ADVOCATING CONSISTENT CONTRACTING TO ENGAGE SMALL BUSINESSES FOR SUCCESS (ACCESS) PROGRAM

Purdue University (Purdue or the University) and its Board of Trustees (the Board) are committed to providing equal opportunities to all businesses, including small and minority- and women-owned businesses, attempting to pursue work with the University. As part of that commitment, Purdue will implement the Advocating Consistent Contracting to Engage Small Businesses for Success (ACCESS) Program. The program will be comprised of new policies and measures that are designed to strengthen the economic development and viability of all small businesses, including minority- and women-owned businesses.

The following policy statement will guide Purdue’s implementation and administration of the ACCESS Program:

Purdue University recognizes the importance of equal opportunity and supplier diversity in the University’s contracting and procurement processes. The University has developed the Advocating Consistent Contracting to Engage Small Businesses for Success (ACCESS) Program to further encourage the utilization of small businesses, including minority- and women-owned businesses. Through the Program, Purdue aims to increase the utilization of all small businesses, including minority- and women-owned businesses, in its contracting and procurement, while preserving the integrity of the University’s competitive and public contracting and procurement processes.

ACCESS Program Tracks

The ACCESS Program will include three tracks of measures designed to further encourage the utilization of small businesses, including minority- and women-owned businesses. The measures will affect contracting and procurement in the areas of Physical Facilities, the Office of the University Architect, and Procurement Services. The program tracks that Purdue has developed may be invoked sequentially, but may overlap in time, based on Purdue’s evaluation of each track’s efficacy in encouraging the utilization of small businesses, including minority- and women-owned businesses. Purdue will carry out evaluations on a periodic basis at a level of analysis similar to that used in the University’s 2010 disparity study. Note that subsequent program tracks will be implemented in addition to — not instead of — previous tracks.

Track 1 — Outreach, mentoring, and data collection. The first track of Purdue’s ACCESS Program will include policies and efforts that are designed to:

- Provide additional information about Purdue business opportunities and potential business partners;

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1 Consistent with federal regulations and state legislation, Purdue defines minority- and women-owned businesses as African American-, Hispanic American-, Asian-Pacific American-, Subcontinent Asian American-, Native American-, and women-owned businesses.
- Collect additional information about prime contractors and subcontractors that Purdue utilizes and about businesses interested in working with Purdue;

- Increase the mentoring and technical assistance that Purdue provides to small businesses, including minority- and women-owned businesses; and

- Increase small business utilization, including minority- and women-owned businesses.

Purdue will use and evaluate Track 1 measures for a period of time that will be long enough to assess their efficacy before considering whether to also implement Track 2 measures.

**Additional information about Purdue business opportunities and business partners.** Many small businesses, including minority- and women-owned businesses, that are interested in working with public agencies report that it is difficult to learn about business opportunities and to build relationships with potential business partners. Purdue will implement several measures to help address those issues.

**Conexus Indiana.** Purdue has recently partnered with Conexus Indiana (www.conexusindiana.com), a website portal that provides information about businesses and business opportunities in various Indiana industries. Purdue will share information with Conexus Indiana about relevant contracting and procurement opportunities. Conexus Indiana will post that information on its website so that businesses interested in working with Purdue can learn more about available business opportunities. Conexus will also allow businesses that are interested in partnerships on particular contracts and procurements to post their interest, qualifications, and contact information.

In addition, Purdue staff will use information that Conexus maintains about small businesses, including minority- and women-owned businesses, to learn more about which of those businesses are potentially available to perform on Purdue contracts and procurements. Because registration with Conexus Indiana is required to take full advantage of the website portal, Purdue staff will also encourage businesses with which they are in contact to register with Conexus Indiana and become active members.

**Advertisements for contracting and procurement opportunities.** Purdue will provide a centralized location on its website that will allow interested businesses to easily locate advertisements for contracting and procurement opportunities with the University and to identify other businesses that are interested in potential business partnerships. There will be a clear link to that information on Purdue's home page.

