

# **DELAWARE DEPARTMENT OF TRANSPORTATION**



## **SUPPLIER DIVERSITY PLAN**

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# **DELAWARE DEPARTMENT OF TRANSPORTATION**

## **Supplier Diversity Plan**

### **I. INTRODUCTION**

In accordance with Executive Order Number Fourteen, *Increasing Supplier Diversity Initiatives within State Government*, and approved by Governor Jack Markell on December 22, 2009, the Delaware Department of Transportation (DelDOT) has prepared the following Supplier Diversity Plan.

DelDOT is dedicated to its policy of encouraging businesses owned and controlled by women or minority enterprises to participate in contracting opportunities created by its transportation programs. In its role as overseer and sponsor of hundreds of transportation projects occurring across the state each year, DelDOT distributes millions of dollars to construction contractors, suppliers, and professional consultants.

For a firm or business to become certified as woman or minority owned, it must be certified by either the Delaware Office of Minority and Women Business Enterprise (OMWBE) or the Delaware Department of Transportation (DelDOT) Disadvantaged Business Enterprise (DBE) Programs. As a division of the Office of Management and Budget, the mission of OMWBE is to assist minority and/or women business enterprises in competing for the provision of commodities, services, and construction to all Delaware state departments, agencies, authorities, school districts, higher education institutions and businesses. The primary responsibility of OMWBE is to foster continued economic development and growth for minority and women owned businesses in the state.

Both the OMWBE and DelDOT DBE programs provide two distinct levels of certification and supportive services to Delaware women and minority-owned businesses. OMWBE provides certification and support services on a state level, and DelDOT participates as part of its federal requirement as mandated by the U.S. Department of Transportation. OMWBE provides business development assistance to certified companies while DelDOT sets contract specific goals, monitors, and reports DBE participation to the U.S. Department of Transportation.

## **II. POLICY STATEMENT**

The Delaware Department of Transportation (DelDOT) has established a Supplier Diversity Plan as directed by Executive Order Number 14, approved by Governor Jack Markell on December 22, 2009. The goal of the Plan shall be to maximize the contracting opportunities for minority and women owned businesses as well as increase transparency for subcontracting opportunities. In accordance with the Executive Order, DelDOT has appointed a Minority and Women Business Enterprise Liaison, who will serve as the responsible contact for the DelDOT supplier diversity plan. The DelDOT Liaison is responsible for assisting the Office of Minority and Women Business Enterprise and the Governor's Supplier Diversity Council in their efforts to maximize supplier diversity among state agencies. The compliance and implementation of this supplier diversity plan is accorded the same priority as all other obligations incurred by DelDOT.

DelDOT recognizes and promotes the outstanding contributions made by small and diverse businesses to the economic health and diversity of communities throughout our region. It is the policy of DelDOT to ensure that minority and/or women business enterprises (M/WBEs), as defined in Part III of this document, have an equal opportunity to participate in the award of all DelDOT contracts. DelDOT will provide interested suppliers with information about current and future contracting opportunities within the organization. Owners and representatives of small and diverse businesses are encouraged to contact the Minority and Women Business Enterprise Liaison to market their products and services. It is our policy:

- To ensure nondiscrimination in the award and administration of all DelDOT contracts;
- To help remove barriers and create a level playing field on which minority and/or women business enterprises can compete fairly for and participate in all DelDOT contracts and/or subcontracts;
- To further increase transparency, accountability and competitiveness in DelDOT procurement and subcontracting;
- To increase the participation of minority and/or women business enterprises in all aspects of DelDOT contracting and procurement, using current participation as a benchmark;
- To strive to recognize and advocate diversity in our supplier base;
- To work with cost effective, high-quality business partners and suppliers from an inclusive pool of rich and diverse resources;
- To employ subcontractors and suppliers who are more efficient, flexible, innovative, offer the best value, and are committed to diversity within their organizations; and
- To recruit and identify M/WBEs by encouraging applicable vendors to certify with OMWBE should those vendors be ineligible or uninterested in obtaining DelDOT DBE certification.

### **III. DEFINITIONS OF TERMS**

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a highway, transit, or airport program.

**Delaware Office of Minority and Women Business Enterprise (OMWBE)**

The Office of Minority and Women Business Enterprise within the Office of Management and Budget shall have, as its mission, to assist minority and/or women business enterprises in competing for the provision of commodities, services, and construction to State departments, agencies, authorities, school districts, higher education institutions and all businesses. Any firm certified as a Disadvantaged Business Enterprise by the Delaware Department of Transportation, is automatically certified with OMWBE.

