

**University Office of Capital Programs and Real Estate Services (UOCPRES)
Diversity Policy on Minority, and Women Business Enterprise (MBE/WBE) Goals
in Capital Construction Procurement
Policy Approval Authority: Senior Associate Vice President (SAVP) Business & Finance
July 2019**

Overview

The purpose of the Diversity Policy is to communicate for internal and external audiences how UOCPRES and each respective University in consultation with the University Office of Procurement Diversity will apply minority, and women business enterprise participation goals on capital-related construction projects.

Areas of Responsibility

The SAVP Business & Finance will have the following areas of responsibility:

- Implement annual MBE/WBE capital construction goals for each campus and regional site in the University of Illinois system for Construction Contracts per direction of the University of Illinois Board of Trustees.
- Determine the project size and/or expenditure levels to which these goals will apply
- Establish methods under which achievement of these goals will be measured
- Determine the reporting format and timeframe(s) under which achievement of the goals will be reported
- Determine the units and unit leadership responsible for working to achieve these goals
- Determine the documents, forms, and process(es) for the advertisement of projects, qualification and/or certification of bidders and subcontractors, pre-bid requirements and communication (if applicable), bidding of projects, sufficiency of good faith efforts, change waiver requests, bid rejection criteria, post-bid requirements, and post bid award requirements.

The Office of Procurement Diversity will have the following areas of responsibility:

- Evaluate and establish methods for promoting MBE/WBE growth and participation
- Determine the MBE/WBE goals if project specific MBE/WBE goals are defined
- Determine with University staff through an evaluation process whether “good faith efforts” or other appropriate measures were utilized by vendors to achieve inclusion of diverse firms
- Communicate the consequences for unsatisfactory “good faith efforts” as they relate to bid acceptance/bid rejection, in consultation with University Legal Counsel and UOCPRES leadership.
- Report MBE/WBE goal achievement status for each campus to the SAVP on a quarterly basis and as required for University of Illinois Board of Trustee meetings.

The Director(s) of Construction, Director(s) of Capital Programs and/or Vice Chancellors for Facilities, Capital and Maintenance will have the following areas of responsibility:

- Provide leadership and resources as appropriate to successfully execute said policy and procedures.
- Communicate the importance of achievement of MBE/WBE goals on behalf of the institution to direct reports, subordinates, general staff and construction vendors
- Communicate expectation of execution of said policies and procedures with all staff that directs the planning and execution of capital construction projects
- Engage the SAVP, UOCPRES Leadership, and Office of Procurement Diversity in dialogue and discussion regarding any issues related to this policy or procedure
- Designate staff to serve as a resource for vendors that request immediate assistance relative to these procedures

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Pre-Advertisement Period (Internal)

MBE/WBE Goal Setting

Where MBE/WBE goals will apply

1. MBE/WBE goals will apply to all construction projects that are bid. Good Faith Efforts to meet MBE/WBE goals are required on projects that meet or exceed an estimated construction cost of \$250,000, including contingency.
2. MBE/WBE goals will apply to the design-bid-build delivery method for each division of work bid.
3. MBE/WBE goals will apply to the Construction Manager delivery method for the entire project in one or more divisions of work bid.
4. MBE/WBE goals will apply to Energy Performance Contracting delivery method.

When will MBE/WBE goals be set

1. Baseline project MBE/WBE goals approved by the Board of Trustees of the University of Illinois will be utilized on all projects and all divisions of work bid, unless revised as provided below.
2. Projects that meet or exceed an estimated construction cost of \$1,000,000, including contingency, the MBE/WBE goals may be revised (e.g. raised, combined or split) during design development and prior to 50% completion of the construction documents.

Who will be involved in setting individual project goals

1. The Office of Procurement Diversity , university project manager, and the university staff person responsible for fair employment utilization will recommend MBE/WBE goals utilizing UOCPRES MBE/WBE goals with due consideration for project scope and economically feasible units of work for MBE/WBE construction and supplier contractors.
2. The MBE/WBE goals may be modified with applicable history of achievement with similar projects at the University and from Illinois Capital Development Board (IL CDB) relative to project expenditure level, scope, and certified MBE/WBE division of work experience and/or capacity.
3. The MBE/WBE goals will be communicated to university unit leadership for review and to Senior Associate Vice President Business & Finance for approval.

