**Disadvantaged Business Enterprise Procurement Procedure**

These procurement guidelines are to be used to ensure compliance with EPA DBE Contract Administration requirements. The following overarching provisions apply to FED SRF projects utilizing the CS-1 front end document set and are as follows:

* 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 is prime contractor prior to any termination of a DBE subcontractor for convenience 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 good faith efforts if soliciting a replacement subcontractor.
* A recipient must require its prime contractor to employ the six good faith efforts even if the prime contractor has achieved its fair share objectives.

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| --- | --- | --- |
| **Phase** | **Time Frame** | **Description** |
| **Pre-Advertisement** | 1-2 months prior to advertisementDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Project Owner receives this guidance package from the Facilities Engineering Division (FED) of the Department of Environmental Conservation and a list of Disadvantaged Business Enterprises (DBEs) to be solicited as a minimum for each contract to be Bid. The DBE contact list is developed by the FED and is based on the most current master list from the Vermont Agency of Transportation. |
| **Initial DBE Notification**  | Minimum of 30 days prior to advertisementDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Owner contacts each DBE notifying him/her of the project, the tentative bid date, and provides a copy of the advertisement. Owner provides response instructions regarding the DBE’s interest, and identifying where to review plans and have questions answered or get a list of general contractors taking out bid documents. |
| **Initial DBE Response** | 14 calendar days prior to advertisementDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | DBE notifies Owner (preferably in writing) of their interest, 14 calendar days prior the Bid advertisement. |
| **Bid Advertisement** | Bid AdvertisementDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Project is advertised for bids in a local news bulletin. Advertisement must include; Project description, regulatory information (Inclusion of DBE, Davis Bacon, AIS, ect), bonding capacity, Bid opening date, preconstruction meeting dates, location where specifications and plans can be obtained. |
| **Owner sends Contractor list to interested DBE firms** | 14 calendar days after advertisementDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Owner compiles a list of all interested DBEs who have notified them prior to 14th day of advertisement. Owner sends all DBEs who indicated an interest, a paper and email (if available) copy of the list of contractors who have taken out plans and specifications. |
| **DBE Addendum Mail Out** | 15calendar days after advertisementDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Owner mails out an addendum which lists all interested DBEs to Bidders. Bidders are required to contact all listed DBEs by certified mail, return receipt requested (preferred method of contact), fax, email or other positive contact method, and make a pre-bid positive effort to negotiate sub-agreements with the DBEs. Bidder is required to maintain documentation of such contact and negotiation, and will be required by Owner to supply such documentation prior to contract award. |
| **DBE Intent** | Minimum of 5 calendar days before bid openingDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | DBE has until 5 days prior to the Bid date to notify the Bidder by certified mail (preferred method of contact), or other documented form of communication of his/her intent to negotiate (pricing not necessary at this time). If at this time the Bidder has not received this notice, no further communications initiated by the Bidder is necessary. |
| **DBE Subcontractor Utilization Form (6100-4)** | Must be included in bid packageDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Valid bids must include a completed **DBE Subcontractor Utilization Form (6100-4),** listing all DBE firms proposed by the Bidder.**FORM AVAILABLE:** [**http://www.epa.gov/osbp/pdfs/Reinstated\_6100\_4\_Fillable.pdf**](http://www.epa.gov/osbp/pdfs/Reinstated_6100_4_Fillable.pdf) |
| **DBE Subcontractor Performance Form (6100-3)** | Must be included in bid packageDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Valid bids must include a completed **DBE Subcontractor Performance Form (6100-3)** covering all work proposed to be completed by the DBE firm and pricing for the proposed work.**FORM AVAILABLE:** [**http://www.epa.gov/osbp/pdfs/Reinstated\_6100\_3\_Fillable.pdf**](http://www.epa.gov/osbp/pdfs/Reinstated_6100_3_Fillable.pdf) |
| **Bid Opening Date** | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Bids will be reviewed for completeness upon opening. Values of bids will not be disclosed to Owner until review is complete. |
| **DBE Subcontractor Participation Form (6100-2)** | Must be sent to DBE subcontractor upon execution of subcontractDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | DBE subcontractor can opt to complete and submit the **DBE Subcontractor Participation Form (6100-2)** to the EPA DBE Coordinator at any time during the project period of performance.**FORM AVAILABLE:** [**http://www.epa.gov/osbp/pdfs/Reinstated\_6100\_2\_Fillable.pdf**](http://www.epa.gov/osbp/pdfs/Reinstated_6100_2_Fillable.pdf) |
| **DBE Effort and Documentation Review** | No later than 7 calendar days after bid dateDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Owner review the DBE documentation to determine if low Bidder’s positive effort is satisfactory. Bidders failing to submit DBE Subcontractor Performance Form (if included in the specifications) and supporting documentation will be determine non-responsive to bidding requirements and have Bid rejected. If low Bidder is rejected, second low Bidder will be required to submit the same documentation no later than 7 calendar days after notice from Owner. |
| **Owner Approval and Request for State (FED) Approval** | Owner ApprovalDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | Complete documentation with letter from Owner requesting FED approval of Contractor’s DBE effort is to be sent to the FED. |
| **State (FED) Review and Concurrence** | No later than 7 calendar days afterreceiving from OwnerDate:\_\_\_\_\_\_\_\_\_\_\_\_\_ | FED screens information for compliance with DBE Affirmative Procurement Procedure. FED has 7 calendar days to review. If incomplete, FED notifies Owner of information needed. If satisfactory, approval is made by stamp of letter. If unsatisfactory, FED will not concur in award of contract which jeopardizes State loan or grant financing. |
| **Annual and Final DBE Reporting** | **Annual Reports:** Due by 10/1 annually**Final Report:** Due within 30 days upon Final Completion | Owner is to complete the **DBE Annual Report (EPA Form 5700 52A)** at the end of every fiscal year (October 1st to September 30) and also upon final completion of the project. Reports are due to FED October 1st annually, and no later than 30 days after final completion is reached.**FORM AVAILABLE:**<http://www.epa.gov/ogd/forms/adobe/epa_form_5700_52A.pdf> |

