

EXHIBIT D: MWBE PROGRAM INFORMATION

SPECIAL INSTRUCTIONS TO BIDDERS REGARDING COMPLIANCE WITH WBE/MBE POLICIES

MINORITY POLICY GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN HOUSING AUTHORITY CONSTRUCTION CONTRACTS

In accordance with G.S. 143-128 (SB 308 ratified June 28, 1989) these guidelines establish goals for minority participation in single-prime and separate-prime construction contracts. The legislation provided that the Local Agency, GHA, shall have a verifiable percentage goal for participation by minority businesses in the total value of the work for each project for which a contract or contracts are awarded. These guidelines are published to accomplish that end.

A. INTENT

It is the intent of the guidelines that GHA, 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 verifiable **goal of twenty percent (20%)** for participation by minority businesses in each construction project as mandated by SB 308 and M/WBE joint venture and ownership interest as specified in the Contractor Partners RFQ procurement. Nothing contained in the guidelines shall be considered to require awarding contracts or to make purchases of materials or equipment from minority business contracts who do not submit the lowest responsive bid or bids.

B. 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, the Pacific Islands;
 - d. American Indian or Alaskan Native, 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 %) is owned 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; **and**
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons who own it.
3. Owner - HOUSING AUTHORITY OF THE CITY OF GREENSBORO.
4. Bidder - any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

5. 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.
6. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the owner to perform construction work or repair.
7. Subcontractor - A firm under contract with the prime contractor for supplying materials or labor and materials and/or installation. The subcontractor mayor may not provide materials in his subcontract. Work subcontracted in an emergency and which could not have been anticipated is excluded as part of this program.
8. Verifiable goal means
 - a. For purposes of separate-prime contract system, that the awarding authority has adopted written guidelines specifying the actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded; and
 - b. For purposes of single-prime contract system, that the awarding authority has adopted written guidelines specifying the actions that the prime contractor must take to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded; the required actions must be documented in writing by the contractor to the awarding authority.

C. RESPONSIBILITIES

1. Minority Business Development Agency of the Small Business Development Division, North Carolina Department of Economic & Community Development (hereafter referred to as **Minority Business Development Agency**) The Minority Business Development Agency will establish a program pursuant to which it shall certify to interested persons, businesses qualifying as Minority Business Enterprises (MBE). The information solicited from the applicant will be used by the Minority Business Development Agency to:
 - a. Determine MBE certification, i.e. that those certified are MBEs under GS 143-128 as a contractor and/or subcontractor
 - b. Identify those areas of work for which there are certified MBEs, as requested
 - c. Provide interested parties with a list of prospective certified MBE contractors and subcontractors
 - d. Assist in the determination of technical assistance in the certification program that needs to be provided.
 - e. In addition to being responsible for the certification of those small and emerging businesses that want to participate in the owner construction program, the Minority Business Development Agency will:
 - i. Maintain a current list of certified MBEs. The list shall include the areas of work in which each MBE is interested.
 - ii. From information furnished by the Owner, publicize the contracting and subcontracting opportunities available for each housing authority construction project being advertised.
 - iii. Work with the North Carolina Association of Minority Businesses and the Carolinas Branch AGC in developing and implementing a certification program intended to improve the ability of MBEs to compete in this program.
2. **Owner** - The owner will be responsible for the following:

- a. For contracts in excess of \$500,000 in estimated cost, furnish to the Minority Business Development Agency of the Small Business Development Division, North Carolina Department of Economic and Community Development a minimum of twenty-one days prior to the bid opening the following:
 - i. Project description and location;
 - ii. Locations where bidding documents may be reviewed;
 - iii. Name of a representative of the Owner who can be contacted during the advertising period to advise who the prospective bidders are;
 - iv. Date, time and location of the bid opening;
 - v. Date, time and location of the pre-bid conference, if scheduled.
- b. The twenty-one day advance time period may be reduced to ten days for contracts in the range of \$100,000 to \$500,000 in the estimated cost.
- c. The pre-bid conference, if scheduled, conducted by the representative of the owner, will be open to subcontractors, material suppliers, and other bidders. During the conference, this program, including the bidders' responsibilities, will be fully explained.
- d. Reviewing the apparent low bidder's compliance with the items listed in the proposal that must be complied with if the bid is to be considered as responsive. The owner reserves the right to reject any or all bids and to waive informalities.

