

MINORITY & WOMEN'S BUSINESS ENTERPRISE (MBE/WBE) PLAN

Grantee

Sandy Township, Clearfield County, Pennsylvania

Prepared For

Sandy Township CDBG Program

Responsible Entity

Sandy Township Supervisors



Preparer/Consultant

The EADS Group, Inc.

15392 Route 322

Clarion, PA 16214

Ph: (814) 764-5050

Fax: (814) 764-5055

cmurray@eadsgroup.com

Date Prepared by Consultant: October 21, 2019

Adopted by Township 21 Oct 2019

RECORD OF ADOPTION:

Motion made to adopt the MBE/WBE Plan at the Township's regularly conducted municipal meeting on held on October 21, 2019. A copy of the meeting minutes is appended to this plan.

RECORD OF ANNUAL REVIEW/REVISION:

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

Chairman Signature Date

CDBG Coordinator Signature Date

TABLE OF CONTENTS

SECTION 1: POLICY STATEMENT	1
SECTION 2: DEFINITIONS.....	1
SECTION 3: PROCEDURES – INVITATIONS FOR BIDS (IFBs) OR REQUEST FOR PROPOSALS (RFPs).....	3
SECTION 4: PARTICIPATION REQUIREMENTS FOR MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE)	4
SECTION 5: PROCEDURES CONTRACTOR COMPLIANCE PROCESS	7
SECTION 6: MEETING MINUTES FOR ADOPTION OF THIS PLAN	Error! Bookmark not defined.

EXHIBITS

- Exhibit 1 – MBE/WBE Contract/Solicitation and Commitment Statement
- Exhibit 2 – Prime Contractor’s Quarterly Utilization Report
- Exhibit 3 – Subcontractor’s Quarterly Utilization Report

SECTION 1: POLICY STATEMENT

It is public policy of Sandy Township to promote the opportunity for full participation by Minority and Women's Business Enterprises (MBE/WBE) in all Housing and Community Development Programs receiving funds through the Pennsylvania Department of Community and Economic Development (DCED) under the Community Development Block Grant (CDBG) Program

SECTION 2: DEFINITIONS

For the purpose of these requirements, the following terms, as defined below, shall apply:

- 2.1 Grantee – The Township of Sandy as under contract with the Commonwealth for receipt of CDBG funds.
- 2.2 Administering Agency – The agency responsible for administering the grants for the Grantee.
- 2.3 Bidder Responsiveness – Actions taken by prime contract bidders to seek participation by MBE/WBE suppliers, manufacturers, and subcontractors. Responsiveness includes submission of Form DCED-CCD-286, MBE/WBE Contract/Solicitation and Commitment Statement (refer to Exhibit 1); and, if needed, an explanation for failure to achieve minimum levels of participation, including demonstration that the bidder has not engaged in discriminatory practices.
- 2.4 Bidder Responsibility – Non-discrimination in the selection of subcontractors, suppliers, and manufacturers. Non-discrimination is presumed if minimum levels of participation are achieved. Non-discrimination can also be demonstrated by submitting Form DCED-CCD-286 and supplemental evidence that failure to achieve minimum levels of participation was not motivated by consideration of race or gender; that MBEs/WBEs were not treated less favorably than others; and that solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.
- 2.5 Business Enterprise – Any legal entity which is organized in any form other than as a joint venture (e.g., sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.
- 2.6 Contractor/Subcontractor – One who participates through a contract, subcontract or lease agreement in any manner covered by the grantee's MBE/WBE Program.
- 2.7 Management Control – The minority of women owners should possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy, and operations. The firm should not be subject to formal or informal restrictions which limit the customary discretion of the minority or women owners. There should be no restrictions through for example, by-law provisions, partnership agreements or charter requirements for cumulative voting rights or otherwise that prevent the minority or women owners, without the cooperation or vote of an owner who is not a minority or woman, from making a business decision of the firm. If the actual management of the firm is contracted out to or otherwise has been placed with individuals other than the minority or woman owner, those persons who have the ultimate power to hire and fire the managers will ordinarily be considered as controlling the business.

