SBE Subcontracting Plan
FAQs & Checklist

The Department of Small and Local Business Development's (DSLBD) Checklist and FAQs are being provided to assist you in completing the Small Business Enterprise (SBE) Subcontracting Plan. You must submit the SBE Subcontracting Plan for all construction and non-construction contracts for government-assisted projects as well as for any application for certain lottery licenses (including Class A Operator, Class B Operator, Class C Operator, and Management Service Provider (or MSP)) to be issued by the Office of Lottery & Gaming (OLG). You must adhere to all District laws, regulations, policies, and procedures described herein regarding the requirements of SBE Subcontracting Plans. Please note that there may be applicable instructions and/or useful information provided by the procuring and/or administering agency.

FREQUENTLY ASKED QUESTIONS

- **Who is required to complete an SBE Subcontracting Plan?**
  - All beneficiaries (e.g., the Prime Contractor or Developer) of construction or non-construction contracts for government-assisted projects in excess of $250,000 and applicants for sports wagering licenses must submit an SBE Subcontracting Plan unless the subcontracting requirement is otherwise fully waived by the Director of the Department of Small & Local Business Development. A partial waiver still requires an SBE Subcontracting Plan.

- **When must the SBE Subcontracting Plan be submitted?**
  - If a SBE Subcontracting Plan is required, it must be provided before the District accepts the bid or proposal as well as upon submission of OLG Class A Operator, Class B Operator, Class C Operator or MSP licensee application and Certified Business Enterprise (CBE) Packet. Once accepted, a SBE Subcontracting Plan may not be amended unless approved by the DSLBD Director after the contract or license is awarded.

- **What is the basis of the SBE Subcontracting Plan value?**
  The SBE Subcontracting Plan must be based on the dollar volume of the contract or license. The requisite subcontracting requirement has to be expended for each period of performance (i.e., base and subsequent option years, respectively).

- **Do subcontracting requirements or waivers apply for the entire life of a contract, project or license period?**
  - Yes, On June 28, 2024, the Office of the Attorney General (OAG) issued legal advice (AL-24-157) which states that a waiver decision issued by DSLBD for the base year of a contract must apply to the entire life of the contract, including all subsequent option periods. Given many procuring agencies' current practices and disclosures about CBE requirements prior to or during the solicitation, this avoids possible material changes to the contract, for instance, as a result of granting, denying, or amending a waiver during a later period of performance. Furthermore, OAG asserts that modification to subcontracting requirements after the base period could require a complete re-solicitation for the goods or services. Therefore, waiver decisions and subcontracting requirements cannot be altered once established for a contract, project or license period.

- **Should the SBE Subcontracting Plan list all SBE and CBE subcontracts at every tier?**
  - Yes, the SBE Subcontracting Plan must include a list of all SBE and CBE subcontracts at every tier for each period of performance. The information provided should contain the following details for each SBE subcontractor: company's name, address, current certification number, price to be paid, and a description of the job to be performed. Please note that the Scope of Work (SOW) must involve a commercially useful function performed by the CBE. A copy of any agreement between the beneficiary (i.e., the prime or developer) and the subcontractor must be provided to DSLBD.

- **Does my SBE Subcontracting Plan have to cover all option periods of the contract or solely the current performance period?**
  - Yes, the SBE Subcontracting Plan should cover all periods of performance, i.e., base and option

periods associated with the contract/license.

- **I am a CBE beneficiary performing 100% of the work under my contract, am I required to complete the SBE Subcontracting Plan?**
  - If a CBE beneficiary is selected as a beneficiary on a construction or non-construction contract (or as a lottery license holder) and will perform 100% of the work, subcontracting is not required. If 100% of the work is performed by the CBE beneficiary, it shall attest to completing 100% of the work.

- **I am a CBE Beneficiary not performing 100% of the work under my contract, am I required to complete the SBE Subcontracting Plan?**

  - Yes, If a CBE beneficiary subcontracts, it must perform at least 35% (or 50% for contracts at $1,000,000 or less) of the work with its own organization and resources and out of the total portion of work subcontracted, at least 35% of that subcontracted work must be with SBEs/CBEs. For contracts of $1,000,000 or less, the CBE beneficiary is required to perform 50% of the work with its own organization and resources, and if it subcontracts any remaining work, then 35% of the remainder must be subcontracted to qualified SBEs/CBEs. **For example,** if a CBE beneficiary receives a contract for $1,000,000, it must perform 50% or $500,000 of the work with its own organization and resources. If it subcontracts the remaining 50% of work, then 35% of any of the remaining $500,000 of work (i.e., $175,000) must be subcontracted to qualified SBEs/CBEs. The SBE Subcontracting Plan must reflect this requirement for all periods of performance. For contracts over $1,000,000, the CBE beneficiary is required to perform 35% of the work with its own organization and resources, and if it subcontracts any remaining work, then 35% of the remainder must be subcontracted to qualified SBEs/CBEs.

