

STATE OF ILLINOIS
VETERAN SMALL BUSINESS PARTICIPATION AND
UTILIZATION PLAN

For State Agency/State University Use Only

It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified veterans and that qualified service-disabled veteran-owned small businesses (SDVOSB) and veteran-owned small businesses (VOSB) participate in the State's procurement process as both prime contractors and subcontractors. 30 ILCS 500/45-57.

Contract Goal to be Achieved by Vendor: This solicitation includes a specific **Veteran Small Business** participation goal of % based on the availability of CMS certified veteran-owned and service-disabled veteran-owned small business (VOSB/SDVOSB) vendors to perform or provide the anticipated services and/or supplies required by this solicitation. **The availability of VOSB/SDVOSB certified vendors was determined using the following commodity/service codes; however Vendor is not required to rely solely upon these commodity/service codes in preparing the bid or offer:**

The Veteran Small Business participation goal is applicable to all bids or offers. In addition to the other award criteria established for this solicitation, the Agency will award this contract to a Vendor that meets the goal or makes good faith efforts to meet the goal. This goal is also applicable to change orders and allowances within the scope of work provided by the certified VOSB/SDVOSB vendor. If Vendor is a CMS certified VOSB/SDVOSB vendor, the entire goal is met and no subcontracting with a CMS certified VOSB/SDVOSB vendor is required; however, **Vendor must submit a Utilization Plan indicating that the goal will be met by self-performance.**

Following are guidelines for Vendor's completion of the Utilization Plan. **Please read the guidelines carefully.** A format for the Utilization Plan is included in this section. Vendor should include any additional information that will add clarity to Vendor's proposed utilization of certified Veteran Small Business vendors to meet the targeted goal. The Utilization Plan must demonstrate that Vendor has either: (1) met the entire contract goal; (2) made good faith efforts towards meeting the entire goal; or (3) made good faith efforts towards meeting a portion of the goal. Any submission of good faith efforts by Vendor shall be considered as a request for a full or partial waiver.

At the time of bid or offer, Vendor, or Vendor's proposed Subcontractor, must be certified with CMS as a VOSB or SDVOSB. Failure to complete a Utilization Plan or provide Good Faith Effort documentation shall render the bid or offer non-responsive or not responsible.

1. If applicable where there is more than one prime vendor, the Utilization Plan should include an executed Joint Venture Agreement specifying the terms and conditions of the relationship between the parties and their relationship and responsibilities to the contract. The Joint Venture Agreement must clearly evidence that the certified VOSB/SDVOSB vendor will be responsible for a clearly defined portion of the work and that its responsibilities, risks, profits and contributions of capital, and personnel are proportionate to its ownership percentage. It must include specific details related to the parties' contributions of capital, personnel, and equipment and share of the costs of insurance and other items; the scopes to be performed by the certified VOSB/SDVOSB vendor under its supervision; and the commitment of management, supervisory personnel, and operative personnel employed by the certified VOSB/SDVOSB vendor to be dedicated to the performance of the contract. Established Joint Venture Agreements will only be credited toward Veteran Small Business goal achievements for specific work performed by the certified VOSB/SDVOSB vendor. **Each party to the Joint Venture Agreement must execute the bid or offer prior to submission of the bid or offer to the Agency.**

