

**State Water Resources Control Board**  
**Division of Financial Assistance (Division)**  
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**Guidelines for Drinking Water State Revolving Fund (DWSRF) Program**  
**Disadvantaged Business Enterprise (DBE)**

**DBE REQUIREMENTS**

The DBE Program is an outreach, education, and objectives program designed to increase the participation of DBEs.

**How to Achieve the Purpose of the Program**

Financial Assistance Recipients should award a "fair share" of sub-agreements to Disadvantaged Business Enterprises (DBE). This applies to all sub-agreements for equipment, supplies, construction, and services.

Recipients of financial agreements are required to seek, and are encouraged to utilize, DBE businesses for their procurement needs under the financial agreement. The key functional components of the DBE Program are as follows.

- Fair Share Objectives
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting
- DBE Certification

**DBEs are:**

- entities owned and/or controlled by socially and economically disadvantaged individuals as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note) (10% statute), and Public Law 102-389 (42 U.S.C. 4370d) (8% statute), respectively;
- a Minority Business Enterprise (MBE) are entities that are at least 51% owned and/or controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note), and Public Law 102-389 (42 U.S.C. 4370d), respectively.
- a Women Business Enterprise (WBE) are entities that are at least 51% owned and/or controlled by women.
- a Small Business Enterprise (SBE);
- a Small Business in a Rural Area (SBRA);
- a Labor Surplus Area Firm (LSAF); or
- an Historically Underutilized Business (HUB) Zone Small Business Concern or a concern under a successor program.

**Certifying DBE Firms**

Under the DBE Program, entities can no longer self-certify. Certifications will be accepted from:

- The Small Business Administration(SBA);
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship);
- Tribal, State and Local governments;
- Independent private organization certifications.

If an entity holds one of these certifications, it is considered acceptable for establishing status under the DBE Program.

## **Good Faith Efforts (GFE)**

The GFE is required for all Recipients to ensure that DBEs have the opportunity to compete for financial assistance dollars.

### **Six Good Faith Efforts**

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities. For Tribal, State and Local Government Recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs. Posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid opening date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
5. Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

The following forms (attached) are required to be submitted with the GFE:

| <b>FORM</b>                                       | <b>REQUIREMENT</b>  | <b>PROVIDED BY</b> | <b>COMPLETED BY</b>     | <b>SUBMITTED TO</b>       |
|---|---|--------------------|-------------------------|---------------------------|
| <b>DBE Contractor/Subcontractor Certification</b> | <b>Subcontractor required to provide proof of DBE certification</b> | <b>Recipient</b>   | <b>Subcontractor</b>    | <b>SWRCB by Recipient</b> |
| <b>DBE Selected Prime Contractor/Recipient</b>    | <b>Prime Contractor list selected DBEs</b>                          | <b>Recipient</b>   | <b>Prime Contractor</b> | <b>SWRCB by Recipient</b> |

**The GFE should be submitted with the Bid Proposal.** Recipient shall review the successful bidder's documents closely to determine that the GFE was performed. Documentation should indicate that the GFE occurred **prior** to bid opening. Failure of either the bidder or prime contractor/subcontractor to follow the GFE and provide the necessary information could jeopardize funding of the project. The following situations and circumstances require action as indicated:

1. If the apparent successful low bidder was rejected, a complete explanation must be provided;
2. Contractors must provide proof of DBE certification. Self-certification is not acceptable. Contractors must be certified at bid opening; and
3. Failure of the apparent low bidder to **perform** the GFE **prior** to bid opening will result in its bid being declared non-responsive. The construction contract may then be awarded to the next low, responsive, and responsible bidder that meets the requirements or the Recipient may re-advertise the project.
4. If there is a bid dispute, all disputes shall be settled **prior** to submission of the AOA package.

Each procurement contract signed by the Recipient must include the following term and condition:

**“The contractor shall not discriminate on the basis of race, color, national origin or sex in their 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.”**

## **Administration Requirements**

- A Recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Recipient;
- A Recipient must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor by the prime contractor;
- If a DBE subcontractor fails to complete work under the subcontract for any reason, the Recipient must require the prime contractor to employ the six GFEs if soliciting a replacement subcontractor;
- A Recipient must require its prime contractor to employ the six GFEs even if the prime contractor has achieved its fair share objectives; and
- The GFE documentation shall be submitted by the Recipient with the Final Budget Approval Form.

