



*Queen
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County*

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DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Queen Anne's County Area Agency on Aging

POLICY STATEMENT

The Queen Anne's County Area Agency on Aging (AAA) is committed to and has developed a Disadvantaged Business Enterprise (DBE) Program that is consistent and in compliance with the federal regulations of the U.S. Department of Transportation (USDOT), Title 49 of the Code of Federal Regulations (CFR) Part 26. AAA, as a sub-recipient of federal financial assistance, has signed an assurance that it will comply with 49 CFR Part 26. Accordingly, AAA encourages DBEs to compete for AAA contracts and subcontracts and encourages joint ventures between DBE and non-DBE firms who compete for AAA contracts and subcontracts.

It is the policy of the AAA to ensure that DBEs, as defined in Part 26, have an equal opportunity to participate in the procurement process for all goods and services purchased by AAA, specifically those financed in whole or in part with federal funds. It is also our policy:

1. To ensure nondiscrimination in the award and administration of USDOT- assisted contracts;
2. To ensure a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
7. To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

The Chief of Operations of the AAA has been designated as the DBE Liaison Officer (DBELO) and is responsible for implementing all aspects of the DBE Program. The DBELO will be assisted by other AAA staff as needed in implementing the DBE requirements and compliance. Implementation of the DBE Program is accorded the same priority as compliance with other legal obligations incurred by AAA.

In administering its DBE Program, AAA shall not, either directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular

race, color, sex or national origin. AAA will disseminate this DBE Program document to its members and all operating components of our organization. AAA will notify all DBE and non-DBE business communities that perform work for AAA on USDOT-assisted contracts about AAA's DBE Program.

Introduction

The Queen Anne's County Area Agency on Aging (AAA) recognizes its responsibility to ensure that Disadvantaged Business Enterprises (DBEs) have equal opportunity to participate in the performance of all contracts administered by AAA, specifically those financed in whole or in part with USDOT funds. As part of the effort to fulfill this responsibility, AAA has developed this DBE Program to reflect its commitment to the requirements and guidance contained in 49 CFR Part 26.

DBE Program Officer

The DBELO has responsibility for implementing the DBE program. The DBELO will also work with other appropriate officials and AAA staff or county staff to coordinate and implement the provisions of the DBE Program. Correspondence regarding DBE matters, as they pertain to contracts administered by AAA, should be forwarded to the Chief of Operations, 104 Powell Street, Centreville, MD 21617. The DBELO is responsible for developing, implementing and monitoring the AAA DBE Program. Duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by USDOT.
2. Review third party contracts and purchase requisitions for DBE Program compliance.
3. Work with appropriate parties to set annual DBE goals.
4. Ensure that bid notices and request for proposals are available to DBEs in a timely manner.
5. Identify contracts and procurements to assure that DBE goals are included in solicitations.
6. Analyze AAA's progress toward DBE goal attainment and, if necessary, ways to improve progress.
7. Participate with Division Directors and Project Managers to determine contractor compliance with good faith efforts.

Definitions

1. "Disadvantaged Business" means a for-profit small business concern: (a) that is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent 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.
2. "Small Business Concern" means a small business as defined in Section 3 of the Small Business Act and Small Business Administration (SBA) regulations implementing the Act at 13 CFR Part 121.
3. "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans or other individuals found to be socially and economically disadvantaged by the Small Business Administration pursuant to the Small Business Act.
4. "Joint Venture" means an association of a DBE firm and one or more other firms to carry out a single for-profit business enterprise for which purpose they combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Applicability

The DBE Program applies to all AAA goods and services purchased through a formal procurement process by the issuance of Request for Proposals (RFPs) or Invitations for Bids (IFBs).

Goals of the DBE Program

A. Overall DBE Participation Goals

AAA will set DBE goals for individual contracts determined by availability of DBE contractors.

B. DBE Subcontract Goals

AAA will set DBE goals for individual contracts that AAA determines will have subcontracting possibilities. AAA will review its DBE participation goals on past such contracts and the availability of DBEs in the subject areas in which subcontracts are to be awarded before setting a subcontracting DBE goal.

