SFO DBE Program Small Business Element

SAN FRANCISCO INTERNATIO

May 3, 2022

SFO

To Ask Questions & Participate

- Open the Chat panel
- Raise Hand to Speak Directly



Agenda

- 1. Disadvantaged Business Enterprise (DBE) Program Overview
- 2. DBE Program Elements
- 3. Small Business Element
- 4. Program Implementation at SFO
- 5. Opportunities at SFO
- 6. Next Steps

Disadvantaged Business Enterprise (DBE) Program Overview

- The Department Of Transportation (DOT) Disadvantaged Business Enterprise (DBE) Program is a federal program applicable to projects that are funded with federal funds received through grants from the FAA, FHWA or FTA.
- The program is governed by federal regulation: 49 CFR Part 26
- The intent of the Program is to eliminate barriers to participation in contracting for Disadvantaged Business Enterprises.
- The basic underlying idea is that participation by these businesses in contracts funded with federal dollars should approximate what that participation would have been in the absence of discrimination.
- The program is not a quota or set-aside program. The program is goal-based, requiring good faith efforts to meet goals.
- Overall goals are set that are in place for a three-year period.
- Contract goals may be set at varying levels depending upon the nature of the contract, subcontracting
 opportunities and the availability of DBEs to perform the specific type of work.

DBE Program Objectives

The program is designed to accomplish the following objectives:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the Department's DBE program is tailored in accordance with applicable law;
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

DBE Program Basic Elements

- Establishment of DBE Program
- Certification of participating firms ongoing
- DBE Goals overall goals established every three years,
 contract goals established as contracts are solicited
- Compliance, Monitoring and Enforcement ongoing
- Reporting of Accomplishments annually for airports

What is a DBE?

Disadvantaged Business Enterprise or *DBE* means a for-profit small business concern —

(1) That is at least 51 percent owned by one or more individuals who are both **socially and economically disadvantaged** or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Definition of "Small?"

- The definition of a "small" business is slightly different for airports than for highways or transit.
- For all agencies, a small business is defined based on the SBE size standards by trade (NAICS code)
- For highways and transit, DBE eligibility is also subject to an overall size cap of \$26.29M average annual gross receipts over a 5-year period.
- The overall size cap is not applicable for airport work

What is Socially and Economically Disadvantaged?

- Presumed Socially Disadvantaged Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, & Subcontinent Asian Americans, Other (as designated by Small Business Administration (SBA), or individual showing).
- Economically Disadvantaged Personal Net Worth not exceeding \$1.32 million excluding equity in primary residence and applicant business.

Certification

- Standard application and forms <u>https://flysfo.gob2g.com/</u>
- Strict/detailed rules
 - Social and Economic Disadvantage
 - Ownership
 - Capital contribution
- Control
- Capital Contributions
- Personal Net Worth

California Unified Certification Program ("CUCP")

- The Unified Certification Program ("UCP") is responsible for making all certification decisions on behalf of all DOT recipients in its state. SFO is a certifying agency of the California UCP.
- The UCP is required to maintain a DBE/ACDBE directory containing the names and other information for all DBEs/ACDBEs certified in the state. The directory must be made available electronically, on the Internet and in print.

In order to count as a DBE, firms must be certified by the California UCP

DBE Goals

• <u>49 CFR part 26</u>

Your overall goal must be based on <u>demonstrable evidence of the availability of</u> <u>ready, willing and able DBEs relative to all businesses ready, willing and able to</u> <u>participate on your DOT-assisted contracts</u> (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

Race Conscious / Race Neutral

- Race Conscious
 - Contract goals
- Race Neutral
 - Outreach
 - Technical assistance
 - Small Business Program
- Disparity studies
- Contract goals

Contracting Process

- Planning
- Project planning (timelines, project specs, scope of work, D/L/SBE goals, solicitation documents)
- Publication (websites, email, calendar invite for pre-bid/pre-proposal)
- Outreach & Technical Assistance
- Evaluate Good Faith Efforts, Certifications, Licenses, Capacity
- Post Award Monitoring

Monitoring Activities

- Contract documents
- CUF Reviews
- Site Visits
 - Equipment
 - Employees
- Document Review
 - Agreements
 - Payroll records
- Written certification

What is an SBE?

Small Business Enterprise or *DBE* means a for-profit **small** business concern —

(1) That is owned by one or more individuals who are economically disadvantaged

"Small" is determined in accordance with SBA size Standards.

Small Business Verification Form

A. CONTACT INFORMATION

(4) Cell Phone	#	1	(5) Fax #		
(4) Cell Phone	#		(5) Fax #		
\bigcirc					
)	
	(7) Website				
•	City	County/Pa	rish	State	Zip
	City:	County/Pa	arish	State	Zip
		City	City County/Pa	City County/Parish	City County/Parish State

B. BUSINESS PROFILE

(1) Describe the primary activities of your firm			(3) NAICS Code(s)			
_						
(9) Number of employees:						
Full-time:	Part-	time:		Total:		
(10) Gross receipts for the last 3 years		Year: T	Fotal Re	ceipts: \$		
		Year: T	Fotal Re	eceipts: \$		
(Attach tax returns for each year)		Year: I	Fotal Re	eceipts: \$		
(11) Gross receipts for all *affiliates for the last 3 years (Attach tax returns for all affiliate firms for the last 3 years)		Year: T	Fotal Re	ceipts: \$		
		Year: T	Fotal Re	Receipts: \$		
		Year: T	Fotal Re	ceipts: \$		
*Affiliates are defined in accordance with the Small Business Administration (SBA) definition						

C. PERSONAL NET WORTH: The owner(s) of the applicant firm must complete the attached Personal Financial Statement to demonstrate they meet the Personal Net Worth requirement defined on page 1.

