

O433-13447

ADDENDUM NUMBER: Addendum - One
PROJECT TITLE: Criminal Justice Facility
PROTECTIVE GLASS BARRIER
Site Number: 240
Building Number: 76
949 North 9th Street
Milwaukee, Wisconsin 53233
PROJECT NUMBER: O433-13447
DATE OF ADDENDUM: November 18, 2014

This Addendum to the Contract Documents is issued to modify, explain or correct the original Documents, Dated NOVEMBER 03, 2014 and is hereby made part of the Contract Documents. Acknowledge receipt of this addendum in the space provided on the Bid Form, or bid may be rejected.

SPECIFICATIONS

DOCUMENT 00 82 70 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS
Delete Document 00 82 70 in its entirety from the Project Manual.

DBE-00 DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION SPECIFICATIONS
Add its entirety to the Project Manual. See Attachment.

DBE-01 CERTIFICATE OF GOOD FAITH EFFORTS:
Replace in its entirety to the Project Manual with attached up-dated (07/07/14) revision. See attachment.

DBE-02 SUB-CONTRACTOR / SUB-CONSULTANT / SUPPLIER INFORMATION SHEET:
Replace in its entirety to the Project Manual with attached up-dated (07/07/14) revision. See Attachment.

DBE-14 COMMITMENT TO CONTRACT WITH DBE:
Replace in its entirety to the Project Manual with attached up-dated (07/07/14) revision. See attachment.

Attachments:

SPECIFICATIONS

DBE-00
DBE-01
DBE-02
DBE-14



COMMUNITY BUSINESS DEVELOPMENT PARTNERS MILWAUKEE COUNTY

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION SPECIFICATIONS

1. The award of this contract is conditioned upon your good faith efforts in achieving this project's Disadvantaged Business Enterprise (DBE) goal of **25%**, and you must document those efforts.
2. **DBE Goal:** This participation goal is based on the total dollar value of your base bid, initial offer or initial scope of work, less allowance and/or reimbursable items. Participation must be maintained throughout the contract, including additional contract work, e.g., acceptance of alternates, negotiated procurements, change orders, addendums, use of allowances, etc.

BID/PROPOSAL CONSIDERATIONS

3. The County will reject your bid/proposal if it does not include documentation of your good faith efforts in one of the following ways:
 - a. When you meet or exceed the goal, include the **Commitment to Contract with DBE** (DBE-14) form(s).
 - b. When you **do not** meet or exceed the goal, include the **Certificate of Good Faith Efforts** (DBE-01) goal.

EXAMPLE: 20% goal. You have 4% participation in commitment(s). You submit the commitment(s) for the 4%, along with the **Certificate of Good Faith Efforts** (DBE-01) documenting the efforts undertaken to achieve the remaining 16%.

4. Your good faith efforts are those that one could reasonably expect to be taken if you were actively and aggressively trying to obtain DBE participation sufficient to meet the goal. Additional guidance is part of the **Certificate of Good Faith Efforts** (DBE-01) form).
5. If awarded the contract, you will enter into a contractual agreement, directly or through subcontractors, according to the **Commitment to Contract with DBE** (DBE-14) form(s) submitted with your bid/proposal. Copies of the executed contract(s) or purchase order(s) will be require submittal to the County.
6. DBE participation credit, for both DBE and non-DBE primes, is calculated as follows:
 - a. All of the identified scope(s) of work must have a commercially useful function in the actual work of the contract and must be performed directly by the DBE. This means that DBEs must perform the contract work with their own employees, as determined by the County.
 - b. One hundred percent (100%) for the work performed by a DBE. If a DBE subcontracts a portion of its work to another firm, the value of the subcontracted work will not be counted towards the DBE goals unless the work is performed by another DBE. Material, equipment and supplies provided and installed (put into use) by a DBE also count dollar for dollar to toward the goal.
 - c. One hundred percent (100%) for products manufactured by a DBE. DBE manufacturers operate or maintain a facility that produces goods from raw materials, or substantially alters the materials or supplies, on-site.
 - d. Sixty percent (60%) for materials or supplies purchased from a certified DBE regular dealer.

Regular Dealers own, operate, or maintain stores, warehouses, or other establishments where materials or supplies are kept in stock, and regularly sold to the public in the usual course of business. A regular dealer in bulk items such as steel, cement, gravel, stone, and petroleum products don't need to keep stock, if it owns or operates distribution equipment.



