# ILLINOIS STATE UNIVERSITY BUSINESS ENTERPRISE PROGRAM UTILIZATION PLAN GUIDE



ILLINOIS STATE UNIVERSITY
PURCHASING OFFICE

# WHAT IS THIS GUIDE?

This guide provides a non-exhaustive review of the BEP Utilization Plan. In the following pages, we will highlight some of the major points of interest in the Utilization Plan that may cause issues with your bid if not addressed properly. Please note that this guide is intended to provide assistance with completing a compliant Utilization Plan, but may be

subject to changes in statute, administrative rules, or state guidance. While we endeavor to provide the most accurate information as of the writing of this guide, this guide is no substitute for your questions and clarifications. Be sure to submit all questions as they arise to the solicitation's assigned buyer.

#### **CERTIFICATION INFO**

To learn more about the certification process and to determine if you qualify, contact the CMS BEP office at:

BEP.CMS@illinois.gov (312) 814-4190

# WHAT IS THE BEP?

The **Business Enterprise Program**, or BEP, is a supplier diversity program managed by the State of Illinois Central Management Services (CMS) that oversees the certification and support of minority-, woman-, and person with disabilities-owned small businesses. While the BEP may share certification types or language with other federal, state, or local programs/certifying institutions (City of Chicago, Small Business Administration, Illinois Unified Certification

Progam via IDOT, &c.), certification with these other programs/institutions is not reciprocal. CMS BEP certification is the only certification allowed within BEP Utilization Plans.

VBP, or Veterans Business Program, certification is not reciprocal with the BEP. The VBP and BEP share the same vendor database, but VBP certified vendors cannot count for BEP purposes unless they also hold an appropriate BEP certification.

#### **CORRECT VERSION**

The current BEP Utilization Plan is version 20.0. This version should be posted with the solicitation documents and can be found on the Chief Procurement Officer for Higher Education's website.

# WHERE DO I START?

Start by reading the Utilization Plan completely!

Although the document may be considerable in length, the Utilization Plan itself provides a relatively thorough opportunity to understand what your rights and responsibilities

are with regards to BEP utilization. The BEP Utilization Plan will become a part of any contract produced as a result of a solicitation award, after all—it's important for you to understand what you're agreeing to do under that contract.

# PARTS OF THE UTILIZATION PLAN

The BEP Utilization Plan is made up of four different Parts, each required for various respondents. The section below describes which Part needs to be completed by a respondent.

#### **PART I: COMMITMENT & SIGNATURE**



**All** respondents must complete Part I.



**BEP-certified** respondents meeting the goal by self-performing work only need to complete Part I.

#### **PART II: PARTICIPATION AGREEMENT**



BEP-certified respondents utilizing any other BEP-certified vendors should complete a Participation Agreement.



All respondents utilizing BEP-certified vendors to fully or partially meet goal should complete a Participation Agreement.

# **PART III:** DEMONSTRATION OF GOOD FAITH EFFORTS TO ACHIEVE GOAL & REQUEST FOR WAIVER



All respondents unable to meet goal, regardless of partial utilization, should complete Part III.

If a Participation Agreement cannot be accepted due to an incomplete form or a lapse in BEP certification *and* there is not otherwise sufficient BEP utilization/self-performance to meet goal, Good Faith Efforts will be reviewed.

#### **PART IV:** TERMS OF UTILIZATION

There is nothing to complete or return with regards to Part IV.

#### **TERMS & DEFINITIONS**

While there is nothing to return in Part IV, all terms and legal definitions are contained in this section. Be certain you understand your rights and responsibilities under the Utilization Plan!

# **PART I:** COMMITMENT & SIGNATURE

Completing Part I is a required step for all solicitation respondents. Be sure to check the appropriate compliance affirmation—this defines how you will provide or attempt to provide a compliant Utilization Plan—and complete the contact information section at the bottom, including your signature.

If you are a BEP-certified vendor who will meet goal by self-performance, you only need to return Part I for your Utilization Plan response. Please ensure that you're still certified by the

time of the bid, however. All vendors claiming utilization, whether through self-performance or through a Participation Agreement, **must be certified at the time of the bid opening**.

