



**EQUITY & INCLUSION**

CITY OF DURHAM

# EQUAL BUSINESS OPPORTUNITY PROGRAM

## PROFESSIONAL SERVICES FORMS

Updated 03/21



## **Policy Statement**

It is the policy of the City to provide equal opportunities for City contracting to underutilized businesses owned by minorities and women doing business in the City's Contracting Marketplace. It is further the policy of the City to prohibit discrimination against any firm in pursuit of these opportunities, to conduct its contracting activities so as to prevent such discrimination, to correct the present effects of past discrimination and to resolve complaints of discrimination.

## **Goals**

To increase the dollar value of all City contracts for goods and services awarded to minority and women business enterprises, it is a desire of the City that the contractor will voluntarily undertake efforts to increase the participation of minority and women individuals at higher skill and responsibility levels within non-minority firms engaged in contracting and subcontracting with the City.

The Equity & Inclusion Director shall determine participation goals based upon the availability of minority and women business enterprises (MWBES) within the defined scope of contracting, and the goals established for the contracting category.

## **Equal Business Opportunity Program UBE Participation Documentation**

**If applicable information is not submitted with your proposal, your proposal may be deemed non-responsive.**

**UBE Participation Documentation** must be used to document participation of an underutilized business enterprise (UBE) on Professional Services projects. All UBEs must be certified by the State of North Carolina as a historically underutilized business, the North Carolina Department of Transportation as a minority-owned or women-owned business or the U.S. Small Business Administration's 8(a) Business Development Program prior to the submission date. If a business listed has not been certified, the amount of participation will be reduced from the total utilization.

**Letter of Intent to Perform as a Sub-consultant/Subcontractor** must be completed for UBEs proposed to perform on a contract. This form must be submitted with the proposal.

### **Post Proposal Submission UBE Deviation**

Post proposal submission UBE deviation participation documentation must be used to report any deviation from UBE participation either prior to or subsequent to startup of the project. The Equity & Inclusion Department must be notified if the proposed sub-consultant/subcontractor is unable to perform and for what reasons. Substitutions of sub-consultants/subcontractor, both prior to and after awarding of a contract, are subject to City approval.

### **UBE Goals Not Met/Documentation of Good Faith Efforts**

It is the responsibility of consultants/contractors to make good faith efforts. Good Faith Efforts means the sum total of efforts by a particular business to provide equitable participation of minority-owned and women-owned individuals or businesses as sub-consultants/subcontractors.

Whenever contract alternatives, amendments or extra work orders are made individually or in the aggregate, which increase the total value of the original contract, the consultant must make a good faith effort to increase UBE participation such that the amounts subcontracted are consistent with the established goals.

# **SELECTION OF CONSULTANTS/CONTRACTORS FOR ARCHITECTURAL/ENGINEERING AND OTHER PROFESSIONAL SERVICES**

## **Goal**

The purpose is to provide underutilized business enterprises owned by minorities and women with equal opportunities for participation on City of Durham contracts.

## **Definition of the Scope of the Selection Policy**

The Equity & Inclusion Director shall determine UBE participation goals for each contracting category to be awarded by the City. Goals for each project or contract will be based upon the availability of underutilized business enterprises(UBE's) within the defined scope of work, delineated into percentages of the total value of the work.

The City of Durham will consider a formal certification of the State of North Carolina's Historically Underutilized Businesses (HUB) Office, North Carolina Department of Transportation (N.C. DOT) minority and women businesses and the United States Small Business Administration (U.S. SBA) 8(a) Development Program as meeting the requirements of the Equal Business Opportunity Program, provided there is evidence that the firm is currently certified by one of the stated entities.

## **Underutilized Business Proposal Requirements**

The prime consultant/contractor shall submit a proposal in accordance with the City of Durham's request for Proposal. In addition, the prime consultant/contractor must submit all required Professional Services Forms.

## **Selection Committee for Professional Services**

A selection committee shall be established and may be composed of the following: City Manager or a designated representative of this office; Director of Finance or a designated representative of this office; department head responsible for the project; City Engineer if engineering services are involved; the Equity & Inclusion Director or designee and Purchasing Manager or designee. Other representatives shall be called upon as needed based on their areas of expertise.

The committee shall screen the proposals based on the following criteria:

1. Firms; interest in the project;
2. Current work in progress by firm;
3. Past experience with similar projects;
4. General proposal for carrying out the required work;
5. Designation of key personnel who will handle the project, with resume for each;
6. Proposed associate consultants/contractors, UBE subconsultants;
7. Indication of capability for handling project;
8. Familiarity with the project;
9. Fees that have been charged for recent comparable projects;
10. References;
11. UBE Participation; and
12. Documentation of Good Faith efforts should UBE participation requirements not be met.

