

# Is Your Good Faith Effort Good Enough?

## Ensuring Your Documentation Meets the Requirement



# Why is the Good Faith Effort Required?

Wake Tech supports N.C. Gen. Stat. § 143-128.2 and Executive Order 25 (executed November 2, 2017) by establishing a verifiable ten percent (10%) goal for participation by minority businesses on the total value of work for each building project for which a contract or contracts are awarded.

All firms, including HUB Certified firms, are required to make a good faith effort to achieve the goal.





# Affidavit A Due on Bid Day

- This form must be attached to your bid.
- Ensure that you have achieved the required 50 points; failure to achieve 50 points will deem your bid as nonresponsive. Double check your math.
- Maintain all documentation of your efforts to include certified HUB firms on the project.
- Ensure that the form is signed and notarized.

Attach to Bid... Attach to Bid... Attach to Bid... Attach to Bid... Attach to Bid... Attach to Bid... Attach to Bid... Attach to Bid...  
**State of North Carolina AFFIDAVIT A - Listing of Good Faith Efforts**

County of \_\_\_\_\_ (Name of Bidder)

Affidavit of \_\_\_\_\_  
I have made a good faith effort to comply under the following areas checked:

**Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive.** (1 NC Administrative Code 30 I.0101)

- 1 - (10 pts)** Contacted 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 date and notified them of the nature and scope of the work to be performed.
- 2 - (10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 - (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 - (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 - (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 - (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 - (15 pts)** Negotiated in good faith with interested minority businesses and did not reject 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.
- 8 - (25 pts)** Provided 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. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 - (20 pts)** Negotiated 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.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

State of \_\_\_\_\_, County of \_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Notary Public \_\_\_\_\_  
My commission expires \_\_\_\_\_

MBForms 2002-Revised July 2010



# Best Practice

## Documentation and Good Faith Efforts

- All bidders, including Minority and Woman Owned Businesses shall complete Affidavit A, unless the bidder is self-performing as defined in NC Gen. Stat. §143-128.2(c).
- If a bidder is self-performing, the bidder shall submit an Affidavit B stating that they will perform all of the work under contract with their own workforce in lieu of Affidavit A.
- Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 301.0101)
- Read the form to ensure that you understand what you are signing.
- Check your math- ensure that you have obtained 50 points
- Note that Minority Businesses are also required to complete this form and to make a Good Faith Effort to meet the project goal. They may NOT count their business in the total and must reach out to other minority or woman owned firms to seek participation.
- Ask questions. The HUB Coordinator is a resource available to you.



# Best Practice

## Documentation and Good Faith Efforts

**... A WELL-CRAFTED EMAIL SOLICITATION TO INDIVIDUAL MBE'S MAY PROVIDE DOCUMENTATION OF 6 (CRITERIA 1,2,3,6,8,10) OF THE ITEMS BELOW. EXAMPLES ARE GIVEN BENEATH EACH CRITERIA OF WAYS TO SATISFY REQUIREMENTS.**

1 – (10 pts) Contacted 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 date and notified them of the nature and scope of the work to be performed.

NEWSPAPER/TRADE ADS DON'T COUNT FOR NOTIFICATION; PRODUCE LIST OF POTENTIAL BIDDERS CONTACTED BY CONTRACTOR SUBTRACT 10 DAYS FROM BID DATE THEN ADD 1 DAY TO DETERMINE LATEST TIME TO NOTIFY.

2 --(10 pts) Made the construction plans, specifications and requirements available for review by prospective minority businesses or providing these documents to them at least 10 days before the bids are due.

NOTICE SHALL STATE AVAILABILITY OF DOCUMENTS IN OWN OFFICE OR PROVIDE MBE'S THE BID PACKAGE DOCUMENTS. SUBTRACT 10 DAYS FROM BID DATE THEN ADD 1 DAY TO DETERMINE LATEST TIME TO NOTIFY.  
\*NEWSPAPER/TRADE ADS DON'T COUNT FOR NOTIFICATION

3 – (15 pts) Broken down or combined elements of work into economically feasible units to facilitate minority participation.

