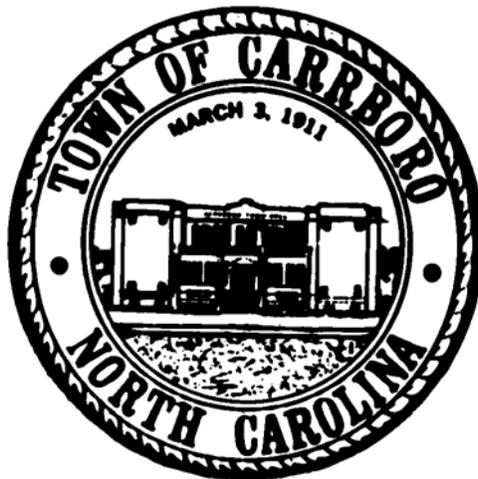


**Town of Carrboro**

**Minority-owned, Woman-owned, Disadvantaged-owned  
Outreach Plan and Guidelines**



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## **OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN TOWN OF CARRBORO BUILDING CONSTRUCTION CONTRACTS**

In accordance with G.S. 143-128.2 (effective January 1, 2002) these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, Construction Manager-at-Risk, and alternative contracting methods on Town of Carrboro building construction projects in the amount of \$300,000 or more (\$100,000 or more if the Town receives State funds for the project).

Town of Carrboro's current goal for minority participation for public building construction is ten percent (10%). The overall goal will be reviewed annually or as soon as relevant data is available.

### **INTENT**

The intent of these guidelines is that the Town of Carrboro, as awarding authority for construction 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 construction project. 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.

### **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 American, 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, or 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 – means a business
  - a. In which at least fifty-one percent (51%) of the ownership interest is held 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 who are not socially disadvantaged”.
4. Public Entity – means State (and all political subdivisions thereof) and local government units.
5. Owner – Town of Carrboro.
6. Designer – Any person, firm, partnership, or corporation, which has contracted with Town of Carrboro to perform architectural or engineering work.
7. Bidder – Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
8. 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.
9. Contractor – Any person, firm, partnership, corporation, association, or joint venture which has contracted with the Town of Carrboro to perform construction work or repair.
10. Subcontractor – A firm under contract with the prime contractor or Construction Manager-at-Risk to supply materials, or labor and materials, and/or installation in connection with a Town building construction or repair contract. The subcontractor may or may not provide materials in the subcontract.

## **MINORITY OUTREACH PLAN AND GUIDELINES**

The Town of Carrboro will employ the following strategies to encourage participation from MBE's:

1. Work with minority-focused business groups in an attempt to recruit minority business participation in contracts/bids.

2. Emphasize the importance of soliciting certified MWBE firms and small businesses for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from MWBE firms.
3. Provide information to majority contractors concerning the Guidelines for Recruitment and Selection of Minority Business and Outreach Plan and provide information on G.S. 143-129 by holding meetings with the contractors.
4. Assess the effectiveness of the Outreach Plan by evaluating MWBE participation and compliance and reviewing the “good faith efforts” provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified MWBE firms and small businesses that have expressed an interest in Town of Carrboro projects. Identify these opportunities, contact interested businesses no later than 10 days prior to the bid opening, and provide a list of prime contractors planning to participate in the project.
6. Build new business relationships through networking with other North Carolina cities and counties and sharing ideas to improve the Outreach Plan.
7. Offer training sessions to share the Town’s Outreach Plan with interested business organizations.
8. Post the Outreach Plan and Guidelines on the Town’s website, listing good faith efforts, creating links to MWBE resources, and creating awareness of specific subcontracting opportunities.
9. Maintain a database specifically for MWBE firms to ensure that those businesses are notified of bid opportunities.
10. Advertise upcoming bid opportunities in minority-focused media.
11. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.

### **Designer**

Under the single-prime bidding, separate prime bidding, dual bidding, Construction Manager-at-Risk, or alternative contracting method, the Designer must do all of the following:

- a. Attend the scheduled prebid conference to explain minority business requirements to the prospective bidders.

