Guidance on the Solicitation of Disadvantaged Business Enterprise (DBE) Firms

382-5511-014
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Point and Non-Point Source Management

DOCUMENT NUMBER: 382-5511-014

TITLE: Disadvantaged Business Enterprise (DBE) Firm Solicitation Guidance

EFFECTIVE DATE: Upon Publication as Final in the Pennsylvania Bulletin


POLICY: It is the responsibility of the Pennsylvania Department of Environmental Protection (Department) to implement the requirements for solicitation of Disadvantaged Business Enterprise (DBE) firms to participate in the Clean Water and Drinking Water State Revolving Fund programs, Special Appropriation Act Projects (SAAP), or other potential federally funded programs in conformance with the program operating agreement among the Department, the Pennsylvania Infrastructure Investment Authority (PENNVEST), and the Environmental Protection Agency (EPA).

PURPOSE: To provide guidance to recipients of federal grant or loan funds under the State Revolving Loan Fund and the Special Appropriation Act Programs to ensure compliance with Disadvantage Business Enterprise Program contract administration requirements.

APPLICABILITY: This guidance will apply to all recipients of EPA financial assistance and other federally funded assistance programs.

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH: 44 pages
DEFINITIONS:

Disadvantaged Business Enterprise (DBE) – are entities owned and/or controlled by a socially and economically disadvantaged individual(s). There is a large group of DBE entities which include but is not limited to Small Business Enterprise (SBE), Small Business in a Rural Area (SBRA), Labor Surplus Area Firm (LSAF), Historically Underutilized Business (HUB) Zone Small Business Concern, or a concern under a successor program, Minority Business Enterprises (MBE), and Women’s Business Enterprises (WBE).

Recipient – the entity that receives federal grant or loan funds under the State Revolving Loan Fund and/or the Special Appropriation Act Programs.

Prime Contractor – the entity contracted for work with a recipient that receives federal grant or loan funds under the State Revolving Loan Fund, the Special Appropriation Act Programs, and other federally funded programs.

Subrecipient – the entity that receives federal grant or loan funds from a recipient of federal grant or loan funds under the State Revolving Loan Fund and/or the Special Appropriation Act Programs.

Specialized Services – services that are specific to the use/design/installation/construction of technology/equipment related to a special line of work that cannot be obtained or performed by entities not licensed or skilled in the line of service.

Postings – notifications of forthcoming opportunities on the project that are submitted to organizations, such as Minority Business Development Agency, and SUB-Net, who provide services and outreach to DBE firms. Postings by such agencies typically should occur at least thirty (30) days prior to bid opening.

Resolution of Authorized Representative – a formal statement that determines the representative that is authorized to sign on behalf of the grant/loan recipient. The resolution may authorize a “title” or a “named” person. Authorizing a “title” allows a newly elected official the ability to sign without having to obtain a new resolution for instances when one is required.

Fair Share Objectives – a goal based on the capacity and availability of qualified, certified, MBEs and WBEs in the relevant geographic market for the procurement categories of construction, equipment, services, and supplies compared to the number of all qualified entities in the same market for the same procurement categories, adjusted, as appropriate, to reflect the level of MBE and WBE participation expected absent the effects of discrimination. It is not a quota.
Six Good Faith Efforts – the process used to document in detail the solicitation of DBE firm participation. The Six Good Faith Efforts is not the number of DBE firms to be solicited for compliance.

Self-Performance Letter – a letter submitted by a prime contractor that states that all work to be performed under contract will be done with only the work forces of the company and that all equipment, services and supplies needed to perform all aspects of work under contract will be done with in-house supplies, services, and equipment.

Project Area – the area in which the project will take place. The project area is identified by the actual county of the project, the surrounding counties, and the dollar amount of the contract(s) or procurement items.

Compliance Review – the process by which the Department reviews DBE solicitation. Grant/loan recipients will submit the required documents listed on the Grant/Loan Recipient DBE Compliance Statement, confirming that they have timely applied the Six Good Faith Efforts and met the DBE solicitation requirements as outlined in this DBE Guidance Document.
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DISADVANTAGED BUSINESS ENTERPRISE (DBE) FIRM
SOLICITATION REQUIREMENTS

WHAT ARE THE REQUIREMENTS?

Pursuant to 40 CFR, Section 33.301, the recipients of federal funds must provide DBE firms with the opportunity to compete for procurement opportunities by applying the Six Good Faith Efforts.

Pursuant to 40 CFR, Section 33.105, the recipients and subrecipients of federal funds are subject to compliance and enforcement provisions for failure to comply with any requirements.

Pursuant to 40 CFR, Section 33.501, the recipients of federal funds must maintain all records documenting its compliance with the requirements.

Pursuant to 40 CFR, Section 33.302, the recipients of federal funds are subject to additional contract administration requirements.

HOW DO YOU COMPLY WITH THE REQUIREMENTS?

Compliance with the DBE solicitation requirements is done by timely applying the Six Good Faith Efforts, as outlined in this Guidance Document. It is necessary for the Six Good Faith Efforts to be documented in detail by both the grant/loan recipient and prime contractor(s) who participate in the project. Grant/loan recipients and prime contractor(s) are required to prepare and maintain detailed documents that show and support compliance and understanding of the DBE regulation set forth in 40 CFR Part 33, 33.301, 33.105, 33.501, and 33.302.

WHAT ARE THE SIX GOOD FAITH EFFORTS?

The Six Good Faith Efforts are required methods used by all EPA or financial assistance agreement recipients to ensure that DBEs have the opportunity to compete for procurements funded by EPA financial assistance dollars. Compliance with the Six Good Faith Efforts does not require recipients to select and use a DBE firm. The Six Good Faith Efforts are:

- Ensure DBE firms are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.

- Make information on forthcoming opportunities available to DBE firms in a way that encourages and facilitates participation by DBE firms in the competitive bid process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

- Consider in the contracting process whether firms competing for large contracts could subcontract with DBE firms. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBE firms in the competitive bid process.

- Encourage contracting with a group of DBE firms in a combined effort to meet project requirements when a contract is too large for one of these firms to handle individually.
Use the services and assistance of the Department of General Services (DGS) website to perform the direct search and solicitation of DBE firms that are potential sources for participation of contracting opportunities.

If the prime contractor will award work to subcontractors or purchase supplies or equipment, require the prime contractor to follow the five steps above.

**HOW LONG AND WHAT RECORDS MUST BE RETAINED?**

Record retention is determined by the applicable record retention requirements for the recipient’s financial assistance agreement. Recipients of the Clean Water and Drinking Water State Revolving Fund programs are required to retain records for a period of a minimum of four (4) years after final amortization. SAAP recipients are required to retain records for a period of a minimum of three (3) years following submission of the final expenditure report.

**WHAT HAPPENS IF COMPLIANCE IS NOT MET?**

Failure to comply with the Six Good Faith Efforts subjects a recipient to compliance and enforcement provisions that include, but are not limited to, debarment, termination of available funds, fines, and/or imprisonment. Such enforcement is pursuant to 40 CFR Parts 30, 31, and 35 as appropriate or any other action by law including, but not limited to the enforcement under 18 U.S.C. 1001 and/or Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).
The DBE solicitation process does not require you to hire a certain number of DBE firms and does not have goals. The purpose of the DBE solicitation requirement is to give all applicable DBE firms in the project area the opportunity to bid on the project.
Included in these instructions are the steps to successfully perform your DBE solicitation for this project. Please read them carefully.

