

**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.)

**State of Utah  
 Department of Environmental Quality  
 Division of Drinking Water  
 Drinking Water State Revolving Fund Program  
 Disadvantaged Business Enterprise Program  
 DBE Subcontractor Participation Form**

<b>NAME OF SUBCONTRACTOR</b>	<b>PROJECT NAME</b>
<b>ADDRESS</b>	<b>CONTRACT NO.</b>
<b>TELEPHONE NO.</b>	<b>EMAIL ADDRESS</b>
<b>PRIME CONTRACTOR NAME</b>	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

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<b>CONTRACT ITEM NO.</b>	<b>ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR</b>	<b>AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR</b>

Subcontractor Signature	Title/Date
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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.

**State of Utah  
Department of Environmental Quality  
Division of Drinking Water  
Drinking Water State Revolving Fund Program  
Disadvantaged Business Enterprise Program  
DBE Subcontractor Participation Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**State of Utah  
 Department of Environmental Quality  
 Division of Drinking Water  
 Drinking Water State Revolving Fund Program  
 Disadvantaged Business Enterprise Program  
 DBE Subcontractor Performance Form**

NAME OF SUBCONTRACTOR <sub>1</sub>		PROJECT NAME	
ADDRESS		BID/PROPOSAL NO.	
TELEPHONE NO.		E-MAIL ADDRESS	
PRIME CONTRACTOR NAME			
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR	
Currently certified as an MBE or WBE under EPA's DBE Program? _____ Yes _____ No Signature of Prime Contractor _____ Date _____ Print Name Title _____ _____ Signature of Subcontractor Date _____ _____ Print Name Title			

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**State of Utah**  
**Department of Environmental Quality**  
**Division of Drinking Water**  
**Drinking Water State Revolving Fund Program**  
**Disadvantaged Business Enterprise Program**  
**DBE Subcontractor Performance Form**

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**State of Utah  
 Department of Environmental Quality  
 Division of Drinking Water  
 Drinking Water State Revolving Fund Program  
 Disadvantaged Business Enterprise Program  
 DBE Subcontractor Utilization Form**

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

<b>The following subcontractors<sup>1</sup> will be used on this project:</b>			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATED DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the foregoing statements are true and correct. 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).

_____ Signature of Prime Contractor	_____ Date
_____ Print Name	_____ Title

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.

**State of Utah**  
**Department of Environmental Quality**  
**Division of Drinking Water**  
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