



DISADVANTAGED BUSINESS ENTERPRISE PROGRAM (DBE)

SPECIFICATIONS FOR MUNICIPAL CONTRACTS

For Projects Funded Wholly or in Part by Federal DOT

Federal Transit Administration (FTA)
Federal Aviation Administration (FAA)
Federal Highway Administration (FHWA)

Part I: Applications

This project is funded wholly or in part with financial assistance from the U.S. Department of Transportation (DOT) through FTA, FAA or FHWA. It is subject to Anchorage Municipal Code Chapter 7.60, and the Disadvantaged Business Enterprise Program 49 C.F.R. 26 regarding the participation by Disadvantaged Business Enterprises in the Department of Transportation programs and to any other applicable federal and state regulations. The requirements of this program are mandatory. Bidders/Proposers shall be fully informed regarding the requirements of the above regulations. Particular attention is directed to the following matter:

A bidder/proposer who is not in compliance with the requirements of the applicable regulations or these specifications shall not be awarded this contract. Noncompliance after award of contract constitutes a breach of the contract and may result in termination of the contract or other appropriate remedy for such breach.

Part II: DBE Participation

The Municipality of Anchorage Office of Equal Opportunity is currently administering a race-neutral DBE program. This does not negate the importance of striving to meet DBE participation goals that have been submitted to the federal government in accordance with 49 CFR 26. This project has been identified as receiving funding from the following federal funding source and is associated with the following DBE participation objective:

Federal Transit Administration (FTA) – 5.5%
Federal Aviation Administration (FAA) – 7.7%
Federal Highway Administration (FHWA) – 8.83%

Part III: Solicitation of DBEs for This Project

- A. The Municipality of Anchorage (MOA) encourages bidders/proposers to actively solicit bids for the subcontracting of services and supplies from certified DBEs in order to assist the MOA in meeting its Race Neutral participation as stated in these specifications.

Part IV: Certified DBEs Eligible to Be Used for Credit on this Project

A DBE, or a joint venture with a DBE must be currently certified by the Alaska Unified Certification Program (AUCP) prior to the award of contract before credit may be allowed toward the MOA participation. A directory of DBEs certified by the AUCP may be obtained at the Alaska Department of Transportation and Public Facilities, Civil Rights Office, 2200 E. 42nd Avenue, Anchorage, AK; via mail to that agency at P.O. Box 196900, Anchorage, AK 99519; telephone (907) 269-0853; or at <http://www.dot.state.ak.us/cvlrts/index.shtml>.

Part V: Credit for DBE Participation for the Project

When a certified DBE participates in a contract, the contractor may count only the value of the work performed by the certified DBE toward the MOA's Race Neutral participation.

The contractor may:

1. Count the entire amount of the portion of a construction contract that is performed by the DBE's own forces.
2. Count the entire amount of fees or commissions charged by a certified DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT assisted contract, toward DBE Race Neutral participations, provided that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When a certified DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward MOA's DBE Race Neutral participation only if the certified DBE's subcontractor is itself a certified DBE. Work that a certified DBE subcontracts to a non-DBE firm does not count toward MOA's DBE Race Neutral participation.
4. When a certified DBE performs as a participant in a joint venture, count only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract, which the certified DBE performs with its own forces.
5. Count expenditures to a certified DBE contractor toward MOA's DBE Race Neutral participation only if the certified DBE is performing a commercially useful function on the contract. A certified DBE performs a commercially useful function when it is responsible for

execution of the work of the contract and is carrying out its responsibilities by actually performing managing and supervising the work involved.

6. Count materials or supplies obtained from a certified DBE manufacturer at 100% of the cost toward the MOA's DBE Race Neutral participation.

7. Count materials or supplies obtained from a certified DBE regular dealer at 60% of the cost toward MOA's DBE Race Neutral participation.

8. With respect to materials or supplies purchased from a certified DBE, which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies. Transportation charges or fees for the delivery of materials or supplies can be used toward MOA's DBE Race Neutral participation. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward the MOA's Race Neutral participation.

9. For trucking, the certified DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract. The certified DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract. The certified DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, operates and using drivers it employs. A DBE may lease trucks from another DBE firm, including an owner-operator who is a certified DBE. A DBE who leases trucks from another DBE receives credit for total value of the transportation services. A DBE may also lease trucks from a DBE firm, including an owner operator. A DBE who leases trucks from a non- DBE is entitled to credit only for fees or commissions it receives as a result of the lease arrangement.

A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE. For purposes of this, a lease must indicate that a DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

10. The certified DBE must perform work on the project in the category(s) of work for which certification is issued. While the DBE may perform work in other categories for which certification is not issued, only that work performed in the certified categories will count toward the MOA's Race Neutral participation on the project.

11. If a firm is not currently certified as a DBE in accordance with this regulation at the time of the execution of the contract the firm's participation will not count.

