ARIZONA DEPARTMENT OF TRANSPORTATION

BUSINESS ENGAGEMENT AND COMPLIANCE OFFICE

Disadvantaged Business Enterprises (DBE) Good Faith Efforts (GFE) Guide For Construction Projects

For use in bidding federally funded Arizona Department of Transportation (ADOT) projects subject to the Disadvantaged Business Enterprises (DBE) Program.

The purpose of the GFE Guide is to help Bidders understand the type of documentation that is required if the Bidder has indicated on the *DBE Assurance Form* that the goal will not be met. GFE documentation must be submitted within seven (7) calendar days following the bid opening. Failure to submit good faith effort documentation within the required time period will render the bid non-responsive.

For questions about this guide or any components of the DBE Good Faith Effort, please contact the ADOT Business Engagement and Compliance Office (BECO) at (602) 712-7761 or ContractorCompliance@azdot.gov.

DISADVANTAGED BUSINESS ENTERPRISES GFE GUIDE

TABLE OF CONTENTS

SECTION 1.0 PURPOSE 3
1.01 CRITICAL INITIAL GFE REQUIREMENTS 3
1.02 GFE DOCUMENTATION REVIEW 3
SECTION 2.0 GOOD FAITH EFFORT SUBMITTAL 4
2.01 GFE SUBMISSION 4
2.02 GFE LETTER 4
SECTION 3.0 DBE GOAL NOTICE 5
SECTION 4.0 DBE ASSURANCE CERTIFICATE 6
4.01 EXHIBIT A 6
SECTION 5.0 GOOD FAITH EFFORTS
5.01 CONTACT BECO IF UNABLE TO MEET DBE GOAL 7
5.02 SOLICITING THROUGH ALL REASONABLE AND AVAILABLE MEANS 8
5.03 SELECTING PORTIONS OF WORK 10
5.04 PROVIDE INTERESTED DBES WITH PROJECT INFORMATION 11
5.05 NEGOTIATE IN GOOD FAITH WITH INTERESTED DBES 12
5.06 HAVING SOUND REASON FOR REJECTING DBES 15
5.07 ASSISTING INTERESTED DBES – BONDING, CREDIT, INSURANCE 16
5.08 ASSISTING INTERESTED DBES – EQUIPMENT, SUPPLIES, MATERIALS, RELATED SERVICES 17
5.09 MINORITY/WOMEN COMMUNITY ORGANIZATIONS 18
SECTION 6.0 APPENDIX A TO PART 26 – GUIDANCE CONCERNING GFEs 22

SECTION 1.0 PURPOSE

This guide contains suggested information and forms bidders can use to help prepare good faith effort documentation. Good faith efforts must be performed well in advance of bid opening.

1.01 CRITICAL INITIAL GFE REQUIREMENTS

1. **CONTACT BECO FOR ASSISTANCE** - As soon as the bidder is aware it is unable to meet the goal, the bidder must contact BECO for assistance. Any solicitations made to interested DBEs must be done no less than ten (10) calendar days prior to bid opening.

2. **DO NOT CHANGE POSITION AFTER BID PROPOSAL** – If the bidder certifies that it has been unable to meet the goal and has made a good faith effort, the bidder cannot change its position after submission of the bid and claim to have met the established goal.

   As specified in *Section 13.0 Submission with Bids* of the Disadvantaged Business Enterprises (DBE), Contract Special Provisions (EPRISE, 07/01/16), all Bidders shall submit information to demonstrate that good faith efforts to meet the DBE goal has been made if their *Disadvantaged Business Enterprise Assurances* certificate (Section 4.01 Exhibit A) indicates that the DBE goal will not be met.

1.02 GFE DOCUMENTATION REVIEW

All Bidders are encouraged to consider this GFE Guide. Reviews of GFE documentation will focus on items identified in Section 5.0 of this guide. The items in Section 5.0 are not intended to be an exclusive or exhaustive checklist. Other factors or types of efforts documented shall be relevant in appropriate cases.

