

**ANTI-DISCRIMINATION POLICY**  
**of the**  
**SCHOOL DISTRICT OF PHILADELPHIA**

**ADOPTED NOVEMBER 14, 2007**

**SECTION 1. THE POLICY**

It is the policy of the School District of Philadelphia (the "District") acting through and by the School Reform Commission (the "SRC") to ensure equal opportunity in all contracts let by the District (the "Contracts"). In light of this policy, the District has adopted this Anti-discrimination Policy (the "Policy") which is applicable to all Contracts, including but not limited to, Contracts for the design, development, construction, operation and maintenance of school buildings and other buildings and structures owned, leased or used by the District or its contractors, assignees, lessees and licensees (the "Facilities"); Contracts for professional services and Contracts for the purchase of goods, services, supplies and equipment for the District and the Facilities. The objective of the Policy is the promotion of prime contract and subcontract opportunities for minority and woman-owned business enterprises ("M/W/BEs") that are approved by the District or that are certified by the Minority Business Enterprise Council of the City of Philadelphia, Southeastern Pennsylvania Transportation Authority or any other certifying agency designated by the District in its discretion.

The fundamental requirement of the Policy is that all contractors, vendors and consultants that contract with the District (the "Contractors"), satisfy the District that they will: (1) not discriminate against any person in regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability; and (ii) provide a full and fair opportunity for the participation of M/W/BEs in Contracts. Contractors must demonstrate that the participation of M/W/BEs is "meaningful and substantial" in all phases of a Contract under criteria adopted by the District. "Meaningful and substantial" shall be interpreted by the District as meaning the range of participation that reflects the availability of bona fide M/W/BEs in the Philadelphia Metropolitan Statistical Area. Participation shall be measured in terms of the actual dollars received by M/W/BEs.

As used in this Policy, the word "Contractors" includes any person, firm, partnership, non-profit corporation, for-profit corporation, limited liability company or other legal entity that contracts with the District.

For purposes of this policy, "minority person" refers to the following: African American or Black (persons having origins in any of the Black racial groups of Africa); Hispanic American (persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Asian American (persons having origins from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, Hong Kong, India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka); and Native Americans (which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians).

**SECTION 2. PROCEDURES FOR IMPLEMENTATION**

1. Articulation of the Policy. Staffing and Reporting

The Office of General Counsel and Office of Small Business Development will develop language to be included in bid solicitations and requests for proposals that clearly sets forth the objective of the Policy (the "Solicitation Language"). District employees shall include the Solicitation Language in all bids, public solicitations, requests for proposals and all communications to potential Contractors, including those who wish to provide professional services to the District. The Policy shall be articulated to the public in general, and to each Contractor, assignee, lessee or licensee doing or seeking to do business with the District. The District may employ additional staff or contract with other public or private entities to assist in the implementation of the Policy. SBD shall provide the SRC with annual reports on the level of M/W/BE participation in all contracting activities.

2. Promotion of M/W/BEs

The District recognizes the importance of having meaningful and substantial M/W/BE participation in all Contracts. To that end, the District will take steps to ensure that M/W/BEs are afforded a fair and equal opportunity to participate. Those steps may include but are not limited to: (i) making public contracting opportunities; (ii) advertising in newspapers and periodicals published by

community-based organizations and M/W/BEs; and (iii) designing bid packages in such a way as to promote rather than discourage M/W/BE participation.

