NOTICE TO BIDDERS


I. Policy

Columbia University is fully committed to the well being and competitive strength of minority-, woman-owned and locally-based businesses and to provide maximum practicable opportunities in contracting for construction. This policy commitment is related directly to the maintenance of a strong and healthy free enterprise system, the goals of equal opportunity and diversity, and increasing the participation of qualified minority- and woman-owned and locally-based businesses working with the University. The University believes that the goal of assuring that a fair proportion of University construction contracts initiated by Columbia University Facilities are awarded to Minority-owned Business Enterprises ("MBEs"), Women-owned Business Enterprises ("WBEs") and Locally based Business Enterprises ("LBEs") is consistent with reasonable pricing and quality and prevailing law. This belief is best served by the employment of Contractors who do not discriminate against minority- and women-owned businesses in the awarding of construction subcontracts and which engage in substantive, honest and fair marketing outreach efforts to members of these traditionally disadvantaged groups of contractors.

It is the policy of the University to comply with all Federal, State and Local laws, policies, orders, rules and regulations which prohibit unlawful discrimination, to prohibit discrimination because of race, creed, color, national origin, gender, sexual orientation, age, disability or marital status, and to take affirmative action to ensure that Minority and Women-owned Business Enterprises, Locally-based Business Enterprises (M/W/LBEs), Minority Group Members, women and local area residents share in the economic opportunities generated by Columbia’s participation in projects or initiatives, and/or the use of Columbia funds.

As a Harlem-based institution, the University principally defines its “local” catchment area as those communities located in the zip codes that contain, in whole, or in part, the census tracks of the federally mandated New York Empowerment Zone (NYEZ). A listing of these zip codes is found in Section V.

In order to participate in contracting opportunities as an M/WBE, firms must be able to demonstrate that they are certified. Typically, certification by established governmental and quasi-governmental agencies is required and the University will rely on M/WBE certifications granted by specifically identified agencies or institutions in New York, New Jersey and Connecticut. Acceptable certifications are found in Section V.
An outline of the M/W/LBE Goals and Objectives, Non-Discrimination and Affirmative Action provisions and the reporting mechanisms that are required in Columbia University construction contracts follows.

II. **Goals and Objectives**

Contractors entering into construction contracts with the University must meet these established goals and objectives:

1. **For Minority-, Women-Owned and Locally-based Business Enterprise participation**

   (a) The Contracting Party is required to provide maximum practicable opportunities to achieve an overall M/W/LBE participation of **35%** of the total dollar value of the Contract of which at least **20%** of the total value of the contract should be Minority- and / or Women- owned firms certified by the New York Empire State Development (ESD).

   (b) The M/W/LBE participation in the performance of the work is expressed as a percentage of the contract price.

   (c) The total dollar value of the work performed by M/W/LBEs will be determined as: (i) the dollar value of the work subcontracted to M/W/LBEs; (ii) where the Contractor is a joint venture, association, partnership or other similar entity including one or more M/W/LBEs, the contract price multiplied by the percentage of the entity’s profits/losses which are to accrue to the M/W/LBE(s) under the Contractor’s agreement; or (iii) where the M/W/LBE is the Contractor, the contract price.

   (d) The Contractor shall include, or cause to be included, the provisions of clauses (a) through (c) in every Contract that it enters into in order to fulfill its obligations under the Contract, in such a manner that such provisions will be binding upon each and every Contracting Party with respect to any Contract.

2. **For Minority, Female and Local Workforce Participation**

   (a) Contractor is required to provide maximum practicable opportunities to achieve overall participation of **40%** minority, female and local workforce in the work performed pursuant to Contracts entered into in connection with projects with an estimated value in excess of $1 million, with a preference to maximize local participation.

   (b) The M/W/L workforce participation requirements are expressed as a percentage equal to the person hours of training and employment of minority, female or local workers, as the case may be, used by any Contractor, divided by the total person hours of training and employment of all workers (including supervisory personnel).
(c) Contractor shall not participate in the transfer of minority, female or local employees or trainees from employer-to-employer or from project-to-project for the sole purpose of meeting the Contractor’s obligations herein.

(d) Contractor shall identify and employ qualified minority, female and local supervisory personnel and journey persons.

