

**Small Diverse Business (SDB) Participation Summary Sheet**

Solicitation/Project #: **OGC-2022-07**

Issuing Agency: **Department of General Services on behalf of the PA Insurance Department**

Name of Procurement/Project: **Mcare Section 715 Defense Counsel RFP**

SDB Participation Goal (for MBE, WBE, LGBTBE, DOBE, and SDVBE): **5%**

---

**Attachments:**

- SDB-1 Instructions for completing SDB Participation Submittal and SDB Utilization Schedule
- SDB-2 SDB Participation Submittal
- SDB-3 SDB Utilization Schedule
- SDB-3.1 SDB Letter of Commitment
- SDB-4 Guidance for Documenting Good Faith Efforts to meet the SDB Participation goal
- SDB-5 Good Faith Efforts Documentation to Support Waiver Request of SDB Participation Goal

**SDB-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)  
PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

*PLEASE READ BEFORE COMPLETING THESE DOCUMENTS*  
*Bidders/Offerors do not need to return SDB-1 with their SDB Participation Submittal*

The following instructions include details for completing the SDB Participation Submittal (SDB-2) which Bidders or Offerors must submit in order to be considered responsive.

The following instructions also include details for completing the SDB Utilization Schedule (SDB-3), which Bidders or Offerors must submit for any portion of the SDB participation goal the Bidder or Offeror commits to meeting.

**A Bidder/Offeror's failure to meet the SDB participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the SDB participation goal will result in the rejection of the Bid or Proposal as nonresponsive.**

I. **SDB Participation Goal:** The SDB participation goal is set forth in the **Solicitation**. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the SDB classifications to meet the SDB participation goal.

II. **SDB Eligibility:**

1. **Finding SDB firms:** Offerors can access the directory of **DGS-verified** SDB firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
2. **Only SDBs verified by DGS** and as defined herein may be counted for purposes of achieving the SDB participation goal. In order to be counted for purposes of achieving the SDB participation goal, the SDB firm, including an SDB prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the SDB Utilization Schedule (SDB-3).** A firm whose SDB verification is pending or incomplete as of the bid or proposal due date and time shall not be counted towards the SDB participation goal. Offerors cannot use self-certified SBs that do not have their SDB verification as of the bid or proposal due date and time to meet the SDB participation goal.
3. **SDB Requirements:** To be considered an SDB, a firm must be a **DGS-verified** small minority business enterprise (MBE); woman business enterprise (WBE); LGBT business enterprise (LGBTBE); Disability-owned business enterprise (DOBE); Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE); or otherwise deemed disadvantaged by the Uniform Certification Program.

Additional information on the DGS verification process can be found at:  
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

## SDB-1

### INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.

4. Dually verified firms. If a DGS-verified SDB is dually verified as a VBE, the firm may receive credit towards both the SDB participation goal and the VBE participation goal as set forth on the SDB and VBE Participation Summary Sheet.

*Example: The SDB participation goal is 10% and the VBE participation goal is 5%. A subcontractor is DGS-verified as both an SDB and a VBE and will perform 10% of the contract work. The prime contractor can satisfy both the SDB participation goal and the VBE participation goal through that subcontractor's performance of 10% of the contract work., unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office. However, an SDB firm verified as both a WBE and MBE may not be double counted toward satisfying the SDB participation goal.*

5. Participation by SDB firms as prime bidders/offerors or subcontractors. A Bidder/Offeror that qualifies as an SDB and submits a bid or proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Bidders/Offerors. An SDB may be included as a subcontractor with as many prime contractors as it chooses in separate bids or proposals and a prime contractor may not prohibit an SDB from committing to any other prime contractor.
6. Questions about SDB verification. Questions regarding the SDB program, including questions about the self-certification and verification processes can be directed to:

Department of General Services  
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 783-3119  
Fax: (717) 787-7052  
Email: [RA-BDISBOVerification@pa.gov](mailto:RA-BDISBOVerification@pa.gov)  
Website: [www.dgs.pa.gov](http://www.dgs.pa.gov)

### III. Guidelines Regarding SDB Prime Self-Performance.

1. An SDB firm participating as a prime bidder or offeror on a procurement may receive credit towards the SDB Participation goal established for the procurement through their own self-performance.

