

Contracting with Small Businesses, Minority-Owned Businesses, and Women’s Business Enterprises: Procedures

Procedure Sections

- **Procedure Statement**
- **Reason for Procedure**
- **Who Should Know These Procedures**
- **Contacts**
- **Applicable WMC Policies or Procedures**
- **Applicable Federal Regulations**
- **Subcontracting Plan and Purchasing Procedures**
- **Monitoring and Reporting Procedures**
- **Roles & Responsibilities**
- **Definitions**

Last Revised: September 2006

Responsible College Officer
Associate Controller for Research

Responsible Office
Research Accounting

Procedure Statement

Positive efforts shall be made by WMC contractors to utilize small businesses, minority-owned firms (small disadvantaged businesses), and women’s business enterprises as sources of goods and services, whenever possible. When the use of small businesses, minority-owned firms and/or women’s businesses is specifically outlined in the terms and conditions of the contract or award, it is imperative that the Principal Investigator (PI) remains in compliance with these stated terms.

Reason for Procedure

WMC is committed to the establishment, preservation and strengthening of small, women- and minority-owned businesses. These businesses will be solicited and encouraged to participate in the procurement activities of the College. Further, WMC will encourage its contractors to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subawards and other contractual opportunities. As a recipient of federal funds, WMC must comply with the standards set forth in all awards and contracts from the federal government, including any terms and conditions that require the use of small businesses, minority-owned firms and/or women’s businesses in subaward agreements.

Who Should Know These Procedures

- Dean
- Senior Administration – Vice Provosts, Associate Deans
- Director, Department Chair, Division Head
- Faculty

- Departmental/Divisional Administrators
- Finance Personnel – Research Accounting, Accounting Services
- Grants & Contracts Personnel
- Research Compliance Personnel
- Research Integrity Personnel
- All Employees
- Information Technology Personnel
- Human Resources Personnel
- Students

Contacts

Subject	Contact	Phone	Email
Policy questions	Kevin McGrath	(212) 680-7125	kjmcgra@med.cornell.edu
Accounting questions	Randy Phillips	(212) 680-7131	rphilli@med.cornell.edu
Purchasing questions	Glenn Morey	(607) 255-7402	Gem5@cornell.edu
Institutional research compliance issues	Barbara Pifel	(212) 821-0722	blp2001@med.cornell.edu

Applicable WMC Policies or Procedures

- Subaward Execution and Approval: Procedures
- Subrecipient Monitoring: Procedures
- Charging of Direct Costs to Sponsored Projects: Policy

Applicable Federal Regulations

These procedures are directed by and consistent with the Federal Acquisition Regulation (FAR) 52.219-9. The FAR requires a Subcontracting Plan for Small and Small Disadvantaged Businesses (Minority-Owned Business) for each contract \$500,000 and over. Prime contractors, such as WMC, must agree to purchase a percentage of the supplies and services required for the performance of the contract from small and minority businesses. Some Federal agencies set specific goals for the use of these firms in the terms and conditions of a contract or award. Most rely on the prime contractor to make a “good faith effort.”

Subcontracting Plan and Purchasing Procedures

PIs should be alerted to subcontracting goals and be aware of any requirements at the start of the contract agreement. The Grants and Contracts Office notifies the PI when a Subcontracting Plan is required and whether or not the sponsoring agency has set specific goals. For each WMC contract proposal with a Federal agency that is \$500,000 or greater, or if the terms and conditions of the Request for Proposal (RFP) require it, a Subcontracting Plan shall be prepared, submitted, negotiated, implemented, and administered in accordance with Federal contract requirements. The Plan must set separate goals for small businesses, small disadvantaged businesses, women-owned small businesses, HUBZone small businesses, veteran-owned small businesses, and service-disabled veteran-owned

businesses. Preparation of the Plan is a joint effort between the PI submitting the contract proposal, his/her Department Administrator, and the Manager of Strategic Sourcing (Purchasing Services) from Cornell University (Cornell Ithaca).

The Manager of Strategic Sourcing from Cornell Ithaca works with the PI and the department to identify subcontracting opportunities for small and minority businesses based on the proposed budget. Once subcontracting opportunities have been identified and dollars and percentage goals are calculated, this information is entered on a *Small Business Subcontracting Plan* by the PI or Department Administrator. The Subcontracting Plan specifies:

- which items/commodities will be purchased from small and minority businesses,
- the total dollars to be spent with small and minority businesses, and
- the percentage of total dollars budgeted for supplies and services that these purchases represent.

