State Water Resources Control Board
Division of Financial Assistance (Division)
1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707
Mailing Address: P. O. Box 944212 • Sacramento, California • 94244-2120
Internet Address: http://www.waterboards.ca.gov

Guidelines for Clean Water State Revolving Fund (CWSRF) Program Disadvantaged Business Enterprise (DBE)

DBE REQUIREMENTS

The DBE Program is an outreach, education, and goaling program designed to increase the participation of DBEs. The DBE Program encompasses many of the components of the former Minority/Women Owned Business Enterprise (MBE/WBE) Program and includes many new features.

Financial Assistance Recipients should award a "fair share" of sub-agreements to small, MBE/WBE businesses. Since each is a separate entity, the objective is to assure that each of these business entities is given the opportunity to participate in sub-agreement financial assistance agreements. This applies to all sub-agreements for equipment, supplies, construction, and services.

How to Achieve the Purpose of the Program

Recipients of financial agreements are required to seek, and are encouraged to utilize, MBE/WBE 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
- MBE/WBE Reporting
- MBE/WBE Certification

DBEs, MBEs and WBEs

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 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.

MBEs 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.

WBEs are:

- entities that are at least 51% owned and/or controlled by women.

Certifying MBE and WBE 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; and
- Independent private organization certifications.

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

GOOD FAITH EFFORT (GFE)

The GFE is required for all financial agreement Recipients to ensure that all DBEs have the opportunity to compete for procurements funded by 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 bid opening.
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 subcontractor to take the above steps.

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

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

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 Approval of Award package.

BIDDERS LIST REQUIREMENTS

- A Recipient of a financial agreement to capitalize CWSRF 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 Approval of Award package.

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.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
CONTRACTOR SUBCONTRACTOR CERTIFICATION

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

PLEASE INDICATE PERCENTAGE OF OWNERSHIP BELOW

☐ DBE _____% Ownership	
☐ Prime Contractor	☐ Supplier of Material/Service
☐ Subcontractor	
☐ Sole Ownership	☐ Corporation
☐ Partnership	☐ 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.

Revised May 2012

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 #)	☐ MBE ☐ WBE
PHONE	AMOUNT OF CONTRACT$
DBE INFORMATION	
☐ NONE*	
☐ DBE	NAME AND ADDRESS (Include ZIP Code,)
☐ SUBCONTRACTOR ☐ JOINT VENTURE / ☐ SUPPLIER/SERVICE	
AMOUNT OF CONTRACT $	PHONE
WORK TO BE PERFORMED	
☐ DBE	NAME AND ADDRESS (Include ZIP Code)
☐ SUBCONTRACTOR ☐ JOINT VENTURE / ☐ SUPPLIER/SERVICE	
AMOUNT OF CONTRACT $	PHONE
WORK TO BE PERFORMED	
☐ DBE	NAME AND ADDRESS (Include ZIP Code,)
☐ SUBCONTRACTOR ☐ JOINT VENTURE / ☐ 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.

Revised May 2012

APPROVAL OF AWARD (AOA) REQUIREMENTS

The Disadvantaged Business Enterprise (DBE) Good Faith Effort (GFE) is one element of the AOA process summarized below. The AOA request package submitted to the Division of Financial Assistance (DFA) for approval must contain the following:

1. A completed AOA Request Form (Form 555-1). The form, with original signature, must be signed by the Recipient's Authorized Representative or Designee); and

2. All of the AOA attachments (listed on the back of Form 555-1), in accordance with the AOA instructions, including the DBE Good Faith Effort Certification Form, signed and submitted by the Recipient (Certification form attached), certifying that the Prime Contractor has met the DBE requirements,

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."

Reporting Requirements

For the duration of the construction contract, the Recipient is required to submit to State Water Resources Control Board (SWRCB) 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 – CWSRF Barbara August 916-341-6952 baugust@waterboards.ca.gov

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

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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 an Approval Of Award (AOA) 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 Clean 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 AOA package.

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STATE WATER RESOURCES CONTROL BOARD – DIVISION OF FINANCIAL ASSISTANCE
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION
CLEAN WATER STATE REVOLVING FUND FINANCING AGREEMENT

1. Grant/Finance Agreement Number: C-06-	**2. Semi-Annual Reporting Period**: 04/01/ through 09/30/ 10/01/ through 03/31/	**3. Purchase Period of Financing Agreement:** Start Date:_____ Ending Date:_____

4. Total Payments Paid to Prime Contractor or Sub-Contractors This Period: $

5. Recipient's Name and Address:	**6. Recipient's Contact Person and Phone Number:**

7. List All DBE Payments Paid by Prime Contractor and/or Recipient During Reporting Period:

Payment or Purchase Paid by Recipient or Contractor?	Amount Paid to Any DBE Contractor/Sub-Contractor For Service Provided to Recipient MBE	- WBE	Date of Payment (M/D/Y)	Product Type Code ** (see below)	Name and Address of DBE Contractor or Sub-contractor or Vendor

8. Initial here if no DBE Contractors/Sub-Contractors paid during this reporting period. (_____)

9. Initial here if all purchases for this contract are completed. (_____)

10. Comments:

11. Signature and Title of Recipient's Authorized Representative	**12. Date:**

Return to:

State Water Resources Control Board

Division of Financial Assistance
P. O. Box 944212
Sacramento, CA 942444-2120

**Product Type:
1: Construction
2. Supplies
3. Services (Includes Business Services, Professional Services, Repair Services, and Personnel Services)
4. Equipment

UR-334

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STATE WATER RESOURCES CONTROL BOARD - DIVISION OF FINANCIAL ASSISTANCE
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION
CLEAN WATER STATE REVOLVING FUND FINANCING AGREEMENT
INSTRUCTIONS FOR COMPLETING THE 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.