

Town of Nags Head

Outreach Plan and Guidelines

Recruitment and Participation of Minority-Owned, Woman-Owned, and Disadvantaged-Owned Businesses in Town Contracts for Construction and Professional Services



Adopted this the 15th day of June 2016.

A handwritten signature in black ink that reads "Robert C. Edwards".

Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:

A handwritten signature in blue ink that reads "Carolyn F. Morris".
Carolyn F. Morris, Town Clerk

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OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN TOWN OF NAGS HEAD BUILDING CONSTRUCTION AND PROFESSIONAL SERVICES CONTRACTS

In accordance with G.S. 143-128.2 (effective January 1, 2002) these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, Construction Manager-at-Risk, and alternative contracting methods on Town of Nags Head building construction projects in the amount of \$300,000 or more. The Outreach Plan shall also be applicable to the selection process of architectural, engineering and Construction Manager-at-Risk services.

The Town of Nags Head's current goal for minority participation for public building construction is ten percent (10%). The overall goal will be reviewed annually or as soon as relevant data is available.

INTENT

The intent of these guidelines is that The Town of Nags Head, as awarding authority for construction projects, and the contractors and subcontractors performing the construction contracts awarded, shall cooperate and in good faith do all things, legal, proper and reasonable to achieve the statutory goal of ten percent (10%) for participation by minority businesses in each construction project as mandated by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible responsive bid or bids.

DEFINITIONS

1. Minority – a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. African American, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central American, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original peoples of North America;
 - e. Handicapped, that is a person with a mobility impairment as determined by a licensed physician; or
 - f. Female

2. Minority Business – means a business
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.

3. Socially and economically disadvantaged individual – means the same as defined in 15 U.S.C. 637. “Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities”. “Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged”.

4. Public Entity – means State and all public subdivisions and local government units.

5. Owner – Town of Nags Head.

6. Designer – Any person, firm, partnership, or corporation, which has contracted with The Town of Nags Head to perform architectural or engineering work.

7. Bidder – Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

8. Contract – A mutually binding legal relationship, or any modification thereof, obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.

9. Contractor – Any person, firm, partnership, corporation, association, or joint venture which has contracted with Town of Nags Head to perform construction work or repair.

10. Subcontractor – A firm under contract with the prime contractor or Construction Manager-at-Risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in the subcontract.

11. Historically underutilized business – Is defined as a business that is at least 51% owned and managed by minority or socially and economically disadvantaged persons.

MINORITY AND SMALL BUSINESS PARTICIPATION OUTREACH PLAN

1. Work with minority-focused and small business groups that support MBE and small business inclusion in the solicitation of bids.
2. Place more emphasis on the importance of soliciting certified MBE firms and small businesses for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from MBE firms.
3. Provide detailed information to majority contractors concerning the Guidelines for Recruitment and Selection of Minority Business and Outreach Plan and provide information on G.S. 143-129 by holding meetings with the contractors.
4. Assess the effectiveness of the MBE Program, and identify opportunities to enhance it, by evaluating MBE participation and compliance and reviewing the “good faith efforts” provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified MBE firms and small businesses that have expressed an interest in Town of Nags Head projects. Identify these opportunities and contact interested businesses no later than 10 days prior to the bid opening and provide a list of prime contractors plan to participate in the project.
6. Build new business relationships through networking and continue networking with other North Carolina cities and counties to find out how their Outreach Program and MBE program is working and sharing “best practices” and ideas to improve the program.
7. Enhance the Town’s web page by including the Outreach Plan and Guidelines, listing good faith efforts, and creating links to MBE resources, and creating awareness of specific subcontracting opportunities.
8. Make available to minority-focused agencies, a list of subcontracting opportunities when they are identified, no later than 10 days prior to the bid opening, and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.

9. Continue to maintain a database specifically for MBE firms and majority contractors to ensure those firms wishing to do business with The Town of Nags Head have access to up to date information.
10. Advertise upcoming bid opportunities in minority-focused media.
11. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.

DESIGNER RESPONSIBILITIES

Under the single-prime bidding, separate prime bidding, dual bidding, Construction Manager-at-Risk, or alternative contracting method, the designer must do all of the following:

- a. Attend the scheduled prebid conference to explain minority business requirements to the prospective bidders.
- b. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
- c. Maintain documentation of any contacts, correspondence, or conversations with minority business firms made in an attempt to meet the goals.
- d. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders’ proposal for identification of the minority businesses that will be utilized with corresponding dollar value of the bid and affidavit listing Good Faith Efforts or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) – prior to recommendation of an award.
- e. During the construction phase of the project, review “MBE Documentation for Contract Payment” form with monthly pay applications to the owner and forward copies to The Town of Nags Head.

PRIME CONTRACTOR(S) CONSTRUCTION MANAGER-AT RISK, AND ITS FIRST-TIER SUBCONTRACTORS RESPONSIBILITIES

Under the single-prime bidding, the separate-prime bidding, dual bidding, Construction Manager-at-Risk and alternative contracting methods, contractor(s) must do all of the following:

- a. Attend the scheduled pre-bid conference.
- b. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
- c. At least ten (10) days prior to the scheduled day of bid opening, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification must include all of the following:
 - (1) A description of the work for which the subbid is being solicited.

- (2) The date, time and location where subbids are to be submitted.
 - (3) The name of the individual within the company who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.
- d. During the bidding process, comply with the contractor(s) requirements listed in the proposal for minority participation.
 - e. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f) or Intent to Perform Contract With Own Workforce affidavit.
 - f. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First Tier Subcontractor responsibilities available for review by The Town of Nags Head upon request.
 - g. Provide one of the following upon being named the apparent low bidder: (1) an affidavit that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. This affidavit shall give rise to a presumption that the bidder has made the required good faith effort; or (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
 - h. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
 - i. Submit with each monthly pay requests(s) and final payment(s), "MBE Documentation for Contract Payment" for designer's review.
 - j. If at any time during the construction of a project, it becomes necessary to replace a minority business subcontractor, immediately advise the owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
 - k. Make a good faith effort to solicit subbids from minority businesses during the construction of a project if additional subcontracting opportunities become available.