

Emerging and Disadvantaged Business Enterprise Policy and Procedure Manual

CITY OF WICHITA



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PROGRAM MISSION STATEMENT

The City of Wichita is committed to ensuring equal opportunity, promoting diversity and enhancing economic opportunities for Emerging and Disadvantaged businesses.

VISION

To enhance opportunities for qualified Emerging and Disadvantaged businesses by increasing their representation and utilization (measured by the amount of dollars spent) in the competitive base of contractors from which the City regularly purchases goods and services and ensure that all suppliers have equal access to the City's purchasing opportunities.

POLICY STATEMENT

The City of Wichita is committed to the development and support of Emerging and Disadvantaged Business Enterprises. It is the policy and commitment of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to participate in, compete for and be utilized by the City of Wichita in its procurement of goods and services. To ensure maximum participation and utilization, responsibility for the Emerging and Disadvantaged Businesses Program initiatives is the shared responsibility of all City departments that select providers to furnish their needed commodities and services. Each such department will be responsible for identifying and achieving departmental goals.

This Policy Statement has the endorsement of the Mayor, City Council, and the City Manager, posted and circulated to all City Departments, published on the e-Procurement web site, intranet, and made known to Emerging and Disadvantaged businesses, and community organizations, throughout the City.

EMERGING AND DISADVANTAGED BUSINESS PROGRAM

The City of Wichita recognizes and embraces the importance of providing equal opportunities to all vendors. It is the policy of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to furnish the City with commodities and services. The intent of the program is to increase the participation and utilization of Emerging and Disadvantaged businesses in the City's purchasing opportunities and to improve upon making Emerging and Disadvantaged businesses a more integral component in the provision of their commodities and services. To facilitate achieving this intent, the City of Wichita will establish annual participation and utilization goals, minimum scoring on RFP evaluations, and quicker payment terms.

The participation and utilization goals are to be based on the availability of qualified Emerging and Disadvantaged Businesses ready, willing and able to provide the needed goods and services. This does not mean that quotas are established, nor that any quote or bid must be accepted if it is not the best quote or bid for the products or services concerned. City departments must, to the

greatest extent feasible, meet annual Emerging and Disadvantaged business participation and utilization goals. Consideration is given to Departments' bona fide "good faith efforts".

The City of Wichita utilizes Request for Proposals (RFP) for professional services. The RFP process utilizes evaluation criteria that puts an emphasis on qualifications, skills, expertise, experience, work schedule and price. Emerging and Disadvantaged Businesses participation and/or Subcontracting/Joint Ventures will receive a minimum of 5% of the scoring on all City RFP evaluation criteria. Proposals utilizing federal funds have separate rules for DBE participation.

The City of Wichita general payment terms to vendors is net 30 days. City staff strive to pay all Emerging and Disadvantaged Businesses within net 10 days on City purchase orders and contracts for goods and services rendered. Providing a short payment term to qualified Emerging and Disadvantaged businesses help cash flow to better manage and grow the business.
(Revised 10/2015)

CERTIFICATION AND PROGRAM DEFINITIONS

Certification

Federally Funded and KDOT Projects

- Depending on the funding source, some City projects (i.e., federally funded and KDOT projects) will require the utilization of "**certified** Disadvantaged Business Enterprises and Federal guidelines must be used. When contractors are required to utilize Disadvantaged Business subcontractors on federally assisted projects, a Kansas Department of Commerce and KDOT directory of Disadvantaged Business Enterprises may be accessed on the City's e-Procurement web site and by clicking on the State of Kansas link. Hard copies of these directories are also available for review in the Purchasing Office. Any government entity or private firm in Kansas can utilize the Single Source Directory of Disadvantaged Business Enterprises that are listed to fulfill Disadvantaged Business Enterprise goal. To comply with the federal requirements, certification is accepted from the State of Kansas, or, when applicable regulations specifically refer to use of certifications made by the Small Business Administration, certification from the SBA is accepted.

City Projects – City Affidavit Process

The City utilizes a self-certification/signed affidavit process for identifying businesses that are defined as Emerging Business Enterprises.

Definitions

It is extremely important that all businesses are clearly defined and that there is an accurate identification of the type of business. The City of Wichita uses affidavits supplied by businesses and the criteria below to determine an “Emerging Business Enterprise, and the Small Business Administration Act (SBA) definition to determine a “Small Business” (within the context of the criteria for an Emerging Business Enterprise).

