



Disadvantaged Business Enterprise Program

Guidance to Borrowers and Contractors¹

¹ [Frequently Asked Questions for Disadvantaged Business Enterprises | US EPA](#)

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Section 1: Overview

As stipulated by the Environmental Protection Agency (EPA), Nevada State Revolving Fund (SRF) borrowers and their contractors are required to make good faith efforts to utilize businesses classified as Disadvantaged Business Enterprises (DBEs) for goods and services associated with SRF financed projects. A borrower and their contractors should utilize DBEs through prime contracting, subcontracting, joint-ventures, other business relationships, and through the procurement of supplies, materials, and equipment.

Section 2: Definition of Disadvantaged Business Enterprise (DBE)

A DBE is a business owned or controlled by socially and economically disadvantaged individuals including Minority and Women Business Enterprises.

Minority Business Enterprise (MBE) — A business which is at least 51% owned or controlled by one or more U.S. citizens who are Black, Hispanic, Portuguese, Asian American, American Indian, or groups found to be economically and socially disadvantaged by the U.S. Small Business Administration pursuant to Section 8(a) of the Federal Small Business Act.

Women Business Enterprise (WBE) — A business which is at least 51% owned or controlled by one or more U.S. citizens who are women.

Section 3: Disadvantage Business Enterprise (DBE) requirements and contract conditions

The following pages include conditions which must be included in all bidding and contract documents for SRF-financed projects including:

- DBE related laws, rules, and regulations
- Equal employment
- DBE participation goals
- Good faith effort for DBE participation
- DBE contract terms and conditions

Disadvantaged Business Enterprise (DBE) and contract conditions

The DBE solicitation and contract conditions must be physically included in all bidding and contract documents for SRF financed projects.

DBE related laws, rules, and regulations

This project is being financed as a whole or in part by the Nevada State Revolving Fund (SRF). The borrower is required to comply with the following laws, rules and regulations and must ensure that their contractors also comply with these laws, rules, and regulations.

1. Ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap: Title VI of the Civil Rights Act of 1964 (P.L 88-352, Section 504 of the Rehabilitation Act, P.L. 93-112 (87 Stat. 355, 29 U.S.C. Sec. 794), Older Americans Act (P.L. 94-135, 89 Stat. 713, 89 Stat. 728 Sec. 303, 42 U.S.C. 6102).
2. Encourages recipients of federal funds to award construction, supply and professional service contracts to minority and women's business enterprises (MBE/WBE) and small businesses and requires recipients to utilize affirmative steps in procurement: Executive Orders 11625, 12138 and 12432; Section 129 of P. L. 100-590 Small Businesses Reauthorization & Amendment Act of 1988; Public Law 102-389 (42 U.S.C. 4370d); a 1993 appropriations act ("EPA's 8% statute"); Title X of the Clean Air Acts Amendments of 1990 (42 U.S.C. 7601 note) ("EPA's 10% statute").
3. All contractors, subcontractors, and materials and service suppliers (including the engineers, etc.) who's contract is expected to equal or exceed \$25,000 must maintain an active registration in the U.S. Government System for Award Management (SAM: [Home | SAM.gov](https://www.sam.gov)). To register, all entries must have a **Unique Entity ID (UEI)**. A UEI can be created at [Entity Registration | SAM.gov](https://www.sam.gov). The **Entity Registration Checklist** is helpful in identifying and gathering the information needed to create your UEI. The UEI is:
 - a. Free of cost.
 - b. For engineers, contractors, subcontractors, and materials and service suppliers.
 - i. Check SAM.gov for a full list of entities required to create a UEI.
 - ii. Contractors are responsible for verifying that their subcontractors are registered and maintain registration records for all contracts for subcontractors.
 - c. Renewed annually. UEI numbers do not expire, but registration is valid for one year.
 - d. Required under Executive Order 12549 — debarment and suspension of those abusing federal funding, as well as any wasteful or fraudulent use. UEI's help with accountability and consistency of agency regulations.

