

## Equity Contracting and Purchasing Policy and Data Reporting Procedures

### **I. Purpose**

It is the policy of the Oregon University System (OUS) that all businesses, including small, minority and women-owned businesses, shall be given the maximum practicable opportunity to compete for and be awarded contracts by the Institutions within OUS. The goal of this policy is to expand economic opportunities for historically underrepresented businesses by encouraging participation in OUS contracting and purchasing.

ORS 351.070(2)(c) requires the Board to adopt policies and procedures that achieve results related to the participation of Minority, Women and Emerging Small Businesses, as defined by the State of Oregon (MWESBs), that equal or exceed the standards in effect on July 17, 1995. The Board has further delegated its authority to the Institutions under ORS 351.060(9) and the Institutions have further delegated their authority for certain types of contracts and purchases to departments and employees pursuant to their specific Institutional policies. OAR 580-061-0000(1)(f) provides that OUS employees should encourage participation by MWESBs. This requirement is further set out in OAR 580-061-0030. The Board's Policy on Diversity, approved on March 6, 2009, provides that the Board is committed to vendor and contracting practices that encourage and promote participation by MWESBs and requires periodic reports to the Board by the Chancellor and the Presidents of each Institution on progress in vendor and contracting initiatives and practices.

This policy implements these requirements. It includes targeted outreach efforts aimed at increasing opportunities for a wide range of businesses, including Certified MWESBs and minority and women-owned businesses that are not currently certified by the OBDD or which have chosen an alternative agency for certification. No provision of this policy is intended to provide for or encourage, and the policy should not be construed as providing for or encouraging, the granting of any unlawful preferences in OUS contracting, and the provisions of this policy shall be implemented in accordance with the requirements of state and federal law.

### **II. Definitions:**

All capitalized terms not defined in this policy have the definitions set out in OUS rules.

**Certified MWESB:** An MWESB certified by the Oregon Business Development Department (OBDD).

**Historically Underrepresented Business:** Certified and self-identified MWESBs and firms certified federally or by another state or entity with substantially similar procedures to the State of Oregon.

Management Plan: A plan to increase the diversity of a business' workforce and to subcontract with or purchase from Historically Underrepresented Businesses. The Management Plan may include the business' nondiscrimination practices, subcontracting strategy, workforce diversity plan, and outreach plan to increase participation by Historically Underrepresented Businesses. Institutions are also encouraged to consider past performance of businesses in regards to workforce diversity and subcontracting plans as part of the Management Plan evaluation. The Management Plan, except for any percentage goals to utilize Historically Underrepresented Businesses, shall become part of the Contract.

Outreach Plan: An Institution's plan to increase utilization of Historically Underrepresented Businesses

### **III. Outreach**

Each Institution shall develop an Outreach Plan. At the discretion of the Institution, an Outreach Plan may include elements such as: vendor fairs, small group meetings between Historically Underrepresented Businesses and persons who solicit and enter into contracts for the Institution, technical assistance for Historically Underrepresented Businesses, and dissemination of resources to Institution employees with purchasing authority. The Outreach Plan may also include outreach to businesses owned by disabled veterans.

### **IV. Construction-Related Services, Professional Consultants, and Capital Construction**

#### **A. Retainer Program for Construction Related Services**

All contracts with a contract value greater than \$50,000 that are awarded under the Retainer Program for Construction Related Services shall require a Solicitation Effort to at least two (2) Historically Underrepresented Businesses.

#### **B. Retainer Program for Professional Consultants**

All contracts with a contract value greater than \$100,000 awarded under the Retainer Program for Professional Consultants shall require a Solicitation Effort to at least two (2) Historically Underrepresented Businesses professional consultants.

#### **C. CM/GC and Design/Build Capital Construction Projects**

All RFPs for capital construction projects and associated professional consultants utilizing CM/GC or Design/Build processes shall include a Management Plan by the proposer as part of the evaluation criteria. At least ten percent (10%) of the total points allocated for evaluation shall be allocated to the Management Plan.