SECTION 2.0 GOOD FAITH EFFORT SUBMITTAL

2.01 GFE SUBMISSION

The bidder may submit its documentation one of three ways:

1. Hard copy to: Business Engagement & Compliance Office
   1801 W. Jefferson St. Ste. 101 (MD 154A)
   Phoenix, AZ 85007

2. Fax to: (602) 712-8429

3. Email to: contractorcompliance@azdot.gov – Please be sure that all emails reach its destination by 4:00 PM of the final submission day (usually 7 days after bid opening). **Emailed documentation received after 4:00 PM will not be included in the GFE review.**

2.02 GFE LETTER

The letter should include the following information:

- Project Name
- Project TRACS Number
- Federal Project Number
- Name of person submitting documentation
- Phone Number
- Signature
- Company Name
- Street Address
- City, State, Zip Code
- Telephone number
- Fax number
- Email address
- Contact Person
- Contact Person's Telephone Number

The letter should include an overview of good faith efforts and any necessary explanations of the documentation submitted.

SECTION 3.0 DBE GOAL NOTICE

3.01 NOTICE TO BIDDERS

The DBE goal is project-specific and is listed in the "Notice to Bidders."

In the Notice to Bidders:

> **THIS IS A FEDERAL AID CONTRACT. THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT GOAL IS [X.XX %]. YOU MUST MEET THIS DBE GOAL AND/OR PROVIDE ADEQUATE GOOD FAITH EFFORT DOCUMENTATION AS OUTLINED IN THESE SPECIAL PROVISIONS. TO COMPLY WITH ADOT's DBE PROGRAM GOOD FAITH EFFORT, THE BIDDER MUST TAKE CERTAIN ACTIONS A MINIMUM OF FIFTEEN (15) DAYS PRIOR TO BID OPENING.**

All Good Faith Effort documentation must be received by BECO no later than 4:00 P.M. on the seventh calendar day following the bid opening.

Failure to submit good faith effort documentation within the required time period will render the bid nonresponsive. Refer for specific bid requirements to the Disadvantaged Business Enterprises (DBE), Contract Special Provisions (EPRISE, 07/01/16)

For Good Faith Effort assistance, please contact BECO at (602) 712-7761 or email ContractorCompliance@azdot.gov.

SECTION 4.0 DBE ASSURANCE CERTIFICATE

4.01 EXHIBIT A

This form is included in the electronic bid documents and shall be completed and submitted as part of the bid submittal. The form is used to identify if a Bidder can or cannot meet the DBE goal required on the contract. Bids submitted with altered, incomplete or unsigned form will be considered nonresponsive.

DISADVANTAGED BUSINESS ENTERPRISE
ASSURANCE

The undersigned, fully cognizant of the requirements and of the goal established, hereby certifies that in the preparation of this bid for federal aid project

Project No: _____

Project Name: _____

Exhibit A

(CHECK ONE)

_____ The established goal for DBE participation will be met and agreements have been made with certified DBEs, or

_____ The bidder has been unable to meet the goal prior to the submission of the bid and has made good faith efforts to do so.

THIS AFFIDAVIT MAY NOT BE REVISED OR CORRECTED AFTER SUBMISSION OF THE BID.

In accordance with the Special Provisions, the bidder shall specify its DBE participation on the "DBE Intended Participation Affidavit", or provide documentation of its good faith efforts, by 4:00 p.m. on the fifth working day following the bid opening. The apparent low bidder shall obtain the required affidavit from the Business Engagement & Compliance Office , 1135 N. 22nd Avenue (second floor), Phoenix, AZ, 85009, following the opening of bids.