After ranking the firms presenting proposals based on the above criteria, interviews will be conducted by

the selection committee with the top ranked firms (3-5). The contracting department will make the final recommendation, prepare contracts for review by the City Attorney, and prepare the recommendation for the City Council including the following:

1. Description and scope of the project;
2. Recommended firm;
3. Contract cost;
4. Time limits;
5. Basis for selection;
6. Source for funding;
7. Equal Business Opportunity Ordinance compliance; and
8. Recommendation that the contract be approved by the City Council.

#### **Contract Award**

A provision must be written in each contract with an architect or engineer requiring them to work with Equity & Inclusion Department in creating and identifying separate work.

#### **Project Evaluation**

An evaluation shall be made of each contract after its completion to be used in consideration of future professional services contracts. The evaluation shall cover appropriate items from the check list for ranking applicants. A copy of the evaluation shall be given to the consultant, and any comment he/she cares to make shall be included in the files.

**PARTICIPATION DOCUMENTATION  
(TO BE COMPLETED BY PRIME CONSULTANT/CONTRACTOR ONLY)**

**Names of all firms  
Project (including  
prime and  
subconsultants/sub  
- contractors)**

**Location**

**UBE  
Firm  
Yes/No**

**Nature  
of  
Participation**

**% of Project  
Work**

		Yes ( ) No ( )		
		Yes ( ) No ( )		
		Yes ( ) No ( )		
		Yes ( ) No ( )		
		Yes ( ) No ( )		
		Yes ( ) No ( )		
		Yes ( ) No ( )		

**TOTAL** \_\_\_\_\_

\_\_\_\_\_  
**Name - Authorized Officer of Prime Consultant/Contractor Firm (Print/Type)**

\_\_\_\_\_  
**Signature - Authorized Officer of Prime Consultant/Contractor Firm**

\_\_\_\_\_  
**Date**

## Letter of Intent to Perform as a Sub-Consultant

The undersigned intends to perform work in connection with the above project as a UBE:

Minority (African American, American Indian, Asian or Hispanic) Woman

The UBE status of the undersigned is certified if identified as HUB certified by the N.C Department of Administration HUB Office, minority or women certified by the N.C. Department of Transportation and 8(a) certified by the U.S. Small Business Administration.

The undersigned is prepared to perform the following described work in connection with the above project (specify in detail particular work items or parts thereof to be performed):

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

<u>ITEMS</u>	<u>PROJECTED COMMENCEMENT DATE</u>	<u>PROJECTED COMPLETION DATE</u>

The consultant will subcontract \_\_\_\_\_% of the dollar value of this contract to UBE sub-consultant.

The undersigned will enter into a formal agreement in the amount of \$ \_\_\_\_\_ for the above work with you, conditioned upon your execution of a contract with the City of Durham.

Name \_\_\_\_\_ Title \_\_\_\_\_  
 Company \_\_\_\_\_ Telephone \_\_\_\_\_  
 Address \_\_\_\_\_  
 Signature \_\_\_\_\_

## REQUEST TO CHANGE UBE PARTICIPATION

Project: \_\_\_\_\_

Name of bidder or consultant: \_\_\_\_\_

Name and title of representative of bidder or consultant: \_\_\_\_\_

Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone No: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Total amount of original contract, before any change orders or amendments: \_\_\_\_\_

Total amount of the contract, including all approved change orders and amendments to date, but not counting the changes proposed in this form: \_\_\_\_\_

Dollar amount of changes proposed in this form: \_\_\_\_\_

The proposed change (*check one*)  **increases**  **decreases** the dollar amount of the bidder's/consultant's contract with the City.

Does the proposed change decrease the UBE participation? (*check one*)  **yes**  **no**

If the answer is **yes**, complete the following:

**BOX A. For the subcontract proposed to be changed (increased, reduced, or eliminated):** Name of sub-consultant \_\_\_\_\_

Goods and services to be provided before the proposed change: \_\_\_\_\_

\_\_\_\_\_

***Is it proposed to eliminate this subcontract?***  **yes**  **no**

If the subcontract is to be increased or reduced, describe the nature of the change (*such as ~~adding~~ \$5,000 in environmental work and deleting \$7,000 in architectural*): \_\_\_\_\_

\_\_\_\_\_

Dollar amount of this subcontract before this proposed change: \_\_\_\_\_

Dollar amount of this subcontract after this proposed change: \_\_\_\_\_

This subcontractor is (check one):

- 1. Minority-owned UBE
- 2. Women-Owned UBE
- 3. Not a UBE



**BOX B. Proposed subcontracts other than the subcontract described in Box A above (continued)**

Name of sub-consultant for the new work: \_\_\_\_\_

Goods and Services to be provided by this proposed subcontract: \_\_\_\_\_

Dollar amount proposed of this proposed subcontract: This sub-consultant is:

- 1. Minority-owned UBE
- 2. Women-Owned UBE
- 3. Not a UBE

Add additional sheets as necessary.

