

## Oklahoma Drinking Water State Revolving Fund Disadvantaged Business Enterprise (DBE) Program Guidance

The Oklahoma Drinking Water State Revolving Fund (DWSRF) receives federal funds from the U.S. Environmental Protection Agency (EPA) to provide low-interest rate loans to finance water infrastructure projects. As a condition of federal awards, EPA regulations require that loan recipients and sub-recipients (i.e., prime contractors and subcontractors) make a good-faith effort to award a fair share of work to DBE's who are minority business enterprises (MBE's) and women's business enterprises (WBE's). DBE requirements can be found in 40 CFR Part 33.

To ensure compliance with EPA's DBE requirements, both **Project Owners (Loan Recipients)** and **Prime Contractors must** undertake the good faith efforts to provide opportunities for DBE companies to participate in procurements. EPA regulations require evidence of the demonstration of the six good faith efforts.

### **Good Faith Efforts – 40 CFR 33.301**

The following good faith efforts which apply to the procurement categories involving EPA financial assistance funds can be found in **40 CFR, Subpart C, Part 33** of EPA's Disadvantaged Business Enterprise Program Rule.

1. Ensure DBE's are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.
  - a. Search DBE lists for potential subcontracts/suppliers (see number 5 below).
    - i. The DBE lists are updated frequently, so search on-line for the most current list.
    - ii. Contact at least one DBE for each subcontract/supplier needed.
2. Provide notice to DBE organizations of opportunities to bid and arrange time frames for contracts and establish delivery schedules in a way that encourages and facilitates participation by DBEs in the competitive process.
3. Consider whether firms competing for large contracts could subcontract with DBEs. Divide total requirements into smaller tasks or quantities when feasible to permit maximum DBE participation.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration (SBA), Department of Transportation (DOT) and Minority Business Development Agency of the U. S. Department of Commerce.
6. If the Prime Contractor awards subcontracts, require the prime contractor to take these same Good Faith Efforts.

### **IF THE PRIME CONTRACTOR CAN COMPLETE THE ENTIRE PROJECT USING ONLY IN-HOUSE SERVICES AND SUPPLIES ON HAND:**

- Indicate on the DW-6100-4 form that no subcontractors AND no supplies are needed for the project.
- Provide a statement on company letterhead certifying that no subcontracts will be executed, and no supplies/materials will be purchased.

### **THE PROJECT OWNER IS REQUIRED TO PROVIDE PROCUREMENT OPPORTUNITIES TO DBE FIRMS:**

- Conduct pre-bid meetings to inform potential bidders/contractors about DBE requirements and provide guidance in undertaking the required good faith efforts found at 40 CFR 33.301.
- When appropriate, invite DBE companies to meetings, conferences, etc., to inform them of procurement opportunities.
- Use listings of certified DBEs from the U.S. Small Business Administration (SBA), Oklahoma Department of Transportation (ODOT), and EPA's Office of Small Business Programs (OSBP), etc., to solicit DBE companies as prime contractors whenever they are potentially available. The SBA maintains a list that can be found at the following link: <https://search.certifications.sba.gov/>. The ODOT maintains a list which can be

found at the following link: <https://okdot.gob2g.com/>. The Cherokee Nation Tribal Employment Rights Office (TERO) also maintains a list which can be found at: <http://www.cherokeetero.com/>.

## **Procurement, Recordkeeping and Reporting**

### **1. PROJECT OWNERS ARE REQUIRED TO:**

- A. Ensure all prime contractors apply the Good Faith Efforts and submit the required forms as listed below.
- B. Project Owners 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 project owner/recipient.  
40 CFR 33.302(a)
- C. Submit DW-6100-3 and DW6100-4 forms
- D. Maintain copies of all DBE documentation and forms.

### **2. PRIME CONTRACTORS ARE REQUIRED TO:**

- A. Notify the loan recipient in writing prior to any termination of a DBE subcontractor by the prime contractor. 40 CFR 33.302(b)
- B. Follow the six good faith efforts if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. 40 CFR 33.302(c)
- C. Follow the six good faith efforts for all subcontract and/or supplier procurements even if the prime contractor has achieved its fair share objectives. 40 CFR 33.302(d)
- D. Provide EPA Form 6100-2 – *DBE Program Subcontractor Participation Form* to all its DBE subcontractors. This form is utilized if DBE subcontractors have concerns such as termination or late payment. The completed form should be submitted to the DWSRF. 40 CFR 33.302(e)

#### **PRIME CONTRACTORS MUST SUBMIT THE FOLLOWING FORMS WITHIN THREE DAYS** **OF BEING DECLARED THE APPARENT LOW BIDDER:**

- DW-6100-3 - DBE Solicitation and
- DW-6100-4 - DBE Utilization

Please note that only DBE companies should be listed on the DW-6100 forms.

- 3. All DWSRF loan recipients are required to create and maintain a bidders list in accordance with 40 CFR, Subpart E, Part 33** of EPA's Disadvantaged Business Enterprise Program rule, (40 CFR 33.501(b). The bidder's list must include all companies that bid/quote on prime contracts and/or bid/quote on subcontracts and supplies for DWSRF funded projects (including DBEs and non-DBEs). The bidder's list must include the following prime and subcontractor information (40 CFR 33.501): entity's name and the name of the person contacted; entity's mailing address, telephone number, and e-mail address; the task or material on which the entity bid/quoted, the amount and date of bid/quote; and the entity's status as a DBE.

**Please submit all information through the [DWSRF document submittal portal](#), or by mail to:**

DWSRF, Water Quality Division  
Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101