_____
Print Name of Firm

_____
Print Name of Authorized Officer of Firm

_____
Signature of Authorized Officer of Firm

_____
Title

SECTION 5.0 GOOD FAITH EFFORTS

GFE documentation, identified herein, to be provided by Bidders as part of Good Faith Effort will assist ADOT and its Subrecipients/Subgrantees/Local Public Agencies (LPAs) in determining whether the Bidder has performed its due diligence, took all necessary and reasonable steps to secure DBE participation for the contract pursuant to DBE Contract Special Provisions (EPRISE 07/01/16), *Section 15.0 Documented Good Faith Effort* and Appendix A to Part 26. BECO will review the GFE documentation and will recommend to the State Engineer whether the Bidder has made satisfactory good faith efforts to secure sufficient DBE participation to meet the contract goal. The Business Engagement and Compliance Office will make the final determination of Bidder's meeting (or not meeting) the GFE requirements.

The burden of proof rests with the Bidder.

The following sections are a restatement of the Good Faith Efforts outlined in *Section 15.0 Documented Good Faith Effort* of the DBE Special Provisions (EPRISE 07/01/16). Additional guidance over what is outlined in the provisions is provided herein, along with documentation examples.

The types of actions Bidders take and the documentation necessary to establish good faith efforts to meet the DBE goal can include, but not limited, to the following activities (Sections 5.01, 5.02, etc.).

5.01 CONTACT BECO IF UNABLE TO MEET DBE GOAL

Purpose: To communicate with BECO prior to the submission of bids, either by e-mail, telephone, or any other communication avenue to inform BECO of the firm's difficulty in meeting the DBE goals on a given project, and request assistance.

Action: Contact BECO at the first indication of not being able to locate DBEs for a specific project. The bidder must document its contact with BECO, indicate the type of contact, the date and time of the contact, the name of the person(s) contacted, and any details related to the communication. The contact must be made in sufficient time before bid submission to allow BECO to provide effective assistance.

The bidder will not be considered to have made good faith efforts if the bidder failed to contact BECO.

Document and retain all communications (e.g., phone, fax, email, mail) conducted with BECO staff.

SECTION 5.01	CONTACT BECO	EXAMPLE

Occurrence	Date	BECO Staff Name or Email	Bidder's Contact Name	Comment
1.				
2.				
3.				

5.02 SOLICIT THROUGH ALL REASONABLE AND AVAILABLE MEANS

Purpose: To identify all reasonable and available activities the Bidder performed to solicit the interest of all certified DBEs who have the capacity and ability to perform work on the project.

Action: Identify and list all activities the Bidder engaged in to solicit DBEs using all reasonable and available means.

Bidder's GFE Documentation:

1) Provide a list of activities performed to solicit DBEs.
2) Identify and **provide documentation**:
   a. Activity undertaken, such as:
      - ❑ advertising – copies or print screens of online project advertisement (See *Section 5.03 Selecting Portions of Work* for example of an advertisement),
      - ❑ pre-bid meeting sign-in sheets,
      - ❑ business matchmaking meetings or events – proof of attendance,
      - ❑ written notice(s) sent – letters, fax or emails to DBEs,
      - ❑ any other market research conducted to identify and solicit DBE contractors and suppliers
   b. Date action was taken;
   c. Name of DBEs that showed interest;
   d. Date of Bidder's follow-up with the interested DBEs

SECTION 5.02	SOLICITING	EXAMPLES

Bidder Activity (Advertising, Pre-bid meeting, business event, written notice, etc.)	Date	Name of DBE(s) Interested	Date Bidder Follow-up

Example of Written Notice with Fax Transmittal

HP LaserJet 3100 Printer/Fax/Copier/Scanner	SEND CONFIRMATION REPORT for ABC Construction Company 623-321-7655 January – 29 – 13 2:34 PM

Job	Start Time	Usage	Phone Number or ID	TYPE	Pages	Mode	Status
542	1/29 2:34pm	0'35"	19257484577	Send	1/1	EC144	Complete

ABC Construction Company
123 Main Street
Anytown, CA 98765
925-321-7655 **Fax: 925-321-7655**

abcconstruction@aol.com

INVITATION TO BID

January 29, 2013

The Electric Shop
1210 Cedar Avenue
Pleasanton, CA 94588

Telephone:925-748-1327
Fax: 925-748-4577

ABC Construction Company is seeking quotes from qualified MBE/WBE/SBE/OBE/LBE/DVBE businesses and invites your bid/quote on the following listed project/contract:

Project: El Sobrante Area Overlays/Pavement Replacement, El Sobrante, CA
Approx. Value: $2,415,218
No. of Working Days: 60
Owner: Contra Costa County Bids Due: 2-10-13 @ 2 pm

Seeking all trades including but not limited to: earthwork, asphalt, concrete, rebar, fencing, electrical, fire protect, lath/plaster/drywall, structural steel, mechanical, sheet metal, insulation and other related trades.

We are an equal opportunity employer and intend to seriously negotiate with qualified DBEs for project participation. For assistance in obtaining bonds, lines of credit, and/or insurance please contact Roger Smith. Plans, specifications and requirements for the project are available for review at our office or at the Contra Costa County Public Works Dept. 255 Glacier Drive, Martinez, CA, 94553 and are available online at www.cccounty.us/pwprojects. Please contact us at the above listed number for further information regarding bidding on this project.

Please fax your response to: Rodger Smith at 925-321-7655

We will be bidding Yes _____ No _____

Sincerely,

Rodger Smith
ABC Construction Company

5.03 SELECTING PORTIONS OF WORK

Purpose: To ensure work items are broke out into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

Action: Identify economically feasible work units to be performed by DBEs

Bidder's GFE Documentation

1) Identify documentation of the following:
   a. Activity undertaken, such as:
      - ❑ List of work items needed to be performed,
      - ❑ Breaking large work tasks into partial work items (smaller tasks or quantities),
      - ❑ Flexible time frames for performance and delivery schedules

SECTION 5.03	SELECTING PORTIONS OF WORK	EXAMPLE

Posted in Arizona Builder Exchange website on January 15, 2014

ABC Construction Company is requesting sub-bids from qualified DBE subcontractors, suppliers, manufacturers & truckers for: ADOT Phoenix, AZ

Project: Broadway Area Infrastructure Program Phase 3.A
Project#: 0662-GR4141-02
Engineer Est.: $450,000
No. Working Days: 30
Bid Due Date: 2/10/14 at 2 pm

For the following (but not limited to) work items:

- traffic control,
- construction area signs,
- trucking,
- hazardous materials removal,
- grinding,
- striping,
- electrical,
- asphalt, concrete,

If you are interested in bidding on this work or know someone who is, please contact Steve @ 623-321-7654, Fax: 623-321-7655 or email steve@Mail.com
Plans, Specs, and Requirements for the project are available for review at our office in Anytown or at the ADOT, Phoenix AZ and are available at: http://www.azdot.gov/projects/Projects.

For assistance in obtaining bonds, lines of credit, and/or insurance for this project, please contact Steve at the noted phone number.

ABC Construction Company
123 Main Street Anytown, AZ 85009

Contact: Steve
Phone: 925-321-7654
Fax: 925-321-7655
steve@Mail.com

5.04 PROVIDE INTERESTED DBES WITH PROJECT INFORMATION

Purpose: To provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist DBEs in responding to solicitations.

Action: Provide DBEs access to plans, specifications and other contract requirements in a timely manner prior to bid solicitation

Bidder's GFE Documentation:

1) Identify in writing and provide documentation of the following:
   - ❑ What types of project information did DBEs have access to prior to bid?
   - ❑ How were DBEs informed of the availability of project information?
   - ❑ When were they notified they had access to project information?
   - ❑ Provide copies of advertisements that may explain the above information, (See *Section 5.03 Selecting Portions of Work* for an advertisement example that informs firms of where project plans are located)
   - ❑ Provide screen shots of steps in accessing project information online –screens shots must identify project numbers and/or descriptions

5.05 NEGOTIATE IN GOOD FAITH WITH INTERESTED DBES

Purpose: To ensure that negotiations with interested DBEs were made in good faith by providing evidence as to why additional agreements could not be reached for DBEs to perform work. It is the bidder's responsibility to make a portion of the work available to the DBE subcontractors and suppliers, and to select those portions of work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation.

