

**Charlotte-Mecklenburg Schools
Minority, Women, Small Business Enterprise Program**

**Section 8.2
Informal Construction Guidelines**

These instructions shall be included with each informal bid solicitation. The names and addresses of bona fide M/W/BEs that are available for contracting or joint-venture opportunities may also be included with the solicitation.

CHARLOTTE-MECKLENBURG SCHOOLS MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE PROGRAM

Informal Construction Guidelines for M/W/SBE Participation

In accordance with G.S. 143-64.31, it shall be the policy of the Charlotte-Mecklenburg Board of Education to promote full and equal access to business opportunities with Charlotte-Mecklenburg Schools. Minority-owned, women-owned, and small business enterprises (collectively “M/W/SBE”) as well as other responsible vendors shall have a fair and reasonable opportunity to participate in CMS business opportunities.

“Minority” as used in this policy means African American (all persons having origins in any of the African racial groups); Hispanic/Latino American (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin); Asian American (all subcontinent, or the Pacific Islands); and Native American (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

“Woman” as used in this policy means a non-minority woman who has 51% ownership, interest, holds the professional or contractor license necessary for operation as well as management, control, and have technical expertise directly related to the primary product or service of the business.

“Small” as used in this policy means a business enterprise owned, operated, and controlled by one (1) or more eligible owners who have 51% ownership, interest, holds the professional or contractor license necessary for operation as well as management, control, and have technical expertise directly related to the primary product or service of the business, and is 25% or less of the applicable size standards established by the Small Business Administration.

“Socially and Economically Disadvantaged” as used in this policy means a minority, woman, or small business enterprise owned, operated, and controlled by one (1) or more eligible owners who have 51% ownership, interest, holds the professional or contractor license necessary for operation as well as management, control, and have technical expertise directly related to the primary product or service of the business, and is 25% or less of the applicable size standards established by the Small Business Administration.

Bidders responding to this solicitation shall comply with the M/W/SBE Program by making Good Faith Efforts to utilize the following aspirational goals for M/W/SBE participation under this contract for construction services:

Category	MBE Goal	WBE Goal	SBE	Total M/W/SBE Goal
Construction	10%	6%	5%	21%
Architecture & Engineering	4%	7%	5%	16%
Professional Services	9%	9%	5%	23%
Other Services (other than Architecture & Engineering and other Professional Services)	5%	4%	5%	14%
Goods	3%	3%	5%	11%

The Bidder shall provide, with the bid the following documentation:

- Minority, Women, and Small Business Enterprise Identification Form** (including suppliers)
- Affidavit A** (if subcontracting)

OR

- Minority, Women, and Small Business Enterprise Identification Form** (including suppliers)
- Affidavit B** (if self-performing all work with own workforce and upon request, provide sufficient information for Charlotte-Mecklenburg Schools to determine that the Bidder does not customarily subcontract work on this type of project)

Within 72 hours after notification of being the apparent low bidder, the low bidder who is subcontracting anything must provide the following information:

- Affidavit C** (if aspirational goals are met or exceed established goal of M/W/SBE participation)
- Appendix I** (Signed by the M/W/SBE subcontractors, may come in after 72-hr deadline)

OR

- Affidavit D** and all documentation as requested on the form (if aspirational goals are not met or exceed established goal of M/WBE participation)
- Appendix I** (Signed by the M/WBE subcontractors, may come in after 72-hr deadline)

****With each pay request the prime contractors will submit Appendix IV listing payments made to all subcontractors.**

Compliance Documentation

All written statements, affidavits or intentions made by the Bidder shall become a part of the agreement between the Contractor and Charlotte-Mecklenburg Schools for performance on this contract. Failure to comply with any of these statements, affidavits or intentions or with the M/W/SBE Program Guidelines shall constitute a breach of contract. A finding by Charlotte-Mecklenburg Schools that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false, or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of Charlotte-Mecklenburg Schools whether to terminate the contract for breach.

In determining whether a contractor has made Good Faith Efforts, Charlotte-Mecklenburg Schools will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts.