- **Will DSLBD credit 100% of a CBE's subcontract towards my subcontracting goal?**
  - DSLBD will only provide credit towards your subcontracting goal for work whereby a SBE/CBE provides a commercially useful function as defined in D.C. Official Code § 2-218.02(1G).

- **I do not believe I can meet the required 35% subcontracting requirement. What must I do to waive this requirement?**
  - If you believe you cannot achieve the required subcontracting requirements, you must communicate this concern to the contracting officer or other procuring staff before a SBE Subcontracting Plan is submitted in response to a solicitation (or before signing your contract, whichever comes first), license application, or project. **Only the Director of DSLBD** can waive the subcontracting requirements, and DSLBD does not retroactively approve waivers. For instance, if a contract is executed before a final determination has been rendered by DSLBD's Director, you will be required to achieve the subcontracting requirement, or the contract may be voided, pursuant to District law.

  - The contracting officer is required to submit a waiver request or waiver exemption to DSLBD during the solicitation process for the base period of the contract. Furthermore, OAG has set forth that a waiver decision issued by DSLBD for the **base year of a contract must apply to the entire life of the contract**, including all subsequent option periods. Any amendment to subcontracting requirements after the base period could require complete re-solicitation of the goods or services. Such a waiver would also apply to the life of a license. **Beneficiaries are not permitted to submit a waiver request.**

  - DSLBD does not approve waivers retroactively; therefore, contracting officers and beneficiaries should **ensure that the waiver request or waiver exemption is approved prior to executing the contract**, for instance. Otherwise, the contract is **voidable** pursuant to District law.

- **Can I utilize any CBE to meet my subcontracting requirements, or does it have to be an SBE specifically?**

  If there are insufficient qualified SBEs to completely fulfill the subcontracting requirement, then the statutory requirement may be satisfied by subcontracting to a CBE, provided that all reasonable efforts shall be made to ensure that qualified SBEs are significant participants in the overall subcontracting work.

SBE SUBCONTRACTING PLAN
By Performance Period

INSTRUCTIONS: All construction & non-construction contracts for **government-assisted projects** over $250,000 and sports wagering license operations, shall require at least 35% of the total dollar volume of the contract or license subcontracted to SBEs, and if there are insufficient qualified SBEs, then CBEs may be utilized. The SBE Subcontracting Plan must list all SBE and CBE subcontracts at every tier for the life of the contract or license separately for each period of performance based on the period of performance's value. The information provided should contain the following details for each SBE subcontractor: company's name, address, current certification number, price to be paid, and a description of the job to be performed. Please note that the Scope of Work must involve a commercially useful function performed by the CBE. Once the SBE Subcontracting Plan is submitted, it may only be amended by the Director of DSLBD.

SUBMISSION OF SBE PLAN:

- ◊ For **agency solicitations** – submit to the agency with solicitation bid or proposal. The SBE Subcontracting Plan must be based on the total dollar volume of the contract with the requisite CBE spend documented for each performance period.
- ◊ For **agency** options and extensions – submit modifications or amendments to the agency before an option or extension is exercised.
- ◊ For **public-private projects** – submit to DSLBD, the agency project manager with each quarterly report (as needed). As public-private projects may not have executed all contracts at the time the District subsidy is granted, the SBE Subcontracting Plan may be submitted simultaneously with each quarterly report and list all SBE/CBE subcontracts executed by the time of submission.
- ◊ For **OLG sports wagering license or management service provider applications** – The SBE Subcontracting Plan must be based on the total dollar value of the license period's adjusted operating budget, with the required CBE spend documented for each performance period. A complete CBE Packet can be submitted to the Office of Lottery and Gaming (OLG) as a part of the license application. The OLG may issue an operator license or a management services provider license only if the applicant, as part of its licensing application, obtains DSLBD approval of a CBE Plan demonstrating that at least 35% of its adjusted operating budget will be contracted with one or more CBEs.

CREDIT: For each subcontract listed on the SBE Subcontracting Plan, credit will only be given for the portion of the subcontract performed at every tier by an SBE/CBE using *its own organization and resources*. **COPIES OF EACH FULLY EXECUTED SUBCONTRACT WITH SBEs AND CBEs (AT EVERY TIER) MUST BE PROVIDED**.

