

# **CARROLL COUNTY**

## **CARROLL COUNTY DISADVANTAGED BUSINESS ENTERPRISE POLICY**



**Department of the Comptroller  
Bureau of Purchasing  
02/20/18**

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## **I. PURPOSE**

The purpose of the Disadvantaged Business Enterprise Policy is to provide maximum contracting opportunities to certified Disadvantaged Business Enterprises by using race-neutral, gender-neutral measures to facilitate Disadvantaged business participation in the procurement process.

## **II. GOALS**

- A. Carroll County's goal is to achieve a total of 10% participation from certified Disadvantaged Business Enterprises for all Procurement Contracts which are state or federally funded, in whole or in part. This is an overall goal for all State or Federally funded Procurement Contracts. This is not a goal for each and every State or Federally funded Procurement Contract. Carroll County will comply with the specific percentage required by the State or Federal entity providing the funding for each Procurement Contract.
- B. Carroll County's goal is to make good faith attempts to encourage bids or offers from certified Disadvantaged Business Enterprises for all County funded Procurement Contracts which exceed Five Hundred Thousand Dollars (\$500,000.00).

## **III. DEFINITIONS**

- A. **“Central Directory”** means the Directory published by the State Department of Transportation listing entities that have been determined to be certified Disadvantaged Business Enterprises. The Directory specifies the type of supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services primarily provided by the Disadvantaged Business Enterprise and the date of the certification. The Directory includes the address, telephone number and contact person for the Disadvantaged Business Enterprise.
- B. **“Certification”** means the determination made by the State Department of Transportation that a legal entity is a Disadvantaged Business Enterprise.
- C. **“Certified Disadvantaged Business Enterprise” or “Certified DBE”** means a Disadvantaged Business Enterprise that holds a certification.
- D. **“Contractor”** means any person or entity that has a contract with the County to provide supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services.
- E. **“Contracts Officer”** means the person designated by User to act as the Disadvantaged Business Enterprise liaison officer in the administration of the Disadvantaged Business Enterprise Policy.
- F. **“County”** means the Board of County Commissioners of Carroll County.
- G. **“Disadvantaged Business Enterprise” or “DBE”** means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is at least fifty-one (51) percent owned and

controlled by one or more disadvantaged persons, or a nonprofit entity organized to promote the interests of the physically or mentally disabled.

- H. **“Disadvantaged Person”** means a member of a socially or economically disadvantaged group.
- I. **“Procurement Contract”** means a contract to provide supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services for a project.
- J. **“Purchasing”** means the Bureau responsible for procuring supplies, products, services, maintenance, construction, construction-related services, architectural services and engineering services.
- K. **“Solicitation notice”** means public notice of a solicitation for bids, offers, or expressions of interest, which contains the nature of the procurement, relevant dates, the availability of solicitation documents, if any, and other pertinent information. The notice may consist of, but is not limited to, a legal advertisement, a newspaper notice, a notice on the Internet, or bid or proposal documents including the invitation for bids or request for proposals.
- L. **“User”** means the Bureau or Department that desires to circulate a solicitation notice for supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services. For capital projects, User means the administering authority, such as the Bureau of Building Construction or Bureau of Engineering.

#### **IV. METHODS OF PROCUREMENT FOR CONTRACTS WHICH ARE STATE OR FEDERALLY FUNDED, IN WHOLE OR IN PART**

The following methods of procurement will be used to notify DBEs of contract opportunities:

##### **A. General**

1. The User shall assess the potential for certified DBE participation in each contract and the amount of participation expected before initiating the procurement. Purchasing shall use the procurement method decided most appropriate for the particular contract.
2. The following factors shall be used to anticipate the degree of certified DBE participation, to decide the certified DBE subcontract participation goal, and the DBE procurement method to use:
  - (a) The extent to which the direct method or subcontracting method or combination of both methods is determined most likely to result in maximum certified DBE participation in the project.
  - (b) The number of certified DBEs listed in the Central Directory or otherwise identified for a particular supply, product, service, maintenance, construction, construction-related service, architectural service, or engineering service;
  - (c) The geographical proximity, when relevant, of certified DBEs to the location of the work to be performed;

- (d) The feasibility of subcontracting opportunities given the nature and extent of the proposed contract; and
- (e) Specific statutory participation goals applicable to the procurement.