COMMUNITY BUSINESS DEVELOPMENT PARTNERS MILWAUKEE COUNTY

- e. One hundred percent (100%) for the fees or commissions charged for assistance in the procurement of material and supplies. Fees or transportation charges for the delivery of material or supplies by a DBE to a job site also count dollar for dollar toward the goal. The cost of the materials and/or supplies themselves will not be credited towards its DBE goals.

Brokers, Trade Agents and Manufacturers'/Independent Sales Representatives arrange or expedite transactions without taking title of the goods being sold and receive a commission or fee for their service.

- f. One hundred percent (100%) for DBE trucking firms. The DBE must be responsible for the management and supervision of the entire trucking operation for which it has contracted. The DBE must also use trucks it owns, insures, and operates using drivers it employs. The DBE may lease trucks from another firm, or an owner-operator, certified as a DBE. The DBE may also lease trucks from a non-DBE firm, or owner-operator, but credit will only be given for the fee or commission and not the trucking itself. Ready mix operations will not receive credit for deliveries made by non-DBE firms.
 - g. You are required to notify the County if any DBE contractor(s) working on this contract will sublet any portion of their work.
7. Only DBEs certified by the State of Wisconsin Unified Certification Program (UCP) prior to the bid/proposal submission deadline count towards the satisfaction of the goal. **If you want to use a firm certified in another state or with another agency, the firm must apply for certification with the UCP prior to submission of your offer/bid deadline.** For assistance related to DBE certification of firms, contact the Certification Compliance Administrator at (414) 278-4747.
 8. The County reserves the right to request supporting documentation from both you and any listed DBE. If you fail to respond within the time specified, the County will determine you to be non-responsive and remove you from further consideration for contract award.

FOLLOWING CONTRACT AWARD

9. The County reserves the right to conduct compliance reviews and request, both from you and your subs or suppliers, supporting documentation to verify DBE participation, in addition to the information entered monthly into the County's online reporting system. The County will notify you if you are not in compliance with contract specifications. If you fail to take corrective action as directed, the County will take one or more of the following actions:
 - a. Terminate or cancel your contract, in whole or in part;
 - b. Remove you from the list of qualified contractors/consultants, and refuse to accept future bids/proposals from you for a period not to exceed three (3) years;
 - c. Withhold contract payments, or pay subs and/or suppliers directly, to cover shortfall; and/or
 - d. Bring suit to recover damages up to the amount of the shortfall, including interest at the rate of 12% annually, plus the County's costs, expenses and actual attorney's fees incurred in the collection action.
10. You must submit copies of the executed subcontract agreement(s) or purchase order(s) for each sub and/or supplier listed on the contract. Include copies with the first monthly request for payment. **REQUESTS FOR PAYMENT WILL NOT BE PROCESSED IF AGREEMENTS ARE NOT SUBMITTED.** In addition, you will document that each DBE is notified at least three (3) working days before start of their subcontract work.
11. You are required to notify the County if any DBE contractor(s) working on this contract will sublet any portion of their work.



COMMUNITY BUSINESS DEVELOPMENT PARTNERS MILWAUKEE COUNTY

12. If the DBE(s) cannot perform, if you have a problem in meeting the goal, or any other issue such issues come up, you must immediately contact CDBP at (414) 278-4747. You must submit written notification of your desire for substitution to the DBE affected, and copy the County. This notice must state the reason for the request. The DBE has five (5) business days to provide written objection/acceptance to you. Approval must be obtained from County prior to making any substitutions. DBE contractors are also required to notify and obtain approval from the County prior to subletting work on this project.
13. **Requests for Payment:** You will enter payments to subs and suppliers directly into the County's online reporting system on a monthly basis. These entries will cover payments made during the preceding month and will include zero dollar (\$0) entries where no payment has occurred. You must also indicate on the AIA Document **G703 - Continuation Sheet**, or equivalent, work being performed by DBEs. Either a) place the word "DBE" behind the work item or b) break out the work done by DBEs at the end of the report. If you don't do these things, the County will deny payments, or enforce other sanctions including those listed in Section 9, above.
14. The County has a revolving loan program for DBEs. If you use a DBE that is using these County funds, you must assist the County repayment of these funds. This may include, but is not limited to, providing written information regarding the sub's contract balance, prior payment (two or three party) agreements, and the issuance of two-party checks payable in the name of Milwaukee County and the DBE indebted to the County under this program.
15. The County reserves the right to waive any of these specifications when it is in our best interest.



COMMUNITY BUSINESS DEVELOPMENT PARTNERS MILWAUKEE COUNTY

CERTIFICATE OF GOOD FAITH EFFORTS

This document should detail what your firm has done to meet this project's participation goal. Guidance as to what 'good faith efforts' are and are not is found on pages 5 & 6 of this document.

