



# Tier II Reporting Guideline & Report Documents

Rev. 2, March 9, 2009

## THE POLICY

As a prime contractor to the federal government, FirstEnergy is required to flow-down the Small Business Subcontracting Plan requirements located in Federal Acquisition Regulation (FAR) Clause 52.219-9 to its large Tier I suppliers (i.e., a large majority-owned company awarded a FirstEnergy contract). This regulation requires any large Tier I supplier receiving a FirstEnergy single (one-time) contract with a dollar value in excess of \$550,000 (or \$1,000,000 for construction) adopt a subcontracting plan that addresses subcontracting with a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns (herein referred to as diverse businesses), as referenced in the FirstEnergy Service Company – General Terms and Conditions: Article - Compliance with Laws, Regulation, and Permits.

Subcontracting activity reports from Tier I suppliers that indicate payments made to such diverse business subcontractors or “Tier II suppliers” are due to Supply Chain’s Strategy & Planning group annually.

FirstEnergy hereby establishes a Tier II Reporting Policy is intended to enhance, not replace, efforts to increase meaningful sourcing opportunities for diverse businesses. We will look to our large Tier I suppliers to share similar values regarding utilization of small diverse businesses, especially when fulfilling FirstEnergy work requirements.

Reference: Tier II Supply Chain Reporting Guide

## THE PARTNERSHIP

FirstEnergy’s Supplier Diversity Program provides opportunities in a competitive environment for diverse businesses. Deregulation, customer choices, and continued improvements in customer service are requiring utilities to look at new and innovative approaches to gaining a competitive advantage.

Our Tier II Reporting Program has been implemented to enhance, not replace, our own efforts to increase meaningful business opportunities for diverse businesses. As a large Tier I supplier to FirstEnergy we look to you to partner with us and share similar values regarding the utilization of diverse businesses, especially when fulfilling our contract requirements.

When FirstEnergy awards a single one-time contract to a large Tier I supplier in excess of \$550,000 (or \$1,000,000 in construction) we are required by FAR Clause 52.219-9 to require the Tier I supplier to adopt a Supplier Diversity Program and goals.

## **SUBCONTRACTING PLAN**

FirstEnergy, as the designated Agent on behalf of Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Pennsylvania Electric Company, Jersey Central Power & Light and Metropolitan Edison Company, is required to file a Commercial Products Plan annually with the U.S. General Services Administration. This Plan is submitted for the consideration of the Public Utilities Division – Public Buildings Service, General Services Administration (Contracting Activity). Pursuant to Chapter 2, Section 211. Section 8(d) of the Small Business Act, this Plan (as defined in FAR 19.701) is filed on a calendar year bases January 1 through December 31. The Plan covers all FirstEnergy regulated company planned subcontracting on a company-wide basis.

Contract Number: GS-00P-99-BSD-0105 (Ohio Edison), GS-00P-87-BSD-0016 (JCP&L), GS-00P-88-BSD-0006 (Penelec)

## **TIER II REPORTING – FLOW DOWN**

As a large Tier I Supplier to FirstEnergy you are required to:

- report subcontracted Direct & Indirect expenditures to FirstEnergy annually,
- establish a Supplier Diversity program and goals for your company, and
- identify an individual(s) responsible for administering, monitoring and reporting your Subcontracting Plan results to FirstEnergy.

## **REPORT FREQUENCY**

Large Tier I suppliers meeting the dollar threshold for Tier II reporting will receive notification along with instructions on downloading the Tier II Reporting Guideline and Report documents. A reminder will be sent in November providing the annual reporting due date.

To submit your subcontracted Direct & Indirect expenditures download and complete the Tier II Reporting – Direct & Indirect Expenditure report forms.

Completed Direct/Indirect reports should be mailed or faxed by the annual due date to FirstEnergy at:

By mail: FirstEnergy Service Company  
Attn: Tabitha Stanislaw  
2800 Pottsville Pike  
P. O. Box 16002  
Reading, PA 19612-6001

By fax: 330-315-9505

## **DIRECT & INDIRECT EXPENDITURE REPORTING**

FirstEnergy utilizes the following two methods for capturing and reporting Tier I Supplier Tier II subcontracting activity and spend.

The **Direct** method is used when a large Tier I Supplier can directly relate payments made for subcontracting a portion of a FirstEnergy contract/Purchase Order to a small diverse subcontractor. For example – the Tier I Supplier provides general construction services to FirstEnergy and the Tier I Supplier subcontracts earthmoving and painting to small diverse businesses. In this instance, 100% of the painting and earthmoving expenditures/payment to the small diverse business should be reported to FirstEnergy.

