

## **PARTICIPATION BY MINORITY BUSINESSES**

*Policy Code:*

**9125**

The board affirms the State's commitment to encouraging the participation of minority businesses in the school system's building construction contracts. A minority business is defined in accordance with G.S. 143-128.2 and is either (1) one in which at least 51 percent of the business is owned by minority persons or socially and economically disadvantaged individuals, and (2) 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, or (2) an employee stock ownership plan company in which at least 51 percent of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals. Minority persons include African-Americans, those of Hispanic descent, Asian Americans, American Indians, and females.

### **A. GOALS**

The board establishes the following guidelines to ensure that school system staff will make good faith efforts to reach diverse supplies of goods and services and to encourage participation in the school system's purchasing program by such suppliers.

### **B. SCHOOL SYSTEM GOOD FAITH EFFORTS**

The board establishes the following guidelines for contracts subject to Section A to ensure that the school system will make good faith efforts to reach diverse contractors and to encourage participation in the school system's construction contracts by such contractors. Before awarding a contract, the superintendent or designee shall:

1. make information about the school system's formal and informal bidding process readily available;
2. develop and implement a minority business participation outreach plan to identify minority businesses that can perform building projects and to implement outreach efforts to encourage minority business participation in such projects;
3. advertise for bids in media that reach minority businesses;
4. designate a school official to attend the scheduled pre-bid conference to explain the school system's minority goals and objectives;
5. at least 10 days prior to the scheduled day of bid opening, notify minority businesses of the following:
  - a. a description of the work for which the bid is being solicited;
  - b. the date, time, and location where bids are to be submitted;

- c. the name of the individual within the public entity who will be available to answer questions about the project;
- d. where bid documents may be reviewed; and
- e. any special requirements that may exist.

For purposes of this provision, the minority businesses to be notified are those (1) that have requested notices from the school system for construction or repair work, and (2) those that otherwise indicated to the Office of Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal;

6. ensure that everyone who requests it has access to bid documents needed for making bids on projects;
7. maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals;
8. review, jointly with the designer, the lowest responsible bidder's bid for compliance with all requirements of G.S. 143-128.2(c) and -128.2(f) prior to recommendation of the contract award;
9. encourage businesses experiencing difficulty in meeting the bonding, licensing and bid deposits required by state law in larger construction projects to utilize resources and assistance offered by local, state and federal agencies; and
10. provide information to bidders about the statewide uniform certification program for historically underutilized businesses.

### **C. GOOD FAITH EFFORTS REQUIRED BY CONTRACTORS**

All bidders on major school construction and renovation projects subject to Section A of this policy who intend to subcontract any part of the project must (1) identify the minority businesses to be used on the project and (2) provide affidavits indicating that a good faith effort has been made in preparing the bid to meet the board's verifiable goal for participation by minority businesses. Upon being named the apparent lowest responsible, responsive bidder, a bidder shall provide additional evidence of its good faith efforts as required by law.

The level of minority participation in bidders' bids will not affect the contract award decision; however, the failure to provide documentation of a good faith effort to meet the board's goal may result in the bid being rejected as non-responsive.

Before recommending the award of a contract, the superintendent shall direct designated

---

school officials to evaluate bidders' documents in accordance with applicable law and regulations to determine whether bidder good faith requirements are satisfied.

**D. MONITORING**

The superintendent or designee shall monitor payments made to minority businesses on each project subject to Section A to verify that the minority businesses actually working on the project and their level of participation is consistent with the representations made in the contractor's bid.

**E. OTHER MINORITY BUSINESS RECRUITMENT EFFORTS**

For building contracts that (1) are not subject to Section A and (2) cost at least \$30,000 but less than \$300,000, the board will solicit participation by minority business enterprises and maintain a record of contractors solicited and efforts to recruit minority participation.

**F. REPORTING**

The superintendent shall ensure that all required reports and other documentation are filed with the Department of Administration in accordance with legal requirements.

**G. NONDISCRIMINATION**

The board will award public building contracts without regard to race, religion, color, creed, national origin, sex, age or disability. Nothing in this policy should be construed to require the board or contractors to award contracts or subcontracts to minority business contractors or minority business subcontractors who do not submit the lowest responsible, responsive bid or bids.

Legal References: *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); G.S. 143-128, -128.2, -128.3, -131(b); 01 N.C.A.C. 30I .0101-0310

Adopted: January 19, 2010

Revised: May 17, 2010; September 15, 2014; August 12, 2019; March 11, 2024