CERTIFICATION INFORMATION: By definition, a CBE is certified as a Local Business Enterprise (LBE). Being a CBE/LBE is a prerequisite to be certified in any sub-category (or type) of a CBE. For instance, the SBE is a subcategory of a CBE. To be clear, not all CBEs are SBEs. If the SBE Subcontracting Plan is with a CBE without the SBE category, the contract may not receive credit towards the subcontracting goal for work provided by the CBE if there were qualified SBEs that could have been utilized to fulfill the subcontracting requirement.

The certification number must include the **LBE** and **SBE categories**. i.e., Certification Number: **LS**XXXXXXXXX2029.

EXEMPTION: If the **Beneficiary or Licensee** is a CBE and will perform the **ENTIRE government-assisted project** with *its own organization and resources* and will NOT subcontract any portion of the services and goods, then the CBE Beneficiary is not required to subcontract.

SECTION 1. BENEFICIARY SOLICITATION, CONTRACT, OR SPORTS WAGERING APPLICANT INFORMATION

Section 1A. Beneficiary / Licensee Information

Company: _____ Phone Number: _____ Email Address: _____

Street Address: _____ City / State / ZIP Code: _____

Company's point of contact for agency contract, private project, or sports wagering License:

Point of Contact: _____ Title: _____

Phone Number: _____ Email Address: _____

Street Address: _____

Section 1B. Solicitation / Contract / Sports Wagering Applicant Information

Solicitation # / Contract # / OLG License # / PPD Title: _____

Solicitation Due Date: _____
OR Contract Award Date: _____

Agency: _____

Total Dollar Amount of Contract: **$** _____

Total Value of **ALL** CBE Subcontracts by Period of Performance (*Include all lower-tiers*):
Base Period: **$** _____
Option Period 1: **$** _____
Option Period 2: **$** _____
Option Period 3: **$** _____
Option Period 4: **$** _____
Option Period 5: **$** _____

Please select all applicable subcontracting requirements for this Solicitation, Contract, PPD, or OLG License:
☐ 35% Subcontracting Requirement
☐ 50% Subcontracting Requirement
☐ DSLBD approved an adjusted subcontracting requirement:
- Adjusted Subcontracting Requirement: ____%

Total Value of **ALL** CBE subcontracts: **$** _____

Total Dollar Amount of OLG License's Adjusted Operating Budget:
$ _____

Total Dollar Amount of PPD's Adjusted Budget:
$ _____

I affirm that the value of all my CBE Subcontracts meets or exceeds the subcontracting requirement required under this solicitation or contract. Further, I understand that DSLBD will only provide credit towards my SBE Subcontracting Requirement for work whereby a CBE provided a commercially useful function with its own organization and resources.
☐ I Agree
☐ I Disagree

Total Value of **ALL** CBE Subcontracts for OLG License or PPD
$ _____

Section 1C. CBE Beneficiary (Only complete if the Beneficiary / Licensee is a Certified Business Enterprise)

If the Beneficiary is a Certified Business Enterprise, select all that apply and provide the following information:
☐ I am a CBE that **WILL** perform 100% of the contracting effort with my own organization and resources and will not subcontract any portion of the contract. Therefore, I am NOT required to submit an SBE Subcontracting Plan that demonstrates subcontracting.
☐ I am a CBE that **WILL NOT** perform 100% of the contracting effort with my own organization and resources and will subcontract a portion of the contract. Therefore, I understand I am required to submit an SBE Subcontracting Plan (located in Section 2) that demonstrates that the required subcontracting amount, as indicated above, will go to qualified SBEs.

Please include the percentage of the contract the CBE beneficiary will perform under the contract or project.
- The CBE beneficiary will self-perform ____% of the contract's total dollar volume of the contract or project.

Please provide the current CBE Certification Number of the CBE beneficiary.
- CBE Certification Number: _____

BENEFICIARY ATTESTATION

I declare, certify, verify, attest, and state under penalty of perjury that the information provided above is true and correct to the best of my knowledge and belief. Pursuant to D.C. Official Code § 22-2402, I understand that a person convicted of perjury shall be fined not more than $5,000 or imprisoned for not more than 10 years, or both. I understand that any false or fraudulent statement that I provide or assert may be grounds for revocation of my CBE registration pursuant to D.C. Official Code § 2-218.63. Further, a beneficiary, Developer, CBE, Certified Joint Venture, or Sports Wagering Applicant that fails to comply with the requirements of the Small and Certified Business Enterprise Development and Assistance Amendment Act of 2005, as amended, (D.C. Law 20-108) (the "Act"), shall be subject to penalties as outlined in the Act.

