Understanding WSDOT DBE Process Revisions
UPDATED MAY 2012

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Agenda

The process is changing for how bidders must demonstrate they have met the DBE Condition of Award (COA) goal requirements

- Directory of Certified DBE Firms
- Approved Regular Dealers/Manufacturers
- DBE Utilization Certification (form 272-056 EF)
- DBE Written Confirmation (form 422-031 EF)
- Good Faith Efforts
- Reconsideration
- Delivery of Proposal
- DBE Specification
Directory of Certified DBE Firms

WSDOT OEO and OMWBE have improved the Directory of Certified DBE Firms to clarify what WSDOT work items a DBE firm is certified to perform on a WSDOT contract.

The new Directory is located on OMWBE’s website.

The bidder shall use the list to determine if a DBE is certified to perform work as described on their DBE Utilization Certification form and therefore qualifies for credit towards the COA goal.

This change is intended to reduce bid rejections associated with descriptions being listed on the DBE Utilization Certification that do not properly or adequately describe work that the DBE is certified to perform.
Directory of Certified DBE Firms

The “Description of Work” in the Directory of Certified DBE Firms is a “plain talk” interpretation of the NAICS code(s) for a DBE and is meant to align with items of work on a WSDOT contract. You will still see the NAICS code(s) for each DBE firm in the Directory of Certified DBE Firms.

WSDOT guarantees that a DBE is certified to perform any “Description of Work” listed for that DBE in the Directory. If you put a “Description of Work” on the DBE Utilization Certification that is not listed in the Directory of Certified DBE Firms WSDOT will determine if the DBE is certified to perform that work. This may result in a delay to award of the contract, or your bid being rejected if the awarding agency determines that the DBE is not certified to perform the work described.

The certification process has not changed. OMWBE will certify firms and assign NAICS codes. A firm can request changes to its “Description of Work” by contacting WSDOT OEO.
Directory of Certified DBE Firms

http://www.omwbe.wa.gov/

Under “Certification”, click on “Directory of Certified DBE Firms”
Directory of Certified DBE Firms

When you click on “Directory of Certified DBE Firms” an Excel spreadsheet will open. The first worksheet provides instructions for using the spreadsheet. You can click on one of the four links to go to different areas of the spreadsheet.


**Directory of Certified DBE Firms**

Contractors may use the description in column C “DESCRIPTION OF WORK” to determine if the DBE is certified to perform work. In order for WSDOT to guarantee the DBE is certified to perform the work, the “Description of Work” listed for the DBE on the DBE Utilization Certification must be consistent with the “DESCRIPTION OF WORK” listed for the DBE in the Directory of Certified DBE Firms.
Directory of Certified DBE Firms

You can search for a DBE contractor by the “DESCRIPTION OF WORK” using the “PIVOT BY DESCRIPTION OF WORK” worksheet. Click on the + sign next to the work description for a list of DBE firms certified to perform that work.
Directory of Certified DBE Firms

The last worksheet in the Directory of Certified DBE Firms lists the contact information for each DBE alphabetically. Once you have found the names of firms that you may want to contact, you can use this sheet to look up phone numbers, fax numbers and e-mail addresses.
You can move from one worksheet to another by clicking on the tabs at the bottom of the screen.

The Directory of Certified DBE Firms is updated frequently. Be sure check the Directory on OMWBE’s website each time you need to reference it – do not save a copy for your use. THE DIRECTORY IS UPDATED AS OFTEN AS DAILY.
Approved Regular Dealers & Manufacturers

http://www.wsdot.wa.gov/biz/contaa/WSDOTPRO/default.htm
DBE Utilization Certification Form 272-056 EF

• This form must provide the WSDOT with all the information necessary to determine how the bidder will meet the goal.

• An instructions page has been added to the form to better describe how to fill it out.

• Improperly completed forms has been one source of bid rejections.

• This form must be submitted with your sealed Bid Proposal
Instructions for Disadvantaged Business Enterprise Utilization Certification (DOT Form 272-056)

To be eligible for award of the contract, the bidder shall properly complete and submit a Disadvantaged Business Enterprise Utilization Certification form with the bidder’s sealed bid Proposal that demonstrates how the bidder intends to meet the DBE Condition of Award (COA) goal.