4. 40 CFR Part 33 Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA) Financial Assistance Agreements.
5. Prohibits discrimination by federal contractors and subcontractors for reasons of race, color, religion, sex, and national origin: Equal Employment Executive Order 11246, as amended by Executive Orders 11375 and 12086 and subsequent regulations. Inclusion of the seven clauses (located below in the Equal Employment section) from Section 202 of E. O. 11246 as amended by E. O. 11375 and 12086 are required in all project related contracts and subcontracts over \$10,000.

Equal employment

Must be included in all contracts over \$10,000. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and

orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor must include the terms of paragraphs (1) through (7) in every subcontract or purchase order, unless the Secretary of Labor's rules, regulations, or orders issued under Section 204 of Executive Order 11246 (September 24, 1965) provide an exemption. These terms must be binding on all subcontractors and vendors. The contractor must also take any action the Secretary of Labor directs to enforce these requirements, including applying sanctions for noncompliance. However, if following such a directive causes the contractor to become involved in, or threatened with, litigation with a subcontractor or vendor, the contractor may request that the United States participate in the litigation to protect its interests.

DBE participation goals

Borrowers and their prime contractors must follow and document good faith efforts to meet the DBE participation goals.

Table 1. DBE participation goals

| Goods or services | MBE participation goal | WBE participation goal |
|-------------------|------------------------|------------------------|
| Construction | 2% | 2% |
| Equipment | 1% | 1% |
| Services | 1% | 2% |
| Supplies | 1% | 1% |

The DBE participation goals are not quotas — SRF will not penalize a borrower and their contractors if they cannot meet the goals. However, SRF will require a borrower and their contractors to make a good faith effort to meet these goals.

Good faith effort for DBE participation

EPA defines “good faith effort” to include, at a minimum, the following actions by a borrower and their contractors and sub-contractors:

1. Include DBEs on solicitation lists.
2. Assure that DBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum DBE participation, where feasible. Encourage the joint submission of bids by multiple DBE businesses.

4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce (MBDA), or state/regional/local equivalent.
6. Require that each party to a subgrant, sub agreement, or contract award take the good faith efforts outlined.

DBE contract terms and conditions

The following conditions must be included in all procurement contracts entered into by the borrower and their contractors and subcontractors for SRF-financed projects:

1. The prime contractor must pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor’s receipt of payment from the loan recipient.
2. The prime contractor must document its efforts towards meeting the six good faith efforts for DBE participation even if the prime contractor has achieved its fair share objectives.
3. The prime contractor must notify the loan recipient in writing prior to the termination of any DBE subcontractor for convenience by the prime contractor.
4. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts for DBE participation if soliciting a replacement subcontractor.
5. All DBE procurements, whether from bid documents or subsequent draw request, are to be **reported on Form 5700-52A to the SRF.**
6. The prime contractor must submit **Form 6100-4 — DBE Subcontractor Utilization** to the borrower as part of bid proposals.
7. The prime contractor must ensure DBE subcontractors submit **Form 6100-3 — DBE Subcontractor Performance.** In turn, the prime contractor submits the forms to the borrower.

Table 2. Reporting information

| Report | Provided by | Completed by | Submitted to | Appendix |
|-----------------------------|------------------|------------------|--------------|----------|
| DBE Reporting Form 5700-52A | SRF | Borrower | SRF | A |
| Form 6100-4 | Borrower | Prime Contractor | Borrower | B |
| Form 6100-3 | Prime Contractor | Sub-contractor | Borrower | C |

8. Each procurement contract signed must include the following terms and conditions:

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

Sources to identify and certify DBEs

Nevada Department of Transportation Disadvantaged Business Enterprise Program
Vendor Management System: [Nevada Department of Transportation](#)

Nevada Commission on Economic Development — Procurement Outreach Program
[Nevada Commission on Economic Development - Procurement Outreach](#)

Nevada Small Business Development Center (NSBDC)
[Nevada SBDC – Your First Call to Grow Your Business](#)

Nevada Hispanic Business Group
[Nevada Hispanic Business Group](#)

EPA: Resources for Small Businesses
[Resources for Small Businesses | US EPA](#)

U.S. Small Business Administration
[Small Business Administration](#)

Minority Business Development Agency
[Minority Business Development Agency](#)

Appendix A: DBE Reporting Form 5700-52A

When requesting loan draws which involve procurements to MBE/WBE businesses, information must be reported on forms provided by SRF as shown on the next page.