Under the separate-prime system, the owner will also:

- a. Attend the scheduled conference
- b. Identify or determine those work areas of a contract where MBEs may have an interest in performing contract work.
- c. At least ten (10) days prior to the scheduled day of bid opening the owner will notify certified MBEs of potential contracting opportunities listed in the proposal. The notification will include the following:
 - i. A description of the work for which the bid is being solicited;
 - ii. The date, time and location of where bids are to be submitted;
 - iii. The name of the individual within the agency/institution who will be available to answer questions about the project
 - iv. Where bid documents may be reviewed;
 - v. Any special requirement that may exist, such as insurance, licenses, bonds, and financial arrangements.

If there are more than three (3) certified MBEs in the area of the project, the owner shall notify three (3), but may contact more, if the owner so desires. The owner will maintain documentation of any contracts, correspondence or conversation with MBE firms made in an attempt to meet the goals.

3. **Prime Contractor(s)** - Under the single-prime contract system and the separate prime contract system, the prime contractor(s) will:
 - a. Attend the scheduled pre-bid conference.
 - b. Identify or determine those work areas of a subcontract where MBEs may have an interest in performing subcontract work.
 - c. At least ten (10) days prior to the scheduled day of bid opening, notify certified MBEs of potential subcontracting opportunities listed in the proposal. The notification will include the following:
 - i. A description of the work for which the sub-bid is being solicited.
 - ii. The date, time and location where sub-bid are to be submitted.

- iii. The name of the individual within the company who will be available to answer questions about the project.
- iv. Where bid documents may be reviewed.
- v. Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.
- d. If there are more than three (3) certified MBEs in the area of the project, the contractor(s) shall notify three (3), but may contact more, if the contractor(s) so desires.
- e. The Prime Contractor must document in writing what action was taken to accomplish the Housing Authority's established goal of 20% Participation by Minority Business in the award of building construction contracts. All bidders will submit with bid a letter to the Greensboro Housing Authority detailing any efforts it has made to involve minority subcontractors and minority suppliers in this project. This letter should include copies of any advertisements or correspondence the bidder has used to attract minority subcontractors and suppliers.
- f. Submit with the bid:
 - i. A description of that portion of the work to be executed by MBEs expressed as a percentage of the total contract price.
 - ii. A list of those subcontractors notified of the project and the elements of the project for which subcontracts will be let and the number of these subcontractors that are minority businesses as defined in N.C. G.S. 143-128.
 - iii. A list of those subcontractors that bid or otherwise respond to notice of the project.
 - iv. A list of those subcontractors awarded contracts as part of the project.
- g. The Owner recognizes the difficulty in compiling complete and accurate information at the Bid Opening due to normal bidding procedures. **AS A MINIMUM, THE BIDDERS SHALL IDENTIFY THREE (3) MINORITY SUBCONTRACTORS/MATERIAL SUPPLIERS THAT WERE CONTACTED PRIOR TO THE BID AND SHALL SUBMIT THE MBE CONTACT FORM OF THOSE THREE AT THE TIME OF THE BID.** Upon being named the apparent low bidder, the Bidder shall provide the necessary documentation as listed in the contract documents within 10 working days. Failure to comply with procedural requirements as defined in contract documents may render the bid as non-responsible and may result in rejection of the bid and award to the next lowest responsible and responsive bidder.
- h. During the construction of a project, if it becomes necessary to replace an MBE subcontractor, advise the owner.
- i. If during the construction of a project additional subcontracting opportunities become available, make a good faith effort to solicit sub-bids from MBEs.
- j. During the course of the contract the successful bidder will be required to furnish the authority quarterly reports showing WBE/MBE involvement, including suppliers and subcontractors. The report must be filed by the 25th day of the last month of the quarter on the form provided in Section 7.9.
- k. A final MBE report shall be submitted with closeout documents to reflect all requested information.

4. **MBE Responsibilities** - While MBEs are not required to become certified in order to participate in this program, it is recommended that they become certified and should take advantage of the appropriate technical assistance that is made available. In addition, MBEs who are contacted by owners or bidders should respond promptly whether or not they wish to submit a bid.

D. DISPUTE PROCEDURES

It is the policy of GHA that disputes with another person that involves a person's rights, duties or privileges, should be settled through informal procedures. To that end, MBE disputes arising under these guidelines should be resolved, if possible, by informal proceedings arranged by the contracting officer or his designee.

- E. These guidelines should apply upon adoption by GHA. Copies of these guidelines may be obtained from the Contracting Officer at the following address:

HOUSING AUTHORITY OF THE CITY OF GREENSBORO
450 North Church Street
Greensboro, North Carolina 27104
Phone: (336)275-8501

- F. In addition to these guidelines, there will be issued with each construction bid package guideline provisions for contractual compliance providing MBE participation in the GHA construction program.

