01 NCAC 05A .0101 is adopted with changes as published in 37:04 NCR 311 as follows:

SUBCHAPTER 05E – HISTORICALLY UNDERUTILIZED BUSINESS

01 NCAC 05E .0101 GOOD FAITH EFFORTS

Agencies shall require vendors subcontracting all or part of a contract for the purchase of goods or services to undertake good faith efforts to recruit HUB participation when contracting with the State. A vendor makes good faith efforts if they perform at least five of the following actions:

(1) Notifying ~~Notify~~ at least two HUBs ~~to be included in a Solicitation~~ about the opportunity to participate as a subcontractor at least 10 calendar days before the opportunity to respond to the solicitation ends. The notification shall be made by electronic means and ~~must~~ shall include:

(a) a description of the goods or services being solicited;

(b) the date, time and location where offers are to be submitted;

(c) the name of the individual within the company who will ~~shall~~ be available to answer questions about the opportunity to participate in the response to the solicitation;

(d) where solicitation documents may be reviewed; and

(e) any special requirements that exists, such as insurance, licenses, bonds, and financial arrangements.

(2) Making plans, specifications, and requirements ~~available~~ accessible to prospective HUB~~s~~ subcontractors by publishing them on the vendor’s website at least 10 calendar days before the opportunity to respond to the solicitation ends.

(3) Dividing or combining elements of work into subcontracts ~~economically feasible units~~ as determined by the vendor. ~~to facilitate HUB participation~~.

(4) Working with minority trade, community, or similar organizations identified by the HUB Office that ~~provide assistance~~ assist in ~~recruitment of~~ recruiting HUBs. This element is satisfied if the vendor makes contact with any of the organizations listed at https://bit.ly/hub-business-resources to identify HUBs that provide goods or services needed to complete the project.

(5) Attending ~~any~~ pre-bid conferences or site visits provided for in the solicitation.

(6) ~~Providing assistance~~ Assisting in obtaining required bonding or insurance or providing alternatives for HUB subcontractors. This element is satisfied if the vendor:

(a) Contacts a bonding or insurance company to assist a potential HUB subcontractor in obtaining coverage from the bonding company or insurance company;

(b) Offers to cover a potential HUB subcontractor with the vendor’s bonding or insurance policy; or

(c) Offers a potential HUB subcontractor an alternative to bonding or insurance that meets the requirements of the solicitation.

(7) Negotiating ~~in good faith~~ honestly with interested ~~HUBs.~~ HUB subcontractors. Honest negotiations are presumed if the efforts made to negotiate with an interested HUB subcontractor is documented, and~~Any rejection~~ the reasons for rejecting the interested HUB ~~is~~ are documented in writing. ~~Rejection of a HUB should shall have the reasons documented in writing.~~

(8) ~~Providing assistance to an~~ Assisting a potential HUB subcontractor ~~in need of~~ in obtaining equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit. ~~credit,~~ ~~including waiving credit.~~ This element may be satisfied by:

(a) offering to loan equipment to a HUB subcontractor;

(b) offering a letter of reference to a HUB subcontractor to obtain equipment, supplies, a loan, or a line of credit; or

(c) offering to establish a joint payment agreement with a HUB subcontractor.

(9) Assisting a HUB subcontractor ~~to obtain~~ in obtaining the same unit pricing ~~with~~ from the vendor's suppliers by requesting their suppliers provide the same unit pricing to a HUB subcontractor as the vendor would pay.

(10) Negotiating joint venture ~~and~~ or partnership agreements ~~arrangements~~ with HUBs. ~~to increase opportunities for HUB participation.~~

(11) Providing quick pay agreements and policies that pay HUB subcontractors as work is performed, whether in time units or job units, as agreed by the vendor and HUB subcontractor. ~~to enable HUBs and suppliers to meet cash-flow demands.~~

History Note: Authority G.S. 143-48(a); 143-48.4, 143-49(1) 143-53(a)(1) 143-53(a)(4); 143-53(a)(8); 143-60(5).

*Eff. ~~December 1, 2022~~ January 1, 2023.*