

CITY OF JACKSON, MISSISSIPPI

Mayor Harvey Johnson, Jr.

**EQUAL BUSINESS OPPORTUNITY
(EBO)
PLAN APPLICATION**

Department of Economic Development and Planning

Revised 6/01/09, MD

CITY OF JACKSON, MISSISSIPPI
EQUAL BUSINESS OPPORTUNITY ORDINANCE

LEGAL NOTICE

The City of Jackson is committed to the principle of non-discrimination in public contracting. It is the policy of the City of Jackson to promote full and equal business opportunity for all persons doing business with the City. As a pre-condition to selection, every contractor, bidder or offeror shall submit a completed and signed Equal Business Opportunity (EBO) Plan Application with the bid submission, in accordance with the provisions of the City of Jackson's Equal Business Opportunity (EBO) Ordinance. Failure to comply with the City's ordinance shall disqualify a contractor, bidder or offeror from being awarded an eligible contract.

For more information on the City of Jackson's Equal Business Opportunity Program, please contact the Division of Equal Business Opportunity at 960-1856. Copies of the EBO Ordinance, EBO Plan Application, EBO Program, the MBE/FBE Directory and the MBE/FBE Certification Affidavit are available at 200 South President Street, Suite 223, Jackson, Mississippi.



(EBO FORM 6-1-00)
**EQUAL BUSINESS OPPORTUNITY
SPECIAL NOTICE TO BIDDERS**

POLICY

The City of Jackson is committed to the principle of non-discrimination in public contracting. Therefore, the City of Jackson requests that prospective vendors and contractors carefully examine their method of selecting subcontractors and suppliers, to ensure that they are not either actively, or passively, discriminating against MBEs and FBEs. As a bidder seeking to do business with the City of Jackson, you are expected to adhere to a policy of non-discrimination, and to make the maximum practicable effort to ensure that historically underutilized firms are given an opportunity to participate in the performance of contracts financed in whole, or in part, with city funds.

DEFINITIONS

For purposes of this policy, the following definitions will apply:

- (1) **AAfrican American Business Enterprise (AABE)**@shall mean a business that is an independent and continuing enterprise for profit, performing a commercially useful function and is owned and controlled by one or more African Americans, and certified as such by the Division of Business Development.
- (2) **AAAsian American Business Enterprise (ABE)**@ shall mean a business that is an independent and continuing enterprise for profit, performing a commercially useful function and is owned and controlled by one or more Asian Americans, and certified as such by the Division of Business Development.
- (3) **AHispanic Business Enterprise (HBE)**@shall mean a business that is an independent and continuing enterprise for profit performing a commercially useful function and is owned and controlled by one or more Hispanics, as defined in section 127-4 (7), and certified as such by the Division of Business Development.
- (4) **AMinority Business Enterprise (MBE)**@ shall mean a business which is an independent and continuing operation for profit, performing a commercially useful function, and is owned and controlled by one or more minority group members, as defined in Sections 1, 2 and 3, which group has been determined to have suffered discrimination requiring amelioration and is certified as such by the City.
- (5) **AFemale Business Enterprise (FBE)**@ shall mean a business that is an independent and continuing enterprise for profit, performing a commercially useful function and is owned and controlled by one or more females, and certified as such by the Division of Business Development.

OBLIGATION

The Contractor and any Subcontractor shall take all necessary and reasonable steps to ensure that MBEs and FBEs have a maximum opportunity to compete for and participate in the performance of any portion of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. If it is determined that there is a significant underutilization of MBEs and FBEs, the Equal Business Opportunity Officer is empowered, pursuant to section 127-8 of the Equal Business Opportunity Ordinance, to conduct an investigation to determine the reasons for the underutilization.

GOALS

The goals for participation by MBEs and FBEs are established by the Equal Business Opportunity Ordinance of the City of Jackson. The Contractor shall exercise all necessary and reasonable steps to ensure that participation meets or exceeds the contract goals. The goals may be attained by subcontracting to, procuring materials from, and renting equipment from MBEs and FBEs. (See Subcontractor/Supplier Participation guidelines below.)

