

# **CONTRACTOR/VENDOR COMPLIANCE PROGRAM**

Program Years: 2016-2021

Madison Metropolitan School District  
Madison, Wisconsin

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## **1. Introduction**

The Madison Metropolitan School District's (District) vision is that every school will be a thriving school that prepares every student to graduate from high school ready for college, career and community. This vision should be reflected in every action and decision taken by the District, including the organizations that the District chooses to contract with for products and services.

Every year the District spends millions of dollars acquiring products and services. The District establishes this Contract Compliance Program (Program) to inform the public of its intentions in this area, guide organizations that wish to contract with the District, and inform the District's decision-making when it comes to contracts.

The District's Contract Compliance Coordinator has the primary responsibility for the implementation of this Program. The Coordinator provides education, evaluation and enforcement of the District's equal opportunity and affirmative action policies for organizations doing business with the District.

## **2. Purpose of Program**

The Madison School Board's policies related to the Program are primarily designed to (1) encourage vendors/contractors who do business with the District to provide equal employment opportunities to target group individuals, especially in job categories in which they are underrepresented and (2) identify Historically Underutilized Business (HUB) firms and to promote their participation in the District's competitive bid process with the objective of ensuring that HUBs have an equitable opportunity to sell their products and/or services to the District.

The District works towards these goals through this Program. Specific steps include:

1. To establish procedures to facilitate compliance with Board Policies 5000, 6600 and 6601.
2. To identify specific personnel in the District who are accountable and responsible for ensuring that the requirements set forth in Board Policies 5000, 6600 and 6601 are being met.
3. To provide all contractors/vendors with an equal opportunity to do business with the District.
4. To establish data points and evaluate data to determine current HUB participation with the District and create strategies to increase that participation.
5. To increase contracting and subcontracting opportunities for HUBs and enhance employment opportunities for socially disadvantaged persons to be employed by contractors/vendors who are doing business with the District.

The District requires non-exempt entities to develop and maintain an approved affirmative action plan. As such, the District requires that this plan be provided as part of the bidding process.

For more information, please call (608) 663-1530 or visit the District's web site at <https://operations.madison.k12.wi.us/doingbusiness/docs.htm>

### **3. Doing Business with the District (See Board Policy 5000, 6600 & 6601)**

Vendors/Contractors agree not to discriminate based on protected classes as expressed in federal, state and local laws against job applicants and employees in recruitment, promotion, training, apprenticeship, demotion or transfer, termination, and compensation.

Vendors/Contractors agree to develop a demographically balanced workforce.

#### **3.1 Who Must Comply with this Program**

Vendors/Contractors who sell, or offer to sell, goods or services to the Madison Metropolitan School District through the District's negotiated or bidding process in an aggregate amount of \$20,000 per year or more, and who employ at least fifteen persons must comply with this Program.

The aggregate amount to determine the \$20,000 threshold is determined by adding money paid to the vendor/contractor in the 12 months prior to the date of the current bid plus the amount of the current bid.

#### **3.2 Exemptions from this Program**

Vendors/Contractors who sell, or offer to sell, goods or services to the Madison Metropolitan School District through the District's negotiated or bidding process in an aggregate amount of less than \$20,000 per year and/or who employ less than fifteen persons do not have to comply with this Program.

The following contracts are also exempt from compliance with this Program:

- Contracts for goods, supplies or services necessitated by or resulting from an emergency situation as determined by the Business Services Division pursuant to Board of Education policies.
- Contracts under which the District leases property and/or issues Building Use Permits.
- Contracts for the sale and purchase of real estate.
- Contracts with the Federal Government, the University of Wisconsin System, State of Wisconsin, other municipalities and/or other taxing authorities.
- Contracts with organizations that provide financial, legal, insurance, utility services, or medical services.
- Contracts with nonprofit organizations.
- Vendors from whom the District purchases books and other learning materials that are approved by the "Learning Materials" Committee pursuant to the evaluation process set forth in Board Policy 3611.
- Vendors whose goods or services are selected by the District under other non-Madison School District procedures such as the State of Wisconsin Procurement Policy and Procedure, provided these procedures include an Affirmative Action requirement for vendors.

### **3.3 Requirements**

#### **3.3.1 Must have an Adopted, Filed, and Certified Plan**

Each major Vendor/Contractor not exempt under this Program shall adopt a plan to employ target group individuals consistent with their availability in the relevant labor market.

This plan shall include a reasonable grouping of jobs in the vendor's workforce, an analysis of the availability of members of each target group for each job group, an analysis of the utilization of target group members in the vendor's workforce and steps which are being, or will be taken to remedy any underutilization shown by whether or not the employment goals in the plan have been met.

This requirement may be satisfied if the Vendor/Contractor has a certified plan on file with the following: Federal Government, State of Wisconsin, or Counties or Municipalities in Wisconsin and the Vendor/Contractor provides documentation of this certification to the District.

#### **3.3.2 Contract Requirements**

Whenever a Vendor/Contractor who is not exempt under this Program submits a bid or enters into negotiations for the sale of goods or services to the District, it shall indicate (1) with what agency the plan is on file, (2) whether or not the plan is certified, and (3) whether the employment goal(s) stated in the plan has/have been achieved.

If a Vendor/Contractor has not met each one of these three requirements, the Vendor/Contractor shall submit a statement and documentation which demonstrates that it has made, is making or will make a good faith effort to meet each one of the requirements that has not been met.

