

SCDOT  
MINORITY  
BUSINESS  
ENTERPRISE  
UTILIZATION  
PLAN

2016-2017



## INTRODUCTION

ON JULY 8, 1981, GOVERNOR RICHARD W. RILEY APPROVED THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE THAT PERTAINS TO PROCUREMENT LAWS, POLICIES, PRACTICES AND REGULATIONS BY STATE AND LOCAL GOVERNMENTS. SECTION 11-35-5240 REQUIRES EACH AGENCY DIRECTOR TO DEVELOP A MINORITY BUSINESS ENTERPRISE (MBE) UTILIZATION PLAN FOR THE PROCUREMENT OF MATERIALS, SUPPLIES AND SERVICES FROM SMALL MINORITY BUSINESSES. THE MBE UTILIZATION PLAN WAS REQUIRED TO BE SUBMITTED TO THE SMALL AND MINORITY BUSINESS ASSISTANCE OFFICE NOT LATER THAN OCTOBER 1, 1981 AND NO LATER THAN JULY 30, ANNUALLY, THEREAFTER. THIS PLAN HAS BEEN PREPARED BY THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION (SCDOT) TO COMPLY WITH THESE REGULATIONS.

ON JUNE 13, 2006 THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE WAS REVISED AND SECTION 11-35-5240 WAS MODIFIED TO PROVIDE “GOALS THAT INCLUDE EXPENDING WITH MINORITY BUSINESS ENTERPRISES CERTIFIED BY THE OFFICE OF SMALL AND MINORITY BUSINESS ASSISTANCE AN AMOUNT EQUAL TO TEN PERCENT OF EACH GOVERNMENTAL BODY’S TOTAL DOLLAR AMOUNT OF FUNDS EXPENDED. “

*I. POLICY STATEMENT*

The Department of Transportation is governed by the South Carolina Transportation Commission, which is comprised of eight members, seven of whom are elected by the legislative delegations of each of the state's Transportation Districts.

On June 19, 1980, the Commission adopted the following policy statement:

"It shall be the policy of the S. C. Department of Transportation to use Minority Business Enterprises in all aspects of contracting to the maximum extent feasible and in accordance with existing State and Federal laws."

The Commission has delegated to the Secretary of Transportation and staff the responsibility to work out details of and select those responsible for implementation of an MBE plan.

The objectives of the plan or program are to assure that MBEs are afforded full opportunity to participate in all activities of the Department's program and to utilize affirmative action to increase their participation.

The policy statement has been circulated throughout the Department's organization and to minority, female and non-minority community and business organizations. The policy statement has been circulated by direct mailing to the following organizations: Statewide Minority Business Development Center, South Carolina Chapters of the National Urban League, Governor's Office of Economic Opportunities, U. S. Small Business Administration, The Minority Business Development Agency of the U. S. Department of Commerce, and State Chapter of NAACP.

## II. MBE LIAISON OFFICER

The Secretary of Transportation has appointed the Director of Minority and Small business Affairs, at P.O. Box 191, 955 Park Street, Columbia, SC 29202 and phone (803) 737-1266 as MBE Liaison Officer to oversee all W/MBE programs for the Department of Transportation to develop and supervise the utilization of MBEs in all aspects of procurement with the exception of those exemptions outlined in Section 11-35-710 of the Consolidated Procurement Code.

## *III. PROCUREMENT DIRECTOR*

The Procurement Director is responsible for developing the Minority Business Utilization Plan based on current Department of Transportation annual budget controllable dollars, and manage the day-to-day operations relating to the MBE Utilization Plan. All records shall be housed in the Procurement Office with responsibility of preparing and submitting all quarterly reporting to the Small and Minority Business Contracting and Certification.

## *IV. DEFINITIONS*

(1) 'Minority person' for the purpose of this article, means a United States citizen who is economically and socially disadvantaged.