- 2.8 Minority Business Enterprise (MBE) – A business concern that is:
- a. a sole proprietorship owned and controlled by a minority; or
 - b. a partnership or joint venture controlled by minorities in which 51% of the beneficial ownership interest is held by minorities; or
 - c. a corporation or other entity controlled by minorities in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.
- 2.9 Minority Person – Persons who are citizens of the United States and who are Black Americans, Hispanic Americans, Native Americans, or Asian-Pacific Americans.
- a. African Americans - Persons having origins from any of the Black groups of Africa. The term includes persons having origins in any of the original peoples of the Cape Verdes Islands.
 - b. Hispanic Americans - Persons having their origins from one or more of the Spanish speaking peoples of Mexico, Puerto Rico, Cuba, Central or South America or the Caribbean Islands.
 - c. Native Americans - Persons having origins from one or more of the original peoples of North America and who are recognized as an Indian by a tribe or tribal organization.
 - d. Asian-Pacific Americans - Persons having origins from one or more of the original peoples of the Far East, Southeast Asia or the Pacific Islands, including China, Japan, Korea, Samoa, and the Philippine Islands.
- 2.10 Operational Control – The minority or women owners should demonstrate through the application sufficient experience, knowledge and expertise to operate that particular business. Additionally, if the owners of the firm who are not minorities or women are disproportionately responsible for the operation of the firm – to include possessing any required licensing for the firm – the firm will ordinarily be considered not being controlled by minorities or women and not qualifying as an MBE or WBE.

Securities, which constitute ownership or control, or both, of a corporation for business purposes of establishing it as an MBE or WBE should be held directly by minorities or women. No securities held in trust, or by a guardian for a minor should be considered as held by minority or women in determining the ownership or control of a corporation.

2.11 Ownership

- a. Bona fide minority and women group membership may be established on the basis of the individual's claim that he is a member of a minority group or is of the female gender and is and has been so regarded by that particular community. Verification of group membership may be accepted through submission of birth certificates, military records, passports or tribal cards.
- b. An eligible MBE or WBE defined in this section should be an independent business. The ownership and control by minorities or women should be real, substantial and continuing and should go beyond the pro forma ownership of the firm as reflected in its ownership documents. The minority and women owners should enjoy the customary incidents of ownership and should share in the risks and profits commensurate with their ownership

interests as demonstrated both by an examination of the substance and form of arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as an MBE or WBE. In determining whether a potential MBE or WBE is an independent business, all relevant factors must be considered, including the date the business was established, its resources, and the nature of the financial, lease arrangements, and other relationships the business enjoys.

- c. The contributions of capital or expertise by the minority or women owners to acquire their interests in the firm should be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its minorities or women, or the mere participation as an employee rather than as a manager.

2.12 Women's Business Enterprise (WBE) – A business that is:

- a. A sole proprietorship owned by a woman; or
- b. A partnership or joint venture controlled by women in which 51% of the beneficial ownership interest is held by women; or
- c. A corporation or other entity controlled by women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by women.

2.13 Women – United States citizens who are of the female gender.

SECTION 3: PROCEDURES – INVITATIONS FOR BIDS (IFBs) OR REQUEST FOR PROPOSALS (RFPs)

3.1 Advertisements – IFB Only

All IFBs will include the following information:

“Bidders must submit documentary evidence of MBE/WBE firms/businesses who have been contacted and to whom commitments have been made. Documentation of solicitation must be submitted with the bid.”

3.2 Notification of MBE/WBE – IFB and RFP

The procedure for the Township to notify the MBE/WBE community of contract opportunities will be as follows:

- a. Notice of Invitation to Bid or Request for Proposals – A MBE/WBE search will be completed on the PA Department of General Services (DGS) website at the following link:

<http://www.dgs.internet.state.pa.us/suppliersearch>

MBE/WBE firms/businesses fall under the category of Small Diverse Businesses (SDBs) for the search. A SDB is a DGS-verified minority-owned business, woman-owned business, veteran-owned business, service-disabled veteran-owned, disability-owned, and LGBT-owned business. The search information will then be utilized to develop a listing of MBE/WBE businesses that undertake the particular type of

construction or service being advertised or requested. Sandy Township will ensure that the MBE/WBE businesses located within Sandy Township's market area are included in the search. Sandy Township's market area includes the following Counties:

- Blair
- Cambria
- Cameron
- Center
- Clinton
- Elk
- Indiana
- Jefferson

A copy of the Notice of Invitation for Bids or Requests for Proposals will be sent by the Township to all applicable MBE/WBE businesses listed.

