



Disadvantaged Business Enterprise Guidelines Clean Water and Drinking Water State Revolving Fund Programs

The Disadvantaged Business Enterprise (DBE) Program is an outreach, education, and objectives program designed to increase the participation of DBEs in the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Programs. These guidelines are intended to assist funding recipients and prime contractors in complying with the United States Environmental Protection Agency's (U.S. EPA) DBE requirements as referenced in 40 C.F.R. § 33, to the extent applicable to the State Revolving Fund (SRF) programs and represent the Division of Financial Assistance's (Division) understanding of the federal DBE requirements at the time of adoption of the guidelines. If the federal guidance changes, the Deputy Director of the Division or designee may approve a process that differs from these Guidelines, as long as federal requirements are met.

Overview of the U.S. EPA's DBE Requirements

The key functional components of the DBE Program are as follows:

- DBE Certification
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting Requirements

In addition, Fair Share Objectives may apply to the extent required by U.S. EPA.

Disadvantaged Business Enterprises 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 see 40 C.F.R. § 33.203) (10% statute) or by Public Law 102-389 (42 U.S.C. § 4370d; see 40 C.F.R. § 33.202) (8% statute);
- Minority Business Enterprise (MBE) - 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; see 40 C.F.R. § 33.203), and Public Law 102-389 (42 U.S.C. § 4370d; see 40 C.F.R. § 33.202);
- Women Business Enterprise (WBE) - entities that are at least 51% owned and/or controlled by women.

Certifying DBE Firms:

Under the DBE Program, entities can no longer self-certify, and contractors and sub-contractors must be certified at bid opening. Contractors and sub-contractors must provide to the SRF recipient proof of DBE certification. Certifications will be accepted from the following:

- The Small Business Administration (SBA)
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship)
- Tribal, State and Local governments in accordance with EPA's 8% or 10% statutes
- Independent private organization certifications in accordance with EPA's 8% or 10% statutes

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

Six Good Faith Efforts (GFE)

CWSRF/DWSRF financing recipients are required to comply and ensure that the prime contractor complies with the GFE below to ensure that DBEs have the opportunity to compete for financial assistance dollars. The GFE requirements apply whenever procuring construction, equipment, services, and supplies.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable 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, 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 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. 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.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
5. Use the services of the SBA and/or Minority Business Development Agency (MBDA) of the US Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in items (1) through (5) of this section.

Please Note: The recipient and prime contractor(s) must meet all solicitation requirements listed above.

*To ensure qualified DBEs are informed of the project, the recipient and prime contractor must circulate the advertisement for bids for each project by posting in a newspaper or on an established e-Procurement website such as Planet Bids (www.planetbids.com), DBE Good Faith (www.dbegoodfaith.com), or an equivalent website. The recipient is encouraged to advertise for a minimum of 30 days prior to the bid opening date.

Recipients must be able to provide documentation that the bid was appropriately advertised. For newspapers, a clipping or copy of the advertisement as well as an affidavit or receipt from the newspaper showing the date(s) the advertisement ran are sufficient. For advertisements posted on an e-Procurement website, recipients must provide an email confirmation or other receipt documenting that the bid was posted as well as a saved screenshot or PDF showing the advertisement. If available, an active weblink/URL to the advertisement should also be provided.

The recipient shall review the bidder's documents closely to determine that the GFE was performed **prior** to bid or proposal opening date. Failure to complete the GFE and to substantiate completion of the GFE before the bid opening date could jeopardize CWSRF/DWSRF financing for 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. Failure of the apparent low bidder to **perform** the GFEs **prior** to bid opening constitutes a non-responsive bid. 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.
3. If there is a bid dispute, all disputes shall be settled **prior** to submission of the Final Budget Approval Form.

4. If Division staff determine that the recipient's bid package limits potential bidders or does not comply with the GFE's, Division staff may, at its discretion, require that the recipient rewrite and re-advertise the bid package.

Contract Administration Requirements

- A recipient of CWSRF/DWSRF financing 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 DBEs and non-DBEs.
- Information retained on the Bidder's List must include the following:
 1. Entity's name with point of contact;
 2. Entity's mailing address and telephone number;
 3. The project description on which the entity bid or quoted and when;
 4. Amount of bid/quote; and
 5. Entity's status as a DBE or non-DBE.
- The Bidders List must be kept until the recipient is no longer receiving funding under the agreement.
- The recipient shall include the Bidders List as part of the Final Budget Approval Form.
- 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 is a certified DBE.

DBE Reporting Requirements

For the duration of the construction contract(s), the recipient is required to submit to the State Water Board its DBE reports annually by 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

State Water Board SRF Davis Bacon and DBE Inquiries

DavisBacon@waterboards.ca.gov

Revised 12/2024



**STATE WATER RESOURCES CONTROL BOARD – DIVISION OF
FINANCIAL ASSISTANCE DISADVANTAGED BUSINESS
ENTERPRISE (DBE) UTILIZATION
CALIFORNIA STATE
REVOLVING FUNDS**

1. Grant/Finance Agreement Number:		2. Annual Reporting Period 10/1/ through 09/30/		3. Purchase Period of Financing Agreement:	
4. Total Payments Paid to Prime Contractor or Sub-Contractors During Current Reporting Period: \$					
5. <u>Recipient's Name and Address:</u>			6. <u>Recipient's Contact Person and Phone Number:</u>		
7. List All DBE Payments Paid by Recipient or Prime Contractor During Current Reporting Period:					
Payment or Purchase Paid by Recipient or Prime Contractor	Amount Paid to Any DBE Contractor or Sub-Contractor For Service Provided to Recipient		Date of Payment (MM/DD/YY)	Procurement Type Code** (see below)	Name and Address of DBE Contractor of Sub-Contractor or Vendor
	MBE	WBE			
8. Initial here if no DBE contractors or sub-contractors paid during current reporting period:					
9. Initial here if all procurements for this contract are completed:					
10. Comments:					
11. Signature and Title of Recipient's Authorized Representative			12. Date		

(CASRF) FORM UR-334

Email Form UR-334 to:

DavisBacon@waterboards.ca.gov

Questions may be directed to:

DavisBacon@waterboards.ca.gov

****Procurement Type:**

1. Construction
2. Supplies
3. Services (includes business services; professional services; repair services and personnel services)
4. Equipment

**STATE WATER RESOURCES CONTROL BOARD - DIVISION OF FINANCIAL
ASSISTANCE DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION
CALIFORNIA STATE REVOLVING FUNDS**

INSTRUCTIONS FOR COMPLETING FORM

UR-334

- Box 1** Grant or Financing Agreement Number.
- Box 2** Annual reporting period.
- 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.