(e) The non-working hours of trainees or apprentices may not be considered in meeting the requirements goals for M/W/L workforce participation contained herein unless: (i) such trainees or apprentices are employed by Contractor during the training period; (ii) the Contractor has made a commitment to employ the trainees or apprentices at the completion of their training, subject to the availability of employment opportunities; and (iii) the trainees are trained pursuant to an approved training program.

(f) The Contractor shall include, or cause to be included, the provisions of clauses (a) through (e) in every Contract that it enters into in order to fulfill its obligations under the Contract, in such a manner that such provisions will be binding upon each and every Contractor with respect to any Contract.

3. Contractor Equal Opportunity Policy Statements

All Contractors who are awarded construction contracts are required to comply with the University’s non-discrimination and affirmative action policy and must agree to provide to Columbia University an equal employment opportunity policy statement that:

(a) describes the Contractor’s non-discrimination policies and practices

(b) describes how the Contractor will undertake or continue existing programs of affirmative action

(c) documents the Contractor’s conscientious and active efforts to employ and utilize Minority Group Members and women in its workforce on Contracts.

In addition, upon request, Contractors shall request that each employment agency, labor union, or authorized representative of workers with whom it has a collective bargaining or other agreement or understanding, furnish a written statement that such employment agency, labor union, or representative does not unlawfully discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor’s obligations herein.

4. Notice to Unions

Where applicable, upon request, the Contractor shall promptly send written notification to its union representatives of its Equal Employment Opportunity obligations on this project and submit copies and mailing/fax receipts of these notices.
III. Contractor Reporting Requirements

Contractors entering into construction contracts will be required to meet specific reporting and administrative requirements, must permit access to books, records and accounts with respect to the Contract by the University or where applicable, the Construction Manager.

1. M/W/LBE Utilization Plans and M/W/LBE participation reporting

Prior to the commencement of any construction work for Contracts with an estimated value in excess of $100,000, where the work involves more than one trade, the Contractor (including M/W/LBE contractors) must prepare an M/W/LBE plan identifying how it intends to comply with the M/W/LBE goals. Subcontracting, partnering and joint venture methods will be scrutinized to ensure that the M/W/LBE is functioning as a true contributor to the business arrangement with its Construction Manager, General Contractor, consultant, trade contractors, supplier and vendors.

The plan must be broken down by individual contractors. In the initial stages of the construction work (prior to awards) a breakdown by trade is acceptable. On a monthly basis, the original utilization plan must be compared to a current plan that reflects changes due to the various awards and effects of change orders, as well as current spending (See Schedule M).

In order to ascertain compliance with the University’s non-discrimination and affirmative action policy, Contractors and Construction Managers have to comply with the following reporting requirements:

a. Tier Reporting Guidelines and Required Back up Documentation.

The reporting criteria for construction spending to be used by contractors in meeting the University’s M/W/LBE Goals and Objectives, Non-Discrimination and Affirmative Action provisions is as follows:

- First Tier (Construction Manager): reporting on Construction Manager spending (Fee, Insurance, General Conditions) is based on the CM designation.
- Second Tier: (Subcontractors & Suppliers): reporting is required and is based on the MWL/BE designation of each Subcontractor or Supplier.
- Third Tier: (Sub-Subcontractors & Suppliers to the Subcontractors): reporting is required even when second tier trades and suppliers are MWL/BE (Flow-down).
- No preferential designation in reporting for firms that have more than one designation is allowed. For example if a firm is both M and W it should be reported as MW.
EXHIBIT E

- The Construction Manager must provide the name, EIN and address of the firm including zip code and all MW certifications for the Minority and Women owned firms.

b. **Construction Managers (Tier I)** are required to enter in Columbia’s project management system (Unifier) all Bid Lists and Recommendations to Award (RTA’s) for approval along with detail information for each Vendor recommended to be awarded a contract.

For each RTA the following information is required for each Vendor:

- Name of vendor
- Vendor EIN number (Federal ID number)
- Vendor address including Zipcode
- M/W/LBE Status
- Name of agency issuing the M/W/LBE certificate (all certificates should be uploaded in Unifier)
- Amount of recommended award.

In addition they must submit updated **Schedules M2 and M3** as an attachment to all their invoices, indicating the current utilization plan and spending for each Tier II vendor.

c. **Subcontractors & Suppliers (Tier 2)** must submit to the Construction Manager **Schedule M3** as an attachment to all their invoices, indicating their current utilization plan and spending for all MW/LBE and Non MW/LBE Tier 3 vendors. The following information must be included for each vendor:

- Name of vendor
- Vendor EIN number (Federal ID number)
- Vendor address including Zipcode
- M/W/LBE Status
- Name of agency issuing the M/W/LBE certificate (all certificates must be attached)
- Amount of award and amount billed.

