



REQUEST FOR BOARD ACTION

ITEM NO. 14

DATE OF MEETING: May 7, 2012

REQUESTED BY: Judith Herring, Housing Director

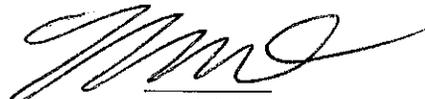
SHORT TITLE: Resolution Approving Pender County's Equal Employment and Procurement Policy; Language Access Plan; and the Low Economic Benefit Plan for the CDBG NC Tomorrow Grant funds.

BACKGROUND: The County has received \$50,000 in CDBG grant funds for the NC Tomorrow program. The Board previously voted to allow the County to act as host for this program which will be administered by Cape Fear Council of Governments. The County is required to update the policies on file with the North Carolina Department of Commerce as part of the compliance checklist for this grant. A copy of the updated policies is attached.

SPECIFIC ACTION REQUESTED: To pass a resolution approving the updated policies, as required by the State of North Carolina, for Pender County in order to comply with the CDBG NC Tomorrow Grant program requirements.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.


Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

Pender County's updated Equal Employment and Procurement Policy; Language Access Plan; and Low Economic Benefit Plan for the CDBG NC Tomorrow Grant program are approved. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Brown ___ Tate ___ Rivenbark ___ Ward ___ Williams ___

George R. Brown, Chairman Date

ATTEST Date

PENDER COUNTY
FY2011 COMMUNITY DEVELOPMENT BLOCK GRANT NC TOMORROW PROGRAM

EQUAL EMPLOYMENT AND PROCUREMENT POLICY

A. GENERAL EQUAL EMPLOYMENT AND PROCUREMENT POLICY

Pender County maintains the policy of providing equal employment opportunities for all persons regardless of race, color, religion, sex, national origin, handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are bona fide occupation qualifications for employment.

In furtherance of this policy, the county prohibits any retaliatory action of any kind taken by any employee of the county against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

The county shall strive for greater utilization of all persons by identifying previously under utilized groups in the work force, such as minorities, women, and the handicapped, and by making special efforts toward their recruitment, selection, development, upward mobility, and any other term, condition, or privilege of employment.

Responsibility for implementing equal opportunities and affirmative action measures is hereby assigned to the County Manager and/or other persons designated by the Pender County Board of Commissioners to assist in the implementation of this policy statement.

The county shall develop a self-evaluation mechanism to provide for periodic examination and evaluation. Periodic reports as requested on the progress of equal employment opportunity and affirmative action will be presented to the Pender County Board of Commissioners by the County Manager.

The county is committed to this policy and is aware that with its implementation the county will receive positive benefits through the greater utilization and development of all its human resources.

B. PROCUREMENT POLICY FOR FEDERAL GRANT PROGRAMS

All procurement of goods and services by Pender County with CDBG grant funds shall be accomplished in accordance with the regulations of either Section 85.36 of 24CFR85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments," or the North Carolina General Statutes applying to procurement in general by North Carolina municipalities/ counties.

When the federal and state regulations are different, the more restrictive regulations shall apply to the procurement in question. Additionally, the county will adhere to the following guidelines during procurement of goods and services with federal funds:

1. In all cases where goods or services are procured on the basis of one bid or

proposal received, the county will follow established principles included in OMB Circular A-87 to verify the reasonable cost of the procurement, and shall contact the state agency supervising the grant program before making any contract award on the basis of non-competitive negotiation.

2. Historically underutilized businesses, including women-owned, and minority-owned enterprises shall be included on bidders' or professional services' lists maintained by the county, and such firm(s) shall be solicited for all competitive negotiations, small purchases, and informal and formal bids when such firms are potential competitive sources for goods and services.
3. The county shall develop a written statement of work for each service to be awarded on the basis of competitive negotiation, which shall include descriptions of tasks to be completed, project timetables, and an outline of fee proposal requirements. The statement of work shall also include a written selection procedure. All competitive negotiations shall be awarded strictly on the basis of written selection procedures, and cost shall not be the sole or more important factor in selection of services through the use of competitive negotiation.
4. Prior to any contract award, the county shall verify the contractor's eligibility to participate in a federally-assisted program.
5. No consultant or bidder shall assist in evaluation of proposals or bid packages for contracts in which that consultant or bidder has an indirect or direct interest. The county shall adhere to all applicable federal and state conflict of interest regulations in making contract awards.
6. The county shall request references, or check references, of contractors or firms who are awarded contracts with federal grant funds, and will request a written warranty for all goods and services provided through small purchase requests.
7. The county shall not award any contracts for federally-assisted projects on a contingency or cost plus percentage of cost basis.