SHOW THAT WORK IS BROKEN DOWN INTO SMALL COMPONENTS (EG: FOR MECHANICAL CONTRACTOR-BREAK DOWN TO INSULATION, CONTROLS, AND AIR BALANCE)

INDICATE IN SOLICITATION THAT MBE'S CAN BID WORK FOR THIS PROJECT IN ANY AREAS THAT THEY ARE QUALIFIED

4 – (10 pts) Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.

OBTAIN LETTER OR OTHER DOCUMENTATION FROM ONE OF THESE ORGANIZATIONS INDICATING THAT YOU ARE WORKING WITH THEM IN THE RECRUITMENT OF MINORITY BUSINESSES

5 – (10 pts) Attended pre-bid meetings scheduled by the public owner.

THE OWNER/DESIGNER MAINTAINS A LIST OF ATTENDEES (MAKE SURE YOU SIGN-IN)

6 – (20 pts) Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.

DOCUMENT, OR INDICATE IN SOLICITATION TO NOTIFY SUBS, WHETHER OR NOT BONDS ARE REQUIRED ON CERTAIN PROJECTS; WHETHER OR NOT BONDS ARE REQUIRED ABOVE OR BELOW CERTAIN CONTRACT AMOUNTS; OR THAT YOUR COMPANY WILL ASSIST IN PROCURING BONDS OR INSURANCE FOR SUBS

7 – (15 pts) Negotiated in good faith with interested minority businesses and did not reject 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.

DOCUMENT THAT NO MBE'S WERE LOW

DOCUMENT THAT YOU ACCEPTED ALL LOW MBE'S

DOCUMENT WRITTEN REASONS FOR REJECTION OF ANY LOW MBE'S



# Best Practice

## Documentation and Good Faith Efforts

... A WELL-CRAFTED EMAIL SOLICITATION TO INDIVIDUAL MBE'S MAY PROVIDE DOCUMENTATION OF 6 (CRITERIA 1,2,3,6,8,10) OF THE ITEMS BELOW. EXAMPLES ARE GIVEN BENEATH EACH CRITERIA OF WAYS TO SATISFY REQUIREMENTS.

8 – (25 pts) Provided 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. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.

DOCUMENT RECENT HISTORY OF PROVIDING JOINT PAY AGREEMENTS SUCH AS "IN THE RECENT PAST, WE HAVE ENTERED INTO JOINT PAY AGREEMENTS (LINES OF CREDIT, WAIVING OF CREDIT, ETC.) WITH THE FOLLOWING MBE'S (X COMPANY, Y COMPANY, Z COMPANY) AND INTEND TO OFFER THE SAME ON THIS PROJECT FOR QUALIFIED MBE'S"

9 – (20 pts) Negotiated 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.

### SELF-EXPLANATORY

10 - (20 pts) Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

DOCUMENT RECENT HISTORY OF DOING QUICK PAY AGREEMENTS SUCH AS "IN THE RECENT PAST, WE HAVE PROVIDED QUICK PAY AGREEMENT WITH THE FOLLOWING MBE'S (X COMPANY, Y COMPANY, Z COMPANY) AND INTEND TO OFFER THE SAME ON THIS PROJECT FOR QUALIFIED MBE'S"

INDICATE IN SOLICITATION THAT QUICK PAY AGREEMENTS ARE AVAILABLE FOR QUALIFIED MBE'S



# Affidavit B

## Use **ONLY** if

### Self Performing 100% of the contract value

- Affidavit B should only be used by firms that do not customarily subcontract elements of their identified scope of work.
- Submitting this form means that all elements of the work on this project will be completed by the firm's own workforce.
- A Good Faith Effort to utilize minority suppliers should be conducted. It is best practice to maintain documentation of these efforts.
- Ensure that the Affidavit is signed and notarized.

Only Required If Self Performing 100% of contract Value

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State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract  
with Own Workforce.