Column 1: Name of the Disadvantaged Business Enterprise (DBE) and Certificate Number.

Column 2: The Project Role that the DBE will be performing as follows:

- Prime
- Joint Venture
- Subcontractor
- Manufacturer
- Regular Dealer

The role is used to determine what portion of the DBE participation may be credited toward the goal. See Crediting DBE Participation Toward Meeting the Goal as described in the Disadvantaged Business Enterprise Condition of Award Participation specification.

Column 3: Description of Work in the Directory of Certified DBE firms. If the DBE is to perform a portion of a bid item, then state Partial and what work is included, e.g., “Electrical (Partial) – Trenching”. Mobilization will not be accepted as a description of work as it is not considered a distinct item of work that a DBE is certified to perform. The bidder may rely upon the descriptors listed in the Directory of Certified DBE Firms.

Column 4: The dollar amount for each DBE listed in the certification. The prime intends to apply towards meeting the DBE contract goal. It may be that only a portion of the amount paid to the DBE is eligible for COA participation. See Crediting DBE Participation in the special provision: Disadvantaged Business Enterprise Condition of Award Participation.

Box 2: The goal stated in the contract in terms of a dollar amount or a percentage as noted under the general special provision: DBE Condition of Award (COA) Condition of Award Participation. When expressed as a percentage it is a percentage of the sum total of all bid items as submitted in the bidder’s proposal.

Box 3: The total for column 4. This value must equal or exceed the goal amount.

Box 4: Check Box 4 if sufficient DBE Participation has been unsuccessful and a good faith effort will be submitted. Refer to the subsection titled, Selection of Successful Bidder/Good Faith Efforts (SBE) in the special provision, DBE Condition of Award (COA) Goal, Disadvantaged Business Enterprise Condition of Award Participation.

*Note: In accordance with 49 CFR 26.65(e)(2)(j), if the materials or supplies are purchased from a DBE Regular Dealer, the amount to be counted towards the DBE will be sixty percent (60%) of the cost of the materials or supplies, e.g., Material cost: $100,000, allowable amount toward DBE goal: $60,000.

Disadvantaged Business Enterprise Utilization Certification Form 272-056 EF

[Table]

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of DBE Certificate Number</td>
<td>Project Role (Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer)</td>
<td>Description of Work</td>
</tr>
<tr>
<td>1</td>
<td></td>
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<td>2</td>
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<td>5</td>
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</tbody>
</table>

Disadvantaged Business Enterprise Subcontracting Goal: DBE Total $  

**Note:** In accordance with 49 CFR 26.65(e)(2)(j), if the materials or supplies are purchased from a DBE Regular Dealer, the amount to be counted towards the DBE will be sixty percent (60%) of the cost of the materials or supplies, e.g., Material cost: $100,000, allowable amount toward DBE goal: $60,000.

[Signature]  
[Title]  
[Date]  

[Stamp] Washington State Department of Transportation
Good Example Contractors, Inc.

The firm certifies that the Disadvantaged Business Enterprise (DBE) program has been complied with.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of DBE Certificate Number</td>
<td>Project Role (Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer)</td>
<td>Description of Work</td>
<td>Amount to be Applied Towards Goal</td>
</tr>
<tr>
<td>1. 16 Copenhagen LLC. D5F1020667</td>
<td>Subcontractor</td>
<td>Graphic Design Services</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2. 1st Class Transport D2F9820625</td>
<td>Subcontractor</td>
<td>Dump Trucking</td>
<td>$4,999.99</td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## DBE Utilization Certification Form 272-056 EF

Disadvantaged Business Enterprise Subcontracting Goal: **10%**  
DBE Total $**9,999.99**

<table>
<thead>
<tr>
<th>Box 2</th>
<th>Box 3</th>
</tr>
</thead>
</table>

By checking Box 4 the bidder is stating that their attempts to solicit sufficient DBE participation has been unsuccessful and good faith effort will be submitted within 48 hours of bid opening.