### **3.4 Reporting and Evaluation of Compliance**

The Contract Compliance Coordinator of the District may require reports from vendors awarded contracts to determine whether they are in compliance with their plans and/or good faith efforts. Vendors shall maintain and submit records at the request of the District for purposes of compliance review. The District shall follow established Office of Federal Contract Compliance Programs and Equal Employment Opportunity Commission procedures for on-site visits, desk audits, project reviews and other compliance and reporting requirements.

Employment goals for construction contracts shall be measured in total hours expended on the projects by target group individuals by job group, broken out for race, sex, and disability. All other employment goals shall be reported by showing the number of employees by position, broken out for race, sex, and disability.

### **3.5 Discrimination Policy**

A contractor/vendor that is not exempt under this Program, as a condition of being awarded a contract, shall agree not to discriminate on the basis of race, religion, gender, sexual orientation, creed, color, ancestry, national origin, disability, or association with a person with a disability, age, marital status, handicap, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, gender expression, political beliefs, or the fact that a person is a student.

### **3.6 Non-Compliance**

If a Vendor/Contractor does not submit the documentation required under this Program, including proof of its exemption, an affirmative action plan if not exempt or other required information the bid will not be considered complete. If the bid is not complete it will not be forwarded to the Board for approval, which means the contract will not be approved until this information is received in a timely manner.

### **3.7 No Private Cause of Action**

Any dispute arising under this Contract Compliance Program, which is not resolved by the Contract Compliance Coordinator, may be referred to the Superintendent or his/her designee.

This Contract Compliance Program is not intended to create a private right of action by, or on behalf of, any employee, applicant for employment, vendor, contractor, HUB or target group individual. Any party who claims a violation of this Program by a particular business or individual may file a complaint as provided under the District's Affirmative Action Plan or under the District's General Complaint Procedure.

## **4. Historically Underutilized Businesses**

### **4.1 Identification of HUBs**

For bidding purposes, the District shall use a register listing businesses that qualify as either minority (MBE), women (WBE), and/or small businesses (SBE). A HUB that does not appear on the District's chosen register may offer documentation showing it has been certified as a MBE, WBE and/or SBE by offering a certification from a federal, state or local governmental agency.

Each HUB must file a Vendor Profile Form with the District. Companies must provide information to the District including, but not limited to, the following areas: name of the business, address, phone number, date the business was established, type of business, contact person, size, gross annual sales and number of employees.

### **4.2 Data Analysis of HUB Participation**

The District will establish data points and evaluate data to determine current HUB participation with the District and create strategies to increase that participation.

## **5. Implementation Strategies**

### **5.1 Contract Compliance Coordinator**

The Contract Compliance Coordinator is responsible for assisting the District reach its contract compliance goals.

The Contract Compliance Coordinator will take steps necessary to accomplish this

responsibility. These steps may include the following:

- Work with non-District agencies and organizations, including HUBs, to communicate the District's goals and enhance opportunities for HUBs to sell their products and services directly to the District as well as be used as subcontractors by the District's other contractors/vendors.
- Offer technical assistance to internal staff.
- Provide Outreach, which may include:
  - Technical assistance to HUBs and non-District agencies and organizations, and
  - Informational materials and trainings.
- Review performance measurements, monitoring and evaluation of District strategies and procedures.
- Identify and work to remove impediments or obstacles to HUB contracting.
- Make reports to the Superintendent and/or his/her designee which include the following:
  - Percentage and dollar goals, separately for small-, minority- and women-owned businesses,
  - The amount of increase in the total dollars spent with HUBs,
  - The amount of increase in the number of active HUBs doing business with the District,
  - The product or service categories in which awards have been made, and
  - The number and type of contracts awarded.

Note: Reports will be made annually by November 1<sup>st</sup> each year and may be made more often upon the Superintendent's or his/her designee's request once the data points are established and appropriate data is collected.

## **5.2 Department of Administrative Services**

Administrative Services is a key organization within the District making purchasing and contracting decisions. It is responsible for assisting the District reach its contract compliance goals, including those related to HUBs.

Administrative Services will take steps necessary to accomplish this responsibility. These steps may include the following:

- Work with non-District agencies and organizations to enhance opportunities for contractors/vendors to sell their products and services directly to the District.
- Inform the Contract Compliance Coordinator of requirements for the procurement of products and services.
- Help identify opportunities for HUB participation at either the first tier or second tier.
- Provide information to all contractors/vendors who wish to do business with the District, including contract compliance related documentation.
- Provide technical assistance to internal staff.
- Assist the Contract Compliance Coordinator with outreach, which may include:
  - Technical assistance to HUBs and non-District agencies and organizations, and

- Informational materials and trainings.
- Identify and work to remove impediments or obstacles to HUB contracting.
- Encourage major vendors and contractors to voluntarily adopt the District's percentage goals as a measure for HUB subcontracting.

### **5.3 Department of Building Services**

Building Services is a key organization within the District making contracting decisions. It is responsible for assisting the District reach its contract compliance goals, including those related to HUBs.

Building Services will take steps necessary to accomplish this responsibility. These steps may include the following:

- Inform the Contract Compliance Coordinator of requirements for the procurement of products and services.
- Help identify opportunities for HUB participation at either the first tier or second tier.
- Provide information to all contractors/vendors who wish to do business with the District, including contract compliance related documentation.
- Provide technical assistance to internal staff.
- Assist the Contract Compliance Coordinator with outreach, which may include:
  - Technical assistance to HUBs and non-District agencies and organizations, and
  - Informational materials and trainings.
- Identify and work to remove impediments or obstacles to HUB contracting.
- Encourage major vendors and contractors to voluntarily adopt the District's percentage goals as a measure for HUB subcontracting.