**Additional information about utilized and interested businesses.** As part of the ACCESS Program, Purdue will collect and maintain additional information about prime contractors and subcontractors that the University utilizes for goods and services and about businesses that are interested in working with Purdue. That information will help Purdue accurately monitor the ACCESS Program’s efficacy in encouraging the utilization of small businesses, including minority- and women-owned businesses, and help enforce compliance with any potential small business goals program (see Track 2) or minority- and women-owned business goals program (see Track 3) that Purdue may subsequently decide to implement as part of the program based on appropriate evaluation and analysis.
Implementing such measures will require certain process changes that will necessitate the allocation of additional resources — including additional staff resources — sufficient for data collection and enforcement of the ACCESS Program and related policies.

**Bidders list.** Purdue will develop and maintain a bidders list of registered businesses interested in contracting with Purdue. The bidders list will enable Purdue to better track utilization of small businesses, including minority- and women-owned businesses, and will help Purdue solicit bids and quotes from those businesses. At a minimum, the bidders list will contain the following information:

- Firm name;
- Firm identification number (that Purdue will create);
- Firm contact information;
- Primary and secondary line of work (e.g., NAICS code, NIGP code, or a more general work type code that Purdue will assign);
- Small business enterprise (SBE) certification status;
- Race/ethnicity of ownership;
- Gender of ownership; and
- Minority-owned, women-owned, or disadvantaged business enterprise (MBE/WBE/DBE) certification status.

Relevant information collected as part of current disparity studies and other information that Purdue maintains will be included in the bidders list. Purdue will need to request some of the above information from prime contractors and subcontractors as part of bids, quotes, or proposals (e.g., primary line of work, small business status, and race/ethnicity and gender of ownership).

**Contract, procurement, and vendor data.** Purdue will improve the data that it collects and maintains about the contracts and procurements that the University awards and about the contractors, consultants, and vendors that the University utilizes across Physical Facilities, the Office of the University Architect, and Procurement Services. Improving the data that it collects and maintains will allow Purdue to better measure its utilization of small businesses, including minority- and women owned businesses, and to accurately monitor the ACCESS Program’s efficacy in addressing any underutilization of those businesses.

**Contract/procurement data.** At a minimum, Purdue departments will collect the following information about each contract and procurement that they award and about any related subcontracts:

- Contract or procurement number;
- Firm names of prime contractors and subcontractors;
- Bidders list identification numbers for prime contractors and subcontractors;
- Contract or procurement award date;
- Contract or procurement amount;
- Contract or procurement amendment amount;
- Description of work; and
- Campus of work.

Each responsible department will separately collect the above information for each contract or procurement that it awards. The data will be maintained within each department as well as in a centralized data system that Purdue will develop.

Vendor data. Each department will also collect and maintain information about contractors, consultants, or vendors that it utilizes, regardless of whether they were utilized as prime contractors or subcontractors. The data will include firm names and bidders list identification numbers so that Purdue can match information about utilized vendors to information maintained in the bidders list.

Subcontract commitments as part of bids and proposals. Many businesses that perform subcontracting work, including minority- and women-owned businesses, report that bidders or proposers will sometimes include them as subcontractors on their proposed project teams in order to make their teams appear more competitive or diverse, and then eliminate those subcontracts (or substantially reduce committed subcontract amounts) shortly after being awarded the work.

As part of the ACCESS Program, Physical Facilities and the Office of the University Architect will encourage bidders and proposers to submit information about subcontractor commitments as part of their bids or proposals for work that Purdue awards through a competitive process. For each subcontractor commitment, bidders and proposers will submit, at a minimum, the following information:

- Proposed subcontractor name;
- Bidders list identification number;
- Contact information;
- Type of work involved with the subcontract; and
- Committed subcontract amount.

As part of their bids and proposals, prime contractors will have to sign an affidavit affirming the accuracy of the information they submit, including information about subcontract commitments. In addition, shortly after contract or procurement award, proposed subcontractors on winning project teams will be required to submit letters of commitments affirming that they have agreed to be included as part of the bid, quote, or proposal for the stated work and for the committed subcontract amount. Those subcontractors will have to be the same businesses that were listed in the winning bid, quote, or proposal or bidders and proposers will risk having their contract awards rescinded.
Bidders and proposers will not be permitted to make any changes to their subcontractor commitments after bid or proposal openings without justification and Purdue approval. Bidders or proposers who do so without Purdue approval will risk having their bids or proposals deemed unresponsive and be rejected. Similarly, bidders or proposers who ultimately win contracts will not be permitted to make any changes to their subcontractor commitments after bid or proposal openings without justification and Purdue approval. Bidders or proposers who do so without Purdue approval will risk having their contract awards rescinded.

