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Interim Preliminary Equal Opportunity Plan



Interim Preliminary Equal Opportunity Plan Requirements

Contractors and subcontractors that are constructing or rehabilitating housing developments assisted by the Michigan State Housing Development Authority (the "Authority") are required to provide equal opportunity for employment as described below.

I. CONTRACTORS OR SUBCONTRACTORS NOT HOLDING A FEDERALLY-ASSISTED CONSTRUCTION CONTRACT IN EXCESS OF \$10,000

Contractors and subcontractors that are engaged in the construction or rehabilitation of a housing development that is assisted by the Authority and does not have a federally-assisted construction contract in excess of \$10,000 must adopt an Equal Employment Opportunity ("EEO") policy to inform employees and prospective employees of their rights under Michigan law and to acknowledge the obligation to take affirmative action to assure an equal opportunity for employment pursuant § 46 of the State Housing Development Authority Act, Act No. 346 of 1966, as amended. For purposes of this section I, OAG No. 7308 affirms that state instrumentalities may not mandate preferential treatment to individuals or groups on the basis of race, sex, color, ethnicity, or national origin.

II. CONTRACTORS OR SUBCONTRACTORS HOLDING FEDERALLY-ASSISTED CONSTRUCTION CONTRACTS IN EXCESS OF \$10,000

Contractors and subcontractors that are engaged in the construction or rehabilitation of a housing development that is assisted by the Authority, and which construction or rehabilitation is in connection with a federally-assisted construction contract in excess of \$10,000, must submit an EEO plan that is acceptable in form and content to the Authority's Design and Construction Manager. The submission and approval of a plan is a condition precedent to the issuance of a Mortgage Loan Commitment for a development comprising five or more units.

1. The plan must include the project information listed below:
 - a. Authority Development Number or Tax Identification Number (TIN);
 - b. Number of units;
 - c. Building type(s), number of stories, and number of buildings; and
 - d. Project location.
2. Include the name, address, telephone number, e-mail address, and title of the individual who is designated as the company's Equal Employment Opportunity Officer. This individual must be an official of the prime contracting company, who has the responsibility and authority to negotiate bid proposals and letting of contracts.
3. Include the company's Equal Employment Opportunity Policy in the EEO plan (or reference the policy in the EEO plan with a copy of the policy attached to the EEO Plan). The EEO plan must also include a statement of acknowledgment by your company of its obligation to take affirmative action to assure an equal opportunity for employment under § 46 of the State Housing Development Authority Act, Act No. 346 of 1966, as amended.

The EEO plan must contain a commitment on the part of the Mortgagor and its prime contractor to include an EEO policy statement in all written outreach communications that will be used in implementation of the EEO plan.

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4. Include a statement of acknowledgement of by your company of its obligation to ensure equal employment opportunity pursuant to 41 CFR Part 60-4.
5. Include a commitment on the part of the prime contractor to comply with the Authority's equal employment opportunity compliance reporting requirements.
6. Include a commitment by the prime contractor to include a statement in all subcontracts that failure of a subcontractor to implement EEO plan requirements constitutes a material breach of the contract and will be considered cause for removal from the construction of the project. The "Employment Practices Provision" of the Authority's General Conditions of the Construction Contract must be incorporated into all subcontracts.
7. State in detail the results of any previous EEO plan in which your company has participated. If prior results did not achieve anticipated goals, indicate the changes you have made in this EEO plan to make it more successful. If your firm has not previously participated in an EEO plan, please state this fact in this plan.
8. If your company has performed pursuant to EEO plans previously approved by the Authority, provide the Authority development number for applicable projects for the last five years.
9. Include an estimate of the number of workers trade by trade, which will be required to complete the construction of this development (see example below).

Estimate of Subcontractor's Personnel by Trade

| | |
|-----------------|---------------|
| Site Work | Concrete Work |
| Masonry (Brick) | Roofing |
| Carpentry | Plumbing |
| HVAC | Electrical |
| Painting | Drywall |
| Etc. | |

The EEO plan must also identify the trade lines, if any, that your company will perform in lieu of a bona fide subcontractor. Please, note that the Authority's prior approval is required for such trade lines work.