## **6. Definitions**

1. Affirmative Action Plan – A plan that is designed to facilitate the contractor's/vendor's efforts to provide equal employment opportunities to all persons and to provide that Affirmative Action be taken to hire and/or promote underrepresented target group individuals consistent with their availability in the relevant labor market area.
2. Availability Analysis – The availability analysis examines the number of minority-, women-, and majority-owned businesses ready, willing and able to perform work for the District. "Availability" is often expressed as the percentage of contract dollars that might be expected to go to minority- or women-owned businesses if based on analysis of the specific type, size and timing of each contract and the relative number of minority- and women--owned businesses available for that work.
3. Compliance Waiver - An exemption given by the District to contractors/vendors who either have demonstrated a "good faith effort" but were unable to meet the minimum employment or business participation goals as determined by the District, or for cause were unable to demonstrate a good faith effort to meet the



minimum employment or business participation goals as determined by the District.

4. Contract – A contract is a legally binding relationship between the seller of goods or services and a buyer.
5. Contractor/Vendor - Any sole proprietorship, partnership, corporation, association, joint venture or other entity including a contractor, vendor, or supplier which enters into a contract with the Madison Metropolitan School District.
6. Controlled – Controlled means exercising management and executive authority for a company.
7. Debarment - Formal action by the Board of Education denying a vendor's/contractor's right to enter into future contracts with the District until compliance has been achieved.
8. Desk Audit - A thorough analysis distinguished from an on-site review, which reviews a contractor's/vendor's Affirmative Action Plan, project records and other materials to determine the overall extent of compliance with the Contract Compliance Program.
9. Disadvantaged Business Enterprise (DBE) - A small business that is 51 percent or more owned and controlled by one or more individuals who are both socially and economically disadvantaged according to the guidelines in the Federal DBE Program (49 CFR Part 26). Membership in certain race and ethnic groups identified under "minority-owned business enterprise" in this appendix may meet the presumption of socially and economically disadvantaged. Women are also presumed to be socially and economically disadvantaged. Examination of economic disadvantage also includes investigating the three-year average gross revenues and the business owner's personal net worth (at the time of this report, a maximum of \$1.32 million excluding equity in the business and primary personal residence). Some minority- and women-owned businesses do not qualify as DBEs because of gross revenue or net worth limits. A business owned by a non-minority male can be certified as a DBE if the enterprise meets the requirements in 49 CFR Part 26.
10. Equal Employment Opportunity – The absence of employment discrimination on the basis of gender, race, religion, color, creed, national origin, ancestry, age, disability, or association with a person with a disability, marital status, handicap, source of income, arrest or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, gender expression, political beliefs or the fact that a person is a student.
11. Good faith effort - Defined as actions or steps taken by the contractor/vendor to subcontract with HUBs or to implement all phases of its Affirmative Action Plan and/or other measures to employ underrepresented target group individuals consistent with their availability in the relevant labor market area. The Contract Compliance Officer shall make the final determination of whether sufficient good faith efforts have been demonstrated. There are many ways to attract HUBs for

subcontracting opportunities and individuals for employment which, by their very nature, indicate or show a “good faith effort.” The following activities are indicators of a good faith effort. This list is not intended to be exhaustive.

- a. Advertise in a timely manner with respect to the projects/bids in the community media and/or trade journals relative to employment opportunities for target group individuals or subcontracting opportunities for HUBs.
- b. Send request for quotes by mail to HUB businesses and request for employment referrals from community outreach agencies. The contractor/vendor must maintain records of such mailing or requests and, where feasible, conduct follow-up by telephone with HUBs to offer bidding assistance.
- c. Solicit telephone, fax or electronic quotes from HUBs, where applicable. The contractor/vendor must retain a list of all subcontracts awarded in this manner.
- d. Conduct any other recruitment practices which would be standard operating procedures in their respective industry.

12. Historically Underutilized Business (HUB) is a for-profit business which is one of the following:

- a. A small business, which, in the Madison Metropolitan School District’s definition, is one with gross annual receipts of \$2 million or less in the most recent calendar/fiscal year, and with 25 or fewer employees.
- b. A business which is at least 51% owned, managed and controlled by an individual or individuals who are minority group members (African American, Hispanic, Asian, Native American) or a business which is at least 51% owned, managed and controlled by a female;

13. Majority-owned business – A majority-owned business is a for-profit business that is not owned and controlled by minorities or women (see definition of “minorities” below).

14. Minorities - Minorities are individuals who belong to one of the racial/ethnic groups identified in the federal regulations in 49 CFR Section 26.5:

- Black Americans (or “African Americans” in this study), which include persons having origins in any of the black racial groups of Africa;
- Hispanic Americans, which include persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- Native Americans, which include persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
- Asian-Pacific Americans, which include persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, Hong Kong, and other countries and territories in the Pacific set forth in 49 CFR Section 26.5; and
- Subcontinent Asian Americans, which include persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka.

15. Minority-owned business enterprise - Minority-owned business enterprise means a business which is one of the following:

- a. A sole proprietorship owned and controlled by an individual who is a minority group member.
- b. A partnership, joint venture or corporation in which at least 51% of the beneficial ownership interest is legitimately held by a minority group member.