Action: Provide evidence that good faith negotiations took place with interested DBEs.

Pro forma mailings to DBEs requesting bids are not alone sufficient to constitute good faith efforts.

A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. However, prime contractors are not required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. The bidder must submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract. The Department will review whether DBE prices were substantially higher and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime contractor. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

Bidder's GFE Documentation:

1) Identify DBEs that were considered for negotiations and include the following information:
   a. Name of each business;
   b. Telephone number of each business;
   c. Contact person name negotiated with;
   d. A description from the plans and specifications of work selected for subcontracting

2) Provide documentation of the following:
   - ❑ **ALL** Quotes from DBEs
   - ❑ **ALL** Quotes from non-DBEs that were considered alongside DBE firms

NEGOTIATIONS LOG EXAMPLE

ABC Construction Company
Contact List
Discovery House Facility

Negotiations Made By
Rodger Smith

Only List DBEs

Name of Business	Address	Telephone Number	Contact Person	Task Description	Quotes Rec'd?	Considered for project?
Arrow Landscape	567 James St. Anytown, AZ	602-727-4915	Andrew Lang	Erosion Control & Seeding	Yes	No
Bear Valley Contractors	25 Teal St, Anytown, AZ	520-282-3404	Todd Lewinsky	Sidewalk, Curb & Gutter	No	No
B&C Fence Company	456 Apple Dr. Anytown, AZ	480-578-5026	Dorthy Smith	Fencing	Yes	Yes
Delta Cement Co.	10 Banks Ave. Anytown, AZ	623-297-5666	Bob Valentine	Material Supplier	Yes	No
Ebarra Landscape Services, Inc.	345 Ortiz Rd. Anytown, AZ	623-451-2105	Troy Torres	Erosion Control & Seeding	No	No
Flores Grading & Paving	789 Zion Dr. Anytown, AZ	602-383-2928	Ken Overton	Sidewalk, Curb & Gutter	Yes	Yes
Gateway Electric, Inc.	1001 Bakers Anytown, AZ	602-222-2873	Christina Lee	Traffic Signals	No	No
Hertz Air Conditioning Co., Inc.	219 Hightower Anytown, AZ	480-522-8727	Ellen Young	HVAC	No	No
Itachi Landscape	160 Crane St. Anytown, AZ	602-647-8955	Dan Kovaski	Erosion Control & Seeding	Yes	No
Jett Construction, Inc.	456 Anchor Rd. Anytown, AZ	602-364-8081	Rita Holt	Sidewalk, Curb & Gutter	Yes	No

QUOTE EXAMPLE

ABC Construction Company

925-321-7654
925-321-7655 Fax

Owned By U.S. Perma, Inc.

State License No. 439330 – Since 1962

Ceramic Mosaic Quarry Marble Granite Pavers Thin Brick

Date: February 4, 2013

Quote: 06190311
City: Martinez

QUOTE

Reference: DISCOVERY HOUSE FACILITY

Attention: Estimating

Base Bid: $40,938.00

Addendum's: 1 only

Inclusions
Ceramic tile lobby and restrooms. Mortar floor at restrooms, cement backer board at walls and lobby floor (included at $6,435.00). Waterproof membrane at restrooms floors.

Exclusions
Demo & Prep

This is a price quote confirmation for the aforementioned project as set forth in the inclusions section of this form. This quote is in accordance with plans, drawings, and specifications as presented to us, or as specified by your company. Shop drawings are not included unless specified above. All labor, materials, taxes, freight, equipment, etc., necessary to attain a complete product are included unless otherwise stated. This bid shall be valid for a period of sixty (60) days.

Thank you,

John Smith

123 Main Street
Anytown, CA 94553

5.06 HAVING SOUND REASON FOR REJECTING DBES

Purpose: To not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.

