



Board of Water and Sewer Commissioners  
Policy No. DBE 17-01  
Approved: March 06, 2017

## **DISADVANTAGED BUSINESS ENTERPRISE POLICY FOR CONTRACTS FOR SMALL PUBLIC WORKS AND OTHER GOODS AND SERVICES**

### **PURPOSE:**

The purpose of this Policy is to increase meaningful participation of Disadvantaged Business Enterprises in MAWSS contracts for public works projects which have a dollar value below the requirement for competitive bidding under the Public Works Act, and for contracts for goods and services handled by the MAWSS Purchasing Department and other MAWSS Cost Centers. This Policy will set forth MAWSS's goals for DBE participation and DBE Program requirements for MAWSS employees and consultants who manage these contracts.

### **SCOPE:**

This Policy will apply to all MAWSS small contracts for public works which do not meet the dollar threshold for required competitive bidding under Alabama law. This Policy will also apply to contracts for goods and services handled through the Purchasing Department and other MAWSS Cost Centers. If a contract is to be paid all or in part with non-MAWSS funds, and a funding entity has DBE program requirements that exceed or are more stringent than those of this Policy, then the additional DBE policy provisions of the funding entity or entities will also apply as contract requirements.

Contracts for publicly bid Public Works Act projects are subject to MAWSS's DBE Policy 16-1.

MAWSS will comply with Alabama's competitive bid laws found at Section 41-16 1, et seq, Code of Alabama (1975), as amended, for contracts for goods and services. In addition, nothing in this Policy is intended to preclude MAWSS from advertising for bids or seeking competitive prices for any contract, whether or not it meets the dollar threshold for applicability of Alabama's competitive bid laws.

### **DEFINITIONS:**

Contractor - An individual or business entity seeking to contract with MAWSS for a small public works project not subject to the Public Works Act's bidding requirements, or for other goods or services.

DBE - Disadvantaged Business Enterprise - A for profit small business concern for which socially and economically disadvantaged individuals own at least a 51 % interest and also control management and daily business operations, certified as such on one or more of the lists of DBE's referenced in this Policy.

MAWSS - Mobile Area Water and Sewer System.

Public Works Project - This will be as defined in §39-2-1, Code of Alabama, (1975), as amended.

Subcontractor - For purposes of this Policy, a subcontractor means an individual or business entity which subcontracts with the general contractor to perform work or services for a public works project.

Supplier - For purposes of this Policy, an individual or business entity who enters into a contract with a general contractor to provide materials, equipment, or other products or items for a project.

Supplies - For purposes of this Policy, this term may include materials, equipment, supplies, or other products or items for a project.

Goods - Are items that are tangible, such as books, pens, shoes, hats, folders, chemicals, equipment and any other tangible items.

Services - Are activities provided by other people such as consultants, consulting engineers, lawn care workers, custodial workers, lawyers, information technology personnel, or online services.

## **POLICY:**

**It is MAWSS policy that Disadvantaged Business Enterprises (DBE's) be given ample and fair opportunities to contract with MAWSS.** MAWSS and its consultants who assist in managing contracts for small public works and for other goods and services will make earnest and diligent efforts to notify certified DBE's of upcoming MAWSS contracts and to ensure that DBE's have the maximum allowable opportunity to do business with MAWSS.

MAWSS acknowledges that some goods and services cannot utilize DBE's, or that a DBE may not exist for a particular product or service. However, many other contracts can be performed by DBE's. **It is MAWSS's goal that for contracts which offer opportunities for DBE participation, MAWSS's employees and consultants shall make a demonstrated good faith effort to award fifteen percent (15%) of the total dollar value of these contracts to certified DBE's.**

This Policy shall be race and gender-neutral. MAWSS and its consultants who assist in awarding and managing these contracts shall not discriminate on the basis of race, color, national origin, ethnicity, or sex.

## **IMPLEMENTATION - MAWSS DBE PROGRAM:**

### **A. DBE Requirements - Seeking DBE participants:**

**MAWSS and its consultants who manage contracts subject to this Policy shall make good faith efforts to comply with MAWSS's goals for DBE participation by learning about, contacting, and negotiating with potential DBE's who are able and available to perform small Public Works projects or to provide services or goods to MAWSS.**

When a MAWSS employee or consultant begins the process of seeking a contractor for a small public works project or to provide other services or goods, the MAWSS employee or consultant shall first determine

whether the contract offers opportunities for participation by DBE's. If it does, the MAWSS employee or consultant shall:

- Review the lists of certified DBE's provided in this Policy for DBE's who are able and available to fulfill the contract.
- Use the services of available community organizations, small and/or disadvantaged business groups, local, state, and federal small or disadvantaged business assistance offices, and other organizations which provide assistance in recruitment and placement of DBE's, to obtain information and contact information for DBE's who might be able to fulfill the contract.
- Notify the DBE's in writing of the contract opportunity with details of the contract requirements.
- Provide notifications in general circulation media, trade association publications, and on the MAWSS website concerning the opportunity to contract with MAWSS.
- Give DBE's a reasonable time to respond to the notifications and submit price quotes and other proposal information.
- Follow up by contacting the DBE's after the initial solicitation, to determine if the DBE's are interested in submitting pricing and other information for the contract.