- **Disadvantaged Business Enterprise**

A business listed on the State of Kansas’ directory of Certified Disadvantaged Business Enterprises. The State definition used to certify a “Disadvantaged Business Enterprise” is a business: meeting the small business size standard, as set by 13 CFR 121 and the minimum requirements as established by U.S. DOT 49 CFR Part 26 and does not exceed \$23.98 million in gross annual receipts; at least 51 percent owned by socially and economically disadvantaged individuals; and, an individual applicant’s personal net worth must not exceed \$1,320,000 (minus ownership interest in the firm and the applicant’s equity in his or her primary residence).

For purposes of the foregoing definition, a “socially disadvantaged” person is one who is a U.S. citizen or legal resident, has been subject to discrimination in education or business, has documented such discrimination, and, is:

1. Black American
2. Hispanic American
3. Native American
4. Asian-Pacific American
5. Subcontinent-Asian American
6. A Female, or
7. Other person determined by the State to be disadvantaged

An “economically disadvantaged” person is one who is a member of one or more of the above groups and who has personal net worth of less than \$250,000 excluding the equity value of one personal residence and the equity value of the ownership in the applicant firm.

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- **Emerging Business Enterprise**

A small business enterprise including its affiliates which is independently owned and operated, is not dominant in the field of operation in which it is bidding on City contracts and further qualifies under the following criteria:

- 1) Manufacturing firms: average annual employment cannot exceed more than 500 people.
- 2) Non-manufacturing Wholesalers firms; average annual employment cannot exceed more than 100 people.
- 3) Non-manufacturing Retail Trade firms: average annual receipts cannot exceed \$7.5 million dollars.

- 4) Service firms; average annual receipts cannot exceed \$7.5 million dollars.
- 5) Construction and Contractor firms: average annual receipts cannot exceed \$15 million dollars.

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- **Small Business**

Small business definitions vary from industry to industry. The size standards define the largest that a business concern, including all of its affiliates, may be and yet qualify as a small business concern for most SBA and other federal programs. The City of Wichita will use the definition established by the Small Business Administration Act and relevant regulations, which is measured by its employment, business receipts or business assets or employees. The SBA has established two widely used size standards – 500 employees for most manufacturing and \$7.5 million in average annual receipts for many nonmanufacturing industries. However, many exceptions exist. Most retail, the average annual receipts cannot exceed \$7.5 million. Wholesale businesses, they cannot employ more than 100 employees. Manufacturing, they cannot employ more than 500 employees. General building and heavy construction contractors, the limit is an average annual receipts of \$36.5 million. The annual receipts limit for various professional and technical services are; engineering services \$15 million; architectural services \$7.5 million, and computer system design and related services \$27.5 million. For the applicable size standard, see the SBA's Small Business Size Regulations, 13 CFR §121.201, or the Table of Small Business Size Standards matched to NAICS industries for which SBA has established standards. (SBA periodically changes a size standard for an industry).

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PROGRAM IMPLEMENTATION AND STAFF

The Contract Compliance staff person shall maintain overall responsibility for the Emerging and Disadvantaged Business program administration and supplier diversity outreach. Duties will include but not be limited to the following:

Strategic Plan

- Develop a clear and organized plan to increase the participation and utilization of Emerging and Disadvantaged businesses in the City's purchasing opportunities. Work with City operating departments to establish annual participation and utilization goals.

Outreach

- Expand the registration, participation and utilization of Emerging and Disadvantaged businesses.
- Continue to review membership directories from the Mountain Plains Minority Supplier Development Council and the State of Kansas Minority and Women-Owned Businesses and Disadvantaged Business Enterprises to ensure these vendors are registered in the City's Purchasing system for goods and services that are required and needed by the City. If they are not registered with the City, mail registration materials to encourage them to register with the City and/or make on-site visits when possible.
- Provide mandatory training for all departments and purchasing staff on newly established Emerging and Disadvantaged Business Program policies and procedures.
- Provide semi-annual workshops to vendors on "How to do Business with the City" at various locations throughout the City.
- Provide technical support and networking opportunities.
- Conduct on-site visits to offer personalized training, one-on-one, "How to do business with the City" and provide vendors with an opportunity for feedback and input on how they feel Emerging and Disadvantaged business participation and utilization can be increased.
- Continue to research other Cities Emerging and Disadvantaged Business Programs to obtain "Best Practices" that can be adapted and included as part of the City's.
- Work with the on-going committee, in conjunction with USD 259 and Sedgwick County Purchasing Departments, to monitor the progress of the City's Emerging and Disadvantaged Business Enterprise program.