Failure to use good faith efforts to meet the assigned participation goal will result in the rejection of your bid/proposal.

I, _____, do hereby acknowledge that I am the _____ of _____, who has been identified as a bidder/proposer on the following Milwaukee County Project:

Project No.	Project Title	Total Contract Amount	DBE Percentage	
			Goal	Pledged

Provide a brief summary of why your firm is unable to meet the participation goal on this project. (Attach additional pages if necessary)

I hereby certify that our firm has used good faith efforts to solicit, negotiate with, and utilize certified firms to meet the participation goal of this contract, as demonstrated by my responses to the following questions:

A. Identifying Contractible Work Items

You were encouraged to select portions of work to be contracted in a manner that will increase the likelihood of meeting the participation goal. In selecting work to be contracted, you considered, where appropriate, breaking down contracts into economically feasible units to facilitate small business participation.

1. Which portion(s) or section(s) of the project work was/were selected to be contracted to certified firms (or broken down into economically feasible units to facilitate participation)?

B. Notifying Certified Firms of Contracting Opportunities

2. List the certified firms that received written notification of work items to be subcontracted. In the appropriate space, also indicate when firms received subsequent telephone, or email (with deliver, read receipts and certified firm's response) solicitations. Include copies of the written notice(s) sent to certified firms. (Attach additional pages if necessary)

Certified Firm Contacted	Date of Written Notification	DBE (Yes/No)	Date of Follow-up Telephone Call/or Email

3. Identify publications in which announcements or notifications were placed and published, if any. Include a copy of each announcement or notification.

Published Announcement/Publication (please describe)	Date

4. Identify minority and/or women's associations or organizations that received written notifications, including dates of notifications. Provide person's name contacted during, and the date of, the follow-up call. If no follow-up calls were made, explain why not. Include copies of notice(s) sent.

Association/Organization	Date of Notification	Contact Person	Date of Follow-Up Call

5. Did you contact Milwaukee County's Community Business Development Partners Department (CBDP) to assist in identifying certified firms for this project?

Yes _____ No _____

Contact was made by: _____ Telephone _____ Email _____ Other _____

Date contacted: _____ Person Contacted: _____

C. Providing Certified Firms with Assistance

6. Explain any efforts to provide certified firms with timely, accurate and complete information about the project, scope(s) of work and/or requirements of the project.

7. Describe any other efforts to provide special assistance to certified firms interested in participating in the project.

D. Soliciting Proposal/Quotes from Interested Certified Firms

You must solicit quotes in good faith from certified firms. Quotes, proposals and/or bids, from certified firms shall not be rejected without sound justification.

8. List certified firm(s) that submitted quote(s) for the project, and include copies of all quotes received. If any quotes from certified firms were rejected provide an explanation as to why. (Attach additional pages if necessary)

Name, Phone & Address of Contact Person at Certified Firm	Work Quoted / Explanation for Rejecting Quote

9. Please include all other comments you want Milwaukee County to consider. (Attach additional pages if necessary)

NOTE: The information requested above is the minimum information required.

AFFIDAVIT OF CERTIFICATION

The undersigned, being duly sworn, deposes that he/she has examined and carefully prepared this Certificate of Good Faith Efforts and has verified that the information given in this certificate is true and correct to the best of his/her knowledge and belief.

Signed: _____

Authorized Representative

Subscribed and sworn to before me:

This _____ day of _____, 20 ____.

Notary Public

My commission expires _____, 20 ____.

GUIDANCE CONCERNING GOOD FAITH EFFORTS

When Milwaukee County assigns a participation goal, you will make good faith efforts to meet this goal prior to submitting a bid or proposal in order to be responsive. You can meet this requirement in one of two ways. First, you can meet or exceed the goal with commitments for participation of certified firms. Second, even if you don't meet the goal, you can document adequate good faith efforts toward that end. This means that you must show that you took all necessary and reasonable steps to achieve the participation goal.

The County will make a fair and reasonable judgment as to whether you made adequate good faith efforts according to the following guidelines. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that were made. These efforts should be those that one could reasonably expect you to take if you were actively and aggressively trying to obtain participation sufficient to meet the participation goal. Going through the motions by making a phone call or two to a firm that you think should qualify is not good faith efforts to meet the project requirements. The County's determination concerning the sufficiency of your good faith efforts is a judgment call and meeting quantitative formulas is not required.

