

\*\*This is not an exhaustive list. For additional information, please reference the *Harris Health System M/WBE Program Policy*.