Good Faith Effort Documentation – The bidder’s documentation to meet the goals set forth in these provisions shall include, but not limited to, the following evidence:

1. Copies of solicitations for quotes to at least three (3) M/W/SBE firms for each subcontract to be let under this contract. Each solicitation shall contain a specific description of the work to be subcontracted, location where the bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
2. Copies of quotes or responses received from each firm responding to the solicitation.

3. A telephone log of follow-up calls to each firm sent a solicitation.
4. For subcontracts where an M/W/SBE firm is not considered to be the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
5. Documentation of any contacts, correspondence or conversation with M/W/SBE firms made in an attempt to meet the aspirational goals.
6. The successful bidder shall maintain records relating to all commitments for a period of at least one year following acceptance of final payment.

Note: Additional Good Faith Efforts are identified in Affidavit A.

After review of the Bidder's Good Faith Efforts, the Bidder may request and be granted a Waiver of the M/W/SBE aspirational goals that have not been met for that particular project. A Waiver may be granted upon review of the Bidder's documentation and determination that, in fact, a Good Faith Effort has been put forth. The Contractor's M/W/SBE Utilization Commitment shall be incorporated into the contract.

Charlotte-Mecklenburg Schools is authorized to establish specifications requiring bidders to subcontract a certain designated percentage of the construction and repair work amount, provided that nothing contained in these requirements shall be construed to require that the award of subcontracts be made to subcontractors who do not submit the lowest responsive bid.

Dispute Resolution Procedures

Under G.S. 143-128, Senate Bill 914 states that a public entity shall use the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(11), or shall adopt another dispute resolution process, which shall include mediation, to be used an alternative to the dispute resolution process adopted by the State Building Commission. This dispute resolution process shall be available to all the parties involved in the public entity's construction project including the public entity, the architect, the construction manager, the contractor, and the first-tier and lower-tier subcontractors and shall be available for any issues arising out of the contract or construction process.

The public entity may set a reasonable threshold, not to exceed fifteen thousand dollars (\$15,000), concerning the amount in controversy that must be at issue before a party may require other parties to participate in the dispute resolution process. The public entity may require that the cost of the process be divided between the parties to the dispute with at least one-third of the cost to be paid by the public entity, if the public entity is a party to the dispute. The public entity may require in its contract that a party participate in mediation concerning a dispute as a precondition to initiating litigation concerning the dispute.

NOTE: Charlotte-Mecklenburg Schools reserves the right to waive any irregularities in M/W/SBE documentation if they can be resolved prior to award of the contract, and Charlotte-Mecklenburg Schools finds it to be in its best interest to do so and award the contract.

Charlotte- Mecklenburg Schools M/W/SBE Documentation Overview

Form	Submission Requirements	Required Form
<p>Subcontractor / Supplier Identification Form</p> <p>Lists the total dollar amount of such participation by MBEs, WBEs, and SBE subcontractors and suppliers the Bidder will use on the project.</p>	Due with bid/proposal	Minority, Women, and Small Business Enterprise Identification Form
<p>Listing of Good Faith Efforts (GFE)</p> <p>Indicates the actions you undertook to recruit and solicit minority vendors, subcontractors, vendors, or suppliers for this project.</p>	Due with bid/proposal (if subcontracting)	Affidavit A
<p>Intent to Perform Contract with Own Workforce</p> <p>Indicates that the Bidder does not customarily subcontract elements of this type project, normally performs all elements of work on this project with his/her own current work force AND will not purchase any materials or supplies in the performance of the contract.</p>	Due with bid/proposal (self-performing)	Affidavit B
<p>Portion of Work to be Performed by M/W/SBE Firms</p> <p>Identifies minority participation that is equal to or greater than the M/W/SBE total goal for construction 21%, Other Services 14%, and/or Goods 11% of the bidders total contract price (See form for additional information). Appendix I is signed by the M/W/SBE.</p>	<p>Within three (3) business days after notification of being the apparent low bidder</p> <p>Appendix I is submitted upon substantial completion of the project.</p>	Affidavit C and Appendix I
<p>Documentation of Good Faith Efforts (GFE)</p> <p>Indicates GFEs of bidders who <u>do not</u> achieve the total M/W/SBE goal for construction 21%, Other Services 14%, and/or Goods 11% participation by M/W/SBEs.</p> <p>Documentation provided should correspond with the items checked on Affidavit A. Appendix I is signed by the M/W/SBE firms.</p>	<p>Within three (3) business days after notification of being the apparent low bidder</p> <p>Appendix I is submitted upon substantial completion of the project.</p>	Affidavit D and Appendix I
<p>Professional Services</p> <p>Indicates the minimum percent of the total dollar amount of the contract with M/W/SBEs. Appendix I is signed by the M/W/SBE firms.</p>	Within three (3) business days after receiving Letter of Commitment	Appendix I, II and/or III
<p>Documentation for All Contract Payments</p> <p>Contractor shall provide with each pay request to CMS all payments to contractors, subcontractors, supplies and service providers.</p>	Must submit with each pay request and final payment	Appendix IV