Pre-Advertisement

1. The MBE/WBE goals will be reviewed and approved, modified or rejected by Senior Associate Vice President Business & Finance with input from the Office of Procurement Diversity as part of the construction project review process prior to advertisement.
2. Projects that meet or exceed an estimated construction cost of \$2,000,000, including contingency, will have a minimum 21 calendar day advertisement window to encourage and facilitate the inclusion of MBE/WBE firms.
3. Projects that meet or exceed an estimated construction cost of \$2,000,000, including contingency, will have a mandatory pre-bid meeting a minimum of 10 calendar days prior to bid opening to encourage and facilitate the inclusion of MBE/WBE firms.

Advertisement Period (External)

1. Project advertisement documents will include statements that indicate the University is seeking to comply with state laws and seeks the cooperation, support and willingness of vendors to assist in meeting MBE/WBE goals.

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2. Projects with estimated construction costs greater than \$250,000, including contingency, and less than \$2,000,000, including contingency, will be advertised with a minimum 14 day advertisement window, and may have pre-bid meetings as deemed appropriate by university staff and unit leadership.
3. Projects with estimated construction costs that meet or exceed \$2,000,000, including contingency, will have a minimum 21 day advertisement window to encourage and facilitate the inclusion of MBE/WBE firms.

Pre Bid Process (Internal and External)

1. Projects that meet or exceed an estimated construction cost of \$2,000,000, including contingency, will have a mandatory pre-bid meeting a minimum of 10 calendar days prior to bid opening to encourage and facilitate the inclusion of MBE/WBE firms.
2. Bidders will contact MBE/WBE vendors through personal knowledge, IL CDB MBE/WBE Directory, IL CMS MBE/WBE certifications list, and any minority and/or women trade, community, or contractor organizations that provide assistance in recruitment of minority, and women -owned construction-related businesses. UOCPRES will work to make available electronically through links or pdf files identified lists or recruitment organizations.
3. If Bidders have questions about achieving the MBE and/or WBE goal they should contact the Office of Procurement Diversity to register their concerns/questions and seek to learn of additional recruitment resources they have not utilized to identify vendors that could meet University project requirements.
4. The University of Illinois will only accept MBE/WBE firms certified by the Illinois Department of Central Management Services, Business Enterprise Program.

Bidding (External)

1. The MBE and WBE goal for the project and internal divisions of work is provided in the bidding documents.
2. All Bidders shall list the name, address, telephone number and scope of work or supplies being provided of the certified minority/ and women owned firms(s) that will perform any portion of the work. Bidder will also list the proposed dollar value of subcontract(s).
3. All Bidders shall indicate whether the firm is MBE or WBE and their certifying agency.
4. All Bidders shall use Document 00 40 00 Bid Attachment B (Standard Single or Standard Multiple Contract Set) to record MBE/WBE vendor information, scope of work or supplies being provided MBE/WBE certifying agency, proposed dollar value of subcontract(s), and should include a copy of the IL CMS MBE/WBE certificate, or the IL CMS MBE/WBE Recognition Certification Approval Letter.
5. **ALL** bidders not meeting the advertised goal must provide written documentation supporting a good faith effort documentation as well as a utilization plan (Attachment B – Minority/Women Business Enterprise Program Utilization Plan of bid form 00 40 00) used to date at the time of bid submittal. Bidders are required to use any and all good faith efforts to meet the diversity goal prior to the time of bid submittal. These efforts should demonstrate that every attempt to negotiate and secure diverse business participation was made prior to the bid. Bids with zero or low levels of participation at the time of bid may be determined to have not demonstrated good faith efforts and may be found non-responsive. If bidder requests assistance with this process, the Office of Procurement Diversity may be contacted.
6. Within ten (10) calendar days after Owner notification, the bidder must provide documentation of updated good faith efforts and an updated Attachment B – Minority/Women Business Enterprise

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Program Utilization Plan of bid form 00 40 00. If bidder requests assistance with this process, the Office of Procurement Diversity may be contacted.

7. If the bidder is a joint venture, the percentage of ownership held by the MBE/WBE joint venture may be used to meet the MBE/WBE goal for the contract.
8. The University of Illinois values the utilization of certified minority and women business enterprises in capital construction. All such enterprises must perform a commercially useful function. Enterprises which might be considered "pass-throughs" or "fronts" are not permitted. Failure to comply with this requirement or false representations may result in termination of contracts related to University capital construction projects and result in criminal and civil penalties.

