

## SUPPLIER DIVERSITY POLICY

### I. PURPOSE

To ensure that a supplier diversity program is developed and implemented to encourage and promote participation of small business enterprises, minority-owned business enterprises, and women-owned business enterprises in procurement opportunities with Memphis-Shelby County Schools.

### II. SCOPE

This policy applies to the procurement of all goods and services by Memphis-Shelby County Schools, except those exempted by sole source contracts.

### III. DEFINITIONS

- Minority Individual - a person who is a citizen or a legal resident alien of the United States and who satisfies one or more of the following:
  - African American - a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.
  - Asian American - a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.
  - Hispanic American - a person having origins in any of the Spanish-speaking peoples and who is regarded as such by the community of which this person claims to be a part.
  - Native American or American Indian - a person having origins in any of the original Indian peoples of North America and who is regarded as such by the community of which this person claims to be a part.

- Minority Business Enterprise (MBE) - a for-profit business enterprise that is at least fifty-one percent (51%) owned by one or more persons who are identified as a minority (see definition above).

For purposes of the District’s supplier diversity program, a minority-owned business enterprise must (1) be located in the relevant market area (see the District’s comprehensive supplier diversity program), (2) possess a Shelby County and Tennessee business license, and (3) meet the size standards for a Small Business Enterprise.

- Small Business Enterprise (SBE) – a for-profit business enterprise that (1) meets the federal small business size standards, (2) is independently owned and operated, and (3) is not dominant in its field. Size standards based on an industry-by-industry basis. (See 13 CFR 121). Small business size standards matched to industry NAICS codes are published by the Small Business Administration and are available at <http://www.sba.gov/content/table-small-business-size-standards>.

For purposes of the District’s supplier diversity program, a small business enterprise must (1) be located in the relevant market area (see the District’s comprehensive supplier diversity program) and (2) possess a Shelby County and Tennessee business license.

- Women Business Enterprise (WBE) - a for-profit business enterprise that is at least fifty-one percent (51%) owned by one or more persons who are female.

For purposes of the District’s supplier diversity program, a woman-owned business enterprise must (1) be located in the relevant market area (see the District’s comprehensive supplier diversity program), (2) possess a Shelby County and Tennessee business license, and (3) meet the size standards for a Small Business Enterprise.

#### **IV. POLICY STATEMENT**

The Shelby County Board of Education (hereafter referred to as the “Board”) recognizes that small businesses and businesses owned by minorities and/or women (hereafter referred to as SBEs/MWBEs), frequently face unique problems that are not encountered by large majority-owned businesses. Therefore, it is the policy of the Board to take necessary affirmative steps, in accordance with 2 CFR 200.321, to assure that equal opportunities are provided for MWBEs to participate in the performance of District contracts financed in whole or in part with federal funds.

To this end, the District shall develop and utilize a comprehensive supplier diversity program (hereafter referred to as the “Program”) to implement this policy. The “Program”, ([click for “Program” here](#)) at minimum, shall provide a strategic methodology to promote equality, eliminate barriers to participation, and increase access to information for SBEs/MWBEs.

A. Disparity Study and Program Evaluations

The validity of the Disparity Study upon which the Program is implemented shall sunset after five (5) years at which point a subsequent disparity study shall be commissioned to determine if the program has achieved its goals, requires revisions, or should be allowed to expire.

Additionally, the Superintendent (designee) shall conduct periodic assessments to evaluate the effectiveness of the Program.

B. Contract-by-Contract Goal-Setting

The Board authorizes the Superintendent (designees) to review contracts to determine if opportunities for SBEs/MWBEs are available. SBE/MWBE contract-specific goals shall, at minimum, be based on (1) the type of contract/work to be performed, (2) type of subcontracting work required, and (3) availability of SBE/MWBE firms to perform the work for that specific contract.

Strategies for the awarding of contracts under this policy shall be developed by the Superintendent or his/her designee(s).

C. Good Faith Efforts

It is the expectation of the Board that contractors and subcontractors make good faith efforts to achieve established SBE/MWBE contract participation goals in accordance with requirements set forth under federal regulations and the District's Program.

D. Outreach

The Superintendent (designee) shall implement strategies to (1) solicit participation of SBEs/MWBEs and (2) ensure that information regarding the Program is made available to the business community.

E. Small Business Enterprise Sheltered Market

The Board authorizes the Superintendent (designee) to establish criteria by which procurement opportunities will only be open for competition by and between certified SBEs. Such criteria shall be race and gender neutral.

F. Training/Capacity-Building

Mandatory training shall be provided by the District to ensure that staff responsible for purchasing decisions are familiar with the SBE/MWBE Program requirements. Such training shall be provided (1) during the onboarding of new employees and (2) at minimum on an annual basis. This policy, SBE/MWBE procedures manual, and relevant training shall be available electronically on the District's website.

The Superintendent (designee) shall provide capacity building opportunities for SBE/MWBEs to strengthen their ability to successfully bid on and receive District contracts.

G. Commercial Non-Discrimination

The Board shall not discriminate on the basis of race, color, religion, sex, creed, age, disability, national origin, genetic information, or any otherwise unlawful use of characteristics in the award and performance of contracts; and shall not knowingly enter into a contract with any business that engages in discriminatory practices. This shall include but may not be limited to discriminatory practices against its employees and or vendors. Nothing herein shall be construed as to (1) prohibit or otherwise limit lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the marketplace; and/or (2) authorize expenditure of funds for goods and services apart from statutory and/or Board approved purchasing processes.

H. Sanctions

District employees and vendors (potential and actual) are expected to abide by all applicable laws/regulations and District policies/guidance. Failure to do so may result in sanctions against an employee and/or SBE/MWBE.

**IV. RESPONSIBILITY**

- A. The Superintendent is responsible for ensuring that a comprehensive program is developed and implemented which includes a specific program designed to carry out this policy.
- B. The office responsible for supplier diversity is responsible for actively seeking SBEs/MWBEs to do business with the District and for complying with the provisions of this policy and the program implementation.
- C. The office responsible for supplier diversity shall provide quarterly and annual SBE/MWBE spend reports.
- D. The Superintendent is responsible for ensuring that this policy is followed.

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**Legal References:**

- 1. 2 CFR 200.321
- 2. 49 CFR 26
- 3. T.C.A. 49-3-322

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**Cross References:**

- 1. 2006 Purchasing Authority
- 2. 2012 Contract Requirement Approval and Signatory Authority
- 3. 2013 Professional Services Contracts
- 4. 4003 Conflicts of Interest
- 5. 2018 Fraud, Abuse, Waste