As a grant/loan recipient, you are responsible for soliciting DBE (includes both MBE and WBE) firms for any procurement you will need to complete your part of the project. This includes all construction, services, supplies and/or equipment.

DBE is a blanket term that covers both MBE and WBE firms.

For example, if your project consists of one general construction contract, you will need to solicit DBE prime contractors that handle that type of construction (DGS Keyword Search Help Guide on p. 9).

If your own workforces will be performing all of the work, but you will need to purchase supplies, then you will need to solicit DBE suppliers in the project area.

All DBE solicitation must be documented.
Step 1: Advertise your Project

The bid advertisement should be published at least 30 days prior to the bid opening date to allow sufficient time for potential contractors to submit bids. Grant/loan recipients should include the insert statement found below in bid specifications as well as make this DBE Firm Solicitation Guidance document available to all potential contractors.

- Insert Statement:

Federally funded projects –

This project is being federally funded by EPA financial assistance dollars and therefore requires all contractors to demonstrate compliance with federal Executive Orders 11625, 12138, and 12432 and EPA Regulations at 40 CFR Part 30, et al., through the detailed documentation of solicitation of Disadvantage Business Enterprises (DBEs). Contractors must demonstrate the Six Good Faith Efforts to identify and solicit DBE firms that are potential sources for any procurement action in the areas of project construction, equipment, services, and supplies by including state qualified small businesses, and minority and women owned business enterprises in the bidding process.
Step 2: Determining your Procurement Needs

What type of contracts did you advertise for?

The ONLY website required to be used is the Pennsylvania Department of General Services website. This site includes both MBE and WBE firms. Any other websites you use or any other DBE firms you solicit are in addition to this requirement and do not need to be included in your documentation.

Construction contracts – These types of contracts require you to solicit DBE firms to submit bids as potential prime contractors.

Equipment contracts – If you are purchasing equipment directly, you are required to solicit DBE firms for the purchase of the equipment.

Services contracts – If you will be hiring a new engineer and/or entering into any type of service contract, you are required to solicit DBE firms for that service.

Supply contracts – If you will be purchasing supplies directly, you are required to solicit DBE firms for the purchase of the supplies.
Step 3: Department of General Services (DGS) website (http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx).

How do you find DBE firms to solicit?

The ONLY website required to be used is the DGS website. DGS maintains a database that lists DBE firms throughout the state. This site includes both MBE and WBE firms. Any other websites you use or any other DBE firms you solicit are in addition to this requirement and do not need to be included in your documentation.

How do you use the Department of General Services website?

Using your scope of work for each contract being bid, you will create a websearch for each contract. For example, if you have a general construction, an electrical, and a plumbing contract, you should have at least three websearches.

On p. 9, you will see a DGS Keyword Search Help Guide. If the description you are searching for is included in this list, you will use the code listed to search by.

If the description you are searching for is not included in this list, you will click on the “Code Look Up” button to locate a code to search by.

How do you use the Code Lookup Button?

- Go to http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx.
- Click on “Code Lookup Button”, which will bring you to the “Classification Code Criteria Selection” screen.
- Select the category (supplies=goods; subcontracts=service)
- Enter a description – do not be too specific.
- Click “Search” – do not click on “All Commodity Data to Excel” or “Search Results to Excel”
- “Classification Code Look Up Results” – Click on the most applicable Commodity Code. This will take you back to the screen you started on.

What if no results are found?

- Make sure that you are not being too specific in your description.
- Try using another description.
- If the results are none, print this page to show that there are no commodity codes on the DGS website to match your procurement item.
Now that you have your commodity code(s) …

- Business Classification Code – You will either enter the code you found on p. 9 of this guidance or the code you selected using the “Code Lookup Button” will be automatically populated here.
- Do you want a listing of the companies who are assigned the sub-codes that fall under this specific category? This answer is defaulted to yes – do **not** change it.
- Vendor Name – Leave this blank.
- County – Leave this as ALL. It will take less of your time and paper to print a statewide search. Most searches do not take up more than one page.
- MBE/WBE – Leave this as ALL.
- Items per page – It is recommended to leave this as 25. If you change it to a higher number, some of the information may be cut from the bottom of the page when printed or copied.
- Click “Search” – Do **not** click on “All Vendor Data to Excel” or “Search Results to Excel”.

No Vendor records were found for selection criteria!

- If you see this message and have ensured that you did everything correctly, print this page and include it as part of your documentation. Unless there is another commodity code you can use to search with, you have not found any DBE firms for this item and do not have to solicit for it.

List of DBE firms …

- You’ve clicked “search” and now have a list of DBE firms. You will print this list using the print option in your Internet browser. The date of the search will automatically populate on your printout. This automatically populated date is required to prove it is a current, valid search. A websearch is considered current if it was printed within 90 days of the bid opening.
- Make sure to print ALL pages of your search. Most searches are only one page long, but if it is not, you will print all pages.

How many DBE firms do I have to solicit?

- There is **not** a set number of DBE firms you have to solicit. You will include all applicable DBE firms in your solicitation.
- If the estimated cost of the contract will be less than $750,000, your solicitation area consists of the project county and all of its surrounding counties.
- If the estimated cost of the contract will be more than $750,000, or if the item or subcontract is considered specialized, your solicitation area consists of the entire state.

**You are required to print a DGS websearch for each type of contract.**
DGS Keyword Search Help Guide

We have listed below common DGS codes to help you in your use of the DGS website. Using these will give you a more accurate search of firms applicable to the project. If you have any questions regarding the suggested codes or need assistance with your searches, please do not hesitate to contact the Department at (717) 705-4090. It is important to develop accurate searches to help ensure a good faith effort.

**Common Search Terms used by Grant/Loan Recipients**  
*(County should be ALL and MBE/WBE should be ALL for all searches)*

- **Legal Services:** 94131603 (Legal Assistance Services)
- **Engineering Services:** 81101500 (Civil Engineering)
- **Drinking Water/Sewer Prime Contractors:** 83101500 (Water & Sewer Utilities)  
  72131700 (Infrastructure Construction)
- **Prime Contractors for Pipe Installation:** 78102100 (Pipeline Services)
- **Electrical Prime Contractors:** 72102200 (Electrical Services)
- **Plumbing Prime Contractors:** 72102300 (Plumbing & Heating & Air Conditioning)

**Common Search Terms used by Prime Contractors for Supplies/Subcontracts**  
*(County should be ALL and MBE/WBE should be ALL for all searches)*