Acceptance and Rejection of Bids (Internal and External)

1. University of Illinois Rights. When, in its opinion, it is in the best interest of the University, the University reserves the right to:
 - a. Accept any bid
 - b. Reject any or all bids
 - c. Waive technical deficiencies and irregularities
 - d. Allow bidder to remedy technical deficiencies or irregularities within a stated time
 - e. Rescind any notice of award if UOCPRES determines the notice of award was issued in error
 - f. Rescind any notice of award when it is in the best interest of the University.
 - g. Rebid any contract
2. Bid Rejection.
 - a. Bids will be rejected for the following material deficiencies including but not limited to:
 - i. Failure to be prequalified with University of Illinois no later than the close of business the day before the bid opening (Section 4.2 and Section 4.4)
 - ii. Being determined non-responsible after bid opening as defined by 30 ILCS 500/30-22 and 44 IL Admin Code 526.2046.
 - iii. Submission of a bid late (Section 9.0).
 - iv. Failure to attend a mandatory pre-bid meeting.
 - v. Failure to submit a base bid price, bid alternate(s) price, if applicable, and unit price, if applicable, on the Owner bid form 00 40 00 in a manner that pricing can be determined.
 - vi. At time of bid, failure to submit a completed Attachment B – Minority/Women Business Enterprise Program Utilization Plan of bid form 00 40 00 with all MBE/WBE information that was known at time of bid submission as well as documentation of good faith efforts to day, if diversity goals were not met as required in Section 6.2 of Document 00 20 00 – General Instructions to Bidders.
 - vii. Failure to use good faith efforts to achieve minority/female business enterprise participation goals as required in Section 6.2 of Document 00 20 00 – General Instructions to Bidders and provide updated Attachment B – Minority/Women Business Enterprise Program Utilization Plan of bid form 00 40 00 and updated documentation of good faith efforts within ten (10) calendar days after Owner notifies bidder of the deficiency.
 - viii. Failure to register with the State Board of Elections in accord with 30 ILCS 500/20-160, if required. Vendor must be registered at the time of bid. A copy of the certificate of registration **is not** required with the bid.
 - ix. Failure to submit Certifications and Statutory Requirements form.
 - x. Failure to submit Financial Disclosures and Conflicts of Interest form.
 - xi. Failure to submit a bid deposit.
 - b. Technical Deficiencies, when identified by Owner, may be remedied by the Bidder within ten (10) calendar days after Owner notifies bidder of the deficiency. Failure to remedy the bid

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- within ten (10) calendar days of Owner notification of the deficiency may result in rejection of bid.
- c. University of Illinois, at its sole discretion and without conferring any rights on any bidder, may waive bid technical deficiencies or irregularities that are not in conformance with the bidding documents but whose non-conformance is non-material or minor.
 - d. Submittal of conditions or qualifying statements contrary to University of Illinois contract terms is not acceptable and, unless rescinded, the bid shall be rejected.

Post-Bid (External)

Submittal of Good Faith Documentation for (i) a Change in MBE/WBE Goal, or (ii) Waiver of Goal Request (External)

1. All bidders shall submit, within ten (10) calendar days after Owner notifies bidder of the deficiency that goals are not met, an updated Attachment B and updated documentation of good faith which are necessary to evaluate good faith efforts when a change in MBE/WBE goals or a waiver request is submitted. The minimum expected documentation includes, but is not limited to:
 - a. Any and all information indicating why the bidder believes the specified goal cannot be met.
 - b. A list of all MBE/WBE firms contacted and the dates and method by which they were contacted, including documentation from those firms.
 - c. Copies of all bid solicitation letters to MBE/WBE firms. Letters shall contain, at a minimum:
 - i. Project Title and Location
 - ii. Classification of Work Items for Which Quotations are Requested
 - iii. Date, Time, and Place Quotations are Due
 - iv. Returnable Acknowledgment of the Solicitation
 - d. Evidence, such as a log, of telephone, e-mail, fax, etc. contact including time and date of contact, telephone number or email address, and name of the person contacted, and a description of the result. Bidders must keep and submit copies of all emails sent and received from prospective BEP vendors and include a copy of the commodity list or scope of work solicited from prospective BEP vendors to perform.
 - e. All other evidence of good faith efforts made by the bidder to secure eligible MBE/WBE firms to meet the specified goal. Evidence may include documentation, at a minimum, that states the following:
 - i. Contacting the Business Enterprise Bureau at least 15 days prior to need and requesting referrals from the vendors list and from any other list maintained by the Bureau;
 - ii. Advertising in the Official State Newspaper or a local newspaper as time permits;
 - iii. Contacting appropriate organizations such as unions, contractor associations, and MBE and WBE oriented organizations.
 - iv. Utilize the Sell2Illinois website: www2.illinois.gov/cms/business to identify BEP certified vendors within the respective commodity/service codes and at a minimum email all listed vendors and solicit quotes from all vendors who express an interest via follow-up emails or telephone calls.
 - v. Solicit with the intent to award contracts through all reasonable and available means (e.g., attendance at a vendor conference, advertising and/or written notices) the interest of BEP certified vendors that have the capability to perform the work of the contract. Bidder must solicit this interest within sufficient time to allow the BEP certified vendors to respond to the solicitation. Bidder must determine with certainty if the BEP certified