- b. Assist the bidders and potential bidders to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
- c. Maintain documentation of any contacts, correspondence, or conversations with minority business firms made in an attempt to meet the goals.
- d. Review jointly with the owner all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders’ proposal for identification of the minority businesses that will be utilized with corresponding 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 an award.
- e. During the construction phase of the project, review “MWBE Documentation for Contract Payment” form with monthly pay applications to the owner and forward copies to the Town of Carrboro.

**Prime Contractors(s), CM at Risk and Its First-Tier Subcontractors**

Under the single-prime bidding, the separate-prime bidding, dual bidding, Construction Manager-at-Risk and alternative contracting methods, contractor(s) must do all of the following:

- a. Attend the scheduled prebid conference.
- b. Identify or determine those subcontractor work areas where minority businesses may have an interest in performing subcontract work.
- c. At least ten (10) days prior to the scheduled day of bid opening, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification must include all of the following:
  - (1) A description of the work for which the subbid is being solicited.
  - (2) The date, time and location where subbids are to be submitted.
  - (3) The name of the individual within the company who will be available to answer questions about the project.
  - (4) Where bid documents may be reviewed.
  - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.
- d. During the bidding process, comply with the contractor’s requirements listed in the proposal for minority participation.
- e. 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.
- f. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First Tier Subcontractor responsibilities available for review by Town of Carrboro upon request.
- g. Provide one of the following upon being named the apparent low bidder: (1) 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 the required good faith effort; or (2) 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.
- h. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
  - i. Submit with each monthly pay requests(s) and final payment(s), “MWBE Documentation for Contract Payment” for Designer’s review.
  - j. If at any time during the construction of a project, it becomes necessary to replace a minority business subcontractor, immediately advise the owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
  - k. Make a good faith effort to solicit subbids from minority businesses during the construction of a project if additional subcontracting opportunities become available.

## **Minority Business Responsibilities**

### Certification

Town of Carrboro does not certify minority, disadvantaged or woman-owned businesses. Any business which desires to participate as an MWBE will be required to complete, and submit for certification, documents required by the agencies listed below. Only those firms holding current certification through at least one of the following agencies will be considered eligible for inclusion in meeting the MWBE participation percentage goals:

North Carolina Administration Department Historically Underutilized Business (HUB) certification.

North Carolina Department of Transportation Minority/Disadvantage/Woman-owned Business certification.

Small Business Administration 8(a) certification.

Other governmental agencies on a case-by-case basis.

A copy of these guidelines will be issued with each bid package for Town of Carrboro building construction projects. These guidelines shall apply to all contractors regardless of ownership.

### Other Responsibilities

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

## MINIMUM COMPLIANCE REQUIREMENTS

All written statements, affidavits or intentions made by the Bidder shall become a part of the agreement between the Contractor and Town of Carrboro for the performance of the contract. Failure to comply with any of these statements, affidavits or intentions, or with the minority business guidelines shall constitute a breach of 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. The Town of Carrboro shall determine, in the exercise of its sole discretion, whether to terminate the contract for breach.

In determining whether a contractor has made Good Faith Efforts, the Town of Carrboro will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts. Bidders must earn at least 50 points from the good faith efforts listed below in order for their bids to be considered responsive:

- (1) Contacting those minority businesses reasonably expected to submit a quote and known or identified 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. (Value = 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. (Value = 10 points)
- (3) Breaking down or combining elements of work in economically feasible units to facilitate minority participation. (Value = 15 points)
- (4) Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and those included in the bid documents to provide assistance in recruitment of minority businesses. (Value = 10 points)
- (5) Attending any prebid meetings scheduled by the public owner. (Value = 10 points)
- (6) Providing assistance in obtaining required bonding or insurance, or providing alternatives to bonding or insurance for subcontractors. (Value = 20 points)
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification shall have the reasons documented in writing. (Value = 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. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. (Value = 25 points)
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public building construction or repair project when possible. (Value = 20 points)
- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. (Value = 20 points)

Failure to file a required affidavit or document demonstrating that the contractor made the required good faith effort is grounds for rejection of the bid.

#### **DISPUTE RESOLUTION PROCEDURES**

Pursuant to G.S. 143-128(f1), all disputes involving contractors on a building construction project with the Town of Carrboro shall be resolved pursuant to the State of North Carolina Policy G.S. 143-135.26(11).