**UBE GOALS NOT HAVING BEEN MET. The following information must be presented by the consultant concerning good faith efforts taken.**

It is the responsibility of consultants to make good faith efforts. Any act or omission by the City shall not relieve them of this responsibility. For future efforts, it shall be comprised of such efforts which are proposed to allow equitable participation of socially and economically disadvantaged employees and sub-consultants/subcontractors. The City Manager shall apply the following criteria, with due consideration of the quality, quantity, intensity and timeliness of efforts of consultants/contractors, in determining good faith efforts to engage UBEs along with other criteria that the City Manager deems proper:

Name of Bidder: \_\_\_\_\_

*If you find it helpful, feel free to attach pages to explain your answers. How many pages is your firm attaching to this questionnaire? \_\_\_\_\_ questionnaire.)*

*(Don't count the 2 pages of this*

***If a yes or no answer is not appropriate, please explain the facts. All of the answers to these questions relate only to the time before your firm submitted its bid or proposal to the City. In other words, actions that your firm took after it submitted the bid or proposal to the City cannot be mentioned or used in any answers.***

**1. SOLICITING UBEs.**

- (a) Did your firm solicit, through all reasonable and available means, the interest of all UBEs in the list provided by the City in the scope of work of the contract?  **yes**  **no**

In such soliciting, did your firm advertise?  **yes**  **no** Are you attaching copies to this questionnaire, indicating the dates and names of newspaper or other publication for each ad if that information is not already on the ads?  **yes**  **no**

- (b) In such soliciting, did your firm send written (including electronic) notices or letters? Are you attaching one or more sample notices or letters?  **yes**  **no**

- (c) Did your firm attend the pre-bid conference?  **yes**  **no**

- (d) Did your firm provide interested UBEs with timely, adequate information about the plans, specifications, and requirements of the contract?  **yes**  **no**

- (e) Did your firm follow up with UBEs that showed interest?  **yes**  **no**

- (f) With reference to the UBEs that your firm notified of the type of work to be subcontracted, did your firm tell them:

(i) the specific work your firm was considering for subcontracting?  **yes**  **no**

(ii) that their interest in the contract is being solicited?  **yes**  **no**

(iii) how to obtain and inspect the applicable plans and specifications and descriptions of items to be purchased?  **yes**  **no**

**2. BREAKING DOWN THE WORK.**

(a) Did your firm select portions of the work to be performed by UBEs in order to increase the likelihood that the goals would be reached?  **yes**  **no**

(b) If **yes**, please describe the portions selected. **ANSWER:**

**3. NEGOTIATION.** In your answers to 3, you may omit information regarding UBEs for which you are providing a Letter of Intent.

(a) What are the names, addresses, and telephone numbers of UBEs that you contacted? **ANSWER:**

(b) Describe the information that you provided to the UBEs regarding the plans and specifications for the work selected for potential subcontracting. **ANSWER:**

(c) Why could your firm not reach agreements with the UBEs that your firm made contact with? Be specific. **ANSWER:**

**4. ASSISTANCE TO UBEs ON BONDING, CREDIT, AND INSURANCE.**

(a) Did your firm or the City require any subcontractors to have bonds, lines of credit, or insurance?  **yes**  **no** (Note: In most projects, the City has no such requirement for *subcontractors*.)

(b) If the answer to (a) is **yes**, did your firm make efforts to assist UBEs to obtain bonds, lines of credit, or insurance?  **yes**  **no** If **yes**, describe your firm's efforts. **ANSWER:**

(c) Did your firm provide alternatives to bonding or insurance for potential subcontractors?  **yes**  **no** If **yes**, describe. **ANSWER:**

**5. GOODS AND SERVICES.** What efforts did your firm make to help interested UBEs to obtain goods or services relevant to the proposed subcontracting work? **ANSWER:**

**6. USING OTHER SERVICES.**

(a) Did your firm use the services of the City to help solicit UBEs for the work?  **yes**  **no**  
Please explain. **ANSWER:**

(b) Did your firm use the services of available minority/women community organizations, minority and women contractors' groups, government-sponsored minority/women business assistance agencies, and other appropriate organizations to help solicit UBEs for the work?  **yes**  **no**  
Please explain. **ANSWER:**