

# HISTORICALLY UNDERUTILIZED BUSINESS (HUB) SUBCONTRACTING PLAN (HSP) POLICIES AND PROCEDURES

## PURPOSE

The purpose of the HUB Program is to promote equal business opportunities for economically disadvantaged persons (as defined by TGC §2161) to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals per TAC §111.13 are:

- 11.9% for heavy construction other than building contracts
- 26.1% for all building construction including general contractors and operative builders contracts
- 57.2% for all special trade construction contracts
- 20% for professional services contracts
- 33% for all other services
- 12.6% for commodities contracts

## OVERVIEW OF HSP COMPLIANCE / PROCEDURES

- A. HUB Good Faith Effort
- B. Determination of Subcontracting Opportunities
- C. Subcontracting Opportunities
- D. Contract Performance
- E. Contract Compliance
- F. Reporting Requirements
- G. List of Attachments

### A. HUB GOOD FAITH EFFORT

In accordance with Texas Government Code (TGC) sections §2161.181-182, (<http://www.capitol.state.tx.us/statutes/gvtoc.html>) and Texas Administrative Code (TAC), Title 1, Part 5, Chapter 111, Section 111, (<http://www.sos.state.tx.us/tac/>), Texas Tech University Health Sciences Center (TTUHSC) will make a good faith effort to increase the contract awards for the purchase of goods or services to HUBs in construction contracts, other services including professional and consulting services and commodities contracts.

### B. DETERMINATION OF SUBCONTRACTING OPPORTUNITIES

1. TTUHSC believes that HUB subcontracting/supplier opportunities exist in most, if not all, contracts.
2. TTUHSC requires that, for bids of \$100,000 or more, a potential contractor/vendor must submit a completed HSP and demonstrate a good faith effort to incorporate certified HUB's where possible. TTUHSC will determine whether a contractor has made a good faith effort toward soliciting bids from and awarding subcontracting/supplier opportunities to HUB's.
3. For bids under \$100,000, a completed HSP is not required; however the use of certified HUB suppliers or subcontractors is strongly encouraged.

### C. SUBCONTRACTING OPPORTUNITIES

1. It has been determined that subcontracting/supplier opportunities are probable under the contract and a HUB subcontracting plan shall be submitted as part of the response (bid, proposal, offer, or other applicable expression of interest), except for construction contracts involving alternative delivery methods (competitive sealed proposals, construction manager-at-risk, and design-build). For construction contracts involving alternative delivery methods, the HUB subcontracting plan may be submitted up to 24 hours following the date/time that responses are due provided that responses are not opened until the HUB plan is received.

2. Responses that do not include a completed HSP or if the successful respondent is unable to provide supporting documentation (phone logs, fax transmittals, electronic mail, etc.) within the timeframe specified by TTUHSC to demonstrate compliance with good faith efforts and advertised specifications prior to contract award, that respondent's bid/proposal shall be rejected due to material failure to comply with advertised specifications. Reasons for rejection will be recorded in the procurement file.

3. The respondent's HUB subcontracting plan shall consist of completed forms prescribed by the **Texas Procurement And Support Services (TPASS)** and shall include the following: **(a.)** certification that respondent has made a good faith effort to meet the subcontracting requirements. **(b.)** identification of the subcontractors that will be used during the course of the contract. **(c.)** the expected percentage of work to be subcontracted. **(d.)** and the approximate dollar value of that percentage of work. The plan shall include goals established pursuant to 111.13 of this title (relating to Annual Procurement Utilization Goals). The successful respondent shall provide all additional documentation required by TTUHSC to demonstrate compliance with good faith effort requirements prior to contract award.

TTUHSC has included the following TPASS prescribed documents that shall be used to complete the Historically Underutilized Business Subcontracting Plan (HSP).