### 3. Contracting Requirements

#### *a. Bids, Request for Proposals and Public Solicitations*

Prior to the dissemination of any bid, request for proposals or public solicitation (the "Solicitation"), the applicable contracting department of the District shall submit proposed ranges of M/W/BE participation in the area to be bid (the "Participation Range") to SBD for approval. The Participation Range, as approved by SBD, shall be included in each Solicitation and, if applicable, the Solicitation shall include the names and addresses of bona fide M/W/BEs that are available for contracting or joint-venture opportunities. Each bidder or respondent shall be required to submit: (i) a plan with its bid or proposal that meets the Participation Range set forth in the Solicitation and lists the names, addresses, dollar amounts and scope of work to be performed by M/W/BEs (the "Participation Plan"); or (ii) brief narrative explaining its reasons for not submitting a Plan that meets the Participation Range set forth in the Solicitation. Submission of the Participation Plan is an element of responsiveness. Failure to submit a completed Participation Plan or a narrative explaining the reasons that the Participation Ranges could not be met may result in the rejection of a bid or proposal. If the Participation Range in a bid or proposal meets or exceeds the level determined by the District to be meaningful and substantial, there shall be a presumption of compliance with the Policy. If, however, the proposed Participation Range falls below the level determined by the District to be meaningful and substantial, the bidder or respondent must prove to the satisfaction of the District that it did not discriminate in the solicitation of potential subcontractors and/or joint venture partners.

#### *b. Contracts for Professional Services*

Contracts for professional services that are not the subject of a Solicitation must also include approval Participation Plans. If a proposed Contract for professional services is subject to the approval of the Limited Contracts Authority Committee of the District (the "LCA"), the applicable contracting department shall submit a proposed Participation Plan for the written approval of SBD prior to the submission of the Contract to the LCA. In instances where proposed Contract for professional services must be approved by a Resolution adopted by the SRC, SBD's approval of the Participation Plan shall be incorporated into the on-line resolution process prior to the submission of Resolution to the SRC.

### 4. Sanctions

The Participation Plan shall be a part of each Contract between the District and a Contractor and shall be enforceable as any other contractual term or condition. Sanctions for breach of a Participation Plan may include suspension, cancellation of the Contract and/or disbarment from future contracting opportunities with the District.

## **EQUAL OPPORTUNITY**

### **A. EQUAL OPPORTUNITY**

The School District of Philadelphia (the "School District") is an Equal Opportunity Employer and demands no less of the companies with which it does business. The School District will not do business with companies or persons who unlawfully discriminate on the basis of race, color, national origin, sex, creed, disability, or any other impermissible ground in their hiring, promotion, subcontracting or procurement practices. By submitting any proposal to contract or entering into any contract with the School District, the Respondent (the "Respondent") represents and certifies that Respondent is an Equal Opportunity Employer; and conducts business affairs without improper regard to race, color, national origin, sex, creed, or disability, and has not been debarred, suspended, or declared ineligible to contract by any public or private agency or entity because of the Respondent's discriminatory practices. If the Respondent has been debarred or suspended, Respondent must submit a statement with the bid identifying the debarment or suspending entity and giving the date that the debarment or suspension was or is scheduled to be lifted. All certifications contained in a Respondent's proposal are material representations of fact upon which reliance will be placed if the School District awards a contract pursuant to this Request for Proposals. If it is later discovered or determined that the Respondent knowingly rendered an erroneous certification, then the School District may pursue available remedies, including termination of the contract.

### **B. NON-DISCRIMINATION**

#### **1. NON-DISCRIMINATION IN HIRING**

The Respondent agrees that it will comply with provisions of the Philadelphia Fair Practices Ordinance administered by the Human Relations Commission of the City of Philadelphia, the Pennsylvania Human Relations Act, No. 222, October 27, 1955, as amended, 43 P.S. Section 951 et seq; Title 7 of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 et seq., and all pertinent regulations adopted pursuant to the foregoing in providing equal employment opportunities in connection with all work performed by it pursuant to any contract awarded to Respondent, ( the "Contract"). The Respondent, therefore agrees:

- (a) That it will not discriminate nor permit discrimination by its agents, servants or employees against any employee or applicant for employment with regard to hiring, tenure or employment, promotion, or any other terms, conditions or privileges of employment because of race, color, sex, religion, age, national origin, sex, ancestry, handicap or disability and will move aggressively as is hereinafter set forth to prevent same.
  - (i) In all publications or advertisements for employees to work at the job site covered by the Contract placed by or on behalf of the Respondent, the Respondent will state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, national origin, sex, ancestry, handicap or disability.
  - (ii) The Respondent will notify each labor union or workers' representative from whom it seeks workers of the Respondent's commitment as set forth in its proposal, and request that each union or workers' representative include minority group members and women among its referrals.
  - (iii) The Respondent will hire minority and female workers for the skilled and unskilled jobs required to perform the Contract in proportion to their availability in the relevant labor pools in the Philadelphia Metropolitan Statistical Area, or to their availability in its qualified applicant pool, whichever is greater.

