

# DISADVANTAGED AND EMERGING SMALL BUSINESS ENTERPRISE PROGRAM

(LPA's NAME)

## I STATEMENT OF POLICY

To further the establishment, preservation and development of DBEs and ESBEs, it is the policy of LPA's name to ensure that DBEs and ESBEs will be actively sought out by all appropriate means for consideration as potential subcontractors and/or suppliers or equipment lessors in all aspects of contracting to the maximum extent feasible. LPA's name shall affirmatively solicit DBEs and ESBEs interest, capability and prices and shall document the results of such solicitation and contracting opportunities. It is the intent of LPA's name to comply in every respect to the spirit and letter of Executive Order No. 11625 and 49 CFR 26, as well as all regulations promulgated pursuant thereto.

## II RESPONSIBILITY FOR THE PROGRAM

D/ESBE Officer's name will personally oversee the Program as the Disadvantaged and Emerging Small Business Enterprise Officer (hereinafter referred to as the D/ESBE Officer) to carry out the program. The D/ESBE Officer shall be given full authority to carry out the Program and is charged with the following responsibilities:

1. Develop policy statements and internal and external communication procedures;
2. Assist line management in collecting and analyzing D/ESBE data and identifying problem areas and/or barriers;
3. Design, implement and monitor internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where further action is needed and, if necessary, to assure that such action is taken;
4. Assure that current information affecting this Program is disseminated to responsible officials;
5. Arrange solicitation to ensure that D/ESBEs receive timely information regarding contracting opportunities.

## III DISSEMINATION OF POLICY

This Policy shall be disseminated to all officers and staff personnel who routinely participate in decisions on behalf of LPA's name regarding the evaluation, preparation and submission of this Policy and the following actions will be taken at a minimum:

1. Meetings of supervisory and staff officers concerned with such decisions shall be conducted as the D/ESBE Officer may deem proper for the purpose of discussing the progress of the D/ESBE Program. The meetings shall be conducted on a quarterly basis or on an "as needed" basis in the event the D/ESBE Officer determines that compliance with D/ESBE contractual provisions are not being adhered to;

2. All new and supervisory staff officers who will be concerned with such decisions will be indoctrinated within thirty (30) days following their reporting date. Documentation of briefings shall be maintained by the D/ESBE Officer in the appropriate file (s);
3. LPA's name shall contact various minority and women-owned businesses and community organizations to include but not be limited to the following organizations/trade associations:

NJ Chapter, National Association of Minority Contractors  
National Association of Women In Construction  
NJ Chapter, American Subcontractors Association  
The Regional Alliance for Small Contractors  
NJ Association of Women Business Owners  
NJ Small Business Development Center  
NJ Small Business Network

In order to make LPA's name D/ESBE Program known to all potential D/ESBE's who might be interested in participating as suppliers, subcontractors or equipment lessors on any given contract Company's name might bid, Company's name shall take the following action:

1. The D/ESBE Officer shall contact the NJDOT or referrer to <http://www.njucp.net/>, as well as other resources which are likely to yield responsible D/EBE contacts, such as Minority Business Development Centers, Chambers of Commerce and NJ Department of Commerce, Division of Small, Minority and Women-owned Businesses;
2. Advertisements placed by LPA's name shall make reference in whatever manner is deemed appropriate in the circumstances by the D/ESBE Officer, to our D/ESBE Program.

#### IV IMPLEMENTATION OF D/ESBE PROGRAM

This policy shall be implemented so as to further the establishment, preservation and strengthening of disadvantaged business enterprises. A corollary of this policy is that actions taken pursuant to this D/ESBE Program shall not be implemented so as to effectuate reverse discrimination against non-D/ESBE's in respect to work to be performed by potential suppliers, subcontractors, consultants, and equipment lessors. To these proper ends we shall do the following:

- a. Prepare, update and make use of the appropriate lists of D/ESBE's. These lists should be incorporated in and made part of all other "lists" used by us for purposes of contacting potential suppliers to give special emphasis to this D/ESBE Program. It is further necessary that these potential D/ESBE suppliers, subcontractors, consultants and equipment lessors be identified by some special symbol such as "D/ESBE" in order to be given direct special attention to the fact that they should be given every opportunity to express their interest, capability and price quote on contracts CLPA's name has decided to bid;