(a) 'Socially disadvantaged individuals' mean those individuals who have been subject to racial or ethnic prejudice or cultural bias because of their identification as members of a certain group, without regard to their individual qualities. Such groups include but are not limited to Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians), Asian Pacific Americans, women, and other minorities to be designated by the State Budget and Control Board or designated agency.

(b) 'Economically disadvantaged individuals' means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to

diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.

(2) A 'socially and economically disadvantaged small business' means any small business concern which:

(a) Is at least fifty-one percent owned by one or more citizens of the United States who are determined to be socially and economically disadvantaged.

(b) In the case of a business, which is a corporation, fifty-one percent of all classes of voting stock of such corporation must be owned by an individual determined to be socially and economically disadvantaged.

(c) In the case of a business, which is a partnership, an individual must own fifty-one percent of the partnership interest or individuals determined to be socially and economically disadvantaged and whose management and daily business operations are controlled by individuals determined to be socially and economically disadvantaged. Such individuals must be involved in the daily management and operations of the business concerned.

#### *V. DUTIES OF PROCUREMENT DIRECTOR*

(1) Maintain all records and reports required by Section 11-35-5240 of the Procurement Code.

(2) Develop, manage and implement the MBE program for procurement on a day-to-day basis.

(3) Disseminate information on available business opportunities so that MBEs are provided an equal opportunity to bid on services, supplies and construction to be procured by the Department.

(4) Establish and maintain records on the number of invitations to bid and request for proposals sent to minority firms and contracts awarded.

- (5) Maintain an informal bidders' list consisting of South Carolina certified minority firms interested in doing business with the State. The primary purpose of this list is to insure that minority firms are given an equal opportunity to bid on DOT purchases.
- (6) Maintain records to indicate the number and dollar value of all purchases made from minority firms including local purchase orders. *VI. NEGOTIATION, DESIGNATION AND ROUTINE PROCEDURES*

The Department, pursuant to Section 11-35-5230 of the S. C. Consolidated Procurement Code and the regulation promulgated thereunder, shall cooperate with the State Fiscal Accountability Authority and Small and Minority Business Contracting and Certification in identifying particular contracts which may be suitable for direct negotiation with certified South Carolina minority firms.

On purchases less than \$2500.00 where a certified minority is available for the commodity being procured and it is economically feasible, orders will be considered for placement with minorities. SCDOT procurement card holders are especially encouraged to use the procurement card with certified minority vendors for orders under \$2500.00. This is reinforced during SCDOT procurement card and liaison training and during SCDOT policies and procedures training. For purchases in excess of \$2500.00, but not exceeding the Department's certified limit; some contracts may be designated when assurances are made that the Department will not have to sacrifice quality, as long as it is determined there will be no substantial monetary loss to the State resulting from such award. Upon receipt of all field requests for aggregate hauling, solicitations will be sent to all known minorities. The Department's DBE Supportive Services Coordinator will be notified of all solicitations by receipt of a copy of the bid invitation and will encourage participation by minorities in the bid process. On all consulting projects for public transportation, which are federally funded, the goal will be in accordance with the federal requirement for DBE utilization and the use of South Carolina certified firms would be encouraged. For orders that exceed the Department's certified limit, requests will be forwarded

to State Procurement; and when determined practical SCDOT will request the solicitation to be designated to certified minority firms.

On day-to-day operations all known certified MBE/WBEs will be solicited on a routine basis giving them an opportunity to bid on the Department's requirements, not limiting MBE/WBE's to designated and small purchase contracts. Minority vendors will be received by the Procurement Staff and advised of the bidding procedures and related services offered by the staff, such as reviewing individual bid tabulations to help MBE/WBEs determine where their price levels are competitive. Districts and Counties have been delegated the authority to procure goods and services not to exceed \$10,000. They have been instructed during field training, required for increased delegated authority, to solicit MBE/WBE's participation on all procurements requiring competition when there are MBE/WBE's available. A current Minority Directory supplied by the Small and Minority Business Contracting and Certification is on the Internet and all field locations have been instructed on how to access the directory. SCDOT will support local contacts by minority vendors to field offices and shops as it relates to their area of business.