<table>
<thead>
<tr>
<th>If searching for supplies:</th>
<th>If searching for subcontractors:</th>
<th>If searching for the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ready-mix concrete 30111505 (ready-mix concrete)</td>
<td>concrete 72101700 (concrete work)</td>
<td>trucking 78101801 (local area trucking service)</td>
</tr>
<tr>
<td>pipe 40142100 (pipe) 40142300 (pipe fittings)</td>
<td>73121805 (concrete or aggregates or stone products)</td>
<td>78101802 (regional or national trucking services)</td>
</tr>
<tr>
<td>paint 31211500 (paints and primers)</td>
<td>pipe 78102100 (pipeline services)</td>
<td>video/photography 82131601 (Aerial photography services)</td>
</tr>
<tr>
<td>stone 11111600 (stone)</td>
<td>paving 72131701 (highway or road paving or surfacing)</td>
<td>equipment rental 47101500 (water treatment &amp; supply equipment)</td>
</tr>
<tr>
<td>electrical supplies 25173900 (electrical components) 26121500 (electrical wire)</td>
<td>excavation 71122307 (subsea dredging, trenching &amp; excavation) 72103000 (site preparation)</td>
<td>surveying 81151604 (land surveying)</td>
</tr>
<tr>
<td>landscaping supplies 30120000 (roads &amp; landscape) 21100000 (agricultural &amp; forestry &amp; landscape)</td>
<td>landscaping 72102902 (landscape services)</td>
<td>flagging 46161500 (traffic control)</td>
</tr>
<tr>
<td>manholes 30121605 (manhole frames with covers)</td>
<td>boring 73181007 (boring services)</td>
<td>water meters 41112504 (water meters)</td>
</tr>
<tr>
<td>pumps 40151500 (pumps)</td>
<td>electrical 72102200 (electrical services)</td>
<td>inspection 81141807 (plumbing or sewer inspection services)</td>
</tr>
<tr>
<td></td>
<td>plumbing/hvac 72102300 (plumbing &amp; heating &amp; air conditioning)</td>
<td>rain barrels 24112102 (barrels)</td>
</tr>
</tbody>
</table>

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Step 4: Create your Solicitation Letter (sample on p. 11)

How do I solicit the DBE firms found on the DGS website?

IN A WAY THAT WILL PRODUCE A CONFIRMATION RECEIPT (by fax or email) – Telephone calls or in person contact are not considered part of a good faith effort. When using U.S. mail, certified mail receipts should be sent and kept.

Your solicitation letter should specifically describe the project; demonstrate a real desire for a positive response; and be sent in a timely manner to allow a sufficient time (30 days) to develop bids.

Use your project description to create your solicitation letter.

For example, if you have three different types of contracts, you will want to put the description of each in your letter. Be sure to include pertinent information such as the bid opening date and any pre-bid meeting dates and requirements. Please note that any changes in bid opening date, pre-bid meeting dates, or project descriptions will need to be communicated to the applicable DBE firms.

Do I need to personalize the letters/faxes/emails?

NO, you do not need to personalize the letters. It will save you time and resources to follow the example on p. 11.

Documentation will be kept.

If faxing, you should keep the fax transmittal logs. As long as you do not personalize the letters, a broadcast fax can be sent. If emailing, delivery receipts should be requested because read receipts will not always be sent back. If you are not sure what an email delivery receipt is, faxing is probably your best option. If your fax machine is not set up to generate a fax transmittal log, you should set it up to do so. If the fax number or email address does not work, you should call the DBE firm to obtain the correct fax number or email address to perform your solicitation. If sending certified mail, receipts should be kept.

Follow up solicitation.

Unless you get a response from your initial solicitation, you should send a second solicitation letter. The follow up solicitation can use the original solicitation letter with “SECOND NOTICE” typed across the top. The documentation rules above apply to the follow up solicitation as well.

The follow up solicitation letter should be sent out approximately one week after the initial solicitation letter, but before the prebid meeting, if applicable.

Any correspondence received from DBE firms should be kept.
January 1, 20XX

DE Prime Contractors

Reference:
Contract 1: General Construction
Contract 2: Electrical
Contract 3: HVAC
Contract 4: Plumbing
The Borough of XYZ, Any County, PA
Initial DBE Contact

To Whom It May Concern:

The Borough of XYZ is soliciting bids for the above referenced project. This project involves four prime contracts for the construction of (sanitary sewers and appurtenances, water mains, water tank, etc.).

This project is being funded or may be funded in part by a federal program. Solicitation of Disadvantaged Business Enterprise (DBE) firms is a requirement of this project. Accordingly, the Borough is soliciting bids for these contracts.

Enclosed please find a copy of the Advertisement of Bids for the above prime contracts. Our goal is to receive a positive response from your firm regarding any or all of these contracts. Please check the boxes below to indicate if your firm is interested in bidding on these contracts or not, and fax this page to our office at the above fax number.

DBE Firm Name _________________________
☐ We are interested in providing a bid for Contract _______________. We will mail the check in the appropriate amount as payment for the plans and specifications, plus postage & handling.
☐ We are not interested in providing a bid for these contracts.

Plans and specifications are available for inspection at our office located at the above address. They are also available for inspection and purchase at $_ _______ per set at the consulting engineer’s office, ABE Engineering Corporation, 333 North Street, Penntown, PA 11113, (777) 777-7777.

Subcontractors on this project will be required to comply with all applicable regulations, including Presidential Executive Order Number 11246 regarding “Non-discrimination in Employment”, and other applicable Federal regulations. These requirements are explained in the project specifications.

Bids for the project are due no later than February 1, 20XX, so your prompt attention is necessary. Please contact Harry Abraham of our staff with any questions regarding this project. Plans and specifications will be mailed to you upon receipt of your payment. If you are not interested, we ask that you still fax this letter back to us indicating so by checking the appropriate box. Thank you for your time.

Sincerely,

Xavier Y. Zimmerman
President

Enclosure
Step 5: Prime Contractor Responsibilities and Bid Opening

How do the potential prime contractors achieve DBE Compliance?

The potential prime contractor is responsible for soliciting DBE firms for any items they will be procuring for the contract or project. See “Prime Contractor DBE Solicitation Help Guide” on p. 16 for their instructions.

Who is responsible for reviewing the potential prime contractors’ DBE solicitation documentation?

The grant/loan recipient is responsible for reviewing the prime contractors’ DBE solicitation documentation and ensuring that it is in compliance.

See “Grant/Loan Recipient’s Review of the Prime Contractor’s DBE Solicitation Effort Help Guide” on p. 29 for instructions.

The prime contractor DBE documentation should be reviewed and found to be in compliance before you can submit your DBE Compliance package to the Department for review.

Do I request the potential prime contractors’ DBE documentation at the time of bid or after the low bidder(s) is determined?

This decision is up to the grant/loan recipient. To save the amount of paper the potential prime contractor has to submit with their bid, it might be easier to request their documentation after you have determined the low bidder(s).

What happens after bid opening?

You will review the identified low bidders’ DBE documentation (see instructions on p. 29 and, if necessary, work with them to achieve compliance.

IMPORTANT

The grant/loan recipient’s DBE solicitation effort CANNOT be fixed AFTER bid opening. Please contact the Department with any questions and/or concerns PRIOR to bid opening.
Step 6: Grant/Loan Recipient DBE Compliance Statement
(3800-FM-BPNPSM0120). An electronic version can be found on our website (www.dep.state.pa.us) (Sample on p. 14)

ALMOST DONE!

Once Steps 1-5 have been completed and all of your documentation gathered, complete the Grant/Loan Recipient DBE Compliance Statement on p. 37 of this Guidance.

All of the applicable boxes will need to be checked off and signed by the authorized representative.

Who do I submit my DBE compliance package to?

