

# CITY & COUNTY OF SAN FRANCISCO CONTRACT MONITORING DIVISION



## **CMD ATTACHMENT 5**

### ***Requirements for Micro-LBE Set-Aside***

### ***Architecture, Engineering, Professional Services Contracts***

**For Contracts less than or equal to the Minimum Competitive Amount  
and that are advertised on or after July 1, 2024**

**&**

### ***General Services Contracts***

**For contracts less than or equal to the Threshold Amount  
and that are advertised on or after July 1, 2024**

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#### **PART I. GENERAL**

##### **1.01 SAN FRANCISCO LABOR AND EMPLOYMENT CODE ARTICLE 131 (FORMERLY KNOWN AS ADMINISTRATIVE CODE CHAPTER 12B) AND ADMINISTRATIVE CODE CHAPTER 14B**

- A. To be eligible for this contract award, Proposers must agree to comply with the Local Business Enterprise (“LBE”) requirements sanctioned by San Francisco Labor and Employment Code Article 131 (“Article 131”), and San Francisco Administrative Code Chapter 14B (“Chapter 14B”) and its implementing Rules and Regulations. Article 131 and Chapter 14B are administered and monitored by the San Francisco Contract Monitoring Division (“CMD”).
- B. Article 131 and Chapter 14B and its implementing Rules and Regulations are incorporated by reference herein as though fully set forth and provide that the failure of any Proposer or Consultant to comply in good faith with these requirements shall be deemed a material breach of contract. Copies of Article 131 and Chapter 14B and its implementing Rules and Regulations are available on the CMD website at <http://www.sfgov.org/cmd>.
- C. Micro-LBE Set-Aside Program  
Under Section 14B.7(K)(2) of the Ordinance, the City may set-aside for competitive award to Micro-LBEs: (1) Architecture, Engineering, and Professional contracts estimated by the Contract Awarding Authority to be less than or equal to the Minimum Competitive Amount; and (2) General Services contracts estimated by the Contract Awarding Authority to be less than or equal to the Threshold Amount. The Certification application is available on the CMD website <http://www.sfgov.org/cmd>.

The competitive award requirements shall otherwise apply to Contracts for the set-aside program, except that if (a) fewer than two Micro-LBEs submit Proposals, or (b) the Contract Awarding Authority determines that the Contract would not be awarded at a fair market price, then the Contract Awarding Authority may reject all Proposals and remove the Contract from the set-aside program.

*For assistance with this CMD Attachment and/or  
assistance with the Equal Benefits Program,  
please contact the CMD Main Office at (415) 554-0630*



Contracts that are set-aside for award to Micro-LBEs shall not be subject to the LBE sub participation requirement under Section 14B.8 of the Ordinance. Micro-LBEs that subcontract any portion of a set-aside contract should subcontract to businesses certified as Micro-LBEs to the maximum extent possible.

Micro-LBEs that subcontract any portion of a set-aside Contract must serve a Commercially Useful Function based on the contract's scope of work.

The Micro-LBE Proposer must perform at least 25% of the contract work. Additionally, there should not be any modifications to increase the contract amount unless there is an unforeseen situation—any such modification must have prior CMD approval.

To be eligible for a micro set-aside Contract the Proposer must be a CMD Certified Micro-LBE in a certification category that corresponds with the scope of work called out by the Contract Awarding Authority. A Proposer that has a certification application pending, that has been denied certification, that has had its certification revoked or that is in the process of appealing a CMD denial or revocation at the date and time the Proposal is due is not a Micro-LBE and is not eligible to bid on the Contract even if the firm is later certified or ultimately prevails in its appeal.

**IMPORTANT NOTICE: In this CMD Attachment 5, the term “LBE” refers to only San Francisco (“SF”) CMD Certified Micro-LBEs/NPEs and, therefore, does not include PUC Micro-LBEs.**

## 1.02 SUBMISSION OF CMD FORMS—PRE-AWARD

- A. Failure to complete or submit any of the forms may cause the Proposer to be deemed non-responsive and ineligible for contract award. For negotiated contracts: The schedule for the submission of forms will be established by the CMD in conjunction with the Contract Awarding Authority on a contract-by contract basis. Review the specific instructions and requirements on each CMD form.
1. **FORM 2A: CMD Contract Participation Form:** Identify the Proposer and all subconsultants. The Micro-LBE Proposer must perform at least 25% of the contract work or the Proposal will be deemed non-responsive. The Micro-LBE Proposer must specify the percentage and portion of work to be self-performed.
  2. **FORM 3: CMD Compliance Affidavit:** Must be signed by Proposer under penalty of perjury.
  3. **FORM 5: CMD Employment Form:** List the key personnel designated to work on this project for the entire project team (Proposers, Joint Venture partners, subconsultants, and vendors).

