

BACKGROUND
ON CITY AND CDBG PROGRAM POLICIES AND PROCEDURES TO
ENCOURAGE THE DEVELOPMENT OF DISADVANTAGED SMALL BUSINESS
ENTERPRISES (MINORITY and WOMEN-OWNED BUSINESSES)

Contents:

Framework Excerpt

Overview of CDBG Program Efforts in Investment in Promotional program and in
contract requirements regarding MBE/WBE use

2007 Results (through 11/2007)

Boilerplate Attachment related to MBE and WBE Requirements

The CDBG program works to encourage the participation of MBE's, WBE's and DBE's in two major ways:

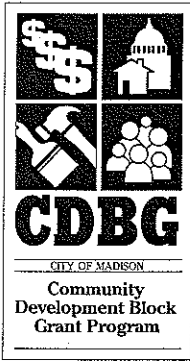
- 1) Commission recommendation for **project funding** during the application processes, and
- 2) Staff work with the Department of Civil Rights and agencies to facilitate and monitor **contractor compliance** with Funding regulations and local ordinances, , especially for construction contracts.

Over the last five years the Program has funded the following organizations that in some way contribute to the establishment or growth of disadvantaged business enterprises:

- a) Genesis Development Corporation Business Incubator
- b) Wisconsin Women's Business Initiative: technical assistance and micro-loan program
- c) African-American Black Business Association (AABBA); Technical assistance
- d) Latino Chamber of Commerce: technical assistance
- e) Madison Development Corporation: business loan program
- f)

For HUD's purposes, HUD asks that cities count non-profit groups like the Urban League of Greater Madison or Genesis with a majority of the Board of Directors of minority background as minority or women or disabled business enterprises.

The City of Madison numerical results are described in attachment C.



TO: CDBG Commission
FROM: Audrey Short
SUBJECT: Women and Minority Business Requirements
DATE: December 6, 2007

Any agency ("Agency") that enters into a contract with the City through the CD Office must comply with the City of Madison Affirmative Action requirements. The Agency may also have additional requirements depending on the source of the funds they are receiving, federal or state. By signing our contract, the Agency agrees to comply with those requirements.

There is a general Women Owned Business and Minority Business participation goal for the City of 11.3%. Our Agencies must help the City meet that goal by making good faith efforts to purchase goods and services from W/MBE's. They must report their usage to us on a monthly basis.

The requirements for construction contracts are a little more specific and vary depending on the dollar amount of the contract and the type of labor that will be used. Agencies must work closely with our office and with the City's Affirmative Action Division in establishing the requirements.

For construction valued at less than \$100,000, generally the Agency must make good faith efforts to use W/MBE's. If a project in this dollar range will involve multiple trades a goal may be set, but that usually does not happen.

For construction valued at more than \$100,000, the AA Division will set a specific W/MBE goal for the project. The agency cannot hire a prime contractor unless they can demonstrate how the the goal will be met or the AA Division has approved their good faith efforts to try to meet the goal.

The CD Office reports W/MBE accomplishments to HUD on an annual basis.

2007

Amount of Contract or Subcontract 7b.	Type of Trade Code (See below) 7c.	Contractor or Subcontract or Business Racial/Ethnic (See below) 7d.	Woman Owned Business (Yes or No) 7e.
78,689	3	1	N
8,000	2	1	N
65,471	3	1	N
35,680	3	1	N
9,150	3	1	N
227,200	3	1	N
241,194	3	1	N
143,402	3	1	N
41,393	3	1	N
45,383	3	1	N
35,346	3	1	N
33,460	3	1	N
269,848	3	1	N
171,155	2	1	Y
25,000	3	1	Y
25,000	3	1	N
760,347	3	1	N
62,980	3	1	N
120,191	1	1	N
10,000	3	1	N
30,000	3	1	N
90,000	3	1	N
50,000	3	1	Y
34,000	3	1	Y