Adopted this 7nd day of May, 2012.

George Brown, Chairman
Pender County Board of Commissioners

ATTEST:

Dr. Michael "Mickey" Duvall, Clerk to the Board

Language Access Plan
(Updated May 2012)

Pender County, North Carolina

The purpose of this Policy and Plan is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to persons with limited English proficiency (LEP). Title VI of the Civil Rights Act of 1964 prohibits discrimination based on the ground of race, color or national origin by any entity receiving federal financial assistance. Administrative methods or procedures, which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations, are prohibited.

In order to avoid discrimination on the grounds of national origin, managers of all federally-funded programs or activities administered by Pender County, North Carolina, must take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying LEP individuals with equal access to benefits and services for which such persons qualify. This Policy defines the responsibilities of Pender County to ensure that LEP individuals can communicate effectively.

This policy and plan is effective May 1, 2012.

I. Scope of Policy

These requirements will apply to all partially or wholly federally-funded activities undertaken by Pender County (herein referred to as ~~the agency~~) including subcontractors, vendors, and sub-recipients.

The agency will ensure that LEP individuals are provided meaningful access to benefits and services provided through contractors or service providers receiving sub-grants from the agency.

II. Definitions

A. Limited English Proficient (LEP) individual ~~B~~ Any prospective, potential, or actual recipient of benefits or services from the agency who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with health care providers and social service agencies.

B. Vital Documents ~~B~~ These forms include, but are not limited to, applications, consent forms, all compliance plans, bid documents, fair housing information, citizen participation plans, letters containing important information regarding participation in a program; notices pertaining to the reduction, denial, or termination of services or benefits, the right to appeal such actions, or that require a response from beneficiary notices advising LEP persons of the availability of free language assistance; and other outreach materials.

- C. Title VI Compliance Officer: The person or persons responsible for compliance with the Title VI LEP policies.
- D. Substantial number of LEP: 5% or 1,000 people, whichever is smaller, are potential applicants or recipients of the agency and speak a primary language other than English and have limited English proficiency.

III. Providing Notice to LEP Individuals

- A. The agency will take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, of the provisions of this policy. Such notification will also identify the name, office telephone number, and office address of the Title VI compliance officer(s). List the current name, office telephone number and office address of the Title VI compliance officer(s):

Dr. Michael "Mickey" Duvall, Pender County Manager
805 South Walker Street, PO Box 5
Burgaw NC 28425
Telephone (910) 259-1200

(Note: The agency must notify the CI compliance office immediately of changes in name or contact information for the Title VI compliance officer.)

- B. The agency will post and maintain signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of contact. These signs will inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services. **Signs will be posted at these locations:**
 - 1. County Social Services Department
 - 2. County Administration Building
 - 3. County Health Department
 - 4. Sheriff=s Office
 - 5. County Schools
- C. The agency will include statements of the right to free language assistance in Spanish and other significant languages in all outreach material that is routinely disseminated to the public (including electronic text).
- D. The agency will also disseminate information in the following manner: *(Describe how information will be disseminated. This may include, but not be limited to: dissemination of pamphlets explaining the rights in this policy.)*
 - 1. Pamphlets in waiting rooms of county offices outlined in Section III-B

2. Pender County website

IV. Provision of Services to LEP Applicants/Recipients

A. Assessing Linguistic Needs of Potential Applicants and Recipients

1. The agency will assess the language needs of the population to be served, by identifying:
 - a. the language needs of each LEP applicant/recipient
 - b. the points of contact where language assistance is needed; and
 - c. the resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.
2. Determining the Language Needs of the Population to be Served

