



Contract Compliance Program

Including

Equal Employment Opportunity Program

Disadvantaged Business Enterprise Program

Targeted Small Business Program

Revised January 2007

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this Contract Compliance Program
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Engineering Department

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CITY OF DES MOINES, IOWA
CONTRACT COMPLIANCE
PROGRAM

POLICY STATEMENT

The City of Des Moines, Iowa, through its City Council, Mayor, and City Manager, is committed to the principles embodied in the concept of equal opportunity. It is the policy of the City of Des Moines to refrain from discrimination on the basis of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, or disability in the award and performance of contracts and procurement of goods and services. The City of Des Moines (City) is committed and mandated by applicable Local, State and Federal Laws, to require equal opportunity to be extended to contractors, subcontractors, suppliers, vendors, and professional service providers who engage in business with the City, as well as employees of those firms doing business with the City.

To fulfill this commitment, the City Council has directed development of this Contract Compliance Program. This Contract Compliance Program applies to persons or businesses contracting with, or providing goods and services to, the City of Des Moines. The City Council has charged the Engineering Department with the administration of this Contract Compliance Program, and the City Engineer shall serve as the program administrator for this program.

Any reference to this Contract Compliance Program shall equally mean and include both the Equal Employment Opportunity (EEO) Program and either the Targeted Small Business (TSB) Program, or the Disadvantaged Business Enterprise (DBE) Program, depending on the funding source.

CITY OF DES MOINES, IOWA
EQUAL EMPLOYMENT OPPORTUNITY
PROGRAM

POLICY STATEMENT

I. GENERAL

Equal Employment Opportunity requirements are mandated by Federal, State and Local Law. The requirements set forth in this Equal Employment Opportunity Program shall constitute the specific requirements for contracts with the City of Des Moines.

It is the policy of the City of Des Moines, through its City Council, Mayor, and City Manager, to ensure equal employment opportunities for all persons without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, or disability. Such protections extend to those persons employed by, or seeking employment with, each contractor who provides goods or services to the City of Des Moines and who comes within the jurisdictional boundaries of this program. Each contractor who receives a City of Des Moines contract shall comply with this Equal Employment Opportunity Program. Specifically, each contractor, and each of its subcontractors, is required to comply with the Des Moines Human Rights Ordinance, Chapter 62 of the Des Moines Municipal Code.

II. PROGRAM EXECUTION

- A. Each bid specification/bid document submitted to prospective bidders by the Engineering Department or Purchasing Department, as appropriate, shall contain notification to bidders of the requirements of this Equal Employment Opportunity Program. Each contractor will sign the Non-Discrimination Clause included in the contract.
- B. The contractor shall not perform on the contract unless and until the contract, including the Non-Discrimination Clause, is fully executed.

III. CITY OF DES MOINES (CITY) RESPONSIBILITIES

The City of Des Moines, through its Engineering Department, shall:

- A. Ensure that this Equal Employment Opportunity Program is implemented and enforced and that the guidelines and procedures are followed.
- B. Provide technical assistance and educational information upon request to contractors, individuals, and organizations interested in contracting with the City of Des Moines, including, but not limited to, the provision of information concerning the City of Des Moines' efforts and concerns in the area of equal employment opportunity.
- C. Provide technical assistance to various City of Des Moines departments upon request regarding this Equal Employment Opportunity Program.

IV. CONTRACTOR RESPONSIBILITIES - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

To be in compliance with this Equal Employment Opportunity Program, the Contractor shall:

- A. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work.
- B. Ensure that applicants and employees are treated without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, or disability in matters including but not limited to employment, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- C. Make every effort to state in solicitations or advertisements for employment that all qualified applicants will receive consideration for employment without regard to age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, or disability.
- D. Send a notice advising of the Contractor's commitments under this Equal Employment Opportunity Program to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding
- E. Include these provisions in every subcontract or purchase order associated with the City contract so that such provisions will be binding upon each subcontractor, supplier, vendor, or professional service provider with which the Contractor does business. The Contractor shall take such action as necessary to ensure compliance with said subcontract or purchase order.
- F. Comply with all provisions, rules, regulations and relevant orders contained in this Equal Employment Opportunity Program.
- G. Make every effort to ensure that its facilities and activities are non-segregated.

V. COMPLAINTS OF DISCRIMINATION AND REMEDIES FOR NON-COMPLIANCE

If an applicant or employee of a Contractor believes that he or she is the victim of illegal discrimination in violation of the Des Moines Human Rights Ordinance or corresponding state or federal civil rights laws, he or she may file a complaint of discrimination with one of the agencies responsible for investigating such claims. If the Contractor is found by one of these agencies to be engaging in illegal discrimination, the Contractor will be in breach of its contract with the City of Des Moines and appropriate action will be taken.

