

US EPA ARCHIVE DOCUMENT



MBE/WBE Reporting under the U.S. EPA's Disadvantaged Business Enterprise (DBE) Rule

Applicable to
U.S. Environmental Protection Agency
Financial Assistance/Grants
Awarded On or After May 27, 2008

PowerPoint Presentation of May 2008



Presentation Objectives

- Explain how MBE/WBE Reporting operates under EPA's DBE Rule
- Clarify Grant Recipient responsibilities regarding MBE/WBE Reporting
- Characterize current MBE/WBE reporting
- Share ways to improve reporting



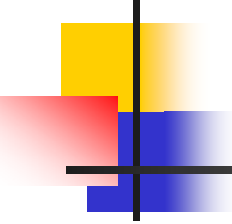
Acronyms

- MBE = Minority Business Enterprise
- WBE = Women's Business Enterprise
- DBE = Disadvantaged Business Enterprise



Who are the “DBE” in EPA’s DBE Rule?

- Minority Business Enterprise (MBE)
- Women’s Business Enterprise (WBE)
- Small Business Enterprise (SBE)
- Small Business in a Rural Area (SBRA)
- Labor Surplus Area Firm (LSAF)
- Historically Underutilized Business (HUB)
Zone Small Business Concerns
- Other entities meeting EPA’s DBE Rule criteria



When are MBE and WBE (versus DBE) used/counted?

- Only “MBE” & “WBE” are used/counted when:
 - Reporting MBE/WBE Utilization to EPA
 - Negotiating MBE and WBE “Fair Share” Goals
- “DBE” (i.e., MBE, WBE, SBE, et al.) used in:
 - DBE Outreach (i.e., the “Good Faith Efforts”)



EPA Form 5700-52A

- Used for MBE/WBE Reporting
- Includes Instructions
- Accessible at www.epa.gov/osbp
- Submitted by EPA's grant recipients
(not by prime contractors, sub-recipients or loan recipients)



MBE/WBE Terms and Conditions in the Grant Award/Agreement

- All MBE/WBE Terms & Conditions must be complied with:
 - MBE/WBE Reporting
 - Good Faith Efforts
 - Maintenance of a Bidders List
 - Documentation of Outreach to DBE
 - etc.



Purpose of MBE/WBE Reporting

- Monitor the Grant Recipient's
 - Accomplishment in Utilizing MBE and WBE
 - Adherence to the Good Faith Efforts (i.e., outreach to MBE, WBE, and other DBE)
 - Progress in Achieving MBE and WBE Goals
- Respond to Congress, small businesses, etc.



Grant Recipient's Responsibilities for MBE/WBE Reporting

- Complete & submit EPA Form 5700-52A for each reporting period at a frequency specified in the grant agreement
- “Negative reports” are also required (i.e., even if there were no MBE/WBE utilized or no procurement expenditures of any kind were made during the reporting period)



Definition of Procurement To Be Used in MBE/WBE Reporting

- "*Procurement* is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to accomplish Federal assistance programs."

Source: EPA's DBE Rule



Scope of Procurement Actions Under MBE/WBE Reporting

The procurement expenditures to be entered on EPA Form 5700-52A are:

“Total Assistance Agreement Procurement Costs” (i.e., the EPA dollar share plus matching share, if any, except in the case of EPA-funded revolving loan program procurement)



Grant Recipient's Responsibilities for MBE/WBE Reporting (cont.)