Note: The Americans with Disabilities Act (ADA) of 1990 makes it unlawful to discriminate in employment against a qualified individual with a disability. The three areas of coverage are employment (policies and practices), programs (activities and services), and facilities (offices, and grounds). These areas should be reviewed in accordance with the ADA and a self-evaluation and transition plan, which must be developed and kept on file for review.

10. Include a statement of your company's policies for the acceptance of bid proposals.
11. Include a detailed delineation of the persons and organizations to be contacted by your company in order to achieve the goals contained in EEO the plan. This list should be updated as needed with the submissions of the final EEO plan.
12. Include a commitment by the contractor to distribute federal and state workers' rights and wage information when requested or required by the Authority to all tradespersons

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working at the development site.

13. The general contractor must agree to allow Authority staff to review all payrolls, all subcontractor documents and other related project documents for itself at the Authority's discretion and at no cost.
14. Include a statement that your company as the prime contractor, acting by and through its EEO Officer, acknowledges that it has reviewed and understands the EEO requirements set forth in herein, in the Authority's Interim Equal Employment Opportunity Goal Requirements, and in the Authority-required construction contract. Failure of your company to comply with these requirements may result in a review by the Authority's Director of Development, and any remedies available under the Authority's Act or Rules may be imposed by an Authorized Officer of the Authority.
15. Identify the percentage of minority persons in the labor market area where the project is or will be located. Provide the same information for the large cities feeding into the labor market area where the project is or will be located.
16. If your company has performed pursuant to EEO plans previously approved by the Authority, provide the following information for the last five years:
 - a. Total project hours worked, which shows the total hours worked by majority tradespersons, and
 - b. Total hours worked by minority tradespersons and total hours worked by female tradespersons; and

If this information is not available, your statement should be based on your best recollection or upon other information such as agency reports, post review letters, etc.

17. Include a position-by-position breakdown of the racial composition of the total workforce presently employed by your company. This total should include the clerical and administrative staff personnel (see example below).

| <u>Job Category</u> | <u>Black</u> | <u>Hispanic</u> | <u>American Indian</u> | <u>Asian</u> | <u>Total</u> |
|---------------------|-------------------|-------------------|------------------------|-------------------|-------------------|
| | <u>M</u> <u>F</u> | <u>M</u> <u>F</u> | <u>M</u> <u>F</u> | <u>M</u> <u>F</u> | <u>M</u> <u>F</u> |

Officers
Professionals
Office & Clerical
Supervisors
Carpenters
Laborers
Etc.

18. Include minority and female skilled tradesperson utilization commitments. The required utilization commitment form (EEO-009), attached hereto, must be executed by an authorized officer of your company and attached to the EEO plan. If the Authority approves a mortgage loan, this form must be updated as needed. Tradesperson utilization commitments must be based upon the Michigan Department of Labor's Metropolitan Statistical Areas ("MSA") or Labor Market Areas ("LMA") workforce information for the county where the project is located. For minority trade utilization and minority contracting goals see the Authority's schedule of targeted goals. The goal for female trade utilization is 6.9% pursuant to *Construction Contractors, Affirmative Action Requirements*, 45 Fed. Reg. 85750 (December 30, 1980).

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19. Include a commitment on the part of the prime contractor to establish a Minority Business Enterprise (“MBE”) contracting goal. The contracting goal must be stated in the EEO plan as a dollar amount. The final goal amount will be established based upon the amount of the construction contract. Certain soft costs may be deducted from the project’s signed trade payment breakdown in the calculation of the dollar amount of the MBE contracting goal: site security, building permits, bond premium, builder profit, tap fees, and cost certification. Companies which can demonstrate a history of an integrated workforce will also be allowed to deduct the general requirements and the builder overhead costs.