16. On-Site Visit - A visit to the contractor/vendor's place of business, construction site, etc.

17. Owned & Controlled - Owned and controlled means the minority/female ownership in the firm must be real, substantial and continuing. There must also exist a risk or loss/share of profit commensurate with the proportional minority/female's ownership in the firm. A minority/female owner must have and exercise the authority of independently controlling the business.

18. Prime Contractor – A prime contractor is a firm that performs a prime contract for an end user, such as the District.

19. Self-Certification

Written affirmation by the organization that it is:

- a. a sole proprietorship, corporation, joint venture owned, operated and fully controlled on a daily basis by a minority group member;
- b. a sole proprietorship, corporation, joint venture owned, operated and fully controlled on a daily basis by a woman; or
- c. a small business, meeting the District's definition contained herein.

In addition, the District recognizes the certification done by certain entities which include, but are not limited to, the following:

- City of Madison, Wisconsin
- Dane County, Wisconsin
- Milwaukee Joint Certification Program
- State of Wisconsin, Department of Commerce, Bureau of Minority Business Development
- State of Wisconsin, Department of Transportation, Office of Disadvantaged Business Enterprise Programs
- Wisconsin Minority Supplier Development Council
- U. S. Small Business Administration and its recognized private certifiers

20. Small business - For the purposes of the District's Contract Compliance Program, a small business is one which has had \$2 million in gross annual sales or less in the most recent calendar/fiscal year and one which has 25 or less employees. The business concern must also be independently owned and operated, and cannot be dominant in its field of operation.

For the purpose of economic development, the District reserves the right to declare as a small business any firm which meets the following conditions:

- a. The firm's principal place of operation is within the boundaries of the Madison Metropolitan School District; and
  - b. The firm can further qualify under the criteria set forth in the Small Business Administration Small Business Size Standards Regulation, Title 13, Part 121 of the Code of Federal Regulations.
21. "Socially Disadvantaged Persons" includes individuals who identify themselves as Black American, Hispanic American, Native American, Asian Pacific Americans, subcontinent Asian Americans, women of all descents, and individuals with a disability as defined in s. 111.32(8) Wis. Stats.
22. Subcontractor – A subcontractor is a construction firm that performed services for a prime contractor as part of a larger project.
23. Utilization – Utilization refers to the percentage of total contracting dollars of a particular type of work going to a specific group of businesses.
24. Women-owned business enterprise - Women-owned business enterprise means a business which is one of the following:
- a. A sole proprietorship owned and controlled by an individual who is a female group member.
  - b. A partnership, joint venture or corporation in which at least 51% of the beneficial ownership interest is legitimately held by a female group member.

## Appendix A

### POLICY

### CONSTRUCTION & REPAIR OF BUILDINGS

**5000**

Contracts & Bids

#### **Construction and Repair of Buildings**

Contracts:

Approval/acceptance of contracts for the construction and repair of buildings with an estimated cost of up to \$20,000 shall be governed by Policy and Procedure 6244 and by applicable state and federal laws. For contracts for the construction or repair of buildings with an estimated cost exceeding \$20,000, and/or those for which a federal or state law requires formal bids, the BOARD shall let contracts to the lowest responsible bidder(s). Bid requests shall include any applicable federal funding requirements such as "Buy American."

If bids are submitted under paragraph a. above for the construction of a new building or an addition to an existing building, the following criteria shall also apply:

1. In determining who is the lowest responsible bidder, extra consideration may be given to contractors that meet the following criteria:

For projects that are bid by a "general contractor," meaning that the project covers more than one trade area, the general contractor has participated in an apprenticeship program as defined in Chapter 106 of the Wisconsin State Statutes within the last two years prior to submitting a bid to the School District. For this purpose, the term "participates" shall mean the contractor has actively employed apprentices within the last two years.

b. The contractor has not violated any applicable wage laws within the last two years. The preference of the BOARD shall be to select contractors that are signatory with one or more local labor organizations and/or local contractors, and encourages contractors to engage subcontractors that qualify as a historically underutilized business.

Work done to protect the Public Health and Welfare or work done under exigent circumstances:

The provisions of 1.a. above are not mandatory for the repair and reconstruction of public facilities if:

The public health or welfare is in potential or imminent danger; or

Exigent circumstances exist.

If the final cost to the District exceeds \$20,000, work done under 2.a. must have BOARD approval prior to being done if possible. If approval is not obtained prior to being done, the Board must be notified of such as soon as possible.

3. Work done directly:

a. Construction and repairs may be completed directly by the BOARD without submitting the same for bids.

**PROCEDURE**  
**5000**

**CONSTRUCTION & REPAIR OF BUILDINGS**

Contracts & Bids

**Construction and Repair of Buildings**

Contracts for construction and repair of buildings shall include the following:

Bids shall be advertised in the official publication on two separate days.

Each bid shall be a sealed bid, and no bid shall be received unless accompanied by a bid bond or certified check equal to at least 5% but not more than 10% of the bid. In addition, the awarded contract must be accompanied by a performance bond.

The authority to reject any and/or all bids for any reason shall exist on all projects.

The authority to require reports from successful bidders related to their goals to utilize Historically Underutilized Businesses as subcontractors and/or suppliers.

Subject to paragraphs 1 c. above, in contracts for the construction of a building addition or a new building, the BOARD shall award the bid to the lowest and most responsible bidder except in cases in which the lowest and most responsible bidder is a non-union and non-local contractor.