U.S. ENVIRONMENTAL PROTECTION AGENCY MBE/WBE UTILIZATION UNDER FEDERAL GRANTS AND COOPERATIVE AGREEMENTS

This collection of information is approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. (OMB Control No. 2030-0020). Responses to this collection of information are required to obtain an assistance agreement (40 CFR Part 30, 40 CFR Part 31, and 40 CFR Part 33 for awards made prior to December 26, 2014, and 2 CFR 200, 2 CFR 1500, and 40 CFR Part 33 for awards made after December 26, 2014). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public reporting and recordkeeping burden for this collection of information is estimated to be 1 hour 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 to the Regulatory Support Division Director, U.S. Environmental Protection Agency (2821T), 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.

| | | | |
|--|--------------|--|----------|
| 1A. REPORTING PERIOD | | 1B. REPORT TYPE | |
| October 1, _____ – September 30, _____ | Annual | Final Report (Project completed) | |
| 1C: Revision of a Prior Year Report? No Yes If yes, what reporting period is being revised and briefly describe the changes made. Note: The revised report will replace the associated original report in its entirety. | | | |
| 2A. RECIPIENT UNIQUE ENTITY IDENTIFIER | | | |
| 2B. RECIPIENT REPORTING CONTACT Name: Email: Phone: | | | |
| 3. FEDERAL AWARD IDENTIFICATION NUMBER (FAIN) (For SRF state recipients, please include all numbers for all open assistance agreements being reported on this form. | | | |
| 4A. If NO procurements were made this reporting period (by the recipient, sub-recipient(s), loan recipient(s), and prime contractor(s)), CHECK and SKIP to Block No. 6. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs.) | | | |
| 4B. Total Procurements & MBE/WBE Accomplishments This Reporting Period (in dollars) | | | |
| | Construction | Non-Construction | Total |
| Total Procurement: | \$ _____ | \$ _____ | \$ _____ |
| MBE/WBE Combined Procurement: | \$ _____ | \$ _____ | \$ _____ |
| 5A. Good Faith Efforts: If procurements were made, indicate whether your organization has followed the six Good Faith efforts found in 40 CFR Part 33, Subpart C, 40 CFR 33.501 and 2 CFR 200.321. Yes, my organization has implemented and documented each of the six Good Faith Efforts on the procurements made during this reporting period. No, my organization has not implemented and documented each of the six Good Faith Efforts on the procurements made during this reporting period. | | 5B. If procurements were made, but no MBE/WBE procurements are being reported, then check the applicable box(es) for the reason(s) why no MBE/WBE procurements were made. <div style="display: flex; justify-content: space-around;"> No MBE/WBE(s) applied No MBE/WBE(s) were qualified </div> Other: | |
| 6. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE | | TITLE | |
| 7. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE | | DATE | |

Instructions:

A. General Instructions:

MBE/WBE utilization is based on 40 CFR Part 33 and 2 CFR Parts 200 and 1500. The reporting requirement reflects the change in the reporting threshold described in Recipient/Applicant Information Notice-2018-G04 issued by EPA's Office of Grants and Debarment on September 7, 2018 (<https://www.epa.gov/grants/rain-2018-g04>). EPA Form 5700-52A must be completed annually by recipients of financial assistance agreements where the combined total of funds budgeted for procuring supplies, equipment, construction and services exceeds the current Simplified Acquisition Threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1. This reporting requirement applies to all new and existing awards and voids all previous reporting requirements.

In determining whether the threshold is exceeded for a particular assistance agreement, the analysis must focus on funds budgeted for procurement under the supplies, equipment, construction, services or "other" categories, and include funds budgeted for procurement under sub-awards or loans.

Reporting will also be required in cases where the details of the budgets of sub-awards/loans are not clear at the time of the grant awards and the combined total of the procurement and sub-awards and/or loans exceeds the Simplified Acquisition Threshold.

For example, if the Simplified Acquisition Threshold is \$250,000, then if a recipient has \$300,000 budgeted under procurement, then completion of this report is required.