You will submit your DBE compliance package to the Department for review. See Step 7 of this Help Guide for a checklist of what should be submitted.

Who will review my DBE compliance package?

The Department staff will review your DBE compliance package.

If they see any inconsistencies, they will either ask for an explanation or your project will be chosen for a full audit.

If your project is chosen for a full audit, you will need to submit all DBE documentation to the Department for review.

What is the difference between a compliance review and a full audit?

Compliance Review
The information submitted to the Department for review is a snapshot of the documentation. As long as there are no inconsistencies in the DBE compliance package, the time frame for review is 10 business days.

Full Audit
You will submit all of the DBE documentation supporting the direct solicitation of DBE firms on behalf of the grant/loan recipient and the identified low bidder(s) of the contracts. As long as there are no inconsistencies in the package, the time frame for review is 30 business days.
GRANT/LOYAN RECIPIENT DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMPLIANCE STATEMENT

GRANT/LOAN RECIPIENT NAME: XYZ Borough

GRANT/ME NUMBER: 12345 CONTRACT NUMBER: 1

Project County: Erie Contract Amt.: $1,000,000 Solicited: ☐ Surrounding Counties ☑ Statewide

Date of Advertisement: 01/01/20XX Bid Opening Date: 02/01/20XX Date Search Performed: 01/01/20XX

Date of Initial Solicitation: 01/01/20XX Date of Follow-up Solicitation: 01/08/20XX Solicited by: ☐ Email ☑ Fax

These items are being submitted with this compliance statement to PADEP.

☒ Copies of advertisement and postings of solicitation for bids or proposal
☒ Copy of Grant/Loan Recipient’s initial solicitation letter and follow-up solicitation letter
☒ Bid Tabulation for each prime contract
☒ Prime Contractor's DBE Compliance Statement – (original)
☒ Prime Contractor’s contract procurement breakdown and copy of initial solicitation letter and follow-up solicitation letter
☒ Resolution of Authorized Representative

These items are being retained by the Grant/Loan recipient.

☒ Grant/Loan recipient has copies on file for review of all documentation that supports the direct search for and solicitation of potential participation of DBE firms in the competitive process. This includes the documentation related to web searches, contact correspondence, and contact logs.

☒ DBE solicitation documentation by Prime Contractor is on file for review. This includes the documentation related to web searches, contact correspondence, and contact logs.

As the authorized representative for the above named grant/loan recipient, I certify that the six good faith efforts have been performed in conformance with DBE regulations 40 CFR, 33.301. All efforts made have been properly documented as outlined in the PADEP DBE Guidance Document. All documentation will be retained in accordance with applicable record retention requirements under the financial assistance agreement for the above named project. I understand such documentation is subject to an audit review by the US Environmental Protection Agency or the Pennsylvania Department of Environmental Protection, Division of Technical and Financial Assistance to further ensure compliance. By signing this statement the above named grant/loan recipient understands that the DBE regulations 40 CFR, 33.105 include compliance and enforcement provisions to which the grant/loan recipient is subject. By signing this statement the above named grant/loan recipient understands that the DBE regulations 40 CFR, 33.302 include additional contract administrative requirements that must be complied with.

The Prime Contractor’s DBE solicitation effort has been reviewed and determined to be in compliance with the six good faith efforts as outlined in the PA DEP DBE Guidance Document. Yes ☑ No ☐

Has the contract been awarded? Yes ☑ No ☐
If yes, it is understood that awarding any contracts prior to receiving a notice to proceed from DEP would be doing so at your own risk and project funds may not be eligible toward project costs.

Signature of Authorized Representative: Xavier Y. Zimmerman
Printed Name of Authorized Representative: Xavier Y. Zimmerman
Date: 02/15/20XX

MAIL TO: Pennsylvania Department of Environmental Protection
Bureau of Point and Non-Point Source Management
Division of Technical and Financial Assistance
P. O. Box 8774
Harrisburg, PA 17105
Step 7: Checklist of what to Submit to the Department for Review

Unless your project was chosen for a full audit, you should ONLY submit the following information for review:

☐ **Grant/Loan Recipient DBE Compliance Statement** – One of these forms for each contract should be submitted with an original signature.

☐ **Copy of Bid Advertisement** – A legible copy of the advertisement should be submitted. If you did not advertise, then this does not apply to you.

☐ **Bid Tabulation for Each Prime Contract** – The engineer will certify the bid tab on either the first or last page.

☐ **Copy of the Initial and Follow-Up Solicitation Letter for the Grant/Loan Recipient’s DBE Solicitation Efforts** – Only one copy of each letter is necessary.

☐ **Prime Contractors’ DBE Compliance Statement** – Ensure that all of the fields are complete and submit with the original signature.

☐ **Prime Contractors’ Contract Procurement Breakdown** – Ensure that all items match the items listed on the Prime Contractor’s solicitation letter.

☐ **Copy of the Initial and Follow-Up Solicitation Letter for the Identified Low Bidders’ DBE Solicitation Efforts** – Only one copy of each letter is necessary as long as the items on the letter match the items on the Prime Contractor’s Contract Procurement Breakdown.

☐ **Resolution of Authorized Representative** – This is necessary for all SAAP projects, but is not required for PENNVEST projects.
The DBE solicitation process does not require you to hire a certain number of DBE firms and does not have goals. The purpose of the DBE solicitation requirement is to give all applicable DBE firms in the project area the opportunity to bid on the project.
Included in these instructions are the steps to successfully perform your DBE solicitation for this project. Please read them carefully.

As a prime contractor, you are responsible for soliciting DBE (includes both MBE and WBE) firms for any procurement you will need to complete your part of the project.

DBE is a blanket term that covers both MBE and WBE firms.

For example, if you will be installing pipe and you need to purchase pipe, you will need to solicit DBE pipe suppliers in the project area. Because you are installing the pipe yourself, you will not need to solicit subcontractors for this purpose.

All DBE solicitation must be documented.
Step 1: Will you need to purchase supplies or hire any subcontractors for this project?

If your answer is yes:


If your answer is no:

Submit a letter with your bid stating that all work will be self-performed and all equipment and supplies are in stock. You will not be procuring any items for this project. Please contact the Department for a sample letter.

And then you are finished! DBE solicitation is not required if you have no procurement opportunities to offer.

If you find the need to procure items further into the project, you will follow the rest of the steps in this Guidance document.
Step 2: Complete the Contract Procurement Breakdown Form (3800-FM-BPNPSM0116). An electronic version can be found at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Sample on p. 20)

What do you need for this project?

**Construction Section** – List any construction required for this contract and indicate whether or not it is to be self-performed or subcontracted. If it is to be subcontracted, indicate whether the estimated cost is greater or less than $750,000.

**Equipment Section** – List any equipment required for this contract and indicate whether or not it will be purchased, already owned, or rented. If it is to be rented or purchased, indicate whether the estimated cost is greater or less than $750,000.

**Services Section** – List any service required for this contract and indicate whether or not it will be self-performed or subcontracted. If it is to be subcontracted, indicate whether the estimated cost is greater or less than $750,000.

**Supplies Section** – List all supplies required for this contract and indicate whether or not it will be purchased or is part of your in-house stock. If it is to be purchased, indicate whether the estimated cost is greater or less than $750,000.

