

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

Revised 2/20/2020

INFORMATION TO LOAN RECIPIENT: All loan recipients of Federal State Revolving Fund (SRF) Loans 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 33 Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs, summarized below.
2. 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.
3. 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.

4. A recipient, including one exempted from applying the fair share objective requirements by §33.411, is required to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, even if it has achieved its fair share objectives under subpart D of 40 CFR part 33:
 - a. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
 - b. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
 - c. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
 - d. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
 - e. Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
 - f. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs "a" through "e" of this section.
5. 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 State of Utah - DBE Program Subcontractor Participation Form (copy attached) to all of its DBE subcontractors. The subcontractors can submit completed forms to the DDW Coordinator.
5. The prime contractor must have its DBE subcontractors complete State of Utah-DBE Program Subcontractor Performance Form (copy attached) and include completed forms in its bid or proposal package.
6. The prime contractor must complete State of Utah-DBE Program Subcontractor Utilization Form (copy attached) and submit as part of its bid or proposal package.
7. Failure to submit the requested Forms within seven (7) calendar days of the bid opening will be viewed as non-responsive.

Additional DBE information can be found at
www.epa.gov/grants/disadvantaged-business-enterprise-program-requirements