- (iv) The Respondent will post in conspicuous places available to its employees and to applicants for employment, a notice of fair practices to be provided by the Philadelphia Human Relations Commission.
- (v) The Respondent will maintain a work environment free of harassment, intimidation and coercion, and will ensure that all on-site supervisory personnel are aware of and carry out Respondent's obligation to maintain such a working environment.
- (b) That it will identify on each certified payroll form submitted to the School District those of its employees who are minority group members and those who are female. As used here, "minority" means African American, Hispanic, Asian, or Native American. The School District shall at all times have access to work site and to the Respondent's employment records to assure compliance with this subsection.
- (c) That it will maintain on forms to be supplied by the School District, the name, race, sex, national origin, skill or craft, address, telephone number, and source of referral of each applicant for employment, which record shall show which applicants were hired.
- (d) That in the event apprentices are hired in any skilled craft area, the Respondent will endeavor to hire equal numbers of culturally diverse male and female trainees in each skill area.

## 2. NON-DISCRIMINATION IN CONTRACTING

It is the policy of the School District of Philadelphia, that business concerns owned and controlled by minority group members and women shall have full and fair opportunity to participate in performance of contracts let by the School District. A Respondent's plan to joint venture with or subcontract to minority and woman-owned firms (M/WBEs) and/or to utilize M/WBEs as sources of supplies, equipment, or services will be a significant part of the evaluation of the Respondent's responsibility.

- (a) The Respondent will consider all proposals from potential M/WBE firms and document on the forms supplied by the School District, the reasons for not entering into a joint venture or subcontract with a M/WBE.
- (b) **Respondent will include Subcontractor participation with Minority-Owned Business Enterprise(s), Subcontractor participation with Women-Owned Enterprise(s), and participation with Minority/Women Owned Business Enterprise(s) on material and supplies in accordance with the participation goals set forth in the attached Notice to Bidders**
- (c) Where the Respondent proposes to perform the total contract with its own work force without any joint venture or subcontracting, before the contract is awarded, the Respondent will submit to the School District, information sufficient for the School District to determine that the Respondent has made a good faith effort to attain meaningful and substantial participation of M/WBEs.
- (d) The Respondent's agreement to meet the requirements of the Section is a material representation of fact upon which reliance will be placed if a contract is awarded. If it is later determined that the Respondent has not made a good faith effort to comply, within the School District's sole judgment, the School District may pursue available remedies, including suspension or debarment of the Respondent from future School District work as non-responsible.

### **C. LIABILITY OF SUBCONTRACTORS**

Any subcontractor of the Respondent shall have the same responsibilities and obligations as the Respondent to comply with the provisions of this Section and shall be subject to the same penalties for failure to comply as set forth below.

### **D. PENALTIES FOR FAILURE TO COMPLY**

- (1) It is hereby agreed that failure to comply and demonstrate a good faith effort to comply with the foregoing requirements shall constitute a substantial breach of the Contract.

- (2) In the event that the School District determines, after investigation, that the Respondent or subcontractor has failed to comply with any provision of this Section and to demonstrate a good faith effort to comply, the School District may in its sole discretion invoke the termination provisions of the Contract or move to disqualify, suspend, or debar the Respondent or subcontractor pursuant to Board Policy No. 621.
- (3) The Respondent or subcontractor, as the case may be, shall be given written notice of any determination of non-compliance and opportunity to achieve compliance within a time period to be specified in the notice.
- (4) In the event the School District, after a hearing, determines to terminate the Contract, entered into under this Contract, for non-compliance with and failure to demonstrate a good faith effort to comply with the requirements of this Section, all obligation on the School District's part to perform this Contract shall cease except for the obligation to pay the Respondent the sums due.