MEMORANDUM OF UNDERSTANDING

Between the Indiana Department of Administration and the Indiana Business Diversity Council

WHEREAS, Executive Order 05-11 requires the Indiana Department of Administration (IDOA), to recognize the Indiana Regional Minority Supplier Development Council's minority business enterprise (MBE) certification for State contracting purposes; and

WHEREAS, the Indiana Regional Minority Suppliers Development Council has changed its name to the Indiana Business Diversity Council (IBDC); and

WHEREAS, IBDC, the local affiliated council of the National Minority Supplier Diversity Council, is authorized to identify and certify minority business enterprises for the private sector and to maintain a central certification file; and

WHEREAS, IDOA is authorized to identify and certify minority and women's business enterprises for State projects and to maintain a central certification file; and

WHEREAS, IDOA will accept IBDC's certification for state contracting in accordance with Executive Order 5-11, 25 IAC 5 and this MOU; and

WHEREAS, IDOA reserves the right to make the final determination in accepting IBDC's certifications for State contracting purposes if circumstances warrant; and

WHEREAS, IDOA will accept certification applications submitted by the IBDC in accordance with Executive Order 5-11, 25 IAC 5 and this MOU; and

WHEREAS, IDOA will make the final determination in certifying applications submitted by the IBDC for State certification; and

WHEREAS, IDOA will conduct audits of IBDC processes and certification determinations on certification applications forwarded to IDOA by IBDC or IDOA may at anytime schedule random audits of IBDC certification practices.

WHEREAS, IDOA, in accordance with Executive Order 05-11, promulgated administrative rules to formalize the specific terms and conditions of the aforementioned policy of accepting IBDC's certification for State contracting purposes.

NOW THEREFORE the parties agree as follows:

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1. The following provisions govern IDOA's acceptance of IBDC's certification for State contracting purposes:
    A. IDOA will begin to count towards participation goals MBE's who are certified through IBDC. IDOA's acceptance of IBDC's certification for State contracting purposes only applies to companies headquartered in Indiana. This acceptance does not entitle IBDC MBE's to State certification. IBDC certified companies which have been denied certification by the IDOA and not subsequently certified with IDOA will not be accepted for State contracting.

    B. IBDC must provide IDOA with lists of IBDC's certified firms to be accepted for State contracting purposes. IBDC certified firms not submitted to IDOA will not be accepted for State contracting purposes. This list will not be updated more than once per week. This list will not be confidential.

    C. IBDC will notify IDOA of policy changes made to its certification manual. IBDC's certification manual will be maintained as confidential in accordance with IC 5-14.

2. The following provisions govern IDOA's acceptance of IBDC submitted MBE applications for State certification:
    A. IBDC will only submit its certified firms for State certification.

    B. The applicant must sign a waiver indicating that its complete file may be forwarded to IDOA for review. The waiver must disclose that the file will become public record, except information deemed confidential by law, once forwarded to IDOA.

    C. IBDC agrees to submit to IDOA upon request a full and complete copy of the applicant's file resulting in the certification.

    D. IDOA may request additional and/or updated information from applicants as necessary for proper certification in accordance with 25 IAC 5.

    E. IDOA will make the final determination on granting State certification to companies that have asked the IBDC to forward their application packets to the State of Indiana.

3. For firms qualifying under numbers one and two of this MOU, IBDC must notify IDOA of any decertifications, complaints and investigations related to the certified firms.

4. If IDOA receives a complaint about an IBDC certified MBE, IDOA will:
    A. Advise IBDC of the complaint; and

B. Investigate the firm in accordance with 25 IAC 5 if the firm is also state certified; or

C. Not accept the firm for State contracting purposes until IBDC makes a determination regarding the firm's eligibility regarding its certification.

5. If an IBDC certified MBE violates state procurement policies or a provision of 25 IAC 5, the MBE will not count towards participation and will be sanctioned pursuant to 25.IAC.

6. This MOU does not apply to Disadvantaged Business Enterprises ("DBE").

7. IDOA must approve all external communications IBDC sends regarding this arrangement.

8. Neither party can be held legally liable for a violation of this agreement by the other party.

9. This MOU does not create rights for any third party.

10. These provisions may be modified at any time by agreement between IDOA and IBDC.

11. Either party can cease to adhere to this MOU within (30) days written notification to the other party with the exception of a violation of any of the agreed upon policies which will allow either party to seek immediate dissolution of this agreement.

This Memorandum of Understanding between the Indiana Department of Administration and the Indiana Business Diversity Council does not infer that IDOA is required to accept the certification decision of IBDC. ***Each party retains all rights and responsibilities under their authorizing documents to make independent decisions on applications.***

Earl A. Goode, Commissioner
Indiana Department of Administration

1/15/06
Date

Reginald K. Henderson, President
Indiana Business Diversity Council
On Behalf of theNational Minority Supplier Diversity Council

1/9/06
Date

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