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- vendors are interested by taking appropriate steps to follow up initial solicitations and encourage them to submit a bid or proposal. Bidder must provide interested BEP certified vendors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding promptly to the solicitation.
- vi. Select portions of the work to be performed by BEP certified vendors in order to increase the likelihood that the goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate BEP certified vendor participation, even when Bidder might otherwise prefer to perform these work items with its own forces.
 - vii. Make a portion of the work available to BEP certified vendors and selecting those portions of the work or material needs consistent with their availability, so as to facilitate BEP certified vendor participation.
 - viii. Negotiate in good faith with interested BEP certified vendors. Evidence of such negotiation must include the names, addresses, email addresses, and telephone numbers of BEP certified vendors that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting and evidence as to why additional agreements could not be reached for BEP certified vendors to perform the work. A Bidder using good business judgment may consider a number of factors in negotiating with BEP certified vendors and may take a firm's price and capabilities into consideration. The fact that there may be some additional costs involved in finding and using BEP certified vendors may not be in itself sufficient reason for a Bidder's failure to meet the goal. The potential savings gained or the desire of a prime contractor to perform the work of a contract with its own organization or forces does not relieve the bidder of the responsibility to utilize BEP certified vendors or make good faith efforts to negotiate price and potential work with BEP certified vendors.
 - ix. Thoroughly investigate the capabilities of BEP certified vendors and not reject them as unqualified without documented reasons. The BEP certified vendor's memberships in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids and proposals in bidder's efforts to meet the goal.
 - x. Make efforts to assist interested BEP certified vendors in obtaining lines of credit or insurance as required by the Owner.
 - xi. Make efforts to assist interested BEP certified vendors in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - xii. Utilized resources available to identify available certified vendors, including but not limited to Office of Procurement Diversity staff, BEP assistance staff; local, state and federal minority or women business assistance offices; and other organizations that provide assistance in the recruitment and placement of diverse businesses.
- f. The University of Illinois will consider all other evidence of good faith efforts made by the bidder to secure eligible MBE/WBE firms to meet the specified goal, prior to the bid due date and during the 10- day cure period if applicable.
 - g. The University of Illinois will take into account the performance of other bidders in satisfying the contracts specified MBE/WBE participation. For example, when the apparent successful bidder fails to commit to the contract goal, but other bidders commit to the goal, the

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University of Illinois will raise the question of whether, with additional efforts, the apparent successful bidder could have committed to the goal.

- h. An updated Attachment B
- i. Other relevant information in support of the change/waiver request.

Request for Change of Subcontractor or Supplier

1. Only upon receipt of Notification of Award (NOA) or Notification of Intent to Award (NOIA) the determined responsive and responsible Bidder may make a request for change of an MBE/WBE subcontractor or supplier which it has previously listed on Attachment B Minority/Women Business Enterprise Program Utilization Plan on bid form 00 40 00. All requests shall be in writing on the Contractor's letterhead and submitted with documented evidence of cause to university. University and UOCPRES will review each request and may authorize the change.
 - a. After receipt of NOA and/or NOIA letter, but prior to Contract Execution. The contractor may request approval of an MBE/WBE subcontractor or supplier other than one listed on 00 40 00, Attachment B provided sufficient information is supplied by the Contractor as deemed appropriate by CCU and UOCPRES. Supporting documentation from the MBE/WBE subcontractor or supplier may be required.
 - b. After Contract Execution. If for any reason an approved MBE/WBE subcontractor or supplier fails to meet its contractual commitment to the Contractor after an award of contract, ~~or~~ start of construction, or during construction, the Contractor may request approval of an alternate MBE/WBE subcontractor or supplier. All requests shall be in writing on the Contractor's letterhead and submitted with documented evidence of cause to Owner's Office of Procurement Diversity. Supporting documentation from the MBE/WBE subcontractor or supplier may be required.

