



POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Minority and Women-Owned Business Opportunities		Policy Number: 1.6.4
Date of Issue: September 9, 2007	Authority: Signature on File Jeffrey A. Beard, Ph.D.	Effective Date: September 12, 2007

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended, **and Commonwealth Procurement Code 62 Pa C.S.**

II. APPLICABILITY

This policy is applicable to all facilities operated under the jurisdiction of, or conducting business with the Department of Corrections.

III. POLICY

Pursuant to **Executive Order 2004-06, Minority and Women-Owned Business Opportunities**, the Department is committed to ensuring that all competitive contract opportunities issued by the Department seek to maximize participation by **Minority Business Enterprises and Women Business Enterprises (MBE/WBE) and Disadvantaged Businesses (DB)**.

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operation, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Confidential Procedures (if applicable)

Confidential procedures for this document, if any, are not public information and may not be released in its entirety or in part, without the approval of the Secretary of Corrections/designee. Confidential procedures may be released to any Department of Corrections employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department of Corrections' policy and procedures shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and Community Corrections Regional Directors on a routine basis. Distribution of confidential procedures to other individuals and/or agencies is subject to the approval of the Secretary of Corrections/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures either in hard copy or via email, whichever is most appropriate.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

1.6.1, Minority and Women-Owned Business Opportunities issued September 5, 2007, by Secretary Jeffrey A. Beard, Ph.D.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

- a. Executive Order 2004-06 Minority and Women-Owned Business Opportunities
- b. Management Directive 215.3, Pennsylvania Procurement Manual
- c. Management Directive 215.16, Contract Compliance Program
- d. Executive Order 2006-02, Contract Compliance

2. ACA Standards

- a. Administration of Correctional Agencies: None
- b. Adult Correctional Institutions: None
- c. Adult Community Residential Services: None
- d. Correctional Training Academies: None



PROCEDURES MANUAL
Commonwealth of Pennsylvania • Department of Corrections

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Jeffrey A. Beard, Ph.D.**

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Release of Information:

Policy Document: This policy document is public information and may be released upon request.

Procedures Manual: The procedures manual for this policy may be released in its entirety or in part, with the prior approval of the Secretary/designee. Unless prior approval of the Secretary/designee has been obtained, this manual or parts thereof may be released to any Department employee on an as needed basis only.

1.6.4, Minority and Women-Owned Business Opportunities Manual
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Section 1 – General Procedures

A. Minimum Participation Levels

The Bureau of ***Minority and Women Business Opportunities (BMWBO)*** has established Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) minimum participation levels (MPLs) of five percent for MBE and three percent for WBE of the dollar amount of the bid for the contract.

B. Minimum Solicitation Requirements

A contractor may meet the requirements outlined in **STD-168, MBE/WBE Subcontractor and Supplier Solicitation and Commitment Form (Attachment 1-A)** without meeting the MPLs, as long as it attempts to do so by contacting a minimum number of MBE/WBE subcontractors and/or suppliers.

C. Solicitation of MBE/WBE

1. ***The Purchasing Agent/designee will send the STD-168 to all contractors bidding through the Invitation for Bid (IFB) process on service contracts, which exceed \$50,000 (including sole source contracts and service contracts estimated to exceed \$50,000).***
2. ***Prior to awarding contracts for services (\$50,000 up to \$249,999), the Purchasing Agent/designee must forward the STD-168 and copies of the IFB packets for each bidding contractor to the Office of Equal Employment Opportunity (EEO), Contract Compliance Unit, to determine responsiveness or non-responsiveness of the bidding contractors.***
3. ***The Office of EEO will evaluate and notify the Purchasing Agent/designee of the determination of responsiveness. If a bidding contractor fails to solicit MBE/WBE subcontractors or suppliers, does not explain why it did not commit to MBE/WBE subcontractors or suppliers, or fails to properly complete the STD-168, the contractor's bid will be considered non-responsive.***
4. ***Prior to awarding contracts for services, which exceed \$250,000 (including sole source contracts) the Purchasing Agent/designee, must forward the STD-168 and any supporting MBE/WBE documentation to the BMWBO. BMWBO will determine responsiveness or non-responsiveness of the bidding contractors.***
5. ***Prior to awarding contracts for construction which exceeds \$50,000, the Purchasing Agent/designee must forward the GSMWBE-16 MBE/WBE Subcontractor and Supplier Certification, Solicitation and Commitment Form, and any supporting MBE/WBE documentation to the BMWBO. BMWBO will determine the contractor's responsiveness or non-responsiveness.***
6. ***The STD-168 and the GSMWBE-16 are available on the Department of General Services (DGS) website.***

D. STD-168 Appeal of a Department EEO Non-Responsive Determination

The Business Manager/designee may appeal the Department EEO non-responsive determination in accordance with the Procurement Handbook, Part 1, Chapter 20, Section B.1.d., by seeking approval of the Departments' Deputy Secretary for Administration. The appeal must be in writing and fully justify the reason(s) for proceeding with the award to the non-responsive contractor.

E. MBE/WBE Quarterly Reports

The Purchasing Agent/designee must report MBE/WBE utilization to the Department's EEO, Contract Compliance Unit, on a quarterly basis by using the MBE/WBE Quarterly Report (Attachment 1-B). The Office of EEO, Contract Compliance Unit, shall review this report in order to monitor participation levels.

