



OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN THE TOWN OF DAVIDSON'S BUILDING CONSTRUCTION OR REPAIR CONTRACTS

In accordance with G.S. 143-128.2, these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on the Town of Davidson building construction or repair projects in the amount of \$300,000 or more. The Outreach Plan shall also be applicable to the selection process of architectural, engineering, and Construction Manager-at-Risk services.

The Town of Davidson has a current verifiable goal of ten percent (10%) for minority participation for building construction or repair projects. The goal will be reviewed every five years.

SECTION I: INTENT

The intent of these guidelines is that the Town of Davidson, as awarding authority for building construction or repair projects, and the contractors and subcontractors performing the construction contracts awarded, shall cooperate and in good faith do all things legal, proper, and reasonable to achieve the goal of ten percent (10%) for participation by minority businesses in each building construction or repair project as required by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from, minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids. Nothing in this Outreach Plan or Guidelines shall limit the right of the Town of Davidson to reject proposals for any reason it deems to be in the best interest of the Town.

SECTION II: DEFINITIONS

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
 - e. Female



2. Minority Business (MBE) - means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. Socially and economically disadvantaged individual - means the same as defined in 15 U.S.C. 637: Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.
4. Owner – Town of Davidson.
5. Designer – Any person, firm, partnership, or corporation which has contracted with the Town of Davidson to perform architectural or engineering work.
6. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
7. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials, or services, including construction, and obligating the buyer to pay for them.
8. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Town of Davidson to perform building construction or repair work.
9. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

SECTION III: RESPONSIBILITIES OF PARTIES

- A. OWNER RESPONSIBILITIES: The Town of Davidson will employ the following strategies to encourage participation from MBE'S.



1. Work with minority-focused and small business groups that support MBE inclusion in the solicitation of bids. These groups include NC Department of Administration Office of Historically Underutilized Businesses (HUB), Small Business and Technology Development Center, and others.
2. Place more emphasis on the importance of soliciting certified MBE firms and small businesses for subcontracting opportunities at pre-bid conferences and in the bid documents
3. Provide detailed information to majority contractors concerning the Guidelines for Recruitment and Selection of Minority Business and Outreach Plan.
4. Assess the effectiveness of the MBE program, and identify opportunities to enhance it, by evaluating MBE participation and compliance and reviewing the “good faith efforts” provided in bid packages.
5. Contact interested businesses that have requested notices from the Town no later than 10 days prior to the bid opening and provide; a description of the work for which the bid is solicited; the date, time, and location where bids should be submitted; the name of the person that will answer questions about the project; the location of the bid documents and the availability for review; and special requirements;
6. Enhance the Town’s web page by including the Outreach Plan and Guidelines, listing good faith efforts, and creating links to MBE resources.
7. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.

B. DESIGNER RESPONSIBILITIES

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

1. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.
2. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
3. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
4. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143-128.2(f) – (i.e. bidders’ proposals for identification of the minority



businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award.

5. During the construction phase of the project, review “MBE Documentation for Contract Payment” form with monthly pay applications to the owner and forward copies to the Town. Refer to:
<http://interscope2.doa.state.nc.us/Guidelines/MBE/MBGuidelines2002R.pdf> for designer’s review.

C. PRIME CONTRACTORS(S), CONSTRUCTION MANAGER AT RISK, AND FIRST TIER SUBCONTRACTOR

Under the single-prime bidding, the separate-prime bidding, construction manager at risk, and alternative contracting methods, contractor(s) will:

1. Attend the scheduled pre-bid conference.
2. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
3. During the bidding process, comply with the owner’s requirements listed in the proposal for minority participation.
4. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f) or Intent to Perform Contract With Own Workforce affidavit.
5. Make documentation showing evidence of implementation of Prime Contractor, CM-at-Risk and First-Tier Subcontractor responsibilities available for review by the Town upon request.
6. Provide one of the following upon being named the apparent low bidder:
 - a. an affidavit that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. This affidavit shall give rise to a presumption that the bidder has made required good faith effort; or
 - b. if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented including any advertisements, solicitations,



and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.

7. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
8. Submit with each monthly pay request(s) and final payment(s) documentation “MBE Documentation for Contract Payment” for designer’s review. Refer to: <http://interscope2.doa.state.nc.us/Guidelines/MBE/MBGuidelines2002R.pdf>) for designer’s review.
9. Make a good faith effort to solicit sub-bids from minority businesses during the construction of a project if additional subcontracting opportunities become available.

D. MINORITY BUSINESS RESPONSIBILITIES

1. Certification

Minority businesses must be certified in order to participate in the Town of Davidson’s building construction or repair projects.. Certification can be obtained from the following agencies:

- North Carolina Department of Administration Historically Underutilized Business (HUB) certification
- North Carolina Department of Transportation Minority/Disadvantaged/Women-owned Business certification
- Small Business Administration 8(a) certification
- Other governmental agencies on a case-by-case basis

2. Other Responsibilities

Minority businesses that are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

SECTION IV: MINIMUM COMPLIANCE REQUIREMENTS

All written statements or affidavits made by the bidder shall become a part of the agreement between the Contractor and the Town of Davidson for performance of the contract. Failure to comply with any of these statements, affidavits, or with the minority business guidelines shall



constitute a breach of the contract. A finding by the Town that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false, or incomplete shall constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the Town of Davidson whether to terminate the contract for breach.

In determining whether a contractor has made good faith efforts, the Town will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, diligence, and results of these efforts. Contractors are required to earn at least 50 points for good faith efforts. Failure to file a required affidavit or documentation demonstrating that the contractor made the required good faith effort, is grounds for rejection of the bid. Good faith efforts include:

1. Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed. (10 points)
2. Making the construction plans, specifications, and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. (10 points)
3. Breaking down or combining elements of work into economically feasible units to facilitate minority participation. (15 points)
4. Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses. (10 points)
5. Attending any pre-bid meetings scheduled by the public owner. (10 points)
6. Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. (20 points)
7. Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Reasons for rejection of a minority business based on lack of qualification should be documented in writing. (15 points)
8. Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Providing assistance to minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. (25 points)



9. Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible. (20 points)
10. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands. (20 points)

Adopted this 14th day of June, 2016.

John M. Woods, Mayor

ATTEST:

Heather B. James, Town Clerk