

**Minority/Women Contracting****ADMINISTRATIVE PROCEDURES FOR M/WBE PARTICIPATION IN PROCUREMENT CONTRACTING**

As stipulated in Board Rule 6Gx13-3G-1.01, Business Development and Assistance Program, specific Business Development and Assistance procedures have been established to ensure uniform policies and guidelines to provide M/WBEs the opportunity to compete for procurement contracts with the School Board. These procedures will satisfy the participation objectives and goals established in Board Rule 6Gx13-3G-1.02, Establishment of Division of Business Development and Assistance Objectives. The establishment of this program maximizes the opportunities for Minority/Women Business Enterprises to participate in the awarding of contracts to vendors, consultants and contractors. It is the responsibility of the Bureau of Procurement and Materials Management and work location administrators to carry out the Administrative Procedures designated to achieve the program's objectives.

The Bureau of Procurement and Materials Management may seek the advice and counsel of the Minority Business Enterprise Advisory Committee, and the Division of Business Development and Assistance in matters affecting the Business Development and Assistance Program.

**I. Bid Process - Competitive Bid Requirements**

The specifications established for goods and services should be such that they do not preclude bidding by Minority/Women Business Enterprises. An exception is noted when the specifications are necessary to protect the interests of the School Board. Vendors are invited to bid on the "standard brands" cited as acceptable products by the Bureau of Procurement and Materials Management or on those the vendor believes to be equivalent according to the specifications. The acceptability of items quoted on the vendor's bid, other than those specified, shall rest with the School Board.

**A. Proprietary Specifications**

The Division of Business Development and Assistance will establish an ad hoc committee, comprised of appropriate staff and consultants, to review policies and procedures as they relate to proprietary specifications. The ad hoc committee will develop a list of goods/materials which appear to be proprietary, and meet with originating users to develop generic language in order to eliminate proprietary specifications and promote greater vendor competition and participation.

In order to emphasize the acceptability of brand name substitution for generic products of comparable or superior quality, the Division of Business Development and Assistance and the Bureau of Procurement and Materials Management will review bid documents

and special conditions to strengthen the language pertaining to generic brand substitution.

The Division of Business Development and Assistance and the Bureau of Procurement and Materials Management will compile a list of sole source items to determine the feasibility of the use of "or equal" products. Network forums will be conducted with manufacturers to assist M/WBEs with distributorships, wholesalers, and dealerships.

**B. Formal Written Bids**

For each purchase of more than \$10,000, bid forms or notices of bids shall be sent to all vendors on the active vendor mailing list for that category of items or services. This list includes all minority/women vendors identified with the School Board for that particular category of items or services, as well as organizations involved in assisting M/WBE firms. This notification procedure, combined with notices of bids, shall be advertised at least seven (7) days prior to the bid opening date, pursuant to School Board Rule 6Gx13- 3C-1.111, in the following Miami-Dade County newspapers, and other publications as determined by the Bureau of Procurement and Materials Management, and mailed to the following minority/women organizations.

**Publications**

The Miami Times  
Diario Las Americas

Miami Daily Business  
Review  
El Nuevo Herald

**Organizations**

Latin Chamber of Commerce  
Women's Chamber of Commerce  
of Miami-Dade County

Miami Dade Chamber of  
Commerce  
Haitian Chamber of Commerce  
Allied Minority Contractors  
Association  
Asian-American Federation  
of Florida, Inc.

**C. Written and Telephone Quotations - \$3,000 to \$10,000**

For each purchase of \$3,000 to \$10,000 inclusive, written or telephone quotations shall be required.

Notation shall be made on the written quotation or requisition indicating prices and identifying participation of M/WBE's firms that have been requested to quote.

## 1. Letter Quotes:

Competitive quotes shall be requested from a minimum of five (5) sources, two (2) of which must be currently certified Minority/Women Business Enterprise vendors, where such vendors are available. The award shall be based on the lowest and best price quotation.

## 2. Telephone Quotes:

Competitive quotes shall be requested from a minimum of three (3) or more sources, one (1) of which must be a currently certified Minority/Women Business Enterprise (M/WBE) vendor, where such vendors are available.

## D. Written and Telephone Quotations - less than \$3,000

For each purchase of less than \$3,000, written or telephone quotations may be requested from more than one (1) source but are not required. Whenever possible, vendors contacted shall be rotated and shall include M/WBE vendor participation. Minority vendor participation shall be monitored to ensure M/WBE participation in this category of purchases.

## E. Request for Proposal

Request for proposals shall be used for contracts requiring professional services and goods and/or services of unusual nature. Request for proposals shall also be used when services are unique to the provider and when the quality of services is paramount to the price.