## 1.03 CMD LBE CONTRACT PERFORMANCE FORMS—POST AWARD

1. **FORM 7: CMD Progress Payment Form:** The Proposer awarded the Contract shall submit online using the Contract Awarding Authority's City approved system with each payment request. Failure to upload this information with each payment request may delay progress payment processing.
2. **FORM 9: CMD Payment Affidavit:** Following receipt of each progress payment from the Contract Awarding Authority, a Form 9 (or the information on Form 9) must be submitted online using the Contract Awarding Authority's City approved system with the next progress payment request. Subconsultants are then required to acknowledge payment from Contractor/Consultant online using the Contract Awarding Authority's City approved system. Failure to submit required information may lead to withholding of progress payment, even if there are no subcontractor/subconsultant payments for the reporting period.
3. **FORM 8: CMD Exit Report and Affidavit:** Submit with final Form 7. A separate Form 8 must be completed for each LBE sub, supplier and vendor (including lower-tiers).



4. **FORM 10: CMD Contract Modification Form:** This form shall be completed by the Consultant when any (all) amendments, modifications, or supplemental change orders cumulatively increase the original contract amount by more than 20%, and then for all subsequent amendments, modifications or change orders that cumulatively increase the last CMD approved value by 20%.

## **PART II. RATING BONUS**

### **2.01 Only the following rating bonus may apply:**

#### **A. Pilot Neighborhood/Zip Code LBE Program**

This pilot program is a hyper-local preference program that is to encourage participation by neighborhood businesses on City public works projects located in their neighborhood. This program may apply to Administrative Code Chapter 6 Contracts for projects located within the jurisdictional boundary of San Francisco estimated to cost in excess of \$10,000 and less than or equal to \$10,000,000. The RFP/RFQ will clearly state whether the Pilot Neighborhood/Zip Code LBE Program is applicable to the specific project. The program shall not apply to Job Order Contracts (JOC), As-Needed Contracts, or other Contracts where no specific project location is specified at the time of proposal.

The program preferences shall be available to LBEs who meet one or both of the following criteria:

1. Neighborhood LBE. A "Neighborhood LBE" means a certified Micro-LBE whose principal place of business is located in the same Neighborhood as the Neighborhood in which the project is located, where "Neighborhood" is defined as any one of the 11 Supervisorial Districts as defined and established in the San Francisco Charter, Appendix E at time of proposal. In order to facilitate this, the Contract Awarding Authority is required to identify the specific address/Neighborhood(s) where the project will be located on all RFQ/RFPs, and contract documents.
2. Project Zip Code LBE. A "Project Zip Code LBE" means a certified Micro-LBE whose principal place of business is located in the same zip code as the zip code in which the project is located. In order to facilitate this, the Contract Awarding Authority is required to identify the specific address/Neighborhood(s) where the project will be located on all RFQ/RFPs, and contract documents.

#### **B. Application of the Prime Neighborhood/Zip Code LBE rating bonus:**

1. A 1% rating bonus to proposals from a Neighborhood LBE when proposing on a Contract where the project is located in the same Neighborhood as the Neighborhood LBE's principal place of business OR
2. A 1.5% rating bonus to proposals from a Project Zip Code LBE when proposing on a Contract where the project is located in the same zip code as the Project Zip Code LBE's principal place of business.

## **PART III. LBE SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION**

**3.01 The LBE sub participation requirement is not applicable to Micro-LBE Set-Aside Contracts.**

**3.02 Substitution, removal, or contract modification of LBE:** No LBE sub, supplier or vendor listed on Form 2A shall be substituted, removed from the Contract or have its Contract, purchase order or other form of agreement modified in any way without prior CMD approval. Consultant must conduct good faith efforts to replace an LBE sub with another LBE sub to comply with the LBE sub participation requirement. In addition, any new subs must have CMD's prior approval.