The PI submits the Subcontracting Plan with his/her contract proposal and budget. The completed Subcontracting Plan must be signed by Grants and Contracts and the Manager of Strategic Sourcing and submitted to the contracting agency for approval.

Once the award has been made, the Subcontracting Plan becomes part of the contract agreement, and the PI is expected to meet the goals set in the Plan to remain in compliance with the stated terms and conditions. The Manager of Strategic Sourcing will identify a list of small, minority, and women-owned vendors that may be used to satisfy the terms and conditions of the award and will distribute this list to the PI. It is the PI's responsibility to select the vendor based on the list provided by the Manager of Strategic Sourcing.

Monitoring and Reporting Procedures

The sponsoring agency requires the PI to submit annual reports charting his/her progress in meeting subcontracting goals. Failure to produce a "good faith effort" can result in the prime contractor being assessed liquidated damages. Before the continuing year of a contract, the Department Administrator will run a report of the small, minority, and women-owned businesses that were used as vendors. The Manager of Strategic Sourcing will then be responsible for reporting the dollars spent on small, minority and women-owned businesses to the sponsors. If it is stated in the terms and conditions of the award that a small, minority-owned, and/or women-owned business must be used, and it was not used within the year, the PI must provide a written explanation to the Manager of Strategic Sourcing as to why they did not meet this condition of the award. The written explanation must include a justification for not meeting the subcontracting goals during the year and a strategy, timetable, and objectives to ensure program goals are met in future years of the award.

Roles & Responsibilities

Responsibilities	PI	Dept Admin	Grants & Contracts	Purchasing Services – Cornell Ithaca
Prepare Small Business Subcontracting Plan if required by contracting agency	P	S		S
Identify a list of small, minority and women-owned businesses that will meet the terms and conditions of the award				P
Comply with procurement requirements of the sponsor in selecting a vendor	P	S		S
Run a report of the small, minority and women-owned businesses that were used as vendors		P		
Report the use of small, minority, and women-owned businesses to the sponsors				P
Provide an explanation if the terms for using a small, minority and/or women-owned business was not met during the year	P	S		

Definitions

Term	Definition
HUBZone Small Business	A small business concern that is located in a Historically Underutilized Business Zone (HUBZone); owned and operated by one or more U.S. citizens; and at least 35% of its employees must reside in a HUBZone.
Minority-Owned Business (also Small Disadvantaged Business)	A business concern which is at least 51 percent owned by one or more minorities or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more minorities and whose management and daily business operations are controlled by one or more of such individuals.
Prime Institution (also Contractor)	Applicant institution which has been awarded the primary grant, contract, or cooperative agreement.
Service-Disabled Veteran Owned Small Business	A small business concern that is at least 51 unconditionally and directly owned by one or more service-disabled veterans. To participate in the Federal marketplace, the Veteran must have a service-connected disability that has been determined by the Department of Veteran Affairs or his or her respective military branch of service.
Small Business	An independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.
Subawards / Subgrants /	As it pertains to this policy, these terms mean an award of financial support subsidiary to a prime award (e.g., a grant, cooperative agreement, and other

Term	Definition
Subcontracts	agreements) made by a prime award recipient to an eligible subrecipient. It also includes awards made by a subrecipient to a lower tier subrecipient. It does not include procurement of goods and services through the funds provided in a prime award.
Subrecipient	<p>A subrecipient is a third-party organization performing a portion of the scope of work on WMC's sponsored project or program. The terms of the subrecipient relationship are generally documented in a subaward / subgrant / subcontract agreement.</p> <p>OMB Circular A-133 defines a subrecipient as follows for purposes of Federal awards, grants, and contracts: "A subrecipient means a non-federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Note that a "subrecipient" does not include a consultant or independent contractor whose services are retained for purposes of carrying out the prime award."</p>
Vendor	An entity that provides commercial goods and services within normal business operations.
Women's Business Enterprise	A business concern which is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more women, and whose management and daily business operations are controlled by one or more of such individuals.