

Policy Code: 9125 Participation by Minority Businesses

The board is committed to the participation of minority businesses in the school district's construction contracts and to implementing minority business participation goals as required by state law.

A. Definitions

The following terms used in this policy are defined by state or federal law:

1. Minority Business: either (1) a business in which at least 51 percent of the business is owned by minority persons or socially and economically disadvantaged individuals who own it, or (2) an employee stock ownership plan company in which at least 51 percent of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals. [N.C.G.S. 143-128.2\(g\)\(1\)](#).
2. Minority Person: a person who is a citizen or lawful permanent resident of the United States and who Black, Hispanic, Asian American, American Indian, and/or a person who is Female. [N.C.G.S. 143-128.2\(g\)\(2\)](#).
3. Socially and Economically Disadvantaged Individuals: 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 and 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. [15 U.S.C. 637](#).

B. Goals

The Board is committed to a policy of ongoing enhancement, aiming to increase both the number of contractors engaged and the monetary value allocated to construction contracts by fostering contracts with minority businesses. Through this policy, the Board seeks to promote diversity and inclusion in the construction procurement process, ensuring equitable opportunities for a broad range of contractors.

After notice and public hearing, the Board has adopted a minimum goal of 15% participation by minority businesses, as measured as a percentage of the total value of work for each building project costing \$50,000 or more.

C. School District Good Faith Effort

The Board is unwavering in its commitment to prioritize historically marginalized businesses in alignment with its core values. This dedication reflects a steadfast belief in fostering equitable opportunities and empowering underrepresented contractors to their fullest extent. The board establishes the following guidelines for contracts subject to Section A to ensure that the school system will make good-faith efforts to reach diverse contractors and to encourage participation in the school system's construction contracts by such contractors. Before awarding a contract, The superintendent or designee shall:

1. make information about the school district's formal and informal bidding process readily available;
2. develop and implement a minority business participation outreach plan to identify minority businesses that can perform building projects and to implement outreach efforts to encourage minority business participation in such projects;

3. advertise for bids in media that reaches minority businesses;
4. designate a school official to attend the scheduled pre-bid conference to explain the school system's minority goals and objectives;
5. at least 10 days prior to the scheduled day of bid opening, notify minority businesses of 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 the public entity who will be available to answer questions about the project;
 - d. where bid documents may be reviewed; and
 - e. any special requirements that may exist.

For purposes of this provision, the minority businesses to be notified are those (1) that have requested notices from the school system for construction or repair work and (2) those that otherwise indicated to the Office of Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal;

6. ensure that everyone who requests it has access to bid documents needed for making bids on projects readily available;
7. maintain documentation of any contracts, correspondence, or conversation with minority business firms made in an attempt to meet the goals;
8. review, jointly with the designer, the lowest responsible bidder's bid for compliance with all requirements of [G.S. 143-128.2\(c\)](#) and [-128.2\(f\)](#) prior to the recommendation of the contract award;
9. encourage businesses experiencing difficulty in meeting the bonding, licensing, and bid deposits required by state law in larger construction projects to utilize resources and assistance offered by local, state, and federal agencies.

D. Good Faith Efforts Required by Contractors

All bidders on major school construction and renovation projects subject to Section A of this policy who intend to subcontract any part of the project must (1) identify the minority businesses to be used on the project and (2) provide affidavits indicating that a good faith effort has been made in preparing the bid to meet the board's verifiable goal for participation by minority businesses. Upon being named the apparent lowest responsible, responsive bidder, a bidder shall provide additional evidence of its good faith efforts as required by law.

The level of minority participation in the bidder's bids will not affect the contract award decision; however, the failure to provide documentation of a good faith effort to meet the board's goal may result in the bid being rejected as non-responsive.

E. Monitoring

The superintendent or designee shall monitor payments made to minority businesses on each project subject to Section A to verify that the minority businesses actually working on the project and that their level of participation is consistent with the representations made in the contractor's bid.

F. Reporting

The superintendent shall ensure that all required reports and other documentation are filed with the Department of Administration in accordance with legal requirements.

G. Nondiscrimination

The board will award public building contracts without regard to race, religion, color, creed, national origin, sex, age, or disability. Nothing in this policy should be construed to require the board or contractors to award contracts or subcontracts to minority business contractors or minority business subcontractors who do not submit the lowest responsible, responsive bid or bids.

Legal References: [City of Richmond v. J.A. Croson Co.](#), 488 U.S. 469 (1989); [G.S. 143-128, -128.2, -128.3, -131\(b\)](#), [01 N.C.A.C. 301.0101-0310](#)

Cross References:

Adopted: 8/19/99

Revised: 7/18/24

Chapel Hill-Carrboro Schools