*Example: A solicitation has a 15% SDB participation goal. An SDB prime offeror self-performing contract work valued at only 10% of contract costs (if permitted by the solicitation documents) must still satisfy the remaining 5% SDB participation goal through subcontracting or must request a Good Faith Efforts Waiver for the unmet SDB participation goal. Failure to satisfy the remaining 5% SDB participation goal or failure to obtain a Good Faith Efforts waiver for the*

## **SDB-1**

### **INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

*unmet portion of the SDB participation goal will result in rejection of that SDB prime's bid or proposal as nonresponsive.*

2. For an SDB prime bidder or offeror to receive credit for self-performance, the SDB prime bidder or offeror must list itself in the **SDB Utilization Schedule (SDB-3)**.
3. The SDB prime bidder or offeror must also include the classification category (MBE, WBE, LGBTBE, DOBE, and/or SDVBE) under which it is self-performing and include information regarding the work it will self-perform. For any portion of the SDB participation goal not met through the SDB prime bidder or offeror's self-performance, the SDB bidder or offeror must also identify on the **SDB Utilization Schedule (SDB-3)** the other SDB subcontractors it will use to meet the unmet portion of the goal or must request and receive a Good Faith Efforts waiver.

#### **IV. Calculating SDB participation**

1. The selected Bidder or Offeror may only count dollar amounts actually paid to an SDB for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its SDB participation commitments. In addition, the SDB subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

#### **V. Additional Required Documentation.**

1. The Bidder or Offeror must submit along with its SDB Participation Submittal (SDB-2) a letter of commitment (LOC) (SDB-3-1) for each subcontractor included in its SDB Utilization Schedule (SDB-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
  - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the SDB; and
  - b. A description of the services or supplies the SDB will provide; and
  - c. The timeframe during the initial contract term and any extensions, options and renewals when the SDB will perform or provide the services and/or supplies; and
  - d. The name and telephone number of the Bidder or Offeror's point of contact for SDB participation; and
  - e. The name, address, and telephone number of the primary contact person for the SDB; and
  - f. Signatures of representatives of both the Bidder/Offeror and the SDB subcontractor who are authorized to contractually bind their firm.

**SDB-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)  
PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

**VI. Document Submittal Errors.**

1. **Fatal errors.** The following errors will result in rejection of a bid or proposal as non-responsive:
  - a. Failure to submit a completed **SDB Participation Submittal (SDB-2)**;
  - b. Failure to submit an **SDB Utilization Schedule (SDB-3)**, unless the bidder or offer is seeking a complete Good Faith Efforts waiver;
  - c. Failure to make commitments to and list **DGS-verified** SDBs that will be used to meet the SDB participation goal, unless the bidder or offeror's commitments to other DGS-verified SDBs meet or exceed the SDB Participation goal;
  - d. Failure to submit a Good Faith Efforts waiver request when not fully meeting the SDB participation goal.

*Example: A bidder/offeror lists a subcontractor that possesses a third-party certificate issued by one of the DGS-approved third party certifying entities; however, the subcontractor did not complete its DGS SDB verification as of the bid or proposal due date and time. The bidder/offeror does not receive credit for any commitments made to the subcontractor and has therefore not met the SDB participation goal. The bidder/offeror cannot cure this error. Therefore, the bid or proposal must be rejected as non-responsive.*

2. **Potentially curable errors.** The Issuing Office and BDISBO may provide Bidders or Offerors the opportunity to provide clarifications or to correct errors not listed as fatal errors above. If the additionally submitted information does not adequately address the or clarify the submittal, the bid or proposal may be rejected. **Bidders or Offerors are not permitted to add additional SDBs or make material changes as part of its clarifications or corrections in order to meet the SDB participation goal.**
3. **Solicitations with Multiple Lots or Base Bids.** If the Bid or Proposal contains separate Lots or multiple Base Bids, an Offeror must complete and submit a separate **SDB Participation Submittal (SDB-2)** and accompanying required documentation for EACH Lot or Base Bid for which it is submitting a bid or proposal. Each separate **SDB Participation Submittal** and accompanying required documentation must be labeled to identify the corresponding Lot or Base Bid. Failure to submit an **SDB Participation Submittal** and accompanying required documentation for each Lot or Base Bid will result in the rejection of the bid or proposal for each Lot or Base Bid for which an **SDB Participation Submittal** was not submitted.