If a request for proposal is deemed necessary, the following process shall be followed:

1. If the contract is valued at \$50,000 or more:
  - a. Prior School Board approval is required;
  - b. The Procurement Contract Review Committee shall review the request for proposal to determine whether affirmative action methods will be applied;
  - c. The Selection Committee shall consist of a minimum of five (5) members, one (1) of which must be from the Division of Business Development and Assistance; and
  - d. Advertisements shall include the use of major ethnic publications and organizations.

2. If the contract is valued at more than \$10,000, but is less than \$50,000:
  - a. The Procurement Contract Review Committee shall review the request for proposal to determine whether affirmative action methods will be applied;
  - b. The Selection Committee shall consist of three (3) individuals who may be from the same bureau or office; and
  - c. Advertisements shall include the use of major ethnic publications and organizations.
3. If the contract is valued between \$3,000 and \$10,000, at least three (3) consultants must be contacted, in writing, and at least one (1) of these consultants shall be an M/WBE, where such M/WBE consultants are available.
4. Evaluation Criteria

Each request for proposal shall identify the evaluation criteria to be utilized by the selection committee. The criteria shall include affirmative action and M/WBE participation requirements.

## **II. Identical Prices**

In accordance with School Board Rules favoring local purchasing, when identical prices are received from two or more vendors, and all other factors are equal, preference shall be given to vendors in the following sequence:

- A. A business that certifies that it has implemented a drug-free work place program shall be given preference in accordance with the provisions of § 287.087, Fla. Stat.
- B. The Miami-Dade County Minority/Women Business Enterprise vendor;
- C. The Miami-Dade County vendor, other than the Minority/Women Business Enterprise vendor;
- D. The Broward, Palm Beach or Monroe County Minority/Women Business Enterprise vendor;
- E. The Broward, Palm Beach or Monroe County vendor, other than the Minority/Women Business Enterprise vendor;

- F. The Florida vendor who is a Minority/Women Business Enterprise vendor;
- G. The Florida vendor, other than a Minority/Women Business Enterprise vendor;
- H. The Minority/Women Business Enterprise vendor, who, because of lower prices, receives a larger dollar award for other items; and
- I. The non-Minority/Women Business Enterprise vendor, who, because of lower prices, receives a larger dollar award for other items.

### **III. Procurement Contract Review Committee**

A Procurement Contract Review Committee will be established to review and monitor all potential procurement and professional service contracts for inclusion in the Business Development and Assistance program, including, but not limited to, set asides, subcontract goals and/or smaller volume contracts, and to conduct other types of review as required.

Meeting minutes will be prepared, by the Division of Business Development and Assistance, to record Committee actions and report these actions to the Superintendent and the School Board.

The Procurement Contract Review Committee (PCRC) will consist of the following administrators:

- Associate Superintendent, Bureau of Procurement and Materials Management
- Executive Director, Division of Procurement and Materials Management
- Director, Division of Business Development and Assistance
- Coordinator II, Division of Business Development and Assistance
- Representative of Internal Audits

Formal written bids (over \$10,000) will be presented weekly to no less than four (4) committee members for review. Decisions pertaining to contracts \$10,000 and under will be made by a subcommittee composed of the same administrators as above, with the presence of no less than four (4) committee members required for review. Meetings are to be held as required for the efficient processing of contracts and/or requisitions, and a majority vote of the members present will be necessary to effect a decision.

### **IV. Reduction of Large Contracts**

Large single contracts will be evaluated, prior to bid, by the Procurement Contract Review Committee, to determine the feasibility of reducing such

contracts to smaller prime contracts. The methodology used for subdividing the contracts can be tailored to the unique factors present in each situation. The various options include, but are not limited to:

- A. The full quantity of a given item(s) on a large contract may be placed on a separate contract for bidding;
- B. A partial quantity of a given item(s) on a large contract may be placed on a separate contract for bidding;
- C. The term of a contract may be shortened which results in a dual effect - the reduction of quantities required and the risk inherent in guaranteeing prices over a longer time period;
- D. Work to be performed may be grouped according to geographic location and placed on separate contracts; and
- E. Unrelated scopes of work to be performed or portions of work not requiring completion by a single bidder may be placed on separate contracts.

Prime contracts resulting from the above measures may then be bid either as a minority/women set aside or open to all bidders. This determination will be made based on the criteria stipulated in the section addressing Minority/Women Set Asides.

## **V. Minority/Women Set Asides**

Prior to invitation for bid or request for proposal, a given contract will be evaluated by the Procurement Contract Review Committee to determine whether it is in the best interest of the School Board to designate it as a set aside for competition solely among M/WBE vendors/contractors. The criteria to be applied in this decision making process is detailed below.