County of \_\_\_\_\_  
Affidavit of \_\_\_\_\_  
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the \_\_\_\_\_  
\_\_\_\_\_ contract.  
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Bidder agrees to make a Good Faith Effort to utilize minority suppliers where possible.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_ County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

Notary Public: \_\_\_\_\_

My commission expires \_\_\_\_\_





# Affidavit C

## The 10% goal is achieved or exceeded

- Use this Affidavit if you meet or exceed the 10% HUB participation goal.
- The form is due within **72 hours** of being selected as the low bidder.
- Ensure that the form is fully completed, i.e., fill in the participation percentage in the appropriate section.
- Correctly fill in the name, minority category, HUB certification status, work description and dollar value for each firm you plan to contract with.
- Note that **HUB Certification is required** with the State HUB Office in order to be counted toward state participation goals.

Do not submit with bid Do not submit with bid Do not submit with bid Do not submit with bid

**State of North Carolina - AFFIDAVIT C - Portion of the Work to be Performed by HUB Certified/Minority Businesses**  
 County of \_\_\_\_\_

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by HUB certified/minority businesses as defined in GS143-128.2(g) and 128.4(a),(b),(e) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit.  
 This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of \_\_\_\_\_ I do hereby certify that on the \_\_\_\_\_  
(Name of Bidder)

\_\_\_\_\_ (Project Name)

Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required.

Name and Phone Number	Minority Category	HUB Certified Y/N	Work Description	Dollar Value

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

**\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.**

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

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# Affidavit D

## The 10% goal is not achieved

- Use this Affidavit if you do not meet the 10% HUB participation goal.
- The form is due within **72 hours** of being selected as the low bidder.
- Ensure that the form is fully completed, i.e., fill in the participation percentage (even if the number is zero) in the appropriate section.
- Prepare the back up documentation that corresponds with each Good Faith Effort item identified on Affidavit A.
- Best Practice is to submit your back up documentation at the same time you submit the Affidavit D.

Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid

### State of North Carolina AFFIDAVIT D – Good Faith Efforts

County of \_\_\_\_\_  
(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goal of 10% participation by HUB Certified/ minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of \_\_\_\_\_ I do hereby certify that on the \_\_\_\_\_  
(Name of Bidder)

Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_  
(Project Name)

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with HUB certified/ minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. (Attach additional sheets if required)

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A), American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.

Examples of documentation that may be required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

- Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- Copies of quotes or responses received from each firm responding to the solicitation.
- A telephone log of follow-up calls to each firm sent a solicitation.
- For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- Copy of pre-bid roster
- Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- Letter detailing reasons for rejection of minority business due to lack of qualification.
- Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

MBForms 2002-Revised May 2010

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# Common Mistakes

- Using old/outdated Affidavits. The most recent forms are dated as revised in July 2010. All current Affidavits are included in the Spec Book.
- Not identifying 50 points on Affidavit A.
- Not checking any boxes on Affidavit A
- Including the incorrect form with your bid-remember to submit **either** Affidavit A **or** Affidavit B with your bid, not both.
- Writing 100% on the Identification of Minority Business Participation form instead of listing each minority business to be used and the dollar value of their contract.
- Listing “TBD” on the Identification of Minority Business Participation form; As stated on the form a dollar value is required.

