

**MINORITY BUSINESS ENTERPRISE PARTICIPATION IN WAKE COUNTY BUILDING
CONSTRUCTION AND REPAIR CONTRACTS
INFORMAL CONTRACTS**

1.1 POLICY STATEMENT

It is the policy of the County to encourage minorities to participate in its building construction, renovation and repair projects.

It is further the policy of the County to prohibit illegal discrimination against any person or business enterprise and to conduct its building construction, renovation and repair programs so as to prevent such discrimination.

It is the policy of the County in concert with other local, state and federal agencies and with the assistance of minority groups and agencies, to seek and identify qualified minority business enterprises (MBEs) and to offer them the opportunity to participate, and to encourage them to participate, in the County's building construction and repair programs. Under this policy, the County adopts the definition of MBEs contained in N.C.G.S. § 143-128.2.

It is the policy of the County to provide information and opportunities to minority business enterprises that are available to other business enterprises, and to establish procedures providing MBEs access to information and opportunities available to other business enterprises.

It is the intent of this policy to secure contractors' participation and ensure competition. Nothing in this policy shall be construed to require contractors or the County to award contracts or subcontracts or to make purchases of materials or equipment from minority business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

The County will award public building construction and repair contracts to the lowest responsible, responsive bidder as provided by Article 8 of Chapter 143 of the North Carolina General Statutes.

1.2 SCOPE: This Policy Applies To Minority Business, Minority Persons, and Socially and Economically Disadvantaged Individuals [Ref: N.C.G.S. §143-128.2(g)]

A. A Minority Business (MBE) is a business:

1. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals, and
2. 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.

- B. A Minority Person¹ is a person who is a citizen or lawful permanent resident of the United States, and who is:
1. Black, that is, a person having origins in any of the black racial groups in Africa;
 2. 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;
 3. 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, the Pacific Islands;
 4. American Indian or Alaskan Native, that is, a person having origins in any of the original peoples of North America; or
 5. Female.
- C. A Socially and Economically Disadvantaged Individual is defined by 15 U.S.C. 637 as a socially disadvantaged individual 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 who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the federal government considers factors such as assets and net worth. This category includes members of economically disadvantaged Indian tribes.

1.3 VERIFIABLE GOALS FOR MINORITY BUSINESS ENTERPRISE PARTICIPATION²

- A. County Funded Building Construction or Repair Projects costing \$30,000 or more
1. The County has established a verifiable goal of ten percent (10%) for participation by minority businesses in building construction and repair projects covered by this section. [Ref: N.C.G.S. §143-128.2 (a)]
- B. For Building Construction or Repair Projects Using State Appropriations or Other State Grant Funds Where the Project Cost is Equal to or Greater than One Hundred Thousand Dollars (\$100,000), the County shall use the State's verifiable goal of ten percent (10%) for participation by minority business in building construction and repair projects covered by this section. [Ref: N.C.G.S. §143-128.2 (a)]

¹ For building projects funded in whole or in part with federal funds, Hasidic Jews are also considered minority persons.

² Projects funded in whole or in part with federal funds will comply with applicable federal thresholds regarding Minority and Woman Owned Business Enterprises participation.

**REGULATIONS AND PROCEDURES FOR IMPLEMENTING MINORITY BUSINESS
ENTERPRISE PARTICIPATION POLICY**

2.1 INFORMAL BUILDING PROJECTS: Building construction and repair projects costing more than Thirty Thousand Dollars (\$30,000), but less than Three Hundred Thousand Dollars (\$300,000).

A. County Responsibilities:

1. Notify Minority Business Enterprises of bidding opportunities by one of the following methods:
 - a) Advertise the project at the Raleigh/Durham/Triad Minority Business Development Center or similar institution, or;
 - b) Advertise the project in an identified Minority Business Enterprise targeted newspaper(s) or;
 - c) Attempt to contact Minority Business Enterprises totaling at least 30% of the total number of vendors contacted [Ref.: N.C.G.S. §143-129. (b)]
2. Record all contractors contacted, along with the list of contractors provided with bidding documents.
3. Identify Minority Business firms contacted and record their minority category.
4. Record all contractors submitting bids, along with the amount of each bid.
5. Within five (5) days of project completion, submit a completed “Informal Construction Project Report Form” to the Wake County Finance Department.
6. The Wake County Finance Department will collect store, and report data and forms referenced in this Section 00500. See Section 3.2

B. Contractor Responsibilities:

1. The Contractor will provide the following documentation, **Wake County Form MBE-6**, at contract closeout and prior to final payment by the county.
 - a) A list of minority business’s used on the project, identifying the businesses name, type of work performed, and minority category.
 - b) List the dollar amount paid to each minority business and the percentage it represents of the final project value.

2.2 COUNTY RECORD KEEPING PROCEDURES FOR MONITORING CONTRACTOR COMPLIANCE ON COUNTY BUILDING CONSTRUCTION AND REPAIR PROJECTS.

A. INFORMAL CONTRACTS. The County Finance Department shall maintain for three years from project completion date all records with respect to:

1. Those contractors notified or solicited for each building construction or repair projects, noting all that are minority businesses and their minority category.
2. Those contractors that bid or otherwise responded to advertisements or notices of building construction or repair projects, noting all that are minority businesses and their minority category.
3. Prime contracts awarded, the amount of the contracts, identity of those that are minority business.
4. The subcontractors utilized on projects, identity of minority subcontractors, type work performed by minority subcontractors amount paid minority businesses as reported by the prime contractor(s) awarded the bid.
5. The percentage of work on the project performed by minority businesses as reported by the prime contractor. [Ref: N.C.G.S. §143-128.2(i)]

2.3 COMPLAINT PROCEDURES.

A. INFORMAL CONTRACTS:

1. Alleged violations of the provisions of this MBE plan by any party should be reported in writing to the County Manager or his/her designee.
2. The County Manager or his/her designee shall review all facts available and respond in writing. Unresolved complaints may be presented to the Board of County Commissioners. The decision rendered by the Board will be final.