- A. Affirmative action methods, other than set asides, have already been implemented and remain in effect but have not been successful in producing the desired results. Therefore, the minority/woman set aside is considered essential as a means of:
  - 1. meeting the M/WBE Assistance Levels established by the School Board; and/or
  - 2. providing the opportunity for minority/women vendors, contractors and consultants to successfully compete in the award of the product or service required.
- B. A sufficient number of Minority/Women Business Enterprises offering the items or services to be purchased have been identified by staff. In most instances, it should be determined that there are at least

three (3) certified Minority/Women vendors/contractors/consultants available to participate in the bid process and to generate reasonable competition.

A set aside contract may be structured to include either all classifications of M/WBE vendors/contractors/consultants or subgroups of M/WBE vendors/contractors/consultants. If sufficient competition is not generated from the identified bidders within one (1) minority classification, then the set aside may encompass more than one subgroup of Minority/Women Business Enterprises.

## **VI. M/WBE Assistance Levels**

The M/WBE Assistance Levels for the Bureau of Procurement and Materials Management, and all other district-wide bureaus, offices, departments and divisions with contracting authority utilizing the purchasing system, will be established annually. Upon reviewing the current utilization and availability Assistance Levels of the M/WBE firms, the Assistance Level of each minority/women subgroup will be adjusted annually in accordance with procedures established in Board Rule 6Gx13- 3G-1.02 and other related Board Rules.

The stabilized achievement of the objectives shall be evidence that the disparity no longer exists, the effects of past discrimination have been eradicated, and, therefore, the 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.

The minority/women business participation Assistance Levels are based on total non-salaried School Board expenditures, regardless of specialty, for procurement contracting. This includes other expenditures in addition to those processed by the Bureau of Procurement and Materials Management. M/WBE Assistance Levels for the Bureau of Procurement and Materials Management will be determined by applying the Ready, Willing, and Able (RWA) model, as set forth in School Board Rule 6Gx13- 3G-1.02.

## **VII. Technical Assistance and Outreach**

In order to provide greater accessibility to bids and plans for M/WBE vendors, contractors and consultants, a formal document room will be made available to vendors, contractors and consultants. Tabulations of current bids shall be retained in bid files and made available for review.

The School Board shall maintain a public/private partnership with major organizations to provide administrative and, to the degree feasible, technical assistance, to minorities and women desiring to do business with the School Board.

These affirmative action methods shall provide an opportunity for all interested and qualified vendors to participate in the formal written bid process.

### **VIII. Payment**

The payment process affects all vendors, contractors and consultants, irrespective of ethnicity or gender. The following guidelines shall be used to ensure the timely processing of payments by the School Board to its vendors:

- A. To the extent possible, payment will be made within thirty (30) days, but no later than forty-five (45) days after delivery, authorized inspection, and acceptance;
- B. Miami-Dade County Public School departments and schools which have failed to acknowledge receipt of goods or services, as identified weekly by the MSA system, will be asked to research the status of receipt of goods or services from M/WBE vendors on a priority basis; and
- C. An M/WBE hotline will be established in Accounts Payable. M/WBE vendor concerns will be answered within two (2) working days and a copy of the response shall be sent to the Division of Business Development and Assistance for review.

### **IX. Suspension/Default Committee**

Pursuant to the Bureau of Procurement and Materials Management, Instructions to Bidders, the default provisions stipulate that in the event of default on their contract the successful bidder shall pay to the Board, as liquidated damages, an amount equal to 25% of the unit price bid times the quantity, or \$25.00, whichever amount is larger. Each successful bidder who fails to pay the penalty, within 15 days after it is invoked, shall lose eligibility to transact business with the Board for a period of fourteen (14) months.

The Suspension/Default Committee will review circumstances surrounding purchasing M/WBE vendor concerns and shall provide viable alternatives or recommendations regarding suspension or default. This Committee will review conflicts between M/WBE vendors, contractors, suppliers, and others, and provide solutions, where possible. The Committee shall be comprised of staff from the following offices:



- Bureau of Procurement and Materials Management
- Internal Audits
- Division of Business Development and Assistance

The Bureau of Procurement and Materials Management shall notify the Division of Business Development and Assistance of pending M/WBE vendor suspension or default no later than fifteen (15) days prior to the scheduled Board Meeting for the proposed action.