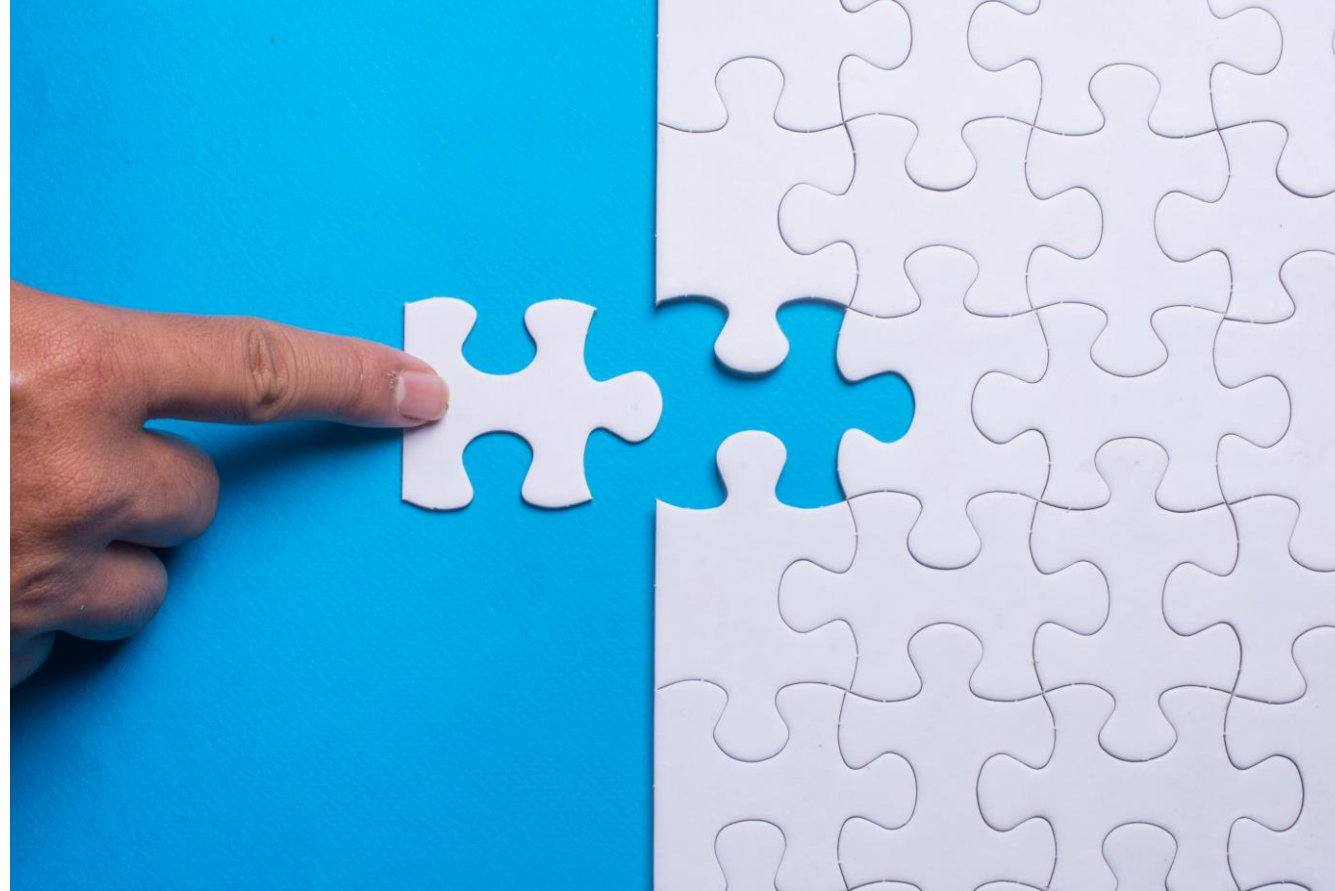


# Common Mistakes

- Not providing required Affidavits or back up documentation within 3 business days of being notified as the lowest bidder.
- Not being able to provide documentation that reflects the Good Faith Effort for each area points were given on Affidavit A.
- Providing a statement of the company's "Historically Underutilized Business Assistance Program". This does not demonstrate the effort made to include HUB firms on the project currently being bid. It is a statement of what the company will do vs. what the company did to reach out to HUB firms that could reasonably be expected to bid the work.



# Putting it together



# Test your knowledge

ABC firm is the CMAR on new a project with the College.

On bid day, a 1<sup>st</sup> tier minority subcontractor is deemed as the lowest bidder on one of the packages.

As required, the firm submitted the Identification of Minority Business Participation form and Affidavit A with their bid.

The minority firm listed themselves on the Identification form and listed 100% of the contract value. Is this acceptable? Why or why not?



# Thank You!

For additional information or questions contact:

**Carla Daniels**

**HUB Coordinator**

**919-866-6190**

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