## **Bidder's List Requirements**

- A Recipient of a financial agreement to capitalize DWSRF funds also must require entities receiving funds to create and maintain a Bidders List if the Recipient of the financing agreement is subject to, or chooses to follow, competitive bidding requirements;
- The Bidders list must include all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both MBE/WBEs and non-MBE/WBEs;
- The Bidders List must be kept until the Recipient is no longer receiving funding under the agreement; and
- The Recipient shall include Bidders List as part of the Final Budget Approval Form.

## **Information Retained on the Bidders List:**

- Entity's name with point of contact;
- Entity's mailing address and telephone number;
- The project description on which the entity bid or quoted and when;
- Amount of bid/quote; and
- Entity's status as a MBE/WBE or non-MBE/WBE.

## **Reporting Requirements**

For the duration of the construction contract, the Recipient is required to submit to State Water Resources Control Board (State Water Board) reports of progress made in fulfilling the GFE in the Semi-Annual Report submitted by April 10 and October 10 of each fiscal year on the attached Utilization Report form (UR-334). Failure to provide this information as stipulated in the financial agreement language may be cause for withholding disbursements.

## **CONTACT FOR MORE INFORMATION**

SWRCB – DWSRF Barbara August 916-341-6952 [baugust@waterboards.ca.gov](mailto:baugust@waterboards.ca.gov)

SWRCB – DWSRF Susan Damian 916-341-5494 [sdamian@waterboards.ca.gov](mailto:sdamian@waterboards.ca.gov).

EPA Region 9 - Donna Turnley (415) 972-3833 [turnley.donna@epa.gov](mailto:turnley.donna@epa.gov).

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
CONTRACTOR SUBCONTRACTOR CERTIFICATION**

|                               |               |
|-------------------------------|---------------|
| Firm Name:                    | Phone:        |
| Address:                      |               |
| Principal Service or Product: | Bid Amount \$ |

PLEASE INDICATE PERCENTAGE OF OWNERSHIP BELOW

|   |   |
|---|---|
| <input type="checkbox"/> DBE _____% Ownership |   |
| <input type="checkbox"/> Prime Contractor     | <input type="checkbox"/> Supplier of Material/Service |
| <input type="checkbox"/> Subcontractor        |   |
| <input type="checkbox"/> Sole Ownership       | <input type="checkbox"/> Corporation                  |
| <input type="checkbox"/> Partnership          | <input type="checkbox"/> Joint Venture                |
| Certified by:                                 | Title:  |

|       |       |
|-------|-------|
| Name: | Date: |
|-------|-------|

Contractors can no longer self-certify. They must be certified by EPA, Small Business Administration (SBA), Department of Transportation (DOT) or by State, Local, Tribal or private entities whose certification criteria match EPA's. Proof of Certification must be provided. A copy of the contractor certification must be submitted with this form.

**NOTE: This form shall be completed prior to Bid Opening.**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
SELECTED PRIME CONTRACTOR AND SUBCONTRACTOR(S)**

|  |   |                                      |                              |
|--|---|--------------------------------------|------------------------------|
| CONTRACT RECIPIENTS NAME   |   | CONTRACT NO. OR SPECIFICATION NO.    |                              |
| PROJECT DESCRIPTION  |   | PROJECT LOCATION                     |                              |
| PRIME CONTRACTOR INFORMATION   |   |                                      |                              |
| NAME AND ADDRESS (Include ZIP Code, Federal Employer Tax ID #)                   |   | <input type="checkbox"/> MBE         | <input type="checkbox"/> WBE |
| PHONE  |   | AMOUNT OF CONTRACT\$                 |                              |
| DBE INFORMATION  |   |                                      |                              |
| <input type="checkbox"/> NONE*   |   |                                      |                              |
| <input type="checkbox"/> DBE   |   | NAME AND ADDRESS (Include ZIP Code,) |                              |
| <input type="checkbox"/> SUBCONTRACTOR<br><input type="checkbox"/> JOINT VENTURE | <input type="checkbox"/> SUPPLIER/SERVICE |                                      |                              |
| AMOUNT OF CONTRACT \$  |   | PHONE                                |                              |
| WORK TO BE PERFORMED   |   |                                      |                              |
| <input type="checkbox"/> DBE   |   | NAME AND ADDRESS (Include ZIP Code)  |                              |
| <input type="checkbox"/> SUBCONTRACTOR<br><input type="checkbox"/> JOINT VENTURE | <input type="checkbox"/> SUPPLIER/SERVICE |                                      |                              |
| AMOUNT OF CONTRACT \$  |   | PHONE                                |                              |
| WORK TO BE PERFORMED   |   |                                      |                              |
| <input type="checkbox"/> DBE   |   | NAME AND ADDRESS (Include ZIP Code,) |                              |
| <input type="checkbox"/> SUBCONTRACTOR<br><input type="checkbox"/> JOINT VENTURE | <input type="checkbox"/> SUPPLIER/SERVICE |                                      |                              |
| AMOUNT OF CONTRACT \$  |   | PHONE                                |                              |
| WORK TO BE PERFORMED   |   |                                      |                              |
| TOTAL DBE AMOUNT: \$   |   | TOTAL WBE AMOUNT: \$                 |                              |
| SIGNATURE OF PERSON COMPLETING FORM:   |   |                                      |                              |
| TITLE: _____   |   | PHONE: _____                         | DATE: _____                  |