**DBE Effort Letter Format**

 ProjectTitle

 Contract #

 Grant/Loan #

Owner

Your firm has been identified as a Disadvantaged Business Enterprise (DBE) which has shown an interest in performing WORK on projects funded by the State of Vermont, Department of Environmental Conservation, and the Environmental Protection Agency, Region I.

*NOTE TO ENGINEER - describe the project here. Identify the tentative date of initial advertisement* ***and*** *include a copy of the Bid advertisement with this contact letter.*

If you are interested in quoting on Construction, Supplies, Services, or Equipment, please contact this office by phone, fax, email, or mail, no later than 14 days from the date of Bid Advertisement giving the following information:

Name of Firm: Contact Person:

Mailing Address:

E-mail:

Phone No.: Fax No.:

List the type: Construction, Supplies, Services, or Equipment you are interested in quoting.

Upon receipt of your notification of interest, we will send to you, as of the fourteenth day after BID advertisement, the list of those firms which have taken out copies of the plans and specifications for this contract. We will read the list over the phone or e-mail it to you if you call us at . You may review the plans and specifications at the following locations:

All notifications of interest received within the time frame identified above will be listed in an addendum to prospective BIDDERS issued the 15th calendar day after the BID advertisement. Late notifications will not be included through issuance of subsequent addenda.

You are encouraged to initiate contact with BIDDERS as early in the bid phase as possible. You have up until 5 calendar days prior to the Bid date to notify (preferably by certified mail, or by any other form of documented communication) those BIDDERS of your intent to negotiate scope and price (pricing not necessary at this time). If the BIDDER has not received your written response (preferably by certified mail) 5 calendar days prior to the Bid date, no other communications initiated by the BIDDER is necessary. You are being sent the attached advertisement and tentative date of initial advertisement as our notification to you of pending WORK. Keep all records of your communication to and from the BIDDERS you contact prior to the BID opening. We look forward to receiving your response regarding your interest in our project.

**DBE Addendum Format**

The following is a list of Disadvantaged Business Enterprises who have contacted the OWNER indicating an interest in quoting WORK on this CONTRACT. Each has been given the name, address, phone number, and e-mail (if available) of all prospective BIDDERS for their use as of this date.

The US Environmental Protection Agency goal for use of Disadvantaged Business Enterprises (DBE) is 8%. The Vermont Department of Environmental Conservation sub-goals for this project are:

**Women Owned Businesses: 3.5%-Construction, Supplies, Services, Equipment, and**

**Minority Owned Businesses: 1.85%-Construction, Supplies, Services, Equipment.**

BIDDERS must demonstrate a pre-bid Affirmative Procurement Procedure for obtaining DBE participation. The BIDDER shall divide the total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs. Upon receipt of this Addendum, BIDDERS are required to make a positive effort to negotiate sub-agreements with these DBE firms, and to contact all listed DBEs by certified mail-return receipt requested (preferred method), fax, phone, or e-mail. The DBEs have up until 5 calendar days prior to the Bid date to notify the BIDDER by certified mail (preferred method), fax, phone, or e-mail of their intent to negotiate scope and price (pricing not necessary at this time). It is necessary to complete negotiations (successful or unsuccessful) prior to Bid. If the BIDDER has not received the DBE's response 5 calendar days prior to the Bid date, no further communications initiated by the BIDDER is necessary. In compliance with the EPA affirmative action program, BIDDERS are required to use DBEs when favorable prices and services are secured. BIDDERS must submit the fully completed DBE Subcontractor Utilization Form (6100-4) and the DBE Subcontractor Performance Form (6100-3) in the Bid Documents. BIDDERS not conforming to this requirement shall be considered nonresponsive. **BIDDERS are advised that, when BIDS that include DBE Subcontractor Utilization Form (6100-4) and DBE Subcontractor Performance Form (6100-3) are received and opened, DBE Subcontractor Utilization Form (6100-4) and DBE Subcontractor Performance Form (6100-3)** **will be reviewed for completeness, and if determined to be incomplete, the BID will be rejected and not read. *A blank form is not complete.* It is imperative that BIDDERS keep written records of their pre-bid efforts. No later than five (5) calendar days after BID opening, the low BIDDER shall submit to the OWNER, complete documentation of their bid phase solicitation effort with the DBE's and the results. The DBE Contractor Participation Form (6100-2) must be sent to the DBE subcontractors before the Owner enters into a contract with Bidder.**