VI. ADMINISTRATION

The City Engineering Department shall be the administrative department for this Equal Employment Opportunity Program and the City Engineer may promulgate rules and procedures to govern, expedite, and effectuate the provisions of said program.

VII. DEFINITIONS

Contract means any agreement or modification thereof between the City of Des Moines and a contractor for the furnishing of services or supplies.

Contractor means unless otherwise indicated a prime contractor, subcontractor, supplier, vendor, or professional service provider.

Goods means things that are movable and have intrinsic value, including without limitation, equipment, materials, supplies, computer programs, and intellectual property and excluding real property, money, securities, documents, negotiable instruments and other intangibles.

Services means useful labor, such as repair, construction, or maintenance work; or work that results in the creation of intellectual property, including without limitation architectural or engineering designs, but does not result in the production of a tangible commodity or item of personal property.

CITY OF DES MOINES, IOWA

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM AND
TARGETED SMALL BUSINESS PROGRAM**

POLICY STATEMENT

I. GENERAL

It is the policy of the City of Des Moines that Disadvantaged Business Enterprises and Targeted Small Businesses, as defined in this program, shall have the maximum opportunity to participate in the performance of City contracts and procurements, and that the requirements of the Disadvantaged Business Enterprise (DBE) Program and Targeted Small Business (TSB) Program as set forth herein shall be included in and become a binding part of appropriate City contracts.

- A. The purpose of this Program is to encourage, to the maximum extent possible, equal opportunity to DBEs and TSBs. DBEs and TSBs, as defined in this program, shall have the maximum opportunity to participate in the performance of applicable contracts and procurements awarded by the City, and DBE or TSB requirements shall be included in and become a binding part of such Contracts. While the City's DBE Program is designed in part to fulfill requirements to allow the City to receive Federal funding, and the TSB Program is designed in part to fulfill requirements tied to State funding, the Program also makes it possible for the City of Des Moines, in its procurement and contractual procedures, to actively contribute to the economic improvement of the minority and female business communities and, thus, the minority and female communities in general. These objectives shall be achieved within the basic City policies of expecting the best possible goods or services at the lowest responsive, responsible bid arrived at through the competitive bidding process.

- B. The DBE Program is governed by federal law and applies only to projects funded in whole or in part by the U.S. Department of Transportation or another federal agency. The contract documents for each such project will include the DBE requirements and goals for that project, if any. All DBEs shall be certified in accordance with the Iowa Unified Certification Program by the Iowa Department of Transportation (IDOT), which is the only DBE certifying agency in Iowa. In implementation of this program, the Engineering Department shall, where appropriate, utilize the federal regulations appearing in 49 CFR Part 26 and any related administrative or judicial decisions in accordance with the project funding and also as follows:
 1. On only those Federally funded projects where the Iowa Department of Transportation (IDOT) receives bids on behalf of the City, the contract documents shall include the IDOT DBE Program requirements in effect at the time bids are received. If a DBE contract goal is established, it will be set by the IDOT for each such contract.

 2. On other Federally funded projects, the contract documents shall include the DBE requirements of the appropriate Federal agency. If that Federal agency does not have a specific DBE Program, the contract shall include the requirements of the City of Des Moines DBE Program Adopted Specifically for Projects Funded in part by the US Department of Transportation, which was approved by the Federal Aviation Administration (FAA) and is based on the IDOT DBE Program and its administrative rules. If a DBE contract goal is established, it will be established by the Federal agency; or if that Federal agency does not establish the goal, the Des Moines Engineering Department may establish the contract DBE goal based upon the current IDOT overall annual DBE goal.

- C. The TSB Program is governed by state law and applies to projects funded in whole or in part by state funds. The contract documents for each such project will include the TSB requirements and goals for that project, if any. All TSBs shall be certified by the Iowa Department of Inspections and Appeals, which is the only TSB certifying agency in Iowa. In implementing this program, the Engineering Department shall, where appropriate, utilize the regulations in Iowa Administrative Code Ch. 541 and the provisions of Iowa Code Ch. 19B and Ch. 15, along with any related administrative or judicial decisions in accordance with the project funding and as modified herein:
1. On only those state funded projects administered through the IDOT, the contract documents shall include the IDOT TSB Program requirements in effect at the time bids are received. If a TSB contract goal is established, the IDOT will establish the TSB goal for each such contract.
 2. On other state funded projects, the contract documents shall include the TSB requirements of the state agency; or if the state agency does not have a specific TSB Program, the contract shall include the requirements of this City of Des Moines DBE/TSB Program. If a TSB contract goal is established, the contract TSB goal will be established by the state agency; or if that state agency does not establish the goal, the Des Moines Engineering Department may establish the contract TSB goal based upon the current IDOT overall annual DBE goal.
- D. On City of Des Moines funded projects, the contract documents shall include the DBE/TSB requirements of this City of Des Moines DBE/TSB Program. The contract DBE/TSB goal, if applicable, will be established by the Des Moines Engineering Department based upon the current IDOT overall annual DBE goal.
- E. The City Council has charged the Engineering Department with the responsibility of implementing and enforcing the TSB and DBE requirements of this Program.

