



Business Equity Program Specifications

Prosper Portland's *Equity Policy*, as adopted by its Board of Commissioners in Resolution No. 7256, aims to make Portland a prosperous, educated, healthy and equitable city, recognizing that advancing equity must be at the core of our strategic plan. Prosper Portland's Equity Policy includes a framework that seeks to improve Prosper Portland's operational and business practices, support actions that promote accountability, close disparity gaps and increase inclusive community engagement. Equity in contracting and workforce opportunities in the Portland area is essential to achieving the vision of our Strategic Plan.

As such, Prosper Portland's Business Equity Program (**BEP**) centers on improving the success of local small businesses and supporting the growth of construction and development firms owned by people of color and women by providing opportunities for State of Oregon Certified Firms. "Certified Firms" are Minority/Women/Emerging Small Business (**M/W/ESB**) firms as certified by the State of Oregon's Certification Office for Business Inclusion and Diversity (**COBID**) and Disadvantaged Business Enterprises (**DBE**) as certified by the U.S. Department of Transportation.

1. Program Applicability

The BEP is applicable to the following projects:

- Prosper Portland Owned Construction Contracts with Hard Construction Costs greater than \$200,000;
- Prosper Portland-Sponsored Projects receiving an amount greater than \$300,000 of Prosper Portland Resources to support a project with Hard Construction Costs greater than \$200,000;
- Sale of Prosper Portland real property with a purchase price greater than \$300,000 to a private party for a project related to such property that is expected to involve Hard Construction Costs greater than \$200,000; and
- Projects under Intergovernmental Agreements (regardless of whether Prosper Portland is a party to the agreement or not) with Hard Construction Costs greater than \$200,000 and involving \$100,000 or more in Prosper Portland Resources.

In addition, Prosper Portland may at its discretion require BEP compliance as a condition of other Prosper Portland agreements.

2. Program Goals

The overall goal of the BEP is to ensure Prosper Portland projects and programs provide meaningful professional, supplier, and construction contracting opportunities for Certified Firms. Recipients of Prosper Portland project support on BEP applicable projects (including, without limitation, purchasers, borrowers, grantees, developers, consultants, contractors and all their agents and contractors, each a "**Recipient**") are expected to meet the following goals:

- 20% of a project's total Hard Construction Costs shall be allocated to Certified Firms, and

- 20% of a project's Professional Services Costs shall be allocated to Certified Firms.

Prosper Portland strongly encourages Recipients to promote their prime contractors to utilize Certified Firms for all divisions of work.

A directory of Certified Firms can be found by visiting the State of Oregon's COBID website at: <https://oregon4biz.diversitysoftware.com/>

3. Standards of Compliance

Recipients of Prosper Portland project support on BEP applicable projects and their prime contractors/consultants (each, along with their relevant agents and contractors, a "**Recipient**") shall document all good faith efforts taken to contract with Certified Firms. If a Recipient, or a prime contractor/ consultant thereof, has difficulty in achieving BEP goals, it is such Recipient's and prime contractor's/consultant's obligation to immediately notify Prosper Portland and seek guidance. The following tasks are minimum reasonable and necessary steps to comply with BEP goals.

a. Initial meeting

Recipients shall attend an initial kickoff meeting with Prosper Portland Project Staff and Compliance Team at the earliest possible opportunity.

1. Recipients of Prosper Portland project support on BEP applicable projects shall bring the following to the initial meeting:
 - Project Description;
 - Project Design/Construction Schedule; and,
 - Professional Services Team List (A/E, Survey etc...).

The purposes of the initial meeting are:

- To answer questions the Recipient may have regarding compliance with BEP and Prosper Portland's equity goals;
 - For the Recipient to obtain information from Prosper Portland regarding resources the Recipient may utilize in meeting its obligations under the BEP;
 - For the Prosper Portland Compliance Team to explain the Utilization Plan (as explained below);
 - To explain the Ongoing Compliance Report Requirements in the City of Portland's Contract Compliance Reporting System (**CCRS**) with the City of Portland Compliance Staff,
 - To explain how the projects utilization is reported on Prosper Portland's website, and
 - To explain the ramifications of noncompliance with this guidance, including debarment and liquidated damages.
2. If Hard Construction Costs are \$1,000,000 or more, the Recipient and its prime contractor shall attend an additional meeting with Prosper Portland's Compliance team and agency partners to review the scopes of work and determine a potential Outreach Plan at the earliest possible time **no later than two (2) months before**

bidding on construction contracts on the relevant project begins.

b. Outreach Methods - Additional Assistance

1. Recipients, with and through their prime contractor, shall conduct outreach so that Certified Firms have at least fifteen (15) business days after the conclusion of such outreach to respond to any bidding deadlines and be considered for construction contracts on the Recipient's project. Any changes to this schedule must be approved by Prosper Portland.
2. Recipients, with and through their prime contractor, consultant are encouraged to engage in additional outreach methods to ensure maximum participation by Certified Firms, including but not limited to:
 - a. Working with the assistance of Prosper Portland's Partners (See list of partnering organizations in section 5, below) to develop an outreach plan; and
 - b. Hold Outreach events at Partnering Organizations meetings or spaces.

c. Reporting Requirements (CCRS)

BEP applicable projects are subject to compliance reporting requirements. Recipients are required to provide all contract compliance-related data electronically in the City of Portland's Contract Compliance Reporting System (**CCRS**).

All parties identified are responsible for responding to any instructions or requests for information from the City of Portland's Compliance Officer and Prosper Portland's Compliance Coordinator (see section 5) and should regularly check the CCRS to manage contact information and contract records.