2,612,889

White = 2,612,889
76.66%

TOTAL = 3,408,496

Black American

15,000	2	2	N
201,800	3	2	N
300,000	1	2	N
9,917	3	2	N
18,510	3	2	N
2,300	3	2	N
5,700	3	2	N
2,380	3	2	N
555,607		16.30%	

Native American

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Hispanic

15,000	2	4	N
150,000	3	4	N
75,000	2	4	N
240,000		7.04%	

Asian

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Women

171,155	2	1	Y
25,000	3	1	Y
50,000	3	1	Y
34,000	3	1	Y
280,155		8.22%	

280,155

8.22%

Contract and Subcontract Activity

U.S. Department of Housing and Urban Development

OMB Approval No.: 2577-0088
OMB Approval No.: 2502-0355

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information is voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Executive Orders dated July 14, 1983, direct the Minority Business Development Plans shall be developed by each Federal Agency and the these annual plans shall establish minority business development objectives. The information is used by HUD to monitor and evaluate MBE activities against the total program activity and the designated minority business enterprise (MBE) goals. The Department requires the information to provide guidance and oversight for programs for the development of minority business enterprise concerning Minority Business Development. If the information is not collected HUD would not be able to establish meaningful MBE goals nor evaluate MBE performance against these goals.

Privacy Act Notice - The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulation. It will not be disclosed or released outside the United States Department of Housing and Urban Development without your consent, except as required or permitted by Law.

1. Grantee/Project Owner/Developer/Sponsor/Builder/Agency
City of Madison

2. Location (City, State Zip Code)
Madison, WI 53703

Check if:
 PH
 IH
 CPD
 X Housing

3a. Name of Contact Person
Aldrey Short

3b. Phone Number (including Area Code)
608-267-0743

4. Reporting
 Oct. 1 - Sept. 30 2007
 5. Program Code (Not applicable for OBD programs.)
 See explanation of Codes at bottom of page 14. Use a separate sheet for each program code.

