

## Minority/Women Contracting

### **ESTABLISHMENT OF BUSINESS DEVELOPMENT AND ASSISTANCE OBJECTIVES**

In order to implement Board Rule 6Gx13- 3G-1.01, Business Development and Assistance (BD&A) Program, it is necessary to institute a statistically based goal assistance methodology for determining the assistance levels to be established on an annual basis, using the Ready, Willing, and Able (RWA) model.

The purpose of establishing specific objectives is to affirmatively ensure a substantial increase in the award of contracts to minority/women businesses in order to eliminate the substantial disparity between contract awards to minority/women businesses and non-minority businesses.

#### **I. Criteria for Establishment of Objectives**

- A. **Attainability** - Objectives should be established which are not rigid and inflexible, as distinguished from quotas, and which can be realistically attained by applying every reasonable and sufficient effort to utilize minority/women businesses on the basis of availability and capability.
- B. **Development of Capability** - Objectives should be established which provide access to opportunities through which meaningful experience is gained to enhance capability, enabling minority/women businesses to better compete unassisted.
- C. **Allocation** - Objectives should be allocated between M/WBE categories in a manner which takes into account different levels of disparity, varying degrees of effects due to past discrimination, and different levels of demonstrated existing capability to compete unassisted.
- D. **Percentage Amounts** - Objectives should be established which substantially increase the percentage participation of minority/women businesses to a level which is reasonably proportionate to their availability, capability and utilization in the Miami-Dade County School Board's market area.
- E. **Economic Impact** - Objectives should account for the fact that the overall impact of affirmative action expenditures varies between minority/women groups. Indirect or induced economic benefit, as well as direct assistance benefits, shall be considered in establishing or revising objectives.

#### **II. Objectives**

- A. 1990 Disparity Study - The 1990 Disparity Study contains numerous tables of pertinent historical or statistical data, and a number of methodologies for the analysis and calculation of various factors, which are then utilized to establish racial/ethnic/gender disparity in the award of contracts by the School Board.

The factors include AVAILABILITY, UTILIZATION, DISPARITY, and SIGNIFICANCE. Availability and Utilization are employed to calculate a Disparity ratio, and Significance is a method for testing calculated Disparity ratios for statistical significance.

The study concluded, and the Disparity Tables indicate, that certain disparities existed in previous years, which in some cases have been partially abated, apparently as a result of the Board's Business Development and Assistance Program. Additionally, the Ready, Willing and Able (RWA) model should be legally defensible, and calculations based on this model provide sufficient statistical evidence of disparity.

The Board's assistance program has helped to reduce the disparity; therefore, the next step is to enhance the program to provide greater assistance to minority and women contractors, consultants, and vendors.

#### B. Establishment of Assistance Levels

A statistically based system for determining Assistance Levels, utilizing the Ready, Willing and Able (RWA) model for Availability, Utilization, and Disparity is presented below:

1. The data for the prior year will be the basis for Assistance Levels in the subsequent year. Assistance Levels would either increase or decrease, based upon disparity trends.
2. The Assistance Level would either increase or decrease in accordance with the following table:

<b>Disparity</b>	<b>Assistance</b>	<b>Indication</b>
Greater than 6	Availability x 2	Significantly large disparity
Greater than 3; less than 6	Availability x 1.5	Significant disparity
Greater than .8; less than 3	Availability x 1	Data is not significant
Greater than .6; less than .8	Availability x .5	Significant over-utilization
Greater than .3; less than .6	Availability x .25	Significant large over-utilization
Less than .3	None	Extensive over-utilization

In addition to the Disparity/Assistance calculation described above, additional Assistance consideration would be based on the Disparity trends evidenced from previous years' performance. The Assistance calculation above would be modified based on the growth rate of disparity (D) during the most recent two years, as follows:

<b>Growth Rate</b>	<b>Assistance Modification</b>	<b>Indication</b>
Greater than 1.5	Assistance x 1.5	D rapidly increasing
Greater than 1.25; less than 1.5	Assistance x 1.25	D increasing
Greater than .75; less than 1.25	Assistance x 1 (no change)	Little change in D
Greater than .50; less than 1.5	Assistance x .9	D decreasing
Less than .50	Assistance x .5	D rapidly decreasing

This methodology follows the premise that Assistance should not only more proportionately distribute contracts to M/WBE groups, but also needs to be provided on the basis of the degree of disparity and gradually reduced until the specific M/WBE group is close to parity and can remain so without Assistance.