The **Indirect** method is used when the large Tier I Supplier cannot directly relate payments made to a subcontractor for specific work performed for FirstEnergy. For example – “overhead” items such as paper, computing expenses, or office maintenance incurred by your company. Also included would be any and all materials and services purchased from small diverse businesses that are used in the direct production of the Tier I suppliers products or service. These “indirect expenditures” should be proportionately allocated and reported as outlined in the example below.

## REPORT VALIDATION

Program accuracy and verification is necessary for a successful Tier II Program. Large Tier I suppliers meeting the \$550,000 or \$1 million threshold are required to report their direct and indirect spend with diverse businesses to FirstEnergy annually. All information provided to FirstEnergy is kept confidential, and will be used internally to evaluate contract compliance. The information will be used, in aggregate, to complete required regulatory reports with federal, state, local advocacy organizations, and will not be shared with any other supplier unless expressly requested by your company.

Contracts awarded by FirstEnergy based on Tier II diverse subcontractor participation must be reported by you as DIRECT Spend and could be audited annually.

Misrepresenting or falsifying the work or payments awarded to diverse subcontractors may constitute a breach of contract by the Tier I supplier.

## DEFINING A DIVERSE BUSINESS

A diverse business must be at least 51% owned, managed or controlled by one or more such individuals. In the case of a publicly owned business, one or more such individuals must own at least 51% of the stock. The diverse business owner(s) must be a US citizen or naturalized citizen.

FirstEnergy views a diverse business as one that meets federal and state regulatory certification requirements. A diverse business is considered to be a small:

- minority-owned
- woman-owned
- HUB (historically underutilized business) Zone
- service-disabled veteran-owned
- veteran-owned
- small disadvantaged business.

A small business must meet the size criteria set by the Code of Federal Regulations, Small Business Size Regulations (CFR Title 13, Part 121).

## THIRD PARTY CERTIFICATION PROVIDERS

FirstEnergy encourages diverse businesses be certified by an accredited third party provider such as:

### **National Minority Supplier Development Council**

Web site: [www.nmsdcus.org](http://www.nmsdcus.org)

### **Women's Business Enterprise National Council**

Web site: [www.wbenc.org](http://www.wbenc.org)

### **U. S. Small Business Administration (SBA) /**

#### **Central Contractor Registration (CCR)\***

(Dynamic Small Business Search)

Web site: [www.ccr.gov](http://www.ccr.gov)

### **Other Government Agencies (State & Federal)**

Contact your local city, county, state, or federal government agency to obtain info. on how to obtain certification.

\* Certifies 8a and businesses located in a HUBZone

## TIER II TERMINOLOGY

<b>Tier I SUPPLIER</b>	<b>The large majority-owned company awarded a FirstEnergy contract.</b>
<b>Tier II</b>	<b>This is the process through which Tier I suppliers assist the customer (FirstEnergy) in meeting its diversity goals.</b>
<b>Tier II SUPPLIER</b>	<b>A diverse business subcontracted to by the Tier I Supplier.</b>
<b>CERTIFIED</b>	<b>Refers to a minority, woman-owned or small disadvantaged business that has met the ownership, control and operation requirements of a third party agency.</b>
<b>CONTRACT ADMINISTRATOR</b>	<b>The FirstEnergy representative to whom all contractual questions regarding a contract's product or scope of work should be directed to.</b>
<b>DIRECT</b>	<b>Direct reporting is used when a Tier I supplier can directly relate a payment to a subcontractor for specific work performed on behalf of a FirstEnergy.</b>
<b>DIVERSE BUSINESS</b>	<b>A diverse business is a small MBE, WBE, HUBZone Business, VET or S-D VET business.</b>
<b>FAR Clause 52-219.9</b>	<b>Federal Acquisition Regulation for Small Business Subcontracting Plan</b>