## **PART IV. NON COMPLIANCE AND SANCTIONS**

### **A. Non-Compliance with Chapter 14B**

1. A complaint of non-compliance concerning LBE participation initiated by any party after contract award will be processed in accordance with Chapter 14B and its implementing Rules and Regulations.
  - a. If the CMD Director determines that there is cause to believe that a Consultant has failed to comply with any of the requirements of the Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, the CMD Director shall notify the Contract Awarding Authority and attempt to resolve the non-compliance through conference and conciliation.
  - b. If the non-compliance is not resolved through conference and conciliation, the CMD Director shall conduct an investigation and, where the Director so finds, issue a written Finding of Non-Compliance.
  - c. The Director's finding shall indicate whether the Consultant acted in good faith or whether noncompliance was based on bad faith noncompliance with the requirements of the Chapter 14B, CMD Rules and Regulations, or contract provisions pertaining to LBE participation.
2. Where the Director finds that the Consultant acted in good faith, after affording the Consultant notice and an opportunity to be heard, the Director shall recommend that the Contract Awarding Authority take appropriate action. Where the Director finds bad faith noncompliance, the Director shall impose sanctions for each violation of the Ordinance, CMD Rules and Regulations, or contract provisions pertaining to LBE participation, which may include:
  - a. Issuing an Order of Debarment prohibiting the Consultant and affiliates from participating in City Contracting for a period not to exceed five years and terminating any existing contracts or subcontracts with the debarred Consultant, in accordance with the Administrative Debarment provisions and procedures set forth in Administrative Code Chapter 28.
  - b. Determining that the Consultant has failed to comply with the provisions of Chapter 14B, sanctions are as follows:
    - i. suspend a Contract;
    - ii. withhold funds;
    - iii. assess penalties;
    - iv. debarment;
    - v. revoke CMD certification; or
    - vi. pursuant to 14B.7(H)(2) of the Ordinance, assess liquidated damages in an amount up to 25% of the total amount of the Contract or subcontract, as applicable, or \$1,000, whichever is greatest as determined by CMD.
3. The Director's determination of non-compliance is subject to appeal to the City Administrator pursuant to CMD Rules and Regulations.
4. An appeal by a Consultant to the City Administrator shall not stay the Director's findings.
5. The CMD Director may require such reports, information and documentation from Consultants, subconsultants, Contract Awarding Authorities, and heads of departments, divisions, and offices of the City and County as are reasonably necessary to determine compliance with the requirements of Chapter 14B.

### **B. Procedure for the collection of penalties is as follows:**

1. The CMD Director shall send a written notice to the Controller, the Mayor and to all Contract Awarding Authorities or City and County department officials overseeing any Contract with the Consultant that a determination of non-compliance has been made and that all payments due the Consultant shall be withheld.
2. The CMD Director shall transmit a report to the Controller and other applicable City departments to ensure that the liquidated damages are paid to the City.



**FORM 2A: CMD CONTRACT PARTICIPATION FORM**

**Section 1:** This form must be submitted with the Proposal or the Proposal may be deemed non-responsive and rejected. Proposer must perform at least 25% of the work and must be listed below demonstrating that it will meet this requirement. Subconsultants, suppliers, vendors, and all lower tiers should be listed on this form.

<b>Contract:</b>		<b>RATING BONUSES - Check one (if applicable)</b>
<b>Firm:</b>		
<b>Contact Person:</b>		
<b>Address:</b>		
<b>City/ZIP</b>		
<b>Phone</b>		
		<input type="checkbox"/> 1% - Neighborhood LBE <input type="checkbox"/> 1.5% - Project Zip Code LBE <input type="checkbox"/> Check if you are a Certified Micro-LBE <input type="checkbox"/> Minority-owned = MBE <input type="checkbox"/> Woman- owned = WBE <input type="checkbox"/> Other Business-owned = OBE

**\*Type: Identify if Prime (P), Subconsultant (S), or Vendor (V)**

TYPE *	Prime, Subconsultant, Supplier, Vendor	Portion of Work (Describe Scope(s) of Work)	Indicate Micro-LBE or Small-LBE	**If an LBE, Identify MBE, WBE, or OBE	% of Work
					%
					%
					%
					%
					%
					%
<b>Total Contract Amount</b>					<b>100%</b>

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above Consultants for the portions of work and amounts as reflected in the Proposal for this Contract.

**Owner/Authorized Representative (Signature):** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Print Name and Title:** \_\_\_\_\_

\*\*MBE=Minority Business Enterprise, WBE=Women Business Enterprise, OBE=Other Business Enterprise. See LBE Directory on CMD website <http://www.sfgov.org/cmd> for each firm's status.



**Section 2. Proposer, Subconsultant, and Vendor Information**

Provide information for each firm listed in Section 1 of this form. Firms which have previously worked on City Contracts may already have a vendor number. Vendor numbers of LBE firms are located on the CMD LBE website at <http://www.sfgov.org/cmd>. <http://www.sfgov.org/cmd> Use additional sheets if necessary.

