

## **MINORITY BUSINESS ENTERPRISE PARTICIPATION**

### **GOALS FOR MBE PROGRAM:**

It is the policy of the Federal Government that minority businesses shall have the maximum feasible opportunity to participate in the performance of contracts performed under the Federally subsidizing Programs.

The contractor agrees to use his best efforts to carry out this policy through award of contracts and subcontracts to minority business enterprises to the fullest extent, consistent with the efficient performance of this contract. As used in this contract, the term "minority business" means a business at least 51% of which is owned and controlled by minority group members; or, in the case of a publically-owned business, at least 51% of the stock of which is owned and controlled by minority group members. For the purpose of this definition, minority group members are one or more socially or economically disadvantaged persons. Such persons include, but are not limited to, Women, Blacks, Puerto Ricans, Spanish speaking Americans, American Indians, Eskimos, and Aleuts. The minority ownership must exercise actual day-to-day management.

Each contractor must fully comply with the requirements, terms, and conditions of the US HUD Minority Business enterprise (MBE) requirements and the statement of HUD policy of April 14, 1981 including the goals established for minority business participation during the performance of this contract. The contractor commits himself to the performance of positive efforts to achieve the goals for minority business participation contained therein and all other requirements, terms, and conditions of the bid specifications by submitting a properly signed bid.

The contractor will appoint a company executive to assume the responsibility for the implementation of such requirements, terms, and conditions.

The prime contractor agrees that he will make good faith efforts to subcontract at least 20% of the total value of this contract to minority business. For the purpose of this program, the term "subcontract" includes all agreements for construction, modification, and service work and supplies contracted for by the prime contractor in the prosecution of the work under his contract. Although it is not made a requirement herein for HUD approval of a contract that a contractor in fact meet or exceed these goals in its contracting, the contractor will be required to objectively demonstrate to the grantee prior to contract approval and also during contract performance that he has exerted positive efforts to meet these goals.

Notwithstanding the fact that a contractor may have the capability to complete the total project with his own work force and without the use of subcontractors, each contractor will still be required to take positive efforts to subcontract to minority firms and share of the work consistent with the goals. These requirements are also applicable to bidders who are themselves minority owned enterprises.

## **MBE STUDIES, SURVEYS, AND REPORTS**

1. The contractor shall cooperate with the grantee in studies and surveys of the contractor's minority business procedures and practices.
2. The contractor shall maintain records showing, (a) awards to minority businesses; and (b) specific efforts to identify and award subcontracts to minority businesses.
3. The contractor shall submit periodic reports of subcontracting to know minority businesses in such form and manner and at such time (not more often than quarterly) as the grantee may prescribe.

## **SPECIFIC GOOD FAITH EFFORTS**

The contract shall be deemed to be in compliance with the requirements, terms, and conditions of the HUD minority Business Enterprise Policy and Program if he meets or exceeds its commitment to the goals for minority business participation in its subcontracts and sub-agreements.

The contractor's commitment to the goals for minority business participation as required by the HUD Minority Business enterprise Policy and Program, constitutes a commitment that he will make every good faith effort to meet such goals. No contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet these goals; but he shall be given the opportunity to objectively demonstrate to the grantee that he has instituted all the specific affirmative action steps specified in the HUD MBE Policy and Program and made every good faith effort to make these steps work toward the attainment of his designated goals of allowing minority business enterprises maximum feasible opportunity to participate in subcontracts and sub-agreements under this HUD funded project.

## **CONTRACTOR NON-COMPLIANCE**

Contractors who fail to achieve their commitments to the goals for minority business participation must have engaged in affirmative participation; which is supported by documentation at least as extensive as the following:

1. Documentation of efforts to extend opportunities to MBEs such as advertisement in minority trade association newsletters and minority-owned media no less than fifteen (15) days before MBE responses are due for specific sub-contracting that would be anticipated to result at least in a degree of MBE participation equal to the percentage goal for MBE utilization specified for the contract.
2. Documentation showing that the work to be subcontracted was segmented to the extent consistent with the size and capability of minority-owned firms in order to provide reasonable subcontracting opportunities.
3. Copies of solicitation letters inviting quotes or proposals from minority business

enterprise, segmenting portions of the work and specifically describing, as accurately as possible, the portions of the work for which quotes or proposals are solicited from minority firms and encouraging inquiries for further details. Letters that are general and do not describe specifically the portions of the work for which quotes or proposals are desired are not acceptable, as such letters generally do not bring responses. Such letters will be sent in a timely manner so as to allow minority firms sufficient opportunity to develop quotes or proposals for the work described. In general such solicitation letters should be postmarked no later than fifteen (15) days before MBE responses are due.

4. Documentation of good faith negotiations with those MBEs from whom responses were received in an effort to reach a mutually acceptable price. Where the MBE participation was unsuccessful due to failure to agree on price, the bidder must document that the subcontractor selected for the work segment was lower than the MBE and that the work segment so contracted was the same work segment under negotiations with the MBE, and not a reduced portion thereof.

The foregoing documentation should be provided on or as an addition to form attached hereto.

*Schenectady Municipal Housing Authority*  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION**

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_

Grantee's Goal: \_\_\_\_\_

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**Prime Contractor Information**

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Name: \_\_\_\_\_ Type of Contract: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Minority (specify) \_\_\_\_\_ Amount of Contract: \$ \_\_\_\_\_

Non Minority Date of Award: \_\_\_\_\_

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**Subcontractor or Joint Venture Information**

Name: \_\_\_\_\_ Type of Contract: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Minority (specify) \_\_\_\_\_ Amount of Contract: \$ \_\_\_\_\_

Non Minority Date of Award: \_\_\_\_\_

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Name: \_\_\_\_\_ Type of Contract: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Minority (specify) \_\_\_\_\_ Amount of Contract: \$ \_\_\_\_\_

Non Minority Date of Award: \_\_\_\_\_