**SDB-2**  
**SDB PARTICIPATION SUBMITTAL**

**CHECK ONE, AND ONLY ONE, BOX. FAILURE TO COMPLY WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.**

*Click on bold titles to navigate to that specific page.*

**I agree to meet the SDB participation goal in full.**

I have completed and am submitting with my bid or proposal an **SDB Utilization Schedule (SDB-3)**, which is required in order to be considered for award.

**I am requesting a partial waiver of the SDB participation goal.**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve the total SDB participation goal for this solicitation and am requesting a partial waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:

1. an **SDB Utilization Schedule (SDB-3)** for that portion of the SDB participation goal that I will meet; AND
2. a **Good Faith Efforts Waiver Request** for the portion of the SDB participation goals that I am unable to meet.

**I am requesting a full waiver of the SDB participation goal**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve any part of the SDB participation goal for this solicitation and am requesting a full waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal a **Good Faith Efforts Waiver Request** for the complete SDB participation goal, which is required in order to be considered for award.

NOTE: SDB primes who are submitting as bidders or offerors must complete an **SDB Utilization Schedule (SDB-3)** identifying any self-performance towards the SDB participation goal.

**SDB-3**  
**SDB UTILIZATION SCHEDULE**

List in the chart below SDBs (including where applicable a prime bidder or offeror is self-performing a portion of the work) that will be used to meet the SDB participation goal (add additional pages if necessary). Submit a **Letter of Commitment (SDB-3-1)** for each SDB subcontractor (add additional Letters of Commitment as necessary).

| SDB Name<br>SAP Vendor Number<br>(6-digit number provided by SDB)<br>SDB Verification Number<br>(located on DGS SDB verification) | Type of SDB<br>(check all that apply)  | Description of Work to be Performed<br>(Statement of Work/Specification reference) | % Commitment<br>(or % of work to be self-performed by SDB bidder/offeror) | Associated Dollar Value of Commitment |
|---|--|--|---|---------------------------------------|
| Name: <u>ABC IT Solutions</u><br>SAP Vendor Number: <u>123456</u><br>SDB Verification Number: <u>123456-2016-09-SB-M</u>          | MBE  | IT staffing resources  | %   | \$                                    |
| Name:<br>SAP Vendor Number:<br>SDB Verification Number:   | <input type="checkbox"/> MBE<br><input type="checkbox"/> WBE<br><input type="checkbox"/> LGBTBE<br><input type="checkbox"/> DOBE<br><input type="checkbox"/> SDVBE |  | %   |                                       |
| Name:<br>SAP Vendor Number:<br>SDB Verification Number:   | <input type="checkbox"/> MBE<br><input type="checkbox"/> WBE<br><input type="checkbox"/> LGBTBE<br><input type="checkbox"/> DOBE<br><input type="checkbox"/> SDVBE |  | %   |                                       |
| Name:<br>SAP Vendor Number:<br>SDB Verification Number:   | <input type="checkbox"/> MBE<br><input type="checkbox"/> WBE<br><input type="checkbox"/> LGBTBE<br><input type="checkbox"/> DOBE<br><input type="checkbox"/> SDVBE |  | %   |                                       |
| Name:<br>SAP Vendor Number:<br>SDB Verification Number:   | <input type="checkbox"/> MBE<br><input type="checkbox"/> WBE<br><input type="checkbox"/> LGBTBE<br><input type="checkbox"/> DOBE<br><input type="checkbox"/> SDVBE |  | %   |                                       |
| <b>Attach additional sheets if necessary</b>  |  |  | Total % SDB<br>commitment: _____  | Total \$ amount:<br>_____             |

**SDB-3-1  
LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Bidder or Offeror to utilize the Small Diverse Business (SDB) on the below-referenced Solicitation/Project.

Solicitation Number: \_\_\_\_\_

Solicitation Name: \_\_\_\_\_

|                  | Bidder/Offeror Information | SDB Information |
|------------------|----------------------------|-----------------|
| Name             |                            |                 |
| Address          |                            |                 |
| Point of Contact |                            |                 |
| Telephone number |                            |                 |
| Email address    |                            |                 |

Services/Supplies and Time Frame. If Bidder/Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the SDB will provide:

Specific Time Frame the SDB will provide the services or supplies:

Percentage Commitment. These services or supplies represent \_\_\_\_\_% of the total cost of the Bidder/Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the SDB will receive \$\_\_\_\_\_ during the initial contract term.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Bidder/Offeror for its SDB submission.