II. CITY OF DES MOINES (CITY) DISADVANTAGED BUSINESS ENTERPRISE/TARGETED SMALL BUSINESS (DBE/TSB) PROGRAM

The City of Des Moines Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB) Program is based on and shall utilize the following rules, regulations, and definitions:

1. The City DBE/TSB Program recognizes both certified DBEs and certified TSBs as equally eligible under the program. Wherever the term DBE/TSB is utilized, it shall mean either a certified DBE or a certified TSB, or both.
2. All DBEs shall be certified in accordance with the Iowa Unified Certification Program by the Iowa Department of Transportation (IDOT), which is the only DBE certifying agency in Iowa. The DBE certification process, with its associated definitions and administrative rules, is the only part of the IDOT DBE Program that applies under the City DBE/TSB Program.
3. All TSBs shall be certified by the Iowa Department of Inspections and Appeals, which is the only TSB certifying agency in Iowa. The TSB certification process, with its associated definitions and administrative rules, is the only part of the Iowa Department of Inspections and Appeals TSB Program that applies under the City DBE/TSB Program.

4. All of the provisions of the City DBE/TSB Program are included in Sections III through VII of this document below.
5. The City Engineering Department shall be the administrative department for the City DBE/TSB Program and the City Engineer may promulgate rules and procedures to govern, expedite, and effectuate the provisions of said program.

III. RESPONSIBILITIES OF THE CITY OF DES MOINES (CITY)

The City Council has charged the Engineering Department with the responsibility of implementing and enforcing the DBE/TSB Program. The Engineering Department shall:

- A. Establish an Overall Annual DBE/TSB Goal for DBE/TSB participation in City public improvement construction contracts. The City Overall Annual DBE/TSB Goal shall be established as the percentage of DBE/TSB participation to the contract cost; and shall be based on the IDOT DBE overall annual goal established for the corresponding federal fiscal year as further adjusted by the Engineering Department to consider such factors as the current capacity of DBEs/TSBs to perform work, differences in the DBE versus TSB market, etc. This IDOT DBE overall annual goal is also used by the Engineering Department as the base figure to annually establish the City's Overall Annual DBE Goal for projects at the Des Moines International Airport funded by the Federal Aviation Administration.
- B. Include these City DBE/TSB Program requirements and the City overall annual DBE/TSB goal in the contract documents of those public improvement projects competitively bid, or quoted, in accordance with Iowa Code Chapter 38; and where DBE/TSB potential exists. The Engineering Department shall also include in the contract documents both the IDOT Certified DBE Directory and the Iowa Department of Inspections and Appeals Certified TSB Directory; or include said directories by reference in the contract documents, with links to these directories available on the Engineering Department website, and with printed copies available upon request.
- C. Post on its website, and make available upon request, a list of future project information notices to DBEs and TSBs.
- D. Provide technical assistance to contractors and subcontractors upon request in order to maintain compliance with this program. This may include assistance to bidders in recruiting DBEs/TSBs; and providing information to DBEs/TSBs on obtaining plans and specifications, names of persons to contact concerning questions on bid documents, and the identity of potential bidders for general contract work and for the particular bid solicitation.
- E. Send notices to those certified DBEs/TSBs in the metropolitan Des Moines area that appear qualified to do some portion of the work involved in each bid solicitation.
- F. Make available, upon request, a list of plan holders to DBEs/TSBs.
- G. Maintain records for City Council review to document progress toward the program objectives.
- H. Review the documentation provided by each bidder for compliance with this DBE/TSB Program as necessary. If the bidder fails to provide sufficient documentation of good faith efforts, the Engineering Department shall make a recommendation of noncompliance for City

Council consideration and rejection of the bid.