PRINT NAME: _____ SIGNATURE: _____

JOB TITLE: _____ DATE: _____

SECTION 2. SUBCONTRACTOR INFORMATION

List all subcontracting effort for government-assisted projects in this section.

BASE PERIOD (1st Period of Performance) – SBE / CBE Subcontractors for All Tiers:

CBE Subcontractor Company Name	Address	CBE Certification No.	Price to Be Paid to the CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)
			$	

CBE Point of Contact:	CBE Subcontractor Self-Performance Indicator:
Name: _____ Title: _____ Telephone Number: _____ Email Address: _____	☐ This CBE will perform the ENTIRE subcontract with its own organization and resources. ☐ This CBE will subcontract a portion of the work and will perform ____% of the subcontract's total dollar volume. **NOTE: If the CBE will not self-perform 100% of the subcontract, it must list each lower-tier CBE subcontractor below.**

Lower-Tier CBE Subcontractor Name	Address	Certification No.	Price to Be Paid to the Lower-Tier CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)	Tier (i.e., 1st, 2nd, 3rd, 4th, etc.)
			$		
			$		
			$		
			$		
			$		

OPTION PERIOD ONE (2nd Period of Performance) – SBE / CBE Subcontractors for All Tiers:

CBE Subcontractor Company Name	Address	CBE Certification No.	Price to Be Paid to the CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)
			$	

CBE Point of Contact:	CBE Subcontractor Self-Performance Indicator:
Name: Title: Telephone Number: Email Address:	☐ This CBE will perform the ENTIRE subcontract with its own organization and resources. ☐ This CBE will subcontract a portion of the work and will perform ____% of the subcontract's total dollar volume. **NOTE: If the CBE will not self-perform 100% of the subcontract, it must list each lower-tier CBE subcontractor below.**

Lower-Tier CBE Subcontractor Name	Address	Certification No.	Price to Be Paid to the Lower-Tier CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)	Tier (i.e., 1st, 2nd, 3rd, 4th, etc.)
			$		
			$		
			$		
			$		
			$		

OPTION PERIOD TWO (3rd Period of Performance) – SBE / CBE Subcontractors for All Tiers:

CBE Subcontractor Company Name	Address	CBE Certification No.	Price to Be Paid to the CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)
			$	

CBE Point of Contact:	CBE Subcontractor Self-Performance Indicator:
Name: Title: Telephone Number: Email Address:	☐ This CBE will perform the ENTIRE subcontract with its own organization and resources. ☐ This CBE will subcontract a portion of the work and will perform ____% of the subcontract's total dollar volume. **NOTE: If the CBE will not self-perform 100% of the subcontract, it must list each lower-tier CBE subcontractor below.**

Lower-Tier CBE Subcontractor Name	Address	Certification No.	Price to Be Paid to the Lower-Tier CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)	Tier (i.e., 1st, 2nd, 3rd, 4th, etc.)
			$		
			$		
			$		
			$		
			$		

OPTION PERIOD THREE (4th Period of Performance) – SBE / CBE Subcontractors for All Tiers:

CBE Subcontractor Company Name	Address	CBE Certification No.	Price to Be Paid to the CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)
			$	

CBE Point of Contact:	CBE Subcontractor Self-Performance Indicator:
Name: Title: Telephone Number: Email Address:	☐ This CBE will perform the ENTIRE subcontract with its own organization and resources. ☐ This CBE will subcontract a portion of the work and will perform ____% of the subcontract's total dollar volume. **NOTE: If the CBE will not self-perform 100% of the subcontract, it must list each lower-tier CBE subcontractor below.**

Lower-Tier CBE Subcontractor Name	Address	Certification No.	Price to Be Paid to the Lower-Tier CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)	Tier (i.e., 1st, 2nd, 3rd, 4th, etc.)
			$		
			$		
			$		
			$		
			$		

OPTION PERIOD FOUR (5th Period of Performance) – SBE / CBE Subcontractors for All Tiers:

CBE Subcontractor Company Name	Address	CBE Certification No.	Price to Be Paid to the CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)
			$	