Action: The DBE contractor's standing within its industry, membership in specific groups, organizations or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

Bidder's GFE Documentation:

1) Demonstrate that DBEs were rejected for sound reasons based on a thorough investigation of their capabilities;

2) Provide documentation of the following examples:
   - ❑ Past performance
   - ❑ Relevant business experience & stability
   - ❑ Safety record
   - ❑ Business ethic & moral integrity
   - ❑ Technical capacity
   - ❑ Other factors

5.07 ASSISTING INTERESTED DBES - BONDING, CREDIT, INSURANCE

Purpose: To assist interested DBEs in obtaining bonds, lines of credit, and insurance as required by ADOT/Subrecipient/LPA/Grantee or Bidder.

Action: Assist interested DBEs in such areas as obtaining bonding, lines of credit, or insurance and providing any technical assistance or information related to the plans, specification, and requirements of the project, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate.

Bidder's GFE Documentation:

1) If assistance was given, list each certified DBE to which such assistance was provided and include the following information:

   a. Name of the DBE;
   b. Date assistance was provided;
   c. DBE contact person;
   d. Telephone number of contact person with DBE; and
   e. Explanation of assistance provided to the DBE (e.g., obtaining bonding, lines of credit, or insurance).

SECTION 5.07	BONDING, CREDIT, INSURANCE	EXAMPLE

BONDS, LINES OF CREDIT AND INSURANCE

DBE firm:	Date:
Contact person:	Telephone #:
Assistance offered:	

DBE firm:	Date:
Contact person:	Telephone #:
Assistance offered:	

5.08 ASSISTING INTERESTED DBES – EQUIPMENT, SUPPLIES, MATERIALS, RELATED SERVICES

Purpose: To assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance and services.

Action: Assist interested DBEs in such areas as obtaining equipment, supplies, materials, or related assistance or services related to the plans, specification, and requirements of the project, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate.

Bidder's GFE Documentation:

1) If assistance was given, list each certified DBE to which such assistance was provided and include the following information:

   a. Name of the DBE;
   b. Date assistance was provided;
   c. DBE contact person;
   d. Telephone number of contact person with DBE; and
   e. Explanation of assistance provided to the DBE (e.g., obtaining equipment, supplies, materials, or related assistance or services).

SECTION 5.08	EQUIPMENT, SUPPLIES, MATERIALS, RELATED SERVICES	EXAMPLE

EQUIPMENT, SUPPLIES, MATERIALS, RELATED ASSISTANCE OR SERVICES

DBE firm:	Date:
Contact person:	Telephone #:
Assistance offered:	

DBE firm:	Date:
Contact person:	Telephone #:
Assistance offered:	

5.09 MINORITY/WOMEN COMMUNITY ORGANIZATIONS

Purpose: To effectively use the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; other organizations as allowed for providing assistance in the recruitment and placement of DBEs.

Action:

1) Contact minority/women community organizations, DBE-related agencies recruitment/placement organizations, or other groups, for assistance in contacting, recruiting, and using DBE subcontractors, suppliers, manufacturers, and truckers. Contact should occur in a manner that allows interested DBEs to respond within **ten (10) calendar days** prior to bid opening.

   Here are some example organizations that are available for assistance with DBE recruitment. This is not a complete list and bidders are expected to contact additional organizations to assist in finding DBEs.

   Ricardo Carlo, President
   Associated Minority Contractors of America
   2630 S. 20th Place
   Phoenix, AZ 85034
   Office: (602) 495-0026 Fax: (602) 252-3749
   Cell: (623) 521-8195
   &
   3941 E. 29th Street, Suite 605
   Tucson, AZ 85711
   Toll Free: (877) 619-0026
   Email: amca@qwestoffice.net
   Web: www.amcaaz.com