Part VI: Submission of DBE Information

The requirements of this program are mandatory. Bidders/Proposers who do not submit these forms will be considered non-responsive. Please reference Anchorage Municipal Code Chapter 7.60, and the Disadvantaged Business Enterprise Program 49 C.F.R. 26.

A. Invitation to Bid:

- 10-028 SUBCONTRACTABLE ITEMS
- 10-029 DBE STATEMENT
- 10-030 DBE UTILIZATION
- 10-031 w/ Acknowledgement* PAYMENT PROGRESS REPORTS
- 10-032 BIDDER REGISTRATION/DBE COMMITMENT
- 10-033 DBE CONTACT REPORT

The above forms are to be included in the bid packet and are to be submitted to the Purchasing Department at bid opening.

** Payment Progress Reports (Form 10-031) must be submitted by Prime Contractor to the MOA DBE Officer by the 15th of every month for the life of the project.*

B. Request for Proposal:

- 10-028 SUBCONTRACTABLE ITEMS
- 10-029 DBE STATEMENT
- 10-031 w/Acknowledgement* PAYMENT PROGRESS REPORTS
- 10-032 BIDDER REGISTRATION/DBE COMMITMENT (page 1 only, Prime Contractor)

The above forms are to be included in the proposal and are to be submitted to the Purchasing Department at proposal closing.

- 10-030 DBE UTILIZATION
- 10-032 BIDDER REGISTRATION/DBE COMMITMENT (for each subcontractor)
- 10-033 DBE CONTACT REPORT

The above forms (10-030, 10-032, 10-033) are to be submitted to the Municipality of Anchorage, Office of Equal Opportunity by the *successful proposer* at the completion of contract negotiations. Failure to comply with these requirements may deem the contractor non-responsive.

** Payment Progress Reports (Form 10-031) must be submitted by Prime Contractor to the MOA DBE Officer by the 15th of every month for the life of the project.*

Part VII: Disadvantaged Business Enterprise Utilization

- A. If a successful bidder/proposer for a contract that contains DBE participation, at any time after the award of the contract, proposes to remove or make substitutions to DBE subcontractors, or joint venture partners under the contract, a written notice of such removal, or substitution shall be submitted to the DBE officer prior to substitution or removal. The successful bidder/proposer must also provide a reasonable explanation for the removal or substitution of the DBE. Where such removal or replacement would cause the DBE percentage to fall below the participation amount set for the project, the MOA encourages the successful bidder/proposer to utilize another DBE subcontractor as the replacement. These efforts shall be documented, and the circumstances fully explained in writing, and approval obtained from the DBE officer prior to replacement.
- B. The Office of Equal Opportunity (OEO) DBE officer shall monitor the contractor's DBE utilization to verify that the work is committed to certified DBE subcontractors.
- C. The Municipality encourages the successful bidder/proposer to refrain from requiring performance and/or payment bonds of their certified DBE subcontractors.
- D. The DBE officer or designee may visit the job site during regular working hours and interview subcontractors and employees for verification of compliance with these specifications and/or the regulations.

Part VIII: DBE Policy and Obligations

The following statement is included in the agreement between the Municipality and its contractor on this project and must also be included in each subcontract the prime contractor signs with a subcontractor or supplier on this project:

"The contractor, sub recipient or subcontractor shall not discriminate based on race, color, national origin, sexual orientation, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. 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 such other remedy as the recipient deems appropriate."

Failure of the contractor or its subcontractors to carry out the requirements set forth above shall constitute a breach of contract after notification from the Municipality, may result in termination of the contract by the Municipality or such remedy as the Municipality deems appropriate.

Part IX: Required Prompt Payment to Subcontractors

This contract is funded wholly or in part with U.S. DOT funding. Verification of contractor's payments to certified DBEs will also be monitored throughout the duration of the project. No MOA credit will be made toward the contract participation until the payments are actually made

to the certified DBE subcontractors. The Contractor is required to pay all subcontractors within eight (8) business days after receipt of payment from the MOA and after the work is satisfactorily completed.

Part X: Retainage

The MOA declines to hold retainage from prime contractors for DOT funded projects and prohibits withholding of retainage from subcontractors.

Part XI: Proposer's and Bidder's Registration Information

The MOA is required by DOT federal regulation (49 C.F.R. § 26.11) to create a bidders list, consisting of information on all certified DBE and non-DBE firms, which bid or quote on DOT assisted contracts. The purpose of the bidders list is to provide the MOA with as much accurate data as possible regarding the universal makeup of DBEs, non-DBEs, and subcontractors seeking to work on federally assisted contracts.

For additional information, please contact the Office of Equal Opportunity for the Municipality of Anchorage:

**Office of Equal Opportunity,
(907) 343-4878
OEO@muni.org**

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