**NOTE: Negative reports are required. This form shall be completed prior to Bid Opening.**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
GOOD FAITH EFFORT CERTIFICATION BY RECIPIENT**

1. The apparent successful low bidder on Clean Water State Revolving Fund Program funded project number C-06-\_\_\_\_\_ is \_\_\_\_\_  
(Name of Bidder)

2. Before the State Water Resources Control Board can consider requests for a Final Budget Approval to any bidder, the Recipient must certify to the following:

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

The bidder has obtained \_\_\_\_\_% of DBE participation for this contract.

Also submitted are the Contractor/Subcontractor Certification and Selected Prime Contractor/Recipient DBE forms that contain a complete list of those DBE firms subcontracted with or with whom other types of agreements were made. The list includes the names of the firm, address, phone number and dollar amount involved.

The following affirmative steps have been taken:

1. The contractor divided total requirements when economically feasible, into small tasks or quantities to permit maximum participation of DBE businesses.
2. The contractor established delivery schedules, where the requirements of the work permitted, which encouraged participation by DBE businesses.
3. The contractor included qualified DBE businesses on solicitation lists.
4. The contractor assures that DBE businesses were solicited, whenever they were potential sources.
5. The contractor used the services and assistance of the Small Business Administration, the Office of Minority Business Development Agency of the U.S. Department of Commerce, Department of General Services, or the Department of Transportation.

It must be understood that the Recipient in its role as a public trustee assumes primary responsibility to achieve an acceptable level of DBE utilization. This primary responsibility is a basic condition of the award of any Drinking Water State Revolving Fund financial agreement. Where a Recipient fails to meet its obligations under these requirements the Recipient may be declared non-responsive and may have funding either annulled, suspended or terminated.

In accepting these responsibilities, I hereby certify to the above.

\_\_\_\_\_  
Name of Recipient

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Authorized Representative

**NOTE:** This form shall be submitted with the Final Budget Approval Form ~~No. 555-1~~.



**STATE WATER RESOURCES CONTROL BOARD - DIVISION OF FINANCIAL ASSISTANCE  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION  
DRINKING WATER STATE REVOLVING FUND FINANCING AGREEMENT  
INSTRUCTIONS FOR COMPLETING THE FORM UR-334**

- Box 1** Grant or Financing Agreement Number.
- Box 2** Semi-annual reporting period. Choose one semi-annual period and enter the correct years.
- Box 3** Enter the dates between which you made procurements under this financing agreement or grant.
- Box 4** Enter the total amount of payments paid to the contractor or sub-contractors during this reporting period.
- Box 5** Enter Recipient's Name and Address.
- Box 6** Enter Recipient's Contact Name and Phone Number.
- Box 7** Enter details for the **DBE purchases only** and be sure to limit them to the current period. 1) Use either an "R" or a "C" to represent "Recipient" or "Contractor." 2) Enter a dollar total for DBE and total the two columns at the bottom of the section. 3) Provide the payment date. 4) Enter a product type choice from those at the bottom of the page. 5) List the vendor name and address in the right-hand column
- Box 8** Initial here if no DBE contractors or sub-contractors were paid during this reporting period.
- Box 9** Initial this box only if all purchases under this financing agreement or grant have been completed during this reporting period or a previous period. If you initial this box, we will no longer send you a survey.
- Box 10** This box is for explanatory information or questions.
- Box 11** Provide an authorized representative signature.
- Box 12** Enter the date form completed.