Any items you already have in stock should not be solicited for.

Any work you are performing yourself should not be solicited for.

List one item per line to avoid confusion. Use more than one form if necessary.
**CONTRACT PROCUREMENT BREAKDOWN**

**PROJECT NAME:** XYZ Borough  
**CONTRACT AMOUNT:** $1,000,000.00

**CONTRACTOR NAME:** Any Construction Company  
**CONTRACT NO.:** 1

For each contract associated with the above project, the contractor must list all construction, equipment, services and supplies utilized under the individual contract, and provide the procurement method used to obtain each item. Attach additional sheets if necessary. Each item listed below as being subcontracted, rented, or purchased should be used as the criteria for the DGS Web site printouts and the development of the solicitation letter.

### CONSTRUCTION

<table>
<thead>
<tr>
<th>List Work Trade or Task</th>
<th>Estimated Item Cost &gt; $750,000</th>
<th>Self-perform</th>
<th>Subcontract</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples: Paving</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td>☑</td>
<td></td>
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<tr>
<td></td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
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<tr>
<td></td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
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<td></td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
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<td>☐ Yes ☑ No</td>
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<td></td>
<td>☐ Yes ☑ No</td>
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<td>☐ Yes ☑ No</td>
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<tr>
<td></td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td>☑</td>
<td></td>
</tr>
</tbody>
</table>

### EQUIPMENT

<table>
<thead>
<tr>
<th>List All Equipment Required</th>
<th>Purchase</th>
<th>Own</th>
<th>Rent</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples:</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td>☑</td>
<td></td>
</tr>
<tr>
<td>Controls and Instrumentation, Pumps, Generators, Storage Tanks, Conveyors, Backhoe, Crane, etc.</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td>☑</td>
<td></td>
</tr>
</tbody>
</table>

### SERVICES

<table>
<thead>
<tr>
<th>List All Services Required</th>
<th>Self-perform</th>
<th>Subcontract</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples:</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Construction Inspection and Observation, Materials Testing, Engineering, Flagging, Construction Photography, etc.</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td></td>
</tr>
</tbody>
</table>

### SUPPLIES

<table>
<thead>
<tr>
<th>List All Supplies Required</th>
<th>Purchase</th>
<th>In-house Stock</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples:</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Asphalt, Concrete Stone, Pipe, Valves, Manholes, Rebar, Steel Doors, Trusses, Lumber, Silt Fence, Wire, Conduit, Water Meters, Rain Barrels, Dirt and Gravel, etc.</td>
<td>☐ Yes ☑ No</td>
<td>☐</td>
<td></td>
</tr>
</tbody>
</table>

Prepared by (Name and Title): John Smith  
Date: 01/15/20XX
Step 3: Department of General Services (DGS) website (http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx).

How do you find DBE firms to solicit?

The ONLY website required to be used is the DGS website. DGS maintains a database that lists DBE firms throughout the state. This site includes both MBE and WBE firms. Any other websites you use or any other DBE firms you solicit are in addition to this requirement and do not need to be included in your documentation.

How do you use the Department of General Services website?

Using your Contract Procurement Breakdown, you will create a websearch for each item marked as rent, purchase, or subcontract.

On p. 23 you will see a DGS Keyword Search Help Guide. If the item you are searching for is included in this list, you will use the code listed to search by.

If the item you are searching for is not included in this list, you will click on the “Code Look Up” button to locate a code to search by.

How do you use the Code Lookup Button?

- Go to http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx.
- Click on “Code Lookup Button”, which will bring you to the “Classification Code Criteria Selection” screen.
- Select the category (supplies=goods; subcontracts=service)
- Enter a description – do not be too specific.
- Click “Search” – do not click on “All Commodity Data to Excel” or “Search Results to Excel”
- “Classification Code Look Up Results” – Click on the most applicable Commodity Code. This will take you back to the screen you started on.

What if no results are found?

- Make sure that you are not being too specific in your description.
- Try using another description.
- If the results are none, print this page to show that there are no commodity codes on the DGS website to match your procurement item.
Now that you have your commodity code(s) …

- Business Classification Code – You will either enter the code you found on p. 23 of this guidance or the code you selected using the “Code Lookup Button” will be automatically populated here.
- Do you want a listing of the companies who are assigned the sub-codes that fall under this specific category? This answer is defaulted to yes – do not change it.
- Vendor Name – Leave this blank.
- County – Leave this as ALL. It will take less of your time and paper to print a statewide search. Most searches do not take up more than one page.
- MBE/WBE – Leave this as ALL.
- Items per page – It is recommended to leave this as 25. If you change it to a higher number, some of the information may be cut from the bottom of the page when printed or copied.
- Click “Search” – Do not click on “All Vendor Data to Excel” or “Search Results to Excel”

No Vendor records were found for selection criteria!

- If you see this message and have ensured that you did everything correctly, print this page and include it as part of your documentation. Unless there is another commodity code you can use to search with, you have not found any DBE firms for this item and do not have to solicit for it.

List of DBE firms …

- You’ve clicked “search” and now have a list of DBE firms. You will print this list using the print option in your Internet browser. The date of the search will automatically populate on your printout. This automatically populated date is required to prove it is a current, valid search. A websearch is considered current if it was printed within 90 days of the bid opening.
- Make sure to print ALL pages of your search. Most searches are only one page long, but if it is not, you will print all pages.

How many DBE firms do I have to solicit?

- There is not a set number of DBE firms you have to solicit. You will include all applicable DBE firms in your solicitation.
- If the estimated cost of your procurement item or subcontract will be less than $750,000, your solicitation area consists of the project county and all of its surrounding counties.
- If the estimated cost of your procurement item or subcontract will be more than $750,000, or if the item or subcontract is considered specialized, your solicitation area consists of the entire state.
- Please remember the estimated cost is based on each procurement item or subcontract, not the total amount of the contract.

You are required to print a DGS websearch for each item marked as rent, purchase, or subcontract on your Contract Procurement Breakdown form.
DGS Keyword Search Help Guide

We have listed below common DGS codes to help you in your use of the DGS website. Using these will give you a more accurate search of firms applicable to the project. If you have any questions regarding the suggested codes or need assistance with your searches, please do not hesitate to contact the Department at (717) 705-4090. It is important to develop accurate searches to help ensure a good faith effort.

