
 <p>SEATTLE PUBLIC SCHOOLS</p>	<p>PARTICIPATION OF HISTORICALLY UNDERUTILIZED BUSINESSES IN CONSTRUCTION PROJECTS PROCEDURE</p>	<p>H50.01 Adopted March 2005</p> <p>REVISED 6/7/06 Page 1 of 7</p>
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**BOARD ADOPTED
PROCEDURE**

GENERAL REQUIREMENTS

1. No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any contract on the grounds of the following real or perceived characteristics: race, creed, color, religion, ancestry, national origin, economic status, gender, sexual orientation, gender identity, pregnancy, marital status, physical appearance, previous arrest, previous incarceration, or mental, physical or sensory disability.
2. The gender, race, ethnicity, religion, age, nor disability of any contractor or subcontractor shall be a factor in the evaluation of any proposal or award of any contract.
3. Any party contracting with the District for the provision of goods or services for a construction project shall be required to agree as a condition of the contract not to discriminate on any of the foregoing grounds in the performance of the contract.
4. Information regarding construction contracting opportunities with the District shall be disseminated in a manner calculated to reach all persons qualified to provide pertinent goods and services.
5. The District will actively seek to make contracting opportunities available to historically underutilized business (HUBs).
6. In determining contract requirements, care shall be taken to encourage submission of bids, quotes, or proposals from as wide a base of potential vendors as is reasonably possible.
7. The criteria used in evaluating contract bids and proposals shall be based on the District's interest in securing cost effective, quality goods and services, and shall not exclude or disadvantage parties for reasons that not closely related to those interests.

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DEFINITION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)

1. The term "HUB" includes the following small businesses, as defined by Small Business Administration size standards for each industry.
2. The term "Women-owned Small Business" means a HUB that self-certifies as to at least 51% ownership by a woman.
3. The term "Minority-owned Small Business" means a HUB that self-certifies as to at least 51% ownership by a minority.

DISSEMINATION OF INFORMATION

Contracting opportunities and processes shall be disseminated as follows:

1. Dissemination of Information by the District
 - a. The District shall disseminate information regarding construction contracting opportunities by placing advertisements for bids in the Daily Journal of Commerce, the Seattle Times, and the Seattle Post-Intelligencer, and other publications deemed suitable for publication to all potentially interested contractors and subcontractors in the community, including non-traditional means to reach HUBs.
 - b. The District shall make plans available for construction projects in its Contracting Services office, in the offices of the project architect, and at suitable locations within the community where those plans may be reviewed by interested contractors and subcontractors free of charge.
 - c. The District will regularly notify firms on its small works roster of subcontracting opportunities.
 - d. The District will utilize the services of available minority community organizations, minority contractor groups, local minority assistance offices and organizations that provide assistance in the recruitment of HUBs.
2. Dissemination of Information by Contractors


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Contracts for the provision of goods or services for construction projects over \$200,000 shall require that the contractor disseminates information regarding any subcontracting opportunities in a manner reasonably calculated to reach all persons qualified and willing to participate, and to furnish documentation that they have done so.

DATA COLLECTION AND REPORTING

The District's Contract Services department is responsible for collecting and maintaining information necessary to permit the District to determine the effectiveness of District contacting policies and practices in ensuring equal opportunity. Such information will be collected, maintained, and reported as follows:

1. Contracts for the provision of goods or services for construction projects over \$200,000 shall require that the contracting party retain and make available to the District records regarding dissemination of information regarding subcontracting opportunities, including responses received by the contracting party.
2. Each contractor shall promptly provide to the District documentation of efforts to disseminate information to HUBs.
3. Prior to commencement of work on any project, each contractor shall provide to the District a list setting forth the names and addresses of all subcontractors retained for the project, with a description of the work to be performed by the subcontractors and the dollar amount of the work to be performed, and setting forth a description of the dollar amount of work to be performed by the subcontractor. The list will identify all HUBs, and whether or not they are minority owned or women owned.
4. The information required by the preceding paragraph shall promptly be supplemented each time a subcontractor is replaced or an additional subcontractor is retained.
5. To facilitate identification of HUB firms, the District shall provide to each contractor bidding on any project a list of HUB firms recognized by the District on its small works roster as such.


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6. The District's Construction department shall verify and compile all data received from contractors regarding HUB usage and shall report such data to the School Board. Each report shall set forth:
 - a. The identity of each HUB firm;
 - b. The type of work done by each HUB firm;
 - c. The dollar amount of the contracts with such firms;
 - d. The dollar amount of HUB participation on each specific project;
 - e. The dollar amount of HUB participation on all projects in total during any reporting period;
 - f. The percentage of the dollar volume of HUB participation in each project; and
 - g. The percentage of the dollar volume of HUB participation on all projects in total.