2. An agreement between a vendor and a certified VOSB/SDVOSB vendor in which a certified VOSB/SDVOSB vendor promises not to provide subcontracting or pricing quotations to other vendors is prohibited. The Agency may request additional information to demonstrate compliance. Vendor agrees to cooperate promptly with the Agency in submitting to interviews, allowing entry to places of business, providing further documentation, and to soliciting the cooperation of a proposed certified VOSB/SDVOSB vendor. Failure to cooperate by Vendor and certified VOSB/SDVOSB vendor may render the bidder or offeror non-responsive or not responsible. **The contract will not be finally awarded to Vendor unless Vendor's Utilization Plan is approved.**
3. **Veteran Small Business Certified Vendor Locator References:** Vendors may consult CMS' Veteran Small Business Vendor Directory at www.sell2.illinois.gov/cms/business, as well as the directories of other certifying agencies, but firms **must be certified with CMS as VOSB/SDVOSB vendors at the time of bid/offer.**
4. **Vendor Assurance:** Vendor shall not discriminate on the basis of race, color, national origin, sexual orientation or sex in the performance of this contract. Failure by Vendor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Agency deems appropriate. This assurance must be included in each subcontract that Vendor signs with a subcontractor or supplier.
5. **Calculating Certified VOSB/SDVOSB Vendor Participation:** The Utilization Plan documents work anticipated to be performed, or goods/equipment provided by all certified VOSB/SDVOSB vendors and paid for upon satisfactory completion/delivery. Only the value of payments made for the work actually performed by certified VOSB/SDVOSB vendors is counted toward the contract goal. Applicable guidelines for counting payments attributable to contract goals are summarized below:
 - 5.1. The value of the work actually performed or goods/equipment provided by the certified VOSB/SDVOSB vendor shall be counted towards the goal. The entire amount of that portion of the contract that is performed by the certified VOSB/SDVOSB vendor, including supplies purchased or equipment leased by the certified VOSB/SDVOSB vendor shall be counted, except supplies purchased and equipment rented from the Prime Vendor submitting this bid or offer.
 - 5.2. A vendor shall count the portion of the total dollar value of the Veteran Small Business contract equal to the distinct, clearly defined portion of the work of the contract that the certified VOSB/SDVOSB vendor performs toward the goal. A vendor shall also count the dollar value of work subcontracted to other certified VOSB/SDVOSB vendor. Work performed by the non-certified VOSB/SDVOSB party shall not be counted toward the goal. **Work that a certified VOSB/SDVOSB vendor subcontracts to a non-certified VOSB/SDVOSB vendor will not count towards the goal.**
 - 5.3. A Vendor shall count toward the goal 100% of its expenditures for materials and supplies required under the contract and obtained from a certified VOSB/SDVOSB vendor manufacturer, regular dealer, or supplier. A Vendor shall count toward the goal the following expenditures to certified VOSB/SDVOSB vendors that are not manufacturers, regular dealers, or suppliers:
 - 5.3.1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 5.3.2. The fees charged for delivery of materials and supplies required by the contract (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer or a supplier of the materials and supplies being procured, provided that the fee is determined by the Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services. The certified VOSB/SDVOSB vendor's trucking firm

must be responsible for the management and supervision of the entire trucking operation for which it is responsible on the contract, and must itself own and operate at least one fully licensed, insured and operational truck used on the contract.

- 5.3.3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- 5.4. Certified VOSB/SDVOSB vendors who are performing on contract as second tier subcontractors may be counted in meeting the established Veteran Small Business goal for this contract as long as the Prime Vendor can provide documentation indicating the utilization of these vendors.
- 5.5. A Vendor shall count towards the goal only expenditures to firms that perform a commercially useful function in the work of the contract.
 - 5.5.1. A firm 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. The certified VOSB/SDVOSB vendor must also be responsible, with respect to materials or supplies used on the contract, for negotiating price, determining quality and quantity, ordering the materials or supplies, and installing the materials (where applicable) and paying for the material or supplies. To determine whether a firm is performing a commercially useful function, the Agency shall evaluate the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
 - 5.5.2. A certified VOSB/SDVOSB vendor does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction or contract through which funds are passed through in order to obtain certified VOSB/SDVOSB vendor participation. In determining whether a certified VOSB/SDVOSB vendor is such an extra participant, the Agency shall examine similar transactions, particularly those in which certified VOSB/SDVOSB vendors do not participate, and industry practices.
- 5.6. A Vendor shall not count towards the goal expenditures that are not direct, necessary and related to the work of the contract. Only the amount of services or goods that are directly attributable to the performance of the contract shall be counted. Ineligible expenditures include general office overhead or other Vendor support activities.

Good Faith Effort Procedures: Vendor must submit a Utilization Plans and Letters of Intent that meet or exceed the published goal. If Vendor cannot meet the stated goal, Vendor must document and explain within the Utilization Plan the good faith efforts it undertook to meet the goal. Utilization Plans are due at the time of bid or offer submission.

Vendors will not be permitted to correct goal deficiencies after bid or offer due dates. CMS or the State Agency, as its delegate, will consider the quality, quantity, and intensity of Vendor's efforts.

The Utilization Plan contains a checklist of actions that CMS or the State Agency, as its delegate, will consider as evidence of Vendor's good faith efforts to meet the goal. Other factors or efforts brought to the attention of CMS or the State Agency, as its delegate, may be relevant in appropriate cases.

- 6.1. In evaluating Vendor's good faith efforts, CMS or the State Agency, as its delegate, may consider whether the ability of other bidders or offerors to meet the contract goal suggests that good faith efforts could have resulted in Vendor meeting the goal.