- a. Historically Underutilized Business Subcontracting Plan Information and Instructions explaining the HSP development and Good Faith Effort requirements
- b. Historically Underutilized Business Subcontracting Plan (**Pages 1 - 3**). All respondents are required to complete and submit a HSP with their response (bid, proposal, offer or other applicable expression of interest).
- c. HSP Prime Contractor Progress Assessment Report (PAR). When it has been determined that subcontracting/supplier opportunities are probable under the contract, but the potential contractor / vendor intends to perform and complete all identified contract work with its own employees and resources without utilizing **any subcontractors or suppliers**, the potential contractor / vendor will complete the Self Performance Justification (**Page 3, Section 9**) of the HSP.
- d. HUB Subcontracting Plan **Prime Contractor Progress Assessment Report**. This form shall be completed and submitted to Texas Tech University Health Sciences Center on a monthly basis by all prime contractors regardless of subcontractor use, and will be required as a condition for payment.

4. In order to identify **Texas Certified** Historically Underutilized Businesses (HUB's) that perform the type of work required for each subcontracting opportunity identified in the contract specifications, the potential contractor/vendor should utilize the Centralized Master Bidders List (CMBL), the HUB Directory, and may use other Internet resources and directories as identified by TTUHSC. **In addition**, the respondent shall provide notice of subcontracting opportunities to minority or women trade organizations or development centers to assist in identifying potential HUBs able to perform all or selected portions of the subcontracting opportunities. The CMBL and HUB directory can be accessed electronically through the internet. Using a web browser, please connect to <http://www.window.state.tx.us/procurement/> for Centralized Master Bidders List (CMBL) or <http://www2.cpa.state.tx.us/cmb/hubonly.html> for HUB directory. To access a list of trade organizations and development centers, contractors/vendors may utilize the TPASS's list <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/> and may also use other organizations that provide assistance in identifying state certified HUBs that can perform the subcontract work. Potential contractors/vendors may contact Ruben Gonzales, HUB Coordinator, 806-743-2197 [ruben.h.gonzales@ttuhsc.edu](mailto:ruben.h.gonzales@ttuhsc.edu), or John Haynes, Director of Purchasing, 806-743-7841, [john.g.haynes@ttuhsc.edu](mailto:john.g.haynes@ttuhsc.edu) for assistance in identifying Texas Certified HUB's listed in the CMBL for each product or service trade category identified by the potential contractor/vendor

**D. CONTRACT PERFORMANCE**

1. In accordance with TAC 111.14 the HUB Subcontracting plan shall be reviewed and evaluated prior to contract award and, if accepted, shall become a provision of the TTUHSC's contract. Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort prior to contract award. **After award of the contract, before any changes can be made to the approved HUB Subcontracting Plan, TTUHSC Purchasing Director must be notified of changes in writing.** Prior to approval of changes, review and consideration of the HUB Subcontracting Plan Good Faith Effort requirements must be performed by TTUHSC.

2. If TTUHSC expands the original scope of work through a change order or contract amendment including a contract renewal that expands the scope of work, TTUHSC shall determine if the additional scope of work contains additional probable subcontracting opportunities not identified in the initial solicitation. If the TTUHSC determines additional probable subcontracting opportunities exist, TTUHSC will require the contractor/vendor to submit a HUB subcontracting plan/revised HUB subcontracting plan for the additional probable subcontracting opportunities. Approved changes will be approved by contract amendments and will be recorded in the procurement file.

3. In making a determination whether a good faith effort has been made in the development of the HUB Subcontracting Plan, the potential contractor / vendor is required to submit with his bid a HSP and written supporting documentation, clearly explaining the actions taken to prove a good faith effort has been made. TTUHSC will make a good faith effort determination according to and for each of the following criteria:

Whether the respondent utilized the Centralized Master Bidders List (CMBL), the HUB Directory, and other Internet resources and directories as identified by TTUHSC to identify HUBs that perform the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees. The respondent must complete **(sections 6 & 7 on page 2)** of the HSP for each certified HUB subcontractor notified regarding the subcontracting opportunities.