Attach AFFIDAVIT A or AFFIDAVIT B to the Bid

State of North Carolina AFFIDAVIT A – Listing of the Good Faith Effort

County of _____

Affidavit of _____

(Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

Bidder must earn at least 50 points from the Good Faith Efforts list for their bid to be considered responsive.

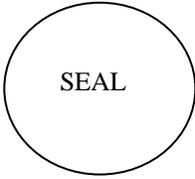
- 1 – (10 Points)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 – (10 Points)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 - (15 Points)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 Points)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 Points)** Attended pre-bid meetings scheduled by the public owner.
- 6 – (20 Points)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 Points)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 Points)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 - (20 Points)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 – (20 Points)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

In accordance with GS143-128.2(d) and Board of Education Policy the undersigned will enter into a formal agreement with the firms listed in the Identification of Minority, Women, and Small Business Participation schedule conditional upon execution of a contract with the Owner. Failure to abide by this statutory provision will constitute a breach of the contract. The undersigned hereby certifies that he or she has read the terms of the Minority, Women, and Small Business Enterprise commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ **Name of Authorized Officer:** _____

Signature: _____

Title: _____



State of _____ *County* _____

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

Notary Public _____

My commission expires _____

Attach AFFIDAVIT A or AFFIDAVIT B to the Bid

**State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract
with Own Workforce.**

County of _____

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform **all elements of the work** on this project with his/her own current work forces; and

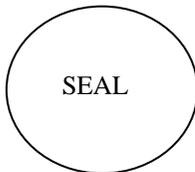
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ **Name of Authorized Officer:** _____

Signature: _____

Title: _____



State of _____, County of _____

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

Notary Public _____

My commission expires _____

State of North Carolina --- AFFIDAVIT C ---

Portion of the Work to be Performed by M/W/SBE Firms

County of _____

***** (NOTE: THIS FORM IS TO BE SUBMITTED ONLY BY THE APPARENT LOWEST RESPONSIVE BIDDER) *****

If the portion of the work to be executed by M/WBE firms as defined in GS143-128.2(g) and Board of Education M/W/SBE Policy is equal to or greater than the M/W/SBE aspirational goal of MBE 10%, WBE 6%, and SBE 5% in **Construction**, and/or MBE 5%, WBE 4%, and SBE 5% in **Other Services** and/or MBE 3%, WBE 3%, and SBE 5% in **Goods** participation of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being the apparent low bidder.

Affidavit of _____ I do hereby certify that on the _____
(Name of Bidder)

(Project Name)

Project ID# _____ Amount of Bid \$ _____

I will expend a minimum of _____% of the total dollar amount of the contract with minority, women, or small business enterprises. M/W/SBEs will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required

Name and Address	*M/W/SBE Category	Work description	Dollar Value

*M/W/SBE categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) Native American Indian (**N**), Female (**F**) Socially and Economically Disadvantaged (**D**), Small (**S**)

In accordance with GS143-128.2(d) and Board of Education Policy the undersigned will enter into a formal agreement with the firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of contract. The undersigned hereby certifies that he or she has read the terms of the Minority, Women, and Small Business Enterprise commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____