2. **M/W/LBE workforce reporting**

For Projects with an estimated value in excess of $1 million, in addition to the reporting requirements in section III paragraph 2 workforce reporting is required as follows:

- Reporting on Workforce Participation is required down to the Third Tier based on individuals who work on the project.
- No preferential designation in reporting for individuals that have more than one designation is allowed. For example if an individual is both M and W they should be
a. Construction Managers must submit the following:

On a monthly basis, by the 20th of each month, the Construction Manager will verify that the data submitted by the Sub-Contractors (Tier 2 and 3) matches their supporting documentation and submit the information in the owners Project Management System (Unifier) along with all supporting documentation for approval by the Owner. Sub-contractors (Tier 2) must submit electronically to the Construction Manager the following by the 15th of each month:

- Owner issued spreadsheet that summarizes all workforce data.
- Single PDF with the certified payroll, weeks in chronological order.
- The information in the Excel Spreadsheet must precisely match the information as listed in the certified payroll.
- Only electronic submissions will be accepted.
- The following required information shall be included from, Tier 2 and Tier 3.
  - Vendor Name (all Vendors in Tree)
  - Vendor Address (all Vendors in Tree)
  - Vendor EIN (all Vendors in Tree)
  - Tier level (all Vendors in Tree)
  - Project Name
  - Full Name of Employee
  - Current Address including Zip Code
  - MWL status as defined in CU Policy. Record the following MWL classifications M, W, L, MW, ML, WL, MWL, Non-MWL.
- Daily work force reports.
- Payroll records with a certified Statement of Compliance.
- Certification letters for all apprentices employed at this project.

IV. Compliance Criteria and Sanctions for Non Compliance

1. Compliance Evaluation Criteria Goals:

In determining whether a Contractor has provided maximum practicable opportunities to achieve his or her firm’s M/W/LBE utilization goal, the University will consider the actions and activities as described in section V, paragraph 6 “Good Faith Efforts”. Furthermore, the following criteria will be used for applicable contract dollars paid to M/W/LBEs:

a). Amounts paid by the Contractor to M/W/LBE subcontractors for providing goods and services specifically purchased in connection with the contract work.
EXHIBIT E

b). Amounts paid to M/W/LBE subcontractors that represent the percentage of the total profit to which the M/W/LBE subcontractor is entitled under an approved partnership or joint venture plan.

c). Amounts paid to subcontractors which, in turn, have subcontracted to M/W/LBE subcontractors. Under this circumstance, the amounts paid to M/W/LBE subcontractors which are in turn paid to other M/W/LBE subcontractors (third parties) may be credited to the Contractor only once.

d). In the event a firm satisfies the criteria for M/W/LBEs, the total amount paid to such firm may be credited only once.

e). M/W/BE subcontractors must be certified and LBEs must be approved by the University for amounts paid to be credited.

2. Non-Compliance and Sanctions:

In the event that any Contractor violates any of the provisions herein, the University may impose the following sanctions and remedies for non-compliance:

(a) Summon the Contractor for a hearing with the University and where applicable Construction Manager.

(b) After any such hearing, and a determination by the University or where applicable, Construction Manager, that the Contractor has failed to comply with any of these provisions, and the passage of time in which to remedy such failure has transpired, this Contract may be canceled, terminated or suspended, in whole or in part. Alternatively, the University or where applicable Construction Manager, in his/her sole discretion, may assess liquidated damages against the Contractor for failure to demonstrate its best efforts in complying with the affirmative action program. Liquidated damages may be assessed in an amount equal to one percent of the Contract value to compensate for the dollar value of Contracts that would have been realized by M/W/LBEs if the goals and objectives had been achieved.

(c) If such an award is assessed against any Contractor, (i) the amount of such assessment may be withheld from any monies due to the Contractor by the University or where applicable Construction Manager or; (ii) may be paid to the University or Construction Manager by the Contractor that has been found to fail to comply with the affirmative action program. Any liquidated damages collected hereunder shall be paid into one or more M/W/LBE technical assistance funds administered by the University or Construction Manager.
(d) Such sanctions that may be imposed and remedies invoked hereunder, shall be considered independent of, or in addition to, sanctions and remedies otherwise provided by law.

