

## APPENDIX A

### MBE (HUB) CONTRACT PROVISION (CONSTRUCTION)

#### APPLICATION:

The requirements of the Guidelines For Recruitment And Selection Of Minority Business are hereby made a part of these contract documents. These requirements shall apply to all contractors regardless of ownership.

#### MBE SUBCONTRACT GOALS:

The goals for participation by Minority firms as subcontractors on this project have been set at ten (10%).

The Bidder will provide documented proof in the form of Appendix B, MBE UTILIZATION COMMITMENT, that these goals have been met or exceeded;

OR

Provide Appendix B, MBE UTILIZATION COMMITMENT, identifying the amount of MBE participation; and, prior to award, upon request, show evidence of good faith effort made prior to the bid opening to meet these goals;

OR

Provide Appendix D, CERTIFICATION REGARDING SUBCONTRACTING PRACTICES, and upon request, information sufficient for the Owner to determine that the Bidder does not customarily subcontract work on this type project.

It is desired that the above information be submitted with the bid. Although bids may be read without the form attached, no consideration will be given to any bid relative to award of contract until the required forms and supporting data are in the hands of the Owner.

#### MINIMUM COMPLIANCE REQUIREMENTS:

If the MBE subcontract goals are not achieved, the Bidder shall provide the following documentation to the Owner.

1. MBE Utilization Commitment (Appendix B).
2. Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions (upon request prior to award).

This documentation shall include an affidavit that certifies that the Bidder has taken at least five (5) of the following ten (10) good faith steps to procure MBEs, and it should also list which steps were taken:

1. Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on these State or local government-maintained lists at least ten (10) days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
2. Made the construction plans, specifications, and requirements available for review by prospective minority businesses, or providing these documents to them at least ten (10) days before the bid proposals are due.
3. Broke down or combined elements of work into economically feasible units to facilitate minority participation.

4. Worked with minority trade, community, or contractor organizations identified by the Office of Historical Underutilized Businesses and included in the bid documents that provided assistance in recruitment of minority businesses.
5. Attended any prebid meetings scheduled by the public owner.
6. Provided assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
7. Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualifications should have the reasons documented in writing.
8. Provided 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. Assisted minority businesses in obtaining the same unit pricing with the bidder's supplier in order to help the minority businesses in establishing credit.
9. Negotiated 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.
10. Provide quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands.

This documentation shall include the following evidence:

- A. Copies of solicitations for quotes to at least three (3) MBE firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where an MBE firm is not considered to be the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contracts, correspondence or conversation with MBE firms made in an attempt to meet the goals.

**NOTE:** If the Bidder provides sufficient evidence (listed in #A) that the goals stated in the contract documents have been met, or awards all subcontracts to MBE's, the documentation listed in B will not be required.

Upon being named apparent low bidder, the Bidder shall provide a Letter of Intent (Appendix C), complete with a description of the scope of services and dollar value from each MBE firm proposed for use in this contract. Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award the next lowest responsible and responsive bidder. The Owner reserves the right to waive any irregularities in MBE documentation if they can be resolved prior to award of the contract, and the Owner finds it to be in its best interest to do so and award the contract.

**PROGRAM COMPLIANCE REQUIREMENTS:**

All written statements, certifications or intentions made by the Bidder shall become a part of the agreement between the Contractor and the County of Orange for performance of this contract. Failure to comply with any of these statements, certifications or intentions, or with the MBE Guidelines shall constitute a breach of the contract. A finding by the Owner that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false or incomplete, shall also 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 Owner whether to terminate the contract for breach.

APPENDIX B OR D MUST BE SUBMITTED WITH BID

APPENDIX B

MBE UTILIZATION COMMITMENT

We, \_\_\_\_\_, do certify that on the  
(Bidder)

HVAC SYSTEM REPLACEMENT  
RICHARD E. WHITTED HUMAN SERVICES CENTER  
AND CENTRAL RECREATION BUILDING

\_\_\_\_\_  
(Dollar Amount of Bid)

will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. This percentage must be at least ten percent (10%), or the bidder must complete the back side of this form as well. MBE's will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. If the bidder intends to subcontract, this form must be completed regardless of the amount or lack of participation attained.

Name and Phone Number of Firm	Indicate MBE	Description of Work	Dollar Value
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The undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule, conditional upon execution of a contract with the County of Orange. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_  
(Name of Authorized Officer)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

We, \_\_\_\_\_, do certify that we did undertake the following steps in good faith to procure minority enterprise. The bidder must cite that at least five steps were taken.

- \_\_\_\_\_ 1. Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on these State or local government-maintained lists at least ten (10) days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
- \_\_\_\_\_ 2. Made the construction plans, specifications, and requirements available for review by prospective minority businesses, or providing these documents to them at least ten (10) days before the bid proposals are due.

- \_\_\_\_\_ 3. Broke down or combined elements of work into economically feasible units to facilitate minority participation.
- \_\_\_\_\_ 4. Worked with minority trade, community, or contractor organizations identified by the Office of Historical Underutilized Businesses and included in the bid documents that provided assistance in recruitment of minority businesses.
- \_\_\_\_\_ 5. Attended any prebid meetings scheduled by the public owner.
- \_\_\_\_\_ 6. Provided assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
- \_\_\_\_\_ 7. Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualifications should have the reasons documented in writing.
- \_\_\_\_\_ 8. Provided 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. Assisted minority businesses in obtaining the same unit pricing with the bidder's supplier in order to help the minority businesses in establishing credit.
- \_\_\_\_\_ 9. Negotiated 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.
- \_\_\_\_\_ 10. Provide quick pay agreements and policies to enable minority contractors and suppliers to meet cash flow demands.

APPENDIX C

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR  
OR  
PROVIDE MATERIALS OR SERVICES

SUBJECT: \_\_\_\_\_  
(Project Name)

TO: \_\_\_\_\_  
(Name of Prime Bidder)

The undersigned intends to perform work in connection with the above project as a Minority Business Enterprise.

The MBE status of the undersigned is certified by the State of North Carolina.

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project (specify in detail particular work items, materials or services to be performed or provided):

at the following price: \_\_\_\_\_.

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Commencement Date	Projected Completion Date
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Subcontracting at any tier must be reported and is subject to all MBE compliance requirements. This form shall be used for MBE subcontracting at any level.

Date: \_\_\_\_\_  
(Name of Minority Contractor)

By: \_\_\_\_\_

APPENDIX B OR D MUST BE SUBMITTED WITH BID

APPENDIX D

CERTIFICATION REGARDING SUBCONTRACTING PRACTICES

We, \_\_\_\_\_, hereby certify that it is  
(Name of Bidder)

our intent to perform 100% of the work required for the \_\_\_\_\_  
\_\_\_\_\_ contract.  
(Name of Project)

In making this certification, the Bidder states the following:

1. That the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and
2. That the Bidder agrees to submit the following information after bid and before the award of the contract:
  - \* List the scope of services involved in this project.
  - \* List previous projects of this type that Bidder has performed with his/her forces.
  - \* Payrolls from the above-mentioned jobs which illustrate Bidder's employees' job classifications needed to perform the elements of the work on the Project or a breakdown of Bidder's entire work force which illustrates the number of employees in each job classification.
  - \* Name and phone number of the Field Supervisors for these jobs.
  - \* List of equipment Bidder's firm owns that has been used on previous projects.
  - \* Copies of lease agreement for equipment that was leased.

The Bidder agrees to provide any additional information requested for the statement contained in paragraph number 1 above.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name of Authorized Officer)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_