6. Date Submitted to Field Office
10/1/2007

Grantee/Project Number or HUD Case Number or other identification of property, subdivision, dwelling unit, etc.	Amount of Contract or Subcontract	Type of Trade (See below)	Contractor or Subcontractor Business Racial/Ethnic (See below)	Woman Owned Business (Yes or No)	Prime Contractor Identification (ID) Number	Subcontractor Identification (ID) Number	Sec. 3	Oct. 1 - Sept. 30 2007	Sec. 3	Name	Street	City	State	Zip	Contractor/Subcontractor Name and Address	
															7a.	7b.
B07-MC55-0005	25,000	3	1	Y	391597954	80696920	N	7a.	Greek II Greek	401 N. ake St.	Madison	WI	53703	7b.		
B07-MC55-0005	25,000	3	1	N	391597954	806966698	N		SOS Vending	917 Walsh Rd #212	Madison	WI	53714			
B07-MC55-0005	760,347	3	1	N	391277471		N		Madison Development Corp.	550 W. Washington Ave.	Madison	WI	53703			
B07-MC55-0005	62,980	3	1	N	391323300		N		Commonwealth Development, Inc.	1501 Williamson St.	Madison	WI	53703			
B07-MC55-0005	201,800	3	2	N	391098146		N		Urban League of Greater Madison, Inc.	151 E. Gorham St.	Madison	WI	53703			
B07-MC55-0005	300,000	1	2	N	391098146		Y		Urban League of Greater Madison, Inc.	151 E. Gorham St.	Madison	WI	53703			
B07-MC55-0005	120,191	1	1	N	237108090		N		Operation Fresh Start, Inc.	1925 Winnebago St.	Madison	WI	53704			
B07-MC55-0005	10,000	3	1	N	391422826		N		Rainbow Project, Inc.	831 E. Washington Ave.	Madison	WI	53703			
B07-MC55-0005	150,000	3	4	N	391277471		N		Aerium LLC	5133 W Terrace Dr. Ste 300	Madison	WI	53718			
B07-MC55-0005	30,000	3	1	N	391277471		N		Moen Fabrication	811 Stewart St.	Madison	WI	53713			
B07-MC55-0005	90,000	3	1	N	391277471		N		Thorton Properties LLC	5701 Manufacturers Dr	Madison	WI	53703			
B07-MC55-0005	50,000	3	1	Y	391277471		N		Marco Market LLC	804 Williamson St.	Madison	WI	53703			
B07-MC55-0005	9,917	3	2	N	391925617		N		Kendler Accounting Services, LLC	8676 W Mineral Point Road	Cross Plains	WI	53528			
B07-MC55-0005	18,510	3	2	N	391919663		N		Forbes Construction	210 S Baldwin St	Madison	WI	53703			
B07-MC55-0005	2,300	3	2	N	391984626		N		HomeTown Painting	2112 High Ridge Trl #206	Madison	WI	53713			
B07-MC55-0005	5,700	3	2	N	391984626		N		King Carpet & Vinyl	413 W Oak St.	Collage Grove	WI	53527			
B07-MC55-0005	78,689	3	1	N	391053827		N		Community Action Coalition	1717 N. Stoughton Rd.	Madison	WI	53704			
B07-MC55-0005	8,000	2	1	N	391286685		N		Members Area, Inc Housing Council	600 Williamson St., L-4	Madison	WI	53703			
B07-MC55-0005	15,000	2	4	N	593820908		N		Laino Chamber of Commerce	2300 Park St.	Madison	WI	53713			
B07-MC55-0005	15,000	2	2	N	202877968		N		Af. Am/Black Bus. Assoc.	313 W. Beltline Hwy Ste 120	Madison	WI	53719			
B07-MC55-0005	65,471	3	1	N	391186642		N		Independent Living, Inc.	437 Yellowstone Dr.	Madison	WI	53719			
B07-MC55-0005	35,680	3	1	N	522422071		N		Geber Leisner Products, Inc.	PO Box 42	Mount Horeb	WI	53572			
B07-MC55-0005	9,150	3	1	N	522422071		N		Dressens Decks and Patios, Inc.	9031 Katzenboeche Rd.	Mazomanie	WI	53560			
B07-MC55-0005	227,200	3	1	N	391279307		Y		Project Home, Inc.	1966 S. Stoughton Rd.	Madison	WI	53716			
B07-MC55-0005	241,194	3	1	N	391945609		N		Vera Court Neighborhood Cents	614 Vera Ct.	Madison	WI	53704			
B07-MC55-0005	143,402	3	1	N	391796793		N		Friends of WI-Marin Inc	953 Jenifer St.	Madison	WI	53703			
B07-MC55-0005	41,393	3	1	N	391919172		N		Atwood Community Center, Inc	2425 Atwood Ave.	Madison	WI	53704			
B07-MC55-0005	45,383	3	1	N	391941839		N		East Madison Community Center, Inc	18 Straubel Ct.	Madison	WI	53704			
B07-MC55-0005	35,346	3	1	N	391930073		N		Neighborhood House, Inc	29 S. Mills St.	Madison	WI	53715			
B07-MC55-0005	33,460	3	1	N	391938173		N		Watson Edge High School Center, Inc.	7011 Flower On, A/C	Madison	WI	53717			
B07-MC55-0005	269,848	3	1	N	391925617		Y		Boys and Girls Club, Inc.	2001 Taft St.	Madison	WI	53713			
B07-MC55-0005	171,155	2	1	Y	391597954		N		Wisconsin Women Business Institute	2300 S. Park St., Ste 400	Madison	WI	53713			

7c: Type of Trade Codes:
 Housing/Public Housing:
 1 = New Construction
 2 = Substantial Rehab.
 3 = Repair
 4 = Service
 5 = Project/Mgmt
 6 = Other

7d: Racial/Ethnic Codes:
 1 = White Americans
 2 = Black Americans
 3 = Native Americans
 4 = Hispanic Americans
 5 = Asian/Pacific Americans
 6 = Hurdle Fees

7e: Program Codes (Complete for Housing and Public and Indian Housing programs only):
 1 = All Insured, including Section 8
 2 = Floodable Subsidy
 3 = Section 8 Nonrented, Non-HEDA
 4 = Insured (Management)
 5 = Section 202
 6 = HUD-Field (Management)
 7 = Public/Indian Housing
 8 = Section 811

Previous editions are obsolete.

Form HUD-2516 (8/98)

ATTACHMENT 10 (CDBG)

AFFIRMATIVE ACTION REQUIREMENTS

The Contractor shall comply with the following provisions of Madison General Ordinances Section 3.58(9).

In the performance of the services under this Agreement the Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, familial status, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex or national origin.

