

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF TRANSPORTATION AND INFRASTRUCTURE**

**RFQ – LAND SURVEY PROFESSIONAL SERVICES ON-CALL**

**ADDENDUM NO. 2  
MAY 19, 2023**

Firms are hereby instructed that the RFQ documents are modified, corrected, supplemented and/or superseded for the above-mentioned project as hereinafter described:

**ATTACHMENTS**

Please replace Pages 8-12 of the RFQ document with the attached updated language pertaining to the EDI Plan.

**Specific language that was replaced:**

- Section 7-4 (pg. 9) Good Faith Effort
  - Previous Language:
    - If Submitter can meet 20% of the MWBE requirement established by DSBO or is able to only meet part of the requirement, they shall furnish to DSBO, with their submittal, a comprehensive statement of their good faith efforts to meet the requirement, along with supporting documentation demonstrative thereof.
  - Updated Language:
    - If Submitter cannot meet the MWBE requirement established by DSBO or is able to only meet part of the requirement, they shall furnish to DSBO, with their submittal, a comprehensive statement of their good faith efforts to meet the requirement, along with supporting documentation demonstrative thereof.
- Section 7-5 (pg. 10) MWBE Equity, Diversity, and Inclusion Plan (MWBE EDI Plan)
  - - Previous Language:
      - A proposed MWBE EDI Plan is required to be included with Submitter’s response to RFQ unless submitter is submitting documentation of a good faith effort that states that they can meet 20% of the MWBE requirement.
    - Updated Language:
      - A proposed MWBE Equity, Diversity, and Inclusion Plan (MWBE EDI Plan) is required to be included with Submitter’s response to RFQ unless submitter is submitting documentation of a good faith effort that states that they can only meet 0% of the MWBE requirement.

**QUESTIONS/ANSWERS**

- Q1. On page 10 of the RFP, Section 7, #5 – it states that a proposed MWBE EDI Plan is required with Submitter’s response to the RFQ unless submitter is submitting documentation of a good faith effort that states that they can meet 20% of the MWBE requirement, and that the city will review and score Submitter’s MWBE EDI Plan.

Please clarify that a WMBE EDI Plan is or is not required if documentation of a good faith effort that states that we can meet the 20% requirement is provided.

**A1. An MWBE EDI Plan is required as part of the submittal requirements. If Submitter cannot meet the MWBE requirement established by DSBO or is able to only meet part of the requirement, they shall furnish to DSBO, with their submittal, a comprehensive statement of their good faith efforts to meet the requirement, along with supporting documentation demonstrative thereof. Please see Addendum Number 2 for revised Section 7 – Minority and Women Business Enterprise (MWBE) Requirements.**

Q2. The Notice of Invitation page of the RFQ states that, “a draft MWBE EDI plan is required from Consultants and it will be scored.” Yet page 10 of the RFQ states that, “A proposed MWBE EDI Plan is required to be included with Submitter’s response to RFQ unless submitter is submitting documentation of a good faith effort that states that they can meet 20% of the MWBE requirement.”

Can you please confirm that an EDI Plan is not required if the submitter meets the 20% MWBE participation requirement?

**A2. An MWBE EDI Plan is required as part of the submittal requirements. If Submitter cannot meet the MWBE requirement established by DSBO or is able to only meet part of the requirement, they shall furnish to DSBO, with their submittal, a comprehensive statement of their good faith efforts to meet the requirement, along with supporting documentation demonstrative thereof. Please see Addendum Number 2 for revised Section 7 – Minority and Women Business Enterprise (MWBE) Requirements.**

Section 7. In addition to all applicable provisions of the MWBE Ordinance, Consultants shall comply with the requirements of the Approved EDI Plan. An Approved EDI Plan will be negotiated prior to contract execution. A Division of Small Business Opportunity (DSBO) representative will review and score the MWBE EDI Plan.

**Tab 6 Sample On-Call Professional Land Surveying Services Agreement Review** *(The contents of this tab do not count toward overall page limit)*

Consultants shall review the Sample Agreement (**Attachment 3**) and submit with their response, a list of all questions, issues, or modifications which the Consultant would like the City to review, address, and be negotiated with should they be selected as a top ranked Consultant. The City shall assume that the Sample Agreement has been thoroughly reviewed and discussed with legal counsel prior to preparation of any list of requested modifications. Please note, **Attachment 3** is a Sample Agreement and, as such, is subject to revision or modification by the City at any time. The City reserves the right to modify any term or condition of this Sample Agreement, and to add, delete or modify terms and conditions, as the City's interests may require, prior to execution of a final agreement.