MAWSS staff and consultants may also schedule meetings for DBE's to obtain information about a particular upcoming contract or other expected contract opportunities at MAWSS. This should be coordinated with the MAWSS DBE Office.

#### B. Lists of Certified DBE's:

MAWSS and its consultants who manage contracts subject to this Policy shall utilize MAWSS's most recent list of certified DBE's as well as the other lists specified below. MAWSS's list of certified DBE's includes a description of the areas for which each DBE can provide services or supplies. Verification shall be obtained from the DBE Office that a contractor from a non-MAWSS list also meets MAWSS DBE certification requirements.

Additional lists of certified DBE's are:

- MAWSS List of Certified Disadvantaged Business Enterprises - [www.mawss.com](http://www.mawss.com)
- Alabama Department of Transportation Certified List - [www.dot.state.al.us](http://www.dot.state.al.us)
- SRMSDC Certified List [Southern Region Minority Supplier Development Council] [www.srmsdc.org](http://www.srmsdc.org)
- ADECA Certified List [Alabama Department of Economic and Community Affairs] [www.adeca.alabama.gov](http://www.adeca.alabama.gov)
- BCIA Certified List [Birmingham Construction Industry Authority] [www.bcial.org](http://www.bcial.org)

MAWSS employees and consultants handling contracts subject to this Policy may also contact MAWSS's DBE Office with the name and business information of any potential DBE who would like to be added to the MAWSS certified list. The MAWSS DBE Office will determine if the DBE meets certification requirements.

The current listings of DBE's certified by MAWSS are available on MAWSS's website: [www.mawss.com](http://www.mawss.com) or by contacting MAWSS's DBE Office at (251) 694-3194.

C. Competitive Bid Law provision allowing preference over foreign entity:

**For a goods or services contract which is subject to Alabama's competitive bid laws, the MAWSS employee or consultant handling the contract may award it to a DBE who is also a responsive and responsible bidder and who submits a bid no more than ten percent (10%) greater than that of an apparent low bidder which does not have a place of business in Alabama:**

**. . . in the event the lowest bid for an item of personal property or services to be purchased or contracted for is received from a foreign entity, where the county, a municipality, or an instrumentality thereof is the awarding authority, the awarding authority may award the contract to [a] responsible bidder whose bid is no more than 10 percent greater than the**

**foreign entity if the bidder has a place of business within the local preference zone or is a responsible bidder from a business within the state that is a woman-owned enterprise, an enterprise of small business, as defined in Section 26-10-3, a minority-owned business enterprise, a veteran-owned business enterprise, or a disadvantaged- owned business enterprise.** For purposes of this subsection, foreign entity means a business entity that does not have a place of business within the state.

*Section 41-16-50 (d), as amended [as of the date of approval of this Policy], emphasis added.*

D. MAWSS tracking of DBE Program Achievements:

1. Documentation for each specific contract.

MAWSS employees and consultants who manage contracts subject to this Policy shall maintain records for each contract noting the following:

- Whether the contract was determined to be appropriate for possible DBE participation, and if not, why not.
- If the contract was determined to be appropriate for DBE participation but no DBE was used, the documentation shall state the reasons. The documentation shall describe all efforts made to obtain DBE participation and the reasons these efforts were not successful.
- If one or more DBE's did participate in the contract, the documentation shall include the name of each DBE and the dollar amount paid to the DBE.
- If a contract with a DBE is terminated prior to its termination date, this must be documented, along with the reasons for the early termination. Documentation must also include a description of efforts made to engage another certified DBE as a replacement contractor.

2. Periodic Reports.

By MAWSS employees and consultants: MAWSS employees and consultants who manage contracts subject to this Policy shall report monthly or as otherwise required by MAWSS's Director regarding the MAWSS contracts currently being performed by DBE's. The DBE Office shall provide a form for this report. The report will include the name of each such contract, the name of the DBE, and the dollar amount paid by MAWSS to the DBE for the preceding month for that contract. The reports shall be submitted to the MAWSS DBE Office.

By the DBE Office: The MAWSS DBE Office shall prepare a monthly report showing the results of the efforts made to achieve this Policy's 15% goal. The report shall show the amounts paid to certified DBE's for MAWSS's small public works projects and other goods and services contracts for the preceding month and for the year to date. These amounts will be compared to the total amount available for DBE participation. A copy of this report will be submitted to the Director and will also be available for Board review at any time.

3. Reports to the Board.

MAWSS's DBE Coordinator will report to the MAWSS Board quarterly on DBE utilization and on other efforts by MAWSS's DBE Office to enhance DBE participation in MAWSS's contracts.

MAWSS may also contract for Disparity Studies as determined by the Board, to provide further information to enhance MAWSS's DBE Program.