The Contractor agrees that, within thirty (30) days after the effective date of this Agreement, the Contractor will provide to the City of Madison Department of Civil Rights certain workforce utilization statistics, using a form to be furnished by the City.

If the Agreement is still in effect, or if the City enters into a new agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the City Department of Civil Rights no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this contract, it will notify the City of Madison Department of Civil Rights of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications and application procedures and deadlines. The Contractor agrees to interview and consider candidates referred by the Department of Civil Rights if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

Articles of Agreement

Article I

The Contractor shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the Contractor. The Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract.

Article II

The Contractor shall in all solicitations or advertisements for employees placed by or on behalf

of the Contractor state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex or national origin.

Article III

The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the Contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

Article IV

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison including the contract compliance requirements. The Contractor warrants and certifies that, of the following two paragraphs, paragraph A or B is true:

- A. It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison Ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- B. Within thirty (30) days after the effective date of this contract, it will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action plan approved by the Madison Common Council.

Article V

(Reserved for public works contracts)

Article VI

The Contractor will maintain records as required by Section 3.58(9)(f) of the Madison General Ordinances and will provide the City's Department of Civil Rights with access to such records and to persons who have relevant and necessary information, as provided in Section 3.58(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

Article VII

In the event of the Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action Provisions of this contract or Sections 3.23 and 3.58 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

- 1. Cancel, terminate or suspend this contract in whole or in part.
- 2. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.

3. Recover on behalf of the City from the prime Contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the noncomplying subcontractor.

Article VIII

[This article is blank. This article applies to City Public Works projects only.]

Article IX

The Contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE and WBE" shall be substituted for the term "small business" in this article).

ATTACHMENT 9 (CDBG)

**EQUAL OPPORTUNITY, ACCESSIBILITY, FAIR HOUSING, SECTION 3, AND
MINORITY BUSINESS ENTERPRISE REQUIREMENTS**

I. Non-Discrimination

Consistent with Federal regulations and City ordinance, the Contractor may not, directly or through contractual licensing or other arrangements, take any of the following actions on the grounds of race, national origin or ancestry, color, religion, sex, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, or the fact that such person is a student:

- A. Deny any individual any facilities, services, financial aid or other benefits provided under the program or activity;
- B. Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form, from that provided to others under the program or activity;
- C. Subject an individual to segregated or separate treatment in any facility, or in any matter of process related to receipt of any service or benefit under the program or activity;
- D. Restrict an individual's access to, or enjoyment of, any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity;
- E. Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirements or conditions which individuals must meet in order to be provided any facilities, services or other benefit provided under the program or activity;
- F. Deny an individual an opportunity to participate in a program or activity as an employee;
- G. Aid or otherwise perpetuate discrimination against an individual by providing Federal financial assistance to an agency, organization, or person that discriminates in providing any housing, aid, benefit, or service;
- H. Otherwise limit an individual in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other individuals receiving the housing, aid, benefit, or service;
- I. Use criteria or methods of administration that have the effect of subjecting persons to discrimination or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to persons of a particular race, color, national origin or ancestry, religion, sex, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, or the fact that such person is a student; or

- J. Deny a person the opportunity to participate as a member of planning or advisory boards.

In determining the site or location of housing, accommodations, or facilities, the Contractor may not make selections that have the effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin or ancestry, religion, sex, age, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, familial status, or the fact that such person is a student. The Contractor may not make selections that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Section 109 of Title I of the Housing and Community Development Act of 1974, 24 CFR part 6) and of this Attachment.

The Contractor may classify employees or applicants for employment, volunteers or applicants for volunteer service, applicants for or consumers of services, or applicants for board or committee membership in the Contractor's organization on the basis of race, national origin or ancestry, color, religion, sex, familial status, handicap/disability, marital status, source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, or political beliefs only in those certain instances where such classification is a bona fide qualification reasonably necessary to the proper performance of the services contracted for.

