

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
PROCUREMENT REQUIREMENTS  
FEDERAL SRF LOAN PROGRAM**

Revised 09/09/2013

**INFORMATION TO LOAN RECIPIENT:** All loan recipients of Federal State Revolving Fund (SRF) financial assistance shall make the six good faith efforts, listed below, to assure compliance with the State's "fair share goals" in compliance with federal DBE procurement requirements. The loan recipient/borrower shall ensure, to the fullest extent possible, that these efforts are made in all procurements for prime contractors, subcontractors, suppliers, and others, as specified below.

These requirements are extended to any and all contractors who submit bids for construction work on this loan. After the bid opening the apparent responsible, responsive, low bidder will be required to provide documentation of attempts made to get bids from suppliers, subcontractors, and others as further explained in the following text.

**A. BID SOLICITATIONS:** Provide the following language in the bid solicitation for every project.

This is a federally funded project. All bidders are required to make the six good faith efforts to assure compliance with the State's "fair share goals" and are required to comply with EEO regulations.

**B. BID DOCUMENTS – DBE:** Provide the following language and instructions in the "Special Conditions" or "Supplemental Conditions" for every project.

1. This is a federally funded project. The Bidder is required to comply with federal regulation **40 CFR Part 33 - Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs**, summarized below.
2. The Bidder shall ensure, to the fullest extent possible, that at least the negotiated "Fair Share" objectives of Federal funds for prime contracts or subcontracts for supplies, construction, equipment, or professional services are made available to minority and women owned or controlled organizations or businesses. The "Fair Share" objectives are as follows for each category of procurement:

<u>Category</u>	<u>MBE</u>	<u>WBE</u>
Professional Services	0.5%	0.5%
Supplies	0.25%	0.25%
Equipment	0.25%	0.25%
Construction	4.0%	2.0%

3. The BIDDER/CONTRACTOR agrees to include in its bid documents the "Fair Share" objectives and require all of its sub-contractors to include in their bid documents for sub-contracts the "Fair Share" objectives. The Bidder shall be prepared to provide documentation supporting compliance with these requirements. This documentation should include a log that lists dates and times of verbal, written, and faxed correspondence, telephone logs, a list of companies contacted and contact person with that company, notes of to whom bid packages were sent, responses from firms contacted, a list of bids or quotes received and which sub-bidders will be used, etc. If a MBE/WBE, which submitted a bid/quote was not selected, state the reason for not selecting them. Upon request, after the bid opening and before the contract is awarded, the Bidder will provide all relevant information to the Owner [Borrower] who will provide the same information to the Division of Drinking Water, Department of Environmental Quality, State of Utah for evaluation.
  
4. Every BIDDER must sign the DBE "CERTIFICATION – SIGNATURE" page and SUBMIT said page with his/her BID. If the BIDDER fails to submit the "CERTIFICATION – SIGNATURE" page with his/her bid, the bid will be disqualified by the State of Utah. If this occurs the Borrower will be required to select the next low bidder and the State will require that bidder to provide the above-described documentation.
  
5. To evaluate compliance with the "Fair Share" policy, the CONTRACTOR also agrees to comply with the following six affirmative steps:
  - a. Include all DBEs including: Small, Minority and Women Owned Businesses (MBE/WBE) on solicitation lists.
  - b. Assure that DBEs are solicited whenever they are potential sources.
  - c. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by DBEs.

- d. Establish delivery schedules, when the requirements of the work will permit, which will encourage participation by DBEs.
  - e. Use the services of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce, as appropriate.
  - f. Require the Contractor to make the good faith efforts in subparagraphs “a” through “e” if the Contractor awards sub-agreements.
6. The Bidder shall submit EPA Form 5700-52A, “MBE/WBE Utilization under Federal Grants, Cooperative Agreements, and Interagency Agreements” on a semi-annual basis based on the Federal Fiscal Year.

**C. BID DOCUMENTS - Federal EEO:** The BORROWER or borrower’s ENGINEER shall also include in the BID DOCUMENTS Federal EEO regulations by which the Contractor must also comply.

**D. TERM AND CONDITION:** The BORROWER or Borrower’s ENGINEER shall include in the BID DOCUMENTS the following term and condition:

1. “The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”

**E. CONTRACT PROVISIONS:**

1. The prime contractor must pay its subcontractors for satisfactory performance no more than 30 days from the prime contractor’s receipt of payment from the owner.
2. The prime contractor must notify the owner in writing prior to any termination of a DBE subcontractor for convenience.
3. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts if soliciting a replacement subcontractor, even if the fair share objectives have already been achieved.
4. The prime contractor must distribute EPA Form 6100-2 - DBE Program Subcontractor Participation Form (copy attached) to all of its DBE

subcontractors. The subcontractors can submit completed forms to the EPA DBE Coordinator.

5. The prime contractor must have its DBE subcontractors complete EPA Form 6100-3 -DBE Program Subcontractor Performance Form (copy attached) and include completed forms in its bid or proposal package.
6. The prime contractor must complete EPA Form 6100-4 - DBE Program Subcontractor Utilization Form (copy attached) and submit as part of its bid or proposal package.
7. Failure to submit the requested information (Form 6100-3 and Form 6100-4) within seven (7) calendar days of the bid opening will be viewed as non-responsive.

**Additional DBE forms can be downloaded at  
[http://www.epa.gov/osbp/dbe\\_team.htm](http://www.epa.gov/osbp/dbe_team.htm)**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
CERTIFICATION - SIGNATURE PAGE  
FEDERAL SRF LOAN PROGRAM**

The Bidder hereby certifies that the Bidder has taken the "Six Good Faith Efforts" in soliciting bids and quotes from subcontractors for supplies, construction, equipment, and professional services and is in compliance with 40 CFR Part 33 – *Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency programs* which are summarized in the bid documents for this proposed project.

BIDDER:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Bidder's Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone #: \_\_\_\_\_

E-mail Address: (Optional) \_\_\_\_\_

\_\_\_\_\_  
(The above certification of the Bidder shall be filled out completely, signed, and submitted by each Bidder and shall be a part of the Contract Documents.)

### Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Participation Form

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractor's bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: ___ DOT ___ SBA ___ Other: _____		Meets/ exceeds EPA certification standards? ___ YES ___ NO ___ Unknown

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

### Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE<sup>1</sup> subcontractors<sup>2</sup> and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	__ YES	__ NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Utilization Form**

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<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.