- b. Plans and Specifications – Plans and Specifications or IFBs in all projects will be made available upon request to MBE/WBE contractor associations and trade organizations.
- c. List of Plan Holders – The names of bidders/offers requesting bid documents will be made available upon request to MBE/WBE contractor associations and trade organizations.
- d. List of MBE/WBE Businesses– Each bidder/offers obtaining plans and specifications or requests for proposals for projects will be provided a list of MBE/WBE businesses to be used in soliciting subcontract bids and for materials and services.

SECTION 4: PARTICIPATION REQUIREMENTS FOR MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE)

4.1 Construction Contracts (IFBs)

The Township has established minimum levels of participation for minority and women business enterprises (MBE/WBE) for each project in each bid category to be used solely as a guide in determining bidder responsibility. The minimum participation level for MBEs is 5% and for WBEs 3%.

The following items will be placed in all bid documents:

- a. Participation Level:
 - i. The Township has established Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) minimum participation levels (MPLs) of five percent (5%) for MBE and three percent (3%) for WBE of the dollar amount of the bid for this contract.
 - ii. These MPLs serve exclusively as a threshold in determining bidder responsibility. A bidder will not be rejected as not responsible solely because it fails to reach the MPLs. To determine the participation level, which has been reached, a bidder may divide the total dollar amount of the commitments by the total dollar amount of the bidder's bid.
 - iii. A firm which is both an MBE and a WBE will only receive credit toward MPLs as either an MBE or WBE, but not both. Bidders must indicate on Form DCED-

CCD-286, MBE/WBE Contact/Solicitation and Commitment Statement whether the firm is being listed as either an MBE or a WBE.

- iv. An MBE/WBE firm who is the prime bidder on a project will receive no MPL credit for its own work effort for services provided. MBE/WBE bidding as prime proposer must solicit other certified MBEs/WBEs participation for material and/or supplies.
- v. MBE/WBE subcontractors must perform at least 75 percent (75%) of the cost of the subcontract, not including the cost of materials, with its own employees.

b. Responsiveness

- i. Bidders must complete and submit Form DCED-CCD-286 with the bid. Failure to submit this form with the bid, will result in the bid being rejected as nonresponsive.
- ii. A bidder should only solicit MBE/WBE subcontractors, vendors, manufacturers, or suppliers whose services, materials, or supplies are within the scope of work and which the bidder reasonably believes it will choose to subcontract with or purchase from.
- iii. Bidders failing to meet the minimum levels of participation must submit concurrently with the bid, an explanation of why the MPLs have not been met. This explanation must demonstrate that the bidder has not engaged in discriminatory practices in solicitation and utilization of MBEs/WBEs contained on the solicitation list provided by the grantee to perform as subcontractors or suppliers of goods and services related to the performance of the contract. The evidence submitted by the bidder must demonstrate the following:
 - (a) Indicate whether MBEs/WBEs were solicited for each type of work the bidder expects to subcontract for and for all materials which the bidder expects to procure and, if not, the reason(s) why no solicitation was made.
 - (b) Indicate the reason why a MBE/WBE has not been committed to for a type of subcontract work or materials in any area where a quote was received from a MBE/WBE, and;
 - (c) In any case where no quotations are received nor commitments made to MBE or WBE firms, indicate on Form DCED-CCD-286 that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.
- iv. If the bidder fails to submit evidence, the bid submission shall be considered non-responsive and the bid rejected.
- v. Information related to the above may be submitted on DCED-CCD-286 or on additional paper.

