



Disadvantaged Business Enterprise Requirements

Good Faith Efforts

Disadvantaged Business Enterprise (DBE) requirements are applicable to a subset of loans issued by the SRF Program. To determine if DBE requirements are applicable to your project, refer to the loan agreement or contact the SRF Program project engineer assigned to your project for more information.

The purpose of the DBE program is to ensure nondiscrimination when awarding contracts and to help remove barriers for DBE participation under EPA financial assistance agreement. As such, federal regulations require that both loan recipients (borrowers) and prime contractors must make the following Good Faith Efforts as defined in 40 CFR Part 33 Subpart C whenever procuring construction, equipment, services and supplies.

Borrowers and Prime Contractors – Good Faith Efforts

The following Good Faith Efforts apply to the procurement of construction, equipment, services, and supplies with SRF financial assistance funds:

1. Ensure DBEs are fully made aware of contracting opportunities practicable through outreach and recruitment activities. For 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 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 solicitations 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 subcontract with DBEs. For 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 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 Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take steps 1-5 above.

The EPA does not allow self-certification of DBE status. Instead, businesses must be certified by an approved certifying entity. The Alaska Department of Transportation and Public Facilities and the Small Business Administration maintain a DBE Directory of certified DBEs. A DBE can also be certified under the US Small Business Administration's 8(a) Business Development Program, the US Department of Transportation's (DOT) Participation by DBE in DOT Programs, an Indian Tribal Government, State Government, Local Government, or an independent private organization that certifies entities in accordance with EPA's 8% or 10% statutes as applicable.

Both the borrower and the prime contractor are required to complete the Alaska SRF's *Disadvantaged Business Enterprise Program Good Faith Effort and Participation Form* or the EPA form. For a copy of the forms, please email dec.srfprogram@alaska.gov.

Borrowers Only – Additional Requirements

- Each procurement contract signed by a loan recipient must include the following term and condition (40 CFR Part 33, Appendix A):

The contractor shall not discriminate on the basis of race, color, national origin or sex in performance of this contract. The contractor shall carry out applicable requirement 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.

- Include this form along with the *Disadvantaged Business Enterprise Good Faith Effort and Participation Form* in the bid and/or contract documents.
- For all contractor/subcontractor bids submitted, the entity receiving the bids is required to keep a copy of the bid on file, along with the Good Faith Effort and Participation form, for no less than the records retention period specified in the borrower's loan agreement.

Prime Contractors Only – Additional Requirements

- The prime contractor must pay its subcontractors no more than 30 days after receipt of payment from the borrower when satisfactory work has been performed.
- The prime contractor is required to notify the borrower prior to any termination of a DBE subcontractor.

State Revolving Fund Program – Disadvantaged Business Enterprise Compliance

- If a subcontractor fails to perform the work under a subcontract, the prime contractor will employ the six Good Faith Efforts described in seeking a replacement.

The undersigned certifies that this recipient/contractor is aware that the above guidance is a summary of the requirements of EPA's Disadvantaged Business Enterprise regulations and is not all encompassing. Further, the undersigned certify they will comply with all applicable federal regulations in 40 CFR Part 33. Failure to demonstrate a Good Faith Effort through solicitation of a minority-owned business or women-owned businesses can result in ineligible expenses under the loan.

Organization Name

Print Name and Title of Authorized Representative

Signature of Authorized Representative

Date