



## **TEXAS A&M UNIVERSITY-CORPUS CHRISTI**

### **HUB SUBCONTRACTING PLAN (HSP)**

#### **Policy on Utilization of Historically Underutilized Businesses (HUBs)**

In accordance with the Texas Government Code (GC), Chapter 2161, Sections 181-182 and General Service Commission's (GSC) HUB Rules, 1 Texas Administrative Code (TAC) Section 111.11, Texas A&M University-Corpus Christi shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction, services, including professional and consulting services and commodities contracts. GSC encourages the use of HUBs by implementing these policies through race-ethnic and gender-neutral means.

The purpose of the HUB program is to promote full and equal business opportunities for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study:

- (1) 11.9% for heavy construction other than building contracts;**
- (2) 26.1% for all building construction, including general contractors and operative builders contracts;**
- (3) 57.2% for all special trade construction contracts;**
- (4) 20% for professional services contracts;**
- (5) 33% for all other services contracts; and**
- (6) 12.6% for commodities contracts.**

Texas A&M University-Corpus Christi shall make a good faith effort to meet or exceed the goals to assist HUBs in receiving a portion of the total contract value of all contracts that Texas A&M University-Corpus Christi expects to award in a fiscal year in accordance with the following procurement goals/percentages. It is the policy of Texas A&M University-Corpus Christi to attempt to achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the GC, Chapter 2161 and GSC HUB Rules.

#### **HUB SUBCONTRACTING PLAN (HSP)**

Texas A&M University-Corpus Christi entering into a contract with an expected value of \$100,000 or more shall, before soliciting bids, proposals, offers, or other applicable expressions of interest, determine if it is probable for subcontracting opportunities under the contract. If subcontracting opportunities are probable, Texas A&M University-Corpus Christi will require the submission of a HUB subcontracting plan. **The HUB Subcontracting Plan is a material requirement of the contractor/vendor response. Failure to submit a completed Hub Subcontracting Plan or if Texas A&M University-Corpus Christi determines that the HUB Subcontracting Plan was not developed in good faith will result in the response being rejected as non-responsive.** The accepted HUB subcontracting plan will become a provision of the contract. Texas A&M University-Corpus Christi shall require a potential contractor/vendor to state whether it is a Texas certified HUB and include a copy of their HUB certification certificate.

When the prime contractor/vendor is a 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 the agency to receive 100% HUB credit for the entire contract.

**POTENTIAL CONTRACTOR/VENDOR THAT WILL UTILIZE SUBCONTRACTORS**

When Texas A&M University-Corpus Christi has determined that subcontracting opportunities are probable, the potential contractor/vendor shall submit a HUB subcontracting plan that **INCLUDES:**

- (1) Letter of transmittal (Attachment A) attesting that the contractor/vendor has read and understands the Policy on Historically Underutilized Businesses (HUBs) pertaining to subcontracting some portion(s) of the project; **and**
- (2) Subcontractor/Supplier Letter of Intent (Attachment B), identifying ALL SUBCONTRACTORS (HUB and NON-HUB) that will be utilized, the expected percentage of work to be subcontracted, and the approximate dollar value of that percentage of work; **and**
- (3) Determination of Good Faith Effort (Attachments C and D), explaining in what ways the potential contractor/vendor made a good faith effort in the development of the HUB Subcontracting Plan.

**POTENTIAL CONTRACTOR/VENDOR THAT WILL PERFORM PROJECT WITH OWN RESOURCES – WILL NOT UTILIZE SUBCONTRACTORS**

When Texas A&M University-Corpus Christi has determined that subcontracting opportunities are probable, but the potential contractor/vendor can perform and intends to complete ALL the subcontracting opportunities with its employees and resources, the HUB Subcontracting Plan shall **INCLUDE:**

- (1) Letter of transmittal (Attachment E), attesting that the contractor/vendor has read and understands the Policy on Historically Underutilized Businesses (HUBs) pertaining to performing 100% of the project with its own forces; **and**
- (2) Statement of Intent (Attachment F), attesting that the potential contractor/vendor will complete the work with its own employees and resources **WITHOUT SUBCONTRACTING** any portion of the contract.

If the potential contractor/vendor is selected and later decides to subcontract any part of the contract after the award, contract provisions require, the contractor/vendor to develop and submit a HUB subcontracting plan before any modifications or performance in the awarded contract involving subcontracting can be authorized by Texas A&M University-Corpus Christi. If the selected contractor/vendor subcontracts any of the work without prior authorization and without complying with 1 TAC Section 111.14, the contractor/vendor is deemed to have breached the contract and to be subject to any remedial actions provided by Texas Government Code, Chapter 2161, and 1 TAC §111.14. Texas A&M University-Corpus Christi may report non-performance

relative to its contracts to the commission in accordance with 1 TAC Chapter 113, Subchapter F (relating to the Vendor Performance and Debarment Program).

### **DEVELOPING A HUB SUBCONTRACTING PLAN**

Potential contractors/vendors shall follow, but are not limited to, procedures listed below when developing a HUB subcontracting plan.

- (1) Divide the contract work into reasonable lots to the extent consistent with prudent industry practice.
- (2) Notify HUBs of the work that the contractor/vendor intends to subcontract. The preferable method of notifications shall be in writing. The notice shall, in all instances, include the scope of the work, information regarding the location to review plans and specifications, information about bonding and insurance requirements, and identify a contact person. The notice shall be provided to potential HUB subcontractors prior to submission of the contractor's/vendor's bid. The potential contractor/vendor shall provide potential HUB subcontractors reasonable time to respond to the potential contractor's/vendor's notice. "Reasonable time to respond" in this context is no less than five working days from receipt of notice, unless circumstances require a different time period, which is determined by Texas A&M University-Corpus Christi and documented in the contract file. The potential contractor/vendor shall effectively use the GSC's Centralized Master Bidders List, the HUB Directory, Internet resources, and other directories as identified by the GSC or Texas A&M University-Corpus Christi when searching for HUB subcontractors. Contractors/Vendors shall use the services of minority, women, and community organizations, contractor groups, local, state, and federal business assistance offices, and other organizations that provide assistance in identifying HUBs to perform all or select elements of the scope of work. The potential contractor/vendor shall provide the notice described in this subsection to **THREE or more HUBs** that perform the type of work required. The potential contractor/vendor shall provide official written documentation (i.e. phone logs, fax transmittals, etc.) to demonstrate compliance with the notice required in this subsection (**See Attachment D**).