In such cases, union and/or local contractors who have submitted a bid within 5% of the low bid shall be given the opportunity to match the low bid of the non-union and non-local contractor. If the union and/or local contractor matches the low bid of the non-union and non-local contractor, the union and/or local contractor shall be awarded the bid.

If the low bidder is both non-union and non-local and more than one union or local contractor matches the bid, the contract shall then be awarded in the following priority order:

- 1 - to the contractor that is both union and local
- 2 - to the contractor that is local and non-union
- 3 - to the contractor that is union and non-local

If there is a tie under this procedure because more than one contractor is at the highest priority level, then the award will be resolved by lottery.

Local shall mean a contractor whose main office is within the borders of the Madison Metropolitan School District. Union shall mean a contractor that is signatory with one or more local labor organizations.

All warranty/guarantees shall be in compliance with industry standards. (General Conditions of the Contract for Construction - AIA201).

Bidder's Proof of Responsibility (a full and complete statement sworn to before an officer authorized to administer oaths, consisting of information related to the bidder's financial ability, equipment and experience in the work prescribed) shall be required.

Bids may be separated into any of the following areas: general contract, plumbing, heating and ventilating, and electrical or as determined in the best interest of the School District. However, contracts will not be separated to solely avoid the requirements of 1 b. under the Policy.

A Bidder's Certificate that the bidder has closely examined the specifications and plans prior to preparing the proposal/bid shall be required.

Wages paid shall comply with applicable local, state, and federal laws.

In addition to the above, the following are covered in Wisconsin Statutes s. 62.15 and s. 66.0901, and if the need arises, they should be checked and used as a guide:

Escalator clauses: s. 62.15(1)(a);  
Increased Quantity clauses: s. 62.15(1)(c);  
Substantial Compliance: s. 62.15(4)(m);  
Sureties, Justification: s. 62.15(4);  
Rejection of Bids: s. 62.15(5) and s. 66.0901(4);  
Patented Material or Process: s. 62.15(7);  
Alternative Plans: s. 62.15(8);  
Estimates, Deposits: s. 62.15(10);  
Default, Completion: s. 62.15(10);  
Proof of Responsibility, Condition Precedent: s. 66.0901(3);  
Corrections of Errors in Bids: s. 66.0901(5);  
Settlement of Disputes, Defaults: s. 66.0901(8).

## Appendix B

### **POLICY**

### **AFFIRMATIVE ACTION REQUIREMENTS FOR VENDORS AND CONTRACTORS 6600 Operation**

The BOARD of EDUCATION is committed to Affirmative Action policies and procedures to assist in the hiring of District staff. By this policy, the BOARD requires major vendors to adopt and implement similar policies to ensure a diverse workforce which matches the diversity in the vendor's area.

Furthermore, the BOARD is committed to providing fair and equal opportunities for all contractors and vendors, including Historically Underutilized Businesses (HUBs). By this policy, the BOARD supports, promotes and encourages participation by Historically Underutilized Businesses in the District's competitive bid and other District procurement processes.

### **PROCEDURE**

### **AFFIRMATIVE ACTION REQUIREMENTS FOR VENDORS AND CONTRACTORS 6600 Operation**

#### 1. Definitions:

a. "Target group individuals" means women, individuals who identify themselves as of Hispanic, African, Asian, or American Indian descent, and individuals with a disability as defined in s. 111.32(8) Wis. Stats.

b. "Major Vendor" means a person who sells, or offers to sell, goods or services to the Madison Metropolitan School District through the District's negotiated or bidding process in an aggregate amount of \$20,000 or more, including the current bid, over the last 12 months, and who employs at least fifteen persons.

c. A "Good faith effort" means action satisfactory to the District that is taken by a vendor to meet the District's contract requirements as set forth in Paragraph 3 of this policy.

#### 2. Plan Required to be Adopted, Filed, and Certified:

Each major vendor shall adopt a plan to employ target group individuals consistent with their availability in the relevant labor market. This plan shall include a reasonable grouping of jobs in the vendor's workforce, an analysis of the availability of members of each target group for each job group, an analysis of the utilization of target group members in the vendor's workforce and steps which are being, or will be taken to remedy any underutilization shown by whether or not the employment goals in the plan have been met. A plan may be on file with the following agencies: State of Wisconsin Department of Administration, Development, or Transportation; County of Dane or Milwaukee; City of Milwaukee, Milwaukee Metropolitan Sewerage District; Milwaukee Joint Certification Program; City of Madison or the Madison Metropolitan School District.



### 3. Contract Requirements:

Whenever a major vendor submits a bid or enters into negotiations for the sale of goods or services to the School District, it shall indicate (1) with what agency the plan is on file, (2) whether or not the plan is certified, and (3) whether the employment goal(s) stated in the plan has/have been achieved. If a major vendor has not met each one of the above stated three enumerated requirements, the vendor shall submit a statement and documentation which demonstrates that the vendor has made, is making or will make a good faith effort to meet each one of the requirements that has not been met. In order to demonstrate that the vendor has made, is making or will make a good faith effort in a timely manner as determined by the MMSD, the vendor shall properly analyze appropriate job classifications within the organization to determine if women or minorities are being underutilized (i.e., if fewer minorities or women are employed in a particular job classification than would be expected by their availability in the labor market area). . In order to demonstrate that the vendor will make a good faith effort after such analysis, if there is an underrepresentation of minorities or women in any job classification in a timely manner as determined by the MMSD, the vendor will:

Develop realistic goals for the employment of women and minorities who are underrepresented in such job classifications.