The degree of utilization of any group is ultimately limited by Availability. Assistance Levels which are substantially higher than Availability are not realistic and may be counterproductive. The maximum Assistance Level possible with the program will be three (3) times the previous availability of any particular M/WBE group.

As disparity is reduced for any particular M/WBE group, Assistance Levels are reduced, or eliminated. Once Assistance is eliminated, renewed disparity will initiate a phased renewal of Assistance.

Data from the preceding fiscal year shall be used to determine the Assistance Level for the succeeding fiscal year for each of the three major contracting categories: procurement, construction and architectural/engineering consulting services. The data used in the calculations shall be audited by Internal Audits prior to the annual reporting of Assistance Levels.

The Superintendent shall report these Assistance Levels annually, to the School Board, based on the calculations authorized by School Board Rule.

### **III. Specific Affirmative Action Methods**

Board Rule 6Gx13- 3G-1.01, Business Development and Assistance Program provides that the program's objectives may be accomplished by implementation of such affirmative action methods, including, but not limited to, set aside contracts, subcontracting goals, prime contracting, and designated scopes of work.

Administrative procedures and guidelines will be established for determining allocations for set asides, subcontracting goals and prime contracting, and shall include Assistance Levels for M/WBEs within each area of procurement/contracting activity.

**IV. M/WBE Certification**

In order to ensure that business firms seeking to participate in the M/WBE Program are at least fifty-one (51) percent legitimately owned, operated and controlled by minorities, each M/WBE firm shall be required to be certified as to its minority ownership at the time of each bid award. Such certification shall be on the basis of a completed M/WBE Certification Application, with supporting documentation, submitted by the firm, sworn to by an officer of the firm, investigated and verified by the Division of Business Development and Assistance, prior to any contract award.

**V. Minority/Women Contracting Reports**

The Division of Business Development and Assistance will prepare a unified annual report of minority/women contracting activities to be submitted to the School Board, and reviewed by the Minority Business Enterprise Advisory Committee. The report will record and report data by ethnic/gender group and by procurement/construction category for all dollars awarded and expended by M-DCPS. The reporting system is designed to document efforts undertaken by the School Board to inform, assist, encourage and solicit minority/women business participation in procurement/construction activities and to report contracts awarded. The reporting system, based on non-salaried expenditures (regardless of specialty), is a method for tracking dollar expenditures to M/WBEs as vendors, prime contractors, subcontractors, and consultants and will allow for continuing comparisons between actual expenditures to date and annual goals by M/WBE category.

The Minority Business Enterprise Advisory Committee will review and analyze the annual minority/women contracting report in order to monitor the Business Development and Assistance (BD&A) Program implementation and ensure that the program achieves its goals and objectives.

**VI. Program Evaluation**

The Minority Business Enterprise Advisory Committee shall, upon review of Business Development and Assistance Program reports and other pertinent data, make recommendations, as appropriate, to the School Board, for modification, expansion, or curtailment of specific aspects of the program, and/or adjustments in the annual Affirmative Action procedures, for each M/WBE category.

Since unassisted participation currently exists, and is expected to continue and increase as a result of each year's Affirmative Action, the annual goal Assistance Levels projected for Affirmative Action will be determined by utilizing the RWA model.

Conceptually, the stabilized achievement of the above percentage objectives in the unassisted category shall be evidence that the disparity no longer exists, and the effects of past discrimination have been eradicated and Affirmative Action Assistance Levels shall be adjusted accordingly.

Should performance data reveal that additional disparities exist in male/female ratios within an M/WBE category, specific objectives and Affirmative Action Assistance

Levels shall be recommended to the School Board.

**VII. References**

- A. School Board Resolution 85-3 Minority Business Enterprise Statement, February 6, 1985.
- B. School Board Rule 6Gx13- 3G-1.01, Business Development and Assistance Program.
- C. Florida Statutes 235.31(1)(b); 287.093.
- D. City of Richmond v. J.A. Croson, 109 S.Ct. 706 (1989).
- E. D.J. Miller and Associates 1990 DCPS Disparity Study.
- F. Bureau of Management and Accountability, Division of Minority Business Enterprises, Minority Business Enterprises Utilization Study Recommendations and Administrative Responses, April 24, 1991.
- G. Transcript - Public Hearing, Special Panel, Vol. I & II, August 28-29, 1990.

Specific Authority: 230.22(1) and (2) F.S.

Law Implemented, Interpreted or Made Specific: 235.31(1)(b); 287.093 F.S.

**History: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**

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