Specifically, the Contractor hereby agrees to comply with the following as applicable:

1. The requirements of the Fair Housing Act (42 U.S.C. 3601-et seq) and implementing regulations at 24 CFR part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 USC 2000d (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;
2. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;
3. The requirements of Executive Order 11246 (Equal Employment Opportunity), as amended by Executive Order 13279, and the implementing regulations issued at 41 CFR Chapter 60;
4. The requirements of City of Madison Equal Opportunities Ordinance 39.03;
5. The requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (if this Agreement exceeds \$200,000 and provides assistance for housing rehabilitation, housing construction, or other public construction)
 - a. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.

- b. The parties to this Agreement agree to comply with the provisions set forth in 24 CFR Part 135. As evidenced by the execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment which would prevent them from complying with the part 135 regulations.
 - c. The Contractor will send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of the Contractor's commitments under this Section 3 clause and shall post copies of the notice in conspicuous places at the work site where both employees and applicants for employment or training positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - d. The Contractor will include this Section 3 clause in every contract or subcontract in excess of \$100,000 for work in connection with the project and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this paragraph E, upon a finding that the subcontractor is in violation of regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of regulations in 24 CFR Part 135.
 - e. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before this Agreement is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.
 - f. Non-compliance with the regulations set forth in 24 CFR Part 135 may result in sanctions, termination of this Agreement for default and debarment from future HUD-assisted contracts.
6. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), and of 24 CFR 85.36.

Accordingly, the Contractor hereby agrees to take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- a. Including qualified women's business enterprises and small and minority businesses on solicitation lists;
- b. Assuring that women's enterprises and small and minority businesses are solicited whenever they are potential sources;

- c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority business, and women's business enterprises;
- d. Where the requirement permits, establishing delivery schedules which will encourage participation by women's business enterprises and small and minority business;
- e. Using the services and assistance of the Small Business Administration, and the Office of Minority Business Development Agency of the Department of Commerce; and
- f. If any subcontracts are to be let, requiring the prime Contractor to take the affirmative steps in 1 through 5 above.

For the purposes of these requirements, a Minority Business Enterprise (MBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by members of the following groups: Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan Natives. A Women Business Enterprise (WBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by women. The City of Madison maintains an online directory of W/MBE businesses, which can be accessed at: <http://www.cityofmadison.com/affact/pubtoc.html>.

- 7. The requirements of City of Madison Landlord and Tenant Law, MGO Chapter 32, where appropriate.

II. Nondiscrimination on Basis of Disability

- A. Nondiscrimination Based on Disability. Contractor shall comply with Section 39.05, Madison General Ordinances, "Nondiscrimination Based on Disability in City-Assisted Programs and Activities." Under section 39.05(7) of the Madison General Ordinances, no City financial assistance shall be granted unless an Assurance of Compliance with Sec. 39.05 is provided by the applicant or recipient, prior to the granting of the City financial assistance.

Contractor hereby makes the following assurances: Contractor assures and certifies that it will comply with section 39.05 of the Madison General Ordinances, "Nondiscrimination Based on Disability in City Facilities and City-Assisted Programs and Activities," and agrees to ensure that any subcontractor who performs any part of this agreement complies with sec. 39.05, where applicable. This includes but is not limited to assuring compliance by the Contractor and any subcontractor, with section 39.05(4) of the Madison General Ordinances, "Discriminatory Actions Prohibited."

Contractor may not, in providing any aid, benefit or service, directly or through contractual, licensing or other arrangements, violate the prohibitions in Section 39.05(4), listed below:

Discriminatory Actions Prohibited: Contractor assures that, in providing any aid, benefit, or service, it shall not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

1. Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
2. Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service, or the City facility, that is not equal to that afforded others;
3. Provide a qualified person with a disability with a City facility or an aid, benefit, or service that is not as effective as that provided to others;
4. Provide different or separate City facilities, or aid, benefits, or services to persons with a disability or to any class of persons with disabilities unless such action is necessary to provide qualified persons with a disability with City facilities, aid, benefits, or services that are as effective as those provided to others;
5. Aid or perpetuate discrimination against a qualified person with a disability by providing significant assistance to any agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program;
6. Deny a qualified person with a disability the opportunity to participate as a member of planning or advisory boards; or
7. Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service from a recipient, or by others using City facilities.

Contractor shall post notices in an accessible format to applicants, beneficiaries, and other persons, describing the applicable provisions of Sec. 39.05 of the Madison General Ordinances, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 USCA Sec 2000e-10).

