

1 The Transylvania County Board of Education (the “board”) affirms the State’s commitment to
2 encouraging the participation of minority businesses in the school system’s building construction
3 contracts. A minority business is defined in accordance with G.S. 143-128.2 and is either (1) one
4 in which ~~(1)~~ at least fifty-one percent (51%) of the business is owned by minority persons or
5 socially and economically disadvantaged individuals; and ~~(2)~~ the management and daily business
6 operations are controlled by one or more of the minority persons or socially and economically
7 disadvantaged individuals who own it, or (2) an employee stock ownership plan company in
8 which at least 51 percent of the stock is owned by one or more minority persons or socially and
9 economically disadvantaged individuals. Minority persons include African-Americans, those of
10 Hispanic descent, Asian Americans, American Indians, and females.

11 12 **A. GOALS**

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14 After notice and public hearing, the board hereby adopts an aspirational verifiable
15 percentage goal of ten percent (10%) for participation by minority businesses in the total
16 value of work for each building project costing \$300,000 or more paid entirely from local
17 or other non-state funds. In addition, the board adopts the state’s aspirational verifiable
18 goal of ten percent (10%) participation by minority businesses in the total value of work
19 for each building project costing \$100,000 or more funded in whole or in part with state
20 funds.

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22 Only businesses holding current certification as a historically underutilized business will
23 be considered eligible for inclusion in meeting the board’s participation percentage goals.
24 Lack of certification, however, will not be considered in making a contract award
25 decision.

26 27 **B. SCHOOL SYSTEM GOOD FAITH EFFORTS**

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29 The board establishes the following guidelines for contracts subject to Section A, above,
30 to ensure that the school system will make good faith efforts to reach diverse contractors
31 and to encourage participation in the school system’s construction contracts by such
32 contractors. Before awarding a contract, the superintendent or designee shall:

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34 1. make information about the school system’s formal and informal bidding process
35 readily available;
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37 2. develop and implement a minority business participation outreach plan to identify
38 minority businesses that can perform building projects and to implement outreach
39 efforts to encourage minority business participation in such projects;
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41 3. advertise for bids in media that reach minority businesses;
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43 4. designate a school official to attend the scheduled pre-bid conference to explain
44 the school system’s minority goals and objectives;

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5. at least ten (10) days prior to the scheduled day of bid opening, notify minority businesses of the following:
 - a. a description of the work for which the bid is being solicited;
 - b. the date, time, and location where bids are to be submitted;
 - c. the name of the individual within the public entity who will be available to answer questions about the project;
 - d. where bid documents may be reviewed; and
 - e. any special requirements that may exist.

60 For purposes of this provision, the minority businesses to be notified are those (1)
61 that have requested notices from the school system for construction or repair
62 work, and (2) those that otherwise indicated to the Office of Historically
63 Underutilized Businesses an interest in the type of work being bid or the potential
64 contracting opportunities listed in the proposal;

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6. ensure that everyone who requests it has access to ~~bid building~~ documents needed for making bids on projects;
 7. maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals;
 8. review, jointly with the designer, the lowest responsible bidder's bid for compliance with all requirements of G.S. 143-128.2(c) and -128.2(f) prior to recommendation of the contract award;
 9. encourage businesses experiencing difficulty in meeting the bonding, licensing, and bid deposits required by state law in larger construction projects to utilize resources and assistance offered by local, state, and federal agencies; and
 10. provide information to bidders about the statewide uniform certification program for historically underutilized businesses.

83 C. GOOD FAITH EFFORTS REQUIRED BY CONTRACTORS

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85 All bidders on school construction and renovation projects subject to Section A of this
86 policy who intend to subcontract any part of the project must (1) identify the minority
87 businesses to be used on the project and (2) provide affidavits indicating that a good faith
88 effort has been made in preparing the bid to meet the board's verifiable goal for

89 participation by minority businesses. Upon being named the apparent lowest responsible,
90 responsive bidder, a bidder shall provide additional evidence of its good faith efforts as
91 required by law.

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93 The level of minority participation in bidders' bids will not affect the contract award
94 decision; however, the failure to provide documentation of a good faith effort to meet the
95 board's goal may result in the bid being rejected as non-responsive.

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97 Before recommending the award of a contract, the superintendent shall direct designated
98 school officials to evaluate bidders' documents in accordance with applicable law and
99 regulations to determine whether bidder good faith requirements are satisfied.

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101 **D. MONITORING**

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103 The superintendent or designee shall monitor payments made to minority businesses on
104 each project subject to Section A to verify that the minority businesses actually working
105 on the project and their level of participation is consistent with the representations made
106 in the contractor's bid.

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108 **E. OTHER MINORITY BUSINESS RECRUITMENT EFFORTS**

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110 For building contracts that (1) are not subject to Section A, above, and (2) cost at least
111 \$30,000 but less than \$300,000, the board will solicit participation by minority business
112 enterprises and maintain a record of contractors solicited and efforts to recruit minority
113 participation.

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115 **F. REPORTING**

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117 The superintendent shall ensure that all required reports and other documentation are
118 filed with the Department of Administration in accordance with legal requirements.

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120 **G. NONDISCRIMINATION**

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122 The board will award public building contracts without regard to race, religion, color,
123 creed, national origin, sex, age, or disability. Nothing in this policy should be construed
124 to require the board or contractors to award contracts or subcontracts to minority business
125 contractors or minority business subcontractors who do not submit the lowest
126 responsible, responsive bid or bids.

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128 Legal References: *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); G.S. 143-128, -
129 128.2, -128.3, -131(b); 01 N.C.A.C. 30I .0101-0310

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131 Cross References:

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133 Adopted: January 8, 1990

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135 Revised: June 20, 2016; July 16, 2018; [DATE]

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