If you are a BEP-certified vendor who will only partially meet goal by self-performance—you are intending to subcontract over 80% of the project—you must complete a Participation Agreement along with Part I.

this Part I Signature Page only  Vendor has identified BEP cer this Part I Signature page and or exceed the goal.)  Vendor cannot fully meet the and hereby requests a waiver	defined in the Terms and Cond ect one of the options below): and plans to fully meet the goal to tified subcontractor(s) to fully r signed Part II Subcontractor Pa goal but has made Good Faith or reduction of the goal to		
Subcontractor Participation A	greement(s), and completed Pa	·	
The undersigned Vendor understate Participation Agreement(s) must be Services (CMS) BEP at the time of suffunctions as defined in Part IV of Utilization Plan is a mandated part of the contract, if awarded.  Manual Plan is a mandated part of the contract, if awarded.	be certified with the Illinois Depubmission of all bids/offers and this Utilization Plan. We undent of this solicitation and that the failure to carry out the requirent of this which may result in the the text.	partment of Central Management shall perform commercially useful rstand that compliance with this his Utilization Plan will become a ements of this Utilization Plan is a	t     s  a  a
other remedy as the Agency/Unive			
Signature: Email Address:	Print:	Title:	

**BE SURE TO CHECK A BOX AND SIGN!** 

## **PART II: PARTICIPATION AGREEMENT**

Part II is required if a respondent is subcontracting any portion of their contract to a BEP-certified subcontractor or supplier. Each subcontract needs a separate Participation Agreement (formerly a Letter of Intent), and there's no limit on how many Participation Agreements you can submit with your Utilization Plan. This includes BEP-certified respondents who are not self-performing enough of the contract to meet the aspirational goal.

If there are any boxes left unchecked or fields left blank, this may jeopardize the University's ability to accept the Participation Agreement. Some fields, such as estimated subcontract terms may be difficult to gauge. Complete this section with the best information you have and to the best of your ability. An estimate is better than nothing.

#### Remember: complete the entire Participation Agreement!

0	(a) Proposed % of Contract to be performed by the BEP/VSB Certified Vendor
	(b) Anticipated start date of the Certified BEP/VSB Vendor:
Ų	(c) This participation agreement shall have a term of to, with a total period of years and months, including renewals, change orders or extensions to the underlying contract.

#### **DON'T FORGET THE % & AN ESTIMATED TERM**

Unlike other forms you may find in solicitation documents, a Participation Agreement requires you to set apart a certain percentage of the contract for BEP utilization. This percentage carries through renewals, change orders, &c.

This percentage must be present on all Participation Agreements. Please note that if you've indicated that you've met the aspirational goal through Participation Agreements, the percentage on each of those documents should add up to or exceed the goal for that solicitation.

(d) Description of work to be performed or goods/equipment to be provided by the BEP certified vendor. This description must include identified Institute for Public Procurement (NIGP) codes. All Participation Agreements shall be subject to Agency/University approval. Any changes involving or affecting the identified BEP certified vendor, scope(s) of work and NIGP Code(s) will not be permitted without notification to the soliciting Agency/University and BEP Compliance, in writing, and approval of the soliciting Agency/University. (If more space is needed to fully describe BEP certified firm's proposed scope of work and/or payment schedule, attach additional sheets)

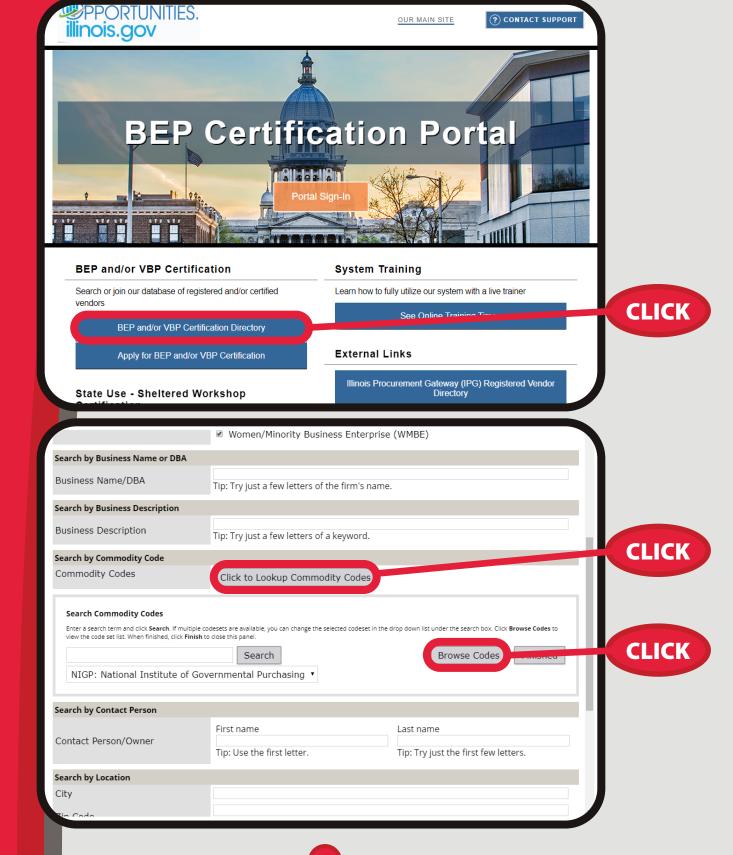
#### **DESCRIPTIONS MUST CONTAIN NIGP CODES**