Develop a timetable for achieving the goals.

Develop a written recruitment activity plan which is a detailed strategy that outlines specific steps that will be taken to attract minorities and women in the appropriate job classifications in which minorities and women are underrepresented and

### 4. Reporting:

The Contract Compliance Coordinator of the District may require reports from vendors awarded contracts to determine whether they are in compliance with their plans and/or good faith efforts. Vendors shall maintain and submit records at the request of the District for purposes of compliance review. The District shall follow established Office of Federal Contract Compliance Programs and Equal Employment Opportunity Commission procedures for on-site visits, desk audits, project reviews and other compliance and reporting requirements.

Employment goals for construction contracts shall be measured in total hours expended on the projects by target group individuals by job group, broken out for race, sex, and disability. All other employment goals shall be reported by showing the number of employees by position, broken out for race, sex, and disability.

### 5. Noncompliance and Penalties:

If a vendor:

a. Indicates that it has made, is making or will make a good faith effort; and

b. Is awarded a contract with the District, but such vendor subsequently fails to make a good faith effort in a timely manner as determined by the District, then the SUPERINTENDENT or his/her designee may, after hearing the vendor's defense or justification, declare the vendor ineligible for future District contracts until such noncompliance is remedied and may take any other action the SUPERINTENDENT or his/her designee deems appropriate.

6. Records and Reports:

Purchasing officers and/or the Contract Compliance Coordinator of the District shall maintain records of the District's activities under this policy, including:

- a. Operating procedures for notifying potential vendors of the requirements of this policy;
- b. Technical assistance forms;
- c. List of District vendors;
- d. An annual report to the BOARD of EDUCATION and SUPERINTENDENT on activities undertaken by staff in furtherance of this policy.

## Appendix C

### **POLICY**

### **UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES 6601 Operation**

By this policy, the BOARD requires major vendors to adopt and implement similar policies to ensure a diverse workforce which matches the diversity in the vendor's area. The BOARD acknowledges that Historically Underutilized Business(es) (hereinafter HUBs) have not provided business services and goods to the District at desirable levels. The Board commits to a working with HUBs towards increasing purchases and contract awards.

By this policy, the BOARD supports, promotes and encourages participation by HUBs in the District's competitive bid and other District procurement processes to encourage that utilization of such businesses by the District occurs at the appropriate levels.

### **PROCEDURE**

### **UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES 6601 Operation**

#### 1. Definitions

"Historically Underutilized Business(es): A business enterprise, defined as a "Form of Historically Underutilized Business" below, that is formed for the purpose of making a profit which is owned by one or more persons who:

Is (are) "Socially Disadvantaged Person(s)" are those who have been subjected to racial or ethnic prejudice or cultural bias within society because of their identification as members of groups without regard to their individual qualities. Specific groups are defined below.

Have a proportionate interest and demonstrate active participation in the control, operation and management of the enterprises affairs.

"Socially Disadvantaged Person" includes individuals who identify themselves as Black American, Hispanic American, Native American, Asian Pacific Americans, subcontinent Asian Americans, women of all descents, and individuals with a disability as defined in s. 111.32(8) Wis. Stats.

"Forms of Historically Underutilized Business" enterprises includes:

A corporation where at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons described in 1.b above;

A sole proprietorship that is 100% owned by a person described in 1.b above;

A partnership where at least 51% of the assets and interests in the partnership is owned by one or more persons described in 1.b above;

A joint venture where each entity in the joint venture is a HUB;

A supplier contract between a HUB and a Prime Contractor under which the HUB is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies; and

A business other than described in subparagraphs (i) through (v) above, which is a legally

recognized business organization under the laws of the State of Wisconsin, provided that at least 51% of the assets and interest and 51% of any classes of stock and equitable securities are owned by one or more "Socially Disadvantaged Person(s)" as defined above.

2. Reporting the use of HUBs. The following rules will govern the evaluation of reports submitted to the Contract Compliance Coordinator:

Business participation goals shall be reported to the District in the following manner:

Only firms owned by racial or ethnic minorities can be counted toward goals for minority-owned businesses.

Only firms owned by women can be counted toward goals for women-owned businesses.

Only businesses meeting the small business size criteria can be counted toward goals for small businesses.

HUBs are to be utilized as subcontractors on projects which lend themselves to subcontracting.

The contractor/vendor is required to (1) compute the total dollar value of each subcontract; (2) list the percentage of the total dollar amount that was expended with HUBs; (3) list each HUB by name and address; (4) identify the work that has been completed by each HUB, and (5) identify the amount of money received by each HUB. Employment goals are measured for construction contracts in total hours expended on the project by target group individuals by trade, race and gender. All other employment goals shall be reported by showing the number of employees by position, race, and gender.

3. The District, primarily through its Contract Compliance Coordinator, shall implement the Contract Compliance Program. Steps for implementation include:

Work with non-District agencies and organizations, including HUBs, to enhance opportunities for HUBs to sell their products and services directly to the District as well as be used as subcontractors by the District's other contractors/vendors.

Offer technical assistance to internal staff

Provide Outreach, which may include:

Technical assistance to HUBs to maximize their opportunity to provide goods and services to the District, and

Informational materials and trainings

Review performance measurements, monitoring and evaluation of District strategies and procedures, specifically assessing how the District complies with the Contract Compliance Program

Identify and work to remove impediments or obstacles to HUB contracting

Prepare an Annual Report which includes information relative to the District's utilization of HUBs for presentation to the Board

4. The District shall make every effort to ensure that whenever there is a vacancy for the Contract Compliance Coordinator position, that the chosen candidate will be well-versed in Contract Compliance best practices, outreach and training.