Whether the respondent divided the contract work into reasonable lot or portions to the extent consistent with prudent industry practices. The respondent must complete **(section 2 on page 1)** of the HSP for each portion of work to be subcontracted.

Whether the respondent provided written notice to three (3) or more HUBs that perform the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent can not complete with its own equipment, supplies, materials, and/or employees. Notices shall contain adequate information about the scope of the work, information regarding location to review plans and specifications, information about bonding and insurance requirements, and a contact person. Potential contractor shall allow a **minimum of five (5) working days** prior to the date/time that the responses (bids, proposals, offers, or other applicable expressions of interest) are due to TTUHSC. Copies of the written documentation of the potential subcontractors/ suppliers must be included in the HSP.

Whether the potential contractor / vendor provided **written notice** to minority or women trade organizations or development centers to assist in identifying HUBs by disseminating subcontracting opportunities to their membership/participants. Notices shall contain adequate information about the scope of the work, information regarding location to review plans and specifications, information about bonding and insurance requirements, and a contact person. Potential contractor shall allow a **minimum of five (5) working days** prior to the date/time that the responses (bids, proposals, offers, or other applicable expressions of interest) are due to TTUHSC. Copies of the written documentation to minority or women trade organizations or development centers must be included in the HSP.

Whether the respondent negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who were the best value responsive bidder to their subcontracting opportunities. The respondent shall **provide written justification** of the selection process in **(section 8 on page 2)** of the HSP if a HUB subcontractor is not selected.

#### **E. CONTRACT COMPLIANCE**

1. TTUHSC will review and evaluate the HUB Subcontracting Plan and supporting documentation to determine contract compliance in accordance with the TPASS's good faith effort rules and bid specifications prior to contract award.
2. During the term of the contract, TTUHSC shall monitor the HUB Subcontracting plan monthly to determine if the value of the subcontracts to HUBs meets or exceeds the HUB subcontracting provisions specified in the contract.
3. Evidence of good faith effort in developing a HUB subcontracting plan for professional services contracts is established if the prime contractor meets the following conditions and procedures: (a) A HUB subcontracting plan for a professional services contract which meets or exceeds HUB participation goals in 111.13 of this title (relating to Annual Procurement Utilization Goals), constitutes good faith effort under this section, or (b) Develop a HUB Subcontracting Plan under the following procedures: (1) Divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and (2) Notify HUBs of the subcontracting opportunities that the respondent intends to subcontract. The preferable method of notification shall be in writing.
4. A respondent's participation in a Mentor Protégé Program and the submission of a Protégé as a subcontractor in the HUB subcontracting plan constitutes a good faith effort for the particular area to be subcontracted with the protégé. All protégés must be State of Texas HUB certified.
5. If the selected contractor / vendor subcontracts any work without prior authorization and without complying with TAC Section 111.14, the contractor / vendor is deemed to have **breached the contract**, and will be subject to any remedial actions provided by Texas Government Code, Chapter 2161, and TAC 111.14.
6. If the contractor / vendor fails to fulfill the HUB Subcontracting Plan specified in the contract, TTUHSC will notify the contractor of any deficiencies. TTUHSC will give the contractor / vendor an opportunity to submit documentation and explain to TTUHSC why the failure to fulfill the HUB Subcontracting Plan should not be attributed to a lack of good faith effort by the contractor / vendor.
7. TTUHSC may report non-performance relative to its contracts to the Texas Procurement And Support Services in accordance with 1 TAC, Chapter 113, Subchapter F (relating to vendor Performance and Debarment Program)

