**PN 022 – 04/15/2013 - ENCOURAGING DIVERSITY, GROWTH AND EQUITY (EDGE) REQUIREMENTS**

Pursuant to Ohio Revised Code 123.152, the percentage indicated on the front cover of this bid is the percent of the awarded Contractor's bid. The percentage goal may be met if the Contractor is EDGE certified or by subcontracting to certified EDGE firms. EDGE certified firms are those who have been certified by the Ohio Department of Administrative Services. If not EDGE certified, the Contractor must use its best efforts to solicit quotes from and to utilize EDGE subcontractors/suppliers on this project.

**WAIVER PROCESS FOR EDGE GOAL**

If not EDGE certified, the Contractor must document the progress and efforts made in securing the services of EDGE subcontractors/suppliers. In the event the Contractor is unable to meet the EDGE Goal placed on this project, a request for a waiver of all or part of the goal may be made to the DBE Services Section. The written request must include all signed and dated purchase orders and subcontract agreements for any goal attainment achieved and indicate a good faith effort was made to meet the goal and be sent to the DBE Services Section, Division of Construction Management, 1980 West Broad Street, Mail Stop 4110, Columbus, Ohio, 43223. There will be no extension of time for the project granted if the Contractor wishes to avail itself of this process. If an item of work subcontracted to an EDGE firm is non-performed by the Department or the subject of an approved VECP, the Contractor may request a waiver for the portion of work excluded.

The Department shall consider the following information and documentation when a request for an EDGE goal waiver is received:

1. Dollar value and % of EDGE goal. Dollar value and % of waiver request.

2. Signed copy of each subcontract or purchase order agreement between the prime and EDGE subcontractor/supplier utilized in meeting the contract goal.

3. Copy of dated written communication, fax confirmation, personal contact, follow up and negotiation with the EDGE firm.

4. Copy of dated written communication and/or fax confirmation that bidder solicited and provided EDGE with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.

5. Copy of dated written communication and/ or fax confirmation of each noncompetitive EDGE quote that includes the dollar value of each reference item and work type.

6. Copy of dated written communication and/ or dated fax confirmation of EDGE firms that were not interested in providing a quote for the project.

7. All solicitations made by the Contractor for subcontracting opportunities and EDGE quotes through SBN.

8. Documentation of all negotiating efforts and reason for rejecting quotes from EDGE firms.

9. Documentation of good faith efforts (GFE) to meet the EDGE subcontract goal, by looking beyond the items typically subcontract or consideration of subcontracting items normally performed by the prime as a way to meet the EDGE goal.

The Administrator will review the submitted documentation and issue a written decision within ten (10) business days. The Contractor may request administrative reconsideration within 14 days of being informed that it did not perform a GFE. The Contractor must make this request in writing to the following official:

Ohio Department of Transportation

Attention: Deputy Director, Division of Construction Management

1980 West Broad Street, Mail Stop 4110

Columbus, Ohio 43223

The reconsideration official will not have played any role in the original determination that the Contractor did not document sufficient good faith effort.

As part of this reconsideration, the Contractor will have the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT will send the Contractor a written decision on reconsideration explaining the basis for finding that the Contractor did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process may be appealed to the Court of Claims.

**AFFIDAVIT OF SUBCONTRACTOR PAYMENT**

The Ohio Revised Code 123.152, requires the Ohio Department of Transportation (ODOT) to monitor and verify that work subcontracted to Encouraging Diversity, Growth and Equity (EDGE) firms is actually performed by the EDGE firms. The affidavit seeks to verify actual payments made to EDGE firms on the project. Each EDGE firm must verify the actual payment amount.

The blank spaces in the affidavit must be filled in correctly, where indicated. The affidavit must be signed by the Contractor and subcontractor, or by the subcontractor and EDGE sub-contractor, if applicable. By signing the affidavit, the noted firm agrees that the payment amount recorded is true and accurate as of the payment time period.

Completed and signed affidavit shall be mailed to the Ohio Department of Transportation, DBE Services Section, 1980 West Broad Street, Mail Stop 4110, Columbus, Ohio 43223.

**SANCTIONS**

The Ohio Department of Transportation will issue sanctions if the Contractor chooses not to request a waiver, the Contractor fails to comply with the contract requirements and/or fails to demonstrate the necessary good faith effort.

The Ohio Department of Transportation may impose any of the following sanctions:

(1) letter of reprimand;

(2) liquidated damages computed up to the amount of goal dollars not met;

(3) cross-withhold from future projects;

(4) contract termination and/or

(5) other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions include, but are not limited to:

(1) the magnitude and the type of offense;

(2) the degree of the Contractor’s culpability;

(3) any steps taken to rectify the situation;

(4) the Contractor’s record of performance on other projects including, but not limited to:

a. annual EDGE participation over EDGE goals;

b. annual EDGE participation on projects without goals;

c. number of complaints the Ohio Department of Transportation has received from EDGE firms regarding the Contractor; and

d. the number of times the Contractor has been previously sanctioned by the Department of Transportation; and

(5) whether the Contractor falsified, misrepresented, or withheld information.