The Office of Minority and Women Business Enterprise shall have the following powers, duties and functions:

- The Executive Director of the Office of Minority and Women Business Enterprise will be responsible for providing strategic advice to the Director of the Office of Management and Budget and the Governor pertaining to supplier diversity;
- Monitor and evaluate each respective Executive Branch Agency Supplier Diversity Action Plan;
- Certify minority and/or women business enterprises and create and maintain a State directory of minority and/or women business enterprises that have been certified, and;
- Educate minority and/or women business enterprises on how to conduct business with the State of Delaware.

**Disadvantaged Business Enterprise (DBE)** is a for-profit small business concern:

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own the business.

**Good faith efforts** mean efforts to achieve a minority and/or women business enterprise requirement of this part which, by their scope, intensity, and appropriateness to the objective, are in coordination with the supplier diversity plan.

**Minority and/or women business enterprise (M/WBE)** is a for profit business which is at least 51 percent owned and managed by a minority and/or woman and certified by the

Office of Minority and Women Business Enterprise (OMWBE) or the DelDOT Disadvantaged Business Enterprise (DBE) Program. An M/WBE must be majority owned, controlled and actively managed by a minority group member (African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans) or by woman. An M/WBE must be a for-profit business with “a useful business function.”

**NAICS** The North American Industry Classification System (NAICS) is used by business and government to classify business establishments according to type of economic activity (process of production) in Canada, Mexico and the United States. Within the official NAICS classification system, U.S. industries are defined at the 6-digit level.

**OMWBE Directory (the directory)** is a listing of certified minority and/or women businesses in the OMWBE online directory that have been approved by OMWBE. <http://gss.omb.delaware.gov/omwbe/certdir.asp>

**Plan (or “the Plan”)** refers to the Supplier Diversity Plan.

**Primary industry classification** means the North American Industrial Classification System (NAICS) designation that best describes the primary business of a firm. The NAICS is described in the *North American Industry Classification Manual – United States, 2007*, and is available in print and on CD ROM from the National Technical Information Service, by calling (NTIS) at (800) 553-6847 or (703) 605-6000.

**Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is –

- Any individual found to be a socially and economically disadvantaged individual on a case-by-case basis.
- Any individual in the following groups, members of which are presumed to be socially and economically disadvantaged:
  - “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
  - “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - “Native Americans,” which includes persons who are American Indians, Eskimos,
  - Aleuts, or Native Hawaiians;
  - “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

- “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- Women;
- Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

**State contract** means any contract or purchase made between DelDOT and a contractor or supplier (at any tier) funded in whole with state financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

**State purchase** means any purchase made by or on behalf of the State of Delaware, using state funds. The established State purchasing thresholds are as follows:

- ***Material and Non-Professional Services***
  - If material or service value is less than \$10,000, the purchase can be made in the open market.
  - If material or service value is between \$10,000 and \$24,999, the purchase requires at least three written quotes.
  - If material or service value is \$25,000 or over, the purchase requires a formal open bid.
- ***Public Works (Construction)***
  - If the contract is estimated to cost less than \$25,000, it can be made in the open market.
  - If the contract is estimated to cost between \$25,000 and \$49,999, it requires at least three letter bids.
  - If the contract is estimated to cost \$50,000 or over, it requires a formal open bid process.
- ***Professional Services***
  - If the service is estimated to cost less than \$50,000, it can be made in the open market.
  - If the service is estimated to cost \$50,000 or over, it requires a formal request for proposal (RFP).

**Supplier** means a vendor of any type of material, service, or public works to be acquired by DelDOT.

**Under Threshold Purchase** means a state purchase that is neither part of a mandatory state use contract nor required to be advertised through a formal open bid process or formal request for proposal.

## **IV. GENERAL PROVISIONS**

### **Nondiscrimination**

DelDOT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract on the basis of race, color, sex, or national origin.

In administering its Supplier Diversity Plan, DelDOT will not, through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the Plan with respect to individuals of a particular race, color, sex, or national origin.

### **Quotas and Set-Asides**

With the exception of those contracts designated as internal by the State Use Commission, and as a requirement of state law, DelDOT does not use quotas or set-asides in any way on contracts or purchases funded solely with state resources, nor are quotas or set-asides used in the administration of this Supplier Diversity Plan.