- **Collect and retain/document data on MBE, WBE, and Total Procurement expenditures** made for the grant project up to the "Total Assistance Agreement Amount" (i.e., the grantee's total budget)
- **Report procurement expenditures from all sources** [i.e., the EPA grant recipient, sub-recipients, loan recipients (and the prime contractors of all three entities)]



Roles of EPA's MBE/WBE Reporting "Team"

- Regional DBE Coordinators
 - Review and Process MBE/WBE Reports
 - Best, Fastest Source for Answers re: MBE/WBE Reporting
- Grants Specialists
 - Administer the Grants; Conducts Post-Award Monitoring
- Project Officers in EPA Programs
 - Monitor Project Work and Expenditures under the Grant



Benefits of MBE/WBE Outreach and Participation

- Most MBE/WBE are Small Businesses
- Small Businesses Drive the U.S. Economy
- The Pool of Vendors/Contractors is Broader
- Opportunities Are Spread More Equitably
- MBE and WBE “survive and thrive”



Impact of the DBE Rule on EPA MBE/WBE Reporting

- Reporting Frequency is Reduced for Former “Quarterly Reporters” Only
- Two Groups Established:
 - Annual Reporters
 - Semi-annual Reporters

Annual Reporters



- Recipients of Continuing Environmental Program Grants under 40 CFR Part 35, Subpart A
- Recipients under 40 CFR Part 35, Subpart B
- General Assistance Program (GAP) grants for tribal governments and intertribal consortia; and
- Institutions of higher education, hospitals and other non-profit organizations receiving financial assistance agreements under 40 CFR Part 30



Semiannual Reporters

- Recipients of financial assistance agreements that capitalize revolving loan funds; and
- All other recipients not specified as “annual reporters”



Due Dates for Submitting MBE/WBE Reports

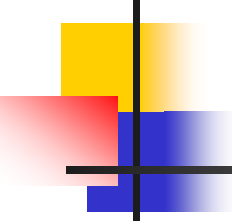
- **Annual Reporters** must submit their completed EPA Form 5700-52A to EPA “within 30 days of the end of the annual reporting period (**October 30th**).”
- **Semiannual Reporters** must submit their completed EPA Form 5700-52A to EPA “within 30 days of the end of the semiannual reporting period (**April 30th and October 30th**).”



Where to Submit EPA-Form 5700-52A

- Recipients of financial assistance must “... submit a fully executed EPA Form 5700-52A to the appropriate office and personnel as identified in their grant agreement”

Source: EPA's DBE Rule Manual



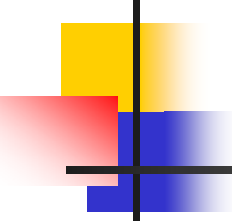
Key Data To be Entered in EPA Form 5700-52A

- Total Procurement Amount (Block 5C)
- Procurement dollars awarded to MBE and WBE (Block 5C)
- All Procurement Expenditures, regardless of size
- Part 2 data (when there is MBE/WBE participation for the reporting period), as well as the required Part 1 data



Calculating MBE/WBE Participation

- On EPA-Form 5700-52A, the EPA grant recipient must also include:
 - Data from Central Purchasing or Central Procurement Centers
 - For Joint Ventures, the portion of the dollar amount attributable to MBE or WBE



Calculating MBE/WBE Participation (Continued)

- **MBE & WBE must be officially certified** as such, in order to claim/report them as MBE/WBE on EPA Form 5700-52A
- MBE and WBE **may not act as Brokers** or Passive conduits of funds
- A MBE or WBE Trucker **must serve a “commercially-useful” function**



Counting of a MBE or WBE Prime Contractor

- The amount counted towards a MBE or WBE Prime Contractor may not exceed 100% of contract value
- To be claimed 100% MBE or WBE, a Prime Contractor who is MBE or WBE may not sub-award more than 49% of its contract value to non-MBE/WBE



MBE/WBE Participation under “Ineligible” Costs

- An EPA grant recipient may count MBE/WBE participation based on ineligible (as well as eligible) costs



MBE/WBE Reporting Under Revolving Loan Programs

- EPA financial assistance recipients that capitalize Revolving Loan Programs need only:
 - Report Total Procurement Dollars in the amount of loans equal or up to the capitalization grant amount



MBE/WBE Reporting under Revolving Loans (Cont.)