**Common Search Terms used by Grant/Loan Recipients**
*(County should be ALL and MBE/WBE should be ALL for all searches)*

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Services</td>
<td>94131603 (Legal Assistance Services)</td>
<td></td>
</tr>
<tr>
<td>Engineering Services</td>
<td>81101500 (Civil Engineering)</td>
<td></td>
</tr>
<tr>
<td>Drinking Water/Sewer Prime Contractors</td>
<td>83101500 (Water &amp; Sewer Utilities)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>72131700 (Infrastructure Construction)</td>
<td></td>
</tr>
<tr>
<td>Prime Contractors for Pipe Installation</td>
<td>78102100 (Pipeline Services)</td>
<td></td>
</tr>
<tr>
<td>Electrical Prime Contractors</td>
<td>72102200 (Electrical Services)</td>
<td></td>
</tr>
<tr>
<td>Plumbing Prime Contractors</td>
<td>72102300 (Plumbing &amp; Heating &amp; Air Conditioning)</td>
<td></td>
</tr>
</tbody>
</table>

**Common Search Terms used by Prime Contractors for Supplies/Subcontracts**
*(County should be ALL and MBE/WBE should be ALL for all searches)*

**If searching for supplies:**
- ready-mix concrete: 30111505
- pipe: 40142100 (pipe), 40142300 (pipe fittings)
- paint: 31211500 (paints and primers)
- stone: 11111600 (stone)
- electrical supplies: 25173900 (electrical components), 26121500 (electrical wire)
- landscaping supplies: 30120000 (roads & landscape), 21100000 (agricultural & forestry & landscape)
- manholes: 30121605 (manhole frames with covers)
- pumps: 40151500 (pumps)

**If searching for subcontractors:**
- concrete: 72101700 (concrete work), 73121805 (concrete or aggregates or stone products)
- pipe: 78102100 (pipeline services)
- paving: 72131701 (highway or road paving or surfacing)
- excavation: 71122307 (subsea dredging, trenching & excavation), 72103000 (site preparation)
- landscaping: 7102902 (landscape services)
- boring: 73181007 (boring services)
- electrical: 72102200 (electrical services)
- plumbing/hvac: 72102300 (plumbing & heating & air conditioning)

**If searching for the following:**
- trucking: 78101801 (local area trucking service), 78101802 (regional or national trucking services)
- video/photography: 82131601 (Aerial photography services)
- equipment rental: 47101500 (water treatment & supply equipment)
- surveying: 81151604 (land surveying)
- flagging: 46161500 (traffic control)
- water meters: 41112504 (water meters)
- inspection: 81141807 (plumbing or sewer inspection services)
- rain barrels: 24112102 (barrels)
Step 4: Create your Solicitation Letter (sample on p. 25)

How do I solicit the DBE firms found on the DGS website?

IN A WAY THAT WILL PRODUCE A CONFIRMATION RECEIPT (by fax or email) – Telephone calls or in person contact are not considered part of a good faith effort. When using U.S. mail, certified mail receipts should be sent and kept.

Your solicitation letter should specifically describe the goods or services that are being solicited; demonstrate a real desire for a positive response; and be sent in a timely manner to allow a sufficient time (7-10 days) to develop quotes, with the due date clearly stated.

Use your Contract Procurement Breakdown form to create your solicitation letter.

For example, if you have on your Contract Procurement Breakdown form that you will be purchasing pipe, then pipe should be listed on your solicitation letter.

Do I need to personalize the letters/faxes/emails?

NO, you do not need to personalize the letters. It will save you time and resources to follow the example on p. 25.

Documentation will be kept.

If faxing, you should keep the fax transmittal logs. As long as you do not personalize the letters, a broadcast fax can be sent. If emailing, delivery receipts should be requested because read receipts will not always be sent back. If you are not sure what a delivery receipt is, faxing is probably your best option. If your fax machine is not set up to generate a fax transmittal log, you should set it up to do so. If the fax number or email address does not work, you should call the DBE firm to obtain the correct fax number or email address to perform your solicitation. If sending certified mail, receipts should be kept.

Follow up solicitation.

Unless you get a response from your initial solicitation, you should send a second solicitation letter. The follow up solicitation can use the original solicitation letter with “SECOND NOTICE” typed across the top. The documentation rules above apply to the follow up solicitation as well.

The follow up solicitation letter should be sent out 4-5 days after the initial solicitation to give DBE firms enough time to respond to the initial solicitation.

Any correspondence received from DBE firms should be kept, including quotes.
January 10, 20XX

DEBE Firms

To Whom It May Concern:

Our company is preparing to bid on Contract No. 1 of the XYZ Borough project. This contract involves _______________________________________________________________.

This project is being funded or may be funded in part by a federal program. Solicitation of Disadvantaged Business Enterprise (DEBE) firms is a requirement of this project. Accordingly, our company is soliciting quotations for the following:

**Subcontracts:**
- paving
- manholes

Our goal is to receive a positive response from your firm regarding any or all of the above items. Please check the boxes below to indicate if your firm is interested in submitting a quote or not, and fax this page to our office at the above fax number.

<table>
<thead>
<tr>
<th>DBE Firm Name</th>
<th>☐ We are interested in providing a quote for _______.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☐ We are not interested in providing a quote for these items.</td>
</tr>
</tbody>
</table>

Plans and specifications are available for inspection at our office located at the above address. They are also available for inspection and purchase at $________ per set at the consulting engineer’s office, ABE Engineering Corporation, 333 North Street, Penntown, PA 11113, (777) 777-7777.

Subcontractors on this project will be required to comply with all applicable regulations, including Presidential Executive Order Number 11246 regarding “Non-discrimination in Employment”, and other applicable Federal regulations. These requirements are explained in the project specifications.

Quotes for the project are due no later than January 20, 20XX, so your prompt attention is necessary. Please contact Harry Abraham of our staff with any questions regarding this project. If you are not interested, we ask that you still fax this letter back to us indicating so by checking the appropriate box. Thank you for your time.

Sincerely,

John Smith
President
Step 5: Prime Contractor DBE Compliance Statement
(3800-FM-BPNPSM0119). An electronic version can be found on our website (www.dep.state.pa.us) (sample on p. 27)

ALMOST DONE!

Once Steps 1-4 have been completed and all of your documentation gathered, the owner of the company should complete the Prime Contractor DBE Compliance Statement.

All of the applicable boxes will need to be checked off.

When do I submit my DBE documentation package?

This depends on the project. The grant/loan recipient will either ask for it to be submitted with your bid or after they have determined the low bidder(s) for the project.

Who will review my DBE documentation package?

This also depends on the project. The initial review of your DBE documentation will be performed by the grant/loan recipient.

If the grant/loan recipient sees any inconsistencies, they will ask you to fix them. If the grant/loan recipient does not find any inconsistencies, part of your DBE documentation will be submitted to the Department for review.

The only pages that the Department initially receives are:

- Prime Contractor DBE Compliance Statement
- Contract Procurement Breakdown
- Initial and follow up solicitation letter

The Department will do a compliance review and will not initially review the DGS websearches or the fax/email documentation. It is important that the items listed on the Contract Procurement Breakdown form match your solicitation letter.

If the project is selected for a full audit, the Department may ask the grant/loan recipient to submit all DBE solicitation documentation, including the identified low bidders’ documentation, for review.
PRIME CONTRACTOR DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMPLIANCE STATEMENT

CONTRACTOR NAME: Any Construction Company

GRANT/LOAN RECIPIENT NAME: XYZ Borough

CONTRACT NUMBER: 1

Date of Initial Solicitation 01/10/20XX Date of Follow-up Solicitation 01/15/20XX

Date of Search 01/10/20XX Counties Searched Erie, Crawford, and Warren

Solicited by ☐ email ☑ fax

Please submit the following items, along with this form, to the Grant/Loan recipient:

☑ Grant/Loan recipient has been provided copies of all documentation that supports the direct search for and solicitation of potential participation of DBE firms in the competitive process to be retained on file for review. This includes the documentation related to web searches, contact correspondence, and contact logs.

☑ Copies of any quotes received from DBE firms in response to solicitation efforts are attached.

