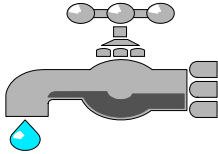


Factsheet: DBE Requirements



The Public Water Supply Section, Division of Environmental Health (PWS) prepared this factsheet to briefly summarize the disadvantaged business enterprise (DBE) requirements under both the state and federal financial assistance programs. This factsheet merely summarizes the requirements in the special conditions packages (referenced below), which should be considered definitive.

In summary, it is not sufficient to have a competitive bidding process that is open to DBEs. It is necessary to take positive steps (the "six good faith efforts" discussed below) to seek out qualified DBEs to directly solicit, or to otherwise bring them into the bidding process.

A. Instructions from our web page

Our main DBE webpage is at http://www.deh.enr.state.nc.us/pws/srf/Pages/DBE_Page.htm. It includes links for the special conditions packages, resources, and instructions.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) INSTRUCTIONS

1. Insert the appropriate "Special Conditions Package(s)" (SCP(s)) into the construction specifications. State funded projects require the State SCP. DWSRF-funded and other federally funded projects require both the State SCP and the DWSRF SCP.
2. Both the applicant/owner and the prime contractor shall follow the "six good faith efforts", found in section B of this factsheet, when soliciting for (sub)contractors. All related forms are found in the special conditions packages themselves. The same information and federal forms are required from both the owner and contractor. The state package has separate sections for the owner and the contractor.
3. Follow the instructions in the appropriate Special Conditions Package.
4. Following the opening of bids and selection of an apparent low bidder, the owner shall present the DBE forms and information to Public Water Supply for approval **prior to officially awarding contracts**:
 - When posting opportunities with SBA's SUB-Net, MBDA's Phoenix Database, or any other agency, provide receipt and copy of posting (as available);
 - When directly soliciting DBE firms, provide record of solicitation, any resulting proposals, and the resource (e.g. a [local government or NCDOT] solicitation list, Vendor Link, Central Contractor Registration, etc.) used to identify the DBE firm; and
 - Provide any other documentation to support the "six good faith efforts."Note: The DWSRF SCP **requires** the use of a) Vendor Link, b) MBDA's Phoenix Database, and c) either i) SBA's SUB-Net or ii) Central Contractor Registration (see Form PWS001).
5. After all DBE requirements have been satisfied, PWS will provide a "DBE Approval / Consent to Award" letter. Until receiving the "DBE Approval / Consent to Award," you may only **tentatively** award contracts.
6. You may **officially** award contract after receiving a "DBE Approval / Consent to Award" letter.
7. Before requesting reimbursement, you must submit all change orders to Public Water Supply for review **prior to execution**.

If you have any questions please contact Amanjit Paintal at (919) 715-2582.

B. Outline of the "six good faith efforts"

You must make the following **six good faith efforts**:

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and 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 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. For Indian Tribal, State and Local and Government recipients, this includes, whenever possible, posting advertisements for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date. Direct solicitations should be made at least 10 days prior the closing date.
3. Divide 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.

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5. Use the services and assistance, as appropriate, of such organizations as the U.S. Small Business Administration and the Office of Minority Business Development Agency of the U.S. Department of Commerce in the solicitation and utilization of small businesses, minority-owned firms, and women's businesses.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (1) through (5) of this section.

C. More detailed guidance on conducting outreach

You must use at least three of the resources available at our DBE page under "Resources for DBE Contractors" (<http://www.deh.enr.state.nc.us/pws/srf/DBE/DBE-Resources.htm>) to identify DBEs to directly solicit and to advertise (sub)contract opportunities. Please note that the DWSRF SCP form PWS001 (where applicable) requires a specific combination of three resources to be used as a minimum. These resources must then be used to directly solicit the DBEs identified therein, and document the results of the solicitations.

The "Disadvantage Business Enterprise Resources" page has five links to four different directories for use in direct solicitation:

1. The NC Department of Transportation (NCDOT) Office of Civil Rights and Business Development maintains a list of DBE firms that have worked on agency projects.
2. Vendor Link, which is a purchasing system maintained by the NC Department of Administration for the solicitation of products and services to be procured with State funds from DBE vendors.
3. The National Association of Minority Contractors, which is an organization of MBE firms.
4. Central Contractor Registration, which is a point of registration for entities receiving or wishing to receive federal monies. It is a database that can be used to search for DBE vendors in order to solicit their products and services.

