

# **Wisconsin Professional Baseball Park District Diversity Contracting Program**

**Adopted: June 9, 2020**

## **Program Overview**

The Wisconsin Professional Baseball Park District (the “District”) is a special district that is a body corporate and politic, and a local governmental unit, separate and independent of the State of Wisconsin. Under Sec. 229.67, Wis. Stats., the jurisdiction of the District includes Milwaukee, Racine, Waukesha, Washington, and Ozaukee Counties (collectively, the “Jurisdiction”). The following policies and procedures (the “Program”) will be utilized for the inclusion of Diverse Firms in ongoing completion of improvements to the District’s baseball park facilities (“Improvement Projects”), as well as in its needs for professional, administrative and operations services (“Service Projects”) for the District (collectively, the “Operations”).

It is the District’s intent to utilize Contractors reflective of the diversity of its entire Jurisdiction. The District, therefore, notifies all Contractors that no one will be discriminated against in the awarding of any Operations contract on the grounds of sex, race, color, national origin, sexual orientation, religious belief, age, veteran status, marital status, economic status, creed, ethnic identity, gender identity or expression or disability or legally protected status.

While the District has no statutory obligation mandating participation in its Operations contracting, the District’s policy will be to enforce full, good faith compliance with this Program by all Contractors, and to provide Diverse Firms a meaningful opportunity for substantive participation in ongoing District Operations. This Program has been designed to promote and encourage open competition and participation in Operations activities and to enhance opportunities for Diverse Firms to successfully compete in Operations contracting.

It is the intent of this policy to widen opportunities for participation, increase competition, and establish procedures designed to assure Diverse Firms access to information and opportunities available to all Vendors. It is not the policy of the Wisconsin Professional Baseball Park District or its Board of Directors to provide information or other opportunities to Diverse Firms that will not be available to all other business enterprises.

## **Vendor commitments to District**

Vendors shall take all reasonable steps necessary to ensure that Diverse Firms have a full and fair opportunity to compete for the performance of contracts. As a condition of submitting a bid or proposal, each Vendor hereby agrees to:

1. not discriminate against any person or business on the basis of sex, race, color, national origin, sexual orientation, religious belief, age, veteran status, marital status, economic status, creed, ethnic identity, gender identity or expression or disability or legally protected status;
2. ensure that Diverse Firms have fair opportunity to compete for and substantively perform with them in completing contracts;
3. commit best efforts to meet Diverse Firm procurement and contracting goals (inclusive of all accepted alternates, actual allowance values, change orders, modifications and amendments) through Diverse Firms’ participation; and
4. acknowledge that they have not required Diverse Firms to engage in exclusive relationships with them as a condition to their participation in the bid or proposal.

The District places all Vendors on notice that the District will not hire those that engage in restraint of trade or attempts to monopolize utilization of Diverse Firms.

### **Diverse Firm Participation Level Goal**

It is the goal of the District to provide an equal opportunity for Diverse Firms to participate in the performance of contracts. For qualifying Operations, the District will maintain goals that:

- 10% of the aggregated dollar value of Service Projects, and
- 15% of the aggregated dollar value of Improvement Projects contracts awarded on District Operations shall be made to Diverse Firms (collectively, the “Participation Level”).

A Diverse Firm is a firm fulfilling at least one of the following:

- Maintains one or more of the socio-economic status certifications from a federal, state or local government agency or by a third-party certifier (Minority Supplier Diversity Council, National Women Business Owners Corporation, Disability: IN, National LGBT Chamber of Commerce, etc.) including, but not limited to the following:
  - Disabled-Owned Business Enterprise (DOBE)
  - Disadvantaged Business Enterprise (DBE)
  - Lesbian, Gay, Bisexual, Transgender Business Enterprise (LGBTBE)
  - Minority-Owned Business Enterprise (MBE)
  - Service -Disabled Veteran-Owned Small Business (SDVOSB)
  - Small Business Enterprise (SBE)
  - Women-Owned Business Enterprise (WBE)
  - Veteran-Owned Small Business Enterprise (VOSB)
  - Historically Underutilized Business Zone (HUBZone)
  - 8(a) Business Development Program (8(a))
- Maintains a physical business location in an Economically Distressed Community.
- Can produce other documentation verifying it qualifies as a Diverse Firm. This is designed to cover sole proprietorships, small partnerships, closely held corporations and companies that do not have the resources to seek a governmental or third-party certification.

The District and Contractors will use best efforts to utilize Diverse Firms that have provided written evidence confirming their status as a Diverse Firm for their performance of Operations contracts consistent with the District’s Participation Level goals. No credit will be given for the dollar value of materials, equipment, supplies and/or services provided by a Diverse Firm that operates as a pass-through broker. The District reserves the right to set specific Diverse Firm percentage goals for each Operations project bid package, based on availability of Diverse Firms to perform the work necessary for the project.

### **Process**

Reasonable efforts will be made by the District and Vendors to seek out Diverse Firms for the procurement of goods or services and, in particular, Diverse Firms from the Jurisdiction.