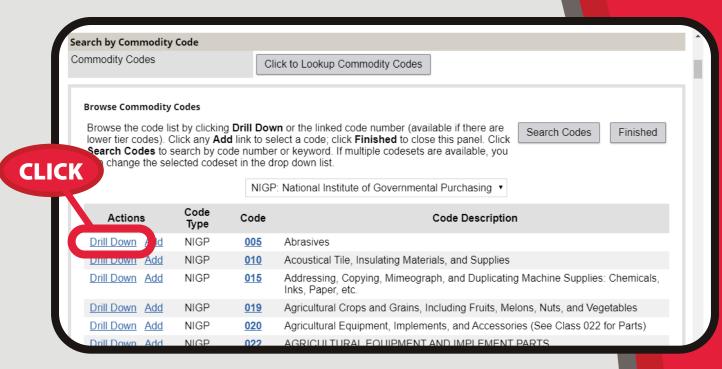
Participation Agreements must include both a description of what the subcontractor or supplier is contracted for **and** the NIGP commodity codes that best describe that work.

NIGP commodity codes can be found within the BEP directory itself.

Go to

https://cms.diversitycompliance.com/.





While there is no plain-language search function in the "Browse Commodity Codes" section, using the Find command in your browser will allow you to search this list. The Find keyboard shortcut is either "CTRL+F" or "COMMAND+F" depending on your computer's operating system.

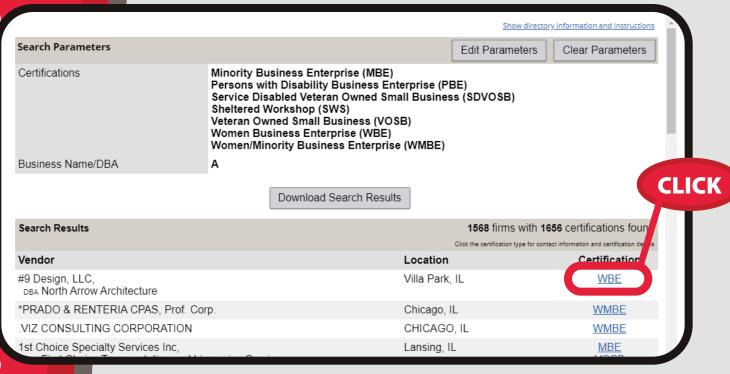
Once you have found a three-digit *general* code, click "Drill Down" to further search the five-digit *specific* codes appropriate to the description of work your subcontractor will be completing.

lower tier codes). Click any **Add** link to select a code, click **rinished** to close this pa Search Codes to search by code number or keyword. If multiple codesets are availab can change the selected codeset in the drop down list. NIGP: National Institute of Governmental Purchasi <u>Top</u> > **005** (click a higher level code to return to that level) Actions Code Type Code Code Descr NIGP 00500 ABRASIVES Add 00505 Add NIGP Abrasives Equipment and Tools 00514 Abrasives, Coated: Cloth, Fiber, Sandpaper, etc Add NIGP 00521 Add NIGP Abrasives, Sandblasting, Metal Add NIGP 00528 Abrasives, Sandblasting, Other than Metal 00542 Abrasives, Solid: Wheels, Stones, etc. Add NIGP Add NIGP 00556 Abrasives, Tumbling, Wheel 00563 Add NIGP Compounds Grinding and Polishing: Carborung **USE FIVE-DIGIT, NOT THREE-DIGIT CODES** 

You may also find the appropriate commodity code in your subcontractor's BEP profile. After searching for your subcontractor in the "Search by Business Name or DBA" option, click on the "Certification" link in the Search Results section.