- 6.2. If CMS or the State Agency, as its delegate, determines that Vendor has made good faith efforts to meet the goal, the Agency may award the contract provided that Vendor is otherwise eligible for award.
 - 6.3. If CMS or the State Agency, as its delegate, determines that good faith efforts have not been met, the bid or offer may be determined to be non-responsible by the Chief Procurement Office.
7. **Contract Compliance:** Compliance with this section is an essential part of the contract. The following administrative procedures and remedies govern Vendor's compliance with the contractual obligations established by the Utilization Plan. After approval of the Plan and award of the contract, the Utilization Plan becomes part of the contract. If Vendor did not succeed in obtaining certified VOSB/SDVOSB vendor participation to achieve the goal and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of certified VOSB/SDVOSB vendor work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the contract goal.
- 7.1. The Utilization Plan may not be amended after contract execution without the Agency's prior written approval.
 - 7.2. **Vendor may not make changes to its contractual certified VOSB/SDVOSB vendor commitments or substitute certified VOSB/SDVOSB vendors without the prior written approval of the Agency.** Unauthorized changes or substitutions, including performing the work designated for a certified VOSB/SDVOSB vendor with Vendor's own forces, shall be a violation of the utilization plan and a breach of the contract, and shall be cause to terminate the contract, and/or seek other contract remedies or sanctions. The facts supporting the request for changes must not have been known nor reasonably should have been known by the parties prior to entering into the subcontract. Vendor must negotiate with the certified VOSB/SDVOSB vendor to resolve the problem. Where there has been a mistake or disagreement about the scope of work or goods/equipment, provided the certified VOSB/SDVOSB vendor can be substituted only where agreement cannot be reached for a reasonable price or schedule for the correct scope of work, goods or equipment.
 - 7.3. Substitutions of a certified VOSB/SDVOSB vendor may be permitted under the following circumstances:
 - 7.3.1. Unavailability after receipt of reasonable notice to proceed;
 - 7.3.2. Failure of performance;
 - 7.3.3. Financial incapacity;
 - 7.3.4. Refusal by the certified VOSB/SDVOSB vendor to honor the bid or proposal price or scope;
 - 7.3.5. Material mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
 - 7.3.6. Failure of the certified VOSB/SDVOSB vendor to meet insurance, licensing or bonding requirements;
 - 7.3.7. The certified VOSB/SDVOSB vendor's withdrawal of its bid or offer; or
 - 7.3.8. Decertification of the certified VOSB/SDVOSB vendor.
 - 7.4. If it becomes necessary to substitute a certified VOSB/SDVOSB vendor or otherwise change the Utilization Plan, Vendor must notify the Agency in writing of the request to substitute a certified VOSB/SDVOSB vendor or otherwise change the Utilization Plan. The request must state specific reasons for the substitution or change. The Agency will approve or deny a request for substitution or other change in the Utilization Plan within five business days of receipt of the request.

- 7.5.** Where Vendor has established the basis for the substitution to the Agency's satisfaction, it must make good faith efforts to meet the contract goal by substituting a certified VOSB/SDVOSB vendor. Documentation of a replacement certified VOSB/SDVOSB vendor, or of good faith efforts to replace the certified VOSB/SDVOSB vendor, must meet the requirements of the initial Utilization Plan. If the goal cannot be reached and good faith efforts have been made, Vendor may substitute with a non-certified VOSB/SDVOSB vendor or Vendor may perform the work.
- 7.6.** If a Vendor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Utilization Plan, Vendor must obtain the approval of the Agency to modify the Utilization Plan and must make good faith efforts to ensure that certified VOSB/SDVOSB vendors have a fair opportunity to submit a bid or offer on the new scope of work.
- 7.7.** A new certified VOSB/SDVOSB vendor agreement must be executed and submitted to the Agency within five business days of Vendor's receipt of the Agency's approval for the substitution or other change.
- 7.8.** Vendor shall maintain a record of all relevant data with respect to the utilization of certified VOSB/SDVOSB vendors, including but without limitation, payroll records, invoices, canceled checks and books of account for a period of at least three years after the completion of the contract. Full access to these records shall be granted by Vendor upon 48 hours written demand by the Agency to any duly authorized representative thereof, or to any municipal, state or federal authorities. The Agency shall have the right to obtain from Vendor any additional data reasonably related or necessary to verify any representations by Vendor. After the performance of the final item of work or delivery of material by the certified VOSB/SDVOSB vendor and final payment to the certified VOSB/SDVOSB vendor by Vendor, but not later than 30 calendar days after such payment, Vendor shall submit a statement confirming the final payment and the total payments made to the certified VOSB/SDVOSB vendor under the contract.
- 7.9.** The Agency will periodically review Vendor's compliance with these provisions and the terms of its contract. Without limitation, Vendor's failure to comply with these provisions or its contractual commitments as contained in the Utilization Plan, failure to cooperate in providing information regarding its compliance with these provisions or its Utilization Plan, or provision of false or misleading information or statements concerning compliance, certification status or eligibility of the certified VOSB/SDVOSB vendor, good faith efforts or any other material fact or representation shall constitute a material breach of this contract and entitle the Agency to declare a default, terminate the contract, or exercise those remedies provided for in the contract or at law or in equity.
- 7.10.** The Agency reserves the right to withhold payment to Vendor to enforce these provisions and Vendor's contractual commitments. Final payment shall not be made pursuant to the contract until Vendor submits sufficient documentation demonstrating compliance with its Utilization Plan.

