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# Hiring MBEs, WBEs and Labor Surplus Area Firms

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*Broadband Equity, Access, and Deployment Program*

August 2023



This presentation is for informational purposes only and is intended solely to assist recipients in better understanding the Federal Program and Federal Interest regulations required by National Telecommunication and Information Administration (NTIA). The guidance does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the program's Notice of Funding Opportunity (NOFO).

# Hiring MBEs, WBEs and Labor Surplus Area Firms



*A guide for states and territories on contracting with minority owned businesses (MBEs), women's business enterprises (WBEs) and labor surplus area firms<sup>1</sup>*

MBEs and WBEs are major catalysts for economic growth and job creation. However, data shows that MBEs and WBEs historically face significant contracting disparities compared to other businesses.

Federal law requires states and territories receiving grant funds to take “all necessary affirmative steps to assure that MBEs, WBEs, and labor surplus area firms are used when possible.”<sup>2</sup>

## Contracting Requirements Strategies

**Table 1** shows the legal requirements and some associated best practices and resources for meeting those requirements.

**Table 1: Legal Requirements, Best Practices, and Resources**

Requirements <sup>3</sup>	Best Practice/Resource <sup>4</sup>
<p><b>1</b> Placing qualified MBEs, WBEs and Labor Surplus Area firms on solicitation lists.</p>	<p>Identify and proactively communicate with state, local and regional organizations and trade associations, chambers of commerce, etc. (such as the State Minority Business Contracting Office) that work with underrepresented groups re: IFA contracting opportunities for MBEs and WBEs.</p> <p>Engage with trade associations, MBEs and WBEs <b>during the pre-solicitation process</b> to identify best practices, recommendations and potential participation barriers.</p>
<p><b>2</b> Assuring that MBE and WBE are solicited whenever they are potential sources.</p>	<p>Utilize website directories of U.S. Small Business Administration, U.S. Department of Transportation, U.S. Department of Commerce Minority Business Development Agency, State Minority and Women's Business Offices, State Labor Departments, etc., to identify potential MBE/WBE grant applicants. Examples:</p> <ul style="list-style-type: none"> <li>• <a href="#">DBE State Websites<sup>4</sup></a></li> <li>• <a href="#">SBA's Dynamic Small Business Search<sup>5</sup></a></li> <li>• <a href="#">MBDA Federal Procurement Center<sup>6</sup></a></li> </ul>

Ensure MBEs and WBEs are properly notified once the solicitation is issued. Provide ample lead time to ensure MBEs and WBEs can adequately respond to the solicitation.

Engage with trade associations, MBEs and WBEs **during the pre-solicitation process** to identify best practices, recommendations and potential participation barriers. **DRAFT | PRE-DECISIONAL**



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**Table 1: Legal Requirements, Best Practices, and Resources (Continued)**

Requirements <sup>3</sup>	Best Practice/Resource <sup>4</sup>
<p>3 Dividing total requirements, when economically feasible, into smaller tasks, quantities or milestones to permit maximum participation by small businesses, MBEs and WBEs.</p>	<p>Set participation goals for subgrantees to contract with MBEs, WBEs, and other small or economically disadvantaged businesses.</p> <p>Work with subgrantees to understand &amp; address barriers that small and disadvantaged businesses typically experience in contracting. Offer feedback on areas where subgrantees can improve participation.</p> <p>Allow businesses to collaborate in order to achieve the task requirements.</p>
<p>4 Establishing delivery schedules, where the requirement permits, which encourage maximum participation by small businesses, MBEs and WBEs.</p>	<p>Smaller businesses may not have staff members dedicated solely to the procurement and partnership process. Accordingly, states should:</p> <ul style="list-style-type: none"> <li>• Ensure sufficient lead time and notice for collaboration with MBEs, WBEs and small businesses</li> <li>• Conduct targeted outreach to MBEs and WBEs to create awareness of upcoming business opportunities, technical assistance and trainings and to identify potential barriers to their participation.</li> </ul>
<p>5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.</p>	<p>MBDA's state-based <a href="#">Business Centers</a><sup>7</sup> and/or SBA's <a href="#">Small Business Development Centers</a><sup>8</sup> can provide information on multiple SBA contracting assistance programs such as, but not limited to:</p> <ul style="list-style-type: none"> <li>• <a href="#">8(a) Business Development program</a><sup>9</sup></li> <li>• <a href="#">Small Disadvantaged Business</a><sup>19</sup> registration opportunities</li> <li>• <a href="#">Women-Owned Small Business Federal Contract program</a><sup>11</sup></li> </ul>
<p>6 Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in steps 1-5.</p>	



# Hiring MBEs, WBEs and Labor Surplus Area Firms

Existing states and territories can set goals and leverage different types of partnerships to increase participation of MBEs, WBEs, and labor surplus area firms. Several examples are provided in **Figure 1**.

*Figure 1: Examples of MBE, WBE, and Labor Surplus Area Firm Partnerships*



**Dallas Partners with the Regional Black Contractors Association:** In 2020, the Dallas City Council awarded the Regional Black Contractors Association (RBCA) a grant to expand support to its Second Chance Hiring Program. RBCA offers workforce development training and programs to individuals released from prison within the past three years. Through this program, RBCA helps create a pipeline to advance and support Black contractors and Black-owned businesses in the Dallas metro area.<sup>13</sup>



**Illinois Capital Development Board Sets Utilization Goals for Underrepresented Businesses:** Illinois sets thresholds for Capital Development Board projects to contract with minority-owned businesses, women-owned businesses, and businesses owned by persons with disabilities. The state's Fair Employment Practices Unit ensures contracts awarded reflect and adhere to the Business Enterprise Program (BEP) participation goals.<sup>14</sup>



**Portland Sets Minority and Female Participation Targets in Construction Trades:** The City of Portland, Oregon, adopted the Community Benefits Agreement and the Community Equity and Inclusion Plan to increase minority and female participation in construction trades. Depending on the value of the contract, firms must ensure that minorities perform at least 22% of total apprentice and journey level hours, while women must perform between 6% and 9%.<sup>15</sup>



**USDOT's Disadvantaged Business Enterprise (DBE) Program:** USDOT's DBE program is designed to remedy ongoing discrimination and the continuing effects of past discrimination in federally-assisted highway, transit, airport, and highway safety financial assistance transportation contracting markets nationwide. The primary goal of the DBE program is to level the playing field by providing small businesses owned and controlled by socially and economically disadvantaged individuals with a fair opportunity to compete for federally funded transportation contracts.<sup>16</sup>



**New York City Selects Small Business Emphasizing Local Engagement and Hiring to Implement High-Speed Internet:** The New York City Housing Authority (NYCHA) contracted with SpotOn, a local ISP and small business, to deliver high-quality service in New York public housing.<sup>12</sup> NYCHA selected SpotOn due to their local engagement approach, which included hiring disadvantaged residents as workers in the demonstration project, and their approach to equity-based customer service. SpotOn also committed to providing public housing residents with the same quality service as they are providing to high-end residential properties in the city.

**DISCLAIMER:** These are provided as examples only. Recipients should be sure to consult state resources within each specific state.

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## Citations

1. This document is intended solely to assist recipients of NTIA Bipartisan Infrastructure Law funding to better understand the associated grant programs and the requirements set forth in NTIA's Notice of Funding Opportunity (NOFO) for those programs. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in any NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in this document
2. 2 CFR § 200.321. *See also*, National Telecommunications and Information Administration. (2022, May 17). *Notice of Funding Opportunity: Broadband Equity, Access, and Deployment Program*. <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>
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