**NOTE: A complete list of all GSC certified HUBs may be electronically accessed through the Internet based World-Wide-Web. Although there are alternatives to connect to this data, the preferred method is through the Internet using a Web Browser (like Netscape, Internet Explorer, etc.). Using a Web Browser, please connect to <http://www.gsc.state.tx.us> .**

- (3) Provide written justification of the selection process if a non HUB subcontractor is selected through means other than competitive bidding or if a HUB bid is the best value responsive bidder to a competitive bid invitation, but is not selected.
- (4) Advertise HUB subcontracting opportunities in general circulation, trade association, and/or minority/woman focus media.
- (5) Encourage a selected non-certified minority or woman-owned business subcontractor to apply for certification by the commission in accordance with the procedures set forth in §111.17 of this title (relating to Certification Process).

**DETERMINATION OF A GOOD FAITH EFFORT PRIOR TO AWARD**

In making a determination whether a good faith effort has been made in the development of the HUB Subcontracting Plan, Texas A&M University-Corpus Christi shall require the potential contractor/vendor to submit supporting documentation explaining in what ways the potential contractor/vendor has made a good faith effort according to each criterion listed above. The documentation shall include at least the following (See Attachment C – Pages 1 and 2):

- (1) Whether the potential contractor/vendor divided the contract work into reasonable portions in accordance with prudent industry practices.
- (2) Whether the potential contractor/vendor sent notices containing adequate information about bonding, insurance, the plans, the specifications, scope of work, and other requirements of the contract to **THREE or more qualified HUBs** for each potential subcontracting opportunity allowing reasonable time for HUBs to participate effectively (See Attachment D).
- (3) Whether the potential contractor/vendor negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value responsive bidder.
- (4) Whether the potential contractor/vendor documented reasons for rejection or met with the rejected HUB to discuss the rejection.
- (5) Whether the potential contractor/vendor advertised in general circulation, trade association, and/or minority/women focus media concerning subcontracting opportunities.
- (6) Whether the potential contractor/vendor assisted non-certified HUBs to become certified.

The HUB Subcontracting Plan and supporting documentation shall be reviewed and evaluated by Texas A&M University-Corpus Christi to determine if a good faith effort has been made in accordance with GSC’s rules and bid specifications prior to contract award. If accepted, the HUB Subcontracting Plan shall become a provision of Texas A&M University-Corpus Christi contract. No changes may be made in an accepted HUB Subcontracting Plan prior to incorporation in the contract without prior approval of Texas A&M University-Corpus Christi.

If Texas A&M University-Corpus Christi determines that a submitted HUB subcontracting plan was not developed in good faith, the agency shall treat the lack of good faith as a material failure to comply with advertised specifications, and the subject bid or other response shall be rejected as non-responsive. The reasons for rejection shall be recorded in the procurement file.

**DETERMINATION OF GOOD FAITH EFFORT COMPLIANCE AFTER AWARD**

Texas A&M University-Corpus Christi shall audit the contractor’s/vendor’s compliance with the HUB Subcontracting Plan.

If the contractor/vendor fails to fulfill the HUB Subcontracting Plan, specified in the contract, Texas A&M University-Corpus Christi shall notify the contractor/vendor. The contractor/vendor will be given the opportunity to submit documentation and explain why the failure to fulfill the HUB Subcontracting Plan should not be attributed to a lack of good faith effort by the contractor/vendor. Any deficiencies will be identified by Texas A&M University-Corpus Christi and must be rectified prior to final payment of the contract.

If a determination is made that the contractor/vendor failed to implement the HUB Subcontracting Plan in good faith, Texas A&M University-Corpus Christi, in addition to any other remedies, may report nonperformance to the commission in accordance with 1 TAC, Chapter 113, Subchapter F (relating to Vendor Performance and Debarment Program).

### **CHANGES TO THE HUB SUBCONTRACTING PLAN AFTER AWARD**

If at any time during the term of the contract, the contractor/vendor desires to make changes to the approved HUB Subcontracting Plan, such proposed changes must be received for review and approval by Texas A&M University-Corpus Christi before the proposed changes will be effective under the contract. The contractor/vendor must comply with provisions of 1 TAC 111.14(b) relating to development of a HUB Subcontracting Plan, in order to substitute work or change a subcontractor on the approved HUB Subcontracting Plan. Texas A&M University-Corpus Christi shall approve the changes by contract change order.

### **REPORTING REQUIREMENTS**

The contractor/vendor shall maintain business records documenting its compliance with the HUB Subcontracting Plan. Texas A&M University-Corpus Christi requires the contractor/vendor to report subcontracting payments on a monthly basis. The report will include the identity and the amount paid to all subcontractors under the contract (**See Attachments G and H**). Texas A&M University-Corpus Christi may request payment documentation in accordance with the GSC HUB Rules.

During the course of the contract, Texas A&M University-Corpus Christi shall:

- (1) Determine and document in the contract file whether the value of subcontracts to HUBs meets or exceeds the HUB Subcontracting Plan;
- (2) Discuss and document the contractor's/vendor's performance.