Signature: _____

Title: _____

State of _____, County of _____

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

Notary Public _____

My commission expires _____

If the aspirational goal of MBE 10%, WBE 6%, and SBE 5% in **Construction**, and/or MBE 5%, WBE 4%, and SBE 5% in **Other Services** and/or MBE 3%, WBE 3%, and SBE 5% in **Goods** participation by M/W/SBE businesses **is not** achieved, the apparent lowest responsible, responsive bidder shall provide the following documentation to the Owner of his good faith efforts **and** the M/W/SBE firms that **will** be used on the project:

(Name of Bidder)

Affidavit of: _____

I do certify the attached documentation as true and accurate representation of my good faith efforts.

I will expend a minimum of _____% of the total dollar amount of the contract with minority, women, or small business enterprises. M/W/SBEs will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Address	*M/W/SBE Category	Work description	Dollar Value

*M/W/SBE categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**), Small (**S**)

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions. Examples of documentation include, but are not limited to, the following evidence:

- A. Copies of solicitations for quotes to at least three (3) M/W/SBE firms from the source list provided by the State for each subcontract to be let under this contract. Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- G. Letter detailing reasons for rejection of minority business due to lack of qualification.
- H. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of _____, County of _____

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

Notary Public _____ My commission expires _____

APPENDIX I
LETTER OF INTENT TO
PERFORM AS A
SUBCONTRACTOR OR SUBCONSULTANT
(PROVIDE MATERIALS OR/ & SERVICES)

PROJECT: _____
 (Project Name)

TO: _____
 (Name of Prime Bidder/Architect)

The undersigned intends to perform work in connection with the above project as

_____ Minority Business Enterprise _____ Women's Business Enterprise
 _____ Small Business Enterprise

The M/W/SBE status of the undersigned is/is not certified by the City of Charlotte or the Carolinas Minority Suppliers Development Council or other governmental entities. Our M/W/SBE certification number is _____.

The undersigned is prepared to perform the following described work or provide materials or services in connection with the above project (specify in detail particular work items, materials or services to be performed or provided) at the following price: _____.

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Commencement Date	Projected Completion Date

Subcontracting at any tier must be reported and is subject to all M/W/SBE compliance requirements. This form shall be used for M/W/SBE subcontracting at any level.

Date: _____

_____ (Name & Phone No. of M/W/SBE Company)
 _____ (Name & Title of Authorized Office)
 _____ (Signature)

THE PRIME CONTRACTOR OR ARCHITECT MUST GET THIS FORM COMPLETED BY THE SUBCONTRACTORS/SUPPLIERS

APPENDIX IV

DOCUMENTATION FOR ALL PAYMENTS TO CONTRACTORS, SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS

Prime Contractor/Architect: _____

Address & Phone: _____

Project Name: _____

Pay Application #: _____ Period: _____

Current Requested Payment Amount _____

The following is a list of payments to be made to all contractors/suppliers & other providers on this project for the above-mentioned period.

Firm Name and Address	*M/W/SBE Category	Amount to be Paid form this pay Request	Total Payments to date	Total Amount Committed
Totals				

*M/W/SBE categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) Native American Indian (**N**), Female (**F**), Small (**S**), or Socially and Economically Disadvantaged (**D**)

Date: _____ Approved/Certified By: _____

Name

Title

Signature

****THIS DOCUMENT MUST BE SUBMITTED WITH EACH PAY REQUEST & FINAL PAYMENT****

**APPENDIX V
WAIVER REQUEST
FOR GOOD FAITH EFFORTS**

PROJECT: _____
COMPANY: _____
ADDRESS: _____
CITY: _____ **STATE:** _____ **ZIP:** _____
CONTACT PERSON: _____ **PHONE NO:** _____
TITLE: _____

The said company request a Full () or Partial () waiver for the M/W/SBE aspirational goals for this particular project for the following reasons:

Signature: _____ Date: _____

CMS USE ONLY

Good Faith Efforts Verified: _____

Request of Waiver Granted: **YES (_____) NO (_____)**

Comments: _____

M/WBE Administrator: _____ **Date:** _____