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ONSLOW COUNTY

and Historically Underutilized Businesses

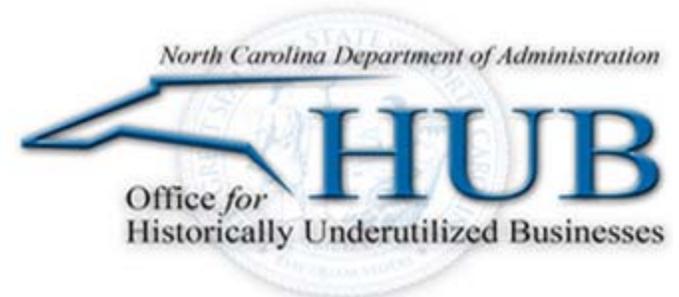


ONSLOW COUNTY

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In 2007, the General Assembly authorized the Secretary of the Department of Administration to develop and administer a statewide program for the certification of historically underutilized businesses, or “HUBs” (which include minority and women-owned businesses).

This program requires the Department of Administration to create and maintain a statewide database of certified HUBs.

This program applies to all HUBs seeking to do business with any state department, state agency, state institution, or local government within North Carolina.

The program also requires all state and local entities to use only *certified* HUBs for minority business purposes.

Purpose of the HUB Statewide Uniform Certification Program:

- To encourage the use of minority businesses in state and local public building construction projects
- To allow HUBs to register in just one place
- To create a unified database of HUBs that will be available to all public entities in NC

Who Should Apply for Certification?

All minority businesses wanting to do business with the State, state agencies, state institutions, local governments either as a contractor or subcontractor.

Definition of minority business:

1. According to North Carolina General Statute, 143-128.2, the term “minority business” means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially economically disadvantaged individuals or in the case of a corporation, in which at least 51% of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; **and**
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.

What does this mean for state departments, agencies and local governments?

With the implementation of the HUB Statewide Uniform Certification program, as of July 1, 2009, North Carolina state agencies and local governments may count **only** those businesses that are *certified* as Historically Underutilized Businesses (HUBs) **through the new statewide system** to determine whether their participation goals have been met (N.C.G.S. 143-128.4(e), GS 143-48.4(c)).

What does this mean for non-minority contractors wanting to do business with the state, a state agency, or local governments within North Carolina?

Non-minority contractors are required to undertake and document good faith efforts for minority participation for subcontractor use. For certain projects (\$300K+) contractors must submit the appropriate forms and Affidavits with their bid. Failure to submit the required forms will be cause for rejection of bid.

What does this mean to a *minority* contractor or subcontractor wanting to do business with the state, a state agency, or local governments within North Carolina?

Minority contractors/subcontractors must be certified under the HUB Statewide Uniform Certification Program in order for local governments to meet minority business participation goals and good faith efforts. Only businesses certified in accordance with this section shall be considered.

HOW TO APPLY FOR HUB CERTIFICATION

Certification is Free!

Go to the HUB Office website;

www.doa.nc.gov/hub

Register in Vendor Link as a Vendor

Apply for HUB Certification

Continue Step-by-Step Instructions

HUB REQUIREMENTS CONT'D

Page 6

\$300,000 + (if no state money is involved) G.S. 143-128.2 OR
\$100,000 + (if any state money is involved) G.S. 143-128.2

County must:

- Develop and implement outreach plan
- Identify minority businesses that can perform public building projects
Encourage Competition: At least 10 days before the bid opening -
Notify minority businesses that have requested bid packages.
Notification must include:
 - ◇ description of the work;
 - ◇ date, time and location where bids are due;
 - ◇ contact name and phone number within the county
(not the architect) who can answer questions;
 - ◇ where bids may be reviewed
 - ◇ any other special requirements
- Discuss minority participation at pre-bid conference
- Make Good Faith Efforts to Reach Goals
- Report project to HUB on quarterly basis.

Contractor must:

- If a minority business: Become certified with the Department of Administration's Statewide Uniform Certification Program.
- If not a minority business: Encourage minority subcontractors to register.
- Undertake and **document** good faith efforts as listed in G.S. 143-128.2 (f)
- When submitting a bid, all bidder's must submit the appropriate Affidavits **WITH THEIR BID**
 - ◇ Identification of Minority Business Participation (Affidavit of Participation) and,
 - ◇ Affidavit A – Listing of Good Faith Efforts (Bidders must earn at least 50 points from the good faith efforts listed) **OR**
 - ◇ Affidavit B – Intent to Perform Contract with Own workforce

*Affidavit C – Portion of the Work to be Performed by Minority Firms – is to be submitted by the low bidder **after notification***
*Affidavit D – Good Faith Efforts – To be submitted if requirements of Affidavit C are not met (by the low bidder **after notification**)*

Who Should Apply for Certification CONT'D?

Page 3

2. The term "minority person" means a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original Indian peoples of the North America;
or
 - e. Female
 - f. Disabled – A person with a disability as defined in G.S. 168-1 or 168A-3
 - g. Disadvantaged (as defined below in number 3)
3. The term "socially and economically disadvantaged individual" means the same as defined in 15 U.S. C. 637 (federal statute).
 - a. 15 U.S.C. §637 defines "socially disadvantaged individuals" as "those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without to their individual qualities."
 - b. 15 U.S.C. §637(a)(5). The statute defines "economically disadvantaged individuals" as "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."

HUB REQUIREMENTS

These requirements apply to ***Building*** Construction and Repair Projects

North Carolina General Statute 143-128.2 requires local governments in North Carolina to adopt goals for minority business participation for *building* construction and repair projects. The Onslow County Board of Commissioners has adopted a verifiable percentage goal of 10% for participation by minority businesses for all *building* construction and repair projects with a project cost of \$300,000 or more (\$100,000 if state funds are being used).

In addition, North Carolina General Statute 143-131 requires local governments to *solicit* minority participation and show *Good Faith Efforts* to recruit minority participation for *building* construction and repair projects costing \$30,000 up to \$300,000.

Projects that DO NOT apply:

- Parking lots
- Roads
- Bridges
- Site work
- Pre-fabricated buildings
- Water lines (unless state-funded)
- Utility work (unless state-funded)
- Landfill projects using proprietary funds

Also applies to:

Architectural, Engineering, Surveying, and Construction Management at Risk Services, and Design Build Services:

- Use *good faith efforts* to notify HUBs
- No *specific* good faith efforts are mandated for the procurement of these services

HUB REQUIREMENTS CONT'D

<\$30,000 – NO REQUIREMENTS

\$30,000 - \$300,000

County must:

- Comply with G.S. 143-131(b)
 - ◇ *Solicit* minority participation (statutes do not mandate *specific* good faith efforts used)
 - ◇ Use *Good Faith Efforts* to recruit HUBs
 - ◇ Maintain a record of contractors solicited
 - ◇ Document *efforts* to recruit minority business participation (percentage goals do NOT apply to projects in this range)
 - ◇ Report data to DOA HUB office within 10 days after the completion of the project (type of project, total dollar value, dollar value of minority businesses, and documentation of efforts).

Contractor must:

- Nothing: The statute does not suggest that contractors make any good faith efforts, just the public entity.