Tracking and Reporting

- Perform daily (on-going) monitoring of Emerging, Minority, Women-Owned Disadvantaged and Small businesses and provide quarterly reports on the review of actual year to date purchases to management. For purposes of the tracking and reporting functions, “Minority Business Enterprise” (MBE) is a business that is at least 51% owned and controlled by an ethnic minority (e.g. African American, Asian American, Hispanic/Latino, Native American, Alaska American, and/or Pacific Islander).
- A “Woman Owned Business Enterprise” (WOBE) business is at least 51% owned or controlled by a woman (women). “Control” is defined in the context meaning exercise of the power to make policy decisions and active involvement in running the day-to-day operations of the business.
- Review and track all bid activity and provide quarterly reports out of the Purchasing system to the City Council.
- Establish and maintain a tracking system of prime contractors’ purchases from Emerging, Minority, Women Owned, Disadvantaged and Small Business Enterprises on all construction projects that go through the formal bid process.
- Determine the availability of qualified Emerging, Minority, Women-Owned, Disadvantaged and Small vendors who are available to provide needed goods and services to the City. This report identifies all registered Emerging, Minority, Women-owned, Disadvantaged and Small vendors by the goods and services they provide. (i.e. a report showing all Emerging, Minority, Women-Owned, Disadvantaged and Small vendors that provide lawn services, janitorial services, construction, etc).
- Develop a process to ensure Emerging and Disadvantaged business utilization and participation from all departments. Responsibility for the program initiatives to be a coordinated/shared effort between all city departments. A process will be developed to measure actual participation and utilization.
- Develop matrix to measure outreach programs such as number of new registrations per month, number of monthly site visits and number of one-on-one consultations provided.
- Encourage prime contractors to use Emerging and Disadvantaged sub-contractors. Establish a formal process to track the utilization of sub-contractors on construction projects within the purchasing system.

Increased Advertising

- Advertising published in the Wichita Eagle newspaper. Publish bids on the City’s Vendor Services web site and when applicable, use a variety of other media to advertise.
- Utilize Mountain Plains Minority Supplier Development Council membership and networking opportunities, continue to have staff serve on the Board of Directors for MPMSDC.

Unbundling of Construction & Large Bid Projects

Where cost-effective and feasible, the City of Wichita will continue to unbundle construction & large contracts to make them accessible to Emerging and Disadvantaged businesses. The Construction Project Manager reviews each bid project specification prior to the posting & advertisement of the bid to determine the best process that is cost effective and legal.

Bonding Requirements

Continue to work with management and/or the City's Legislative consultant to change State law to allow local governments to establish their own bonding requirement dollar levels which would be commensurate with the risk level assessed on the project. New law on public works bonding minimum requirement of \$100,000 from previous minimum amount of \$40,000 effective July 1, 2004. Excluding engineering projects that require performance and maintenance bonds that are under the \$100,000 minimum.

Good Faith Efforts

Responsive low bidders and City Departments, as appropriate, will be required to provide evidence of good faith efforts to reach applicable goals for Emerging and Disadvantaged business participation. The following is a list of some of the types of actions the City of Wichita consider as part of such good faith efforts to obtain Emerging and Disadvantaged Business participation.

1. Solicitation of Emerging and Disadvantaged Business participation by inviting such businesses to pre-bid meetings held by the City or the bidder.
2. Documentation of the reasons why Emerging and Disadvantaged Business participation was not achieved for a given project or purchase (e.g., that such businesses did not submit responsive bids/proposals, or that the bids/proposals submitted by such businesses were not the best bids/proposals received).
3. Subcontracting work items normally accomplished by prime contractor staff, if such can be done at equal or lower cost.
4. Utilizing Emerging and Disadvantaged Business organizations, newspapers and broadcast media to recruit interested businesses.

EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION REQUIREMENTS

All vendors with four (4) or more employees are required, when requested, to provide an Equal Employment Opportunity/Affirmative Action submittal when the cumulative total of purchases or contracts exceeds \$5,000 within a 12-month fiscal year period. Successful bidders will be contacted when they do not have a current EEO/AA submittal on file with the Purchasing Office.