CBE Point of Contact:	CBE Subcontractor Self-Performance Indicator:
Name: Title: Telephone Number: Email Address:	☐ This CBE will perform the ENTIRE subcontract with its own organization and resources. ☐ This CBE will subcontract a portion of the work and will perform ____% of the subcontract's total dollar volume. **NOTE: If the CBE will not self-perform 100% of the subcontract, it must list each lower-tier CBE subcontractor below.**

Lower-Tier CBE Subcontractor Name	Address	Certification No.	Price to Be Paid to the Lower-Tier CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)	Tier (i.e., 1st, 2nd, 3rd, 4th, etc.)
			$		
			$		
			$		
			$		
			$		

OPTION PERIOD FIVE (6th Period of Performance) – SBE / CBE Subcontractors for All Tiers:

CBE Subcontractor Company Name	Address	CBE Certification No.	Price to Be Paid to the CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)
			$	

CBE Point of Contact:	CBE Subcontractor Self-Performance Indicator:
Name: Title: Telephone Number: Email Address:	☐ This CBE will perform the ENTIRE subcontract with its own organization and resources. ☐ This CBE will subcontract a portion of the work and will perform ____% of the subcontract's total dollar volume. **NOTE: If the CBE will not self-perform 100% of the subcontract, it must list each lower-tier CBE subcontractor below.**

Lower-Tier CBE Subcontractor Name	Address	Certification No.	Price to Be Paid to the Lower-Tier CBE Subcontractor	Description of Subcontract Scope of Work (Commercially Useful Function)	Tier (i.e., 1st, 2nd, 3rd, 4th, etc.)
			$		
			$		
			$		
			$		
			$		

AGENCY CONTRACT AWARD	OLG LICENSE ISSUANCE	PRIVATE PROJECT SUBSIDY AWARD
Agency: _____ Beneficiary: _____ Contract Number: _____ Date of SBE Subcontracting Plan submission: _____ Date of Award: _____ Anticipated Start Date of Contract: Anticipated End Date of Contract: Date of Guaranteed Design-Build Contract: Total Dollar Amount of Contract: **$** **Design-build must include total contract amount for both design and build phases of the project.* 35% of the Total Contract Amount: **$** Total Amount of All SBE/CBE Subcontracts: **$** *(include every tier)* ☐ Check if the beneficiary is a CBE and will perform the ENTIRE government-assisted project (agency contract) with *its own organization and resources and NOT subcontract any portion of the services or goods.*	Agency Issuing License: License Type: Licensee Entity: Date of License Issuance: _____ Date of License Expiration: _____ Total Licensee's Adjusted Budget: **$** 35% of the Licensee's Adjusted Budget: **$** Total Amount of All SBE/CBE Subcontracts: **$** *(include every lower-tier)* ☐ Check if the licensee is a CBE and will perform the entire subcontracting scope using its own organization and resources, without subcontracting any portion of the required goods or services.	Agency Providing Subsidy: _____ Developer: District Subsidy Type: District Subsidy Amount: **$** _____ Date District Subsidy Provided / Contract signed: _____ Anticipated Start Date of Project: _____ Anticipated End Date of Project: _____ Project Name: Project Address: Total Adjusted Project Budget: **$** *(include pre-construction and construction costs)* 35% of the Total Adjusted Project Budget: **$** Total Amount of All SBE/CBE Subcontracts: **$** *(include every lower-tier)* ☐ Check if the developer is a CBE and will perform the ENTIRE government-assisted project (private project) with *its own organization and resources and NOT subcontract any portion of services or goods.*

☐ AGENCY CONTRACTING OFFICER'S AFFIRMATION OR ☐ AGENCY PROJECT MANAGER'S AFFIRMATION
(✓ which applies)

The below Agency Contracting Officer or Agency Project Manager affirms the following (✓ to affirm):

☐ If the Beneficiary is a CBE, DSLBD was consulted to confirm Beneficiary's CBE certification.

☐ FOR AGENCIES WITH INDEPENDENT PROCUREMENT AUTHORITY: The fully executed Contract (base, option, extension, or multi-year) or subsidy document between the Beneficiary and Agency was emailed to DSLBD at Compliance.Enforcement@dc.gov within five (5) days of signing.

☐ **FOR ALL AGENCY CONTRACTS** the SBE Subcontracting Plan, submitted by the beneficiary, was emailed to DSLBD at Compliance.Enforcement@dc.gov within five (5) days of signing the contract between the Beneficiary and Agency.

Name of Agency Contracting Officer or Agency Project Manager

Title of Agency Contracting Officer or Agency Project Manager

Signature of Agency Contracting Officer or Agency Project Manager

Date