UTILIZATION PLAN

The Utilization Plan and Letter of Intent must be sealed and submitted separately.

(Vendor) submits the following Utilization Plan as part of our bid or offer in accordance with the requirements of the Veteran Small Business Program Status and Participation section of the solicitation for _____, Illinois Procurement Bulletin Reference Number _____. We understand that all subcontractors must be certified with the CMS Veteran Small Business Program at the time of submission of all bids/offers. **We understand that compliance with this section is an essential part of this contract and that the Utilization Plan will become a part of the contract, if awarded.**

Vendor makes the following assurance and agrees to include the assurance in each agreement, subcontract and/or purchase order with a subcontractor or supplier utilized on this contract: We shall not discriminate on the basis of race, color, national origin, sexual orientation or sex in the performance of this contract. Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Agency deems appropriate.

Vendor submits the following statement:

- Vendor is a certified VOSB/SDVOSB and plans to fully meet the goal through self-performance.
- Vendor has identified certified VOSB/SDVOSB subcontractor(s) to fully meet the established goal and submits the attached completed Letter(s) of Intent; or
- Vendor has made good faith efforts towards meeting the entire goal, or a portion of the goal, and hereby requests a waiver (complete checklist below).

Vendor's person responsible for compliance:

Name:

Title:

Telephone:

Email

DEMONSTRATION OF GOOD FAITH EFFORTS TO ACHIEVE GOAL AND REQUEST FOR WAIVER

If the Veteran Small Business participation goal was not achieved, the Good Faith Efforts Procedures and Guidelines outlined in Section 6 will be used to evaluate submitted utilization plans. Vendors providing Good Faith Effort documentation and request for waiver must complete and submit the Good Faith Effort Contact Log with the bid or offer. Failure to submit Good Faith Effort documentation in its entirety shall render Vendor's bid or offer non-responsive or not responsible and cause it to be rejected or render Vendor ineligible for contract award.

Below is a checklist of actions that will be used to evaluate a Vendor's Demonstration of Good Faith Efforts and Request for Waiver. **Please check the actions which you completed.** If any of the following actions are not completed, please attach a detailed written explanation indicating why such action was not completed. If any other efforts were made to obtain Veteran Small Business participation in addition to the items listed below, attach a detailed description of such efforts.

- Utilize the Sell2Illinois website: www2.illinois.gov/cms/business to identify certified VOSB/SDVOSB vendors within the respective commodity/service codes denoted above and at a minimum email all listed vendors and solicit quotes from all vendors who express an interest via follow-up emails or telephone calls.

- Solicit through all reasonable and available means (e.g., attendance at a vendor conference, advertising and/or written notices) the interest of certified VOSB/SDVOSB vendors that have the capability to perform the work of the contract. Vendor must solicit this interest within sufficient time to allow the certified VOSB/SDVOSB vendors to respond to the solicitation. Vendor must determine with certainty if the certified VOSB/SDVOSB vendors are interested by taking appropriate steps to follow up initial solicitations and encourage them to submit a bid or proposal. Vendor must provide interested certified VOSB/SDVOSB vendors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding promptly to the solicitation.
- Select portions of the work to be performed by certified VOSB/SDVOSB vendors in order to increase the likelihood that the goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate certified VOSB/SDVOSB vendor participation, even when Vendor might otherwise prefer to perform these work items with its own forces.
- Make a portion of the work available to certified VOSB/SDVOSB vendors and selecting those portions of the work or material needs consistent with their availability, so as to facilitate certified VOSB/SDVOSB vendor participation.
- Negotiate in good faith with interested certified VOSB/SDVOSB vendors. Evidence of such negotiation must include the names, addresses, email addresses, and telephone numbers of certified VOSB/SDVOSB vendors that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting and evidence as to why additional agreements could not be reached for certified VOSB/SDVOSB vendors to perform the work. A Vendor using good business judgment may consider a number of factors in negotiating with certified VOSB/SDVOSB vendors and may take a firm's price and capabilities into consideration. The fact that there may be some additional costs involved in finding and using certified VOSB/SDVOSB vendors may not be in itself sufficient reason for a Vendor's failure to meet the goal, as long as such costs are reasonable. Vendors are not required to accept higher quotes from certified VOSB/SDVOSB vendors if the price difference is excessive or unreasonable.
- Thoroughly investigate the capabilities of certified VOSB/SDVOSB vendors and not reject them as unqualified without documented reasons. The certified VOSB/SDVOSB vendor's memberships in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids and proposals in Vendor's efforts to meet the goal.
- Make efforts to assist interested certified VOSB/SDVOSB vendors in obtaining lines of credit or insurance as required by the Agency.
- Make efforts to assist interested certified VOSB/SDVOSB vendors in obtaining necessary equipment, supplies, materials, or related assistance or services.

