DISADVANTAGED BUSINESS ENTERPRISE (DBE)

GOOD FAITH EFFORT REQUIREMENTS

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS ● OFFICE OF PUBLIC HEALTH

To ensure that contracts provide employment and growth opportunities for disadvantaged businesses, the Federal Government requires that all procurement made with Federal funds follow six (6) "Good Faith Effort" steps to utilize Disadvantaged Business Enterprises(DBEs), which includes minority(MBE), women(WBE), small(SBE), and small businesses in rural areas(SBRA). For that reason, Bidders/Prime Contractors/Subcontractors are required to submit proof demonstrating that good faith efforts have been made to maximize participation with DBE subcontractors prior to award and during the life of the contract. The good faith efforts requirements under the Louisiana Department of Health and Hospitals (LDHH) - Office of Public Health (OPH) - Drinking Water Revolving Loan Fund (DWRLF) (40 CFR 33.301) are contractual obligations that must be fulfilled.

THE SIX (6) GOOD FAITH EFFORTS

1. Inclusion of DBEs on solicitation lists.
2. Assure DBEs are solicited once they are identified
3. Where feasible, divide total requirements into smaller tasks to permit maximum DBE participation.
4. Where feasible, establish delivery schedules that will encourage DBE participation.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify DBEs.
6. Require that each party to a subgrant, subagreement, or contract award take the affirmative steps outlined here.

Performing the above six efforts represents "good faith" efforts to attract and utilize DBEs, primarily through race/gender neutral outreach, recruitment and other activities. The objective is to expand the pool of bidders to include these types of businesses, not to use race or ethnicity in the actual decision - in other words, to level the playing field for these types of businesses. All efforts must be documented.

GOALS

In order to track and measure the DBE participation in Federally Funded Programs, as is the DWRLF, goals have been designated that the programs are expected to meet. Currently, the DWRLF is required to track the participation of all DBEs. However, goals have been set and reporting is required only for MBE and WBE participation. The goals have been divided into four categories as follows:

CURRENT GOALS*	SUPPLIES	EQUIPMENT	SERVICES	CONTRUCTION
MBE	7.0 %	3.6 %	21.0 %	13.0 %
WBE	7.0 %	5.0 %	17.0 %	9.0 %

** Current Goals are based on the SFY 2014 goals. Note that the goals are subject to change each fiscal year.*

DOCUMENTATION OF GOOD FAITH EFFORTS

All Bidders/Prime Contractors/Subcontractors are required to document their efforts in following the six (6) Good Faith Efforts, regardless of whether or not a DBE firm was found. A copy of all documented efforts should be submitted, especially printouts of any DBE lists. The following forms below must be completed and submitted as minimum documentation of complying with this requirement:

1. DBE COMPLIANCE AGREEMENT (DWRLF Form DBE1)
2. DBE CONTRACTOR DATA (DWRLF Form DBE2)
   This form identifies the Prime Contractor and all Subcontractors to be USED on this contract. Also copies of all contracts and/or purchase agreements with subcontractors must be attached.
3. DBE SUBCONTRACTOR CONTACT LOG (DWRLF form DBE3)
   This form logs all contact with DBEs. Also copies of letters or faxes sent to DBEs for solicitation purposes must be attached.
4. DBE SUBCONTRACTOR BIDS LIST (DWRLF form DBE4)
   This form identifies all DBE proposals that were received by the contractor and whether the proposals were accepted or rejected.
5. DBE LETTER OF INTENT (DWRLF form DBE5)
   This form must be used in lieu of a formal contract agreement between the Prime Contractor and any DBE Subcontractors or Sub-subcontractors.
6. DBE SUBCONTRACTOR PARTICIPATION FORM (EPA form 6100-2)
   This form must be provided by Prime Contractors to *all* DBE subcontractors, who have the option to complete and submit it directly to the EPA Region 6's Small and Disadvantaged Business Coordinator.
7. DBE SUBCONTRACTOR PERFORMANCE FORM (EPA form 6100-3)
   The prime contractor must have all of its DBE subcontractors complete this form.
8. DBE SUBCONTRACTOR UTILIZATION FORM (EPA form 6100-4)
   The Prime Contractor must complete and submit this form.