The following is a list of types of actions the County considers as part of your good faith efforts. This isn't a mandatory checklist, nor is it all-inclusive. Other factors or types of efforts may be relevant in appropriate cases:

1. Solicit, through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices), all certified firms who have the capability to perform work on the project. Get the solicitation(s) out with enough time for them to review and respond. Be sure to record who you sent information to, and how/when they verified their interest in the project.
2. Select portions of the work to be performed by certified firms in order to increase the likelihood that the participation goal will be achieved. This includes, where appropriate, breaking out contract work items into smaller pieces, even when you might otherwise prefer to self-perform the work.
3. Provide certified firms with timely, accurate and complete plans, specifications, and requirements of the project to assist them in bidding/quoting.
4. Negotiate in good faith with certified firms.
 - a. It is your responsibility to make a portion of the work available to certified firms and to select that work based on the available certified firms. Evidence of such negotiation includes the names, addresses, email, and telephone numbers of certified firms that were considered; a description of the information provided regarding the plans and specifications for the work selected for contracting; and evidence as to why agreements could not be reached for certified firms to perform the work.
 - b. A bidder/proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including certified subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, **the fact that there may be some additional costs involved in finding certified firms is not sufficient reason for your failure to meet the participation goal.** Also, self-performing work does not relieve you of the responsibility to make good faith efforts. You are not required to accept higher quotes from certified firms if the price difference is excessive or unreasonable.
5. Do not reject certified firms as being unqualified without sound reasons based on a thorough investigation of their capabilities. Your standing within the industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in your efforts to meet the project goal.

6. Effectively use the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations to provide assistance in the recruitment and placement of certified firms.

In determining whether you have made good faith efforts, the County may take into account the performance of other bidders/proposers in meeting the contract goal. For example, when you fail to meet the contract goal, but others meet it, the County may raise the question of whether, with additional reasonable efforts, you could have met the goal. If you fail to meet the goal, but you meet or exceed the average participation obtained by other bidder/proposers, the County may view this, in conjunction with other factors, as evidence of you having made good faith efforts.



COMMUNITY BUSINESS DEVELOPMENT PARTNERS MILWAUKEE COUNTY

COMMITMENT TO CONTRACT WITH DBE

ADDITIONAL INFORMATION & REQUIREMENTS:

1. The Directory of Certified DBE firms eligible for credit toward the satisfaction of this project's DBE goal will be found at the following link, and can be searched by Name and/or NAICS code.
<https://app.mylcm.com/wisdot/Reports/WisDotUCPDirectory.aspx>
2. **CONTRACT ADJUSTMENTS:** The successful Bidder/Proposer will maintain the approved DBE participation level during the term of the contract with the County, including any additional work on the contract, e.g., change orders, addendums, scope changes, etc. Contract adjustments shall include proportional DBE participation.
3. **WRITTEN CONTRACTS WITH DBEs:** The County requires that the successful Bidder/Proposer enter into contract, directly or through subcontractors, as stated in this form. Agreements must be submitted to the County within 7 days of receipt of the Notice-To-Proceed. By executing this commitment, you are certifying that you have had contact with the named DBE firm and that they will be hired if awarded the contract by the County. VIOLATION OF THE TERMS OF THIS COMMITMENT IS GROUNDS FOR TERMINATION OF YOUR CONTRACT.
4. **SUBSTITUTIONS, DBEs SUBCONTRACTING WORK, TRUCKING FIRMS:** The successful Bidder/Proposer must submit written notification of desire for substitution to the DBE affected, and send a copy to the County, stating the reason(s) for the request. The DBE will have five (5) business days to provide written objection/acceptance of the substitution. The "right to correct" must be afforded any DBE objecting to substitution/termination for less than good cause as determined by the County. Approval must be obtained from the County prior to making any substitutions. DBEs are also required to notify and obtain approval from the County prior to seeking to subcontract out work on this project. In the case of DBE trucking firms, credit will be given for trucks leased from other DBE firms; however, if the DBE leases trucks from non-DBE firms, the commission or fee will be counted for DBE crediting.
5. **REQUESTS FOR PAYMENT:** The successful Bidder/Proposer must indicate on the Continuation Sheet (AIA form G703, or equivalent) the work being performed by DBE by either a) placing the word "DBE" behind the work item or b) breaking out the work done by DBEs at the end of the report. The successful Bidder/Proposer shall notify DBEs of the date on which they must submit their invoices for payment.
6. **DBE UTILIZATION REPORTS:** The successful Bidder/Proposer will enter payments to subs and suppliers directly into the County's online reporting system on a monthly basis. These entries will cover payments made during the preceding month and will include zero dollar (\$0) entries where no payment has occurred.

If you have any questions on forms or related to Milwaukee County's DBE Program, please contact
CBDP Compliance Team / cbdpcompliance@milwcnty.com / 414.278.4747