c. Responsibility

- i. The submittals of each bidder are subject to review to determine whether the bidder has discriminated in the selection of manufacturers, subcontractors and suppliers. If a bidder has met the MPLs for MBE/WBE participation, the bidder will be presumed not to have discriminated in their selections. Where the MPLs are not met, the Township will determine whether discrimination has occurred. If, after investigation including a review of Form DCED-CCD-286, it is found that discrimination has occurred, the reviewed bidder shall thereby be deemed to be not responsible and the bid will be rejected.
- ii. Documentation submitted by the bidder should meet the following standard for review:
 - (a) The bidder whose actions resulted in a limited or no commitment to MBEs/WBEs was not motivated by consideration of race or gender.
 - (b) MBEs/WBEs were not treated less favorably than other businesses in the contract solicitation and commitment process.
 - (c) Solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.
- iii. Commitments to MBE and WBE businesses made at the time of bidding must be maintained throughout the term of the contract unless a change in commitment to these businesses is pre-approved by the Township or the administering agency performing the evaluation of the Invitation for Bid.

d. Access to Information

The Township may obtain documents and information from any bidder, contractor, subcontractor, supplier, or manufacturer that may be required in order to ascertain bidder or contractor responsibility. Failure to provide requested information may result in the contractor being declared not responsible.

4.2 Professional/Personal Services – Request for Proposals (RFP)

The Township will assign a weight for socially/economically restricted business participation for each RFP. This weight will be included as one of the criteria for selection for each RFP.

The following items will be placed in all requests for proposals:

a. General Information for Proposers

The Township strongly encourages the submission of proposals by MBEs/WBEs.

To achieve the objective of enhancing MBE/WBE participation, the Township has established MBE/WBE utilization as a selection criteria in the evaluation process.

The Township will evaluate the aforementioned criteria and will assign a point value to be considered within the overall RFP total point tabulation.

Proposals submitted by individuals claiming MBE/WBE status, or proposals submitted by individuals reflecting joint venture and subcontracting opportunities with MBEs/WBEs, must submit documentation verifying their claim.

b. Information Required from Proposers

Proposers not considered MBE/WBEs must describe, in narrative form, their company's approach to enhance MBE/WBE utilization on a professional level in the implementation of this proposal.

The following options will be considered as part of the final criteria for selection:

Priority Rank 1	Proposals submitted by MBE/WBEs.
Priority Rank 2	Proposals submitted from a joint venture with a Commonwealth-approved MBE/WBE as a joint venture partner.
Priority Rank 3	Proposals submitted with subcontracting commitments to MBE/WBEs.

Each proposal will be rated for its approach to enhancing the utilization of MBEs/WBEs. The optional approach used will be evaluated with option number 1 receiving the greatest value and the succeeding options receiving a value in accordance with the above-listed priority ranking.

Contractor proposals shall include the MBE/WBE value in the Cost and Price Analysis section of the proposal. The applicable items shown in the Cost and Price Analysis section should also be used to prepare and detail the proposed MBE/WBE Commitment value including, if applicable, fiscal year breakdown. The selected contractor's MBE/WBE Commitment amount will be included as a contractual obligation when a contract is entered into.

c. Criteria for Selection

With reference to MBE/WBE participation, emphasis here is placed on:

1. Proposals submitted by MBEs/WBEs.
2. Commitments by proposers not considered to be MBEs/WBEs which significantly utilized approved MBE/WBEs in joint ventures.
3. Commitments by proposers not considered to be MBEs/WBEs which aggressively pursue the utilization of approved MBEs/WBEs in subcontracting opportunities.

SECTION 5: PROCEDURES CONTRACTOR COMPLIANCE PROCESS

5.1 Contract Provisions

The following provisions will be included in construction contracts and/or in professional services contracts:

a. Construction Contracts

- i. The prime contractor must provide the Township with a report of MBE/WBE subcontracting activity on a quarterly or per project basis, whichever is sooner (refer to Exhibit 2). The report shall reflect the names of and the total dollar amount paid to all MBE/WBE Subcontractors (including suppliers) utilized under this contract.
- ii. MBE/WBE subcontractors must provide the Township with a report reflecting the prime contractors who have purchased their services and/or supplies on a quarterly basis (refer to Exhibit 3). The report shall reflect the name of the prime contractor and the total dollar amount invoiced and total dollar amount received for payment.