## **X. Reporting**

The procedure for reporting Minority/Women Business Enterprises (M/WBE) purchasing activity is designed to track dollar expenditures associated with M/WBE firms. It provides a basis for monitoring the M/WBE program to ensure the achievement of its goals and objectives. The reporting procedure is as follows:

### **A. Reporting Procedures**

1. Vendor identification numbers will be assigned to vendors, consultants and contractors by the Bureau of Procurement and Materials Management upon completion and submittal of the Vendor Application. Vendors seeking M/WBE status must submit a Vendor Application, Minority/Women Business Enterprise Certification Application (with supporting documentation, as stipulated in Board Rule 6Gx13- 3G-1.05), and a NIGP Category of Item Numbers and Description Catalog. The vendor number is essential in the payment process. Once certified as an M/WBE, the vendor file will be coded with the ethnic/gender code assigned by the Division of Business Development and Assistance;
2. Vendors, consultants and contractors submitting a Vendor Application will be included on the Bureau of Procurement and Materials Management's bidders list and notified of bids for those items and services identified on the NIGP Category of Item Numbers and Description Catalog; and
3. Information provided on the Minority/Women Business Enterprise Certification Application, which identifies the minority/woman status, will be retained in the Division of Business Development and Assistance's data base, in addition to all other relevant data. The original M/WBE Certification Application, and supporting documentation, will be filed with the Division of Business Development and Assistance.

- B. The Division of Business Development and Assistance generates the following reports:

1. M/WBE Annual Expenditure Report

The M/WBE Annual Expenditure Report for Procurement and Professional Services activities, will be submitted on an annual basis to the School Board by the Division of Business Development and Assistance. The activities will be reflected by total non-salaried expenditures, notwithstanding the specialty, on the Minority Vendor Dollar Volume Report which is prepared by the Office of Information Technology, and submitted to the Division of Business Development and Assistance. The Office of Information Technology and the Division of Business Development and Assistance may revise the reporting format, as required. The report will reflect year to date expenditures with M/WBE firms and overall expenditure levels as stated in the Monthly List of Objects Report. The information provided on the statement will detail the distribution of expenditures in each of the minority/woman classifications.

2. Summary of M/WBE Dollars Committed by the School Board for Purchasing and Construction

This report is prepared from the School Board agenda items, to report awards made to M/WBE vendors, contractors, and consultants. It further provides an analysis, by race, gender and ethnicity, as compared to the total awards. The Division of Business Development and Assistance shall prepare the report and forward it to the Superintendent and the School Board at the time of each School Board meeting.

3. Procurement Contract Review Committee Analysis

On an annual basis a summary of all contracts reviewed by the Procurement Contract Review Committee, during its weekly meetings, shall be prepared. The annual report is a recapitulation of those contracts targeted for M/WBEs.

4. Purchases \$10,000 and Under Report

The report will provide, on an annual basis, an accurate accounting of each Buyer's activities relative to the vendors they have contacted. The purchases \$10,000 and under report shall be generated by the Office of Information Technology, and analyzed by the Division of Business Development and Assistance.

## 5. Rotation of Vendors

The Division of Business Development and Assistance, the Office of Information Technology and the Bureau of Procurement and Materials Management, will develop a rotating vendor process for all purchases \$10,000 and under. The rotation list, to be utilized by the Buyers, will be reviewed monthly. Periodic monitoring will be performed to ensure rotation of vendors. The Superintendent and the School Board Members will be provided with periodic analyses.

## 6. M/WBE Directory

The Division of Business Development and Assistance will issue an annual M/WBE Directory, with addenda as appropriate, to the Bureau of Procurement and Materials Management, specific to each buying area. An annual directory, with addenda, as appropriate, will be provided to all offices, departments, and school sites to facilitate the utilization of M/WBE firms.

Utilizing these reporting methods will result in the accurate accounting of minority/women participation, in procurement, since the expenditure figures are based on the actual disbursement of funds. Establishing an independent reporting function satisfies auditing requirements by isolating the reporting and monitoring responsibilities from the bureaus, offices, departments and school sites responsible for contracting activities.

**XI. References**

- A. School Board Rule 6Gx13-3G-1.01, Business Development and Assistance Program.
- B. School Board Rule 6Gx13-3G-1.02, Establishment of Business Development and Assistance Objectives.
- C. School Board Rule 6Gx13-3G-1.05, Minority/Women Business Enterprise Certification Procedures.
- D. School Board Rule 6Gx13-3C-1.111, Bidding Process -- Competitive Bidding Requirements.
- E. School Board Rule 6Gx13-3F-1.021, Professional Services Contracts.
- F. City of Richmond v. J.A. Croson, 109 S.Ct. 706 (1989).

- G. Transcript - Public Hearing, Special Panel, Vol. I & II, August 28-29, 1990.

Specific Authority: 230.22(2) F.S.

Law Implemented, Interpreted or Made Specific: 235.31(1)(b); 237.02; 287.093 F.S.; 6A-1.012 FAC

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