For a business to be considered a minority owned company the minority entity must have a state license if one is required by the State of Michigan for the particular trade and own at least 51% interest in profits and losses. They must participate in the daily management and operation of the company and a minority person or group must have and actually exercise authority to independently make significant business decisions on behalf of the company. In addition, once a company is determined by the Authority to be a bona fide minority owned company based on the Authority’s review of documents required to be submitted as part of the equal employment opportunity compliance reporting requirements and our investigation of the actual operation of the company, the company must perform at least 51% of the awarded contract. That is, a minority company must remain “substantially” involved in the performance of the awarded contract. This means that no MBE credit will be given or received for the use of an MBE company that in actuality functions merely as a conduit for a non-minority owned company. The same criteria will be used in the case of a woman owned business enterprise (WBE).

20. Include a contracting goal for the utilization of Woman Owned Business Enterprises (“WBE”). An acceptable goal would be in the range of 3% (first time contractors) to 5% (third time contractors). The contracting goal for utilization of woman-owned businesses is separate and distinct from the MBE contracting goal.
21. With respect to your company’s policies for the acceptance of bid proposals, if your company as a normal practice simply accepts the lowest bid proposal, the plan must contain a commitment by your company to be flexible with respect to bid proposals submitted by MBEs and WBEs. This means that your Company will agree to give strong consideration to bid proposals submitted by these companies, even when their bids are slightly higher (5% range). The plan should also contain a commitment by your company to make a good faith effort to work with MBEs and WBEs in order to bring their bid proposals (if necessary) into line with your costing constraints.
22. The EEO plan must contain a commitment by the contractor to increase the pool of minority and female trades’ persons available to work on this development through apprenticeship training programs or to make a good faith effort to work with others in the use of such programs.
23. The Minority and Female utilization form (EEO-009), attached hereto as Exhibit A, must be completed, signed and attached to the EEO plan.
24. The EEO plan should be clearly labeled and dated. Submit two original signed copies in the form of a Letter Agreement to the Authority for review and approval.
25. The Authority will also require a letter from your company on the status of bidding and selection of any subcontractors for the project.

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If you have any questions after you have reviewed these requirements and the attached materials, please do not hesitate to contact Paul Stoddard (517-373-3684).

EXHIBIT A

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
P. O. BOX 30044
Lansing, Michigan 48909

Completion and execution of this form is required for contractors that hold any federally assisted construction contract in excess of \$10,000. Failure to complete and execute this form may result in the termination of the construction contract.

The General Contractor hereby acknowledges that this Utilization Commitment will be incorporated in the bid specifications and must be part of all construction subcontracts. The Utilization Commitment must be a condition to the request for bid proposals and a condition to contract approvals. We hereby further acknowledge our obligation to encourage and assist socially disadvantaged contractors and women economically disadvantaged contractors to bid and perform on this Authority-financed housing development.

MINORITY & FEMALE UTILIZATION COMMITMENT OF THE GENERAL CONTRACTOR

To

Michigan State Housing Development Authority

| | | |
|---|---------------------------------|--|
| NAME OF GENERAL CONTRACTOR | | PERCENT AND NATURE OF MINORITY OWNERSHIP |
| DEVELOPMENT NAME AND LOCATION | CONTRACT AMOUNT | MSHDA DEVELOPMENT NO. |
| | \$ | |
| PRINCIPLE OWNER'S NAME | GENERAL CONTRACTOR'S I.R.S. NO. | |
| NAME OF EQUAL EMPLOYMENT OPPORTUNITY OFFICER | | TELEPHONE NUMBER |
| ADDRESS (STREET, NUMBER, CITY, STATE, AND ZIP CODE) | | |

We hereby commit our firm to provide a total workforce integration of _____% minority and _____% females inclusive of all skilled trade.

Signature of General Contractor's Company
Equal Employment Opportunity Officer

Date



EQUAL HOUSING OPPORTUNITY
EQUAL OPPORTUNITY EMPLOYER
EEO 009