b. Professional Service Contracts

i. Commitment to Enhance MBE/WBEs

- (a) **Joint Venture.** If the joint venture relationship is dissolved, the majority owner of the contract with a commitment to a MBE/WBE must maintain this commitment for the duration of the contract. If another MBE/WBE joint venture cannot be formed, the majority owner must continue this commitment by entering into contractual agreement(s) with other MBEs/WBEs to perform on this contract. The majority owner must submit all changes to the Township for approval.
- (b) **Subcontracting.** If a subcontracting commitment made to a subcontractor for a specified amount is terminated, then the business awarding the subcontracting commitment to a MBE/WBE must maintain this commitment for the duration of the contract by entering into contractual agreements with other MBEs/WBEs to perform in this contract. The primary contractor must submit all proposed subcontracting changes to the Township for approval.
- (c) The prime proposer must provide the Township with a report of MBE/WBE activity on a quarterly or per project basis, whichever is sooner. The report shall reflect the names of and the total dollar amount paid to all MBEs/WBEs utilized under this contract.
- (d) MBE/WBE subcontractors shall provide the Township with a report reflecting the prime contractors who have purchased their services and/or supplies on a quarterly basis or per project basis, whichever is sooner. The report shall reflect the name of the prime contractor and the total dollar amount invoiced and total dollar amount received for payment.

5.2 Grantee Compliance Procedures

- a. The prime contractor will be informed by the Township of their quarterly or per project reporting requirements. In addition, all MBE/WBE subcontractors are to be informed of their reporting requirements (a carbon copy is to be forwarded to the prime contractor).

- b. The Township will review all reports received from the prime contractor and all subcontractors to determine if the commitments made by the prime contractor in his/her bid are being met. If reports are submitted on a per project basis, this review is to be done prior to final payment being made to the contractor and/or subcontractor.

5.3 Records and Reports

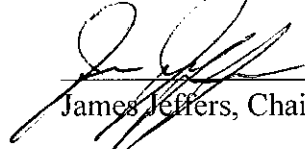
The contractor will keep such records as are necessary to determine compliance with its minority and women business enterprise commitments. These records must be in sufficient detail to indicate the number of minority and women businesses, the contract work performed, and the percentage of minority and women businesses performing work. Additionally, the contractor is required to maintain an open file for a specified period, during which time the contract compliance person may make periodic reviews of records pertaining to relevant contracts.

Adopted by motion this 21st day of October 2019.

ATTEST:


Township Secretary

**BOARD OF SANDY
TOWNSHIP SUPERVISORS**


James Jeffers, Chairman

(Seal)

EXHIBITS

**MINORITY & WOMEN'S BUSINESS ENTERPRISE
PRIME CONTRACTOR'S QUARTERLY UTILIZATION REPORT**

(This form should be returned within 10 working days at the end of each quarter.)

PRIME CONTRACTOR'S FIRM NAME		REPORTING PERIOD						
ADDRESS		CONTRACT NUMBER						
TELEPHONE								
CONTACT PERSON		DATE RECEIVED (Office use Only)						
List State certified minority and/or women-owned businesses whose services and/or supplies you have purchased in reference to this contract.								
COMPANY NAME	ADDRESS	TELEPHONE NUMBER	MBE (X)	WBE (X)	TRANSACTION		DATE PAID	MBE/WBE ACTUAL DOLLARS*
					SUB CONTRACT (X)	SUPPLIES (X)		
Prepared By:	Title:		Phone No:		E-Mail Address:			

* PLEASE AFFIX COPIES OF MBE & WBE INVOICES TO YOUR COMPANY ALONG WITH COPIES OF YOUR COMPANY'S CANCELED CHECKS REFLECTING PAYMENT OF THE MBE AND WBE INVOICES.

(PLEASE PRINT)

SUBCONTRACTOR'S FIRM NAME

ADDRESS

TELEPHONE

CONTACT PERSON

DATE RECEIVED (Office use Only)

List the prime contractors who have purchased your services and/or supplies in reference to this contract.

COMPANY NAME	ADDRESS	TELEPHONE NUMBER	DATE SERVICES/ SUPPLIES PROVIDED	DATE INVOICE SENT	AMOUNT INVOICED	DATE INVOICE PAID	AMOUNT PAID
PREPARED BY:	TITLE:		PHONE NO:		E-MAIL ADDRESS:		

*** PLEASE AFFIX COPIES OF YOUR COMPANY'S INVOICES TO THE PRIME CONTRACTOR.**

(Reserved)