Implementation of DBE Participation Goals

A. Methods for Achieving DBE Goals

1. AAA will use race-neutral means to obtain DBE participation. A race neutral programs means that AAA expects to achieve its DBE goal through the normal competitive bid process. AAA will provide assistance to ensure that DBEs have the opportunity to participate in AAA procurements.

B. Identification of DBE Participants

In a formal RFP/IFB procurement for which a contract DBE goal is established, AAA shall require all bidders to include a plan for meeting the contract DBE participation goal. Bidders' submittals shall include the name of any DBE subcontractors who will participate in the contract, a clear and concise description of the work to be performed by each DBE subcontractor, written confirmation from the DBE that it is participating in the contract as detailed in the prime contractors plan and the dollar amount of each proposed DBE subcontract. AAA may include DBE participation as an evaluation criterion in selecting bidders for award. If the contract goal is not met, evidence of good faith efforts to meet the goal must be documented and provided.

C. DBE Certification

AAA is not responsible for determining the eligibility of any particular company to be certified as a DBE. A directory of Maryland Department of Transportation (MDOT) certified DBE firms is maintained on their web site (<http://mbe.mdot.state.md.us>). If a DBE is not certified by MDOT, the DBE must become certified with MDOT prior to a bidder's proposal being submitted to AAA.

D. Good Faith Efforts

It is the obligation of the bidder to make good faith efforts in meeting DBE contract goals either by meeting the contract goal or by documenting good faith efforts. If the contractor will not meet the DBE goal DBELO can request additional documentation regarding the bidder's efforts to meet the DBE contract goal prior to the issuance of a final determination of whether the bidder made adequate good faith efforts to meet the contract goal.

AAA will also include in contracts with a DBE goal a provision stating that prime contractors cannot terminate a DBE subcontractor for convenience and then perform the work of the terminated subcontractor with its own forces, or that of an affiliate, without the prior written approval of the AAA DBELO. If the prime contractor does terminate a subcontractor or if a DBE subcontractor fails to complete its work for any reason, the prime contractor will be required to make good faith effort to find another certified DBE subcontractor to substitute for the original DBE. If the prime contractor fails or refuses to comply within an agreed time period, the DBLEO may issue a formal order stopping all or part of work/payment until satisfactory action has been taken. If the prime contractor still fails to comply or resolve the issue to the satisfaction of the DBLEO, the DBLEO can terminate the contract.

E. Contract Assurance

AAA will incorporate into each USDOT-assisted contract it signs with a prime contractor and require in each subcontract (that the prime subcontractor signs with a subcontractor) the following clauses:

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 USDOT- 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 remedy as the recipient deems appropriate.

F. Record Keeping and Reporting

AAA will maintain a bidder's list, consisting of information about all DBE and non-DBE firms that bid or quote on any formal procurement contract proffered by AAA. The purpose of the list is to provide AAA as accurate data as possible about available DBE and non-DBE firms who seek to work on AAA contracts regardless of fund source and for AAA's use of the bidders list approach to assist in calculating its overall goal. The bidders list will include the name, address, DBE or non-DBE status, age and annual gross receipts of firms. Information for the bidders list may be collected as determined by AAA, including, but not limited to, collecting said information from all bidders before or after the bid due date or conducting an alternative information collection method. For contracts that have a DBE contract goal, AAA shall obtain reports from prime contractors on their progress in meeting the DBE participation goal in their contracts.

G. Program Monitoring

For contracts that include a DBE contract goal, AAA will implement appropriate mechanisms to ensure compliance with the DBE requirements of the contract. When a DBE subcontractor begins work on the project, AAA will review all available information to verify that the DBE contractor identified will perform a commercially useful function and must be ready, willing and able to carry out its responsibilities by actually performing, managing and supervising the work involved, consistent with standard industry practices. If AAA determines that the DBE contractor is not performing a commercially useful function, AAA will notify the prime contractor in writing regarding the finding and provide the contractor 10 work days to eliminate the contract infraction.

Authorizing Signature



Date

06/2017