Failure to submit these documents shall make the successful Bidder/Prime Contractor ineligible to be authorized by the DWRLF to receive construction payments. The DWRLF Project Engineer shall have the right to seek clarification or additional information to assure good faith effort compliance. All Prime Contractors/Subcontractors shall keep all such records as are necessary for the DWRLF to determine compliance with the DBE contract obligations. The required forms listed above document only the minimum information required. The minimum information is designed to illustrate the contractor's demonstrated efforts made to negotiate in good faith with interested DBEs for specific items of work. The contractor's records shall include the following:

1. Names, addresses and telephone numbers of all DBEs contacted and DBEs to be used.
2. The dates of initial contact and whether initial solicitations of interest were followed-up personally, by mail, or by phone to determine the DBEs interest.
3. A description of the information provided to DBEs regarding the nature of the work, the plans and specifications and estimated quantities for portions of the work to be performed.
4. A statement of why additional agreements with DBEs were not reached.
5. Documentation of each rejected DBE and the reasons for rejection.
6. All other efforts to obtain services of DBEs.

For those DBEs used for the project, the contractor's records shall include, in addition to the information listed above, the following:

1. Copies of subcontracts.
2. The type of work being performed.
3. Documentation such as canceled checks and paid invoices verifying payment for work, services, and procurement.
4. Documentation of correspondence, verbal contacts, telephone calls.

For additional good faith efforts please see the "ADDITIONAL EFFORTS" section below.

When requested, a Prime Contractor/Subcontractor shall submit information regarding DBEs in such form, manner and content as prescribed by DWRLF. The DWRLF reserves the right to investigate, monitor and/or review actions, statements and documents submitted by any Prime Contractor, Subcontractor, or DBE.

CONTACTING DBEs

Bidders/Prime Contractors/Subcontractors are required to make good faith efforts to contract with DBE firms for each category of work identified above which will need to be performed by a Subcontractor. These efforts must be made and documented, and the appropriate forms must be submitted to the DWRLF in order to qualify and be authorized to receive construction payments.

The Bidder/Prime Contractor/Subcontractor shall provide notice to a reasonable number of DBEs interested in participation as a subcontractor, regular dealer, manufacturer, or consultant for specific items of work. Any DBE may be contacted. However, in order to determine if a potential DBE qualifies, please review the "CERTIFICATION" section of this document.

The DWRLF DBE Program Coordinator may be able to assist in providing a basic list of Disadvantaged Businesses specializing in the categories of work identified in the above section "GOALS". The DWRLF DBE Coordinator may be reached at (225) 342-7499. Additional DBE Information may be obtained from the agencies listed in the attached list. The DWRLF strongly encourages the utilization of these agencies.

WHEN TO CONTACT DBEs: Depending upon bid/project conditions, notification should be provided with sufficient time to allow the DBEs to participate effectively.

HOW TO CONTACT DBEs: DBEs may be contacted by letter or fax to advise of potential subcontracting opportunities. A follow-up telephone call must be made to determine if a proposal will be submitted or if additional information is required by the DBE. A follow-up telephone call is not necessary if a response is made after the first contact by fax or letter (It is recommended that letters be sent certified mail). Note that blanket advertising in trade journals, newspapers or in other media is not alone considered sufficient effort. The fax or letter must include project information about plans, specifications, timing and other requirements, sufficient to permit the DBE firm to have an equal opportunity to compete for work as a subcontractor.

> ***IMPORTANT NOTE***: It is the decision of the consultant engineer and/or the water system as to whether the above listed documentation will be a matter of bidder responsibility or a matter of bid responsiveness. Generally, the documentation is a matter of bidder responsibility and it will be treated as such unless it clearly and unequivocally states in the bid documents that failure to meet the DBE requirements will cause the bid to be rejected as non-responsive. In deciding to make these requirements matters of responsiveness, extreme care must be exercised in drafting the invitations for bid and all bid solicitation documents. If there is any ambiguity in these documents concerning whether a bid failing to comply with the requirements will be automatically rejected as non-responsive, then the requirement will be considered to be a matter of responsibility which can be cured by the bidder after the bid opening. Consequently, where there is such ambiguity in the bid solicitation documents, a nonconforming bid must not be rejected as non-responsive.