**The format necessary for documentation is:**

**Name of DBE:**

**(State whether an MBE or WBE) Address:**

**Phone Number: DBE Contact Person:**

**Summary of Communication (Dates, Details) Type of Communication (i.e., Phone, Mail, Fax, or E-mail) with support documentation attached**

**$ of services anticipated to be used. If not used, why not? (Explain)**

**(If the reason is price, give name of firm and value of proposals accepted in lieu of the DBE. If work under some of the classifications will not be subcontracted, state so in the written documentation transmittal letter, and cite the value you have assessed for the comparative work.)**



**Department of Environmental Conservation**

**FACILITIES ENGINEERING DIVISION**

**1 National Life Drive, Main Building, 1st Floor**

**Montpelier, VT 05620-3510**

***Phone: 802-760-8135***

**MEMORANDUM**

TO: Construction Section

FROM: Roger Bergeron., Chief Construction Engineer

DATE: October 2015

SUBJECT: Procedure for Reviewing DBE Effort

I. Refer to "Data Sheet for DBE"

A.

\* All lines to be completed by Reviewer. Summary: All self-explanatory lines not addressed

\* Type of Work: Describe type of facility, upgrade, pump station(s), sewers, force main, CSO, etc.

\* Estimated Total Project Cost: Total Bid Amount:

\* Estimated SRF or Grant Eligible Cost:

\* Total DBE Participation: Total of MBE and WBE Contracts as verified by reviewer. Reviewer to check whether all DBEs have been contacted, and responded by certified mail of their intent to bid. Properly negotiated as per Affirmative Procurement Procedure

\* DBE %: Total dollar amount of verified DBEs to be used divided by Total Estimated SRF or Grant Eligible Cost

\* Date: Date Chief of Construction concurs that Contractor has complied with all necessary requirements. (This FED review will be completed within 7 calendar days of receipt of request.)

B.

\* Total Mailing by Certified Mail: Total number of mailings sent certified mail by Owner to DBEs. Mailings include a copy of the Contract advertisement. (Do we have a copy of letter?)

\* Total Responses: Number of DBEs notifying the Owner (preferably in writing) of their interest to provide a quote. (If possible ask for date of response)

\* Undelivered or Refuse: Total number of DBE mailing sent certified mail that were not delivered or refused. (If possible date of returns letter or copy of the returned envelope). (Tracking of response and return dates not necessary for approval can come at a later date)

\* Total DBEs Listed on Addendum

\* Date of Addendum Identifying Interested DBE: Actual Addendum Date must be mailed out by 15th day after Advertisement. (Date of Addendum approval by FED)

\* DBE Sub-Contractor: Company Name, Dollar amount of subcontracts to either MBE or WBE. Total MBE subcontracts. Total WBE subcontracts. Identify category and percent for: Construction, Supplies, Services, or Equipment. (These totals will be used in tracking form

DATA SHEET FOR DBE

TO: For the Record *(Must be completed by Owner’s Representative)*

BY:

DATE:

SRF #

Municipality

Contract #

Authorized Representative

Address & Email

Phone Number

Consulting Engineer

Address & Email

Contractor

Address & Email

Type of Work:

Est. Total Contract $

Est. Eligible Cost $

Total DBE Participation $

% DBE Participation

Total length of Contract (Calendar Days)

Estimated Start Date

Estimated Completion Date

The above contractor (has / has not) complied with all the necessary requirements.

DATE CHIEF CONSTRUCTION SECTION

SUMMARY SHEET (DBE)

Project:

Contract #

SRF #

**CONSTRUCTION PHASE:**

Total Mailing by Certified Mail

Total Responses Undeliverable or Refused

Total Listed on Addendum

Date of Addendum Identifying Interested DBE

**DBE(s) SUB-CONTRACTOR(S) TO BE USED:**

 Company Name Category Type & Dollar Amount Percent

 (See Note to Label Category) (of total Contract $)

MBE- [ ] $ %

MBE- [ ] $ %

MBE- [ ] $ %

MBE- [ ] $ %

WBE- [ ] $ %

WBE- [ ] $ %

WBE- [ ] $ %

WBE- [ ] $ %

Note - Category Types are: 1=Construction; 2=Supplies; 3=Services; 4=Equipment