Sincerely,

Acknowledged

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature  
Bidder/Offeror Point of Contact Name

\_\_\_\_\_  
Signature  
SDB Point of Contact Name

*\* For purposes of monitoring compliance with SDB and VBE commitments, the work performed by a firm that is both an SDB and a VBE will be counted by BDISBO towards fulfilling both the SDB and VBE commitments unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*



**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

*Bidders/Offerors do not need to return SDB-4 with their SDB Participation Submittal*

In order for its bid or proposal to be responsive, the Bidder or Offeror must either (1) meet the SDB participation goal and document its commitments for participation of SDB firms, or (2) when it does not meet the SDB participation goal, submit a Good Faith Efforts waiver request as set forth in Section IV below and the **Good Faith Efforts Documentation to Support Waiver Request (SDB-5)** of the SDB Participation Goal.

## **I. Definitions**

**SDB participation goal** – “SDB participation goal” refers to the SDB participation goal set for a procurement for MBE, WBE, LGBTBE, DOBE, and SDVBE utilization.

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the SDB participation goal. Those steps are considered necessary and reasonable when their scope, intensity, and relevance could reasonably be expected to obtain sufficient SDB participation, even if those steps were not fully successful. The Issuing Agency and Department of General Services’ Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) will determine whether or not the Offeror requesting a Good Faith Efforts waiver made adequate Good Faith Efforts by considering the quality, quantity, and intensity of the Offeror’s efforts. Mere *pro forma* efforts are not Good Faith Efforts to meet the SDB participation requirements. The determination concerning the sufficiency of the Offeror's Good Faith Efforts is subjective; meeting quantitative formulas is not required.

**Identified Items of Work** – all reasonably identifiable subcontractable work opportunities under a resulting contract for performance by subcontractors.

**Identified SDBs**– all of the SDBs the Offeror has identified as available to perform the Identified Items of Work and should include all DGS-verified SDBs that are reasonably identifiable.

**Offeror** – for purposes of this **Good Faith Efforts Documentation to Support Waiver Request**, the term “Offeror” includes any entity responding to a solicitation, including invitations for bids, requests for proposals, and other types of best value solicitations.

**SDB** – “SDB” refers to Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Disability-Owned Business Enterprises (DOBE), LGBT-Owned Business Enterprises (LGBTBE), Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE) verified by BDISBO, or otherwise deemed disadvantaged by the Uniform Certification Program.

## **II. Types of Actions Agency and BDISBO will Consider**

The following is a list of types of actions the procuring agency and BDISBO will consider as part of the Offeror's Good Faith Efforts when the Offeror is unable to meet, in full, the SDB

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

participation goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Proposal Items as Work for SDBs**

1. Identified Items of Work

- (a) Offerors should reasonably identify sufficient items of work to be performed by SDBs.
- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate SDB participation, rather than perform these work items with their own forces. **The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the SDB participation goal.**

**B. Identify SDBs to Solicit**

1. Identified SDBs

- (a) Offerors must reasonably identify the SDBs that are available to perform the Identified Items of Work.
- (b) Any SDBs identified as available by the Offeror should be certified to perform the Identified Items of Work.

**C. Solicit SDBs**

- 1. Offerors must solicit a reasonable number of identified SDBs for all Identified Items of Work by providing written notice. The Offeror must:
  - (a) provide the written solicitation to the Identified SDBs at least 10 days prior to Bid or Proposal due date to allow sufficient time for the Identified SDB to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the BDISBO Directory, unless the Offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the Identified SDB, and other requirements of the contract to assist Identified SDBs in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

## SDB-4

### GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL

2. “All” Identified SDBs includes any SDB Firms the Offeror identifies as potentially available to perform the Identified Items of Work, but it does not include Identified SDBs who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested SDB cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested SDB.
4. Offerors must follow up on initial written solicitations by contacting Identified SDBs to determine their interest in bidding. The follow up contact may be made:
  - (a) by telephone using the contact information in BDISBO’s Directory, unless the Offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, offerors must use all other reasonable and available means to solicit the interest of Identified SDBs certified to perform the work of the contract. Examples of other means include:
  - (a) attending any Supplier Forums, or Pre-Proposal or Pre-Bid conferences at which SDBs could be informed of contracting and subcontracting opportunities; and
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two diversity-focused entities or media, including trade associations, minority/women/disability/LGBT community organizations, minority/women/disability/LGBT contractors' groups, and local, state, and federal minority/women/disability/LGBT business assistance offices.

