



GOOD FAITH EFFORTS GUIDELINES

SAN DIEGO ASSOCIATION OF GOVERNMENTS

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I. INTRODUCTION

The San Diego Association of Governments (SANDAG) encourages maximum utilization of Disadvantaged Business Enterprises (DBEs) in the performance of SANDAG federally funded contracts. In doing so, SANDAG must comply with Title 49 Code of Federal Regulations (CFR), Part 26.

SANDAG may receive Federal funds as a direct recipient of DOT, Federal Transit Administration (FTA) and Federal Rail Administration (FRA) and may also receive Federal funds from the Federal Highway Administration (FHWA) as a sub-recipient, through the California Department of Transportation (Caltrans). Whenever SANDAG issues a solicitation that is federally funded in whole or in part, it must determine whether a contract, task order, or job order DBE goal should be established. DBE goals are established only if subcontracting opportunities are available. The goal is calculated based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses (whether DBE or not) that are ready, willing, and able to participate in the type of work being solicited.

SANDAG believes the established DBE goals can be and should be achieved by proposers/bidders. However, if a proposer/bidder is unable to meet the goal, to demonstrate Good Faith Efforts (GFE), the proposer/bidder must show that it took necessary and reasonable steps to achieve the DBE goal.

SANDAG prepared this Good Faith Effort Guidelines "Guidelines" document to assist proposers/bidders in understanding GFE requirements. Final determination of appropriate Good Faith Efforts is governed by 49 CFR Part 26.53 and Appendix A to Part 26.

II. OVERVIEW

A proposer/bidder that has not committed to meeting or exceeding the DBE goal must complete and submit the solicitation attachment entitled DBE Information-Good Faith Efforts (Form 15-H) and demonstrate adequate GFE unless otherwise indicated by the solicitation. SANDAG recommends that even proposers/bidders who have committed to meet the goal submit this form as a means of protecting their eligibility for award in the event that the DBE firm(s) listed are improperly credited by the proposer/bidder due to events such as a lapse in certification by the proposed DBE firm(s) or not being certified in the correct type of work.

A promise to use DBE(s) after contract award is not considered to be responsive to the solicitation or to constitute good faith efforts when a specific DBE Goal has been established.

Proposers/bidders are NOT required to select any subconsultant/subcontractor¹ based solely on their DBE certification status. The decision to select a subconsultant/subcontractor should be based on the proposal/quote/bid amount and/or qualifications.

Nothing set forth in the Guidelines supersedes the information stated in the RFP, IFB, RFQ for

¹ The term "subconsultant/subcontractor" includes vendors, material and/or equipment suppliers, and truckers.

a specific procurement, or DBE regulations under 49 CFR Part 26.

III. GOOD FAITH EFFORTS CRITERIA DOCUMENTATION

Based on the CFRs, SANDAG defines Good Faith Efforts as those efforts that, given all relevant circumstances, a competitor actively and aggressively seeking to meet the goals would make. Efforts that are merely pro forma are not good faith efforts to meet the goals, even if they are sincerely motivated, if, given all relevant circumstances, they could not reasonably be expected to produce a level of participation sufficient to meet the goals.

In order to be responsive to a solicitation with a DBE goal, any proposer/bidder who does not meet the DBE goal must submit evidence of having made good faith efforts to meet the goal. In determining whether a proposer/bidder has made good faith efforts, SANDAG will look at all of the efforts that the proposer/bidder has made and also at the quantity and intensity of those efforts.

The following list of GFE criteria that is based on the requirements of 49 CFR Part 26, Appendix A, has been established to assist consultants and contractors in meeting the minimum level of documentation required to be responsive to the solicitation.

Good Faith Efforts Pass/Fail Criteria

Each GFE submittal is graded on a pass/fail basis based on the overall documentation of efforts for **each** of the criteria listed below.