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID #:	_____
CITY, ST, ZIP:	_____	PHONE:	_____
SERVICE:	_____	EMAIL:	_____



**FORM 3: CMD COMPLIANCE AFFIDAVIT**

1. Micro-LBE Prime Proposer should specify on the space below the dollar amount and portion of work to be self-performed  
  
\$ \_\_\_\_\_ and Scope of Work: \_\_\_\_\_
2. I will ensure that my firm complies fully with the provisions of Chapter 14B and its implementing Rules and Regulations and attest to the truth and accuracy of all information provided regarding such compliance.
3. Upon request, I will provide the CMD with copies of Contracts, subcontract agreements, certified payroll records and other documents requested so the HRC and CMD (as applicable) may investigate claims of discrimination or non-compliance with either San Francisco Labor and Employment Code Article 131 (formerly known as Administrative Code Chapter 12B) or Chapter 14B.
4. I acknowledge and agree that any monetary penalty assessed against my firm by the Director of the CMD shall be payable to the City and County upon demand. I further acknowledge and agree that any monetary penalty assessed may be withheld from any monies due to my firm on any Contract with the City and County of San Francisco.
5. I declare and swear under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct and accurately reflect my intentions.

**Signature of Owner/Authorized Representative:** \_\_\_\_\_

**Owner/Authorized Representative (Print)** \_\_\_\_\_

**Name of Firm (Print)** \_\_\_\_\_

**Title and Position** \_\_\_\_\_

**Address, City, ZIP** \_\_\_\_\_

**Federal Employer Identification Number (FEIN):** \_\_\_\_\_

**Email** \_\_\_\_\_

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











**FORM 9: CMD PAYMENT AFFIDAVIT**

To be submitted electronically using the Contract Awarding Authority's City approved system.

TO: Project Manager/Designee COPY TO: CMD Contract Compliance Officer

Firm: \_\_\_\_\_ Date: \_\_\_\_\_

List the following information for each progress payment received from the Contract Awarding Authority. Use additional sheets to include complete payment information for all LBE subs, suppliers, and vendors (including lower tiers) utilized on this Contract. Failure to submit all required information may lead to partial withholding of progress payment or final payment.

Contract Number: \_\_\_\_\_ Contract Name: \_\_\_\_\_

Contract Awarding Department: \_\_\_\_\_

Progress Payment No.: \_\_\_\_\_ Period Ending: \_\_\_\_\_

Amount Received: \$ \_\_\_\_\_ Date: \_\_\_\_\_ Warrant/Check No.: \_\_\_\_\_

Check box and sign below if there is no sub payment for this reporting period.

Sub/Vendor Name	Business Address	Amount Paid	Payment Date	Check Number/ Electronic Transfer Number

I/We declare, under penalty of perjury under the laws of the State of California that the above information is complete, that the tabulated amounts paid to date are accurate and correct.

Prime Consultant, including each Joint Venture partner, must sign this form (use additional sheets if necessary)

\_\_\_\_\_  
 Owner/Authorized Representative (Signature)

\_\_\_\_\_  
 Owner/Authorized Representative (Signature)

\_\_\_\_\_  
 Name (Print) Title

\_\_\_\_\_  
 Name (Print) Title

\_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Telephone Email

\_\_\_\_\_  
 Telephone Email

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date



**FORM 8: CMD EXIT REPORT AND AFFIDAVIT**

Prime Consultant must complete and sign Sections 1 and 4 of this form for each LBE subconsultant/supplier/trucker (including each lower-tier LBE). All LBEs must complete and sign Sections 2 and 3 of this form. Please be sure to keep a copy of your outreach/delivery efforts (e.g., email, USPS certified mail, etc.) to the LBE sub(s). These forms should be submitted to the Contract Awarding Authority and CMD with the final progress payment request if the Contract has an LBE sub participation requirement.

TO: Resident Engineer Inspector COPY: CMD Contract Compliance Officer  
 FROM (Contractor): \_\_\_\_\_ Date Transmitted: \_\_\_\_\_

**SECTION 1.**

- Please check this box if there are no LBE subconsultants/suppliers for this Contract.
- Please check this box if the LBE sub fails to complete and sign this form within 5 business days (see Section 3).