**Payments to subcontractors for ongoing contracts.** With each invoice that prime contractors submit to Purdue for ongoing contracts, Physical Facilities and the Office of the University Architect will require the prime contractor to submit information about the amount paid to subcontractors during the most recent month and the amount paid to date. That information will be submitted electronically through BoilerTracks, a software tool designed to track such information. For each subcontractor, prime contractors will be required to submit, at a minimum, the following information:

- Subcontractor name;
- Bidders list identification number;
- Contact information;
- Amount billed by subcontractor in connection with the invoice; and
- Amount paid-to-date to subcontractor.

Purdue will not pay invoices that do not include the above information. In addition, at the end of the contract, Purdue will withhold final invoice payments if prime contractors have not met the subcontractor commitments that they specified as part of their bids or proposals, or if they have not previously provided justification and received Purdue approval for changes to those subcontractor commitments.²

**Increased mentoring and technical assistance.** An important aspect of increasing the utilization of small businesses, including minority- and women-owned businesses, is to help those businesses develop professionally and build the necessary capacity to successfully compete for Purdue contracts and procurements. To that end, Purdue will increase its efforts to mentor and assist small businesses, including minority- and women-owned businesses, to better position them to participate in Purdue contracting and procurement.

Through the Office of Supplier Diversity, Purdue currently offers mentoring and technical assistance to businesses in the form of one-on-one meetings; technical assistance workshops at its annual fall outreach event; and workshops that the University hosts throughout the year with Turner Construction. Purdue will establish a task force to immediately begin exploring ways to expand its mentoring and technical assistance efforts in the areas of construction, professional services, and procurement. The task force will consider the effectiveness of potential measures; new partnerships

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² Purdue may make exceptions in cases of contract disputes between prime contractors and subcontractors.
that the University may need to develop; and resources that the University will require to implement any new measures. By December 31, 2011, the task force will make specific recommendations to Purdue’s Executive Vice President for Business and Finance, Treasurer regarding new mentoring and technical assistance measures that Purdue should implement.

**Certification of small businesses and minority- and women-owned businesses.** As part of its mentoring efforts, Purdue will encourage businesses that meet small business size requirements for relevant contracting industries that are not certified to become certified as SBEs through the Small Business Administration (SBA).

In addition, Purdue will encourage minority- and women-owned businesses that are not certified as MBE/WBEs to become certified through recognized national and statewide certifying agencies. Those agencies include the:

- Indiana Department of Administration;
- Indiana Department of Transportation;
- City of Indianapolis;
- Indiana Minority Supplier Development Council;
- National Minority Supplier Development Council;
- National Association of Women’s Business Owners; and

Purdue will also encourage all businesses with which it meets to register and be included on the University’s bidders list, which it will develop as part of Track 1.

**Efforts to increase small business utilization.** Purdue will make efforts to increase the participation of small businesses, including minority- and women-owned businesses, in University contracts and procurements.

**Notifying small businesses of requests for quotes, bids, and proposals.** For each procurement that Procurement Services awards through a competitive process, buyers will notify all small businesses appearing on the bidders list, including minority- and women-owned businesses, that appear capable of providing the good or service that Purdue wishes to procure. A similar process will apply to contracts that the Office of the University Architect administers. For each contract or procurement, both Procurement Services and the Office of the University Architect will provide documentation to the Office of Supplier Diversity about the businesses that they notified about bids, quotes, or proposals. The Office of Supplier Diversity will check the information against information in the bidders list.

If Procurement Services or the Office of the University Architect determines that no small businesses on the bidders list can provide the desired goods or services for a particular contract or procurement,
then relevant staff will request a waiver from the Office of Supplier Diversity for the notification requirement.