The following examples illustrate the kinds of activities that can constitute a "good faith effort" using direct solicitation:

Example #1 - At North Carolina Vendor Link, <https://www.ips.state.nc.us/ips/vendor/vndpubmain.asp>, click on "search for registered vendors." Sample searches are discussed below:

- A search for vendors with SIC (construction) code 01700 (execution requirements) yields a list of 945 registered engineering & surveying firms.
- A search for vendors with SIC (construction) code 11200 (water supply and treatment equipment) yields 388 records.

You can select qualified DBE firms to directly solicit.

Example #2 - DOT keeps DBE directories at <https://apps.dot.state.nc.us/vendor/directory/default.aspx>. You can print out these directories, and select DBE firms qualified in waterlines to directly solicit. One example in your area might be the following:

FAKENAME DEVELOPMENT DBE Water & Sewer
COMPANY, INC. WB
555 N. HIGHWAY 1212
IMAGINARY, N. C. 28037
704-555-1212
WILMA J. LASTNAME

These various directories and searches yield lists of potentially qualified contractors. You can then print out the lists and sort out those in your area to directly solicit.

To ensure you receive credit for good-faith outreach efforts, please take the following steps:

1. Carefully document the searches you execute and the results of the searches. Fill out the DBE forms showing resources you used and bids you solicited directly.
2. Describe what criteria you used to determine who on the list(s) to directly solicit (e.g. area code, counties, or distance).
3. Describe any other resources you used to seek qualified DBEs to solicit.

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Please pass these directions on to the prime contractors, because they are likewise required to make good-faith outreach efforts when searching for DBE subcontractors. Prime contractors are also required to document their outreach efforts just as project owners are.

Notes:

143-129(b) only requires seven full days after advertisement before bid opening.

The advertisement should include the statement; "bids from qualified DBEs are encouraged."

D. Resources for advertising (sub)contracting opportunities to DBEs

The "Disadvantage Business Enterprise Resources" page has an additional two links to two different resources for targeted advertising:

1. Sub-Net, which has been set up by the US Small Business Administration so that prime contractors may advertise subcontracting opportunities to small businesses, including DBE firms. (Requires 2 business days before posting.)
2. Phoenix Database, which has been set up by the US Department of Commerce's Minority Business Development Agency so that contract opportunities may be advertised to registered MBE firms. (Requires 7 days before posting.)

The "Disadvantage Business Enterprise Resources" page also has contact information for minority newspapers in North Carolina.

The following examples illustrate the kinds of activities that can constitute a "good faith effort" using direct solicitation:

Example - At the SUB-Net web site, <http://web.sba.gov/subnet/>, post your projects by clicking on the "POST SOLICITATION" button, and follow these directions:

1. First you must sign in or create a login ID. This takes less than five minutes and does not cost anything. If you follow the directions provided, you will receive your login information immediately. Please note that the first time you sign in, it will take 2 business days for your post to appear on the web. Therefore, please sign up early if you want your posting to appear immediately.
2. Print out your solicitation from the web for documentation and provide it with the rest of your DBE documentation.

E. Submitting DBE information for PWS approval

1. You must obtain written PWS approval before awarding any contracts. Before receiving PWS approval, you can only give tentative award.
2. Please submit only one copy of all required DBE information, all at the same time, to your PWS review engineer.
3. The required DBE information includes (but is not limited to) documentation showing the owner and prime contractor¹ made the six good faith efforts to seek qualified DBE (sub)contractors. Complete and submit all the applicable DBE forms in the special conditions package(s), along with the following:
 - affidavits of publication²,
 - print-outs of any internet solicitations for bids²,
 - print-outs of the results of any internet-based searches²,
 - a copy of the proposed winning bid, and
 - DBE certifications for any DBEs proposed to be used on the project. This should be obtained from the DBE (sub)contractor, if they have been certified by some government agency. Listing as a DBE using any of the listed advertising and solicitation resources is also a satisfactory means of certification.

¹The Owner and prime contractor require no supporting DBE information beyond a copy of the proposed winning bid, if applicable, when not (sub)contracting.

²Required only if the "verifiable percentage goal" for the project, which is listed on the bid documents, is not met.

4. Later, subagreements will be required to finalize your goals for DBE participation. The subagreement must include the description of work or service to be performed and the amount of contract, and be signed and dated by both the prime and subcontractors.