Scroll down when the Certified Profile window pops up. The codes

your subcontractor is currently certified with can be found under the "Commodity Codes" heading. If any of these codes describe your subcontractor's work on the contract, include them—importantly, including the five-digit number, not just the code description—in the description section of their Participation Agreement.



Once all fields are completed and the description and NIGP codes have been included, you must have your Participation Agreement signed by you and your subcontractor.

If any changes are made to the Participation Agreement following its initial execution, your subcontractor and the University must review and acknowledge those changes.

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#### PARTICIPATION AGREEMENT CHECKLIST

dor is cartified in the RFD director

ber vendor is certified in the ber directory:
All contact & BEP vendor info checkboxes/fields complete
Percent of utilization?
Estimated contract terms?
Description of work including five-digit NIGP codes?
Signature boxes completed and signed by both parties?

## **PART III:** GOOD FAITH EFFORTS WAIVER

Part III is required if a respondent cannot fully meet goal. Whether the amount of utilization is partial or 0%, a respondent needs to provide Part III in order to request a waiver for the remainder of the BEP goal.

Unlike the compliance options available for respondents that meet goal, requesting a good faith efforts waiver requires an in-depth review process to ensure that the efforts made and documented by the respondent are sufficient for a waiver. Requesting a waiver does not guarantee that it will be granted; if

the efforts submitted by a respondent do not illustrate sufficient outreach in the context of the market availability of BEP-certified vendors, that waiver request may be rejected.

Good faith efforts waivers may also be rejected if the documentation provided to the University is incomplete. Be sure to read the instructions for Part III and follow each direction carefully.

Any questions regarding Part III should be directed to the solicitation's buyer as soon as possible.

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 have 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 BEP certified vendor participation, in addition to the items listed below, attach a detailed description of such efforts.

Utilize the website: https://cms.diversitycompliance.com to identify BEP certified

#### WRITE EXPLANATIONS FOR INCOMPLETE ACTIONS

Part III is divided into two sections:
1) Demonstration of Good Faith Efforts to Achieve Goal and Request for Waiver and 2) Good Faith Efforts Contact Log. Both of these sections need to be completed and returned along with Part I—and Part II if any partial utilization was found.

The first section provides a checklist of recommended actions to document good faith efforts. Any action left incomplete (unchecked) needs to accounted for in a written explanation that details why that action wasn't taken. This explanation should be attached to the Utilization Plan when submitted. The second section is a contact log of all BEP-certified vendors contacted for this solicitation. A list of NIGP commodity codes will be provided by the University in the "Agency / University Supplied NIGP Codes" box. All vendors certified in the BEP directory that are certified under these codes must be contacted to satisfy the Good Faith Effort requirements. Information on how to search the directory by commodity code can be found on pages 5 and 6 of this document. Once the code has been located in the search menu, click the "Add" link to add it onto your search parameters. You can search multiple codes at once.

#### **GOOD FAITH EFFORTS CONTACT LOG**

Use this log, if you are requesting a Good Faith Effort waiver, to document all contacts and responses (i.e., telephone, email, fax, etc.) regarding the solicitation of BEP certified vendors for the scope of work within the specific NIGP commodity/service code(s) selected. It is not necessary to show contacts with BEP certified vendors who are identified on the Participation Agreement(s). Keep and submit copies of all emails sent and received from prospective BEP vendors. Include a copy of the NIGP commodity/service code list and/or scope of work you used to solicit prospective BEP vendors to perform. Duplicate this Log as necessary. Do not limit your contacts to the number of spaces shown below. The Agency/University established the BEP goal in the solicitation using NIGP commodity/service code(s) representing the scope of work. All BEP certified vendors identified by these NIGP commodity/service code(s) must be contacted to satisfy the Good Faith Effort requirements. Vendors are found in the NIGP commodity/service code(s) search on the BEP Vendor Database located at <a href="https://cms.diversitycompliance.com">https://cms.diversitycompliance.com</a>.

