

**BOARD OF REGENTS
BRIEFING PAPER**

Handbook Revision, Supplier Diversity Spending
Procedures and Guidelines Manual Revision, Tier II Supplier Diversity Spending

BACKGROUND & POLICY CONTEXT OF ISSUE:

At its meeting on March 1-2, 2012, the Cultural Diversity Committee heard reports from each institution concerning their respective Tier II supplier diversity spending. In addition, the Committee reviewed the existing provisions governing the reporting of such information to the Board (*Procedures and Guidelines Manual*, Chapter 5, Section 2). Based on the direction of the Committee, staff reviewed the existing procedures concerning Tier II subcontractor reporting requirements and recommends a number of changes to clarify the procedures, including providing a definition of “tier II supplier” and defining the reporting terms.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend *Title 4, Chapter 10* of the *Handbook* to add a *new Section 2* regarding Supplier Diversity Spending that sets forth NSHE support of equal opportunity for minority owned, women-owned and other small disadvantaged business enterprises (MWDBE) to compete for contracts awarded by NSHE institutions. (See attached Policy Proposal.)

In addition, amend *Chapter 5, Section 2* of the *Procedures and Guidelines Manual* to clarify procedures concerning Tier II supplier diversity spending, including mandating that for certain bid evaluations NSHE institutions require the bidder’s history and anticipated commitment to Tier II MWDBE and local subcontractor/local supplier spending. (See attached Policy Proposal.)

IMPETUS (WHY NOW?):

The proposed revisions are brought forward at the request of the Cultural Diversity Committee and as a result of a review of the existing procedures concerning Tier II and subcontractor reporting requirements.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

If adopted as proposed, the review policy and procedures will:

- Establish clearly NSHE’s support of equal opportunity for minority owned, women-owned and other small disadvantaged business enterprises to compete for contracts awarded by NSHE institutions;
- Clarify and update the existing procedures and ensure all institutions are operating consistently under the policies established by the Board.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been brought forward.

ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

Maintain the current policy as written.

COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- X Amends Current Board Policy: *Title 4, Chapter 10, new Section 2*
- X Amends Current Procedures & Guidelines Manual: *Chapter 5, Section 2*
- Other: _____
- Fiscal Impact: Yes _____ No X _____
- Explain: _____

POLICY PROPOSAL
TITLE 4, CHAPTER 10, *new* SECTION 2
Supplier Diversity Spending and Inclusion Policy

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

INSERT THE FOLLOWING NEW SECTION 2:

Section 2. Supplier Diversity Spending and Inclusion Policy

- 1. The Nevada System of Higher Education supports equal opportunity for minority owned, women-owned and other small disadvantaged business enterprises (MWDBE) to compete for contracts awarded by NSHE institutions. The NSHE supports efforts to encourage local businesses to compete for NSHE contracts. In addition, the NSHE supports finding opportunities for such MWDBE and local business concerns to participate as subcontractors or tier 2 suppliers in large contracts. A “tier 2 supplier” or subcontractor is a supplier who is contracted for goods or services with the prime contractor, and may include, but is not limited to MWDBE and local business enterprises.*
- 2. NSHE institutions shall report annually to the Cultural Diversity Committee on tier 2 supplier expenditures with MWDBE and local business concerns for prime contracts awarded by NSHE institutions that exceed \$1,000,000. The Vice Chancellor for Finance shall develop procedures defining the information that must be included in each report.*

RENUMBER SECTIONS 2 THROUGH 32 AS SECTIONS 3 THROUGH 33.

