PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISE AND NON-DISADVANTAGED BUSINESS ENTERPRISE FIRMS

Policy: It is the policy of the Department of Transportation (DOT) that Disadvantaged Business Enterprises (DBE's) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 applies to this agreement.

DBE Obligation: The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and Administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Definitions - The following definitions apply to this contract:

A. "Disadvantaged business" means a small business concern, (a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. "Small business concern" means a small business as defined pursuant to Section (3) of the Small Business Act, as amended, including all applicable and relevant rules and regulations promulgated pursuant thereto.

C. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

(1) "Black Americans"; which includes persons having origins in any of the Black racial groups of Africa;

(2) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(3) "Native Americans", which includes persons who are American Indian, Eskimos, Aleuts, or Native Hawaiians;

(4) "Asian-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, Burma, Thailand, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

(5) "Asian-Indian Americans", which includes persons, whose origins are from India, Pakistan, and Bangladesh;

(6) Women (of all races); and

(7) "Any other minorities or individuals found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) and 8(d) of the Small Business Act, as amended, (15 U.S.C. 637(a)).

The Contracting Officer shall make a rebuttable prerogative that individuals in the above groups are socially and economically disadvantaged. This prerogative shall be based on criteria set forth in 49 CFR Part 26. The Contracting Officer also may determine, on a case-by-case basis, that individuals who are not members of one of the above groups are socially and economically disadvantaged.

Prompt Payment: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract within 7 days from the receipt of each payment the prime contractor receives from DDOT. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the recipient. This clause applies to both DBE and non-DBE subcontractor.

Contract Goals:

The bidder shall subcontract Eighteen (18) of the dollar value of the total amount of this DOT-assisted contract to qualified DBE subcontractors. A complete DBE plan containing a list of DBE firms to be utilized on this project must be submitted within five (5) working days subsequent to bid opening to DDOT, Office of Contracting and Procurement; 55 M Street, S.E., 7th floor Washington, D.C. 20003.

The DBE plan shall include, but it is not limited to:

1. The names, addresses of DBE firms that will participate in the contract;

2. A description of work that each DBE will perform;

3. The dollar amount of the participation of each DBE firm;

4. Written and signed document of commitment to use the DBE subcontractor whose participation it submits to meet a contract goal;

5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment.

6. If the bidder fails to meet the contract goal, evidence of good faith efforts, as described below shall be submitted.

A bidder who fails to meet these requirements and who cannot show good faith effort will be considered non-responsive.

Good Faith Effort:

The following actions, by the bidder, are generally considered a sign of good faith effort. This list is not exclusive or exhaustive, but should be used as a guide in determining good faith effort.

1. Attendance at pre-bid meetings scheduled to inform DBE's of the project.

2. Advertisement in general circulation, trade association and minority focus media concerning subcontracting opportunities.

3. Written notice to DBE's allowing sufficient time for reply.

4. Follow up of initial solicitation.

5. Selection of portions of the work likely to be performed by DBE's.

6. Provide interested DBE's adequate information for bidding.

7. Negotiation with interested DBE's.

8. Assist interested DBE's with bonding, insurance or credit.

9. Use of minority contractors' groups and minority business assistance offices.

DBE Directory:

Information pertaining to lists of certified DBEs may be obtained by contacting:

Mrs. Glenda Payne, EO Specialist
DC Department of Transportation
Civil Rights Division
55 M Street, S.E., 3rd Floor
Washington, DC 20003
Office: (202) 671-0479
Email: glenda.payne@dc.gov

Ms. Tammy Paige-Sterling, DBE Program Assistant
Washington Metropolitan Area Transit Authority (WMATA)
600 Fifth Street, NW
Washington, DC 20001
Office: (202) 962-2409
Email: tpsterling@wmata.com