Agency/University Supplied NIGP Codes (Required):

\*Other NIGP Codes Utilized by Vendor (Optional):

#### YOU MUST CONTACT ALL VENDORS IN THESE CODES

#### **COMMERCIALLY USEFUL?**

"Commercially Useful Function' means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement." (Part IV)

Although all vendors within the University-supplied commodity codes must be contacted as a part of completing the Good Faith Efforts Contact Log, contacting BEP-certified businesses through other commodity codes is optional and does not count in the good faith efforts review conducted by the University.

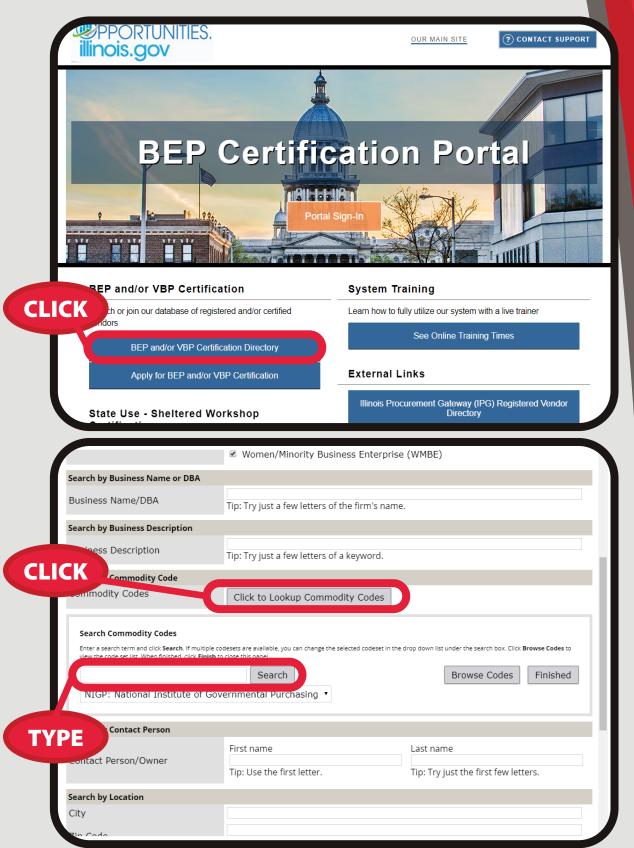
However, other NIGP commodity codes may be searched in order to secure a Participation Agreement for full or partial goal completion. As long as the business utilized is providing commercially useful work on the contract, the work does not need to fall explicitly under the University-supplied codes.

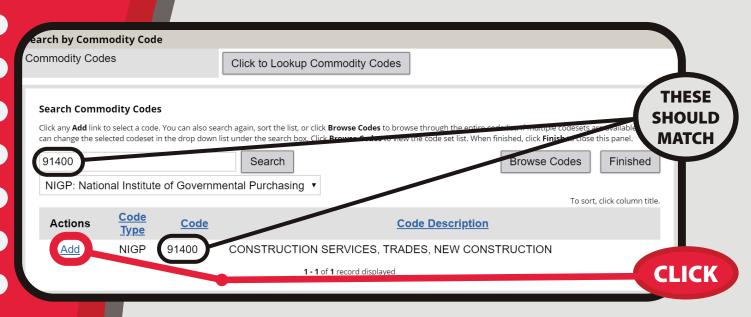
Remember to complete the Contact Log thoroughly. All columns must be complete for each vendor, especially including the "Reason Agreement Was Not Reached" column. This column should include a description of why each contacted business was not utilized on the project, such as indicating when vendors didn't respond to your communications or if pricing was excessively high. With regard to pricing, Part III's suggested actions include the following guidance: "[t]he fact that there may be some additional costs involved in finding and using BEP certified vendors may not, in itself, be a 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 BEP certified vendors if the price difference is excessive or unreasonable."

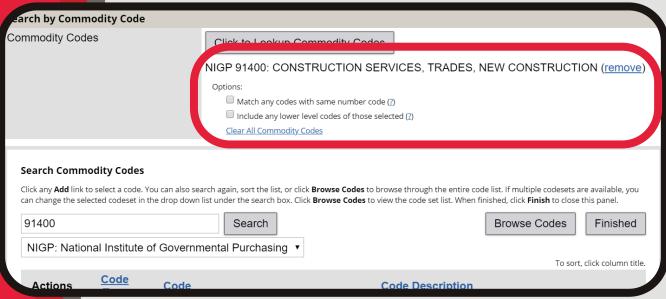
When contacting BEP-certified businesses, we suggest contacting them as early as possible—last-minute quote requests will not be accepted as sufficient—and trying both email and phone communication to connect with these businesses. As the Utilization Plan indicates, vendors must be contacted at least once by email at a minimum.