V. Definitions

1. Affirmative Action

Shall mean the actions to be undertaken by the Contractor in connection with any project to ensure non-discrimination and Minority-, Women-owned and Locally-based Business Enterprise and Minority, Female and Local workforce participation, as set forth in Sections II and III herein, and developed by Columbia University.

2. Contract

Shall mean a written agreement or purchase order instrument, or amendment thereto, executed by or on behalf of a Contracting Party, providing for a total expenditure in excess of $100,000, where the work is to be performed by more than one trade, for labor, services, supplies, equipment, materials or any combination of the foregoing, unless the Columbia University Facilities has granted a waiver based on a determination that the Contract involves specialty construction services (services of a unique and special nature for which there exists a limited number of qualified business entities employing a work force capable of performing such services, “Specialty Construction Services”).

3. Contractor

Shall mean a general contractor, construction manager, or subcontractor as applicable.

4. Tiers

First Tier shall mean the Construction Manager. Second Tier shall mean the Subcontractors & Suppliers. Third Tier shall mean the Sub-Subcontractors & Suppliers to the Subcontractors.

5. Contracting Party

Shall mean any Contractor, consultant, sub-consultant or vendor supplying goods or services, pursuant to a Contract in excess of $100,000, unless the University has granted a waiver for Specialty Construction Services

6. Construction

Shall be restricted to mean construction-related spending.

7. Good Faith Efforts – Minority, Women and Locally owned Business Enterprise Participation
Contractor shall utilize their good faith efforts to achieve the required M/W/LBE participation goals and objectives. The role of M/W/LBE firms is not restricted to that of a subcontractor/sub-consultant, and where applicable, M/W/LBE firms should be considered for roles as prime contractors. For Contracts with an estimated value in excess of $100,000 where the work involves more than one trade, such good faith efforts shall include at least the following:

(a) Dividing the contract work into smaller portions in such a manner as to permit subcontracting to the extent that it is economically and technically feasible to do so;

(b) Actively and affirmatively soliciting bids from qualified M/W/LBEs, including upon request circulation of solicitations to minority, women's and local trade associations. Contractor shall maintain records detailing the efforts made to provide for meaningful M/W/LBE participation in the work. Such record keeping must include the names and addresses of all M/W/LBEs contacted and, if an M/W/LBE is the low bidder and is not selected for such work or portion thereof, the reasons for such decision;

(c) Making plans and specifications for prospective work available to M/W/LBEs in sufficient time for review;

(d) Utilizing the services and cooperating with those organizations providing technical assistance to the Contracting Party in connection with potential M/W/LBE participation on the Contract;

(e) Taking its own actions for extensive outreach, and utilizing the resources of Columbia University and where applicable the Construction Manager, to identify certified M/W/LBE firms on a trade-by-trade and tier-by-tier basis for the purpose of soliciting bids and subcontracts;

(f) Encouraging the formation of joint ventures, associations, partnerships, or other similar entities, where appropriate, to ensure that the Contractor will meet its obligations herein.

(g) Producing evidence that all M/W/L subcontracts have current and valid certifications;

(h) Submitting documentation prior to the award of a subcontract substantiating Contractor’s commitments in the utilization plan;

(i) Conducting meetings with subcontractors to review compliance with the utilization plan and monthly reports; and

(j) Remitting payment in a timely fashion.

8. Good Faith Efforts - Minority Group Member, Female and Local Workforce Participation
Contractors shall utilize their good faith efforts to provide for meaningful Minority Group Member, Female and Local workforce participation. For projects with an estimated value in excess of $1 million, good faith efforts shall include at least the following in connection with the work:

(a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at the premises. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the obligation to maintain such a working environment, with specific attention to Minority Group Member, Female and Local individuals working at the premises;

(b) State in all solicitations or advertisement for employees that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, gender, sexual orientation, age disability or marital status;

(c) Send to each labor union or representative of workers with which a collective bargaining agreement or understanding is in place, a notice advising the said labor union or workers representative of commitments under this Section, and post copies of the notice in conspicuous places available to employees and applicants for employment;

(d) Establish and maintain a current list of Minority Group Member, Female and Local recruitment sources and community organizations, and provide written notification to them when employment opportunities are available. Maintain a record of the organizations’ responses;