- ✓ Advertisement in Publications.
- ✓ Written Notices to Certified DBEs.
- ✓ Work Made Available to DBEs.
- ✓ Rejected DBEs with Reason for Rejection.
- ✓ Efforts to Assist DBEs in obtaining bonds, lines of credit, insurance, and information about scope of work, plans and specifications.
- ✓ Efforts to Assist DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- ✓ Minority/women agencies, organizations and groups contacted.
- ✓ Any Additional Data.

A. Advertisement in Publications

Provide a list of all advertising in publications (see Attachment 1: List of Publications) to notify DBEs of the opportunity, including names and dates of each publication. Submit the proof of publication(s) which must include a legible copy of the advertisement. This document is supplied by the publisher and usually accompanies the invoice. A cutout of the header along with the advertisement is not acceptable.

Advertisements must be **PUBLISHED** not less than 10 calendar days prior to the proposal or bid due date and proposer/bidder must submit proof of publication with the GFE documentation. It is expected that at least two (2) publications be used with a minimum of a one-day advertisement placed in each. It is the proposer's/bidder's responsibility to ensure that the advertisement is published on time, and that the wording is correct.

- When publishing online, the advertisement should be in the Outreach Ads section.
- When publishing in newspapers, the advertisement should be in the Bids Wanted, Legal Notices section of the Classified Ads, Subcontracting Opportunities, or Business Opportunities sections, not in the Employment Opportunities section.

Consideration will be given to the wording of the advertisement, which should mention the DBE opportunity and include the following items (see Attachment 2: Sample Advertisement):

- SANDAG project name and bid/proposal due date.
- Bid/proposal due date.
- DBE goal.
- Areas of work to be subcontracted/materials to be supplied and any contract requirements.
- Information on assistance with obtaining bonds, lines of credit, insurance, other technical assistance or information related to scope of work, plans, specifications, and proposal/bid requirements.
- Information on assistance with obtaining necessary equipment, supplies, materials, or related assistance or services.
- Proposer/bidder firm's name, contact person's name, address, telephone number, and email address.

B. Written Notices to Certified DBEs

Provide a log of all correspondence with DBEs, including dates and times of initial notice, copies of notices sent, dates and times of follow up emails and calls to show how the proposer/bidder determined with certainty if the DBEs are interested (see Attachment 3: Sample Communication Log).

Notices should be sent to an adequate number of DBEs to reasonably expect to meet the contract, task order, or job order DBE goal. The determination of an adequate number of DBEs to be contacted will depend on the number of certified DBEs in the SANDAG market area. Proposers/bidders should send notices to **all** DBEs on the partial list provided by SANDAG in the solicitation package, at a minimum. Note this is not an all-inclusive DBE list.

- Use the California Unified Certification Program (CUCP) DBE database at <https://californiaucp.dbesystem.com> to identify certified DBE firms.

Initial Notice

Submit copies of the notice, sent and received emails with date and time sent and received, or if faxed, submit copies of the fax transmittal confirmation sheet(s). No credit for undeliverable emails, error messages, busy, cancelled, etc.

Letters must be sent and/or emailed to certified DBEs for *work areas listed not less than 10 calendar days prior* to the bid/proposal due date.

Consideration will be given to the wording of the notices, which should mention the DBE opportunity and include the following items (see Attachment 4: Sample Notice to DBEs):

- SANDAG project name.

- Bid/proposal due date.
- DBE goal.
- Areas of work to be subcontracted/materials to be supplied and all requirements.
- Information on assistance with obtaining bonds, lines of credit, insurance, other technical assistance or information related to scope of work, plans, specifications, and proposal/bid requirements, as applicable to the solicitation.
- Information on assistance with obtaining necessary equipment, supplies, materials, or related assistance or services, as applicable to the solicitation.
- Proposer/bidder firm's name, contact person's name, address, telephone number, and email address.

Follow Up Documentation

The proposer/bidder must document all efforts to follow up the initial solicitations made by contacting DBEs to whom it sent notices. The follow-up documentation to be submitted includes copies of notices emailed, telephone logs, fax confirmations, etc.

If DBEs have not responded to emails or faxes, telephone calls should be made *after the letters have been sent and before the deadline*. Follow up contact must be made at least once with all DBEs whom proposer/bidder contacted.

