

# **ADMINISTRATIVE POLICIES OF THE MILWAUKEE PUBLIC SCHOOLS**

## **ADMINISTRATIVE POLICY 3.10 HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM**

### **(1) GENERAL PRINCIPLES**

(a) In educating the youth of Milwaukee, the Milwaukee Public Schools (MPS) is also a primary employer and purchaser of goods and services in the Milwaukee marketplace; therefore, it is obligated to display, in its own operations, the excellence, diversity, and economic responsibility which is part of the MPS educational mandate. The preservation and expansion of free competition is basic to maintaining and strengthening the overall economy of the metropolitan Milwaukee community.

(b) It is the declared policy of the Board and its administration to aid, assist, and protect, to the extent justified by the evidence, the interests of historically underutilized business (HUB) concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for goods and services for MPS be placed with HUBs.

### **(2) DEFINITIONS**

The following are definitions of major terms as described within this Policy 3.10:

#### **(a) Historically Underutilized Business (HUB)**

1. Certified HUBs are for-profit businesses 51% or more owned, controlled, and managed by minority, women or small business owners who have been certified as such by an MPS-recognized agency. MPS accepts certification from various state and local agencies who verify businesses as minority (MBE), woman-owned (WBE), small business (SBA-8A), disadvantaged business (DBE), emerging business (EBE), and other verifiable certifications.

2. HUB Participation Requirement: The requirement that a certain percentage of total contract dollars be allocated for work to be done by firms that are certified Historically Underutilized Businesses (HUBs). Participation must be commercially useful to the contracted good or service. HUB requirements are assigned to contracts over \$50,000.

#### **(b) Communities In Need (COIN)**

1. COIN-certified individuals are skilled and unskilled workers who meet specific requirements, including family income and US census tract and federal free/reduced lunch requirements. MPS COIN workers are certified through an independent agency.

2. Communities In Need (COIN) Requirement: The requirement that targeted unemployed/underemployed individuals who meet Board-approved criteria participate in certain Facilities and Maintenance Services contracts. COIN requirements are assigned when applicable.

#### **(c) Student Engagement**

1. Student Engagement is a means of further educating MPS students through work activities, professional experiences, and job opportunities.

2. Student Engagement Requirement: The requirement that contractors with MPS engage in activities that enhance the education of our youth. Activities may range from adopting a school and on-site visits to the jobsite, to hiring working-age students as interns. On certain MPS contracts, student engagement will be a requirement.

### **(3) GUIDELINES**

The HUB program shall operate under the following guidelines.

(a) The efficiency and fairness of general procurement procedures and practices shall be strengthened to increase opportunities for contracting with certified HUB firms.

(b) MPS shall establish goals annually, but shall determine specific levels of certified HUB participation requirements on a contract-by-contract basis, taking into consideration contract size and the availability and potential of certified HUBs. Overall goals shall be established annually to the extent justified by the evidence.

(c) Race-neutral programs for bonding, insurance, training, and outreach shall be established or continued that are not prohibitive to certified HUB vendor participation.

(d) Insurance requirements shall be established which are not more restrictive than necessary to protect the public's interest and provide appropriate protection.

(e) Administrative procedures regarding the prompt payment by prime contractors to subcontractors shall be established and promulgated.

(f) Uniform contracting methods shall be developed system-wide so that decentralization measures do not perpetuate the effects of current and past discrimination by preventing certified HUB firms from learning about public contracting opportunities.

(g) A more comprehensive contract reporting and monitoring system shall be established to provide accurate information for construction, professional services, and procurement contracting.

(h) Field visits shall be included in program monitoring.

(i) Monitoring procedures shall be developed for all decentralized and discretionary purchases, to include systematic reporting to the Division of Diversity and Community Engagement.

(j) Joint-venture and mentor/protegé relationships shall be encouraged.

(k) Preference shall be given to vendors who are, at the time of bid submission, conducting Board-approved programs for the training, employment, or continuing education of present or former MPS students.

(l) A statistically based methodology for determining participation levels shall be developed, to be established on an annual basis, using utilization percentage ratios.

(m) Goals shall be set which address and attempt to reduce the disparity affecting certified HUB firms in the MPS market area.

(n) Statistics shall be collected and reviewed annually to determine appropriate percentages and/or the necessity for continuance of program measures.

(o) The Board may discontinue all or part of any affirmative contracting actions at any time, upon receiving an annual report indicating that the disparity in a particular area has been eradicated.

(p) Administrative procedures shall be routinely reviewed for adjustments based upon availability and utilization of certified HUB vendors.

(q) The Division of Diversity and Community Engagement shall maintain independent oversight of all MPS procurement, professional service, and construction activities relating to HUBs; facilitate expeditious resolution of issues; strengthen reporting systems; and be responsible for implementing all aspects of the HUB policy.

#### **(4) WAIVERS**

Requests for waivers of this policy must be submitted in writing to the manager of the Division of Diversity and Community Engagement and the contracting department. Such requests shall specify measures taken to meet the requirements and/or documented justification for waiver. In the event evidence suggests a need to adjust the percent requirement on a particular contract, an addendum shall be issued prior to bid opening. Contractors must notify the HUB administrator and the contracting department concerning difficulties in meeting the HUB requirement prior to bid opening.

**(5) CHANGE ORDERS**

(a) The Division of Diversity and Community Engagement must be informed of all change orders to determine whether the change has an impact on the HUB, COIN, and Student Engagement requirements.

(b) Any change order or contract modification that increases or decreases the contract price by 5% or \$50,000, whichever is less, must be approved by the manager of the Division of Diversity and Community Engagement as to its effect upon HUB compliance.

**(6) SANCTIONS**

(a) Every MPS contract award shall contain language indicating that, if any document submitted to MPS by a contractor, subcontractor, bidder, or individual regarding HUBs for the purpose of participating in any MPS contract contains false, misleading, or fraudulent information, the contracting department head, receiving direction from the manager of the Division of Diversity and Community Engagement and the City Attorney, will direct the imposition of any of the following sanctions on the offending contractor, subcontractor, bidder, or individual:

1. withholding of payment;
2. termination, suspension, or cancellation of the contract in whole or in part;
3. denial to participate in any further contracts awarded by MPS for specified period of time, not to exceed three years.

(b) Appeal of sanction actions must be directed to the manager of the Division of Diversity and Community Engagement within seven (7) business days of sanction notification. The manager shall conduct an appeals hearing within ten (10) business days of receipt of written appeals request. The hearing panel shall consist of no less than one (1) DFMS representative, one (1) Division of Diversity and Community Engagement representative, one (1) MPS Board member, one (1) community representative, and the MPS Contract Law Specialist.

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**Cross Ref.:** Bd. Gov. Policy BG 4.07 Asset Protection

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