

Required Contract Provisions Related to Disadvantaged Business Enterprise (DBE) Efforts

Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. 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 solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. 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 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 and the Minority Business Development Agency of the U. S. Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in numbers 1 through 5 above.

Required Contract Conditions

These conditions must be included in all procurement contracts entered into by the loan recipient for all projects:

1. The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the loan recipient.
2. The prime contractor must notify the loan recipient in writing prior to the termination of any DBE subcontractor for convenience by the prime contractor.
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 when soliciting a replacement subcontractor.
4. The prime contractor must employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

Attachment D

5. Each procurement contract signed must include the following term and condition:

“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.”