☑ Contract Procurement Breakdown Form

As the owner for the above named company, I certify that the six good faith efforts have been performed in conformance with DBE regulations 40 CFR, 33.301. All efforts have been properly documented as outlined in the DBE Guidance Document. All documentation has been supplied to the above named grant/loan recipient to be retained in accordance with applicable record retention requirements under the financial assistance agreement for the above named project. I understand that such documentation is subject to an audit review by the US Environmental Protection Agency or the Pennsylvania Department of Environmental Protection, Division of Technical and Financial Assistance to further ensure compliance. I understand that by signing this statement that the DBE regulations 40 CFR, 33.105 include compliance and enforcement provisions to which the grant/loan recipient and sub-recipients are subject. I understand by signing this statement that the DBE regulations 40 CFR, 33.302 include additional contract administrative requirements that I must comply with.

Signature of Owner 02/01/20XX Date

John Smith Printed Name of Owner

MAIL TO: Grant/Loan recipient
Step 6: Checklist of what to Submit to the Grant/Loan Recipient for Review

When requested, you should submit ALL of the following to the grant/loan recipient to prove your compliance with the DBE solicitation requirement.

☐ **Prime Contractor DBE Compliance Statement** – One of these forms for each contract should be submitted with an original signature.

☐ **Prime Contractors’ Contract Procurement Breakdown Form** – Ensure that all items listed as subcontract, rent, or purchase match the items listed on the solicitation letter.

☐ **Copies of all DGS Websearches** – There should be one websearch for each item listed as subcontract, rent, or purchase on the Contract Procurement Breakdown form. The websearches should be done by item, not by searching for all DBE firms in the county.

☐ **Copies of the Initial and Follow-Up Solicitation Letters** – It is recommended to follow the example on p. 25.

☐ **Fax Transmittal Logs, Email Delivery/Read Receipts, and/or Certified Mail Receipts** – Proof of an initial and follow up solicitation should be submitted for each applicable DBE firm found on the DGS websearches in the project area.

☐ **Correspondence Received, Including Quotes, from Solicited DBE Firms** – If applicable, any correspondence, including quotes, should be submitted.
Grant/Loan Recipient’s Review of the Prime Contractor’s Solicitation Effort Help Guide

The grant/loan recipient is required to review the identified low bidders’ DBE solicitation effort to determine the prime contractors’ compliance with the DBE requirements.
Included in these instructions are the steps to successfully perform the review of the identified low bidders’ DBE solicitation effort(s) for this project. Please read them carefully. Please also read the “Prime Contractor DBE Solicitation Effort Help Guide” contained in this guidance before following these instructions to familiarize yourself with the process.

Four important reminders when reviewing the identified low bidders’ solicitation effort:

1. DBE is a blanket term that covers both MBE and WBE firms.
2. All DBE solicitation must be documented.
3. Most prime contractors’ DBE solicitation efforts can be corrected to meet compliance after the bid opening date as long as no awards have been made.
4. Whenever you are unsure of any information presented to you during the review of the identified low bidders’ effort, please contact the Department for further instruction and/or recommendation.
Step 1: Ensure that all Documentation has been Provided by the Identified Low Bidder(s)

☐ Completed and signed Prime Contractor Disadvantage Business Enterprise (DBE) Compliance Statement with an original signature.

☐ Completed Contract Procurement Breakdown form.

☐ Printed Department of General Services (DGS) website search results (this includes printed pages that have “no results found”) with auto populated date on each printout to ensure that the searches performed are current (within 90 days of the bid opening).

☐ Copies of initial and follow-up solicitation letters.

☐ Copies of email delivery/read recipients, fax transmittal logs, and/or certified mail receipts.

☐ Any correspondence, including quotes, received from the solicited DBE firms.

NOTE: If the prime contractor will be completing all contract requirements with in-house supplies and company work force, a letter of self-performance is required instead of the above listed prime contractor items. Please contact the Department for a sample letter.
Step 2:  Review the Contract Procurement Breakdown Form

The completed Contract Procurement Breakdown form should list all construction, equipment, services, and supplies needed for the contract. Any item listed as subcontract, rent, or purchase should be included in the identified low bidders’ solicitation effort.

Step 3:  Review the DGS Search Result Pages

- There should be a DGS search for each item listed as subcontract, rent, or purchase from the Contract Procurement Breakdown form. Printed search pages that say “no results found” count as a search result. If there is not a DGS websearch for each item, the missing DGS websearch(s) should be requested from the identified low bidder.

- Ensure that the criteria used to generate the DGS websearch was accurate and that the DGS websearch was printed within 90 days of the bid opening. If it is not, an accurate and current websearch should be requested from the identified low bidder.

- If a new DGS websearch was necessary and requested, and additional applicable DBE firms appear in the project area, those additional firms should be solicited and documentation submitted to the grant/loan recipient for review.

- Ensure that all DGS websearch pages are legible.
Step 4:  Review the Initial and Follow-up Solicitation Letter

The DBE solicitation letter should specifically describe the goods or services that are being solicited, clearly state the due date, demonstrate a real desire for a positive response, and be sent in a timely manner to allow a sufficient time (7-10 days) to develop quotes.

- Using the Contract Procurement Breakdown form, ensure that all items listed as subcontract, rent, or purchase are listed on the solicitation letter. Some prime contractors will do a separate solicitation letter for each procurement item as opposed to listing all procurement items on one solicitation letter. In this case, ensure there is a solicitation letter for each item. Please note that if the DGS websearch for that item returned no results, that item may not be listed on the solicitation letter, which is acceptable.

- If there is an item from the Contract Procurement Breakdown form listed as subcontract, rent, or purchase and there is a DGS websearch for that item with results, but that item is not on the solicitation letter, you will need to contact the prime contractor and instruct them to perform a solicitation for that item.

- If there is an item on the solicitation letter that is not listed on the Contract Procurement Breakdown form as subcontract, rent, or purchase, you will need to ensure there is a DGS websearch for that item. The item will also need to be added to the Contract Procurement Breakdown form.

- The follow-up solicitation letter should be identical to the initial solicitation letter, although the due date may be different.
Step 5: Review Fax Transmittal Logs, Email Delivery/Read Receipts, and/or Certified Mail Receipts

For this step, you will need to have the DGS websearch results to compare to the fax transmittal logs, email delivery/read receipts, and/or certified mail receipts.

- There should be an initial fax transmittal log, email delivery/read receipt, and/or a certified mail receipt for all applicable DBE firms from the DGS websearches in the project area.
  - For items under $750,000, the project area consists of the project county and all of its surrounding counties.
  - For items over $750,000, or if the item or subcontract is considered specialized, the project area consists of the entire state.
  - Please remember, the estimated cost is based on the procurement item or subcontract, not the total amount of the contract.
  - It will be indicated on the Contract Procurement Breakdown form whether or not the item cost is estimated to be under or over $750,000.

- For any solicited DBE firm that did not respond to the initial solicitation, there should be a follow-up fax transmittal log, email delivery/read receipt, and/or certified mail receipt.

- If any of this documentation is missing, you should request it from the prime contractor. If they are unable to provide the requested documentation, you should instruct them to perform the solicitation and turn in the documentation for your review.