#### **D. Negotiate with Interested SDBs**

Offerors must negotiate in good faith with interested SDBs.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of SDBs that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

- (c) evidence as to why additional agreements could not be reached for SDBs to perform the work.
2. In negotiating with subcontractors, the offeror should consider a subcontractor's price and capabilities as well as the SDB participation goal.
  3. Additional costs incurred in finding and using SDBs are not sufficient justification for the Offeror's failure to meet the SDB participation goal, as long as such costs are reasonable. Factors to take into consideration when determining whether an SDB's quote is excessive or unreasonable include, without limitation, the following:
    - (a) dollar difference between the SDB subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (b) percentage difference between the SDB subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (c) percentage that the SDB subcontractor's quote represents of the total contract cost;
    - (d) whether the work described in the SDB and Non-SDB subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
    - (e) number of quotes received by the Offeror for that portion of the work.
  4. The factors in paragraph 3 above are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
  5. The Offeror may not use its price for self-performing work as a basis for rejecting an SDB's quote as excessive or unreasonable.
  6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an SDB and one quote from a non-SDB.
  7. The Offeror shall not reject an SDB as unqualified without sound justification based on a thorough investigation of the SDB's capabilities. For each SDB that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement outlining the justification for its conclusion. The Offeror also must document the steps taken to verify the capabilities of the SDB and non-SDB Firms quoting similar work.

## **SDB-4**

### **GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

- (a) The factors to take into consideration when assessing the capabilities of an SDB include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
  
- (b) The SDB's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the SDB participation goal.

#### **E. Assisting Interested SDBs**

When appropriate under the circumstances, the procuring agency and BDISBO will consider whether the Offeror made reasonable efforts to assist interested SDBs in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
  
2. Necessary equipment, supplies, materials, or related assistance or services.

#### **III. Other Considerations**

In making a determination of Good Faith Efforts, the procuring agency and BDISBO may consider engineering estimates, catalogue prices, general market availability and availability of certified SDBs in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between SDB and non-SDB costs of participation, and their impact on the overall cost of the contract to the Commonwealth and any other relevant factors.

The procuring agency and BDISBO may consider whether the Offeror decided to self-perform potentially subcontractable work with its own forces. The procuring agency and BDISBO also may consider the performance of other Offerors in meeting the SDB participation goal. For example, when the apparent successful Offeror fails to meet the SDB participation goal, but others meet it, this raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the SDB participation goal. If the apparent successful Offeror fails to meet the SDB participation goal but meets or exceeds the average SDB participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

#### **IV. Documenting Good Faith Efforts**

At a minimum, the Offeror seeking a Good Faith Efforts waiver of the SDB participation goal or a portion thereof must provide written documentation of its Good Faith Efforts along with its bid or proposal. The written documentation shall include the following:

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

**A. Items of Work (complete SDB-5, Part 1 – Identified Items of Work Offeror Made Available to SDBs)**

A detailed statement of the efforts made to select portions of the contract work proposed to be performed by SDBs in order to increase the likelihood of achieving the SDB participation goal.

**B. Outreach/Solicitation/Negotiation**

1. A detailed statement of the efforts made to contact and negotiate with SDBs including:
  - (a) the names, addresses, and telephone numbers of the SDBs who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(complete SDB-5, Part 2 – Identified SDB Firms and Records of Solicitations. Include letters, fax cover sheets, e-mails, etc. documenting solicitations);** and
  - (b) a description of the information provided to SDBs regarding the plans, specifications, and anticipated time schedule for portions of the contract work to be performed and the means used to provide that information.
2. The record of the Offeror's compliance with the outreach efforts set forth in **SDB-5, Part 3 - Outreach Efforts Compliance Statement.**