## F. REPORTING REQUIREMENTS

1. Each contractor/ vendor that enters into a contract with TTUHSC shall maintain business records documenting its compliance with the HUB Subcontracting Plan and shall submit a monthly Prime Contractor Progress Assessment Report to the TTUHSC Purchasing Office. The report shall include the identity of subcontractors and total contract amount that will be paid to its subcontractors and the dollar value of work performed under the contract each period. **The monthly submission of the Prime Contractor Progress Assessment Report shall be required as a condition for payment.**
2. During the course of the contract, TTUHSC shall monitor the HUB subcontracting plan monthly to determine if the value of the subcontracts to HUBs meets or exceeds the HUB subcontracting provisions specified in the contract. TTUHSC Purchasing Office will maintain documentation of the contractor / vendor's performance in the contract file.
3. The contractor/respondent must agree to provide the following payment documentation in accordance with the TPASS HUB rules, if requested by TTUHSC:
  - (a) Evidence of existing staffing to meet contract objectives.
  - (b) Monthly payroll records showing company staff fully engaged in the contract, and
  - (c) Allow on site reviews of company headquarters or work site where services are to be performed.
  - (d) Documentation proving employment of qualified personnel holding the necessary licenses and certificates required to perform the work.
4. When the prime contractor / vendor is HUB, it must perform at least 25% of the total value of the contract with its own or leased employees as defined by the Internal Revenue Service in order for TTUHSC to receive 100% HUB credit for the entire contract. The HUB prime contractor / vendor may subcontract up to 75% of the contract with HUBs or non-HUB subcontractors.

If a HUB prime contractor / vendor's HSP identifies that it is planning to perform less than 25% of the total contract with its own employees, the HUB contractor / vendor must report to TTUHSC the value of the contract that was actually performed by the HUB prime contractor / vendor and its HUB subcontractors.

## G. ATTACHMENTS

- A. Historically Underutilized Business (HUB) Subcontracting Plan Information
- B. Historically Underutilized Business Subcontracting Plan Instructions
- C. Historically Underutilized Business Subcontracting Plan **(Pages 1-3)**
- D. HUB Subcontracting Plan Prime Contractor Progress Assessment Report
- E. HUB Subcontracting Plan Intentions **(Continuation page 1)**



## Historically Underutilized Business (HUB) Subcontracting Plan

### Information

In accordance with Texas Government Code (TGC) §2161.252 and Texas Administrative Code (TAC) Title 1, Part 5, Chapter 111, Subchapter B, Rule §111.14, each state agency (including institutions of higher education) as defined by TGC §2151.002 that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract.

If subcontracting opportunities are probable, each state agency's invitation for bids or other purchase solicitation documents for construction, professional services, other services, and commodities with an expected value of \$100,000 or more shall state that probability and require a HUB Subcontracting Plan (HSP).

In accordance with Texas Government Code, §2161.181 and §2161.182, each state agency shall make a good faith effort to increase the contract awards for the purchase of goods or services to HUBs based on rules adopted by the TPASS to implement the disparity study described by TGC §2161.002(c).

The purpose of the HUB Program is to promote equal business opportunities for economically disadvantaged persons (as defined by TGC §2161) to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals per TAC §111.13 are: **11.9% for heavy construction other than building contracts; 26.1% for all building construction, including general contractors and operative builders contracts; 57.2% for all special trade construction contracts; 20% for professional services contracts; 33% for all other services contracts; and 12.6% for commodities contracts.**

**IF YOUR RESPONSE TO THIS SOLICITATION DOES NOT  
CONTAIN A HUB SUBCONTRACTING PLAN, YOUR RESPONSE  
SHALL BE REJECTED AS A MATERIAL FAILURE TO  
COMPLY WITH THE ADVERTISED SPECIFICATIONS.**

# INSTRUCTIONS

**1. HUB Subcontracting Plan (HSP) Development and Good Faith Effort Requirements**—All respondents (HUBs and non-HUBs) submitting bids, proposals, offers, or other applicable expressions of interest must follow, but are not limited to, the following procedures when developing a HUB Subcontracting Plan (HSP):

- a. The respondent shall divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices.
- b. The respondent shall use the Texas Procurement And Support Services (TPASS) Centralized Master Bidders List (CMBL), the HUB Directory, and may use other Internet resources and directories as identified by Texas Tech University Health Sciences Center (TTUHSC) to identify HUBs that perform the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees.