- EPA financial assistance recipients that capitalize Revolving Loan Programs must:
 - Require entities receiving identified loans to submit their MBE/WBE participation reports/data to the EPA grant recipient (rather than to EPA) semiannually
 - Ensure that they receive procurement reports from revolving loan recipients in time to meet EPA's MBE/WBE Reporting deadlines

Critical Areas on EPA-Form

5700-52A

- **Block 5A** - identifies the dollar amount to which procurement applies
- **Block 5B** - lets the grant recipient know if there is procurement data to be entered
- **Block 5C** - captures dollars awarded to MBE, WBE, and non-MBE/WBE
- **Block 6** - documents outreach actions taken when no MBE/WBE utilization has been reported for the reporting period



Block 5A on Form 5700-52A

- The “Total Assistance Agreement Amount” includes both the EPA and the Grant Recipient’s matching fund shares
- Procurement under the EPA grant award/agreement applies to these funds only



Block 5B

- Block 5B should be checked only if:
 - **NO** procurement dollars of any kind were expended during the reporting period (i.e., whether to non-MBE/WBE, MBE, or WBE);
and
 - **NO** procurement dollars were expended on a MBE or WBE



Block 5C

- “Total Procurement Amount” includes:
 - Dollars spent on non-MBE as well as MBE or WBE
 - All procurement dollars spent by the EPA grant recipient, sub-recipient, and loan recipient during the reporting period (but not the Prime Contractor’s sub-contracting dollars)
- No “double counting” of MBE and WBE is allowed under “Actual MBE/WBE accomplishment”



Block #6: Comments

- Block # 6 must be completed *if* procurement was made during the reporting period, but none of it was expended on a MBE or WBE
- Explain specific actions being taken by the EPA grant recipient to comply with EPA's MBE/WBE Program requirements (e.g., outreach to MBE, WBE, and other DBE)



Results of Late, Incomplete, and Inaccurate MBE/WBE Reporting

- Grant Closure is Delayed
- More Work is Required of the EPA Grantee
- MBE/WBE utilization is measured incorrectly
- Opportunities to use MBE & WBE are Missed



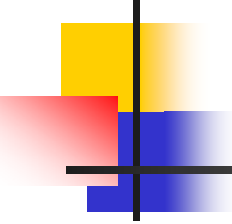
Status of MBE/WBE Reporting

- Although reporting by EPA's grant recipients has improved over the years, some reporting deficiencies exist
- There are some "stragglers" who are not reporting on time
- The quality of reporting often varies by the type of grantee (one-time vs. continuing)



Consequences of Continued Failure to Submit Reports

- Avoidable by Grantee Attention and Following Grant Terms & Conditions
- Addressed by EPA Enforcement Actions under 40 CFR 31.43 or 40 CFR 30.62 (e.g., termination of the EPA grant; suspension and debarment)



Compliance Assistance from EPA re: MBE/WBE Reporting

- Information (Web sites and fact sheets)
- DBE Coordinator guidance/answers
- Post-award Monitoring by Grants Office
- Training/Orientation to MBE/WBE Program requirements, on an “as-needed basis”



EPA Actions to Improve MBE/WBE Reporting

- Updated, simplified EPA Form 5700-52A
- New Fact Sheets/Handouts (e.g., “MBE/WBE Reporting Checklist and Q&As”)
- Revised Guidance (DBE Rule)
- Reminder Letters and Phone Calls
- MBE/WBE Program Compliance Reviews



Summary Points

- MBE/WBE Reporting is a cornerstone of EPA's DBE Program and DBE Rule
- The MBE/WBE requirements are spelled out in the Terms & Conditions of the EPA Assistance Agreement
- EPA grant recipients must submit a "fully executed" EPA-Form 5700-52A to EPA on time
- Grantees should pay particular attention to Block 5A through Block 5C on the reporting form



Summary Points (Cont.)

- Enter all procurement expenditures, not just MBE and WBE expenditures/dollars, on EPA Form 5700-52A
- Document your procurement actions in case of potential Federal reviews/audits
- Contact your Regional DBE Coordinator if you have questions or need help completing Form 5700-52A (see “Regional Contacts” listed at www.epa.gov/osbp)



THANK YOU !

- www.epa.gov/osbp