F. Solicitation of Disadvantaged Businesses and Enterprise Zone Small Businesses

1. *The purpose of the Disadvantaged Businesses Program is to promote the use of small and emerging businesses by giving them opportunities to participate in state contracting. The Disadvantaged Businesses Program encourages prime contractors to consider disadvantaged businesses and enterprise zone small businesses when seeking supplies and services.*
2. *In the Request for Proposal (RFP) process, contracts are awarded according to a point system. Each proposal is evaluated, and points are assigned for the technical aspect of the proposal, cost, disadvantaged business, enterprise zone small business, and other factors. The total of these points determines which offeror will be selected for contract negotiations.*
3. *The BMWBO reviews and establishes the points awarded for disadvantaged businesses and enterprise zone small businesses in all RFPs regardless of the procurement amount.*
4. *Disadvantaged business participation evaluation will be based on the following in order of priority. Priority rank one receives the highest score and the succeeding options receive scores in accordance with the below listed ranking.*
 - a. *Priority Rank 1: small disadvantaged business submitting a proposal as the prime contractor.*
 - b. *Priority Rank 2: non-disadvantaged business prime contractor establishing a joint venture with a small disadvantaged business.*
 - c. *Priority Rank 3: non-disadvantaged business prime contractor subcontracting to a small disadvantaged business(s).*
 - d. *Priority Rank 4: socially disadvantaged business bidding as prime contractor.*

5. ***A disadvantaged business cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract. If a disadvantaged business subcontracts more than 40% of the total estimated dollar amount of the contract to other contractors, the disadvantaged business participation scoring shall be proportionally lower.***

6. ***enterprise zone small business participation will be considered as part of the final criteria for selection. Priority rank one receives the highest score and the succeeding options receive scores in accordance with the below listed ranking.***
 - a. ***Priority Rank 1: proposals submitted by an enterprise zone small business will receive the highest score.***

 - b. ***Priority Rank 2: proposals submitted by a joint venture with an enterprise zone small business as joint venture partners will receive the next highest score.***

 - c. ***Priority Rank 3: proposals submitted with a subcontracting commitment to enterprise zone small business will receive the lowest score.***

7. ***To the extent that an offeror is an enterprise zone small business, the offeror cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract in order to qualify as an enterprise zone small business for the purposes of the RFP.***

G. MBE, WBE, and Disadvantaged Business Contractual Obligations

Commitments made to MBE/WBE, disadvantaged businesses, and ***enterprise zone small business subcontractors/suppliers*** at the time of bidding must be maintained throughout the term of the contract. Any proposed change must be submitted to the ***BMWBO***, which will make a recommendation as to a course of action to the contracting officer.

**1.6.4, Minority and Women-Owned Business Opportunities
Glossary of Terms**

Bureau of Minority and Women Business Opportunities (BMWBO) – An office within the Department of General Services (DGS) which has the responsibility to assure participation of, and the fair treatment for, minority and women owned businesses and Disadvantaged Business Enterprises (DBE) in Commonwealth contracting opportunities.

Bid – A firm and unconditional offer in response to an Invitation for Bids (IFB).

Bidder – A person that submits a bid in response to an Invitation for Bids (IFB).

Certified Minority Business Enterprise/Women Business Enterprise (MBE/WBE) – A small business that has applied to the Department of General Services, BMWBO, and received certification as a MBE/WBE.

Contract Compliance – A program designed to ensure that Commonwealth contracting is non-discriminating in intent and effect.

Contracting Officer – A person authorized to enter into, administer contracts, and make written determinations with respect to contracts.

Contractor – Any person that has entered into a contract with a Commonwealth agency.

Disadvantaged Business – A small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes MBEs and WBEs.

Department – The Pennsylvania Department of Corrections.

Enterprise Zone Small Businesses – A small business whose economic growth and development has been restricted based on an economic basis. Such businesses are small businesses whose primary or headquarter facility exists within designated enterprise zones. Businesses seeking to become classified as enterprise zone's by the Commonwealth of Pennsylvania must submit with their proposals evidence that such business has its primary or headquarter facility within a designated enterprise zone. Such evidence shall include a copy of the lease or deed for the company's primary or headquarters' locations and a letter from the local enterprise zone coordinator verifying that the address is in an enterprise zone. The company shall also submit proof of gross annual revenues from the most recent tax year.

Invitation for Bids (IFB) – All documents, including those either attached or incorporated by reference, used for soliciting bids.

Minority Business Enterprises (MBE) – A business owned and controlled by a majority of persons who are African Americans, Hispanic Americans, Native Americans, Asian Americans, Alaskans, and/or Pacific Islanders.

Non-Responsive Bidder – A bidder who does not conform in all material aspects of the requirements and criteria in the Invitation for Bid (IFB).

**1.6.4, Minority and Women-Owned Business Opportunities
Glossary of Terms**

Offeror – A person that submits a proposal in response to a request for proposals.

Proposal – An offer made in response to a request for proposal which may be subject to negotiation and award criteria set forth in the request for proposal.

Responsive Bidder – A bidder who conforms in all material aspects of the requirements and criteria in the Invitation for Bid (IFB).

Request for Proposals (RFP) – All documents, including those either attached or incorporated by reference, used for soliciting proposals.

Subcontractor – An individual, business, university, governmental entity, or nonprofit organization contracting to perform part, or all, of another entity's contract.

Supplier – A bidder, offeror, or contractor offering to provide materials and/or services to the Commonwealth. May also be referred to as a vendor.

Women-Owned Business Enterprises (WBE) – A sole proprietorship owned and controlled by a woman. A partnership or joint venture controlled by women in which at least 51 percent of the beneficial ownership interest is held by women. A corporation or other entity controlled by women in which at least 51 percent of the voting interest and 51 percent of the beneficial ownership interest are held by women.