ADDITION OR REPLACEMENT OF SUBCONTRACTORS DURING THE PROJECT:
If any subcontractor is added or replaced after the contract award or at any time during the life of the project, the Prime Contractor shall again make good faith efforts to contract with a DBE for the work to be performed by that subcontractor. Documentation of these efforts is required as stated above and the proper forms must be submitted to the DWRLF Project Engineer for approval.

ADDITIONAL EFFORTS

Good faith efforts include personal contacts, follow-ups and earnest negotiations with DBEs. The DWRLF will consider, at a minimum, the required documentation above as relevant efforts. However, the contractor shall keep all such records as are necessary for the DWRLF to determine compliance with the DBE contract obligations. Therefore, the following list provides additional efforts to assist in carrying out the six Good Faith Effort outreach and recruitment activities. This listing is not exclusive or exhaustive and other factors and types of efforts may be relevant.

- Perform an analysis to identify portions of work that can be divided and afford maximum participation by qualified subcontractors and supplier DBEs.
- Scrutinize the elements of the total project to develop economically feasible units of work that are within the bonding range of DBEs.

- Consider lead times and develop realistic delivery schedules, which may provide for greater DBE participation.
- Provide DBE trade organizations with summaries of solicitations.
- Effectively utilize the services of available community organizations; contractor's groups; local, state and federal business assistance offices such as the Small Business Administration, Minority Business Development Agency, US EPA, Office of Small and Disadvantaged Business Utilization (OSDBU), the Department of Transportation; and other organizations to assist in identifying DBEs for potential work opportunities on your projects.
- Maintain and update a listing of qualified DBEs that can be solicited for supplies, construction, equipment and/or services. Provide listings to all interested parties who request copies of the bidding or proposing documents.
- Advertise in general circulation, trade publications, State agency publications, DBE-focused media, etc., concerning contracting and subcontracting opportunities on your projects. Maintain a list of DBE-focused publications that may be utilized to solicit MBEs and WBEs.
- Conduct meetings, conferences and follow-ups with DBEs to inform these groups of opportunities to provide supplies, services, equipment, and construction or to walk the job-site.
- Conduct pre-bid, pre-solicitation and post-award conferences to ensure that consultants, suppliers, and builders solicit DBEs.
- Maintain copies of all bids and quotations received from DBE subcontractors and an explanation of why they were not used for company records.
- Assisting DBEs in obtaining bonding, insurance, or lines of credit required by the recipient or contractor.

The DWRLF reserves the right to investigate, monitor and/or review actions, statements and documents submitted by any contractor, subcontractor, or DBE.

DBE CERTIFICATION

DBEs must be CERTIFIED! EPA now certifies DBEs, so please contact **Ms. Debora Bradford,** Small and Disadvantaged Business Coordinator, EPA Region 6, (214) 665-7406, Bradford.Debora@epamail.epa.gov. The DWRLF will also accept any certified DBE that meets the following criteria:

a. Certified by a Federal or a State/Local Governmental Agency (see attached list of agencies), and
b. Be an independent business concern, which is at least 51 percent owned and controlled by minority group member(s) for MBE(s) or women WBE(s) who are citizens of the United States.
    1. A minority group member is an individual who is a *Black American*, *Hispanic American* (with origins from Puerto Rico, Mexico, Cuba, South or Central America), *Native American* (American Indian, Eskimo, Aleut, native Hawaiian), or *Asian-Pacific American* (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent).
    2. The ownership must be real, substantial and continuing.
    3. The owner must have and exercise control over the business decisions.
    4. Must perform a useful business function according to custom and practice in the industry; or
c. Be a Historically Black College or University (HBCU).
d. In the case of Small Business Concerns (SBEs), any business entity, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards set forth in 13 CFR Part 121.
e. In the case of Small Business in a Rural Area (SBRA), any business entity meeting the definition of a small business (e), and is located and conducts its principle operations in a geographic area (County or parish) listed in the Small Business Administration's Listing of Non-Metropolitan Counties by State.

