

**California State Water Resources Control Board**  
**Division of Financial Assistance (Division)**  
**1001 I Street • Sacramento, California 95814 • (916) 341-5700 FAX (916) 341-5707**  
**Mailing Address: P. O. Box 944212 • Sacramento, California • 94244-2120**  
**Internet Address: <http://www.waterboards.ca.gov>**

**Guidelines for Meeting the Clean Water State Revolving Fund (CWSRF) Program**  
**Disadvantaged Business Enterprise (DBE) Requirements**  
**(Revised January 16, 2014)**

The DBE Program is an outreach, education, and objectives program designed to increase the participation of DBEs in the CWSRF Program.

**How to Achieve the Purpose of the Program**

Recipients of CWSRF financing are required to seek, and are encouraged to use, DBEs for their procurement needs. Financial assistance recipients should award a "fair share" of sub-agreements to DBEs. This applies to all sub-agreements for equipment, supplies, construction, and services.

The key functional components of the DBE Program are as follows.

- Fair Share Objectives
- DBE Certification
- Six Good Faith Efforts
- Contract Administration Requirements
- DBE Reporting

**Disadvantaged Business Enterprise's are:**

- entities owned and/or controlled by socially and economically disadvantaged individuals as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note) (10% statute), and Public Law 102-389 (42 U.S.C. 4370d) (8% statute), respectively;
- a Minority Business Enterprise (MBE) are entities that are at least 51% owned and/or controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note), and Public Law 102-389 (42 U.S.C. 4370d), respectively.
- a Women Business Enterprise (WBE) are entities that are at least 51% owned and/or controlled by women.
- a Small Business Enterprise (SBE);
- a Small Business in a Rural Area (SBRA);
- a Labor Surplus Area Firm (LSAF); or
- an Historically Underutilized Business (HUB) Zone Small Business Concern or a concern under a successor program.

**Certifying DBE Firms:**

Under the DBE Program, entities can no longer self-certify and contractors and sub-contractors must be certified at bid opening. Contractors and sub-contractors must provide to the CWSRF recipient proof of DBE certification. Certifications will be accepted from the following:

- The US Environmental Protection Agency (USEPA)
- The Small Business Administration(SBA);
- The Department of Transportation's State implemented DBE Certification Program (with U.S. citizenship);
- Tribal, State and Local governments;
- Independent private organization certifications.

If an entity holds one of these certifications, it is considered acceptable for establishing status under the DBE Program.

### **Six Good Faith Efforts (GFE)**

All CWSRF financing recipients are required to complete and ensure that the prime contractor complies with the GFE below to ensure that DBEs have the opportunity to compete for financial assistance dollars.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities. For Tribal, 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. Posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid opening date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
4. Encourage contracting with a group of DBEs when a contract is too large for one firm to handle individually.
5. Use the services and assistance of the SBA and Minority Business Development Agency (MBDA) of the US Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

The forms listed in the table below and attached to these guidelines; must be completed and submitted with the GFE:

<b>FORM NUMBER</b>	<b>FORM NAME</b>	<b>REQUIREMENT</b>	<b>PROVIDED BY</b>	<b>COMPLETED BY</b>	<b>SUBMITTED TO</b>
<b>EPA 6100-2</b>	<b>DBE Sub-Contractor Participation Form</b>	<b>As Needed to Report Issues</b>	<b>Recipient</b>	<b>Sub-Contractor</b>	<b>EPA DBE Coordinator</b>
<b>EPA 6100-3</b>	<b>DBE Sub-Contractor Performance Form</b>	<b>Include with Bid or Proposal Package</b>	<b>Prime Contractor</b>	<b>Sub-Contractor</b>	<b>SWRCB by Recipient</b>
<b>EPA 6100-4</b>	<b>DBE Sub-Contractor Utilization Form</b>	<b>Include with Bid or Proposal Package</b>	<b>Recipient</b>	<b>Prime Contractor</b>	<b>SWRCB by Recipient</b>

**The completed forms must be submitted with each Bid or Proposal.** The recipient shall review the bidder's documents closely to determine that the GFE was performed **prior** to bid or proposal opening date. Failure to complete the GFE and to substantiate completion of the GFE before the bid opening date could jeopardize CWSRF financing for the project. The following situations and circumstances require action as indicated:

1. If the apparent successful low bidder was rejected, a complete explanation must be provided;
2. Failure of the apparent low bidder to **perform** the GFE **prior** to bid opening constitutes a non-responsive bid. The construction contract may then be awarded to the next low, responsive, and responsible bidder that meets the requirements or the Recipient may re-advertise the project.
3. If there is a bid dispute, all disputes shall be settled **prior** to submission of the Final Budget Approval Form.