MBE/ WBE Post Award Requirements (00 20 00)

1. Post-Award submittal. The contract awardee shall submit Attachment A - MBE/WBE Subcontractor/Supplier Certification form, for Notice of Intent to Award or Notice of Award Letter for each of the MBE/WBE subcontractor(s) and/or supplier(s) being utilized to meet the designated participation goals as specified on the bid form. The form must be signed by the MBE/WBE subcontractor or supplier and shall be submitted to the university.
2. Completion of the Attachment A - MBE/WBE Subcontractor/Supplier Certification form, for Notice of Intent to Award or Notice of Award Letter is not required if the Contractor is an MBE or WBE firm. MBE/WBE prime contractors are encouraged to utilize MBE/WBE subcontractors/suppliers. If goals are split (separate MBE and WBE goals), then an MBE or WBE firm must supply Attachment A – MBE/WBE Subcontractor/Supplier Certification form, for Notice of Intent to Award or Notice of Award Letter for the subcontractor firm(s) utilized to meet the WBE or MBE goal, respectively.
3. Listed Firms. Attachment A – MBE/WBE Subcontractor/Supplier Certification form, for Notice of Intent to Award or Notice of Award Letter shall be completed and submitted for each MBE/WBE firm listed on the bid form. The awarded contractor shall ensure the firm(s), scope of work or supplies to be provided and dollar amount(s) listed on the completed Attachment A of the Subcontractor/Supplier Certification form match the firm(s), scope of work or supplies to be provided and dollar amount(s) listed on Attachment B of the Bid Form, 00 40 00, including any additional firms, scope of work or supplies to be provided and/or dollar amounts associated with alternates.
4. Compliance. The MBE/WBE participation goal dollar value is based upon the total contract sum (including awarded alternates). The participation goal percentage amount(s) shall meet or exceed the goal(s) as specified on the bid form, or in an approved change/waiver request (refer to Section 12 of 00 20 00).

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5. Voluntary. Contractors are encouraged to utilize MBE/WBE subcontractors/suppliers for those projects that are not designated for MBE/WBE participation and complete the Attachment A – MBE/WBE Subcontractor/Supplier Certification form, for Notice of Intent to Award or Notice of Award Letter for each MBE/WBE firm. MBE/WBE subcontractors/suppliers may be added at any time during the project.
6. Subcontracts/Supplier agreements. Copies of subcontracts or supplier agreements to correspond with each Attachment A - MBE/WBE Subcontractor/Supplier Certification form, for Notice of Intent to Award or Notice of Award Letter are required to be submitted within fifteen (15) days after execution of agreement, or execution of subcontract, whichever is later.

Successful Bidder Post Award Requirements

1. Bidder’s Duty to Comply. The Contractor may not proceed with the Work until the following post award requirements are met. These requirements are part of the contract and failure to comply with these requirements shall constitute a breach of the contract. The University shall issue Notice to Proceed upon successful completion of these post award requirements.
2. Submittals. Within fifteen (15) calendar days from the date of the notice of intent to award, or notice of award letter, the Contractor shall furnish, on University forms, the following:

Prime Vendor Documentation

- a. Contract executed by the Contractor;
- b. Contractor Performance Bond;
- c. Contractor Payment Bond;
- d. Certificates of Insurance;
- e. Builder’s Risk Insurance Policy (if applicable);
- f. Substance Abuse Prevention Program (if the program has been revised since submitted with the annual prequalification).

MBE/WBE Subcontractor/Supplier Documentation

- a. Attachment A – MBE/WBE Subcontractor/Supplier Certification form, of the Notice of Intent to Award or Notice of Award Letter. Verification of compliance may be made by the University. In addition MBE/ WBE firms may be contacted for verification purposes.
- b. The awarded contractor shall ensure the firm(s) and dollar amount(s) listed on the completed Attachment A – MBE/WBE Subcontractor/Supplier Certification form match the firm(s), scope of work or supplies to be provided and dollar amount(s) listed on Attachment B- Minority/Women Business Enterprise Program Requirements of the Bid Form, 00 40 00, including any additional firms, scope of work or supplies to be provided, and/or dollar associated with alternates.
3. Cancellation of Award. All post award requirements are mandatory. Noncompliance shall be cause for the University to cancel the Notice of Award, may make a claim against the bid deposit, and proceed with the next responsive and responsible bidder.
4. Post Award Extensions. UOCPRES may extend the time limitations for good cause. No extension shall operate as a waiver of post award requirements, nor shall it extend the contract completion date.

MBE/WBE Baseline Goals by Region for Construction

Campus/Medical Center (County)	Contractor
Chicago (Cook)	30%
Urbana (Champaign)	20%
Springfield (Sangamon)	20%
Rockford Medical Center (Winnebago)	20%
Peoria Medical Center (Peoria)	20%