**B. Direct Method**

1. If it is known that certified DBEs could provide the entire contract, the certified DBEs may be solicited directly.
2. Purchasing shall send a copy of all solicitation notices to certified DBEs located in geographical proximity to the project, listed in the Central Directory maintained by the State Department of Transportation as providing, or otherwise known to be providing, supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services being procured.
3. Purchasing, in cooperation with User, shall solicit a sufficient number of certified DBEs as to reasonably assure one or more certified DBE responses to the solicitation notices.
4. The following language should be included in the advertisement: “Disadvantaged Business Enterprises are encouraged to respond to this solicitation.”

**C. Subcontracting Method**

1. Notwithstanding whether the direct method is used, all construction contracts shall contain a certified DBE subcontract participation goal, determined by User, which the Contractor shall attempt to subcontract to certified DBEs.
2. The following language must be included in the solicitation: “An DBE subcontract participation goal of \_\_\_\_ percent of the total current amount has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that a good faith effort will be made to meet the participation goal.”
3. The bidder or offeror shall submit with its bid or proposal a completed Certified DBE utilization affidavit in a format similar to that in attached Exhibit D.
4. The names of prime contractors requesting solicitation documents for construction contracts shall be made available on request to any certified DBEs whose specialty suggests an interest in subcontracting.
5. Each prime contractor given solicitation documents, and who does not have an updated Central Directory shall be given, upon request, one copy of the Directory or the pertinent portions for the purpose of soliciting subcontract quotes, bids, or offers from certified DBEs.

**V. RESPONSIBILITIES OF CONTRACTS OFFICER DESIGNATED BY USER**

The Contracts Officer shall:

- A. Coordinate initial outreach efforts in search of a General Contractor to the disadvantaged business community through media sources, including but not limited to newspapers, television, the Internet, or any other media accessible to the public, or by coordinating periodic meetings between Purchasing and DBEs to advise DBEs of procurement opportunities;
- B. Review contracting procedures to ensure compliance;
- C. Assist in the resolution of contracting issues; and,
- D. Submit DBE compliance reports and copies of required forms to Purchasing.

**VI. REQUIRED FORMS**

A. The following documentation shall be considered part of the contract and shall be furnished by the successful bidder or offeror to User during the term of the contract, but no later than one month prior to the end of the term of the contract:

1. Schedule of Participation

This document shall name each certified DBE who will participate in the project and shall describe the contract items to be performed or furnished by each DBE, the proposed timetable for performance, and agreed prices to be paid to each DBE for the work or supply, in a format similar to that set forth in Exhibit A.

2. DBE Subcontractor Project Participation Statement

This document shall be signed by the bidder or offeror and each DBE listed in the Schedule of Participation. It shall include a statement of intent to enter a contract between the Contractor and each subcontractor or, if the Contractor has awarded to subcontractors, it shall include copies of Subcontractor Agreements and the amount and types of bond required by the DBE subcontractors, if any. It shall be in a format similar to that set forth in Exhibit B.

3. List

The list shall include: evidence of Contractor's compliance with outreach efforts, certified DBE subcontractors with whom the Contractor solicited, and price quotes received from both Disadvantaged and non-disadvantaged subcontract bidders. The list shall be in a format similar to that set forth in Exhibit C.

4. Affidavit

The affidavit shall be signed by the Contractor and shall state that in the solicitation of subcontract quotes or offers, DBE subcontractors were provided not less than the same information and amount of time to respond as were non-DBE subcontractors, and that the solicitation process was conducted in such manner as to otherwise not place DBE subcontractors at a competitive disadvantage to non-DBE subcontractors. The Affidavit shall be in a format similar to that set forth in Exhibit D.

5. Other Documents

A waiver may be submitted in accordance with Section VII, if applicable.

B. If the contract has been awarded and the above-referenced documentation is not furnished, or if,

based on review of the above-referenced documents, User determines that the bidder or offeror has not complied with the certified DBE subcontract participation goal and has not obtained a waiver, or determines that the bidder or offeror failed to comply with the outreach efforts, User may reject the bid or cancel the award of the contract.