## Appendix D

### AFFIRMATIVE ACTION & EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

#### **Statement of Commitment**

As an employer, this company welcomes the opportunity to affirm our continuing policy to provide equal employment or advancement opportunity and to dedicate ourselves to establishing a work environment which is free from discrimination.

#### **Equal Employment Opportunity**

It is the policy of this company that all employees and applicants for employment are guaranteed equality of employment opportunity. Essentially, this means that, as an employer, we will not discriminate against any worker or job applicant on the basis of race, color, religion, gender, age, national origin, ability status or veteran status.

Recruitment, selection, placement, transfer, promotion, reinstatement, training and education, tuition assistance, compensation, benefits and layoff decisions made by the supervisors or managers of this company will be based upon the job-related qualifications and abilities of candidates. In some cases, seniority may be treated as a factor to be considered in the selection process. Employees who apply for a promotion or transfer will be given equal consideration.

It is our policy that supervisors shall be made aware that they must use only objective, job-related criteria when selecting workers for any employment-related action, including hiring, training, promotions and terminations. They also shall be informed that certain types of pre-employment inquiries may lead to problems when interviewing candidates for positions.

All other personnel policies and practices of this company, including compensation, benefits, discipline, safety and health programs, as well as other activities, will be administered and conducted without regard to an individual's race, color, religion, gender, age, national origin, ability status or veteran status.

To the extent possible, reasonable accommodation shall be made for religious needs and for individuals with ability challenges.

As an employer, we will continually review our personnel practices and procedures to ensure that all supervisors and managers are adhering to our commitment to Equal Employment Opportunity principles.

#### **Affirmative Action**

As an employer, it is our policy to utilize Affirmative Action as a tool to ensure Equal Employment Opportunity.

\_\_\_\_\_ has been designated as the Affirmative Action Officer and shall maintain responsibility for establishing, monitoring and evaluating our Affirmative Action efforts at all company establishments.

Our commitment to Affirmative Action means that we will do more than examine our policies and procedures to ensure against discrimination on the basis of race, color, religion, gender or national origin.

We will make a good faith effort to provide hiring opportunities for minorities and women.

A. In order to demonstrate that we will make a good faith effort in a timely manner as determined by

the MMSD, we will:

Properly analyze appropriate job classifications within the organization to determine if women or minorities are being underutilized (i.e., if fewer minorities or women are employed in a particular job classification than would be expected by their availability in the labor market area). (Seek technical assistance from the District's Contract Compliance Officer if you do not know how to properly analyze the job classifications or if you are not sure which job classifications are appropriate).

- B. In order to demonstrate that we will make a good faith effort after such analysis, if there is an underrepresentation of minorities or women in any job classification we will in a timely manner as determined by the MMSD:
1. Develop realistic goals for the employment of women and minorities who are underrepresented in such job classifications.
  2. Develop a timetable for achieving the goals.
  3. a) Develop a written recruitment activity plan which is a detailed strategy that outlines specific steps that will be taken to attract minorities and women in the appropriate job classifications in which minorities and women are underrepresented and
    - b) Implement the written recruitment activity plan at a minimum by:
      - i) Prominently displaying on your bulletin boards or in common areas the fact that you are an equal opportunity employer.
      - ii) If minorities are underrepresented in certain job classifications, for each vacancy in such job classification place an advertisement in a media outlet that caters to minorities. Such advertisement should describe the job and indicate that the vendor is an equal opportunity employer and that minorities are encouraged to apply.
      - iii) If women are underrepresented in certain job classifications, for each vacancy in such job classification place an advertisement in a media outlet that caters to women. Such advertisement should describe the job and indicate that the vendor is an equal opportunity employer and that women are encouraged to apply.
      - iv) If minorities are underrepresented in certain job classifications, correspond in writing to local advocacy agencies such as community-based organizations, minority trade unions, etc., that you have job vacancies in job classifications for which minorities are underrepresented, describe the job and indicate that you are an equal opportunity employer and that minorities are encouraged to apply.
      - v) If women are underrepresented in certain job classifications, correspond in writing to local advocacy agencies such as community-based organizations, local trade unions, etc., that you have job vacancies in job classifications for which women are underrepresented, describe the job, indicate that you are an equal opportunity employer and that women are encouraged to apply.

- vi) Write a letter encouraging current racial/ethnic minorities and women employees to assist in the recruitment of prospective racial/ethnic minorities and women employees.
- vii) Ensure that all job descriptions reflect actual job duties and are job related.
- viii) Have a written discrimination complaint procedure in place that is publicized to all employees.
- ix) Review all hiring policies and practices to ensure that they are non-discriminatory.
- x) Hire, where possible, minorities and women in job classifications in which they are underrepresented.

It is our expectation that all employees shall demonstrate respect for and awareness of the diversity of all our employees and model our corporate commitment to diversity.

### **EEO/AA Communication**

This Affirmative Action and Equal Employment Opportunity Policy Statement shall be communicated to all supervisors and managers. It shall also be posted conspicuously (on company bulletin boards or common areas) and in areas where applicants are typically screened, interviewed and tested. The intent of this communication of the Policy Statement is that all of the company's employees are alerted and that job applicants are informed of our commitment. It is also the company's intent to include this Policy Statement in employee handbooks or orientation literature and to keep employees informed of Policy Statement changes or updates.