**Section 7 – Minority and Women-Owned Business Enterprise (MWBE) Program**

**City and County of Denver's MWBE Policy Statement**

The City and County of Denver's ("City") Minority and Women-Owned Business Enterprise (MWBE) policy is to ensure nondiscrimination in the award and administration of the City's construction contracts, professional services contracts, and in the procurement of common goods and services. The awarded contractor/consultant (the "Contractor/Consultant") shall comply with and implement requirements of Article III, of Chapter 28 of the Denver Revised Municipal Code (D.R.M.C.) (the "DSBO Ordinance") and accompanying rules and regulations (collectively, the "MWBE Program") in the award and administration of Subcontracts under any agreement resulting from this solicitation ("the Contract"). The Contractor/Consultant shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability in the administration and performance of the Contract. The Contractor/Consultant shall carry out MWBE Program requirements in the award and administration of its contracts as well as the flow down provisions of this MWBE Contract requirements to be incorporated in all MWBE subcontract agreements regardless of tier. It is the City's intention to create a level playing field on which MWBEs can compete fairly for City-funded contracts. Failure by the Contractor/Consultant to comply with or implement these requirements may be a material breach of the Contract, which may result in the termination of the Contract or such other remedy as the City deems appropriate. These legal remedies may include but are not limited to: withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Contractor/Consultant from future bidding. The City's commitment to the MWBE Program is not intended to and shall not be used as a justification to discriminate against any qualified company or group of companies.

**City's Equity, Diversity, & Inclusion Values**

The City is committed to advancing its vision of equity, diversity, inclusion, and sustainability through growing the capacity of historically underutilized businesses, which include MWBE firms, providing significant contracting opportunities, and ensuring they benefit from said contracts.

**Counting MWBE Participation**

For a firm's performance to count toward meeting the MWBE requirement, they must be MWBE certified by the City on or before execution of Contractor/Consultant's agreement with the MWBE firm and must be certified in the NAICS code(s) that coincide with the scope(s) of work that they will be performing. In instances of an MWBE Prime Contractor/Consultant, the MWBE Prime must be certified prior to executing their agreement with the City. DSBO maintains a MWBE Directory ("Directory"), which is a current listing of City-certified MWBEs and may be accessed via the DSBO website at <https://www.denvergov.org/dsbo>. Submitters are encouraged to use the Directory to assist in identifying MWBEs for the work and supplies required for the project. Submitters are reminded that changes may be made to the Directory at any time. MWBE certification or listing in the Directory is not a representation or warranty by the City regarding the qualifications of any listed MWBE.

During performance, accounting of MWBE participation will be maintained for all purchase orders, task orders, and work orders, which participation will collectively be applied to the contract's overall MWBE participation attainment.

In utilizing the participation of an MWBE supplier, the degree to which their participation counts towards satisfaction of the MWBE requirement varies. If materials or supplies are obtained from a MWBE manufacturer, one hundred percent (100%) of the cost of the materials or supplies counts toward the requirement. Sixty percent (60%) of the value of the commercially useful function performed by MWBE regular dealers counts toward satisfaction of the requirement. Only the bona fide commissions earned by manufacturer representatives or brokers for their performance of a commercially useful function counts toward meeting the requirement. Therefore, Submitter must separate bona fide brokerage commissions from the actual cost of the supplies or materials provided to determine the actual dollar amount of participation that can be counted towards meeting the requirement.

### **MWBE Responsiveness Requirements**

Award of this project will be determined, in part, on Submitter's commitment to strengthen the small, minority, and women-owned business community. Said commitment is shown through adherence to and thoughtful completion of the below-listed DSBO submittal requirements, which are all conditions of responsiveness. Failure to submit a responsive submittal constitutes cause for rejection thereof.

#### **1. Non-Competition**

Submitter shall not restrict an MWBE from providing subconsulting or subcontracting quotations to other Submitters. Any Submitter who does so shall cause their submittal to be rejected. §§ 28-59(f), 28-63(f), D.R.M.C.