It is important that the bidder/proposer develops a communication log (see Attachment 3: Sample Communication Log) that includes the project name, person sending emails and placing calls, name of the DBE called, contact person's name, date and time of call, and results of the conversation.

Criteria that will be considered:

- Were the calls made during regular business hours?
- Was a second follow up call made with all firms with whom messages were left?
- Review of the result of the conversation. If a DBE offered to provide a quote but does not, follow up is required.
- Were other forms of contact attempted as follow up to the initial contact?

C. Work Made Available to DBEs

Work areas are specific items of work which the proposer/bidder will make available to DBEs. Proposer/bidder must demonstrate that sufficient work was identified for DBEs to reasonably meet the DBE goal.

Work areas must be listed in documentation, with dollar value and percentage of the total contract identified for that work area. Items of work should be broken down into economically feasible units that would increase the likelihood of achieving the goal.

- All work areas for which proposer/bidder proposes utilizing a subconsultant/subcontractor should be represented in the GFE documentation.
- Any work that proposer/bidder cannot complete should be listed as a work area for

- subconsultants/subcontractors.
- If proposer/bidder is able to complete all the work areas itself, it will have the option to:
 - Identify work areas that are potential areas to subcontract even though it is capable of carrying out these work areas itself, and/or;
 - Perform outreach to the suppliers that are specific to the project.

D. Rejected DBEs with Reason for Rejection

Bidder/proposer must provide a list of all DBE firms that were rejected (see Attachment 5: Sample Rejected DBE List), include quotes from both the rejected DBE and the firm selected (or the amount the prime is self-performing), and the following details. Bidder/proposer should also include documentation of efforts to negotiate in good faith with rejected DBE(s).

- Project name.
- DBE firm name, address, phone number, and copy of quote or proposal.
- Reason for rejection.
- Selected firm name, address, phone number, and copy of quote or proposal.

E. Efforts to Assist DBEs in obtaining bonds, lines of credit, insurance, and information about scope of work, plans and specifications

List any efforts to assist DBE firms with obtaining bonds, lines of credit, or insurance. List any efforts to assist DBE firms with other technical assistance or information related to scope of work, plans, specifications, and proposal/bid requirements for the work that was provided to DBEs.

Include in the advertisements (see Attachment 2: Sample Advertisement), notices to DBE firms (see Attachment 4: Sample Notice to DBEs), and outreach to agencies, organizations, and groups (see Attachment 7: Sample Outreach to Agencies, Organizations and Groups), as applicable to the solicitation.

F. Efforts to Assist DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services

List any efforts to assist DBE firms with obtaining necessary equipment, supplies, materials, or related assistance or services.

Include in the advertisements (see Attachment 2: Sample Advertisement), notices to DBE firms (see Attachment 4: Sample Notice to DBEs), and outreach to agencies, organizations, and groups (see Attachment 7: Sample Outreach to Agencies, Organizations and Groups), as applicable to the solicitation.

G. Minority/women agencies, organizations or groups contacted

List the minority/women community organizations, contractors' groups, business assistance offices and other organizations (see Attachment 6: Agencies, Organizations and Groups) contacted to provide assistance in the recruitment and placement of DBEs. Submit copies of the outreach notices, sent and received emails with date and time sent

and received, or if faxed, submit copies of the fax transmittal confirmation sheet(s).

Notices (see Attachment 7: Sample Outreach to Agencies, Organizations and Groups) must be sent to outreach agencies, not less than 10 calendar days prior to the bid/proposal due date, requesting assistance in recruiting DBEs.

Requests should be sent to all listed organizations and must contain:

- Language stating a recruitment of DBEs.
- SANDAG project name.
- Bid/proposal due date.
- DBE goal.
- Areas of work to be subcontracted/materials to be supplied and all requirements.
- Information on assistance with obtaining bonds, lines of credit, insurance, other technical assistance, or information related to scope of work, plans, specifications, and proposal/bid requirements.
- Information on assistance with obtaining necessary equipment, supplies, materials, or related assistance or services.
- Proposer/bidder firm's name, contact person's name, address, telephone number, and email address.