Recipients, with and through their prime contractor, consultant are responsible for ensuring all subcontractors/subconsultants have completed all requested items and that their contact information is accurate and up-to-date. Prosper Portland may require additional information related to the contract to be provided electronically through the system at any time before, during, or after contract award.

Information related to contractor/ consultant access of the system will be provided to a designated point of contact upon notification. The CCRS is web-based and can be accessed at the following internet address: <https://portlandoregon.diveristycompliance.com/>.

1. Utilization Plan (UP)

The UP is due to Prosper Portland from a Recipient, with and through their prime contractor, consultant at the **beginning of the project for soft costs** and **one (1) month before construction begins** for hard costs.

A completed UP is required to be submitted electronically in the CCRS. On-screen instructions in the CCRS will guide you through the UP-submittal process. The UP must list ALL subcontractors/subconsultants to be used on the project, their corresponding type of work, their subcontract amount, and their Certified Firm status, if applicable, regardless of the dollar amount. After submission of the UP, you may review your Dashboard for status updates.

2. Monthly Reporting

Recipients, or any prime contractor thereof, shall submit records of subcontractor/subconsultant payments via the CCRS by the 15th day of each month once work has commenced and shall ensure that subcontractors/subconsultants are confirming payments reported to them in the system. Subprime firms are also responsible for reporting participation of lower tier subs.

3. Subcontractor Changes

If any subcontractor/subconsultant is added or replaced after the UP is submitted, the Recipient, and any prime contractor/ consultant thereof, shall make good faith efforts to solicit bids from Certified Firms for the work to be performed.

All subcontractor/subconsultant changes/requests shall be made in the CCRS and will include supporting documentation of the foregoing prior to making any changes. A tutorial for adding subcontractors can be found here:

<https://portlandoregon.diversitycompliance.com/Help/Tutorial/TutorialView.asp?XID=5666&TFL=RequestingASub>.

A Recipient, or any prime contractor/ consultant thereof, shall not add, delete, or replace any subcontractor without prior written consent from Prosper Portland.

4. Good Faith Effort Documentation (Form 2)

D/M/W/ESB BIDS RECEIVED LOG: Due upon request from the Recipient, with and through their prime contractor, if Program Goals Are Not Met.

- a. If the CCRS shows that the Program Goals have not been met, the Recipient, with and through their prime contractor, must submit Form 2 and additional documentation as required. To submit Form 2 and additional documentation, click Attach Waiver Files. When finished click Save Waiver Details before leaving the plan or attempting to complete another step.
- b. Any of Recipient's bidders must have contacted Certified Firm subcontractors/subconsultants in writing to advise them of potential subcontracting/subconsulting opportunities and ensure that they have an equal opportunity to compete for work by providing all subcontractors/subconsultants the same information and informing them of the date and time that sub-bids are due.
- c. Any Recipient, with and through their prime contractor/consultant, must have obtained a minimum of three (3) written bids from D/M/W/ESB subcontractors that specialize in the type of work that will be subcontracted/subconsulted. Failure to obtain three (3) written bids from D/M/W/ESB subcontractors/subconsultants may result in a Recipient being deemed non-responsive and the relevant project out of compliance. Bidders shall submit additional information and provide clarification upon request.

5. Final Reporting

All reporting is due in the **CCRS** 60 days after the project is complete.

The Project's Business Equity Utilization will be posted on Prosper Portland's Website during the life of the project. www.prosperportland.us

4. Failure to comply

Failure to comply with BEP requirement may subject the Recipient to liquidated damages, withholding payments, and/or debarment.

a. Liquidated damages

Recipient's failure to comply with the good faith efforts required under BEP will subject the Recipient to liquidated damages. Such liquidated damages shall be established by agreement with Prosper Portland prior to execution of a binding sale, loan, or other project document.

Liquidated damages will generally be a minimum of \$150,000. Prosper Portland may elect to establish a different amount in the case of particularly large or particularly small projects so that the liquidated damages amount is proportionate to the project and still provides an incentive for BEP compliance.

b. Debarment

Recipient's failure to provide any requested documentation, or to meet any other BEP compliance obligations, may affect Recipient's eligibility to participate on future Prosper Portland supported projects.

c. Withholding payment

In the event of any gross violation of BEP requirements, Prosper Portland may withhold all or part of any progress payment(s) until the Recipient has remedied the violation. If progress payments are withheld; the Recipient shall not be entitled to interest on such payments. If a subcontractor/subconsultant of a Recipient has not complied with BEP, Prosper Portland may elect to withhold only such subcontractor/subconsultant's portion of the progress payment.

5. Prosper Portland's Compliance Team and Partnering Resources Contact Information

Compliance Team

Wendy Wilcox- (Business and Workforce Equity Compliance Coordinator) wilcoxw@prosperportland.us
503.823.3236

Ay Saechao – City of Portland Compliance Officer (Reporting Liaison) Ay.Saechao@portlandoregon.gov
503.823.1090

John Cardenas (Sr. Construction Business and Workforce Equity Project Manager)
cardenasj@prosperportland.us 503-823-3253

Partnering Organizations

COBID-Certification Office for Business Inclusion and Diversity-

<https://oregon4biz.diversitysoftware.com/>

PBDG-Professional Business Development Group

<http://pbdgweb.com/>

NAMC-National Association of Minority Contractors

<http://namc-oregon.org/>

OAME-Oregon Association of Minority Entrepreneurs

<https://oame.org/>

CCRS Links

Contract Compliance Reporting System

<https://portlandoregon.diveristycompliance.com>

Changing a subcontractor

<https://portlandoregon.diversitycompliance.com/Help/Tutorial/TutorialView.asp?XID=5666&TFL=RequestingASub>.