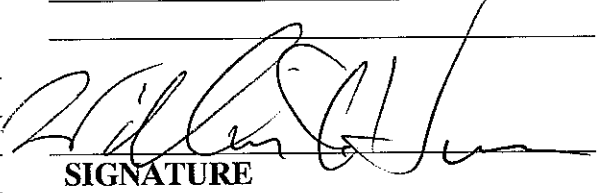


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<b>PROCEDURE#:</b> _____	<b>SUBJECT:</b> <u>MBE/WBE Program Requirements</u>
<b>APPROVAL DATE:</b> <u>June 23, 2009</u>	
<b>EFFECTIVE DATE:</b> <u>June 23, 2009</u>	
<b>REVISION DATE:</b> _____	
<b>EXECUTIVE SPONSOR:</b> <u>RDA Board</u>	

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**REFERENCE TO OTHER POLICIES AND PROCEDURES**

Auditing Grantees for MBE/WBE Compliance

**PURPOSE**

The purpose of this document is to provide applicants, grantees and other stakeholders with both guidance and clarification relative to the attainment of compliance with meeting the Minority-Owned Business Enterprise (MBE) and Woman-Owned Business Enterprise (WBE) requirements established by the Regional Development Authority's (RDA) Enabling Statute, IC36-7.5-2. The information contained herewith shall serve as an official source of guidance to meeting the RDA's MBE/WBE Program Requirements. Questions not addressed in this document should be directed to the RDA Staff or their designated representative.

The goal of the RDA's MBE/WBE Program Requirements is to assure that Indiana businesses and MBE/WBE firms, particularly businesses located in Northwest Indiana, benefit from bidding, procurement and contracting opportunities afforded by RDA-funded projects or initiatives. The Program Requirements are applicable to all RDA grantees, whether statutorily funded or otherwise subsidized through the application process. Third party recipients of RDA funds must also adhere to the RDA goals of 15% MBE and 5% WBE. It will be the sole responsibility of the RDA grantee to assure and report the utilization of MBE and WBE firms on the appropriate RDA documents by the third party recipient and to the RDA.

The implementation of the Program Requirements shall accomplish the following.

1. Assure the timely collection and reporting of the grantees' compliance with the RDA's MBE and WBE requirements.
2. Build capacity, competitiveness and availability of Indiana businesses and MBE/WBE firms.
3. Increase the participation and solicitation of MBEs and WBEs within the RDA's jurisdiction.
4. Standardize collection and reporting of expenditure data from grantees.
5. Stimulate economic growth and sustainability in Northwest Indiana.
6. Improve the quality of life for Northwest Indiana residents.

## **POLICY**

The RDA strongly affirms its support as a matter of policy for the 15% MBE and 5% WBE spending goals contained in the enabling RDA legislation. Accordingly, moving forward, grantees approved for funding, or operational consultants utilized by the RDA, will achieve these spending goals in the completion of projects funded or services provided to the RDA.

Documentation of planned efforts to meet these goals must be a part of every grant application, and the adequacy of this plan will be taken into account when the RDA Board acts on any funding request.

If, at anytime during a grant cycle, it is revealed that a grantee is not achieving the expected goals agreed to at the time of the grant, the grantee will be given thirty days notice to submit a corrective action plan acceptable to the RDA. Failure to submit such a plan will result in automatic suspension of outstanding funding under the grant.

## **PROCEDURE**

### **LEGAL AUTHORITY**

Indiana Code 36-7.5-2-8 (b) established the MBE and WBE goals for the RDA. The statute requires the following:

In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

The RDA Board, Staff and/or their designated representative(s) has the exclusive authority to regulate and determine compliance by the grantees.

### **JURISDICTION**

By the power and authority granted by the RDA legislation, this document shall be applicable to all recipients of RDA funds. For the purposes of determining compliance and selecting MBE/WBE firms, the grantee shall select firms that are either certified by the State of Indiana or other State of Indiana-approved certifying agency or are self-certified and shall consider firms from the following jurisdictions in the order of preference provided below.

