

CITY OF MILWAUKEE - MILWAUKEE PUBLIC LIBRARY
SMALL BUSINESS ENTERPRISE (SBE) PROVISIONS

I. General

- A. In accordance with Chapter 370 of the Milwaukee Code of Ordinances Small Business Enterprise (SBE) participation is required in all contracting activities of the Milwaukee Public Library. The ordinance requires that certified SBEs be utilized for a % of the total dollars annually expended through commodity, service contracts and construction contracts. For construction and goods and services contract the requirement is 25%. For the purchase of professional services the requirement is 18%. In an effort to meet these requirements, the Board of Trustees of the Milwaukee Public Library acting through the Library Director, as contracting officer for the City, designates the level of participation of SBE bidders are required to achieve the minimum SBE participation stated in the Official Notice to Bid.
- B. The contractor/vendor shall prepare and submit accurate and timely SBE utilization forms and reports to the Milwaukee Public Library. The reports shall include, but not be limited to, SBE Compliance Plan (Form A), monthly utilization (Form D), and SBE subcontractor payment certification (Form E) forms. Failure to submit the forms and/or reports to the Milwaukee Public Library may result in disqualification of future bids, delay of payments, or other sanctions deemed appropriate. The final contract payment will not be made until final SBE utilization reports (Form D) and SBE subcontractor payment certifications (Form E) are on file with the Milwaukee Public Library.
- C. During the performance of this contract, the Milwaukee Public Library reserves the right to conduct compliance reviews. If the contractor/vendor is not in compliance with the specifications, the Milwaukee Public Library will notify the contractor/vendor in writing of the corrective action that will bring the contractor/vendor into compliance. If the contractor/vendor fails or refuses to take corrective action as directed, except in the case of fraudulent information, the Milwaukee Public Library may take one or more of the following actions listed below:
1. Terminate or cancel the contract, in whole or in part.
 2. Consider debarment of the contractor/vendor from bidding.
 3. Withhold payments on the contract.
 4. Any other remedy available to the City by law or in equity.

II. Definitions

- A. *"SMALL BUSINESS ENTERPRISE" (SBE)* means a small business concern that is 51% owned, operated and controlled by one or more individuals who are small business owner (who is at an "economic disadvantage"). The individuals must have day-to-day operational and managerial control and interest in capital, financial risks, and earnings commensurate with the percentage of ownership.
- B. *"OWNED/OPERATED AND CONTROLLED"* means a business which is one of the following:
1. A sole proprietorship legitimately owned and operated and controlled by an individual as defined in Chapter 370 of the Milwaukee Code of Ordinances.
 2. A partnership or joint venture legitimately owned, operated and controlled by individuals who are small owners who are at a disadvantage and who own at least 51% of the beneficial ownership interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.

3. A corporation legitimately owned, operated and controlled by one or more small owners who are at a disadvantage and who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

III. SBE Utilization Requirements

- A. Each contractor/vendor shall utilize SBE firms to a minimum of the percentage specified on this contract. Note that the contractor/vendor shall be required to attain SBE participation on their base bid (excluding specified activities, alternates and change orders). SBE commitments relative to contract award shall be based upon the approved SBE Compliance Plan (Form A).
- B. The determination of SBE utilization shall be based on the following criterion:
 1. The firms identified as SBE by the contractor/vendor on the SBE Compliance Plan must be certified by the City of Milwaukee's Office of Small Business Development prior to bid opening.
 2. The contractor/vendor shall be credited for the entire expenditure to SBE firms only if all of the identified scope of work is performed directly by the certified SBE firm.
 3. The contractor/vendor shall be credited for the entire expenditure to an SBE manufacturer only if the manufacturer produces goods from raw materials or substantially alters them for resale. Only 20% of the SBE participation may be extended for SBE suppliers that do NOT manufacture the products they supply.
 4. The contractor/vendor shall count only the SBE requirement of expenditures to SBEs that perform a commercially-useful function in the actual performance of the contract. SBEs are required to notify the Milwaukee Public Library if they subcontract out work on this project so that the Milwaukee Public Library can determine how much, if any, of the subcontracted work can be counted toward the SBE requirement. The Milwaukee Public Library will make the final determination and evaluation of whether or not the SBE is performing a commercially-useful function on this project.
- C. Contractors/vendors should submit a completed SBE Compliance Plan (Form A) with the bid or proposal certifying that the Contractor/vendor understands the provisions of Chapter 370 and intends to comply with them..
 1. Information on the Form (A) shall include, but not be limited to:
 - a. The names, addresses, contact person and telephone numbers for the certified SBE firms that will participate on the bid as subcontractors or suppliers.
 - b. A description of the scope of work to be performed by the SBE(s) on this project.
 - c. The SBE contract dollar value and corresponding percentages that the dollar value represents of the total contract amount.
 2. The listing on the SBE Compliance Plan (A) shall constitute a representation that the contractor/vendor has communicated directly with the SBE(s) listed. If the contractor/vendor is awarded the contract, they will enter into a subcontract with the certified firm(s) for that portion of the work listed at the designated price(s) set forth.
 3. SBE participation is an element of bid responsiveness. Failure to meet the specified SBE requirements will render the bid/proposal unresponsive, and the Milwaukee Public Library may then recommend award to the next apparent winning bidder.

4. Only SBEs that have been certified by the Office of Small Business Development may be listed on the SBE Compliance Plan and counted towards the percentage requirements on this project. A listing of the current CITY certified SBE firms is maintained at:

Department of Administration
Office of Small Business Development
City Hall, Room 606
200 East Wells Street
Milwaukee, Wisconsin 53202

- D. If for any reason a SBE cannot perform, THE CONTRACTOR/VENDOR SHALL CONTACT THE MILWAUKEE PUBLIC LIBRARY FOR APPROVAL TO SUSTITUTE ANOTHER CITY SBE CERTIFIED FIRM. The contractor/vendor must submit a written request for substitution which specifies the reasons for the request. Approval must be obtained prior to making substitution. Any difference in the cost occasioned by such substitution shall be borne by the contractor/vendor. If the contractor cannot find another certified firm to do the work at a comparable price, a non- SBE firm may be substituted with the approval of the Milwaukee Public Library.
- E. If the contractor/vendor has a problem in meeting the SBE requirements or if any other problems relative to SBE(s) arise during or before completion of the contract, the contractor/vendor shall immediately contact the Milwaukee Public Library.
- F. Certification programs other than the City's Office of Small Business Development are not accepted by the City of Milwaukee nor do they have any bearing on the eligibility criteria established by the City.
- G. The Milwaukee Public Library reserves the right to waive any of these specifications when it is in the best interest of the City and in accordance with the procedures set forth in Chapter 370 of the Milwaukee Code of Ordinances.