- This should be done before you submit your DBE compliance package to the Department.
Step 6: Now that you have Completed your Review

Once you have completed your review of the identified low bidders’ DBE solicitation effort and have determined that they are in compliance, you will keep all documentation on file in the event a full audit is requested. The following information from the prime contractors’ DBE solicitation effort should be included in the DBE compliance package submitted to the Department:

- Prime Contractor’s DBE Compliance Statement with an original signature
- Prime Contractor’s Contract Procurement Breakdown form
- One copy of the initial solicitation letter and one copy of the follow-up solicitation letter. If there is a separate solicitation letter for each item on the Contract Procurement Breakdown form, one copy of the initial solicitation letter and one copy of the follow-up solicitation letter should be submitted for each item. If an item from the breakdown was not listed on the solicitation letter because the DGS websearch returned no results, please include an explanation with your DBE compliance package.

Any questions you have during the review should be directed to the Department.
FORMS ASSOCIATED WITH THE DBE REGULATIONS

- Grant/Loan Recipient Disadvantaged Business Enterprise (DBE) Compliance Statement
  DEP Form 3800-FM-BPNPSM0120

- Prime Contractor Disadvantaged Business Enterprise (DBE) Compliance Statement
  DEP Form 3800-FM-BPNPSM0119

- Contract Procurement Breakdown
  DEP Form 3800-FM-BPNPSM0116
GRANT/LOAN RECIPIENT DISADVANTAGED BUSINESS ENTERPRISE (DBE)
COMPLIANCE STATEMENT

GRANT/LOAN RECIPIENT NAME: ____________________________

GRANT/ME NUMBER: ____________________________

CONTRACT NUMBER: ____________________________

Project County ____________________________

Contract Amt. ____________________________

Solicited: ☐ Surrounding Counties

☐ Statewide

Date of Advertisement ____________________________

Bid Opening Date ____________________________

Date Search Performed ____________________________

Date of Initial Solicitation ____________________________

Date of Follow-up Solicitation ____________________________

Solicited by: ☐ Email ☐ Fax

These items are being submitted with this compliance statement to PADEP.

☐ Copies of advertisement and postings of solicitation for bids or proposal

☐ Copy of Grant/Loan Recipient’s initial solicitation letter and follow-up solicitation letter

☐ Bid Tabulation for each prime contract

☐ Prime Contractor’s DBE Compliance Statement – (original)

☐ Prime Contractor’s contract procurement breakdown and copy of initial solicitation letter and follow-up solicitation letter

☐ Resolution of Authorized Representative

As the authorized representative for the above named grant/loan recipient, I certify that the six good faith efforts have been performed in conformance with DBE regulations 40 CFR, 33.301. All efforts made have been properly documented as outlined in the PADEP DBE Guidance Document. All documentation will be retained in accordance with applicable record retention requirements under the financial assistance agreement for the above named project. I understand such documentation is subject to an audit review by the US Environmental Protection Agency or the Pennsylvania Department of Environmental Protection, Division of Technical and Financial Assistance to further ensure compliance. By signing this statement the above named grant/loan recipient understands that the DBE regulations 40 CFR, 33.105 include compliance and enforcement provisions to which the grant/loan recipient is subject. By signing this statement the above named grant/loan recipient understands that the DBE regulations 40 CFR, 33.302 include additional contract administrative requirements that must be complied with.

The Prime Contractor’s DBE solicitation effort has been reviewed and determined to be in compliance with the six good faith efforts as outlined in the PA DEP DBE Guidance Document. Yes ☐ No ☐

Has the contract been awarded? Yes ☐ No ☐

If yes, it is understood that awarding any contracts prior to receiving a notice to proceed from DEP would be doing so at your own risk and project funds may not be eligible toward project costs.

Signature of Authorized Representative ____________________________

Printed Name of Authorized Representative ____________________________

Date ____________________________

MAIL TO: Pennsylvania Department of Environmental Protection

Bureau of Point and Non-Point Source Management

Division of Technical and Financial Assistance

P. O. Box 8774

Harrisburg, PA 17105
PRIME CONTRACTOR DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMPLIANCE STATEMENT

CONTRACTOR NAME: ___________________________________________________________

GRANT/LOAN RECIPIENT NAME: ______________________________________________

CONTRACT NUMBER: _______________________________________________________

Date of Initial Solicitation _________________ Date of Follow-up Solicitation ___________

Date of Search _________________ Counties Searched ______________________________

Solicited by □ email □ fax

Please submit the following items, along with this form, to the Grant/Loan recipient.

☐ Grant/Loan recipient has been provided copies of all documentation that supports the direct search for and solicitation of potential participation of DBE firms in the competitive process to be retained on file for review. This includes the documentation related to web searches, contact correspondence, and contact logs.

☐ Copies of any quotes received from DBE firms in response to solicitation efforts are attached.

☐ Contract Procurement Breakdown Form

As the owner for the above named company, I certify that the six good faith efforts have been performed in conformance with DBE regulations 40 CFR, 33.301. All efforts have been properly documented as outlined in the DBE Guidance Document. All documentation has been supplied to the above named grant/loan recipient to be retained in accordance with applicable record retention requirements under the financial assistance agreement for the above named project. I understand that such documentation is subject to an audit review by the US Environmental Protection Agency or the Pennsylvania Department of Environmental Protection, Division of Technical and Financial Assistance to further ensure compliance. I understand by signing this statement that the DBE regulations 40 CFR, 33.105 include compliance and enforcement provisions to which the grant/loan recipient and sub-recipients are subject. I understand by signing this statement that the DBE regulations 40 CFR, 33.302 include additional contract administrative requirements that I must comply with.

_________________________________________  ____________________________________
Signature of Owner                                     Date

_________________________________________
Printed Name of Owner

MAIL TO: Grant/Loan recipient
## CONTRACT PROCUREMENT BREAKDOWN

<table>
<thead>
<tr>
<th>CONSTRUCTION</th>
<th>List Work Trade or Task</th>
<th>Estimated Item Cost &gt; $750,000</th>
<th>Self-perform</th>
<th>Subcontract</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples: Trucking, Paving, Excavation, Concrete Curb and Sidewalk, Installation of Pipe, Fence and Rebar, Painting, Roofing, etc.</td>
<td>□ Yes □ No</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EQUIPMENT</th>
<th>List All Equipment Required</th>
<th>Purchase</th>
<th>Own</th>
<th>Rent</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples: Controls and Instrumentation, Pumps, Generators, Storage Tanks, Conveyors, Backhoe, Crane, etc.</td>
<td>□ Yes □ No</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SERVICES</th>
<th>List All Services Required</th>
<th>Self-perform</th>
<th>Subcontract</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples: Construction Inspection and Observation, Materials Testing, Engineering, Flagging, Construction Photography, etc.</td>
<td>□ Yes □ No</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SUPPLIES</th>
<th>List All Supplies Required</th>
<th>Purchase</th>
<th>In-house Stock</th>
<th>For DEP Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some Examples: Asphalt, Concrete, Stone, Pipe, Valves, Manholes, Rebar, Steel Doors, Trusses, Lumber, Silt Fence, Wire, Conduit, Water Meters, Rain Barrels, Dirt and Gravel, etc.</td>
<td>□ Yes □ No</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

Prepared by (Name and Title): ___________________________ Date: ___________________________