MWBE CERTIFICATION FORM

By signing this form, the contractor agrees that the following statements and certifications are true and accurate.

MINORITY PARTICIPATION STATEMENT

We shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bonafide occupational qualification reasonably necessary to the normal operation of the firm. We also agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of this firm, I state that we are equal opportunity employers.

Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirement of these sections.

SELF-CERTIFICATION AS WBE/MBE FIRM

Is the Ownership of your firm at least 51% held by persons who are Black, Asian American, Hispanic, American Indian, Alaskan native, or female, in accordance with the guidelines set forth in Section 4.1?

_____ YES _____ NO

MINORITY AND WOMEN BUSINESS UTILIZATION COMMITMENT

- A. The bidder agrees to solicit MBE/WBE participation in this project. As used in this contract, the term "minority and women business" shall mean a company 51% of which is owned and controlled by minority group members or women. For the purpose of this definition, minority group members are Black, Asian American, Hispanic, American Indian, Alaskan native, or female. See Section 4.1 for full definitions. Minority and Women Business Enterprises may be employed as construction subcontractors or as vendors or suppliers.
- B. The bidder certifies that the following subcontractors will be awarded subcontracts in conjunction with this project, should the bidder be selected as the lowest responsible, responsive bidder:

SUBCONTRACTOR	ADDRESS	WBE/MBE/MWBE	\$ AMOUNT OF CONTRACT

- C. The percentage of the total value of this contract that will be awarded to MBE/WBE firms is:

- a. Total bid amount: \$ _____
- b. Total WBE/MBE amount: \$ _____

- D. Please list all MBE's/WBE's/MWBE's solicited and whether a bid was received from them on the following contact forms. Further explanation can be provided in the form of a letter.
- E. The bidder agrees to furnish additional information should the minority and women business enterprise participation change during the life of the contract.
- F. The bidder certifies agreement with all policies stated in Section 4.1.

BIDDING FIRM EMPLOYEE INFORMATION

- A. Number and percent (of **entire** work force) of Minority Employees that are currently on your payroll:
 - a. Number: _____
 - b. Percent: _____
- B. Number and percent (of **project** work force) of Minority Employees that are anticipated to be working on this project:
 - a. Number: _____
 - b. Percent: _____

WBE/MBE CONTACTS

Contact #1

Firm Contacted:	
Address:	
Telephone Number:	
Person Contacted:	
Work firm could perform or materials they could provide:	
Did they bid/not bid?	
If firm was not retained, why not?	
If firm is retained, what is the \$ amount of the work?	

Contact #2

Firm Contacted:	
Address:	

Telephone Number:	
Person Contacted:	
Work firm could perform or materials they could provide:	
Did they bid/not bid?	
If firm was not retained, why not?	
If firm is retained, what is the \$ amount of the work?	

Contact #3

Firm Contacted:	
Address:	
Telephone Number:	
Person Contacted:	
Work firm could perform or materials they could provide:	
Did they bid/not bid?	
If firm was not retained, why not?	
If firm is retained, what is the \$ amount of the work?	

The undersigned, hereby certifies that he or she has read the terms of this MWBE Certification Form and is authorized to make such commitment on behalf of the bidder.

I hereby state that _____ (*name of firm*) agrees to abide by the above statements.

(Signature)

(Title)

NON-COLLUSIVE AFFIDAVIT

STATE OF: _____

COUNTY OF: _____

_____ being first duly sworn, deposes and says:

That (he, she) is _____ (A partner or officer of the firm of, etc.), the party making the foregoing Proposal or quote: that such Proposal or quote is genuine and not collusive or sham; that said Vendor has not colluded, conspired, connived or agreed, directly or indirectly, with any Vendor or person to put in a sham quote or to refrain from quoting; and has not in any manner, directly or indirectly, sought by agreement, collusion, communication or conference with any person to fix the quote price of affidavit or of any other Vendor, or to fix any overhead, profit or cost element of said quote price, or of that of any Vendor, or to secure any advantage against the **GREENSBORO HOUSING AUTHORITY** or any person interested in the proposed contract; and that all statements in said proposal or quote are true.

(Signature of Vendor, if Vendor is an Individual)

(Signature of Vendor, if Vendor is a Partnership)

(Signature of Vendor, if Vendor is a Corporation)

Subscribed and sworn to before me this _____ day of _____, 20_____

(Notary Public)

STATE OF: _____

SEAL

COUNTY OF: _____

My Commission expires: _____