Reporting Date: \_\_\_\_\_ Contract Name: \_\_\_\_\_  
 Name of LBE: \_\_\_\_\_ Portion of Work (Trade): \_\_\_\_\_  
 Original LBE Contract Amount: \$ \_\_\_\_\_  
 Change Orders, Amendments, Modifications: \$ \_\_\_\_\_  
 Final LBE Contract Amount: \$ \_\_\_\_\_  
 Amount of Progress Payments Paid to Date: \$ \_\_\_\_\_  
 Amount Owing including all Change Orders, Amendments and Modifications \$ \_\_\_\_\_

Explanation by Prime Consultant if the final contract amount for this LBE is less than the original contract amount:

**SECTION 2. Please check one:**

- I did NOT subcontract out ANY portion of our work to another subcontractor.
- I DID subcontract out our work to:

Name of Firm: \_\_\_\_\_ Amount Subcontracted: \$ \_\_\_\_\_  
 Name of Firm: \_\_\_\_\_ AmountSubcontracted: \$ \_\_\_\_\_

**SECTION 3.**

To be completed/signed by the LBE subconsultant/supplier/trucker:

- I agree with the above completed Section 1.
- I disagree with the above completed Section 1.

If "I disagree" is checked above, please explain. LBE sub must address any discrepancies within 5 business days after it has received this form from the Prime Consultant. If the LBE sub fails to submit the form within 5 business days, the Prime Consultant will note this under Section 1 of this form and submit the form as is with the final progress payment.

\_\_\_\_\_  
 Owner/Authorized Representative (Signature)

\_\_\_\_\_  
 Name and Title (Print)

\_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Telephone

\_\_\_\_\_  
 Email

\_\_\_\_\_  
 Date



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SECTION 4.

If this form is submitted without the LBE's signature, the Prime Consultant must enclose verification of delivery of this form to the LBE.

I declare, under penalty of perjury under the laws of the State of California, that the information contained in Section 1 of this form is complete, that the tabulated amounts paid to date are accurate and correct, and that the tabulated amounts owing will be paid within three (3) days after receipt of the City's final payment under the Contract.

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Owner/Authorized Representative (Signature)

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Name and Title (Print)

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Firm Name

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Telephone	Email	Date
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**FORM 10: CMD CONTRACT MODIFICATION FORM**

Prime Consultant must submit this form with the required supporting documentation and obtain prior CMD approval when processing amendments, modifications or change orders that cumulatively increase the original contract amount by more than 20%, and then for all subsequent amendments, modifications or change orders that cumulatively increase the last CMD approved value by 20%. This form must be completed prior to the approval of such amendments, modifications or change orders.

Name of Project/Contract Title: \_\_\_\_\_

Original Contract Amount: \_\_\_\_\_

Total Contract Amount as Modified to Date: \_\_\_\_\_

Amount of Current Modification Request: \_\_\_\_\_

New Total Contract Amount after Current Modification Request: \_\_\_\_\_

**REQUIRED INFORMATION:**

1. A list of all prior contract amendments, modifications, supplements, and/or change orders leading up to this modification, including those leading up to the amendment which increased the original contract amount by more than 20%. Please list below.

Modification/ Amendment Number	Amount of Modification/ Amendment (If Applicable)	Brief Description of Services/Work

2. A spreadsheet showing each firm’s participation for the overall contract, including each firm’s participation to date and proposed participation under the modification.

**PROPOSED CONTRACT VALUE WITH NEW MODIFICATION/AMENDMENT**

	LBE Commitment(s) at the Time of Bid	LBE Participation To-Date	Projected LBE Commitment(s) Including This Mod/Amend
Micro-LBE	%	%	%
Small-LBE	%	%	%
SBA-LBE	%	%	%
<b>TOTALS</b>	%	%	%



Firm Name	Commitment made at time of Bid/Proposal	Dollar Invoiced To-Date	Invoiced % To-Date	Projected Overall Dollar Amount with This Mod/Amend	Projected Overall % with This Mod/Amend
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
	%	\$	%	\$	%
<b>LBE TOTALS:</b>	%	\$	%	\$	%
<b>TOTALS:</b>	%	\$	%	\$	%

3. A brief description of the work to be performed under this amendment, modification, or change order.



4. For any listed LBE that is currently under its commitment or is not projected to meet its committed percentage of overall work, please provide an explanation as to why this is the case.

LBE Firms Falling Short of Commitment or Not Projected to Meet Their Committed Percentage of Work:	Reason

\_\_\_\_\_  
 Owner/Authorized Representative (Signature)

\_\_\_\_\_  
 Name and Title (Print)

\_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Telephone                      Email                      Date