B. Employment Provisions

1. No qualified individual with handicaps shall, solely on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives Federal financial assistance from the Department.
2. A Contractor shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant with handicaps or employee with handicaps, unless the Contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its program.
3. A Contractor may not use any employment test or other selection criterion that screens out or tends to screen out individuals with handicaps or any class of individuals with handicaps unless the Contractor demonstrates that the test score, or other selection criteria, as used by the Contractor is job related for the position in question.

C. Accessibility

The Contractor agrees to comply with the provisions of local, State and Federal law regarding accessibility including, but not limited to the Rehabilitation Act, the Fair Housing Amendments Act, the Architectural Barriers Act, the Americans with Disabilities Act, Madison General Ordinance 39.05, the Wisconsin Open Housing Law and all applicable implementing regulations thereto. The primary provision of Section 504 of the Rehabilitation Act of 1973, as amended, requires the following:

1. Existing facilities

A Contractor shall operate each program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not:

- a. Necessarily require a Contractor to make each of its existing facilities accessible to and usable by individuals with disabilities;
- b. In the case of historic preservation programs or activities, require the Contractor to take any action that would result in a substantial impairment of significant historic features of a historic property; or
- c. Require a Contractor to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such burdens, the Contractor shall take any action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.
- d. A Contractor may comply with the requirements of this section in its programs and activities receiving Federal financial assistance through such means as location of programs or services to accessible facilities or accessible portions of facilities, assignment of aides to beneficiaries, home visits, the addition or redesign of equipment (e.g., appliances or furnishings) changes in management policies or procedures, acquisition or construction of additional facilities, or alterations to existing facilities on a selective basis, or any other methods that result in making its program or activity accessible to individuals with disabilities. A Contractor is not required to make structural changes to existing facilities where other methods are effective in achieving compliance with this section. In choosing among available methods for meeting the requirements of this section, the Contractor shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

2. Non-Housing Facilities

- a. New construction - New non-housing facilities shall be designed and constructed to be readily accessible to and usable by individuals with disabilities.
- b. Alterations to facilities - Alterations to existing non-housing facilities shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a Contractor make a non-housing facility, or element thereof, accessible if doing so would impose undue financial and administrative burdens on the operation of the Contractor's program or activity.

3. Housing Facilities

In addition, where housing units are being constructed or renovated the following provisions apply in the appropriate situation:

a. New Construction

- i. New multifamily housing projects (including public housing projects as required by 24 CFR 8.25) shall be designed and constructed to be readily accessible to and usable by individuals with disabilities.
- ii. Subject to paragraph (c) of this section, a minimum of five percent of the total dwelling units or at least one unit in a multifamily housing project, whichever is greater, shall be made accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 is accessible for purposes of this section. An additional two percent of the units (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairments. In addition, the entire project must comply with the design requirements of the Wisconsin Open Housing Law.
- iii. The City and HUD may prescribe a higher percentage or number than that prescribed in paragraph (2) of this section for any area upon request therefore by any affected Contractor or by any State or local government or agency thereof based upon demonstration to their reasonable satisfaction of a need for a higher percentage or number, based on census data or other available current data (including a currently effective Consolidated Plan), or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD or the City shall take into account the expected needs of eligible persons with and without disabilities.

b. Substantial Rehab

If alterations are undertaken to a project (including a public housing project as required by 24 CFR 8.25(a)(2) that has 15 or more units and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then the provisions of 24 CFR 8.22 shall apply. In addition, any project of 3 or more units, where more than 50% of the interior square footage is to be remodeled, must comply in total with the design requirements of the Wisconsin Open Housing Law.

c. Other Rehab

- i. Alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once five percent of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase *to the maximum extent feasible* shall not be interpreted as requiring that a Contractor make a

dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project. In addition, any project of 3 or more units must comply with the design requirements of the Wisconsin Open Housing Law.

- ii. The City and HUD may prescribe a higher percentage or number than that prescribed in paragraph a. above for any area upon request therefore by an affected Contractor or by any State or local government or agency thereof based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data (including a currently effective Consolidated Plan), or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD and the City shall take into account the expected needs of eligible persons with and without disabilities.