**C. Rejected SDBs (complete SDB-5, Part 4 - Additional Information Regarding Rejected SDB Quotes)**

1. For each SDB that the Offeror concludes is not acceptable or qualified, provide a detailed statement of the reasons for this conclusion, including the steps taken to verify the capabilities of the SDB and non-SDB firms quoting similar work.
2. For each SDB that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all SDB and non-SDB firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

**D. Unavailable SDBs (complete SDB-5, Part 5 – SDB Subcontractor Unavailability Certificate)**

1. **For each SDB that the Offeror contacted but found to be unavailable, submit an SDB Subcontractor Unavailability Certificate** signed by the SDB, an email from the SDB indicating the SDB is unavailable, or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

**E. Other Documentation**

1. Submit any other documentation requested by BDISBO or the Procuring Agency to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help BDISBO or the Procuring Agency ascertain its Good Faith Efforts.

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

|  |  |
|--|--|
| <b>Project Description:</b>            |  |
| <b>Commonwealth Agency Name:</b>       |  |
| <b>Solicitation #:</b>                 |  |
| <b>Solicitation Due Date and Time:</b> |  |

|                                      |  |
|--------------------------------------|--|
| <b>Bidder/Offeror Company Name:</b>  |  |
| Bidder/Offeror Contact Name:         |  |
| Bidder/Offeror Contact Email:        |  |
| Bidder/Offeror Contact Phone Number: |  |

**Part 1 – Identified Items of Work Offeror Made Available to SDBs**

Identify those items of contract work that the Offeror made available to SDBs. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the SDB participation. For each item listed, show the anticipated percentage of the total contract cost. Offeror must demonstrate that enough work to meet the SDB participation goal was made available to SDBs, and the total percentage of the items of work identified for SDB participation met or exceeded the SDB participation goal set for the procurement.

| Identified Items of Work | Was this work listed in the solicitation?                   | Does Offeror normally self-perform this work?               | Was this work made available to SDB Firms? If not, explain why. |
|--------------------------|---|---|---|
|                          | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no     |
|                          | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no     |
|                          | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no     |
|                          | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no     |
|                          | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no     |

Attach additional sheets if necessary.



**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

**Part 2 – Identified SDBs and Record of Solicitations**

Identify the SDBs solicited to provide quotes for the Identified Items of Work made available for SDB participation. Include the name of the SDB solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the SDB provided a quote, and whether the SDB is being used toward meeting the SDB participation goal. SDBs used to meet the SDB participation goal must be listed on the **SDB Utilization Schedule (SDB-2)**.

Note: Copies of all written solicitations and documentation of follow-up calls to SDBs must be attached to this form. For each Identified SDB listed below, Offeror should submit an SDB Subcontractor Unavailability Certificate signed by the SDB or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

| Name of Identified SDB and Classification   | Describe Item of Work Solicited | Initial Solicitation Date & Method   | Follow-up Solicitation Date & Method   | Details for Follow-up Calls                                    | Quote Received?   | Quote Used?   | Reason Quote Rejected  |
|---|---------------------------------|--|--|--|---|---|--|
| SDB Name:<br><br><input type="checkbox"/> MBE<br><input type="checkbox"/> WBE<br><input type="checkbox"/> LGBTBE<br><input type="checkbox"/> DOBE<br><input type="checkbox"/> SDVBE |                                 | Date:<br><br><input type="checkbox"/> mail<br><input type="checkbox"/> email<br><input type="checkbox"/> fax | Date:<br><br><input type="checkbox"/> mail<br><input type="checkbox"/> email<br><input type="checkbox"/> fax | Date and Time of Call:<br><br>Spoke with:<br><br>Left Message: | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> Used other SDB<br><input type="checkbox"/> Used non-SDB<br><input type="checkbox"/> Self performing |
| SDB Name:<br><br><input type="checkbox"/> MBE<br><input type="checkbox"/> WBE<br><input type="checkbox"/> LGBTBE<br><input type="checkbox"/> DOBE<br><input type="checkbox"/> SDVBE |                                 | Date:<br><br><input type="checkbox"/> mail<br><input type="checkbox"/> email<br><input type="checkbox"/> fax | Date:<br><br><input type="checkbox"/> mail<br><input type="checkbox"/> email<br><input type="checkbox"/> fax | Date and Time of Call:<br><br>Spoke with:<br><br>Left Message: | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> yes<br><input type="checkbox"/> no | <input type="checkbox"/> Used other SDB<br><input type="checkbox"/> Used non-SDB<br><input type="checkbox"/> Self performing |

Attach additional sheets as necessary.