H. Any Additional Data

Provide any additional data to support a demonstration of good faith efforts, i.e., attendance at pre-proposal/pre-bid meeting (attendee list) or outreach event hosted for this procurement.

- All proposals, quotes, and bids received from both DBEs and non-DBEs must be submitted with the GFE documentation and all bid-listed subconsultants/subcontractors, including vendors, material and equipment suppliers, and truckers, must be represented in the GFE documentation, as applicable to the solicitation.
- All dollar amounts and scopes of work on the proposals, quotes, and bids must not be altered by the prime proposer/bidder. If a revision is necessary, a revised quote from the subconsultant/subcontractor must be obtained.
- All verbal quotes received MUST be substantiated by a corresponding written proposal, quote, or bid from the subconsultant/subcontractor and submitted with the GFE documentation to be considered.
- Subconsultant/subcontractor proposal, quote, and bid dollar amounts MUST match bid-listed dollar amounts on GFE forms.

SANDAG reviews each GFE submission to determine if the proposer/bidder took all necessary and reasonable steps to achieve the DBE goal by the scope, intensity, and appropriateness of their GFE documentation that could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

ATTACHMENTS

Attachment 1: List of Publications

The following publications are a partial list of the sources available in Southern California for outreach. SANDAG does not recommend or endorse any publication, and this is not an all-inclusive list of acceptable publications. If you would like to use other publications, it is recommended that you contact the SANDAG Contract Analyst responsible for the solicitation to confirm the acceptability of the publication prior to placing your advertisement.

DBE Online and Print Publications	
Compliance News www.compliancenews.com Email: info@compliancenews.com Tel.: 800-599-6996	Construction Bid Source www.constructionbidsource.com Email: contact@constructionbidsource.com Tel.: 888-786-9450
DBE Goodfaith www.dbegoodfaith.com Tel.: 877-802-3394	Construction Reporter/Associated General Contractors of America www.agcsd.org Email: lisa@agcsd.org Tel.: 858-558-7444
Small Business Exchange www.sbeinc.com Email: sbe@sbeinc.com Tel.: 800-800-8534	Good Faith Advertising www.goodfaitheffort.com Email: goodfaitheffortadvertising@gmail.com Tel.: 858-487-2600
Dodge Data & Analytics (Daily Pacific Builder, The Daily Journal, Greensheet) proposal-bid-notices.construction.com Email: official.bids@construction.com Tel.: 609-256-6896	

Newspapers – Classified Ads	
El Latino San Diego www.ellatinoonline.com Tel.: 619-426-1491	San Diego Business Journal www.sdbj.com Tel.: 858-277-6359
Hispanos Unidos www.hispanosnews.com Email: info@hispanosnews.com Tel.: 760-740-9561	San Diego Monitor News www.sdmonitornews.com Email: sandiegomonitor619@gmail.com Tel.: 619-668-1007

Newspapers – Classified Ads	
La Prensa San Diego www.laprensa.org Email: ads@laprensasd.com Tel.: 619-292-8008	San Diego Union-Tribune www.sandiegouniontribune.com Email: classifieds@sduniontribune.com Tel.: 619-299-2121
San Diego Asian Journal www.asianjournalusa.com Email: info@AsianJournalinc.com Tel.: 213-250-9797	San Diego Voice and Viewpoint www.sdvoice.info Email: ads@sdvoice.info Tel.: 619-266-2233

Attachment 2: Sample Advertisement

[Proposer/Bidder] is seeking certified DBE subconsultants, subcontractors, material and equipment suppliers, and truckers for the following project.

Project Name:
Owner: SANDAG
DBE Goal:
Proposal/Bid Due Date & Time:

[Proposer/Bidder] is requesting bids/proposals from qualified & certified DBE subcontractors, subconsultants, vendors, material and/or equipment suppliers, and truckers in the areas of work included in, but not limited to, those listed below:
*(List specific work items that you are interested in subcontracting.
It is important to break out as much detail as possible).*

The scope of work, plans, specifications, and copies of the bid proposal are available for review at [insert link or address].