* Regular Dealer status must be approved prior to bid submittal by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.

** See the section “Crediting DBE Participation Toward Meeting the Goal” in the Contract Document.

*** The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly. Participation in excess of the goal amount will be considered voluntary or race-neutral participation.

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DOT Form 272-056 EF  
Revised 05/2012
By checking Box 4 the bidder is stating that their attempts to solicit sufficient DBE participation has been unsuccessful and good faith effort will be submitted within 48 hours of bid opening.

You must indicate on your DBE Utilization Certification if you will submit a Good Faith Effort.
DBE Utilization Certification Form 272-056 EF

- If a DBE contractor is a subcontractor to another subcontractor, the DBE will need to be listed on the contractor’s Utilization Certification, rather than the subcontractor they will be performing work for.
- The intent of the DBE Utilization Certification is to determine how the COA goal will be met, so the DBE performing the COA work will be listed with their description of work and amount to be credited toward the goal.
DBE Utilization Certification Form 272-056 EF

• Including a contractor that is not in OMWBE’s Directory of Certified DBE Firms on your DBE Utilization Certification will result in your bid being rejected.

• Using a “Description of Work” that is not consistent with the “DESCRIPTION OF WORK” in OMWBE’s Directory of Certified Firms may result in your bid being rejected.

• It may be that only a portion of the amount paid to the DBE is eligible as COA participation. If you put 100% of the amount paid as eligible and it is not, your bid will be rejected.

• If the total of all amounts in column 4 does not match the DBE Total $ and is less than the “Disadvantaged Business Enterprise Subcontracting Goal” your bid will be rejected.
DBE Written Confirmation Document – FORM 422-031 EF

• DBE Written Confirmation Documents are due to WSDOT within 48 hours of the bid opening.

• Bids have been questioned and delayed because the listed COA DBEs did not concur with the “Description of Work” and/or the dollar value of the COA work in the bidder’s DBE Utilization Certification.

• This form, as required by CFR, will verify the agreement as described in the DBE Utilization Certification, between the bidder and the COA DBE prior to bid opening.

• Failure to include a form from every COA DBE which is consistent with the bidder’s DBE Utilization Certification will result in bid rejection.
The entry on the DBE Written Confirmation for “Description of Work” and “Amount to be Applied Towards Goal” must match the entries on the DBE Utilization Certification or your bid will be rejected.
DBE Written Confirmation Document – FORM 422-031 EF

- As of May 7, 2012, written confirmation MUST be submitted on Form 422-031 EF DBE Written Confirmation Document. Customized forms are no longer accepted.
- The question has been asked what dollar amount should be listed on the Written Confirmation Document. Is it only the amount to be credited toward COA participation or can it be the DBE’s entire bid?
- Only the amount to be credited toward COA participation should be listed in the box on the Written Confirmation Document.
- WSDOT is aware that it may create confusion for some DBEs to see a dollar amount on the confirmation that may be less than their quote.
- To alleviate any confusion, you may list additional information such as the DBE’s entire quote outside of the box on the Written Confirmation Document. You may also attach additional pages or create a customized form that includes everything on the Written Confirmation Document as well as information about the DBE’s entire quote.
- The intention of the Written Confirmation Document is to determine that there is agreement between both parties as to the work that will be performed as COA participation and the value of that work.
Good Faith Efforts

You will have 48 hours from the time of bid opening to submit your Good Faith Effort documentation to WSDOT.

If you submit Good Faith Effort documentation, your intention to do so must be indicated on the DBE Utilization Certification you submitted with your sealed proposal.

The Good Faith Efforts apply only in the situation that the bidder is unable to demonstrate through the DBE Utilization Certification that they met the goal.

