

Attachment I-a

Rebuild EOP Commitment Form

**CITY OF PHILADELPHIA
REBUILD
ECONOMIC OPPORTUNITY PLAN**

I. Introduction and Definitions

A. Chapter 17-1600 of The Philadelphia Code requires the development and implementation of “Economic Opportunity Plan(s)” (“EOPs”) for certain classes of contracts and covered projects as defined in Section 17-1601. Rebuilding Community Infrastructure, generally referred to as “Rebuild,” is a City program for the construction, demolition, renovation and equipping of the City’s parks, libraries, playgrounds, recreation centers and other related facilities for the purpose of creating first-class, modern, safe, and clean parks, recreation centers, and libraries. Diversity and inclusion is a pillar of the Rebuild program and this Economic Opportunity Plan (“EOP”) will establish goals for achieving the objectives of diverse business inclusion and workforce diversity.

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

Diverse Business Inclusion shall mean each Project Contractor’s best and good faith efforts to provide meaningful and representative opportunities for Minority Business Enterprises (“MBEs”), Woman Business Enterprises (“WBEs”) and Disabled Business Enterprises (“DSBEs”) (collectively, “M/W/DSBEs” which also includes firms designated as Disadvantaged Business Enterprises or “DBEs”). In furtherance of Section 17-1502 of The Philadelphia Code and as informed by the City’s most current Annual Disparity Study, contract opportunities for MBEs may be separated into categories of firms owned by African Americans, Hispanic Americans, Asian Americans and Native Americans.

Best and Good Faith Efforts shall mean those efforts, the scope, intensity and appropriateness of which are designed and performed to foster meaningful and representative opportunities for participation by M/W/DSBEs and achieve an appropriately diverse workforce. Best and Good Faith Efforts are considered met (subject to audit and verification), when a Project Contractor makes binding contractual commitments within the M/W/DSBE Participation Ranges established for the contract and commits to employ a diverse workforce within the goals and timetable established for the contract.

Diverse Workforce shall refer to the recruitment, hiring, training, employment and trades union referral, as both journeypersons and apprentices, of workers who are African American, Hispanic American, Asian American, and/or Female.

Philadelphia Resident as used herein shall mean, to the extent permitted by law, a positive factor for consideration given to those workers residing in Philadelphia and shall also include those

businesses certified as Local Business Enterprises under Section 17-109 of The Philadelphia Code or meeting the criteria described in Executive Order 04-12.

II. Rebuild Diversity and Inclusion Goals

A. Participation Goals for Diverse Business Inclusion

As a benchmark for the Project Contractor's expression of its Best and Good Faith Efforts to provide meaningful and representative opportunities for M/W/DSBEs in the contract, the following participation ranges have been developed. These participation ranges represent, in the absence of discrimination in the solicitation and selection of M/W/DSBEs, the percentage of MBE, WBE and DSBE participation that is reasonably attainable on this contract through the exercise of Seller's Best and Good Faith Efforts. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category.

Professional services contracts: 25-30% minority and 15-20% women

Construction contracts: 30-35% minority and 15-20% women

B. Employment Goals for Diverse Workforce

The Project Contractor agrees to exhaust its Best and Good Faith Efforts to employ an appropriately diverse workforce which will include minority persons and females at all tiers of employment and management. For this Plan, an appropriately diverse workforce is one which reflects the local availability and historic utilization of Philadelphia residents, and also recognizes underutilization of diverse workers across all trades. The following are expressed as hourly project goals:

- Total minority laborer and skilled workforce hours 45% (African American journeypersons 27%, Hispanic journeypersons 15%, and Asian journeypersons 3%);
- Total minority workforce hours for laborers, 60% and total minority workforce hours for skilled, 40%;
- Total women laborer and skilled workforce hours 5%;
- Total women workforce hours, 5% laborer and 5% skilled.

- Local construction workforce: 50-60%.

III. Project Contractor Responsiveness and Responsibility Relative to Rebuild Goals

A. The Project Contractor agree to Rebuild EOP goals by signing this **Commitment Form**, and shall identify all its M/W/DSBE commitments and evidence its agreement to employ a diverse workforce on the forms entitled, “Project Contract Participation Worksheet” and “Workforce Diversity Goals.” (Attachement I-a, this document)

(i) In support of achieving diverse business inclusion, the Project Contractor will identify its commitments to use M/WBEs on the **Project Contract Participation Worksheet** (excel template provided); the identification of these commitments constitutes a representation by Project Contractor that each M/WBE identified on the form is capable of completing the subcontract with its own workforce, and that the Project Contractor has made or intends to make a legally binding commitment with the firm. Project Contractor is to maintain the M/WBE percentage commitments throughout the term of the contract, which shall apply to the total amount of the contract and any additional increases. (Attachment I-b)

(ii) The Project Contractor shall identify its plan to solicit and maintain a diverse workforce on a weekly basis with the estimated hourly breakout for African American, Hispanic, Asian and Women workers. The plan shall be contained in the Documentation of Best and Good Faith Efforts, **Workforce Diversity Form**. The plan must demonstrate that efforts have been made and are ongoing to meet or exceed the aforementioned Employment Goals. (Attachment I-c)

(iii) In support of Rebuild’s overall goal of a local construction workforce of 50%-60% Philadelphia residents, Project Contractors are strongly encouraged to cause their contractors to hire workers residing in Philadelphia and make commitments with businesses certified as Local Business Enterprises (LBE) under Section 17-109 of The Philadelphia Code or meeting the criteria described in Executive Order 04-12.

