

FOCUS *on* DBE



Delaware Department of Transportation (DelDOT) encourages doing business with Delaware Certified Disadvantaged Business Enterprises (DBEs)

Spring 2011 • Vol. 5, Issue 2

A quarterly newsletter published by the DelDOT DBE Program

Recent Changes to DBE Program Aim to Help You Get in the Game

The U.S. Department of Transportation (USDOT) recently announced several changes to the ruling that will help economically and socially disadvantaged businesses take advantage of opportunities to participate in federally funded highway, transit and airport projects. Following are the changes to CFR 49 Part 26 and how they may help you increase your business opportunities on federally funded transportation projects.

Interstate Certification Provision

One of the most significant new ruling changes is an interstate certification provision that enhances the ability of already certified Disadvantaged Business Enterprises (DBEs) to do business outside of their home-certified states.

If you are currently a DelDOT certified DBE, you are eligible to also apply for DBE certification in any state of your choosing. That state may opt to either reciprocally accept your home-state certification, or require you to provide the application documents that you originally submitted to your home state. Once a complete application package is received, the state program to which you have applied has 60 days to review and determine whether it has specific objections to your DBE eligibility and to communicate those objections to you.



According to DBE Program Manager Travis Crawford, "DelDOT has already enacted the procedures for interstate certification compliance; however, nationwide compliance with the revised ruling does not become mandatory until January 1, 2012." He cautioned to keep this in mind as you begin to look for ways to expand your services to USDOT-assisted projects in other states.

Crawford added, "I encourage DBEs to act quickly on interstate certification if they wish to look for business opportunity in other states. I have seen too many instances

of out of state firms wishing to work on a DelDOT contract but unable to get their certification approval in time. Firms that attempt to get certification approval at the same time an opportunity is found will unfortunately begin the process too late."

Personal Net Worth Threshold

The Personal Net Worth threshold required to maintain DBE eligibility has been adjusted due to inflationary measures from \$750,000 to \$1.32 million. The "real purchasing power" of the original limit of \$750,000, set in 1989, has gradually decreased over time.

To maintain the status quo in real dollar terms, the USDOT adjusted the limit to 2010 levels, or \$1.32 million. Keep in mind that the wealth of someone with \$1.32 million in assets today is the same, in buying power terms, as that of someone with \$750,000 in 1989.

Eligibility Reviews

Past DelDOT DBE Certificates were issued with an expiration date of three years from the original date of certification. This was done for each DelDOT DBE to assure eligibility was maintained.

The new ruling now states that once a DBE has been certified by DelDOT, it will remain

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so until eligibility has been removed by either DelDOT or the firm's home state.

Although DelDOT retains the authority to review eligibility status at any time, new DBE Certificates are being issued without expiration dates. Previously

certified DelDOT DBE firms will be re-issued certificates with no expiration dates upon request only.

Crawford explained, "This new provision does not release DBEs from their obligation to timely notify DelDOT of

any change in the information provided on their original application." To update your information or request a re-issued certificate, contact Amy Miller at amy.miller@state.de.us or (302) 760-2035.

Increased Accountability

While the USDOT continues to require state and local transportation agencies to establish goals for DBE participation, the new rulemaking requires greater accountability from state and local transportation agencies to include disadvantaged businesses in their spending plans. Those that fail to meet established goals for DBE participation will be required to evaluate why the goals were not met and offer a plan to help meet the goal in the future.

DelDOT's program currently has an annual DBE participation goal of 11.26% of all federal dollars used in participating DelDOT projects "The number of DBEs that are certified through DelDOT have a direct impact on the annual goal. So in reality, more (DBEs certified) is better," Crawford explained.

Prime Contractors

The Department of Transportation's rulemaking will also add provisions to ensure that prime contractors fulfill commitments to use DBE subcontractors.

Under this provision, state and local agencies will be required to monitor each contract to make sure prime contractors are fulfilling their obligations and do not dismiss DBE subcontractors without good cause. The rule also requires state and local agencies to create a plan for improving the use of small businesses, including DBEs.

With these new regulations to 49 CFR Part 26 — the legislative foundation of the DBE Program — there has never been a better time to be a certified DBE. A full copy of the ruling is available online at DelDOT's new Civil Rights page at www.civilrights.deldot.gov

Newly Certified DBEs

The following businesses have successfully completed DelDOT's Disadvantaged Business Enterprise (DBE) certification. For more information about the services these businesses and all DelDOT certified DBEs offer, visit the online Unified Directory of Certified DBE Firms at www.deldot.gov/information/business/dbe/bulletin_board.shtml and click on DBE Resources.

Elite Parking Services of America, Inc.

Valet parking services; parking garage maintenance, and management

Hurley-Franks & Associates

Public relations services

Intellect Corporation

Electrical & fiber optics; communications computer system design engineering procurement for transportation equipment

Stokes Creative Group, Inc.