The agency is responsible for assessing the needs of the population to be served. Such assessment will include, but not be limited to the following:

- a. The non-English languages that are likely to be encountered in its program will be identified.
 - b. An estimate of the number of people in the community for whom English is not the primary language used for communication will be completed and updated annually. To identify the languages and number of LEP individuals, local entities should review:
 - (1) Census data
 - (2) school system data
 - (3) reports from federal, state, and local governments
 - (4) community agencies= information, and
 - (5) data from client files.
 - c. The points of contact in the program or activity where language assistance is likely to be needed will be identified.
3. Determining the Language Needs of Each Applicant/Recipient

The agency will determine the language needs of each applicant/recipient. Such assessment will include, but not be limited to the following:

- a. At the first point of contact, each applicant/recipient will be assessed to determine the individual=s primary language.

Check all methods that will be used:

- T multi-language identification cards, a poster-size language list, or the use of AI speak@ peel-off language identification cards for indicating preferred languages
 - T English proficiency assessment tools, provided they can be administered in a manner that is sensitive to and respectful of individual dignity and privacy
- b. If the LEP person does not speak or read any of these languages, the agency will use a telephone interpreting service to identify the client=s primary language.
 - c. Staff will not solely rely on their own assessment of the applicant or recipient=s English proficiency in determining the need for an interpreter. If an individual requests an interpreter, an interpreter will be provided free of charge. A declaration of the client will be used to establish the client=s primary language.
 - d. When staff place or receive a telephone call and cannot determine what language the other person on the line is speaking, a telephone interpreting service will be utilized in making the determination.
 - e. If any applicant/recipient is assessed as LEP, they will be informed of interpreter availability and their right to have a language interpreter at no cost to them with a notice in writing in the languages identified in Section C. Provisions of Written Translations.

B. Provision of Bilingual/Interpretive Services

- 1. The agency will ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English speaking population. The provision of bilingual/interpretive services will be prompt without undue delays. In most circumstances, this requires language services to be available during all operating hours.

This requirement will be met by available bilingual staff, employees of local community action organizations, and telephone interpreters.

- 2. The agency will provide language assistance at all levels of interaction with LEP individuals, including telephone interactions.

Describe how this requirement will be met:

Pender County will utilize qualified bilingual employees, qualified employees of local community action agencies, and paid interpreters or telephone interpreters when qualified county or community action agencies are not available.

3. Interpreter Standards

a. Those providing bilingual/interpretive services will meet the linguistic and cultural competency standards set forth below. The agency will ensure that interpreters and self-identified bilingual staff, have first been screened to ensure that the following standards are met before being used for interpreter services:

- (1) Can fluently and effectively communicate in both English and the primary language of the LEP individual
- (2) Can accurately and impartially interpret to and from such languages and English
- (3) Has a basic knowledge of specialized terms and concepts used frequently in the provision of the agency=s services
- (4) Demonstrates cultural competency
- (5) Understands the obligation to maintain confidentiality
- (6) Understands the roles of interpreters and the ethics associated with being an interpreter

Describe how the agency ensures the competency of bilingual staff and interpreters:

Pender County will conduct competency review sessions of qualified bilingual/interpretive employees as part of employee=s annual review process. The county department heads will personally evaluate the LEP qualifications of paid interpreters and employees of local community action organizations utilized for outsourcing of LEP-related tasks utilizing the criteria outlined above.

b. When staff members have reason to believe that an interpreter is not qualified or properly trained to serve as an interpreter, the staff member will request another interpreter.

4. Using Family Members or Friends as Interpreters

a. Applicants/recipients may provide their own interpreter; however, the agency will not require them to do so.

- b. The agency will first inform an LEP person, in the primary language of the LEP person, of the right to free interpreter services and the potential problems for ineffective communication. If the LEP person declines such services and requests the use of a family member or friend, the agency may utilize the family member or friend to interpret only if the use of such person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The agency will monitor these interactions and again offer interpreter services, if it appears there are problems with this arrangement.
 - c. The agency will indicate in the LEP individual's file that an offer of interpreter services was made and rejected; that the individual was informed of potential problems associated with using friends or family members and the name of the person serving as an interpreter at the LEP individual's request.
 - d. Only under extenuating circumstances shall the agency allow a minor (under the age of 18 years) to temporarily act as an interpreter. The agency will keep a written record of when it has used a minor as an interpreter, and this information will be shared with the DCA upon request.
5. The agency will **not** require the applicant/recipient to pay for bilingual/interpretive services.

