

Various state and federal agencies require FirstEnergy to flow-down the Small Business Subcontracting Plan requirements to their large Prime Contractors. These requirements require any Prime Contractor receiving a FirstEnergy single (one-time) contract with a dollar value in excess of \$650,000 (or \$1,500,000 for construction) to adopt a submit a subcontracting plan that complies with the requirements of FAR Clause 52.219-9. The subcontracting plan is to address their efforts to subcontract work to the following small business concerns: small business, small disadvantaged, woman-owned, veteran-owned, service-disabled veteran-owned, HUB Zone small business, and physically challenged 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.

THE PARTNERSHIP

FirstEnergy's Supplier Diversity Program provides contracting opportunities in a competitive environment for diverse businesses. Various state public service commissions, customer choices, and continued improvements in customer service are requiring us to look at new and innovative approaches to gaining a competitive advantage.

Tier II reporting requirements have been implemented to enhance, not replace, our own efforts to increase meaningful business opportunities for diverse businesses. We look to our Prime Contractors to partner with us and share similar values regarding the utilization of diverse businesses, especially when fulfilling our contract requirements.

SUBCONTRACTING PLANS

FEDERAL SMALL BUSINESS SUBCONTRACTING PLAN - FirstEnergy, as the designated Agent on behalf of Jersey Central Power & Light (GS-00P-06-BSD-0479), Metropolitan Edison Company (GS-00P-09-BSD-0705), Monongahela Power (GS-00P-08-BSD-0527), Ohio Edison Company (GS-00P-09-BSD-0701), Pennsylvania Electric Company (GS-00P-09-BSD-0703), Pennsylvania Power Company GS-00P-09-BSD-0704), The Cleveland Electric Illuminating Company (GS-00P-09-BSD-0693), The Potomac Edison (GS-00P-08-BSD-0539), The Toledo Edison Company (GS-00P-09-BSD-0702) and West Penn Power (GS-00P-08-BSD-0540) 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 basis January 1 through December 31. The Plan covers all FirstEnergy regulated company planned subcontracting on a company-wide basis.

STATE PLANS – FirstEnergy's Tier II requirements extend to the State level. In Pennsylvania FirstEnergy is obligated to develop an annual plan and report Tier II subcontracting results under PA Public Utility Commission Chapter 69 – General Orders, Policy Statements and Guidelines on Fixed Utilities, specifically Policy 69.807. In New Jersey we submit our plans and report Tier II attainment results annually to the New Jersey Board of Public Utilities Supplier Diversity Development Council (SDDC). In Maryland FirstEnergy is a signatory to the Memorandum of Understanding (MOU) with the Public Service Commission of Maryland to annually develop, implement and report Tier II accomplishments.

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TIER II REPORTING – FLOW DOWN

FirstEnergy’s standard Terms & Conditions and Bid Proposal language outline the State and Federal subcontracting guidelines FirstEnergy must obtain from its Prime Contractors. A Prime Contractor meeting the dollar threshold for Tier II reporting is required to provide the following information to FirstEnergy during the bid proposal process:

- Develop and submit a Subcontracting Plan which will include:
 - Subcontractor names(s), contact information & applicable 3rd party certification(s)
 - Provide specific planned subcontracting spend targets for each small business classification
 - Provide the contact information for their Plan Administrator, and
- Email Direct and Indirect payment reports to subcontractors quarterly to FirstEnergy.

REPORT FREQUENCY

Prime Contractors are required to document payments made to diverse subcontractors on a quarterly basis. The prime’s Direct and Indirect reports must be emailed to suppliers@firstenergycorp.com by the 15th day of April, July, October and January.

DIRECT & INDIRECT SPEND REPORTING

FirstEnergy utilizes the following two methods for capturing and reporting Prime Contractor subcontracting payments.

The **Direct** method is used when a Prime Contractor can directly link payments made for subcontracting a portion of a FirstEnergy contract/Purchase Order to a small diverse subcontractor. For example – the Prime Contractor will be providing general construction services to FirstEnergy and the Prime Contractor will be subcontracting earthmoving and painting to small diverse businesses. In this instance, 100% of the painting and earthmoving payments to the small diverse business should be reported to FirstEnergy.

The **Indirect** method is used when the Prime Contractor performs all of the work in-house and cannot directly link any subcontractor expenditure payments for work performed against a specific FirstEnergy contract. However, the Prime Contractor purchases “overhead” items such as paper, computer services, or office maintenance from diverse businesses. These “indirect expenditures” should be proportionately allocated and reported to FirstEnergy as outlined in the following example.

Indirect Allocation Formula:

- 1) Total quarterly sales to FirstEnergy ÷ by your total quarterly company Sales = Allocation Factor
- 2) Total quarterly MBE Indirect Expenditures X Allocation Factor = FE’s MBE portion of MBE Spend

Example: ABC Company total quarterly sales to FE are \$3M & ABC Company’s total quarterly sales are \$50M. ABC Company is reporting MBE expenditures of \$5M for the quarter.

Step 1: Take \$3M (sales to FE) ÷ by \$50M (total sales) to determine (Allocation Factor) = 0.06% (.0006)

Step 2: Take the \$5M (MBE spend) X 0.06% (.0006) Allocation Factor = **\$3,000 FE MBE allocation**

Repeat step 2 for each diversity group of suppliers (i.e. minority, women-owned, etc.). Please note that a minority woman owned business will be recorded as Minority spend only.

3/29/2017

REPORT VALIDATION

Contracts awarded by FirstEnergy based on Tier II subcontractor participation are subject to periodic audits. Misrepresenting or falsifying the work or payments awarded to diverse subcontractors may constitute a breach of contract by the Prime Contractor.

All subcontracting activity provided to FirstEnergy is kept confidential, and will be used internally to evaluate contract compliance. A subcontractor's information will be used, in aggregate only, to complete required regulatory reports with federal, state and local advocacy organizations, and will not be shared with any other supplier unless expressly requested by your company.

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 small business must meet the size criteria set forth in the Code of Federal Regulations, Small Business Size Regulations (CFR Title 13, Part 121). A diverse business is considered to be a small business concern when it has been deemed to be a socially & economically disadvantaged business, minority-owned, woman-owned, HUB (historically underutilized business) Zone, service-disabled veteran-owned, veteran-owned or a physically challenged business/sheltered workshop

THIRD PARTY CERTIFICATION PROVIDERS

FirstEnergy requires Third Party certification for minority owned, woman owned, service disabled veteran owned businesses or those businesses located in a federally designated HUB Zone. The business owner of one of these business types is required to provide FirstEnergy with valid certification provided by an accredited third party provider such as:

National Minority Supplier Development Council

Website: www.nmsdcus.org

Women's Business Enterprise National Council

Website: www.wbenc.org

Click here for a list of deemed acceptable **3rd Party Certifying Agencies**.

For more information on our Supplier Diversity initiatives visit us at www.firstenergycorp.com