

Subject: FEDERAL REQUIREMENTS FOR PROCURING MINORITY BUSINESS ENTERPRISES/DISADVANTAGED BUSINESS ENTERPRISES (MBE/DBE) SERVICES - STATE REVOLVING LOAN FUND (SRF)

When an applicant for SRF funding receives a loan by the Nevada Division of Environmental Protection (NDEP) which includes federal monies, the loan recipient and the contractor must make a good faith effort to comply with the procurement requirements of 40CFR31.36(e). The following six affirmative steps for utilizing MBEs/DBEs are as follows:

1. Inclusion of MBEs/DBEs on solicitation lists.
2. Assure MBEs/DBEs are solicited once they are identified.
3. Where feasible, divide total requirements into smaller tasks to permit maximum MBE/DBE participation.
4. Where feasible, establish delivery schedules which will encourage MBE/DBE participation.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency and the U.S. Small Business Administration to identify MBEs/DBEs.
6. Require that each party to a subgrant, sub-agreement or contract award take the affirmative steps outlined here.

Loan recipients and contractors will need to document their "good-faith" efforts to NDEP when procuring construction, equipment supplies and services. This is especially true for **sole source procurements**. While sole source procurements are not per se prohibited, they must be justified in the context of the federal regulation noted above where projects are funded with federal dollars. Loan recipients are also responsible for ensuring that their consultants are aware of the federal procurement requirements when making recommendations for sole source procurement. **Consultants should be advised that they may have to justify such recommendations to the loan recipient. The loan recipient may be subject to audit by both the U.S. EPA and/or the NDEP to ensure that these requirements are met.** Call 775 687-9420 for any questions regarding this memorandum.