

**RESOLUTION TO ADOPT THE MONTGOMERY COUNTY
MINORITY BUSINESS PARTICIPATION OUTREACH PLAN**

WHEREAS, the Montgomery County Board of Commissioners adopted a resolution dated June 20, 2006, establishing minority business participation goals pursuant to N.C.G.S. 143-128; and


WHEREAS, the Montgomery County Board of Commissioners has been presented with a new Minority Business Outreach Plan, designed to identify minority businesses that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects; and

WHEREAS, notice of the required public hearing was duly published in the Montgomery Herald on June 14, 2006 and posted on the official county bulletin board at the Montgomery County Administration Building located at 102 East Spring Street on Third Floor, and the public hearing required by N.C.G.S. 143-128.2 was held on June 20, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Montgomery County Board of Commissioners hereby adopts the Montgomery County Minority Business Outreach Plan establishing a goal of at least ten percent (10%) minority business participation and that Montgomery County shall utilize said plan in awarding contracts pursuant to North Carolina law.

Read, approved and adopted this the 20th day of June, 2006.

Attest:



Laura B. Morton
Clerk to the Board





William D. Maness, Chairman
Montgomery County
Board of Commissioners

MONTGOMERY COUNTY

Minority Business

OUTREACH PLAN

TABLE OF CONTENTS

	PAGE
INTRODUCTION.....	2

DEFINITIONS.....	3
OUTREACH PLAN.....	5
DESIGNER RESPONSIBILITIES.....	6
CONTRACTOR RESPONSIBILITIES.....	7
MINORITY BUSINESS RESPONSIBILITIES.....	8
MINIMUM COMPLIANCE REQUIREMENTS.....	9

INTRODUCTION

In accordance with G.S. 143-128.2 (effective June 20, 2006) this Outreach Plan establishes goals for minority business participation in single-prime bidding, separate-prime bidding, dual bidding, Construction Manager-at-Risk, and alternative contracting methods on Montgomery County building construction projects in the amount of \$300,000 or more (or if using state funds, \$100,000 or more). The Outreach Plan shall also be applicable to the selection process of architectural, engineering, surveying, and Construction Manager-at-Risk services.

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

The intent of this Outreach Plan is that Montgomery County, 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 established goal of ten percent (10%) for participation by minority businesses in each construction project as mandated by G.S. 143-128.2. Nothing in this Outreach Plan 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 responsive responsible bid or bids.

A copy of this Outreach Plan will be issued with each bid package for Montgomery County building construction projects.

DEFINITIONS

1. Minority- a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, 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 America, 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; or
 - d. Female

2. Business- means a business
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially or economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one (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- Montgomery County

6. Designer- Any person, firm, partnership, or corporation, association, or joint venture which has contracted with Montgomery County to perform architectural or engineering work.

7. Bidder- Any person, firm, partnership, or corporation, association, or joint venture bidding on 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 Montgomery County to perform construction work or repair.
10. Subcontractor- Any person, firm, partnership, corporation, association, or joint venture 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.

OUTREACH PLAN

1. Work with minority-focused business groups in attempt to recruit minority business participation in Montgomery County contracts/bids.
2. Emphasize the importance of soliciting certified minority businesses for sub-contracting opportunities to prime contractors at pre-bid conferences and in the bid documents. Examine specification to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for sub-contracts from minority businesses.
3. Hold meetings with contractors and designers to provide information on this Outreach Plan and G.S. 143-129 requirements.
4. Assess the effectiveness of this Outreach Plan by monitoring minority business participation and reviewing the "good faith efforts" of contractors.
5. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from Montgomery County for public construction or repair work. The notification shall include the following:
 - a. A description of the work for which the bid is being solicited
 - b. The date, time, and location where bids are to be submitted
 - c. The name of the individual within Montgomery County who will be available to answer questions about the project
 - d. Where bid documents may be reviewed
 - e. Any special requirements that may exist
6. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought and advertise bid opportunities in such minority-focused media.
7. Build new business relationships through networking with other North Carolina cities and counties and sharing ideas to improve the Outreach Plan.
8. Offer training sessions to educate the County's Outreach Plan with interested businesses and organizations.
9. Post the Outreach Plan on the County's website listing good faith efforts and creating links to minority business resources.

DESIGNER RESPONSIBILITIES

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

- a. Attend scheduled prebid conferences to explain minority business requirements to the prospective bidders.
- b. Assist the owner to identify and notify prospective minority business of potential contracting opportunities.
- c. Maintain documentation of contacts, correspondence, and/or conversations with minority businesses.
- d. Review jointly with the owner, requirements of G.S. 143-128.2© and G.S. 143-128.2(f).
- e. During the construction phase of the project, review pay applications and forward copies to Montgomery County.

CONTRACTOR RESPONSIBILITIES

Pursuant to NCGS 143-128.2©, each bidder, which shall mean first-tier subcontractor for construction Manager-at-Risk projects, on a project bid under any of the methods authorized under G.S. 143-128(a1) shall identify on its bid the minority businesses that it will use on the project and an affidavit listing the good faith efforts it has made and the total dollar value of the bid that will be performed by the minority businesses. A contractor, including a first-tier subcontractor on a construction manager-at-risk project, that performs all of the work under a contract with its own workforce may submit an affidavit to that effect in lieu of the affidavit otherwise required under this subsection. The apparent lowest responsible, responsive bidder shall also file the following:

1. Within the time specified in the bid documents, either:
 - a. 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. An affidavit under this sub-subdivision shall give rise to a presumption that the bidder has made the required good faith or effort; or
 - b. Documentation of its good faith effort 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.
2. Within 30 days after award of the contract, a list of all identified subcontractors that the contractor will use on the project.

Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.

No subcontractor who is identified and listed pursuant to this section may be replaced with a different subcontractor except:

1. If the subcontractors bid is later determined by the contractor or construction manager-at-risk to be nonresponsible or nonresponsive, or the listed subcontractor refused to enter into a contract for the complete performance of the bid work, or
2. With the approval of Montgomery County for good cause.

Good faith efforts as set forth in G.S. 143-131(b) shall apply to the selection of a substitute subcontractor. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the public entity of its good faith efforts.

MINORITY BUSINESS RESPONSIBILITIES

Montgomery County does not certify minority businesses. Any business which desires to participate as a minority business in Montgomery County contracts will be required to become certified by at least one of the following agencies:

- a. North Carolina Administration Department Historically Underutilized Business (HUB) certification.
- b. North Carolina Department of Transportation Minority/Disadvantage/Woman-owned Business certification.
- c. Small Business Administration 8(a) certification.
- d. Other governmental agencies on a case-by-case basis.

MINIMUM COMPLIANCE REQUIREMENTS

Bidders must earn at least 40 points from the good faith efforts listed below in order for their bids to be considered responsive.

1. Contacting 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 or proposal date and notifying them of the nature and scope of the work to be performed. **Value= 10 Points**
2. Making the construction plans, specifications and requirements available for review by respective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due.
Value= 10 Points
3. Breaking down or combining elements of work into economically feasible units to facilitate minority participation. **Value=15 Points**
4. Attending any prebid meetings scheduled by the public owner.
Value= 10 Points
5. Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. **Value=20 Points**
6. Negotiating in good faith with interested minority businesses and not rejecting 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.
Value= 15 Points
7. Providing 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. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. **Value=25**
8. Negotiating 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.
Value=20 Points
9. Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. **Value=20 Points**