<b>HUBZONE CONCERN</b>	A HUBZone is a historically underutilized business zone, which is an area located within one or more qualified census tracks, qualified non-metropolitan counties, or lands within the external boundaries of an Indian reservation. The SBA ( <a href="http://www.sba.gov/hubzone/">www.sba.gov/hubzone/</a> ) per FAR 52.219-1 maintains criteria for HUBZone concern designation.
<b>INDIRECT SPEND REPORTING</b>	Indirect reporting is used when a Tier I supplier cannot directly relate payments made to a subcontractor for specific work performed on behalf of FirstEnergy.
<b>MINORITY BUSINESS ENTERPRISE (MBE)</b>	An MBE is defined by the Small Business Administration and/or National Minority Supplier Development Council, Inc. as at least 51% owned by one or more minority U.S. citizen. One or more such individuals must control its management and daily operation. In the case of a publicly owned business, one or more such individuals must own at least 51% of the stock. The minority owner(s) must be a U.S. citizen whose origins are African American, Asian-Indian, Asian-Pacific, Hispanic or Native American (American Indian, Eskimo, Aleut or Native Hawaiian).
<b>NORTH AMERICAN INDUSTRY CLASS STANDARDS (NAICS)</b>	The NAICS (pronounced Nakes) was developed as the standard in classifying a business size. It was also developed in cooperation with Canada and Mexico to establish a 3-country standard that allows for a high level of comparability in business statistics. NAICS is the first economic classification system to be constructed based on a single economic concept. To learn more go to <a href="http://www.census.gov/epcd/www/naicsdev.htm">www.census.gov/epcd/www/naicsdev.htm</a> .
<b>PRIME CONTRACTOR</b>	As a contractor to the federal government – FirstEnergy is considered to be a Prime Contractor.
<b>SBA</b>	U.S. Small Business Administration
<b>SERVICE-DISABLED VETERAN-OWNED</b>	A S-DVET is a small business that is at least 51% owned by one or more service-disabled veterans. In the case of a publicly owned business, at least 51% of the stock is owned by one or more service-disabled veterans; and whose management and daily business operations are controlled by one or more such individuals. A service-disabled veteran is a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service connected, as defined in 38 U.S.C. 101(16).
<b>SMALL DISADVANTAGED BUSINESS (SDB)</b>	An SDB is certified by the Small Business Administration as a small business concern that is at least 51% unconditionally owned by one or by one or more individuals who are both socially and economically disadvantaged. In the case of a publicly owned business that has at least 51% of its stock must be unconditionally owned by one or more socially and economically disadvantaged individuals and that has management and daily business controlled by one or more such individuals as defined under 15 U.S.C. 637(b)(6) in Part 121 of Title 13 of the Code of Regulations.
<b>SUBCONTRACT</b>	Is any agreement (other than one involving an employer-employee relationship) entered into by a Prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.
<b>SUBCONTRACTOR</b>	A supplier contracted to perform work by a Tier I supplier.
<b>VETERAN-OWNED SMALL BUSINESS (VET)</b>	A VET is a small business that is at least 51% owned by one or more veterans. In the case of a publicly owned business, at least 51% of the stock is owned by one or more veterans; and whose management and daily business operations are controlled by one or more such individuals.

**WOMEN BUSINESS  
ENTERPRISE (WBE)**

A WBE as defined by the Small Business Administration (FAR 52.219-1) is one that is at least 51% owned by one or more women; or in the case of any publicly owned business, at least 51% of the stock is owned by one or more women; and whose management and daily business operations are controlled by one or more such individuals.

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**FREQUENTLY ASKED QUESTIONS**

**1. Who should I contact regarding questions on my FirstEnergy Contract/Purchase Order?**

Questions pertaining to a specific contract should be directed to the applicable Buyer for resolution.

**2. Who should I contact with a question regarding FirstEnergy's Tier II Diversity Program?**

You should contact a Supplier Diversity Coordinator listed below.

**3. How do I set up a Supplier Diversity Program for my company?**

FirstEnergy will assist our large Tier I suppliers seeking to establish a supplier diversity program. The FirstEnergy Supplier Diversity Coordinators along with our advocacy group partners can assist you meeting this requirement.

**4. My company meets the dollar threshold for reporting Tier II spend to FirstEnergy. How do I report my company's spend?**

The process begins with a reporting notice being mailed to your company outlining your reporting obligations and instructions. You can also download a copy of FirstEnergy's Tier II Reporting Guideline and forms at [www.firstenergycorp.com](http://www.firstenergycorp.com) > Suppliers > Supply Chain > Supplier Diversity > Tier II Reporting.

**5. I would like to learn more about FirstEnergy's Supplier Diversity Program. Who should I contact?**

**Supplier Diversity Coordinators:**

Toby Stanislaw  
Email: [tstanislaw@firstenergycorp.com](mailto:tstanislaw@firstenergycorp.com)  
Phone: 610-921-6606

Chad Heyman  
Email: [heymanc@firstenergycorp.com](mailto:heymanc@firstenergycorp.com)  
Phone: 330-255-1757

For more information visit our Web site at: [www.firstenergycorp.com](http://www.firstenergycorp.com)



**2nd Tier Reporting - INDIRECT Expenditures**

Report  
1<sup>st</sup> Tier Supplier: \_\_\_\_\_ Period: January-December Year: 2009 Contract/P.O. No.: \_\_\_\_\_

**INDIRECT** expenditures are those material and service acquisitions from small diverse businesses that cannot be identified for or apportioned to any specific customer. These “indirect expenditures” should be proportionately allocated and reported to FirstEnergy as outlined below.