The Equal Business Opportunity participation goals are as follows:

PROCUREMENT CATEGORY	Asian (ABE)	African- American (AABE)	Hispanic (HBE)	Native American (NABE)	Female (FBE)
A/E & Professional Services	0.16	8.67	0.00	0.00	1.96
Construction	0.00	12.41	0.37	0.00	4.89
Goods & Non-Professional Services	0.04	6.78	0.02	0.00	3.03

Those portions of the contract that are proposed for MBEs and FBEs in the response to this bid shall be listed on the attached Equal Business Opportunity Plan Application.

For specific information about the Equal Business Opportunity Plan, please contact the Office of Economic Development at (601) 960-1638.

Contractors may employ AABEs, HBES, ABEs or FBEs to meet the applicable project goals through various methods, as follows:

A. Subcontractor Participation

(i) Where a prime contractor utilizes one or more subcontractors to satisfy its equal business opportunity commitment, the prime contractor may count toward its EBO Plan only expenditures to MBE (AABE, HBE, or ABE) or FBE contractors that perform a commercially useful function in the work of the contract.

(ii) An MBE or FBE subcontractor is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved. In determining whether an MBE or FBE subcontractor, is performing a commercially useful function, factors, including but not limited to the following, will be considered:

- (a) the amount of work subcontracted;
 - (b) the type of prime contract;
 - (c) whether the business has the skill and expertise to perform work for which it is being/has been certified;**
 - (d) whether the business actually performs, manages and supervises the work for which it is being/has been certified; and**
 - (e) whether the business purchases goods and/or services from a non-minority/women*s business enterprise and simply resells goods to the city, city contractor, or other person doing business with the city for the purpose of allowing those goods to be counted towards fulfillment of minority/women*s business enterprise utilization goals.**
 - (f) standard industry practices.
- (iii) Consistent with standard industry practices, an MBE or FBE subcontractor may enter into second tier subcontracts. If an MBE or FBE subcontractor subcontracts a significantly greater portion of the work of its subcontract to a non-minority, non-female owned firm than would be expected on the basis of standard industry practices, it shall be presumed that the MBE or FBE subcontractor is not performing a commercially useful function.

B. Suppliers Participation

Where a prime contractor utilizes one or more suppliers to satisfy its EBO commitment, in whole or in part, the MBE or FBE supplier participation may be credited towards the applicable goal as follows:

- (i) 100 percent of the contract amount for MBE or FBE suppliers who manufacture the goods supplied.**
- (ii) 100 percent of the contract amount for MBE and FBE suppliers who are wholesalers warehousing the goods supplied or who are manufacturers* representatives, provided that only 25 percent of the applicable MBE or FBE goal may be attained by non-manufacturing supplier contracts to MBEs or FBEs.
- (iii) For those contracts where an extraordinarily large proportion of the contract price is for equipment or supplies, a lower project goal may be set than otherwise would be required, or the 25 percent limit for suppliers may be increased, or a combination of these two methods may be utilized.

C. Joint Ventures and Mentor-Protégé Programs

(i) The Division of Equal Business Opportunity shall encourage, where economically feasible, establishment of joint ventures and mentor protégé programs to ensure prime contracting opportunities for African American, Hispanic, Asian American, Native American and Female Business Enterprises on all eligible projects over \$10,000,000.00. Even if the prime itself is a MBE, joint venture between prime contractors and MBEs shall be required on all projects exceeding ten million dollars (\$10,000,000.00).

(ii) Where a contractor engages in a joint venture to satisfy its Equal Business Opportunity Commitment, the Equal Business Opportunity Officer shall review and approve all contractual agreements regarding:

- (a) The initial capital investment of each venture partner;
- (b) The proportional allocation of profits and losses to each venture partner;
- (c) The sharing of the right to control the ownership and management of the joint venture;
- (d) Actual participation of the venture partners in the performance of the contract;
- (e) The method of and responsibility for accounting;
- (f) The methods by which disputes are resolved; and
- (g) Other pertinent factors of the joint venture.