When reporting is required, all procurement actions are reportable, not just the portion which exceeds the Simplified Acquisition Threshold.

If at the time of award the budgeted funds exceed the Simplified Acquisition Threshold but actual expenditures fall below, a report is still required.

If at the time of award, the combined total of funds budgeted for procurements in any category is less than or equal to the Simplified Acquisition Threshold and is

maintained below the threshold, no DBE report is required to be submitted.

Recipients are required to report 30 days after the end of each federal fiscal year (i.e. October 30th), per the terms and conditions of the financial assistance agreement.

Final reports are due October 30th or 120 days after the end of the project period, whichever comes first.

MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement. Failure to comply may lead to termination of the financial assistance agreement which is then reported to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS) pursuant to 2 CFR 200.339(b).

C. Instructions:

1A. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (**e.g. November 29, 2020 falls within Federal fiscal year 2021**)

1B. Specify report type. Check the annual reporting box if this is an annual report. If it is a final report, check the final report box to indicate if the project is completed.

1C. Indicate if this is a revision to a previous year and provide a brief description of the revision you are making including what reporting period is being revised. The revised report will replace the associated original report in its entirety.

2A. Provide your organization's Unique Entity Identifier. More information about Unique Entity Identifier, including its meaning, can be found in 2 CFR Part 25.

2B. Identify the name and contact information for the person located within the recipient organization that can be contacted if questions arise from this report.

3. Provide the Federal Award Identification Number (FAIN) assigned by EPA. A separate report must be submitted for each Assistance Agreement.

***For SRF recipients:** In box 3 list numbers for ALL OPEN Assistance Agreements being reported on this form.

4A. Self-explanatory. **Note:** Procurement means expenditures under the supplies, equipment, construction, services or "other" categories, and include funds expended for procurement under sub-awards or loans.

4B. Provide the total dollar amount (in dollars) of **ALL** procurements awarded this reporting period by construction, non-construction, and grand total by the recipient, sub-recipients, and SRF loan recipients, **including** MBE/WBE expenditures, not just the portion which exceeds the threshold. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/ procurement centers).

Provide the total dollar amount (in dollars) of MBE/WBE procurements **ONLY** awarded this reporting period by construction, non-construction, and grand total by the recipient, sub-recipients, SRF loan recipients, and prime contractors not just the portion which exceeds the threshold.

***For SRF recipients only:** In 4B, please enter the total annual procurement amount under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. (**SRF state recipients report state procurements in this section**)

5A. Self-explanatory.

5B. If procurements were made during this reporting period, but no procurements with MBE(s) or WBE(s) are being reported, then select the reason why. If "Other" is chosen, please fill in with the reason.

6. Self-explanatory.

7. Self-explanatory.

Appendix B: Form 6100-4 — DBE Subcontractor Utilization

The borrower must require potential prime contractors to submit Form 6100-4, as shown on the next page, to the borrower as part of bid proposals.



Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual or anticipated use of identified certified DBE¹ subcontractors² 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.

Point of contact

Address

Telephone number

Email address

Issuing/Funding entity

I have identified potential DBE certified subcontractors?

If **"No"**, please explain. If **"Yes"**, please provide:

- Subcontractor name and company name
- Company address, phone number, and email address
- Estimated dollar amount
- Are they currently DBE certified?

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 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).

Prime Contractor Signature

Print name and title

Date

¹ 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.

² 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.

Appendix C: Form 6100-3 — DBE Subcontractor Performance

The prime contractor must require potential subcontractors to submit Form 6100-3, as shown on the next page, as part of bid proposals. In turn, prime contractors submit the data to the borrower.



Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Performance Form

This form is intended to capture the DBE¹ subcontractor's² 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.

Prime contractor name

Project name

Bid/Proposal No.

Assistance agreement ID No.

Point of contact

Address

Telephone number

Email address

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 DOT SBA Other

Meets/exceeds EPA certification standards? Yes No Unknown

¹ 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.

² 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**

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 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).

Prime Contractor Signature

Print name and title

Date

Subcontractor Signature

Print name and title

Date