



DISADVANTAGED BUSINESS ENTERPRISE COMPLIANCE POLICY

OFFICE:	PROGRAM & POLICY DEVELOPMENT
NUMBER:	DW-099/CW-099
31 TAC CHAPTER 371 EFFECTIVE:	8/4/2010 (amended 9/22/11)
31 TAC CHAPTER 375 EFFECTIVE:	9/8/2010 (amended 4/28/11)
POLICY EFFECTIVE DATE:	3/1/2012
REVISION DATE:	12/1/2013

INTRODUCTION:	The Texas Water Development Board (TWDB) issues this policy regarding the U.S. Environmental Protection Agency’s Disadvantaged Business Enterprise (DBE) program requirements and compliance for loans and principal forgiveness for projects utilizing equivalency Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) program funding.
POLICY STATEMENT:	Entities utilizing equivalency Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) program funding are required to remain in compliance with DBE requirements through all phases of the project (as outlined below). Failure to comply with the legally required federal regulations at 40 CFR Part 33 may result in delayed closings, withholding the release of funds, or commitment cancelation.
COMPLIANCE THROUGH PHASES:	<p>PROJECT APPLICATION PHASE</p> <p>Form: TWDB-0215 (Entity)</p> <p>Requirements for Compliance:</p> <ul style="list-style-type: none"> - Total TWDB funding request amount - Signature of Applicant/Entity - Completed Participation Estimates <p>LOAN COMMITMENT AND CLOSING PHASE</p> <p>Form: TWDB-0216 (Entity)</p> <p>Requirements for Compliance:</p> <ul style="list-style-type: none"> - Total TWDB funding request amount - Completed Project Bidders List with a minimum of three businesses/firms solicited for each type of contract sought (i.e. three engineering, financial advisor, and bond counsel firms). - To achieve a “Good Faith Effort” a combination of two methods must be utilized for solicitation at a minimum. However, additional methods are encouraged by the TWDB should any of the methods fail to meet DBE program requirements. The methods of solicitation much also appear on the Project Bidders List for each firm listed. - Signature of Applicant/Entity - Backup documentation to support the solicitation methods utilized (newspaper advertisement/affidavit, RFQ, fax/email/letter correspondence, website postings, governmental/trade publications, etc.)

- All methods of solicitation shall include the following language to meet “Good Faith Effort” requirements as stated below:
- A. *Any loan award is contingent upon release of funds from the Texas Water Development Board (TWDB).*
- B. *This contract is subject to the Environmental Protection Agency's (EPA) "fair share policy", which includes EPA-approved "fair share goals" for Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) firms in the Construction, Supplies, Equipment, and Services procurement categories. EPA's policy requires that applicants and prime contractors make a good faith effort to award a fair share of contracts, subcontracts, and procurements to Minority Business Enterprise and Women-Owned Business Enterprise firms. Although EPA's policy does not mandate that the fair share goals be achieved, it does require applicants and prime contractors to demonstrate use of the six affirmative steps. The current fair share goals for the State of Texas are as follows:*

CATEGORY	MBE	WBE
<i>CONSTRUCTION</i>	<i>12.94%</i>	<i>8.72%</i>
<i>SUPPLIES</i>	<i>9.68%</i>	<i>9.34%</i>
<i>EQUIPMENT</i>	<i>7.12%</i>	<i>5.39%</i>
<i>SERVICES</i>	<i>10.84%</i>	<i>5.72%</i>

SPECIAL NOTES:

- Entities seeking to utilize consultants contracted on a multi-year basis must provide additional information to demonstrate DBE compliance including: original advertisement to validate the scope of services solicited, RFQ(s), and contract duration. If the contract is in the initial term and in compliance with DBE requirements, the procurement is acceptable. Multi-year contracts in the renewal term(s) will only be allowed if the provision was publicized in the advertisement or RFQ.
- If the required DBE language is not included in an open (active) advertisement/solicitation, the entity has the option to: (1) republish (newspaper or electronic posting) or (2) re-issue (if direct contact) the solicitation including the required DBE language and subsequently notify all previously contacted vendors. The notice should run for the duration in accordance with state procurement law.

Form: TWDB-0217 (Prime Consultants)
Requirements for Compliance:

- Total TWDB funding request amount
- Contract amount
- Signature of Prime Contractor
- If self-performing 100% of the contract, then the Exception box should be checked.
- Completed MBE/WBE Participation Estimates, if not self-performing 100% of the contract.

Form: **TWDB-0373 (Entity)**

Requirements for Compliance include:

- Total TWDB funding request amount
- Completed list of actual contracts/procurements including: business name/address, procurement category, MBE/WBE status, actual contract amount, contract execution date, and proof of MBE/WBE certification (if applicable)
- Signature of Applicant/Entity

SPECIAL NOTES:

Review and approval of all DBE forms are required prior to loan closing.