   Kaaren-Lyn Morton, Business Consultant
   Minority Business Development Agency
   Business Center
   255 E. Osborn Road, Suite 202
   Phoenix, AZ 85012-2358
   Office: (602) 248-0007, Ext. 216 Fax: (602) 279-8900
   Cell: (480) 343-2799
   Email: kaaren@phoenixmbdacenter.com
   Web: www.phoenixmbdacenter.com
   Operated by the Arizona Hispanic Chamber of Commerce Foundation

   Business Engagement & Compliance Office
   Arizona Department of Transportation
   1801 W. Jefferson St. Ste. 101 (MD 154A)
   Phoenix, AZ 85007
   Office: (602) 712-7761 Fax: (602) 712-8429
   Email: DBESupportiveServices@azdot.gov

   The Arizona Unified Transportation Registration and Certification System (AZ UTRACS) online database (http://www.azutracs.com/) contains an inventory of DBEs. The database can be queried to provide a list of certified DBEs in specialty areas or discipline-specific.

2) Written requests for assistance must contain:

   a. Areas of work to be subcontracted;
   b. Bidder Name and contact person's name;
   c. Contact person's telephone number;
   d. Description of availability of plans, specifications, and other requirements for the project; and
   e. Bidder's policy concerning assistance to subcontractors (including suppliers, manufacturers, and truckers) in obtaining bonds, lines of credit, insurance, equipment, supplies, materials, related assistance and services.

Bidder's GFE Documentation:

1) Submit a copy of **each** request for assistance in recruiting DBEs.
2) Faxed copies must also include the fax transmittal confirmation slip showing the date and time of transmission.
3) Mailed letters must include copies of the metered envelopes or certified mail receipts.
4) Provide telephone number of each agency.
5) Provide contact person with the agency.
6) Provide response received from the agency (i.e., lists, Internet page, letters, emails, etc.).
7) Furnish any additional data to support demonstration of good faith efforts to contact, recruit, and utilize DBEs on this project.

SECTION 5.09	MINORITY/WOMEN COMMUNITY ORGANIZATIONS	EXAMPLE

DBE QUOTE SOLICITATION REQUEST

(Enter: COMPANY NAME) is soliciting quotes from certified DBEs for the: (Enter: PROJECT LOCATION)
(Example: Payson Winslow Highway SR 87 Limestone Wash Bridge)

Bidding Date: (Example: NOVEMBER 8, 2013)
Project No: (Example: STP-BR-087-C(203)T)
Tracs No: (Example: 000 YU YYU SS86101C)
Bids due Contractor: (Example: NOVEMBER 4, 2013)

DBEs interested in bidding this project should contact:
(Example: John Doe at 602 777 0000 or via email estimator@live.com)

(Enter: COMPANY NAME) is interested in subcontracting the following categories of work:

(Enter bid items for bid below)

- Concrete
- Seeding
- Paving
- Trucking
- Excavation
- Survey
- Traffic Control
- Guardrail
- Permanent Signs
- Excavation
- Lead Abatement
- Pavement Marking

***Please include any additional information that would assist efforts in DBE participation and a web-friendly company logo and Point of Contact.**

Bids documents can be found at: (Enter: COMPANY WEBSITE)

For questions regarding the ADOT DBE Supportive Services Program please contact us at DBEsupportiveservices@azdot.gov.

CONTACT LOG

Agency Name	Telephone Number	Contact Person	Agency Response	Services Rendered

SECTION 6.0 APPENDIX A TO PART 26 – GUIDANCE CONCERNING GFEs

The following appendix from 49 CFR Part 26 is a guide to assist agencies in determining what a good faith effort is.

APPENDIX A TO PART 26 — GUIDANCE CONCERNING GOOD FAITH EFFORTS

Note: "YOU" means the Agency (ADOT) in the following section of this requirement.

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract for procuring construction, equipment, services, or any other purpose, a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix.

The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. (1) Conducing market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should

determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. (1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in §26.53(b)(2)((vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.

Note: Contacting BECO (602 712-7761) for assistance in identifying certified DBEs that can perform work on a contract is also considered a strong factor in making good faith efforts.