C. Provision of Written Translations

- 1. The agency must provide written materials in languages other than English where a substantial number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively.
- 2. Translation of Vital Documents
 - a. The agency will ensure that vital documents for locally designed programs are translated into Spanish.
 - b. When forms and other written material related to federal assistance programs contain spaces in which the local entity is to insert information, this inserted information will also be in the individual's primary language. When such forms are completed by applicants/recipients in their primary language, the information must be accepted.
 - c. If, as a result of the local language assessment, it appears there are a substantial number of potential applicants or recipients of the agency (defined as 5% or 1,000 people, whichever is less) who are LEP and speak a

language other than Spanish, the agency will translate and provide vital documents in the appropriate language.

- d. The agency will keep a record of all vital documents translated, and will submit this information to interested state/federal agencies at their request.
3. If the primary language of an LEP applicant or recipient is a language other than Spanish AND the language does not meet the threshold for translation as defined in the preceding paragraph, the LEP individual will be informed in their own language of the right to oral translation of written notices. The notification will include, in the primary language of the applicant/recipient, the following language: **IMPORTANT: IF YOU NEED HELP IN READING THIS, ASK THE AGENCY FOR AN INTERPRETER TO HELP. AN INTERPRETER IS AVAILABLE FREE OF CHARGE.**

D. Documentation of Applicant/Recipient Case Records

1. The agency will maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with this policy.
2. The agency will ensure that case record documentation, including computerized records if appropriate, identifies the applicant's/recipient's ethnic origin and primary language. In those cases where the applicant/recipient is non-English speaking, the agency will:
 - a. Document the individual's acceptance or refusal of forms or other written materials offered in the individual's primary language.
 - b. Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided interpreter. When a minor is used as interpreter, the agency will document the circumstances requiring temporary use of a minor and will provide this information to interested state/federal agencies upon request.
3. Consent for the release of information will be obtained from applicants/recipients when individuals other than agency employees are used as interpreters and the case record will be so documented.

E. Staff Development and Training

1. The agency will provide staff training at new employee orientation and continuing training programs. The training will include, but not be limited to:

- a. Language assistance policies and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process.
 - b. Cultural awareness information, including specific cultural characteristics of the groups served by the agency to provide a better understanding of, and sensitivity to, the various cultural groups to ensure equal delivery of services.
2. The agency will provide or ensure training is provided for bilingual staff and interpreters employed or utilized by the agency. This includes the ethics of interpreting, including confidentiality; methods of interpreting; orientation to the organization; specialized terminology used by the agency; and cultural competency.
 3. The agency will ensure that applicable grantees, contractors, cooperative agreement recipients, and other entities receiving state or federal dollars are trained in the requirements of this policy.

Describe how this provision will be met:

A copy of this policy will be provided to all sub-recipients/agencies and management contractors who participate in federally-funded programs managed by Pender County.

4. The agency will collect and maintain the following information about training provided to staff: the date(s) of such training, the content of such training, the number and types of credit hours awarded; and the names and identifying information of each attendee at the training. The agency will ensure that grantees, contractors, cooperative agreement recipients, and other applicable funded entities collect and maintain such information as well.

V. Compliance Procedures, Reporting and Monitoring

A. Reporting

The agency will complete an annual compliance report and send this report to interested state/federal agencies.

B. Monitoring

1. The agency will complete a self-monitoring report on a quarterly basis, using a standardized reporting system providing by the interested state/federal agencies. These reports will be maintained and stored by the Title VI compliance officer and will be provided to the interested state/federal agencies upon request.