**SDB-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**SDB PARTICIPATION GOAL**

**Part 3 – SDB Outreach Compliance Statement**

- 1. List the Identified Items of Work for subcontracting opportunities for the solicitation along with specific work categories:**

- 2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified SDBs for these subcontract opportunities.**

- 3. Offeror made the following attempts to contact the Identified SDBs:**

- 4. Bonding Requirements (Please Check One):**

\_\_\_\_\_ This project does not involve bonding requirements.

\_\_\_\_\_ Offeror assisted Identified SDBs to fulfill or seek waiver of bonding requirements.  
(DESCRIBE EFFORTS):

- 5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):**

\_\_\_\_\_ Offeror did attend the pre-Bid/Proposal conference or Supplier Forum

\_\_\_\_\_ No pre-Bid/Proposal conference or Supplier Forum was held

\_\_\_\_\_ Offeror did not attend the pre-Bid/Proposal conference or Supplier Forum

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

**Part 4 – Additional Information Regarding Rejected SDB Quotes**

This form must be completed if Part 2 indicates that an SDB quote was rejected because the Offeror is using a non-SDB or is self-performing the Identified Items of Work. List the Identified Items of Work, state whether the work will be self-performed or performed by a non-SDB, and if applicable, state the name of the non-SDB firm. Also include the names of all SDBs and non-SDB firms that provided a quote and the amount of each quote.

| <b>Describe Identified Items of Work not being performed by SDBs (include specific section from bid or proposal)</b> | <b>Self-performing or using non-SDB (provide name of non-SDB if applicable)</b>             | <b>Amount of non-SDB quote \$</b> | <b>Name of other firms that provided quotes and whether they are SDB</b>  | <b>Amount quoted \$</b> | <b>Reason why SDB quote was rejected along with brief explanation</b>                                     |
|--|---|-----------------------------------|---|-------------------------|---|
|  | <input type="checkbox"/> self-performing<br><input type="checkbox"/> using Non-SDB<br>Name: |                                   | <input type="checkbox"/> SDB<br><input type="checkbox"/> Non-SDB<br>Name: |                         | <input type="checkbox"/> price<br><input type="checkbox"/> capabilities<br><input type="checkbox"/> other |
|  | <input type="checkbox"/> self-performing<br><input type="checkbox"/> using Non-SDB<br>Name: |                                   | <input type="checkbox"/> SDB<br><input type="checkbox"/> Non-SDB<br>Name: |                         | <input type="checkbox"/> price<br><input type="checkbox"/> capabilities<br><input type="checkbox"/> other |
|  | <input type="checkbox"/> self-performing<br><input type="checkbox"/> using Non-SDB<br>Name: |                                   | <input type="checkbox"/> SDB<br><input type="checkbox"/> Non-SDB<br>Name: |                         | <input type="checkbox"/> price<br><input type="checkbox"/> capabilities<br><input type="checkbox"/> other |
|  | <input type="checkbox"/> self-performing<br><input type="checkbox"/> using Non-SDB<br>Name: |                                   | <input type="checkbox"/> SDB<br><input type="checkbox"/> Non-SDB<br>Name: |                         | <input type="checkbox"/> price<br><input type="checkbox"/> capabilities<br><input type="checkbox"/> other |
|  | <input type="checkbox"/> self-performing<br><input type="checkbox"/> using Non-SDB<br>Name: |                                   | <input type="checkbox"/> SDB<br><input type="checkbox"/> Non-SDB<br>Name: |                         | <input type="checkbox"/> price<br><input type="checkbox"/> capabilities<br><input type="checkbox"/> other |

Attach additional sheets as necessary.

**SDB-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**SDB PARTICIPATION GOAL**

**Part 5 – SDB Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of SDB)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (SDB), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
(Signature of SDB's Representative) (Title) (Date)

\_\_\_\_\_  
(DGS SDB Certification #) (Telephone #)

\*\*\*\*\*

3. If the SDB does not complete this form, the prime contractor must complete the following:

To the best of my knowledge and belief, the above-listed SDB is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Bidder/Offeror) (Title) (Date)