**Unbundling large contracts into multiple, smaller elements.** Many small businesses, including minority- and women-owned businesses, report that the relatively large size of construction contracts that public agencies let pose a barrier to their ability to bid on and successfully compete for those contracts. Purdue may be able to address such issues by unbundling or segmenting relatively large contracts into multiple smaller contracts.

As part of the ACCESS Program, and where appropriate, Physical Facilities will identify large construction contracts that can be segmented into multiple smaller contracts and be bid out to different prime contractors. Physical Facilities will then bid those contracts out separately. The resulting smaller contracts that meet type, size, and other requirements will be subject to bonding assistance and small business goals that Purdue may implement as part of Track 2.

**“Lowest and best” bid.** In determining the “lowest and best” bid for purposes of awarding construction contracts, Physical Facilities will consider the efforts that bidders make to include small business subcontractors on their teams. Purdue could consider the following (and other) actions as reasonable efforts by bidders to include small businesses on their teams:

- Advertisement of subcontracting opportunities;
- Notification of subcontracting opportunities to small business organizations and community groups; and
- Direct contact or negotiations with small business subcontractors.

Purdue will also consider other actions as it deems appropriate. Bidders will be required to submit a list of the steps they took to secure small business participation, including a list of the small businesses from which they requested a bid and whether each small business was certified as being minority- or women-owned (and through which certification agency). Physical Facilities will submit that documentation to the Office of Supplier Diversity for approval.

**Track 2 — Contract requirements and awards.** If Purdue determines that further measures are necessary to encourage small business utilization, and if substantial underutilization of minority- or women-owned groups exists after the implementation and evaluation of Track 1 ACCESS Program measures, then the University will invoke Track 2 of the ACCESS program. Track 2 will:

- Provide bonding assistance on certain construction contracts;
- Establish a small business goals program; and
- Explore the advantages and possibility of using construction managers.

Purdue will use and evaluate Track 2 measures for a period of time that will be long enough to evaluate their efficacy before considering whether to also implement Track 3 measures.
**Bonding assistance.** Many small businesses, including minority- and women-owned businesses, report that obtaining bonding is a costly barrier to competing for public agency construction contracts. Purdue may be able to address such issues by subsidizing bonding on relatively small construction contracts and thus encouraging small businesses to bid on and successfully compete for those contracts.

Purdue will provide bonding assistance to small businesses, including minority- and women-owned businesses, on construction contracts worth less than $250,000. On certain construction contracts of that size, Purdue will partially or fully subsidize bonding for small businesses. As part of their bids, small businesses will have to sign an affidavit affirming that they meet small business size requirements for the relevant contracting industry, as defined by the SBA. Purdue will provide information about SBA size requirements in the bid documents of contracts eligible for bonding assistance.

**Small business goals program.** As part of Track 2 of the ACCESS Program, Purdue will establish a contract goals and good faith efforts program for small business participation. Certain construction and professional services contracts will include specific percentage goals for the participation of businesses that meet small business size requirements for relevant contracting industries, as defined by the SBA. Purdue will set small business goals on a contract-by-contract basis based on contract type and size; availability of Indiana small businesses to do the work; and other information. There will be no requirement for Purdue to set small business goals on every contract.

Bidders and proposers will be able to meet the goals by making subcontracting commitments with small businesses. Businesses that are intended to count toward the small business goals will have to sign an affidavit affirming that they meet SBA small business size requirements, and those affidavits will have to be submitted with bids and proposals. Purdue will provide information about SBA size requirements in the bid documents of contracts eligible for the small business goals program.

If bidders or proposers are unable to make subcontracting commitments with small businesses after making reasonable efforts to do so, they will be able to fill out waivers showing that they made reasonable good faith efforts to fulfill small business goals but were unable to do so. Physical Facilities and the Office of the University Architect will submit those waivers to the Office of Supplier Diversity for approval. Good faith efforts by bidders and proposers could include:

- Advertisement of subcontracting opportunities;
- Notification of subcontracting opportunities to small business organizations and community groups; and
- Direct contact or negotiations with small business subcontractors.

If bidders fail to meet contract-specific small business goals and fail to fulfill good faith efforts, their bids or proposals may be deemed unresponsive and be rejected.