## **VII. WAIVER**

If, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for the certified DBE participation, the bidder or offeror may request, in writing, a waiver to include the following:

- A. A detailed statement of the efforts made to select portions of the work proposed to be performed by certified DBEs in order to increase the likelihood of achieving the stated goal;
- B. A detailed statement of the efforts made to contact and negotiate with certified DBEs including:
  - 1. The names, addresses, dates, and telephone numbers of certified DBEs contacted, and
  - 2. A description of the information provided to certified DBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
- C. As to each certified DBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
- D. A list of Disadvantaged subcontractors found to be unavailable, which shall be accompanied by an DBE unavailability certification signed by the Disadvantaged Business Enterprise, or a statement from the apparent successful bidder or offeror that the disadvantaged business refused to give the written certification; and
- E. The record of the apparent successful bidder's or offeror's compliance with the outreach efforts required.
- F. The request for waiver shall be submitted to User to make a determination regarding waiver. The request and the determination made by the User shall subsequently be submitted to Purchasing for its files.

## **VIII. AMENDMENT FOR UNFORESEEN CIRCUMSTANCES**

Any change after contract execution may occur only upon written approval by User and contract amendment. The contract amendment should subsequently be forwarded to Purchasing for its files.

## **IX. COMPLIANCE**

- A. To ensure compliance with the certified DBE participation goals, User shall verify that certified, DBEs in the Schedule of Participation are actually performing work and receiving compensation as set forth in the Schedule of Participation.

- B. To demonstrate compliance to User, the Contractor shall permit User to inspect any relevant matter, including records and the jobsite and to interview subcontractors and workers.
- C. If User determines Contractor's noncompliance, User shall notify Contractor in writing of the findings and direct the Contractor to take corrective actions. The Contractor is required to initiate corrective actions within ten (10) days and the corrective actions shall be completed within the time specified by User. If Contractor's noncompliance is material and Contractor refuses to or fails to take corrective action, the contract may be terminated.

**X. REPORTING**

Purchasing shall complete an annual report, based on information provided by Users, following the close of the fiscal year, and the report shall include the following:

- A. Total number and value of its procurements from certified DBEs as prime contractors and separately as subcontractors by specific category of Disadvantaged Business Enterprise;
- B. Percentage by specific category of Disadvantaged Business Enterprise, of DBE procurements based on the total number and value of its total procurements for the fiscal year;
- C. The number of waivers granted;
- D. An evaluation by Purchasing of the DBE program.

**EXHIBIT A**  
**SCHEDULE OF PARTICIPATION**

## SCHEDULE OF PARTICIPATION

Contractor:

Project Name:

Date:

Project Number:

DBE Goal:

Contract Amount:

<b>Certified Disadvantaged Business Enterprise</b>	<b>Description of Work to Perform</b>	<b>Proposed Timeframe for Performance</b>	<b>Agreed Price</b>

**EXHIBIT B**

**DBE SUBCONTRACTOR PROJECT PARTICIPATION STATEMENT**

**DBE SUBCONTRACTOR PROJECT PARTICIPATION STATEMENT**

Contractor:

Subcontractor:

Date:

Project Number:

Project Name:

Contract Amount:

Date of Agreement (if applicable):

All questions must be answered. If necessary, questions may be answered on separate attached sheets. The Contractor and/or Subcontractor may submit any additional information.

1. Proposed Subcontract Start Date
2. Proposed Completion Date
3. Type of Bond and Amount of Bond (Subcontractor)
4. Insurance Information (Subcontractor)
5. Available Credit
6. Bank Reference
7. List key employees, functions, and experience
8. Main office address
9. Telephone number

Contractor and Subcontractor ( ) intend to enter into an Agreement or ( ) have entered into an Agreement (attached hereto) with regard to the project set forth above.

Contractor:

Subcontractor:

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT C**  
**CONTRACTOR'S LIST**

## CONTRACTOR'S LIST

Contractor complied with outreach efforts by doing the following:

- Solicited DBEs through written notice
- Attempted personal contact with DBEs
- Assisted DBEs with bond requirements
- Attended pre-bid meetings to publicize contracting opportunities to DBES
- Other: please specify

Contractor solicited the following certified DBE subcontractors:

Contractor received the following price quotes from disadvantaged subcontract bidders:

Contractor received the following price quotes from non-disadvantaged subcontract bidders:

**EXHIBIT D**

**AFFIDAVIT**

**AFFIDAVIT**

I, \_\_\_\_\_, under penalties of perjury, do solemnly swear and affirm, that in the solicitation of subcontract quotes or offers, DBE subcontractors were provided not less than the same information and amount of time to respond as were non-DBE subcontractors. The solicitation process was conducted in such a manner as to otherwise not place DBE subcontractors at a competitive disadvantage to non-DBE subcontractors.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date