Small Business Certifications

Eligible Certifications

Jurisdiction	Certification	Link
San Francisco Only	Local Business Enterprise (LBE)	https://sfgov.org/cmd//lbe-certification-0
California	Small Business (SB)/Disabled Veteran Busines Enterprise (DVBE)	https://caleprocure.ca.gov
Federal	Disadvantaged Business Enterprise (DBE)	https://caltrans.dbesystem.com
Federal	Woman-Owned Small Business (WOSB)	https://beta.certify.sba.gov/
Federal	HUBZone	https://www.sba.gov/federal-contracting/contracting- assistance-programs/hubzone-program
Federal	Small Business Administration 8(a) Business Development Program	https://www.sba.gov/federal-contracting/contracting- assistance-programs/8a-business-development- program
Federal	Service-Disabled Veteran-Owned Small Busines Development Program	https://www.sba.gov/federal-contracting/contracting- assistance-programs/veteran-assistance-programs

Small Business Certifications

Submission Requirements

Jurisdiction	Certification	Pre-Bid/Bid Submission Requirements		
San Francisco Only	Local Business Enterprise (LBE)			
California	Small Business (SB)/Disabled Veteran Busines Enterprise (DVBE)			
Federal	Woman-Owned Small Business (WOSB)	Pre-bid: Submit proof of certification, PNW form and 3 years of owner's personal tax returns. Obtain SFO verification letter. With Bid: Verification		
Federal	HUBZone	letter from SFO		
Federal	Small Business Administration 8(a) Business Development Program			
Federal	Service-Disabled Veteran-Owned Small Busines Development Program			
Other	No certification by any small business certifying agency	Complete the SBE verification form		
Federal	Disadvantaged Business Enterprise (DBE)	No pre-bid requirement, Certification letter submitted with bid		

SFO Small Business Program

- SFO operates in a race neutral environment
- SBE goals are implemented as a race neutral measure of the DBE Program
- Bidders must make good faith efforts to meet the goal through the use of SBEs
- SBE participants must be listed in the bid, including the type and amount of work to be performed by the SBE
- Subcontractors and manufacturers count at 100%
- Regular dealers count at 60%
- Brokers count at amount of reasonable commissions

Small Business Element & SFO

- Goals on FAA-AIP and other USDOT funded contracts (professional services and construction)
- Good Faith Efforts (GFE) are an element of Responsiveness (meet goal or demonstrate GFE)
- Nondiscrimination, Prompt Payment, (Early) Release of Retention/ Retainage
- Small business subs listed must perform work for which listed in proposal/bid
- Small business subs may not be substituted or removed without written authorization of DBELO
- Enforcement Mechanisms: Funds may be withheld; penalties; liquidated damages; termination of the contract; debarment; report to USDOT for false, fraudulent, or dishonest conduct.

Nondiscrimination Assurances

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 Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;

2) Assessing sanctions;

3) Liquidated damages; and/or

4) Disqualifying the Contractor from future bidding as non-responsible.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from San Francisco International Airport. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the San Francisco International Airport. This clause applies to both DBE and non-DBE subcontractors.

DBE(SBE) Program: Substitution, Termination, Addition

- A prime may not terminate a listed DBE (SBE) without Economic and Community Development's (ECD) prior written consent.
- If a prime seeks to terminate or substitute a listed DBE (SBE), it must give notice to the DBE (SBE) and ECD outlining the reason for the requested termination/ substitution.
- The DBE (SBE) must be allowed five days to respond to the notice.
- If the DBE (SBE) objects to the proposed termination/ substitution, a hearing may be held to determine whether there is adequate cause for the termination/ substitution.
- If a substitution is granted, the prime must substitute another DBE (SBE) for the original DBE (SBE) or demonstrate good faith efforts to do so.
- Primes must obtain ECD approval (in addition to the SFO Project Manager) prior to any addition of a DBE (SBE) or non-DBE/SBE sub or supplier to the project.

Find Opportunities

- https://sfcitypartner.sfgov.org/
- flysfo.com/business-at-sfo/upcoming-opportunities
- flysfo.com/construction
- PCS@flysfo.com



Action Item	Primes	Small Business Primes	Subs
Get certified now		Х	Х
Get Personal Net Worth (PNW) certified		Х	Х
Encourage partner subs to get certified and have PNW verified	X	Х	
Outreach to new Subs (DBE or other certified firms with PNW verification)	X	Х	
Outreach to Primes			Х
Partner with ECD on outreach efforts	X	X	
Stay connected to ECD to learn about upcoming opportunities and resources		X	Х

Questions?



Contacts

Small Business Development website https://www.flysfo.com/business-at-sfo/small-business-development

Certification <u>certifications@flysfo.com</u> (650) 821-1004

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Thank you

