

SPECIAL NOTICE

DBE REGULATION AFFECTS PROCUREMENT UNDER THIS EPA GRANT

On May 27, 2008, EPA's Disadvantaged Business Enterprise (DBE) Rule became effective. This new regulation contains DBE provisions affecting procurement actions under all EPA financial assistance agreements/grants awarded on or after May 27, 2008. Therefore, **EPA's DBE Rule provisions and DBE Program requirements will apply to this individual Financial Assistance Agreement/Grant.** Moreover, EPA's grant recipients, sub-recipients, and loan recipients (and the prime contractors of these three entities) are all subject to EPA's DBE Rule and DBE Program requirements.

EPA's DBE Rule is intended to harmonize the Agency's statutory DBE procurement objectives with the Supreme Court's decision under *Adarand Constructors vs. Peña*, 515 U.S. 200 (1995). The Rule therefore sets forth a narrowly-tailored EPA Program (for EPA grant recipients in this case) to serve the compelling government interest of remedying past and current racial discrimination.

This DBE regulation also revises EPA's Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) Program by renaming it the Disadvantaged Business Enterprise (DBE) Program and modifies the MBE/WBE Program in ways that better ensure recipients of EPA financial assistance and their prime contractors seek out, and wherever possible, utilize MBE, WBE, and other DBE firms when procuring services, equipment, supplies, and construction on EPA-funded projects. Accordingly, ***DBE Program Terms and Conditions* are part of this individual EPA financial assistance agreement** and must be complied with in order to help achieve these ends.

The key functional components of EPA's DBE Rule and DBE Program include:

- Fair Share Objectives
- Six Good Faith Efforts and Contract Administration Requirements
- MBE/WBE Reporting
- MBE/WBE Certification

These components are covered in detail in EPA's DBE Program Fact Sheets, in EPA's DBE Program Manual, and in the full text of the Rule, all of which can be accessed at www.epa.gov/osbp . Additional useful information can be found on Region 9's grants office homepage at www.epa.gov/region09/funding/managing.html .

If you have questions about EPA's DBE Rule and DBE Program requirements, please contact:

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