PLANNING/DESIGN PHASE

Form: **TWDB-0216 (Prime Consultant)**

Requirements for Compliance:

- Total TWDB funding request amount
- Completed Project Bidders List (see requirements above)
- To achieve a “Good Faith Effort” a combination of two methods must be utilized for solicitation at a minimum. However, additional methods are encouraged by the TWDB should any of the methods fail to meet DBE program requirements. The methods of solicitation must also appear on the Project Bidders List for each firm listed.
- Signature of Prime Contractor
- Backup documentation to support the solicitation methods utilized (newspaper advertisement/affidavit, RFQ, fax/email/letter correspondence, website postings, governmental/trade publications, etc.).
- All methods of solicitation shall include the following language to meet “Good Faith Effort” requirements (see required language above).

Form: **TWDB-0373 (Prime Consultant)**

Requirements for Compliance:

- Total TWDB funding request amount
- Completed list of actual contracts/procurements including: business name/address, procurement category, MBE/WBE status, actual contract amount, contract execution date, and proof of MBE/WBE certification (if applicable)
- Signature of Prime Contractor

Form: **EPA 6100-3 (Prime Consultant and Subcontractor)**

Requirements for Compliance:

- Complete subcontractor information including; name, address, and contact information
- Description and price of work submitted to Prime Consultant
- DBE status (if applicable)
- Signature of Prime Consultant
- Signature of Subcontractor

Form: **EPA 6100-4 (Prime Consultant and Subcontractor)**

Requirements for Compliance:

- Complete Prime Consultant information including; name, address, and contact information
- Subcontractor names, addresses, phone, email, and actual dollar amount of contract
- DBE status (if applicable)
- Signature of Prime Consultant
- Signature of Subcontractor

CONSTRUCTION CONTRACT PHASE

Form: **TWDB-0216 (Entity)**

Requirements for Compliance:

- Total TWDB funding request amount
- Completed Project Bidders List (see requirements above)
- To achieve a “Good Faith Effort” a combination of two methods must be utilized for solicitation at a minimum. However, additional methods are encouraged by the TWDB should any of the methods fail to meet DBE program requirements. The methods of solicitation must also appear on the Project Bidders List for each firm listed.
- Signature of Applicant/Entity
- Backup documentation to support the solicitation methods utilized (newspaper advertisement/affidavit, RFQ, fax/email/letter correspondence, website postings, governmental/trade publications, etc.).
- All methods of solicitation shall include the following language to meet “Good Faith Effort” requirements (see required language above).

Form: **TWDB-0217 (Prime Construction Contractor)**

Requirements for Compliance:

- Total TWDB funding request amount
- Accurate contract amount
- Signature of Prime Contractor
- If self-performing 100% of the contract, then the Exception box should be checked
- Completed Participation Estimates, if not self-performing 100% of the contract.

Form: **TWDB-0373 (Entity)**

Requirements for Compliance:

- Total TWDB funding request amount
- Completed list of actual contracts/procurements including: business name/address, procurement category, MBE/WBE status, actual contract amount, contract execution date, and proof of MBE/WBE certification (if applicable).
- Signature of Applicant/Entity

Form: **TWDB-0216 (Prime Construction Contractor)**

Requirements for Compliance:

- Total TWDB funding request amount
- Completed Project Bidders List (see requirements above)
- To achieve a “Good Faith Effort” a combination of two methods must be utilized for solicitation at a minimum. However, additional methods are encouraged by the TWDB

should any of the methods fail to meet DBE program requirements. The methods of solicitation must also appear on the Project Bidders List for each firm listed.

- Signature of Prime Contractor
- Backup documentation to support the solicitation methods utilized (newspaper advertisement/affidavit, RFQ, fax/email/letter correspondence, website postings, governmental/trade publications, etc.).
- All methods of solicitation shall include the following language to meet “Good Faith Effort” requirements (see required language above).

Form: TWDB-0373 (Prime Construction Contractor)

Requirements for Compliance:

- Total TWDB funding request amount
- Completed list of actual contracts/procurements including: business name/address, procurement category, MBE/WBE status, actual contract amount, contract execution date, and proof of MBE/WBE certification (if applicable).
- Signature of Prime Contractor

Form: EPA 6100-3 (Prime Contractor and Subcontractor)

Requirements for Compliance:

- Complete subcontractor information including; name, address, and contact information
- Description and price of work submitted to Prime Contractor
- DBE status (if applicable)
- Signature of Prime Contractor
- Signature of Subcontractor

Form: EPA 6100-4 (Prime Contractor and Subcontractor)

Requirements for Compliance:

- Complete Prime Contractor information including; name, address, and contact information
- Subcontractor names, addresses, phone, email, and actual dollar amount of contract
- DBE status (if applicable)
- Signature of Prime Contractor
- Signature of Subcontractor