(e) Maintain a current file of the name, address and telephone number of each Minority Group Member, Female and Local applicant and any referrals from a union, recruitment source, the University or community organization, and of the action taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back by the union or, if referred, was not employed, this shall be documented in writing in the file with the reasons therefore; along with whatever additional actions the Contractor may have taken;

(f) Assist and support the University in implementing pre-apprenticeship training programs such as the Edward J. Malloy Construction Skills Program, Helmets to Hard Hats, and Nontraditional Employment for Women;

(g) Disseminate the Contractor’s equal employment opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in meeting its Equal Employment Opportunity obligations, by including it in any policy manual and collective bargaining agreement, by publicizing it in the company newspaper, annual report, and other similar items, by specific review of the policy with all management personnel and with all Minority Group Member, Female and Local employees at least once a year, and by posting the company Equal Employment Opportunity policy on bulletin boards accessible to all employees at each location where work is performed under this Contract;
EXHIBIT E

(h) Disseminate the Contractor’s Equal Employment Opportunity policy externally by
including it in any advertising in the news media, specifically including Minority Group
Member, Female and Local news media, and providing written notification to and
discussing the Equal Employment Opportunity policy with any Contractor with whom the
Contractor does or anticipates doing business; and,

(i) Ensure that all facilities and company activities are non-segregated except that separate
or single-user toilets and necessary changing facilities shall be provided to assure privacy
between the sexes.

(j) Submit documentation prior to the award of a subcontract substantiating Contractor’s
commitments to workforce participation goals.

(k) Conduct meetings with subcontractors to review compliance with the workforce
participation goals and monthly reports.

9. Local Workforce Group Member

Shall mean a United States citizen or permanent resident alien who is and can demonstrate
that they maintain a primary residence in one of the following United States Postal Service
Zip Code areas: 10025, 10026, 10027, 10029, 10030, 10031, 10032, 10033, 10034, 10035,
10037, 10039, 10040, 10451, 10455, 10454, and 10474.

10. Acceptable M/W/BE certifications

The preferred certification for all firms awarded work on the Manhattanville project is the
Empire State Development (ESD) certification. The M/WBE certifications accepted for
firms working on the Manhattanville and all Columbia projects include:

- New York Empire State Development Corporation (ESD)
- New York City Department of Small Business Services (SBS)
- New York School Construction Authority (SCA)
- NY Metropolitan Transit Authority (MTA)
- Dormitory Authority of the State of New York (DASNY)
- Port Authority of New York/New Jersey (PANYNJ)
- Women’s Business Enterprise National Council (WBENC) WBE only
- New York & New Jersey Minority Supplier Development Council (NYNJMSDC) MBE
  only
- Selected certifying agencies in other states as determined by a Columbia University
  waiver
11. Local Business Enterprise (“LBE”)

As a Harlem-based institution, the University principally defines its “local” catchment area as those communities located in the zip codes that contain, in whole, or in part, the census tracks of the federally mandated New York Empowerment Zone (NYEZ). In Manhattan, this area is defined as Upper Manhattan, or all points north of 96th Street, river to river. The zip codes of Upper Manhattan are: 10025, 10026, 10027, 10029, 10030, 10031, 10032, 10033, 10034, 10035, 10037, 10039 and 10040. In the Bronx, this area is defined by the following zip codes: 10451, 10454, 10455 and 10474. A business enterprise, including a sole proprietorship, partnership or corporation is deemed to be local if they maintain a primary business address, or has a significant administrative business presence, in one of these zip codes.

12. Maximum Practicable Opportunity (MPO)

Shall mean that a contractor or subcontractor must offer real opportunities to the maximum extent possible to M/W/LBEs to participate as subcontractors. If maximum opportunities are extended, then subcontracts to these concerns usually result. MPO means that a contractor should extend maximum opportunities to M/W/LBEs to bid on subcontracts, and, if appropriate, to award subcontracts to them. Meeting a numerical goal does not, by itself, mean that a contractor or subcontractor has provided MPO. Likewise, not meeting a goal does not necessarily mean that a contractor or subcontractor has not provided MPO.

13. Minority Business Enterprise (“MBE”)

Shall mean a business enterprise authorized to do business in the State of New York and certified pursuant to section V as a minority-owned business enterprise.

14. Minority Group Member

Shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

15. Women-owned Business Enterprise (“WBE”)

Shall mean a business enterprise authorized to do business in the State of New York and is certified as a woman-owned business enterprise pursuant to section V.