The submission of Good Faith Efforts as a fallback in the event of an error in demonstrating attainment is not allowed and will not be considered.
Good Faith Efforts

GFE documentation shall be received at the time specified in the contract and includes but is not limited to:

- Attendance at any pre-bid meetings to inform DBEs of opportunities on the project.
- Contacting local Tribes or TERO concerning opportunities.
- Subcontracting smaller parts of the contract thereby increasing the likelihood of participation by DBEs.
- Advertising in targeted publications concerning opportunities.
- Providing timely notice to DBEs listed in OMWBE’s Directory.
- Follow-up of initial solicitations and documentation of this contact.
- Not rejecting bids prepared by any DBE without justifiable reason.
- Using the services of minority and women’s organizations.
- Using WSDOT OEO’s DBE Supportive Services.

Refer to the Good Faith Efforts (GFE) section of the DBE specification for more detailed information.

E-mail dbess@wsdot.wa.gov for information about how to reach to DBE contractors in the area you will be working in.
Changes to Reconsideration

• Bidders have the right to reconsideration only for the purpose of reassessing their Good Faith Effort documentation in the event it has been determined to be inadequate.

• The bidder must request and schedule a reconsideration hearing within seven calendar days of notification of being nonresponsive or forfeit the right to reconsideration.

• The contracting agency will provide a written decision on reconsideration within five business days of the hearing.
Delivery of Proposal

On all contracts advertised on or after May 7, 2012:

• WSDOT will open bid proposals without delay. Your DBE Utilization Certification must be submitted with your sealed bid.

• You will have 48 hours from the time of bid opening to submit your DBE Written Confirmation Documents to WSDOT.

• If you are submitting a Good Faith Effort (GFE), you also have 48 hours from the time bids are opened to submit your GFE documentation to WSDOT.

• Remember that you must indicate on your DBE Utilization Certification if you plan to submit GFE documentation.

• Local agencies will likely not be providing a 48 hour delay for submitting DBE Written Confirmation Documents and GFE documentation.

• Check the Division 1 Special Provisions for Delivery of Proposal to determine if the contract has a 48 hour delay.
Submitting Your DBE Documents

1. Your DBE Utilization Certification may be mailed, hand delivered or faxed by the Deadline for Receipt of Proposals specified in the contract.

OR

If you are submitting a bid using Bid Express you must fill out the equivalent document of the DBE Utilization Certification in Bid Express and submit it with your sealed bid by the Deadline for Receipt of Proposals specified in the contract.

3. DBE Written Confirmation Documents and Good Faith Effort documentation may be mailed, hand delivered or faxed by the time specified in the Delivery of Proposal Special Provision.
Changes to the DBE Specification

If you are bidding on a contract with a DBE COA goal, be sure you read and understand the new process, which is explained in the Disadvantaged Business Enterprise Condition of Award Participation specification for that specific project that you are bidding on.
Implementation Timeline

Directory of Certified DBE Firms – Currently active.

Approved Regular Dealers/Manufacturers – Currently active.

DBE Utilization Certification (form 272-056 EF) – Updated form available May 2012. Use version of form included in proposal.

DBE Written Confirmation (form 422-031 EF) – Updated form available May 2012. Use version of form included in proposal – customized forms no longer accepted.

Good Faith Efforts – See Disadvantaged Business Enterprise Condition of Award Participation Specification in the contract you are bidding on.

Reconsideration – See Disadvantaged Business Enterprise Condition of Award Participation Specification in the contract you are bidding on.

Delivery of Proposal – See Delivery of Proposal specification in the contract you are bidding on. See Deadline for Receipt of DBE Written Confirmation Document(s) and/or Good Faith Effort (GFE).

DBE Specification - See Disadvantaged Business Enterprise Condition of Award Participation Specification in the contract you are bidding on.
QUESTIONS?

The documents discussed are available at:

Directory of Certified DBE Firms:  
http://www.omwbe.wa.gov

DBE Utilization Certification (272-056 EF) and Written Confirmation Document (422-031 EF)  
http://www.wsdot.wa.gov/forms/default.htm

Office of Equal Opportunity  
http://www.wsdot.wa.gov/equalopportunity

Contract Ad & Award  
http://www.wsdot.wa.gov/biz/contaa/

This presentation can be accessed online at OMWBE’s website, or the following WSDOT pages: Office of Equal Opportunity, Construction and Contract Ad & Award.