IV. Administration of EOPs

A. The City’s Office of Economic Opportunity (OEO) has delegated to the Rebuild Office the responsibility of establishing project participation ranges and evaluating the responsiveness of the Project Contractor’s EOP for compliance with the Rebuild Diversity Goals.

V. Compliance and Monitoring of Best and Good Faith Efforts

A. Rebuild EOP Oversight Committee and Rebuild Monitor.

(i) Members of the Rebuild EOP Oversight Committee will include Councilmembers, City department representatives including the Rebuild Office and the Office of Economic Opportunity, and non-governmental experts in workforce development and development of M/W/DSBEs. The Rebuild EOP Oversight Committee will oversee the performance of the Rebuild Diversity and Inclusion Goals, including reviewing EOPs, reviewing supports provided to M/W/DSBEs and

activities pursuant to the Rebuild Memorandum of Understanding with the Building Trades. The Rebuild EOP Oversight Committee shall meet no less frequently than quarterly.

(ii) The Project Contractor and all subcontractors will give the designated third party monitor (“Rebuild Monitor”) full access to contracts, invoices, job sites and all data requested to evaluate performance as compared to the EOP commitments. The Rebuild Monitor will be empowered to assist consultants and contractors with achieving workforce and contract participation goals as necessary. The Rebuild Monitor will report findings to the Rebuild EOP Oversight Committee.

(iii) The Project Contractor and all subcontractors are required to submit certified payroll records to the Office of Labor Standards through an electronic system, LCP Tracker, on a weekly basis. Compliance with this requirement is a condition of invoice approval and payment. The Office of Labor Standards will be given full access to job sites and all data needed to verify wage compliance and monitor workforce diversity.

(iv) On each contract for Rebuild improvements, when twenty-five percent (25%) of total projected employment hours are complete, and when twenty-five percent (25%) of the total contract value has been expended, the Rebuild Monitor will determine whether the contractor or sub-contractor is on track to meet workforce and contract participation goals. The results of that determination will be shared with the Rebuild office, the district Councilmember, and, if requested, by any member of the Project Review Team.

B. Prompt Payment of M/W/DSBEs

(i) M/W/DSBE(s) are to be paid promptly for work performed satisfactorily under the contract/ subcontract (including the supply of materials). The Project Contractor shall pay subcontractors within 5 business days of receiving payment. Compliance with this requirement is a condition of subsequent invoice approval and payment.

VI. Remedies and Incentives

A. If it is determined by the the City, or the EOP Monitor that the Project Contractor is not on track to meet the workforce and contract participation goals set out in the Project EOP, steps will be taken that include but are not limited to the following:

(i) **Assistance.** The Rebuild Office in cooperation with the Office of Economic Opportunity (OEO) will take steps to assist the Project Contractor in making course corrections. Such steps might include the identification of alternative M/WBEs or alternative ways of packaging contracts. The Project Contractor shall cooperate in these efforts and shall take all steps necessary to correct any deficiencies in compliance with the Project EOP.

(ii) **Written plan.** The Project Contractor shall prepare a written EOP compliance action plan. The plan will be subject to the approval of the Rebuild Office and OEO. District Councilmembers will also be consulted.

(iii) **Withholding payment.** If the Project Contractor fails to take successful or acceptable steps to meet its Project EOP commitments, the Rebuild Office may withhold invoice approvals so that payments to the Project Contractor will be suspended.

(iv) **Work stoppage.** If the Project Contractor fails to take successful or acceptable steps to meet commitments, the Project Contractor may be directed to stop work. The goal of the work stoppage would be to stop using workforce hours and incurring expenses until a viable plan for meeting Project EOP goals can be implemented. It is understood that work stoppages should be avoided if possible because of potential significant negative consequences for all parties.

(v) **Contract termination.** If steps 4. i. through 4. iv. are not successful in addressing compliance, the contract may be suspended, terminated, or rescinded.

(vi) **Disqualification and debarment.** The Rebuild Office may recommend that the Project Contractor be disqualified from bidding on and/ or participating in any future contracts for a maximum period of three (3) years.

B. In the case of falsification of records and minority business fraud, criminal penalties may also apply.

PROJECT CONTRACTOR

Signature and Date

Print Name

Title

Company