2. The agency will cooperate, when requested, with special review by the interested state/federal agencies.

VI. Applicant/Recipient Complaints of Discriminatory Treatment

A. Complaints

1. The agency will provide assistance to LEP individuals who do not speak or write in English if they indicate that they would like to file a complaint. A complaint will be filed in writing, contain the name and address of the person filing it or his/her designee, and briefly describe the alleged violation of this policy.
2. The agency will maintain records of any complaints filed, the date of filing, actions taken, and resolution.
3. The agency will notify the appropriate state/federal agency and the Division of Community Assistance of complaints filed, the date of filing, actions taken, and resolution. This information will be provided within 30 days of resolution.

B. Investigation

1. The state/federal agency=s Compliance Office will conduct an investigation of the allegations of the complaint. The investigation will afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.
2. The investigation will not exceed 30 days, absent a 15-day extension for extenuating circumstances.

C. Resolution of Matters

1. If the investigation indicates a failure to comply with the Act, the local unit of government, Agency Director or his/her designee will so inform the recipient and the matter will be resolved by informal means whenever possible within 60 days.
2. If the matter cannot be resolved by informal means, then the individual will be informed of his or her right to appeal further to the U.S. Department of Justice. This notice will be provided in the primary language of the individual with Limited English Proficiency.
3. If not resolved by the Division of Community Assistance, the complaint will be forwarded to the Department of Justice (DOJ), HUD Field Office, or other appropriate DOJ contact.

SUBMITTED AND APPROVED BY:

George Brown, Chairman
Board of Pender County Commissioners

Date

PENDER COUNTY
FY2011 COMMUNITY DEVELOPMENT BLOCK GRANT NC TOMORROW PROGRAM

LOCAL ECONOMIC BENEFIT FOR
LOW AND VERY LOW INCOME PERSONS PLAN

To insure that to the greatest extent possible contracts for work are awarded to business concerns located in or owned in substantial part by persons residing in the Cape Fear region (the Section 3 covered area), as required by Section 3 of the Housing and Urban Development Act of 1968, as the grantee for the CDBG NC Tomorrow grant, Pender County (hereinafter called the county) has developed and hereby adopts the following Section 3 Plan:

1. This Section 3 Plan shall apply to services needed in connection with the FY2011 CDBG NC Tomorrow grant, including, but not limited to, businesses in the fields of planning, consulting, design, building construction/ renovation, maintenance and repair, etc.
2. The Section 3 project area for the purpose of the FY2011 CDBG NC Tomorrow shall include the Cape Fear Council of Governments region, including Brunswick County, Columbus County, New Hanover County and Pender County.
3. When in need of a service, the county will identify suppliers, contractors, or subcontractors located in the Section 3 area. Resources for this identification shall include the Minority Business Directory published through the State Department of Commerce, local directories and the Small Business Administration local offices. Word of mouth recommendations shall also be used as a source. Where deemed necessary, listings from any agency noted above shall be distributed to prime contractors as potential sources of subcontractors and suppliers.
4. The county will include required Section 3 clauses in all contracts executed under this CDBG Program. Where deemed necessary, listings from any agency noted in No. 3 above shall be included as well as sources of subcontracts and suppliers.
5. Each housing rehabilitation, demolition, and replacement housing contractor shall be required to submit a Section 3 Plan. This Plan will be maintained on file in the grant office and shall be updated from time to time or as the grant staff may deem necessary.
6. All jobs will be listed through and hiring will be done through the local office of the North Carolina Division of Employment Security; all contracts will be listed with the North Carolina Historically Underutilized Business (HUB) office and the North Carolina Interactive Purchasing System (IPS); potential employees and businesses may seek development and training assistance through various state and local agencies.

7. Early in the project, prior to any contracting, major purchases or hiring, the county will develop a listing of jobs, supplies and contracts likely to be utilized during the project. The county will advertise in a local newspaper. This advertisement will be placed prominently in the newspaper as a display ad and contain the following information:
- a. A brief description of the project.
 - b. A listing of jobs, contracts, and supplies likely to be utilized in carrying out the project.
 - c. An acknowledgment that under Section 3 of the Housing and Community Development Act, local persons and businesses will be utilized for jobs, contracts, and supplies in carrying out the CDBG project to the greatest extent feasible.

Adopted this 7th day of May, 2012.

George Brown, Chairman
Pender County Board of Commissioners

ATTEST:

Dr. Michael "Mickey" Duvall, Clerk to the Board