#### **2. Joint Ventures**

If Submitter is participating in a joint venture with a certified MWBE firm, submitter must submit the firm's Joint Venture Agreement to DSBO **at least 10 working days prior to the RFQ-response submission**. The Joint Venture must be approved by DSBO.

A Joint Venture is an association of an MWBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital efforts, skills and knowledge, and in which the MWBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

DSBO will count a portion of the total dollar value of the joint venture contract toward the MWBE requirement equal to the distinct, clearly defined portion of the work that the MWBE performs with its own forces in a NAICS code in which the firm is MWBE certified. The joint venture agreement **MUST** specify the services, dollar value, reporting structure, and details of the MWBE's performance requirements associated with their percent of the joint venture ownership.

#### **3. Commitment to MWBE Participation**

Submitter shall include with their submittal a completed DSBO form, entitled "Commitment to MWBE Participation," stating their committed MWBE participation percent on this project. The committed participation level will be inserted into any resulting contract and the Contractor/Consultant must comply with that committed participation amount during the term of the contract.

#### **4. Good Faith Effort**

If Submitter cannot meet the MWBE requirement established by DSBO or is able to only meet part of the requirement, they shall furnish to DSBO, with their submittal, a comprehensive statement of their good faith efforts to meet the requirement, along with supporting documentation demonstrative thereof. This means that Submitter must show that they took all necessary and reasonable steps to achieve the MWBE requirement which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MWBE participation, even if they were not fully successful.

The statement of good faith efforts should address each of the categories outlined in the DSBO Ordinance, §§ 28-60, 28-64, D.R.M.C., and any additional criteria established by rule or regulation. As part of their good faith efforts, Submitters are encouraged to solicit the support and assistance of DSBO by contacting the procuring agency's Contract Administrator (CA)/Buyer with specific questions; the CA/Buyer will coordinate with DSBO to reply thereto. All good faith efforts information must be complete, accurate, adequately documented, and submitted with the submittal. Good faith efforts must be demonstrated to be substantive and not merely for formalistic compliance with the DSBO Ordinance.

To award a contract to a submitter that has failed to meet the MWBE requirement, DSBO will determine whether Submitter made good faith efforts to actively, effectively, and aggressively seek MWBEs to meet the MWBE requirement prior to submittal submission, which determination shall include consideration of Submitter's MWBE-EDI-Plan strategies to meet their MWBE participation commitment. Failure of Submitter to show good faith efforts shall render their submittal ineligible for further consideration with the City.

#### **5. MWBE Equity, Diversity, and Inclusion Plan (MWBE EDI Plan)**

A proposed MWBE Equity, Diversity, and Inclusion Plan (MWBE EDI Plan) is required to be included with Submitter's response to RFQ unless submitter is submitting documentation of a good faith effort that states that they can only meet 0% of the MWBE requirement. The MWBE EDI Plan is a separate document that details Submitter's approach and strategy to equity, diversity, and inclusion in the operation of their business as well as the overall administration of the MWBE requirements, including expectations for their lower tier MWBE contractors/consultants.

The City will review and score Submitter's MWBE EDI Plan as part of the submittal-evaluation criteria. To meet the minimum responsiveness requirements for the MWBE EDI Plan, Submitter must submit with their submittal a separate document titled, "MWBE EDI Plan," wherein each MWBE EDI Plan category is meaningfully addresses in its own enumerated section of the plan. See the below subsections 5.A-5.H for the eight MWBE EDI Plan categories.

Contract execution will be conditioned upon a DSBO-approved MWBE EDI Plan, unless DSBO has determined that Submitter made a 0%-participation good faith effort. Upon approval by DSBO of the MWBE EDI Plan, the proposed MWBE EDI Plan shall be referred to as the "Approved MWBE EDI Plan." Thereafter, the Contractor/Consultant may be required to prepare and submit to DSBO an updated MWBE EDI Plan, on a minimum of an annual basis, for DSBO approval throughout the term of the contract.