**Construction managers.** As part of the ACCESS Program, for relatively large construction contracts that include multiple work elements, Purdue will explore the use of construction managers to let multiple contract elements to different prime contractors. The primary advantage of using
construction managers is that Purdue would be able to outsource many administrative tasks associated with managing large construction projects and multiple contract elements. Construction managers will be responsible for adhering to all Purdue contracting and procurement policies when letting contract elements for a particular project. Construction managers will also be responsible for ensuring that construction projects are completed on time and within budget. In addition, construction managers will be responsible for enforcing compliance with small business goals programs (as part of Track 2) or potential minority- and women-owned business goals programs (as part of Track 3) that Purdue may implement.

**Track 3 — Minority- and women-owned business goals.** If Purdue determines that substantial underutilization of any minority- or women-owned groups exists after the implementation and evaluation of Track 1 and Track 2 ACCESS Program measures, then the University will consider implementing a minority- and women-owned business goals program for those groups that continue to exhibit substantial underutilization. Purdue will ensure that its minority- and women-owned business goals program is narrowly tailored, including considerations of:

- Necessity for the program and to which groups it should apply;
- Flexibility and duration of the program, including the availability of waiver provisions;
- Relationship of numerical goals to the relevant labor market; and
- Impacts of such race- and gender-conscious measures on the rights of third parties.

In addition, as part of a narrowly-tailored goals program, Purdue will continue to use race- and gender-neutral measures from Track 1 and Track 2 of the ACCESS Program and will continue to evaluate the efficacy of those measures in encouraging the utilization of small businesses, including minority- and women-owned businesses.

Purdue will use evaluation data to project the portion of overall annual aspirational goals that can be met through race- and gender-neutral measures before using contract-specific minority- and women-owned business goals. Appendix B of Purdue’s 2010 disparity study and 49 Code of Federal Regulations Part 26 provides more information about those and other narrow tailoring requirements for such race- and gender-conscious programs.

**Overall annual aspirational goals.** As part of using a minority- and women-owned business goals program, The Office of Supplier Diversity will set overall annual aspirational goals for the percentage of contracting and procurement dollars that should be awarded to minority- and women-owned businesses, based on:

- Information about the availability of those businesses to perform on Purdue contracts and procurements;
- Purdue’s utilization of those businesses in the recent past;
- Relevant quantitative and qualitative analysis of local marketplace conditions; and
- Other indicators related to the utilization and availability of minority- and women-owned businesses.

Purdue will set separate overall annual aspirational goals for construction, professional services, and procurement. Purdue will use overall annual aspirational goals as monitoring and assessment tools to guide the University’s implementation of the ACCESS Program as well as its evaluation of the degree to which it utilizes minority- and women-owned businesses. The goals will be aspirational in the sense that:

- There will be no requirement for Purdue to meet overall annual aspirational goals;
- Failure to meet the goals will not automatically cause changes to how Purdue implements the ACCESS Program;
- Overall annual aspirational goals will not affect how Purdue awards contracts and procurements, nor will they affect how Purdue evaluates individual bids and proposals;
- Information about overall annual aspirational goals will not appear in Purdue contracting or procurement documents; and
- There will be no requirement for Purdue to set contract-specific goals at the same level of overall annual aspirational goals.

**Contract-specific goals.** As part of Track 3, Purdue will set contract-specific goals for the participation of minority- and women-owned businesses on contracts that Physical Facilities and the Office of the University Architect award through competitive processes. Purdue will set minority- and women-owned business goals on a contract-by-contract basis based on contract type and size; availability of Indiana small business to do the work; and other information. There will be no requirement for Purdue to set minority- and women-owned business goals on every contract.

Bidders and proposers will be able to meet the goals by making subcontracting commitments with minority- and women-owned businesses. Participation of only those groups that exhibit substantial underutilization would count toward the goals. If bidders or proposers are unable to make all or a portion of subcontracting commitments with minority- and women-owned businesses after making reasonable efforts to do so, they will be able to fill out waivers showing that they made reasonable good faith efforts to fulfill minority- and women-owned business goals but were unable to do so.