IV. RESPONSIBILITIES OF THE CONTRACTOR

To comply with this DBE/TSB Program, the Contractor shall:

- A. Place an ad/announcement soliciting DBE/TSB participation in general media circulation and minority-focus media when appropriate.
- B. Contact DBEs and TSBs who appear by their asserted areas of expertise to be qualified to do some project work. Identify specific items to be subcontracted.
- C. Contact DBEs/TSBs who could reasonably be expected to be able to do the work to ascertain their interests, availability, and capability to participate as a subcontractor and/or vendor for those supplies and/or services being solicited. If the bidder is unable to identify DBEs/TSBs qualified to perform portions of the work, the City's Engineering Department should be contacted for assistance. All such contacts must be confirmed by written documentation.
- D. When required for a particular contract, complete and submit, as part of its bid, a pre-bid contact sheet identifying DBE/TSB contacts made prior to bid submission. Failure to make and disclose the pre-bid contacts in the proposal shall cause the bid to be non-responsive and shall result in the bid not being read.
- E. Select portions of the work available for subcontracting (if any subcontract work is anticipated) and notify DBEs/TSBs of its intent to submit a bid and provide adequate information about the plans, specifications and requirements of the contract and make all reasonable efforts to solicit quotes for subcontracting from interested DBEs/TSBs. The contractor shall not reject such bids as unqualified without sound reasons based on a thorough investigation of the capabilities of the DBE/TSB firm.
- F. Submit to the Engineering Department prior to the final acceptance of the project a notarized summary of payments to and the scope of work performed by all DBE/TSB subcontractors and/or suppliers for the project.

V. RESPONSIBILITIES OF DBEs/TSBs

To comply with this Program, the DBE/TSB shall:

- A. Seek and maintain certification, as either a DBE by the Iowa Department of Transportation in accordance with the Iowa Unified Certification Program, or a TSB by the State of Iowa Department of Inspections and Appeals, in order to participate in this City DBE/TSB Program.
- B. Submit bids to the City as a Contractor, or submit quotes as a potential subcontractor to other Contractors, for City projects and perform the work on the project. The DBE/TSB cannot act as a broker by subcontracting out its subcontract to any other firm. Only those DBE/TSB firms performing a useful business function according to custom and practice in the industry shall be considered under this Program. Acting merely as a conduit of funds to some other non-DBE/TSB firm where such activity is unnecessary to accomplish the project does not constitute a useful business function according to custom and practice in the industry.
- C. Be responsible to obtain plans, specifications, and a list of plan holders from the City Engineering Department.

- D. Notify the plan holders and bidders of its interest to subcontract portions of the work. The DBE/TSB shall actively promote its business with bidders throughout the industry.

VI. PURCHASING DEPARTMENT GUIDELINES FOR PROCUREMENT OF GOODS AND SERVICES

As a part of the procurement process for goods and services used by the City of Des Moines, the Purchasing Agent shall:

- A. Provide, upon request, to department directors the list of certified DBEs/TSBs or provide instructions to access the current DBE/TSB list. The Engineering Department shall be available to answer questions concerning DBEs/TSBs.
- B. Notify, or send an invitation to bid to, DBEs/TSBs in the metropolitan Des Moines area that can supply the particular goods and services requested in the invitation to bid.
- C. Maintain records for City Council review to document progress toward the program objectives.

VII. CERTIFICATION

Any business entity wishing to participate in City of Des Moines contracts or purchases as a DBE/TSB shall be certified as either as a

- DBE by the Iowa Department of Transportation in accordance with the Iowa Unified Certification Program, or
- TSB by the Iowa Department of Inspections and Appeals.

VIII. DEFINITIONS

Contract: Any agreement or supplemental agreement between the City and its contractors, subcontractors, suppliers, vendors, and professional service providers. The term “services” as used in this program) includes but is not limited to construction, professional services and procurements.

Contractor: The individual, firm, co-partnership, or corporation, and his, her, their, or its heirs, executors, administrators, successors, and assignees, or the lawful agent of any such individual, firm, partnership, covenantor, or corporation, or his, her, their, or its surety under the contract bond, constituting one of the principals to the contract and undertaking to perform the work herein specified. Where any pronoun is used as referring to the word “Contractor,” it shall mean the Contractor as defined above.

Disadvantaged Business Enterprise (DBE): A DBE is defined, in 49 CFR 26.5, as a for-profit small business concern that is at least 51 percent (51%) owned by one or more individuals who are both economically and socially disadvantaged or, in the case of a corporation in which at least 51 percent (51%) of the stock of such business is owned by socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB): A DBE/TSB is defined as either a DBE or TSB as defined herein.

Minority person: A minority person is an individual who is Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan Native.

Subcontractor: The subcontractor is any individual, firm, partnership, joint venture, corporation, or association to whom the contractor, with the written consent of the City, sublets a part of the work.

Targeted Small Business (TSB): A TSB is a small business, operated for profit, located in Iowa and is 51% owned, operated and actively managed by one or more women, minority persons or persons with a disability and has an annual gross income of less than \$3,000,000, and as further defined in Iowa Code §15.102(5)(a).

Socially and economically disadvantaged individual means, as defined in 49 CFR 26.5, any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is--

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(ii) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.