Department Procurement employees will continue to participate in Industrial and Minority Trade Shows, SMBCC functions and Minority Councils where they will actively solicit MBE/WBE to participate in the Department's procurement process.

#### *VII. DIVIDING LARGE PROJECTS INTO SMALL UNITS*

The Department, when practicable, will divide large projects into small units to allow minority firms to participate in such projects. This 'splitting' will be mostly in, but not limited to, aggregate hauling and clearing and grubbing where numbers of certified minorities are only equipped to manage smaller jobs; as well as building construction and renovation projects.

*VIII. TAX CREDIT AVAILABILITY*

All bid documents will include the following statement:

Section 11-35-5230 (B) (1) of the South Carolina Procurement Code provides that firms with state contracts that subcontract with minority firms shall be eligible for an income tax credit equal to four (4) percent of the payments to minority subcontractors for work pursuant to a state contract. Such subcontractors must be certified as to the criteria of a minority firm as defined in Section 11-35-5010 of the South Carolina Procurement Code and regulations that may be promulgated thereunder. The Procurement Staff will assist firms interested in taking advantage of this opportunity when responding to a solicitation for the award of a state contract and they will also be advised to contact the Division of Small and Minority Business Contracting and Certification, Edgar A. Brown Building, 1205 Pendleton Street, Suite 453C, Columbia, SC 29201. This organization is in the position to identify and certify all qualified minority businesses in the current service specialization of the minority firm.

*IX. PROGRESS PAYMENTS*

When requested by a minority contractor, the Department's Procurement Director will furnish letters stating the dollar value and any other information about a particular contract that may be required in order for the minority firm to negotiate lines of credit with lending institutions. Partial payments may be made when requested and upon certification that a portion of the contract has been completed. This certification is to be made by the consignee by accomplishing a receipt in the SCEIS system with appropriate documentation. Such payments, when requested in writing by the contractor and the lending institution, may be made jointly to the contractor and the lending institution.



*X. QUARTERLY REPORTING PROCEDURES*

The Department shall submit quarterly progress reports to the Small and Minority Business Contracting and Certification stating the number of minority firms solicited, the number of responses received and the dollar amount awarded to minorities in the purchase of all goods and services and building construction. These reports shall be submitted by the 15th of the month following the close of the quarter. Forms SMBCC 100 and 101 will be used in making these reports. The Department will also report the set-aside awards meeting the requirements of Section 12-28-2930.

*XI. SUBCONTRACTING PROCEDURES*

Section 11-35-710 of the Procurement Code exempts the construction, maintenance and repair of bridges, highways and roads from the procedures contained therein. However, the Department has an ongoing program whereby federally funded projects contain goals for the utilization of DBEs as subcontractors. The Department will continue to furnish these figures for information, but the funds expended will no longer include federal or state road construction funds.

In the event SCDOT subcontracts scope of services to another governmental body; SCDOT will set goals for the subcontractor in accordance with the existing MBE goal of 10% and shall require the subcontractor to present a MBE Utilization Plan detailing its procedure to obtain minority business enterprise participation.

*XII. MBE GOALS*

The Departments' achievement goal for fiscal year 2016-2017 is to utilize minority enterprises in at least 10% of the Department's funds expended in compliance with Section 11-35-5240 (1) (d). The Department is exempt from the Procurement Code on Engineering Consulting Contracts. State term contracts for equipment, supplies and services mandate Agency

usage, therefore the Agency does not exercise final authority of award for these dollars. Objective Codes considered for funds expended will follow the guidelines established in the August 15, 2006 letter from Mr. Frank W. Fusco, Executive Director, State Budget and Control Board to Ms. Margaret A. Woodson, Director, Office of Small and Minority Business Assistance. For Code 0700 the Department's road construction funds have been removed from funds expended and will be reported in accordance with Section 12-28-2930 of the Code of Laws.