- b. Obtain and maintain directories or registers of qualified D/ESBE's with which we routinely do business. Additionally, lists of approved or otherwise "prequalified" D/ESBE's prepared by competent State or Federal Administrative Agencies shall be maintained. These lists shall serve to supplement lists prepared by us described in subparagraph (a) of this Section;
- c. Coordinate with minority and women-owned organizations/associations for the purpose of seeking their assistance and advice in the identification of qualified D/ESBEs;
- d. Where feasible, LPA's name shall select portions of work to be performed by D/ESBEs in order to increase the likelihood of meeting the D/ESBE goal, including where appropriate, breaking down contracts into economically feasible subunits;
- e. At the bid solicitation stage, it is essential that we provide appropriate qualified D/ESBE's an opportunity to express their interest, capability and price quotes for contracts LPA's name intends to bid. Contact with the D/ESBE's determined to be both appropriate and qualified shall be made by whatever means seems necessary and appropriate for the purposes of providing such D/ESBE's notice of our intent to bid or purchase. In every case the question shall be: Has the action taken apprised a qualified D/ESBE supplier, subcontractor, consultant or equipment lessor of the pendency of our bid and solicited its expression of interest, capability and price quotes;
- f. All solicitations of interest made by us to potential D/ESBE suppliers, subcontractors, consultants or equipment lessors shall state explicitly that LPA's name reserves the right to reject any or all proposals from suppliers, subcontractors, consultants and equipment lessors;
- g. We shall accept quotes from D/ESBE suppliers, subcontractors, consultants and equipment lessors on exactly the same basis we would be expected of non-D/ESBE suppliers, subcontractors, consultants and equipment lessors. We shall not exact a more stringent requirement of D/ESBE's in regard to the formality of written vs. verbal quotes than would be expected of non-D/ESBE's;
- h. So as to avoid any unwarranted claim of discrimination or reverse discrimination, it shall be the Policy of LPA's name subject to Paragraph IV (f), to award suppliers and subcontractors submitting the most favorable proposal in the event the prime contract shall be awarded to Company's name;

The following Guidelines set forth the specific criteria to be given by Company's name in determining whether a given supplier, subcontractor or equipment lessor has satisfied the requirement for award of contract, i.e. the low, responsive, responsible bidder. The Guidelines will be used by Company's name in meeting the standard award set forth in Section IV (h) hereof. This Guideline is not intended to be an exclusive listing of criteria to be considered. Other factors shall be considered as deemed necessary by the D/ESBE Officer.

1. THE LOW BIDDER: The low bidder is that bidder quoting the lowest price.

2. RESPONSIVE BID: A bid proposal that does not deviate substantially from the bid invitation shall be considered a responsive bid. A bid is deemed to have deviated substantially from the bid invitation when the deviation relates to the price, quantity, quality, or manner of performance of the contract.
3. RESPONSIBILITY: A bidder shall be deemed responsible, if in the judgement of the D/ESBE Officer, it possesses the integrity, financial ability, experience and resources to perform the subject contract. A non-exclusive set of criteria to be considered in determining whether a given D/ESBE satisfies this standard follows:
  - (i) Integrity
    - Reputation in the community and better business bureaus
    - References upon request of Company's name
    - Consultation with subject owner
    - Bank references
  - (ii) Financial Ability
    - Bank references upon request of Company's name
    - Bonding capabilities
    - Licensed to do business in jurisdiction
    - Have they done work of this magnitude
    - Investment necessary and expected cash flow
    - Prior record of default
  - (iii) Resources
    - Scheduled commencement of work relative to D/ESBE's present contract work
    - Managerial and technical staff available for work
    - Relations with sources of labor
    - Access to necessary equipment and materials and condition thereof
4. As a condition precedent to award of supply contract or subcontract, the party receiving the award whether it be a D/ESBE or a non-D/ESBE shall use his/her best efforts to utilize minority group subcontractors or subcontractors with meaningful minority group representation.

## V MONITORING D/ESBE

LPA's name acknowledges that it is responsible for ensuring that D/ESBEs utilized in its Program perform a commercially useful function. It is noted that failure to fulfill this obligation will be considered a breach of any federally assisted and/or state funded contract and damages may be assessed. Credit toward LPA's name D/ESBE goal/target attainment shall be determined by D/ESBEs that perform a commercially useful function in regards to a distinct element of contract work and carry out specific management, supervisory and operational responsibilities related thereto.

LPA's name will make every feasible attempt to utilize the D/ESBES listed for goal attainment. However, in the event that a D/ESBE is unable or unwilling to perform, LPA's name shall notify the awarding agency in writing and include documentation to justify the substitution, including a statement from the D/ESBE to be replaced acknowledging the substitution. LPA's name shall also identify the replacement D/ESBE or document its good faith efforts to replace the D/ESBE with another D/ESBE.

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D/ESBE Officer

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County Executive

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date