

GUIDANCE CONCERNING GOOD FAITH EFFORTS (49 CFR § 26.53; Appx. A)

In order to be responsive, a bidder must make good faith efforts to meet the DBE participation goal set forth in the contract. The bidder must document the good faith efforts it made in that regard. The Bid submitted to the Authority must be accompanied by written documentation prepared by the bidder providing evidence all of its sufficient good faith efforts toward fulfilling the goal. These efforts must be active steps which could reasonably be expected to lead to sufficient DBE participation to meet the DBE participation goal attached to the contract. Mere pro forma efforts are not acceptable and will be rejected by the MBTA DBE Liaison Officer (DBELO). Good Faith Efforts require that the bidder consider all qualified Massachusetts Unified Certification Program (MAUCP)-certified DBE firms who express an interest in performing work under the contract. This means that the bidder cannot reject a DBE as unqualified unless the bidder has sound reasons based on a thorough investigation of the DBE's capabilities. Further, the DBE's standing within its industry, membership in specific groups, organizations or associations and political or social affiliation (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the contract DBE participation goal. The following list, which is not exclusive or exhaustive, sets forth the types of actions, which indicate good faith efforts on the part of a bidder to meet the DBE goal. The extent and type of actions required will vary depending on such things as industry practice, the time available for submitting a bid, and the type of contract involved.

- Attendance at a pre-bid meeting, if any, scheduled by the Authority to inform DBEs of subcontracting opportunities under a given solicitation.
- Advertisement in general circulation media, trade association publications, and minority-focus media for at least thirty (30) days before bids are due. If 30 days are not available, publication for a shorter reasonable time is acceptable.
- Written notification to capable DBEs that their interest in the contract is solicited.
- Documentation of efforts to negotiate with DBEs for specific sub-contracts including at a minimum:
 - The names, addresses, and telephone numbers of DBEs that were contacted and the date(s) of contact.
 - A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed.
 - A statement explaining why additional agreements with DBEs were not reached.
 - For each DBE the bidder contacted but rejected as unqualified, the reason for the bidder's conclusion.
- Documentation of efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the bidder or the Authority.
- Documentation of efforts to utilize the services of small business organizations, community and contractor groups to locate qualified DBEs.
- Documentation that the bidder has broken out contract work items into economically feasible units in fields where there are available DBE firms to perform the work.
- Evidence that adequate information was provided to interested DBEs about the plans, specifications and requirements of the contract, and that such information was communicated in a timely manner.

- Documentation of any efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.