Advertising agency; marketing consulting; video production, web design; display advertising

JLC Associates, LLC

Civil and environmental engineering and consulting services; GIS base mapping; landscape architectural services

K. L. I., Inc.

Manufacturer of specialty electro-mechanical assemblies, cables, and harnesses

Lager Raabe Skafte Landscape Architects, Inc.

Landscape services including plan and design

Mary A. Lynch

Airline industry consulting services including marketing and management

Mercado Consultants, Inc.

Construction management, infrastructure projects; highway & bridge design & inspection; civil, structural & consulting engineering services; surveying & mapping services (e.g. GIS)

Procopio & Associates, Inc.

Administrative support including document, contract, permit, fleet, and office management services

Quarry Products Unlimited, Inc.

Broker of asphalt; dealer of brick, stone, crushed stone & related materials; local hauling of gravel, sand, top-soil, asphalt & related materials

Richard Grubb & Associates, Inc.

Environmental consulting services; archeological research & development services; humanities research & development services

Seagull Fence & Concrete, LLC

Fencing contractor; dealer and installation of commercial & residential fence, all types

Sharon Greene & Associates

Financial management consulting (except investment advice); business management services

WSD Contracting, Inc.

Sidewalk construction; concrete paving, curbs & street gutters; highway, road & street construction

Making Business Cents

Teaming to Win Larger Contracts

As federal and corporate contract requirements become more complex—larger in capacity, volume, and dollar amount—small businesses may find it more difficult to bid and win contracts. To compete for these contracts, an option to consider is teaming with other businesses to enhance your chances of winning government contracts.

Why enter into a teaming arrangement? By teaming with the larger prime in bidding for government work, a competent, smaller business may obtain access to government business that would otherwise be denied. The prime contractor, on the other hand, can achieve greater control over its costs through a pre-bid teaming agreement with a potential subcontractor.

The act of teaming is being supported to the point that a pilot program to promote teaming is being established by the federal government. Signed into law September 10, 2010 by President Obama, the Small Business Jobs Act includes legislation authorizing the Small Business Administration to establish a Small Business Teaming Pilot Program for teaming and joint ventures involving small business concerns.

The pilot program is intended to help small businesses find other businesses that may be interested in teaming with them; aid small businesses with the development and execution of teaming arrangements; help teams of small businesses with identifying appropriate larger contracting opportunities; and facilitate teams of small businesses with the preparation and submission of bids and offers.

As a small business, you can form numerous types of teaming arrangements to pursue contracts, including:

Prime-Subcontractor

Most often teaming agreements take the form of prime-subcontractor relationships. In this model, prime contractors seek out subcontractors. In this prevailing teaming model, once the contract is awarded, the prime contractor is the point of contact with the government and manages the subcontractor's performance and adherence to the subcontract.

Partnerships

Partnerships consist of two or more individuals who come together to co-own a trade or business for profit. The partners share ownership of a single business and the law makes no distinction between the business and the individuals. Partnerships fall into two basic types: *general* and *limited*. General partnerships are easy to form but carry the greatest amount of risk and are not the preferred form of teaming. Limited partnerships may be strategic when a small business needs significant capital for start-up costs on a large contract.

Joint Ventures

Firms may also form joint ventures, in which individuals come together to undertake a particular project rather than the indefinite term of a partnership. Like partnerships, all parties in joint ventures share in profits and losses and have access to the government. Should any member fail to adhere to terms and conditions, the entire joint venture entity bears responsibility; and therefore, it is advisable to include indemnification provisions in joint venture agreements. Agreements should also clearly define the roles of each member and how profits and losses will be distributed.

If you have recently teamed to win a government contract and would like to share your experience so others can learn the *do's* and *do not's*, please contact Linda Milligan via e-mail at linda.milligan@state.de.us.

Mentor-Protégé Program

Joint ventures can be difficult to administer. However, *Mentor-Protégé Programs* offered by the SBA, DoD and other federal agencies, offer unique models of joint ventures with particular advantages for small business owners.

The Mentor-Protégé program is designed to motivate and encourage large business prime contractor firms to provide mutually beneficial developmental assistance to small businesses, including: veteran-owned, HUBZone, disadvantaged, and women-owned small businesses.

The program is also designed to:

- improve the performance of contracts and subcontracts;
- foster the establishment of long-term business relationships between large prime contractors and small business subcontractors; and
- strengthen subcontracting opportunities and accomplishments

Each agency that participates in the program has specific guidelines for participation. If you are interested in being a Mentor or Protégé, refer to the eligibility guidelines for the specific federal agency you seek to do business with. For all agencies, firms must be in good standing in the federal marketplace.

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Bid Opportunities

For hundreds of contracting opportunities, visit DeIDOT's online DBE website at www.deldot.gov/information/business/dbe/index.shtml and click on Upcoming Projects.