### ***Bidding process***

In submitting a bid/proposal, Vendors shall comply with the following submittal requirements. Failure to submit complete information and/or provide documents in accordance with this section shall entitle the District to reject the Vendor’s bid/proposal as non-conforming.

Vendors that are Diverse Firms must submit written evidence confirming their status as a Diverse Firm.

Vendors that are not themselves a Diverse Firm must submit with their bid/proposal to the District a sworn statement committing them to use specific, listed Diverse Firms if their bid is accepted (a “Utilization Plan”). Except in cases where the bidder/proposer has submitted an Exemption Certification in accordance with this Program, the Diverse Firm Utilization Plan must commit to the expenditure of a specific dollar amount or percentage of final contract amount of participation by each such Diverse Firm included in the Utilization Plan.

The Utilization Plan may include a reduction or exemption request, supplying information as required in this Policy.

***Process after the contract is awarded***

Upon approval and award of a contract, the Contractor will maintain the Participation Level approved in its contract, as may be amended from time to time in writing by the District, during Contractor's performance of the Operations work or services.

If the contract includes a Utilization Plan, the Contractor shall prepare and submit to the District a Diverse Firm Utilization Form with each invoice or pay application that includes payment to a Diverse Firm during that billing cycle. Failure to submit the required form to the District may result in delay of payments.

Any changes in the qualifying status of the Diverse Firm under this program shall be reported to the District immediately.

The District shall be entitled to request, and the Contractor will submit to the District, a copy of its executed Diverse Firm subcontract within fifteen (15) days after the District makes a written request.

If, during the performance of an Operations contract, the Contractor is not in compliance with the Participation Level approved in its contract, fails to provide adequate documentation of compliance, or submits any documentation regarding a Diverse Firm that contains false, misleading or fraudulent information, the District may take one or more of the following actions:

1. Withhold payments on the contract and/or pay Contractor's subcontractors directly while withholding overhead and profit of the Contractor.
2. Terminate the Contractor's contract, in whole or in part, for cause.
3. Deny participation on other portions of the Operations and/or in any future contracts awarded by the District.
4. Any other remedy available to the District at law or in equity.

If any document or statement submitted to the District or Contractor by a Diverse Firm contains false, misleading or fraudulent information, the District will require the Contractor to terminate the Diverse Firm and make reasonable efforts to identify and engage a qualified Diverse Firm as its replacement.

**Exemption Certification**

The District and Vendors will make every effort to include as much Diverse Firm participation as possible. However, if any of the following criteria identified below are met, the project/contract dollars or portion of a project/contract dollars will be exempt from Participation Level goals.

1. The procurement of insurance and office necessities, including, but not limited to, software, hardware, and technology, or other services and the payment of government-imposed fees, taxes, and permitting.
2. The procurement of materials, labor, equipment or goods uniquely designed for the needs of the baseball park facility.
3. The cost to utilize a Diverse Firm would be unreasonably higher and financially burdensome.
4. Despite efforts to solicit participation, there was no response from a Diverse Firm capable of supplying the required goods, materials or performing the type of work requested.

If any of the criteria in categories 2 – 4 above are met, the Vendor is responsible for submitting the Exemption Certification form, a Certification of Good Faith Effort and, if requested by the District, supporting documentation which demonstrated the identified Good Faith Efforts attempted. The supporting documentation may include e-mail correspondence, physical correspondence, pre-proposal notices, newspaper advertisements, etc.

demonstrating the lack of response, or detail justifying why the Diverse Firm respondents were not capable of performing the work or that the costs were excessive.

### **Definitions**

In addition to those definitions set forth elsewhere in this document, when used in this Program, the following terms (whether used in singular or plural tense) shall have the meanings identified below:

Bid / Proposal: Offer to provide goods and/or services for a specified price.

Contractor: All construction contractors and Service Providers hired directly by the District for any Improvement Projects and/or any Service Projects related to the Operations.

Economically Distressed Community: A geographic area within an “At Risk” or “Distressed” zip code as identified by the Distressed Communities Index (DCI) or an equivalent database.

Participation Levels: The percentage level goals for aggregate participation of Diverse Firms established within this Program.

Reasonable efforts/ good faith efforts: All commercially reasonable efforts necessary and practicable to increase the opportunities available in order to meet the applicable Diverse Firm Participation Levels.

Service Provider: Any architect, engineer, surveyor, environmental analyst, developer, legal, accounting and audit, marketing/public communications or other professional service consultant, including District management and administrative staff, retained to perform services related to the Operations.

Vendor: A person or company offering the District a good and/or service for sale.

### **Forms**

- Diverse Firm Utilization Plan (submitted with Vendor Bid/Proposal)
- Diverse Firm Utilization Form (submitted with Contractor invoices or pay applications)
- Exemption Certification (submitted with Vendor Bid/Proposal, if necessary)
- Certification of Good Faith Effort (submitted with Vendor Bid/Proposal, if necessary)

## Wisconsin Professional Baseball Park District Diverse Firm Utilization Plan

**Purpose:** Please complete this form and return with your bid/proposal. Complete a section for each Diverse Firm anticipated to contribute to the project.