The terms "Equal Opportunity Employer" shall be utilized in recruitment advertisements and literature.

### **EEO Complaint Handling Procedures**

It is this company's policy to regularly inform employees that the organization's dispute resolution system is available for handling discrimination complaints or problems. Employees who have Equal Employment Opportunity-related questions, problems or complaints should first communicate their concern to their immediate supervisor. If they are dissatisfied with the supervisor's handling of the matter, they may pursue their complaint in the company's formal dispute resolution procedure.

All complaints will be handled fairly and expediently. No employee shall suffer reprisals for seeking resolution of a problem through the procedure.

### **Disqualification**

As a condition of being awarded contracts for goods and services the District needs in the future, it is understood that by signing this Statement, the vendor agrees that the District may disqualify the vendor from being awarded such contracts, if it is determined by the District that no good faith effort was made in that the vendor cannot demonstrate to the District's satisfaction that it has in a timely manner as determined by the MMSD:

1. Properly analyzed appropriate job classifications within the organization to determine if women or minorities are being underrepresented.

2. Developed realistic goals for the employment of women and minorities who are underrepresented in such job classifications.
3. Developed a timetable for achieving the goals.
4. a) Developed a written recruitment activity plan which is a detailed strategy that outlines specific steps that will be taken to attract minorities and women in the appropriate job classifications in which minorities and women are underrepresented and
  - b) Implemented the written recruitment activity plan at a minimum by having:
    - i) Prominently displayed on your bulletin boards or in common areas the fact that you are an equal opportunity employer.
    - ii) (If minorities are underrepresented in certain job classifications, for each vacancy in such job classification) placed an advertisement in a media outlet that caters to minorities and that the advertisement described the job and indicated that the vendor is an equal opportunity employer and that minorities are encouraged to apply.
    - iii) (If women are underrepresented in certain job classifications for each vacancy in such job classification) placed an advertisement in a media outlet that caters to women and that the advertisement described the job and indicated that the vendor is an equal opportunity employer and that women are encouraged to apply.
    - iv) (If minorities are underrepresented in certain job classifications) corresponded in writing with local advocacy agencies such as community-based organizations, minority trade unions, etc., that you have job vacancies in job classifications for which minorities are underrepresented, described the job and indicated that you are an equal opportunity employer and that minorities are encouraged to apply.
    - v) (If women are underrepresented in certain job classifications) corresponded in writing with local advocacy agencies such as community-based organizations, local trade unions, etc., that you have job vacancies in job classifications for which women are underrepresented, described the job, indicated that you are an equal opportunity employer and that women are encouraged to apply.
    - vi) Written a letter encouraging current racial/ethnic minorities and women employees to assist in the recruitment of prospective racial/ethnic minorities and women employees.
    - vii) Reviewed all job descriptions to ensure that they reflect actual job duties and are job related.
    - viii) Created a written discrimination complaint procedure that is publicized to all employees.
    - ix) Reviewed all hiring policies and practices to ensure that they are non-discriminatory.



- x) Hired, where possible, minorities and women in job classifications in which they are underrepresented.

Vendors shall maintain and submit records at the request of the District for the purposes of the District, among other things, determining if the vendor has made a good faith effort. The District may disqualify a vendor from being awarded a contract if the vendor fails to maintain or provide the information requested by the District.

Date: \_\_\_\_\_

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Location Address, Telephone Number

\_\_\_\_\_  
CEO's Typed Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Human Resource Officer or Affirmative Action Officer's Typed Name & Title

\_\_\_\_\_  
Signature



**Appendix F**  
MADISON METROPOLITAN SCHOOL DISTRICT  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION -- EMPLOYER INFORMATION REPORT

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Name of Company/Organization	Address	City, State and Zip Code
Contact Person/Name & Title	Area Code & Telephone Number	Area Code & Facsimile Number

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Name of Parent or Affiliated Company	Address	City, State and Zip Code
Contact Person/Name & Title	Area Code & Telephone Number	Area Code & Facsimile Number

**Establishment Information**

How was the information on race or ethnic group obtained?     Visual Survey     Employment Records     Other –Specify: \_\_\_\_\_

Dates or Period Used: \_\_\_\_\_ Does the establishment employ apprentices?  Yes     No

Is the location the same as last year?     Yes     No    Previous report date: \_\_\_\_\_    No previous report

Business Type: *(Description of the major activity of this establishment, including the specific type of product or service provided.)*

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This organization has a current Affirmative Action Plan on file with: \_\_\_\_\_ State of Wisconsin     Dane County     City of Madison  
 U. S. Government (Specify Agency: \_\_\_\_\_)     Other (Specify: \_\_\_\_\_)

**Certification**

1. The contractor or vendor certifies that the information contained in this Employer Information Report is accurate.
2. The contractor or vendor has agreed that, as provided in the contract or purchase order, if not exempt, that it will complete the District's Employer Information Report, and submit it along with its Affirmative Action Plan. If the contractor/vendor does not have an Affirmative Action Plan, the contractor/vendor may sign and submit the District's Affirmative Action Policy Statement (Appendix C).
3. The contractor or vendor further agrees that, as provided in the contract or purchase order, for the duration of this or subsequent contracts with the District, accurate and timely information will be filed on an annual basis.

Date Completed: \_\_\_\_\_ Completed By: : \_\_\_\_\_