**A. Minority Business Enterprise (MBE) Expenditure Formula**

- 1. Your Total Sales for this period \$ \_\_\_\_\_
- 2. Total Sales to FirstEnergy \$ \_\_\_\_\_
- 3. Total MBE 1<sup>st</sup> Tier Supplier Purchases \$ \_\_\_\_\_
- 4. % of MBE Purchases to FirstEnergy \_\_\_\_\_%  
Sales (5. X 2.)

**B. Women Business Enterprise (WBE) Expenditure Formula**

- 1. Your Total Sales for this period \$ \_\_\_\_\_
- 2. Total Sales to FirstEnergy \$ \_\_\_\_\_
- 3. Total WBE 1<sup>st</sup> Tier Supplier Purchases \$ \_\_\_\_\_
- 4. % of WBE Purchases to FirstEnergy \_\_\_\_\_%  
Sales (5. X 2.)

**List the M/WBE company(s) name, address, ethnicity and dollar amounts:**

<u>Minority (MBE) Company</u>	<u>Address</u>	<u>Ethnicity</u> <u>Expenditure \$</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

<u>Woman-owned (WBE) Company</u>	<u>Address</u>	<u>Ethnicity</u> <u>Expenditure \$</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ <b>Signature</b>	_____ <b>Print Name</b>	_____ <b>Telephone</b>	_____ <b>Email</b>	_____ <b>Date</b>
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**2nd Tier Reporting - DIRECT Expenditures**

**1<sup>st</sup> Tier Supplier:** \_\_\_\_\_ **Report**  
**Period:** January-December **Year:** 2009 **Contract/PO No.:** \_\_\_\_\_

In accordance with FirstEnergy's Request for Proposal, the definitions and codes contained herein, and the resulting contract/purchase order between FirstEnergy and the Supplier, Supplier shall complete columns 1 through 6, reporting its use of Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) in direct connection with the goods/services provided under the terms and conditions of said contract/purchase order.

Use this report format when the minority and women-owned business expenditures are directly attributable to fulfilling a specific contract. You must be able to trace the small business enterprise expenditures directly to the specified contract.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
WORK DESCRIPTION	2nd Tier SUBCONTRACTOR Contact Person & Telephone No.	DIVERSE BUSINESS TYPE	ETHNIC CODE	YTD SPEND w/2nd Tier SUBCONTRACTOR	YTD SPEND w/ FIRSTENREGY	PERCENTAGE of SPEND
Ex. Staff Augmentation	ABC Company, Jane Doe, 123-456-7890	WBE	B	\$50,000	\$5,000,000	1.00%
			TOTAL AMOUNT	\$	\$	%

\_\_\_\_\_  
**Signature**                      **Print Name**                      **Telephone**                      **Email**                      **Date**

## **DEFINITION CODES - DIRECT Expenditure Worksheet**

- (1) **WORK DESCRIPTION** - a brief statement of the goods/services provided by the small business enterprise.
- (2) **2<sup>ND</sup> TIER SUBCONTRACTOR** - the name/telephone # of a contact within the small business enterprise whom can verify expenditures made by Supplier.
- (3) **DIVERSE BUSINESS TYPE**

MBE (Minority-owned business enterprise) means (1) a business enterprise (a) that is at least 51% owned by a minority individual or group(s) or (b) if a publicly owned business, at least 51% of the stock of which is owned by one or more minority groups, and (2) whose management and daily business operations are controlled by one or more of those individuals. The contracting company shall presume that minority includes African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian Indian Americans.

WBE (Women-owned business enterprise) means (1) a business enterprise (a) that is at least 51% owned by a woman or women or (b) if a publicly owned business, at least 51% of the stock of which is owned by one or more women, and (2) whose management and daily business operations are controlled by one or more of those individuals.

- (4) **ETHNIC CODE**

**B African American** - persons having origin in any Black racial groups of Africa

**HI Hispanic American** - persons of Mexican, Puerto Rican, Cuban, South or Central American, Caribbean, and other Spanish culture or origin

**NA Native American** - persons having origin in any of the original peoples of North America or the Hawaiian Islands, in particular, American Indians, Eskimos, Aleuts, and Native Hawaiians

**AP Asian-Pacific American** - persons having origin in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, or Taiwan

**AI Asian Indian American** - persons having origin in India, Pakistan, and Bangladesh

- (5) **YTD SPEND w/ 2<sup>nd</sup> Tier SUBCONTRACTOR** - 1<sup>ST</sup> Tier Supplier Spend with M/WBE
- (6) **YTD SPEND w/FIRSTENERGY** - Contract/PO value of spend
- (7) **% of SPEND** - value of (5) divided by (6)