Submitter's MWBE EDI Plan shall include, but is not limited to:

- A. An MWBE Coordinator. Identify an MWBE Coordinator that will have direct and independent access to DSBO, the project manager and/or chief operating officer. This coordinator should be identified as one of the Contractor/Consultant's key personnel and submitted with the submittal package. This Coordinator will manage MWBE requirements for the Program including meeting and compliance with reporting requirements. The Coordinator shall identify key personnel and their duties as it relates to escalation matters, the execution of the project, and certified business relations. The Coordinator as well as key personnel shall attend DSBO meetings (compliance meetings, DSBO Equity & Empowerment Council, etc.). The Coordinator will also manage outreach and development efforts to disadvantaged businesses to improve subcontracting/subconsulting opportunities and assist in the administration of the MWBE EDI Plan. Please elaborate on experience the MWBE Coordinator has related to: experience managing established subcontracting/subconsulting requirements. Experience should indicate success meeting local requirements and compliance with to reporting requirements; experience managing

outreach and development efforts to small and local businesses to improve subcontracting/subconsulting opportunities.

- B. MWBE Utilization Strategies. Indicate the anticipated work for MWBEs, estimated value of that work and anticipated timeframe subcontracts will be signed with MWBEs. Describe the strategies and tactics Submitter will use to increase the participation of new and existing MWBE businesses in contracting opportunities.
- C. Technical Assistance and Support Services. Describe the assistance and/or guidance that Submitter will provide to MWBE businesses that helps move this next generation of disadvantaged businesses forward. This assistance and/or guidance could include technical, financial, or support services to the MWBE businesses that allows them to have meaningful participation on this or other contracts with Submitter or other business partners. Examples of such assistance and guidance may include, but are not limited to, quality control, bonding, insurance assistance, prompt payment, mentoring programs, joint ventures, workforce development, technical assistance, access to capital platforms, etc.
- D. Procurement Process. Describe Submitter's procurement process (including policies and procedures) and provide details on the principles that will be used throughout the process to remove barriers in an effort to promote equity and how you ensure that the MWBE program requirements flow down to all tiers of subcontractor/subconsultant agreements. Indicate as project is designed/details known, how anticipated work will evolve into signed subcontracts with MWBEs and how required MWBE flow down provisions will be included.
- E. Communication and Vendor Management. Describe the communication strategies and assistance Submitter will use with MWBE businesses to align their work with the contract requirements which may include, but are not limited to, training for internal and external staff to ensure effective communication, scheduling, safety requirements, terms and conditions, performance expectations, document control, and dispute resolution.
- F. Past Performance. Provide examples where Submitter has been successful in promoting equity, diversity, and inclusion both internally and externally. Describe practices of Submitter's efforts and initiatives towards MWBE mentorship and development, employee recruitment, training, development, and succession planning to promote equity, diversity, and inclusion. Describe how Submitter has promoted these values to both businesses and communities that they serve. Describe times when Submitter has been successful in promoting the participation of MWBE businesses and/or any assistance provided to the MWBE businesses that promoted their overall growth and success. Examples of such promotion may include, but are not limited to, bonding and insurance assistance, mentor-protégé programs, prompt payment, workforce expansion, innovative and successful partnering with an MWBE firm (i.e., joint venture, performing as a subcontractor/subconsultant to an MWBE etc.), technical assistance, access to capital platforms and community outreach.
- G. Submitter's Culture. Describe how EDI has been promoted internally and rooted within your company through programs that include but are not limited to 1) company policy and programs that advance equity, diversity, and inclusion priorities, 2) employment practices of recruitment/hiring, employee development/advancement, training (i.e., implicit bias), and 3) expectations of valuing and actively collaborating through partnerships with subcontractors/subconsultants.
- H. Future Initiatives. Provide a roadmap of the work Submitter intends to do over the next 5 years to promote equity, diversity, and inclusion both internally and externally. Describe practices Submitter intends to use in MWBE mentoring & development, employee recruitment, training,

development, and succession planning to promote equity, diversity, and inclusion. Describe any plans Submitter has made to promote these values to both businesses and communities that they serve.

**6. Authority**

The DSBO Ordinance and rules and regulations promulgated pursuant thereto apply to this project and are incorporated into these solicitation documents by reference. Compliance with those, and any additional requirement contained herein, are conditions of responsiveness. The DSBO Ordinance, its accompanying rules and regulations, and additional MWBE guidance are available here: <https://www.denvergov.org/dsbo>. Submitter is encouraged to contact the procuring agency/Buyer with specific questions related to compliance therewith, who will coordinate with DSBO to reply to Submitter's questions.

~ END OF RFQ ~

**ATTACHMENTS:**

**Attachment 1** – Prime Team Members and Sub Team Members Forms

**Attachment 2** – Commitment to MWBE Participation form

**Attachment 3** – Sample Agreement