On the basis of these factors, the Equal Business Opportunity Officer shall determine the degree of AABE, HBE, ABE, or FBE participation resulting from the joint venture that may be credited towards the applicable EBO goals of the project.

The bidder or offeror shall provide the Equal Business Opportunity Officer access to review all records pertaining to joint venture agreements before and after the award of a contract reasonably necessary to assess compliance with this policy.

The Equal Business Opportunity Program also encourages Mentor-Protégé programs to assist African American, Hispanic, Asian American, and Female business enterprises in financing, bonding, construction management and technical assistance. Mentor-Protégé agreements will be reviewed by the Equal Business Opportunity Officer for final approval of the following terms of each agreement:

- (a) type of technical assistance to be provided by mentor;
- (b) rights and responsibilities of each mentor and protégé contracting activity;
- (c) the specific duration of the agreement;
- (d) the amount of participation by the protégé that may be credited toward the applicable EBO goal.

EQUAL BUSINESS OPPORTUNITY PLAN

In accordance with Section 127-13(1) of the City of Jackson's Equal Opportunity Ordinance, each contractor, bidder or offeror shall submit a completed and signed Equal Business Opportunity Plan with bid submission. Such plan should be titled "Equal Business Opportunity Plan (EBO Plan)" and should include the following:

- A. Names, addresses and contact persons of each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise to be used in the contract.
- B. The type of work or service each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise will perform.
- C. The dollar value of the work or service to be performed by each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise.
- D. Scope of the work to be performed by each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise.

Waiver

If the EBO Plan does not meet the project goals, the bidder or offeror must seek a partial or total waiver of the project goals. The application for waiver of all or part of the project goals must include full documentary evidence of the bidder's or offeror's good faith efforts (*see EBO Plan Application*) to meet the project goals and why the request for waiver should be granted. The application shall be in writing and submitted as a part of the bid or offer. It should include a narrative, affidavits and/or exhibits which verify the actions taken by the bidder or offeror to meet the goals.

Replacement

If a MBE/FBE Subcontractor cannot perform satisfactorily, the Contractor shall take all necessary reasonable steps to replace the Subcontractor with another MBE/FBE Contractor. All MBE/FBE replacements must be approved by the EBO Review Committee and the Department. (See *EBO Plan Application*)

To demonstrate necessary reasonable efforts to replace any Subcontractor that is unable to perform successfully, the Contractor must document steps taken to subcontract with another MBE/FBE Contractor.

CITY OF JACKSON, MISSISSIPPI
EQUAL BUSINESS OPPORTUNITY PLAN
APPLICATION

I. Company Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: (_____) _____

E-mail: _____

Company Name: _____

II. Bid Name and Number: _____

III. PROPOSED MINORITY AND/OR FEMALE SUBCONTRACTORS: (*SEE ATTACHMENTS*)
If a prime contractor utilizes one or more suppliers to satisfy its EBO commitment, all MBE or FBE supplier participation will be credited in accordance to Section 127-13-1(B) of the EBO Ordinance.

IV. Total Bid Amount: \$ _____

V. WAIVER REQUESTED Y *(If you fail to meet either or all of the EBO Participation Goals, check this box and follow the directions below to provide the required *WAIVER STATEMENT*. The@Waiver Statement@should*

be submitted on company letterhead to the EBO Officer.)

*** The bidder/offeror shall provide the following as evidence of its good faith efforts and will be evaluated on the same:**

- (a) Copies of written notification to MBEs and FBEs soliciting their participation as a subcontractor.
- (b) Evidence of efforts made to divide the work into economically feasible units in order to increase the likelihood of meeting the EBO participation goals.
- (c) Evidence of efforts made to negotiate with MBEs and/or FBEs, including, at a minimum:

1. The names, addresses, and telephone numbers of the MBE and FBEs who were contacted.
2. A description of the information provided to MBEs and FBEs regarding the plans and specifications for portions of the work to be performed.
3. A statement of reasons why additional agreements with MBEs and FBEs, if needed to meet the stated goals, were not reached.
4. Evidence of efforts made to assist the MBEs and FBEs contacted who need assistance in obtaining bonding and insurance which the bidder or offeror requires.
5. For each MBE and FBE contacted which the bidder or offeror considered to be not qualified, include a written statement of the reasons for the bidder-s or offeror-s conclusion.
6. Written quotes solicited from all MBEs and FBEs seeking subcontract work with Prime Contractors at the time of the bidding.
7. A statement with supporting documentation and affidavits indicating whether the offeror has used MBEs and/or FBEs as joint venture partners or subcontractors in past or present private sector contracts in Jackson.