We are willing to assist all interested DBEs in obtaining bonding, lines of credit or insurance and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs as well as in obtaining necessary equipment, supplies, materials, or related assistance or services.

Proposer/Bidders Name
Contact Person
Address
Email, Telephone Number, and Fax Number

Attachment 4: Sample Notice to DBEs

[Proposer/Bidder] is seeking certified DBE subconsultants, subcontractors, material and equipment subcontractors, suppliers, and truckers for the following project.

Project Name:

Owner: SANDAG

DBE Goal:

Proposal/Bid Due Date & Time:

We are requesting bids/proposals from qualified & certified DBE subcontractors, subconsultants, vendors, material and/or equipment suppliers, and truckers in the areas of work included in, but not limited to, those listed below:

[List specific work items that you are interested in subcontracting. It is important to break out as much detail as possible]

The scope of work, plans, specifications, and copies of the bid proposal are available for review at [insert link or address].

We are willing to assist all interested DBEs in obtaining bonding, lines of credit or insurance and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs as well as in obtaining necessary equipment, supplies, materials, or related assistance or services.

If you are interested in participating in this project or have any questions, please contact [Insert Contact Name] at [Insert Contact Email and Phone Number].

Attachment 5: Sample Rejected DBE List

Rejected DBE List

Bidder/Proposer Name: _____

Project Title: _____

Rejected DBE Firm (Name, address, phone number)	DBE Certification Number	Item of Work	Quote	Reason for Rejection	Selected Firm (Name, address, phone number)	DBE (Y/N)	Quote	Price Difference

Attachment 6: Agencies, Organizations and Groups

Asian Business Association www.abasd.org Email: admin@abasd.org Tel.: 858-277-2822
Black Contractors Association of San Diego www.bcasd.org Email: nationalbca@aol.com Tel.: 619-263-9791
San Diego County Hispanic Chamber of Commerce www.sdchcc.org Email: president@sdchcc.org Tel.: 619-813-3540
National Association of Women in Construction (NAWIC) www.nawicsd.org Email: ljangworthy@dyna-sd.com Tel.: 858-712-4756
APEX Accelerator www.socalptac.org Email: wscptac@swccc.edu Tel.: 619-216-6671
Associated Subcontractors Alliance www.sandiegoasa.org Email: nancy@sandiegoasa.org Tel.: 619-825-9552
Alliance Small Business Development Center sdivsbdc.org/alliance-sbdc/ Email: sbdc@abasd.org Tel.: 858-277-2822
North San Diego Small Business Development Center sdivsbdc.org/north-san-diego-sbdc/ Email: centerinfo@miracosta.edu Tel.: 760-795-8740
East County Small Business Development Center sdivsbdc.org/east-county-sbdc/ Email: admin@eastcountyedc.org Tel.: 619-258-3670
South San Diego Small Business Development Center sdivsbdc.org/south-san-diego-sbdc/ Email: sdsbdc@swccd.edu Tel.: 619-482-6391

Attachment 7: Sample Outreach to Agencies, Organizations and Groups

[Proposer/Bidder] is seeking certified DBE subconsultants, subcontractors, material and equipment subcontractors, suppliers, and truckers for the following project.

Project Name:
Owner: SANDAG
DBE Goal:
Proposal/Bid Due Date & Time:

[Proposer/Bidder] is requesting bids/proposals from qualified & certified DBE subcontractors, subconsultants, vendors, material and/or equipment suppliers, and truckers in the areas of work included in, but not limited to, those listed below:
*(list specific work items that you are interested in subcontracting.
It is important to break out as much detail as possible)*

The scope of work, plans, specifications, and copies of the bid proposal are available for review at [insert link or address].

We are willing to assist all interested DBEs in obtaining bonding, lines of credit or insurance and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs as well as in obtaining necessary equipment, supplies, materials, or related assistance or services.

Proposer/Bidders Name
Contact Person
Address
Email, Telephone Number, and Fax Number