

APPENDIX A: EPA DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

EPA's Disadvantaged Business Enterprise Program rule applies to contract procurement actions funded in part by EPA assistance agreements. The rule is found at Federal regulation Title 40, Part 33, Specific responsibilities are highlighted below.

Loan Recipient Responsibilities:

- Include MDE's DBE guidance in each contract with a prime contractor (MDE Insert).
- Employ the six Good Faith Efforts during prime contractor procurement (§ 33.301).
- Require prime contractor to comply with the following prime contractor requirements of Title 40 Part 33:
 - a) To employ the six Good Faith Efforts steps in paragraphs (a) through (3) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).
 - b) To provide EPA form 6100-2 – *DBE Program Subcontractor Performance Form* to all DBE subcontractors (Optional submittal by subcontractors) (§ 33.302(e)).
 - c) To submit EPA forms 6100-3 – *DBE Program Subcontractor Performance Form* and 6100-4 – *DBE Program Subcontractor Utilization Form* with bid package or proposal (§ 33.302(f) and (g)).
 - d) To pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).
 - e) To notify recipient in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor (§ 33.302(b)).
 - f) To employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason (§ 33.302(c)).
 - g) To employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33 (§ 33.302(d)).
 - h) Provide grant recipient DBE participation achievements with bid proposal.
- Maintain records documenting its compliance with the requirements of Title 40 Part 33, including BIDDERS LIST and documentation of its, and its prime contractors', good faith efforts (§ 33.501(a)).

Prime Contractor Responsibilities:

- Employ the six Good Faith Efforts steps in paragraphs (a) through (e) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).
- Provide EPA form number 6100-2 – *DBE Program Subcontractor Participation Form* and form number 6100-3 – *DBE Program Subcontractor Performance Form* to each DBE subcontractor prior to

opening of the contractor's bid or proposal (§ 33.302(e) and (f)).

- Complete EPA form number 6100-4 – *DBE Program Subcontractor Utilization Form* (§ 33.302(g)).
- Submit to recipient with the bid package or proposal the completed EPA form number 6100-4, plus an EPA form number 6100-3 for each DBE subcontractor used in the contractor's bid or proposal (§ 33.302(f) and (g)).
- Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).
- Notify the recipient in writing prior to prime contractor termination of a DBE subcontractor for convenience (§ 33.302(b)).
- Employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason (§ 33.302(c)).
- Employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33 (§ 33.302(d)).
- Provide grant recipient DBE participation achievements with bid proposal.
- Maintain records documenting its compliance with the requirements of Title 40 Part 33 including BIDDERS LIST documentation of its, and its prime contractors', good faith efforts (§ 33.501(a)).

Subcontractor Responsibilities:

- May submit EPA form 6100-2 – *DBE Subcontractor Participation Form* to Hana Hyland, EPA Region 3 Small Business Program Coordinator (§ 33.302(e)).
- Must complete EPA form 6100-3 – *DBE Program Subcontractor Performance Form*, and submit it to the prime contractor soliciting services from the subcontractor prior to the opening of bids for the prime contract.

EPA Form	Requirement	Provided By	Completed By	Submitted To
EPA Form 6100-2	Loan Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors (Optional)	EPA Region 3 Small Business Program Coordinator Hana Hyland
EPA Form 6100-3	Loan Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors with Prime Contractor's Signature	Loan Recipients as part of a bid or proposal package
EPA Form 6100-4	Loan Recipients required to have prime contractors complete the form	Loan Recipients	Prime Contractors	Loan recipients as part of a bid or proposal package

Source: Federal Requirements and Contract Provisions for Special Appropriation Act Projects, US Environmental Protection Agency, Region III, June 2008.