#### **D. Solicitation Effort**

For purposes of this section, Solicitation Effort means:

1. Contacting at least two (2) Historically Underrepresented Businesses, if available, individually by appropriate means (letter, fax, e-mail or telephone) to alert them of the contracting opportunity; and
2. Providing the Historically Underrepresented Businesses the same amount of time to respond to the proposal as non-Historically Underrepresented Businesses; and
3. If the Institution solicits bids without posting an RFP on the OUS website, posting the names of the contractors that the Institution has chosen to submit bids on the OUS Business Opportunity Capital Construction Subcontracting Opportunities website so that Historically Underrepresented Businesses can contact them to provide their services as subcontractors or suppliers; OR
4. If a significant portion of the Contract will be subcontracted to other businesses, per the determination of the Institution, the inclusion of a Management Plan as part of the evaluation criteria. The evaluation of the Management Plan must represent at least ten percent (10%) of the total points allocated for evaluation.

## **V. Purchasing of Goods or Services**

All Informal Procurements with a contract value of more than \$25,000 for purchase of goods or services under a competitive process shall require a Solicitation Effort to at least one (1) certified MWESB firm.

### **A. Solicitation Effort**

For the purposes of this section, Solicitation Effort means:

1. Institutions shall contact one Certified MWESB, if available, by appropriate means (letter, fax, e-mail or telephone) to alert them of the contracting opportunity and provide them reasonable notice to respond.
2. If no Certified MWESBs are available for the applicable solicitation, Self-identified MWESBs or firms certified by a state, the federal government or other entities, as available, may be used to satisfy the requirements of this section.

## **VI. Records**

Institutions shall keep a record of all Solicitation Efforts with its solicitation documents and in accordance with the OUS records retention rules.

## **VII. Emergency Procurements and Other Exempted Contracts**

This policy is inapplicable to Emergency Procurements. This policy is inapplicable to any contract exempted from competitive procurement under existing OUS policies or rules. Notwithstanding the foregoing, Institutions are still strongly encouraged to contact Historically Underrepresented Businesses for Emergency Procurements or exempt contracts.

## **VIII. Annual Report**

A. Each Institution must submit an Annual Report on its equity contracting and purchasing efforts to the OUS Chancellor's Office by November 1. Reports will be presented to the State Board of Higher Education annually.

B. The Annual Report shall include data on utilization of Historically Underrepresented Businesses for capital construction projects and goods or services purchases for the most recently completed Fiscal Year. The Annual Report will also compare utilization to the previous year's utilization. Institutions may choose to include comparisons to data from any other previous Fiscal Year, as available.

1. Utilization data shall be separated into the following categories:

- a) Certified Minority Business Enterprises;
- b) Certified Women Businesses Enterprises;
- c) Certified Emerging Small Business Enterprises; and
- d) Self-identified MWESBs and MWESBs certified by another state, the federal government or some other certifying entity, whose certification processes are substantially similar to the processes used by the OBDD.

2. The Annual Report must include utilization data from the contracts with firms within the categories listed in 1(a), (b) and (c). The Annual Report may utilization data from contracts with firms within the category listed in 1(d). The Annual Report may also include utilization data from contracts with non-MWESB firms that subcontract with Historically Underrepresented Businesses.

3. The Annual Report shall include data on Historically Underrepresented Firms that are subcontractors on capital construction projects. The OUS Chancellor's Office shall set out the format for reporting this data.

4. The Annual Reports shall include the total number of Historically Underrepresented Businesses that did business with the Institution during the most recently completed Fiscal Year.

5. All utilization data shall be reported as a percentage of total covered expenditures and as the total value of the covered contracts as set out below. The expenditure categories listed in Addendum 1 shall be excluded from the report.

Required Data Fields for Annual Report

1. Dollar Value

	Capital Construction (including subcontracting)	Goods and Services	Total
1. Certified Minority Business Enterprises			
2. Certified Women Business Enterprises			
3. Certified ESBs			
Total of 1-3			
4. Self-identified MWESBs and MWESBs certified by other than OBDD			
Total of 1-4			

2. Percentage of Total Expenditures

	Capital Construction (including subcontracting)	Goods and Services	Total
1. Certified Minority Business Enterprises			
2. Certified Women Business Enterprises			
3. Certified ESBs			
Total of 1-3			
4. Self-identified MWESBs and MWESBs certified by other than OBDD			
Total of 1-4			

3. Number of Historically Underrepresented Businesses doing business with Institution

	Capital Construction (including subcontracting)	Goods and Services	Total
1. Certified Minority Business Enterprises			
2. Certified Women Business Enterprises			
3. Certified ESBs			
Total of 1-3			
4. Self-identified MWESBs and MWESBs certified by other than OBDD			
Total of 1-4			

## **ADDENDUM 1**

### **Excluded Expenditure Categories**

[To be completed by Staff and updated via Fiscal Policy Manual.]