### **Administration Requirements**

- A recipient of CWSRF financing must require entities receiving funds to create and maintain a Bidders List if the recipient of the financing agreement is subject to, or chooses to follow, competitive bidding requirements;
- The Bidders list must include all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both DBEs and non-DBEs.

- Information retained on the Bidder's List must include the following:
  1. Entity's name with point of contact;
  2. Entity's mailing address and telephone number;
  3. The project description on which the entity bid or quoted and when;
  4. Amount of bid/quote; and
  5. Entity's status as a DBE or non-DBE.
- The Bidders List must be kept until the recipient is no longer receiving funding under the agreement.
- The recipient shall include Bidders List as part of the Final Budget Approval Form.
- 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 its prime contractor prior to any termination of a DBE subcontractor 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 GFEs if soliciting a replacement subcontractor.
- A recipient must require its prime contractor to employ the six GFEs even if the prime contractor has achieved its fair share objectives.

### **Reporting Requirements**

For the duration of the construction contract(s), the recipient is required to submit to the State Water Resources Control Board DBE reports semi-annually by April 10 and October 10 of each fiscal year on the attached Utilization Report form (UR-334). Failure to provide this information as stipulated in the financial agreement language may be cause for withholding disbursements.

### **CONTACT FOR MORE INFORMATION**

SWRCB – CWSRF Barbara August (916) 341-6952 [barbara.august@waterboards.ca.gov](mailto:barbara.august@waterboards.ca.gov)

SWRCB – CWSRF Susan Damian (916) 341-5494 [susan.damian@waterboards.ca.gov](mailto:susan.damian@waterboards.ca.gov).

US-EPA Region 9 – Joe Ochab (415) 972-3761 [ochab.joe@epa.gov](mailto:ochab.joe@epa.gov).

**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Participation Form**

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: <input type="radio"/> DOT <input type="radio"/> SBA <input type="radio"/> Other: _____		Meets/ exceeds EPA certification standards? <input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> Unknown

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**Disadvantaged Business Enterprise (DBE) Program  
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

### Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE<sup>1</sup> subcontractors<sup>2</sup> and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	<input type="radio"/> YES	<input checked="" type="radio"/> NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

<sup>1</sup> A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

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DBE Subcontractor Utilization Form**

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<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

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**STATE WATER RESOURCES CONTROL BOARD - DIVISION OF FINANCIAL ASSISTANCE  
DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION  
CLEAN WATER STATE REVOLVING FUND  
INSTRUCTIONS FOR COMPLETING FORM UR-334**

- Box 1** Grant or Financing Agreement Number.
- Box 2** Semi-annual reporting period. Choose one semi-annual period and enter the correct years.
- Box 3** Enter the dates between which you made procurements under this financing agreement or grant.
- Box 4** Enter the total amount of payments paid to the contractor or sub-contractors during this reporting period.
- Box 5** Enter Recipient's Name and Address.
- Box 6** Enter Recipient's Contact Name and Phone Number.
- Box 7** Enter details for the **DBE purchases only** and be sure to limit them to the current period. 1) Use either an "R" or a "C" to represent "Recipient" or "Contractor." 2) Enter a dollar total for DBE and total the two columns at the bottom of the section. 3) Provide the payment date. 4) Enter a product type choice from those at the bottom of the page. 5) List the vendor name and address in the right-hand column
- Box 8** Initial here if no DBE contractors or sub-contractors were paid during this reporting period.
- Box 9** Initial this box only if all purchases under this financing agreement or grant have been completed during this reporting period or a previous period. If you initial this box, we will no longer send you a survey.
- Box 10** This box is for explanatory information or questions.
- Box 11** Provide an authorized representative signature.
- Box 12** Enter the date form completed.