Remember: contact *all* vendors in the University-supplied codes—no exceptions for any reason.

To search the CMS directory for available vendors certified under the University-supplied NIGP commodity codes, follow the directions provided below. You may need to repeat this process for new commodity codes if an interested party requests additional commodity codes for the bid.







Once you have entered each of the University-supplied commodity codes into the search bar and clicked "Add," those codes should appear in the above section. You can search

multiple codes in a single search. As shown below, by searching all University-supplied codes at once, you can download a single vendor spreadsheet of available businesses.

		Show directory	rinformation and instruct.
Search Parameters		Edit Parameters	Clear Parameters
Certifications	Minority Business Enterprise (MBE) Persons with Disability Business Enterprise (P Service Disabled Veteran Owned Small Busine Sheltered Workshop (SWS) Veteran Owned Small Business (VOSB) Women Business Enterprise (WBE) Women/Minority Business Enterprise (WMBE)		CLICK
Commodity Codes	NIGP 91400: CONSTRUCTION SERVICES, TRA	DES, NEW CONSTR	
	Download Search Results		

The University-supplied NIGP commodity codes may be expanded prior to the solicitation's question deadline by an interested party. If the party reaches out to the solicitation's assigned buyer before the question deadline and completes a request form, the additional codes requested will be reviewed by ISU staff. If deemed appropriate for the solicitation, these codes will be added via addendum. If a code is added, it should be treated as a University-supplied code. All vendors certified under an added code must be contacted in order for a good faith efforts waiver request to be considered complete.

It's important to note that the list of certified vendors on the BEP directory changes regularly. Re-using old lists of vendors and assuming that they are still certified is not sufficient. This sort of practice becomes especially troublesome if you identify a vendor in a Participation Agreement, but their certification has lapsed since the last time you searched the directory. We strongly suggest double-checking vendor certifications and expiration dates before submitting your Utilization Plan. If a vendor is not certified at the time

of the solicitation's opening, you will not receive credit for contracting with that vendor.

Finally, it is important to note that good faith efforts are just that: efforts taken on to prove that your business has exhausted all reasonable venues of locating and utilizing a certified BEP subcontractor or supplier to meet the solicitation's goal. In addition to the actions described in the Demonstration section and the contact log, any additional documents that may clearly illustrate your actions to reach out to certified BEP vendors and offer assistance administrative, material, &c.—can be included as further proof of your efforts. These additional documents do not supercede the need to address the suggested actions in the Demonstration checklist or the good faith efforts contact log. That documentation still needs to be returned if you are requesting a good faith efforts waiver. However, your additional proof of support efforts for BEP certified vendors may be a helpful push to support your request as it is reviewed.

#### **GOOD FAITH EFFORTS CHECKLIST**

Complete suggested actions or provided statement why not?
Contacted all BEP vendors under University-supplied codes?
Checked addenda for any added commodity codes?
Completed all fields of the contact log for each entry?
Included any additional documents as extra good faith efforts
Completed Part II if you achieved partial goal completion?

# **GLOSSARY** AND CONTACT INFO

CMS Central Management Services
BEP Business Enterprise Program

• MBE Minority-owned Business Enterprise

• WMBE Minority Woman-owned Business Enterprise

• WBE Woman-owned Business Enterprise

• PBE Person with Disability-owned Business Enterprise

VBP Veterans Business ProgramVOSB Veteran-owned Small Business

• SDVOSB Service-disabled Veteran-owned Small Business

U-Plan *Utilization Plan* 

PA / LOI Participation Agreement / Letter of Intent

GFE Good Faith Efforts

RFQ Request for Quotes

QBS Qualifications-based Selection (solicitation)

RFP Request for Proposal (solicitation)
IFB Invitation for Bid (solicitation)

All questions that arise during a solicitation, regardless of who may usually field them, **must be sent to that solicitation's buyer**. See the solicitation documents or bulletin posting for the buyer's name and contact information.

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