RECORDS RETENTION AND INSPECTION

Each contractor for any contract with an initial value between \$40,000 and \$200,000 shall retain and make available to the District and its designees records sufficient to permit the District to ascertain compliance with the equal opportunity contracting requirements. The following records shall be maintained and made available for inspection by the District and its designees:

1. All records reflecting any invitations to submit bids or proposals regarding subcontracting opportunities on any District project, including, but not limited to:
 - a. Copies of advertisements placed by the contractors in any newspaper or trade journal;
 - b. Copies of requests for proposals or bid solicitations sent to any potential subcontractors, including names and addresses of each person or entity to whom such solicitations or proposals were sent; and
 - c. Logs showing persons contacted by telephone or in person regarding bid opportunities.
2. All responses received to invitations to bid on subcontracting opportunities, including written responses and notes, memoranda, or other records of oral responses.
3. All correspondence accepting, rejecting, qualifying, revising, or otherwise related to any invitation to bid subcontracting opportunities or responses thereto.

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CONTRACTING REQUIREMENTS

Seattle Public Schools intends that the contracting processes of the District and its contractors provide equal opportunity without regard to gender, race, ethnicity, religion, age, or disability, and that its contractors make available equal opportunities to the extent third parties are engaged to provide goods and services to the District as subcontractors, vendors, or otherwise. Accordingly, the contractor shall not discriminate on any of the foregoing grounds in the performance of the contract and shall make available equal opportunities to the extent third parties are engaged to provide goods or services in connection with performance of the contract.

The contractor shall disseminate information regarding all subcontracting opportunities under this contract in a manner reasonably calculated to reach all qualified subcontractors who may be interested. The contractor shall maintain records demonstrating its compliance with this article and shall make such records available to the Owner or its designee upon the Owner's request.

The following requirements apply to construction contracts over \$40,000:

1. Each District construction contract shall contain provisions to implement this policy and procedure.
2. The District will seek out opportunities to package and schedule projects and contracts so that small emerging firms can realistically compete for and perform such work.
3. The District will set goals for participation of HUBs in its construction contracts above \$200,000, using procedures similar to those set forth in 49 CFR 26.45. There are no benefits or penalties associated with these goals; rather they communicate our serious interest achieving HUBs outreach and opportunities.
4. No firm shall be determined to be non-responsive based on failure to achieve a minimum level of participation.

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ENFORCEMENT

The District's equal employment opportunity construction contracting requirements shall be enforced under the direction of the Chief Operating Officer, who shall cause to be implemented the following steps:

1. Compliance Review

Contractor compliance with the advertising and HUB identification requirements of these procedures shall be verified in each instance. In addition, contractor records shall be reviewed and the information contained in those records verified to such extent as the Chief Operating Officer deems appropriate to ensure compliance with these procedures.

2. Complaints


Any person who believes any person or firm has been subject to discrimination with respect to contracting opportunities, or that any contractor has failed to fulfill the requirements of these procedures, may file a complaint in writing with the Executive Director, Facilities who shall cause a prompt investigation to be undertaken regarding that complaint.

3. Reasonable Cause Notice

If an audit, review, or investigation results in a determination of reasonable cause to believe that a contractor is not in compliance with these procedures, the Executive Director, Facilities shall cause notice to be given to the contractor in person or by registered mail identifying the area of noncompliance and requiring the contractor to show cause why specified sanctions should not be imposed. The notice shall advise the contractor that he may review the evidence supporting such reasonable cause determination and that he may submit a written response to such determination and request a hearing before the Chief Operating Officer regarding such determination and any sanction to be imposed. The notice shall further set forth the sanction proposed for such noncompliance.

4. Hearing

If a contractor requests a hearing regarding a reasonable cause determination, the Chief Operating Officer or his designee shall hold a hearing at which such

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information and argument relevant to the determination shall be presented. The hearing shall be informal and the rules of evidence shall not be applied.

5. Decision

Following receipt of the contractor's response to the reasonable cause notice, or following a hearing, if one is requested, the Chief Operating Officer or his designee shall issue a decision making findings with respect to the contractor's compliance or noncompliance with these procedures and imposing such sanctions, if any, as are appropriate.

6. Contractor's Cooperation

Each contractor shall cooperate with the District in auditing, reviewing compliance, and investigating complaints. Such cooperation shall including maintaining and producing records required by these procedures and making available to the District personnel who have such information pertinent to these procedures. No contractor shall retaliate against any person or firm, or attempt to intimidate or coerce any person or firm for registering a complaint or cooperating with an investigation related to these procedures. Nor shall any contractor knowingly provide any false or inaccurate information in connection with any audit, review, or investigation.

7. Sanctions

Sanctions to be imposed for violations of these procedures may include one or more of the following:

- a. Forfeiture of opportunities to bid on District work for a specified time period not to exceed three years or for specified projects;
- b. Contract termination; and
- c. Such other sanctions as may be deemed appropriate to effectuate the purposes of these procedures.

In implementing the foregoing provisions, the contractor shall comply with and be bound by the District's equal opportunity construction contracting procedures in all respects. Such procedures are hereby incorporated by reference and are made a material part of this contract, violation of which may be deemed grounds for termination of the contract by the Owner.