

# **Marquette and 2<sup>nd</sup> Avenue Project**

**DBE Good Faith Efforts**



## **MARQ2 Project**

- **Guidance Concerning Good Faith efforts**
- **Appendix A to Part 26**



## Guidance I

- You must award the contract only to a bidder who makes a good faith effort in either of two ways:
  1. The bidder can meet the goal.
  2. The bidder must show that it took all necessary and reasonable steps to achieve the DBE goal by their scope, intensity and appropriateness to the objective.

 Metropolitan Council

## Guidance II

- Consider quality, quantity, and intensity of the efforts.
- Efforts should be those that one could reasonably expect the bidder to take.
- Bidder must have been actively and aggressively trying to obtain DBE participation.

 Metropolitan Council

## Guidance II

- Mere pro forma efforts are not good faith efforts.
- Determination concerning the sufficiency of the bidders good faith efforts is the Councils judgment call.

 Metropolitan Council

## Guidance III

- A bidder is not required to meet a contract goal to be awarded a contract.
- Bona fide good faith efforts must not be ignored.

 Metropolitan Council

## Guidance IV

- Examples of actions which can be considered Good Faith Efforts. It is not exclusive or exhaustive
  1. Soliciting through all reasonable and available means.
  2. Solicit within sufficient time.
  3. Take appropriate steps to follow up initial solicitation.



## Guidance IV

4. Selecting portions of the work to be performed by DBEs in order to increase achievement.
5. Breaking out contract work items into economically feasible units, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
6. Providing adequate plans, specifications and requirements of the contract in a timely manner.



## Guidance IV

7. Negotiating in good faith with interested DBEs.
8. Evidence of such negotiation and a description of information provided.
9. Evidence as to why additional agreements could not be reached.



## Guidance IV

10. The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for failure to meet the goal as long as such costs are reasonable and not excessive or unreasonable.
11. The ability or desire of a prime contractor to perform the work with its own forces does not relieve the bidder of making good faith efforts.



## Guidance IV

12. Bidder must not reject DBEs as being unqualified without sound reason.
13. DBEs standing within its industry, membership in specific groups, organizations or associations and political or social affiliations are not legitimate causes for the rejections of a DBE bid.
14. Efforts to assist DBEs in obtaining bonding, lines of credit or insurance.

 Metropolitan Council

## Guidance IV

15. Efforts to assist DBE in obtaining necessary equipment, supplies, materials or related assistance or services.
16. Effectively using minority/women community organizations contractors' groups business assistance offices.

 Metropolitan Council

## Guidance V

- The Council may take into account the performance of other bidders in meeting the contract goal.



## MARQ2 Project

- Shafer Good Faith Effort
  1. Shafers efforts to solicit through all reasonable and available means...
  2. Selected portions of work...
  3. Adequate information...
  4. Efforts to negotiate...



## MARQ2 Project

5. Efforts to avoid rejecting DBE...
6. Efforts to assist in bonding...
7. Efforts to assist with equipment...
8. Use of organizations...
9. Other efforts...
10. Other bidders...



## MARQ2 Project

- 61 DBEs were contacted
- 23 Left a message and no call back
- 19 Said no they were not quoting
- 8 Other
- 11 Said they were quoting
- 9 Actually bid on the project



## MARQ2 Project

### Shafer DBE Participation at Bid 1.82%

Northern Traffic

JD Donovan

Carlo Lachmangsingh Sales

CI Utilities



## MARQ2 Project

### Shafer DBE Participation Today 2.0%

Northern Traffic

CI Utilities

EVS

B&L Supply

Highway Solutions

Rock On Trucks

JD Donovan

Carlo Lachmangsingh Sales

Casterjon, Inc

Goliath HydroVac

Rock On Roll Off