Diverse Firm Name		Contact Name	
Diverse Firm Address			
Total Amount to be Paid to Diverse Firm		<b>OR</b>	Percentage of dollars to be Paid to Diverse Firm
Brief description of work to be performed by the Diverse Firm			

Diverse Firm Name		Contact Name	
Diverse Firm Address			
Total Amount to be Paid to Diverse Firm		<b>OR</b>	Percentage of dollars to be Paid to Diverse Firm
Brief description of work to be performed by the Diverse Firm			

Diverse Firm Name		Contact Name	
Diverse Firm Address			
Total Amount to be Paid to Diverse Firm		<b>OR</b>	Percentage of dollars to be Paid to Diverse Firm
Brief description of work to be performed by the Diverse Firm			

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Date

## Wisconsin Professional Baseball Park District Diverse Firm Utilization Form

**Purpose:** When a contract includes a Diverse Firm Utilization Plan, the Contractor shall prepare and submit to the District a Diverse Firm Utilization Form with each invoice or pay application that includes payment to a Diverse Firm during that billing cycle. For questions, please contact Lisa Wozny at (414) 902-4043 or lwozny@wibaseballdistrict.com.

<b>Company Name</b>	
<b>P.O. #</b>	

Diverse Firm Name	
Services provided by Diverse Firm	
Amount Paid to Diverse Firm	

Diverse Firm Name	
Services provided by Diverse Firm	
Amount Paid to Diverse Firm	

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Date

## Wisconsin Professional Baseball Park District Exemption Certification

To request an exemption, please initial and date the box to the left of the applicable category, identify the qualifying whole project or phase of project, and record the dollar amount associated with each applicable section.

Please submit a "Certification of Good Faith Effort" form, if the cost to utilize a Diverse Firm would be unreasonably higher, there were no Diverse Firms which responded, or there were Diverse Firms which responded but were not capable of performing the work requested.

<input style="width: 40px; height: 40px;" type="checkbox"/>	<b>Category 2</b>	<b>Identify whole project or applicable portion of project.</b>	<b>Dollar Amount</b>
	Materials, labor, equipment or specialized goods unique for the needs of the baseball park facility.	<input type="checkbox"/> Entire project.	
		<input type="checkbox"/> Portion(s) of project Description:	
		<input type="checkbox"/> Portion(s) of project Description:	
		<input type="checkbox"/> Portion(s) of project Description:	
		<input type="checkbox"/> Portion(s) of project Description:	

**FOR CATEGORIES 3 – 4 PLEASE SUBMIT CERTIFICATION OF GOOD FAITH EFFORT.**

<input style="width: 40px; height: 40px;" type="checkbox"/>	<b>Category 3</b>	The cost to utilize a Diverse Firm would be unreasonably higher and financially burdensome.
<input style="width: 40px; height: 40px;" type="checkbox"/>	<b>Category 4</b>	Despite efforts to solicit participation, there was no response from a Diverse Firm capable of supplying the required goods, materials or performing the type of work requested.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Date

## Wisconsin Professional Baseball Park District Certification of Good Faith Effort

By submitting the signed, the Vendor certifies that the Vendor took the following steps to attempt to obtain sufficient Diverse Firm participation to achieve the Participation Level goals.

Upon request, the Vendor shall also submit documentation which demonstrates the identified Good Faith Efforts attempted. Documentation includes, but is not limited to, e-mail correspondence, physical correspondence, pre-proposal notices, newspaper advertisements, etc.

Initial and date the box to the right of each effort that was undertaken.

Good Faith Efforts	Initial
Delivered written notice of subcontracting opportunities on eligible contracts to the appropriate and industry-specific Diverse Firms.	
Utilized local or targeted newspapers, periodicals and diverse firm focused associations and websites for notice purposes regarding subcontracting opportunities.	
Responded to requests for information from Diverse Firms regarding the bid / proposal.	
Divided tasks within the eligible contract, in accordance with normal industry practice, into small, economically feasible segments that can be performed by Diverse Firms.	
Developed internal management policies and procedures within the company that are designed to assist in achieving Diverse Firm participation on contracts.	
Attempted to negotiate, in good faith, with a Diverse Firm to provide goods or services related to this contracting opportunity.	
Documented and maintained accurate and accessible records of such Good Faith Efforts to utilize Diverse Firms.	
Ensured that written notices contain the following:	
<ul style="list-style-type: none"> <li>• adequate information about the plans, specifications, and relevant terms and conditions of the contract and about the work to be subcontracted to, or the goods to be obtained from, subcontractors and suppliers;</li> <li>• a contact person with the proposer's office to answer questions;</li> <li>• information regarding the proposer's bonding and insurance requirements; and</li> <li>• the last date for receipt by the proposer of Diverse Firm price quotations.</li> </ul>	
OTHER:	

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Date