1. Northwest Indiana
2. State of Indiana
3. Greater Chicago Area
4. Neighboring states – Illinois, Michigan, Kentucky, Ohio

## 5. All other geographic areas

### APPLICABILITY

The RDA's MBE/WBE Program Requirements apply to all grantees and third-party recipients and to any study, program, purchase, construction project or construction-related contract that is funded in whole or in part by RDA funds. These Program Requirements shall be applicable to all RDA-funded projects as defined in Indiana Code 36-7.5.

### PROGRAM REQUIREMENTS

In accordance with the RDA's Enabling Statute, the Authority shall set program goals whereby 15% and 5% of the total costs of the grantee's project shall be spent with MBE and WBE firms that possess the capacity and overall qualifications to perform the assigned scope of work based on historical track record and strong financial capacity. For the purposes of determining an MBE or WBE, a firm can be certified by the State of Indiana, State-approved certifying agency or self-certified based on a demonstration of work performance and financial capacity that is subject to confirmation through an audit performed by the RDA. These requirements shall apply to all projects funded, in whole or in part, by the RDA. Additionally, grant recipients are required to adhere to all local, state and federal regulations relative to the payment of common construction wages (IC 5-16-7), the development of project specifications (IC 5-22), the bidding requirements on public works projects (IC 36-1-12), and any other applicable state and federal bidding statutes and regulations. Grantees are encouraged to utilize Indiana businesses, when available.

At the time of application for funding, an applicant is required to sign and submit with its application the MBE/WBE Proposed Utilization Plan, which will be considered by the RDA Board in evaluating the request for funding.

If, at anytime during a grant cycle, it is determined that a grantee is not achieving the expected goals agreed upon at the time of the grant, the grantee will be given thirty days notice to submit a corrective action plan acceptable to the RDA. Failure to submit such a plan will result in automatic suspension of outstanding funding under the grant.

The Corrective Action Plan shall identify at a minimum the following components.

1. Grantee Contact Information
2. Grantee Project Information
3. Plan including a specific timetable acceptable to RDA that falls within the remaining project completion timeline under the terms of the grant to make up the deficiency in MBE/WBE spending.
4. Name person responsible for implementing Corrective Action Plan and the name and title of the person to whom this person reports and is accountable.
5. Documentation of efforts to meet MBE/WBE goals

The Board has the final and ultimate authority to establish and determine the enforcement, implementation and compliance with this policy.

### GRANTEE RESPONSIBILITIES

All recipients, direct or indirect, of funds from the RDA are required to meet the MBE/WBE goals established by the Enabling Statute. All efforts to comply must be documented and reported and are subject to audit by the RDA staff or their designated representative. Grantees must assure the following actions are completed.

1. Submit an MBE/WBE Proposed Utilization Plan with application.
2. Submit an MBE/WBE Participation Plan within 30 days of grant approval. Update with changes as necessary or as requested.
3. Include in all bid/proposal solicitations, advertisements and contract agreements the RDA's MBE/WBE Policy Statement.
4. Assure that all subcontractors, sub consultants, suppliers and any other indirect recipient of RDA funds are aware of compliance requirements.
5. Submit the MBE/WBE Monthly Utilization Report for the duration of the grant cycle by the 5<sup>th</sup> of each month for expenditures in the previous month.
6. Submit a Corrective Action Plan upon notification of non-compliance with RDA requirements. Failure to submit a Plan within thirty (30) days of notification of non-compliance will result in automatic suspension of outstanding funding under the grant per the MBE/WBE Policy Statement.

#### EXEMPTIONS

All recipients of RDA funds must comply with the MBE/WBE Program Requirements inclusive of meeting or exceeding the 15% MBE and the 5% WBE goals. The RDA will, however, consider the exemption of the purchase price of real estate from the total amount of grant funding subject to the RDA compliance goals as part of the review of the MBE/WBE Proposed Utilization Plan.