

## DMWBE: Have a Plan

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DMWBE (Disadvantaged Minority/Women's Business Enterprise) is an acronym sure to command your attention. DMWBE procedures and goals are a permanent and demanding part of public contracting requirements and a factor in certain private projects. Under the circumstances, a contractor should have an internal system for DMWBE compliance with roles/responsibilities for its personnel to ensure best practices in key areas such as good faith efforts to procure certified firms, credits and utilization plan submission, ensuring certified firms perform their work and serve a commercially useful function, and communicating with the owner/agency throughout a project as to DMWBE compliance issues and efforts. This article briefly touches on requirements and best practices in key compliance areas.

### Goals and Requirements

The goals primarily found in contracts are DBE (federal) and MWBE (state or local). The contract goals are based on the funding source and bid packages should be read to determine which goals apply. There is no mixing permitted. For example, an MBE cannot be credited toward a DBE goal. Note that the goals are targets, not quotas, and an agency/owner is prohibited from demanding/requiring that a contractor fully meet a goal, if sufficient/proper good faith efforts have been made.

### Good Faith Efforts (GFE)

The contractor must have a plan to solicit, identify, bid to and contract with certified firms and the efforts must be documented. Ideally, a contractor should develop a checklist of GFE to make and train staff on the need to make and document GFE.



### Utilization Plan & Credits

The utilization plan shows the agency/owner the certified firms being used to meet the contract goals. The contractor should understand the credit rules that apply to the contract goals (DBE, M/WBE state or local) to determine what certified firm participation counts and the amount of the goal being met. The contractor must know when the utilization should be submitted, as the time frames can vary depending on the contract and diversity program. The contractor should develop a breakdown of the credit and counting rules pertaining to the applicable DMWBE programs and train staff in the rules and the formation and submission of a utilization plan.

### Commercially Useful Function (CUF)

Overall, CUF has to do with the requirement for legitimate certified firms to actually perform the work they were contracted for. It is important to develop a system to vet certified firms before contracting with them and to monitor their contract work. Internal staff should be trained as to areas of concern (red flags) to look for to ensure CUF compliance.

Contractors that can develop and train personnel in a DMWBE compliance program have the opportunity to not just survive, but thrive in the competitive public contracting market. Our firm has worked with contractors to develop programs and train staff, and having a plan yields positive results.