Additional information may be required to prove ownership and control if there is reasonable cause to believe that a firm doing business is not a legitimate DBE. Such information may include, but not be limited to:

- The certificate described above,
- Names and addresses of legal owners including race, gender, percentage of ownership, percentage of control and the date each owner became an owner of the firm,
- Financial, banking and credit information,
- Whether the firm has ever been denied certification as an MBE/WBE by SBA, a State, or Federal agency and, if so, when and by whom, and
- Other information demonstrating ownership and control.

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The following is a list of Federal, State and local agencies that have a Disadvantaged Business Enterprise Program in place. These agencies may be able to assist Bidders/Prime Contractors in locating certified DBEs for potential subcontracting opportunities and in order to meet the DWRLF DBE obligations.

State of Louisiana Unified Certification Program (UCP) – by LDOTD (includes some of the below LA agencies in a single search)
http://www8.dotd.louisiana.gov/UCP/UCPSearch.aspx

Louisiana Department of Transportation & Development
Post Office Box 94245
Baton Rouge, Louisiana 70804-9245
Remy Graves
(225) 379-1762 (telephone)
remy.graves@la.gov
http://wwwsp.dotd.la.gov/Inside_LaDOTD/Divisions/Administration/Compliance/Pages/DBE_Admin_Unit.aspx

U.S. Small Business Administration
https://www.sba.gov/category/navigation-structure/starting-managing-business/starting-business/choose-register-your-busi

Louisiana Minority Business Council (LAMBC)
Phala Mire, President/MBOC Administrator
(504) 299-2960
www.lambc.org/Certification.aspx

Women's Business Enterprise Council South
Blanca Robinson, President
(504) 830-0149
www.wbecsouth.org/

City of New Orleans
Alvin Porter, DBE Coordinator
(504) 658-4235
agporter@cityofno.com

New Orleans Sewerage and Water Board
Disadvantaged Business Program
Alton DeLarge, Program Director
(504) 585-2112
adelarge@swbno.org

City of Shreveport Fair Share Program
Karen Barnes
(318) 673-5060

Karen.barnes@ci.shreveport.la.us

Southwest LA Partnership for Economic Development
Liz Deville
(337) 433-3632
ldeville@allianceswla.org

New Orleans International Airport
Post Office Box 20007
New Orleans, Louisiana 70141
Philistine Ferrand
(504) 303-7611 (telephone)
(504) 303-7614 (fax)
philisti@flymsy.com
http://www.flymsy.com/dbe-program

Orleans Levee District
6508 Spanish Fort Blvd.
New Orleans, Louisiana 70124
Joan M. Coats, DBE Liaison Officer
(504) 286-8130 (telephone)
(504) 286-8131 (fax)

Regional Transit Authority
2817 Canal Street
New Orleans, Louisiana 70119
Janice Abadie, DBE Compliance Manager
(504) 827-8308 (telephone)
http://www.norta.com/
jabadie@norta.com

Louisiana Economic Development
P.O. Box 94185
Baton Rouge, La 70804
John W. Matthews, Jr.
(225) 342-1181
(225) 342-9390 Fax
John.Matthews@LA.GOV

LA Department of Environmental Quality
Clean Water SRF Program
Jonathan McFarland, P.E.,
Business and Community Outreach and Incentives
DBE Coordinator Telephone: (225) 219-3956
jonathan.mcfarland@la.gov

U.S. Department Of Commerce
Minority Business Development Agency
www.mbda.gov

U.S. Environmental Protection Agency
Suggested Resources for Identifying Small, Minority, and Women-Owned Businesses
http://www2.epa.gov/resources-small-businesses