Physical Facilities and the Office of the University Architect will submit those waivers to the Office of Supplier Diversity for approval. Good faith efforts could include:

- Advertising for minority- or women-owned subcontractors;
- Notification of subcontracting opportunities to minority- and women-owned business organizations and community groups; and
- Direct contact or negotiations with minority- and women-owned business subcontractors.
If bidders fail to meet contract-specific minority- and women-owned business goals and fail to fulfill good faith efforts, their bids or proposals may be deemed unresponsive and be rejected. Purdue will model its evaluation of good faith efforts on the State of Indiana’s MBE/WBE program.

**MBE/WBE certification.** Purdue will determine what MBE/WBE certifications to recognize as part of its goals program, if any. For example, the Indiana Department of Administration, the Indiana Department of Transportation, and the City of Indianapolis currently operate certification programs and maintain lists of certified minority- and women-owned businesses that Purdue might use as part of a goals program. Purdue might also consider requiring minority- and women-owned subcontractors to sign an affidavit affirming that they are in fact owned and operated by members of applicable groups as part of bid and proposals.

**Program Evaluation**

Evaluating each ACCESS Program track’s efficacy will be critical to successfully implementing the ACCESS Program and to effectively encourage the utilization of small businesses, including minority- and women-owned businesses. Purdue will carry out such evaluations at a level of analysis that will be similar to that used as part of Purdue’s 2010 disparity study. Key elements of those evaluations will include the following:

- Evaluations will be performed on a quarterly basis.
- Purdue will measure the efficacy and efforts that staff members make as part of individual program measures.
- Purdue will determine and track the percentage of contract and procurement dollars that went to small businesses on a quarterly basis (i.e., utilization).
- Purdue will determine and track the percentage of contract and procurement dollars that went to minority- and women-owned businesses on a quarterly basis (i.e., utilization).
- Purdue will compare utilization of minority- and women-owned businesses to the availability of those businesses to perform on Purdue contracts and procurements, as estimated in Purdue’s 2010 disparity study (i.e., disparities between utilization and availability).
- Purdue will perform analyses separately for construction, professional services, and procurement; separately for each race/ethnic and gender group; and separately for prime contracts and subcontracts.
- Purdue will consider anecdotal information from local contractors, consultants, vendors, as well as businesses and trade associations about the efficacy of specific ACCESS Program measures or tracks.

The evaluations will help Purdue determine:

- The degree to which small businesses, including minority- and women-owned businesses, participate in Purdue contracting and procurement;
Whether any groups of minority- or women-owned businesses are underutilized; and

Whether the University will implement the next track of ACCESS Program measures.

The Office of Supplier Diversity will be responsible for carrying out the analyses and will require additional resources sufficient for data management and analysis.

**Tracking and monitoring of individual program measures.** Purdue will develop metrics to assess the efficacy and the efforts that staff members make as part of individual program measures. Purdue will develop such metrics for all program measures before implementing them and report information about those metrics as part of semi-annual reports to the Board (and to the public).

**Semi-annual report.** On a semi-annual basis, the Office of Supplier Diversity will present a summary report to the Board that will include the following information:

- ACCESS Program initiatives that Purdue used in the previous six months;
- Efficacy and effort metrics for individual program measures;
- Overall program efficacy, including Purdue's utilization of small businesses; utilization of minority- and women-owned businesses; and disparities, if any, between utilization and availability;
- Challenges, if any, with specific ACCESS Program tracks or measures; and
- Recommendations, if any, for implementing additional measures or for implementing the next ACCESS Program track.

Purdue will also post the semi-annual report on its website.

**Participation in disparity studies.** Purdue will continue to participate in the State of Indiana’s five-year disparity study process. The University’s participation in disparity studies will provide updated information about:

- Local marketplace conditions for contractors, consultants, and vendors;
- Anecdotal information about working with Purdue;
- Disparities, if any, between Purdue's utilization of minority- and women-owned businesses and the availability of those businesses to perform on Purdue contracts and procurements;
- Legal issues surrounding Purdue’s ACCESS Program, including legislative changes and recent court decisions; and
- Additional measures that Purdue could use as part of the ACCESS Program.

Purdue will consider appropriate changes to the ACCESS Program in light of updated information from each new disparity study.