**Note:** TTUHSC does not endorse any company or individual identified on any listings/directories included or referenced herein. A complete list of all State of Texas certified HUBs may be accessed via the Internet at <http://www.window.state.tx.us/procurement/> or <http://www2.cpa.state.tx.us/cmbml/hubonly.html>

- c. The respondent shall provide notice to three **(3) or more HUBs** that perform the type of work required for **each** subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees. In addition, the respondent shall provide notice of subcontracting opportunities to minority or women trade organization or development centers to assist in identifying potential HUBs.

The preferable method of notification to HUBs and minority or women trade organizations or development centers shall be in writing and, as applicable, include: the scope of the work; information regarding the location to review plans and specifications; information about bonding and insurance requirements; information about required qualifications and specifications; and identify a contact person.

- d. Unless circumstances require a different time period that shall be specified by TTUHSC and documented in the TTUHSC's contract file, the respondent's subcontracting opportunity notice(s) must be provided to the potential HUB subcontractors, and minority or women trade organizations or development centers no less than five (5) working days prior to the submission of the respondents bid, proposal, offer, or other applicable expression of interest to TTUHSC.
- e. On forms provided by TTUHSC and prescribed by TPASS, the respondent shall document the HUBs they contacted regarding their subcontracting opportunities. The respondent should negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were the best value responsive bidder to their subcontracting opportunities.
- f. The respondent shall provide written justification of the selection process if a HUB subcontractor is not selected.
- g. Prior to contract award, the respondent shall provide TTUHSC with supporting documentation (phone logs, fax transmittals, electronic mail, etc.) to document their good faith effort in the development and submission of their HSP.

## **2. Alternatives to Good Faith Effort Requirements (Applicable to Mentor Protégé Agreements and Professional Services Contracts Only)**

A respondent's participation as a Mentor in a State of Texas Mentor Protégé Agreement and a commitment to use their Protégé (All Protégés must be State of Texas HUB certified) as a subcontractor to perform the subcontracting opportunities listed in its HSP (Texas Government Code, Chapter 2161.065) may constitute good faith effort without performing the procedures listed in **section 6**. For additional information, please contact the HUB Coordinator for TTUHSC.

A respondent who submits a HSP for a professional services contract that meets or exceeds Annual Procurement Utilization goals for Historically Underutilized Businesses (HUBs) as defined in Texas Administrative Code, § 111.13, will be determined to have met the good faith effort requirement. **(Applicable to Professional Services Contracts as defined by Texas Government Code 2254.)**

**3. HUB Subcontracting Plan Reporting and Contract Compliance** — TTUHSC will receive HUB credit for the total amount of expenditures made directly to prime contractors who are State of Texas HUB certified. In addition, if the prime contractor is not a HUB, TTUHSC will receive HUB credit for the total amount of expenditures the prime contractor makes to HUB subcontractors, if applicable.

All prime contractors (HUBS and non-HUBS) are required to comply with the following reporting and contract compliance procedures:

a. Prime contractors shall report to TTUHSC their use of HUB and non-HUB subcontractors to fulfill the subcontracting opportunities identified in their HSP ( See Prime Contractor Progress Assessment Report (PAR) at :

<http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>

b. Prime contractors shall notify TTUHSC Purchasing Director and obtain prior approval before any changes can be made to its HSP. The proposed changes must comply with the good faith effort requirements related to developing and submitting a HSP as described in Item 1, or if applicable, Item 2 above.

c. TTUHSC will determine if the value of subcontracts to HUBs meet or exceed the HUB subcontracting provisions specified in the prime contractor's HSP. If TTUHSC determines that the prime contractor's subcontracting activity does not demonstrate a good faith effort, the prime contractor may be subjected to provisions in the Vendor Performance and Debarment Program (1 TAC, Part 5, Chapter 113, Subchapter F).

4. **Special Instructions/Additional Requirements**, as applicable when specified by TTUHSC: \_\_\_\_\_

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