**If you are unable to locate an MBE/FBE, please contact the Business Development Division at (601) 960-1055.*

VI. Minority and Female Business Enterprise Actual Participation for this Bid/Offer/Proposal:

(* Please list your MBE and FBE Project Participation percentages (%) in the Table below.)

PROCUREMENT CATEGORY	Asian (ABE)	African- American (AABE)	Hispanic (HBE)	Native American (NABE)	Female (FBE)
A/E & Professional Services					
Construction					
Goods & Non-Professional Services					

VII. REPLACEMENT OF MBE/FBE

If an MBE or FBE is not performing satisfactorily, it is the responsibility of the Prime Contractor to notify the EBO Office immediately both in writing and by phone. All MBE/FBE replacements must be approved by the Equal Business Opportunity Review Committee (EBORC). If these steps are not taken this will result in penalties as outlined in Section 127-19 of the EBO Ordinance.

VIII. CERTIFICATION

I certify, under penalties of perjury, that the information contained in this Equal Business Opportunity Plan Application is true and accurate to the best of my knowledge, and that my company fully intends to utilize all MBEs and FBEs listed if awarded the proposed project and/or service and abide by all EBO guidelines.

Authorized Signature and Title

Date

PRINT ~~AUTHORIZED~~ @NAME HERE: _____

EQUAL BUSINESS OPPORTUNITY PLAN APPLICATION -- ATTACHMENT

Proposed Minority/Female Business Enterprise Firms

Company Name: _____ Type Trade/Business: _____

Address: _____

Type Minority Business (MBE/FBE):

City, State, ZIP: _____

- _____ Female (FBE)
- _____ African-American (AABE)
- _____ Asian (ABE)
- _____ Hispanic (HBE)
- _____ Native American (NABE)

Contact Person: _____

Telephone Number: _____

Type Minority usiness (MBE/FBE) Involvement:

_____ Subcontractor	_____ Supplier
_____ Joint Venture	_____ Mentor-Protégé

Type Work or Service to be Performed:

Scope of Work to be Performed:

Dollar Value of the Work to Be Performed by the Minority Business (MBE and/or FBE): \$ _____

Percentage of MBE and/or FBE Participation: _____%

Company Name: _____ Type Trade/Business: _____

Address: _____

Type Minority Business (MBE/FBE):

City, State, ZIP: _____

- _____ Female (FBE)
- _____ African-American (AABE)
- _____ Asian (ABE)
- _____ Hispanic (HBE)
- _____ Native American (NABE)

Contact Person: _____

Telephone Number: _____

Type Minority Business (MBE/FBE) Involvement:

_____ Subcontractor	_____ Supplier
_____ Joint Venture	_____ Mentor-Protégé

Scope of Work to be Performed:

Dollar Value of the Work to Be Performed by the Minority Business (MBE and/or FBE): \$ _____

Percentage of MBE and/or FBE Participation: _____%

Company Name: _____ Type _____
Trade/Business: _____

Address: _____

Type Minority Business (MBE/FBE):

City, State, ZIP: _____

- _____ Female (FBE)
- _____ African-American (AABE)
- _____ Asian (ABE)
- _____ Hispanic (HBE)
- _____ Native American (NABE)

Contact Person: _____

Telephone Number: _____

Type Minority Business (MBE/FBE) Involvement:

_____ Subcontractor	_____ Supplier
_____ Joint Venture	_____ Mentor-Protégé

Type Work or Service to be Performed:

Scope of Work to be Performed:

Dollar Value of the Work to Be Performed by the Minority Business (MBE and/or FBE): \$ _____

Percentage of MBE and/or FBE Participation: _____%