NSHE Procedures and Guidelines Manual
CHAPTER 5, SECTION 2 (in part)
Tier II Supplier Diversity Spending

Additions appear in ***boldface italics***; deletions are [~~stricken~~ and bracketed]

Section 5. Purchasing and Related Procedures

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II. Tier 2 & Subcontractor Reporting Requirements

a. The Nevada System of Higher Education supports equal opportunity for minority owned, women-owned, and other small disadvantaged business ***enterprises*** [~~concerns~~] (***MWDBE***) to compete for contracts awarded by NSHE ***institutions***. ***The*** NSHE also supports efforts to encourage local businesses to compete for NSHE contracts. [~~In some situations, MWDBE and local business concerns may not have the depth or full capability to meet all the requirements of large contracts. Nevertheless,~~] ***In addition, the*** NSHE supports finding opportunities for such MWDBE and local business concerns to participate as subcontractors or Tier 2 suppliers in large contracts. ***A “tier 2 supplier” or subcontractor is a supplier who is contracted for goods or services with the prime contractor, and may include, but is not limited to MWDBE and local business enterprises.***

b. Bid Evaluations for Prime Contractors. [~~To encourage prime contractors to provide this opportunity on~~] ***NSHE institutions shall require that*** prime contracts for the purchase of goods or services that exceed \$1,000,000, [~~part of the bid evaluation may~~] include the bidder's historical and anticipated commitment to Tier 2 MWDBE, ***including but not limited to indication of certification as a minority or women owned business enterprise***, and local subcontractor/local supplier spending ***for purposes of the bid evaluation.***

c. ***Annual Reporting by Prime Contractor.*** [~~In addition, bid~~] ***Bid*** documents and resulting contracts for the purchase of goods or services that exceed \$1,000,000 must, at a minimum, contain a requirement for the prime contractor/supplier to annually report expenditures with MWDBE business concerns, and to also annually report expenditures with local subcontractors. These annual reports pertain only to expenditures that are directly attributable to the NSHE prime contract. ***This provision is not applicable to contracts for utilities or sponsored projects.*** The annual report should contain the following information ***for the most recently completed fiscal year:***

- (1) The name, ***city and state;*** [~~address, phone number, and~~] type of each local, women-owned, minority and/or disadvantaged subcontractor (Tier 2 supplier or local subcontractor); ***and any certification awarded as a local, women-owned, minority or disadvantaged subcontractor, including the entity that awarded the certification.*** If a business concern meets more than one definition (e.g. local and women-owned, or minority and women owned), that should be identified;
- (2) A description of the goods or services purchased; and
- (3) The amount of expenditures with the subcontractor attributed to the prime contract for the 12 month period.

Exceptions to this reporting requirement may be established by the Vice Chancellor of **Finance** [~~Administrative & Legal Affairs~~] in situations where the contract is unlikely to generate Tier 2 or local subcontractor spending, or if there are legal impediments. Institutions or business centers may adopt more detailed requirements and may also apply similar reporting requirements for contracts under \$1,000,000. Federal contracts and grants may also have more detailed requirements for MWDBE spending.

~~{b.}~~**d.** Definition of Local Subcontractor. "Local subcontractor" is intended to mean a business concern that is a) owned 51% or more by Nevada residents, b) is headquartered in Nevada, or c) a majority of employees of the business are Nevada residents.

~~{c.}~~**e.** Definition of Disadvantaged Business Enterprise (DBE). "Disadvantaged Business Enterprise" is intended to mean a business concern owned by a minority or woman that is at least fifty-one percent (51%) unconditionally owned by one or more minority or women individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals. Individuals who certify that they are a member of named groups, i.e. African Americans, Hispanic Americans, American Indians and Alaska Natives (Eskimos and Aleuts) and Asian and Pacific Island Americans are to be considered socially and economically disadvantaged.

~~{d.}~~**f.** Definition of Minority Business Enterprise (MBE). "Minority Business Enterprise" is intended to mean a business concern owned by one or more minority individuals that is at least fifty-one percent (51%) unconditionally owned by one or more minority individuals, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals. Individuals who certify that they are a member of named groups, i.e. African Americans, Hispanic Americans, American Indians and Alaska Natives (Eskimos and Aleuts) and Asian and Pacific Island Americans are to be considered socially and economically disadvantaged.

~~{e.}~~**g.** Definition of Women-Owned Business Enterprise (WBE). "Women-Owned Business Enterprise" is intended to mean a business concern owned by one or more women that is at least fifty-one percent (51%) unconditionally owned by one or more women, or a publicly owned business that has at least fifty-one percent (51%) of its stock unconditionally owned by one or more such individuals and that has its management and daily business controlled by one or more such individuals.