### **Minority and Women Business Enterprise Liaison**

The Secretary has designated the DelDOT DBE Program Manager as the DelDOT Minority and Women Business Enterprise Liaison; and he or she will serve as the responsible contact for the DelDOT Supplier Diversity Plan. The DelDOT Minority and Women Business Enterprise Liaison is responsible for assisting the Executive Director of the OMWBE and the Governor's Supplier Diversity Council in their efforts to maximize supplier diversity among state agencies. The DelDOT Minority and Women Business Enterprise Liaison has direct and independent access to the Secretary of DelDOT concerning Supplier Diversity program matters.

The DelDOT Minority and Women Business Enterprise Liaison is responsible for developing, implementing and monitoring the Supplier Diversity program in coordination with OMWBE, the Governor's Supplier Diversity Council and other appropriate DelDOT officials. Duties and responsibilities of the Liaison include the following:

- Assist the Office of Minority and Women Business Enterprise and the Governor's Supplier Diversity Council, as created in Executive Order Fourteen, in their efforts to maximize supplier diversity among State agencies;
- Direct and coordinate supplier diversity initiatives within DelDOT, including but not limited to discussing best practices and educating staff;
- Assist in the development and implementation of the DelDOT Supplier Diversity Action Plan, as identified by Executive Order Number Fourteen;
- Prepare reports for the Governor's Supplier Diversity Council; and



- Undertake such additional tasks relating to Executive Order Fourteen as required by the Governor.

## **V. CERTIFICATION STANDARDS**

### **OMWBE**

Delaware OMWBE is responsible for using state certification standards to determine the eligibility of firms applying for M/WBE certification. In order to be certified as an M/WBE, firms are required to be:

- At least 51 percent owned, controlled and actively managed by minority group members (African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans) or by women.
- Serving as a for-profit business with “a useful business function.”

### **DelDOT DBE Program**

DelDOT uses the certification standards of Subpart D of 49 CFR Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. In order to be certified as a DBE, firms are required to:

- Be a small business owned and controlled by socially and economically disadvantaged individual(s). African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case-by-case basis.
- Prove that management, policies, major decisions and daily business operations are independently managed and controlled by one or more of the socially and economically disadvantaged individuals who own it.
- Qualify as a Small Business Enterprise as defined by the U. S. Small Business Administration regulations (13 CFR Part 121), averaged over a three-year period.
- Have a personal net worth that does not exceed \$1.32 million.
- Have past 3-year average annual gross receipts that do not exceed \$22.41 million.

## **VI. STATE DIRECTORY OF CERTIFIED FIRMS**

OMWBE currently maintains an online directory of certified M/WBEs to provide a reference source to assist bidders/proposers in employing M/WBE firms. This searchable database can be used to find M/WBEs according to products and services offered, NAICS by Description or Numeric Code, Company Name, or State Certification Number. The State Directory of Certified M/WBEs is updated daily and available via the Office of Management and Budget website at <http://gss.omb.delaware.gov/omwbe/certdir.asp>.

DelDOT currently maintains a directory of certified DBEs to provide a reference source to assist bidders/proposers in employing DBE firms. The directory alphabetically lists the firm's name, address, and telephone number, the firm's specialty area of work and corresponding NAICS code(s). It is the responsibility of the prime contractor/consultant to make his/her own determination regarding the capability of a DBE firm. The Delaware Directory of Certified DBE Firms is updated quarterly and available on the DelDOT DBE website. The [DelDOT DBE website](http://www.deldot.gov) can be accessed by visiting [www.deldot.gov](http://www.deldot.gov), clicking on *Doing Business* under the section titled Information, then clicking on *Disadvantaged Business Enterprise Program* under the External Civil Rights section. DelDOT is currently the sole certification office in Delaware responsible for maintaining a Directory of Certified DBE Firms. All firms certified by DelDOT's DBE Program are automatically eligible to participate as a state certified M/WBE.

## **VII. SUPPLIER DIVERSITY OUTREACH**

Regarding supplier diversity outreach, DelDOT's responsibilities shall include but are not limited to:

- Educating the DelDOT Strategic Leadership Team on Executive Order 14 and the Supplier Diversity Initiatives that are being put into action within the Department;
- Circulating the Supplier Diversity Plan to all DelDOT Directors;
- Identifying contracting opportunities prior to advertisement and solicitation;
- Participating in the annual Governor's Entrepreneurial Conference;
- Participating in the annual the Delaware Economic Development Office (DEDO) Small Business Summit;
- Distributing communications developed by OMWBE for state supplier initiatives;
- Participating in outreach opportunities as they present themselves;
- Providing a website link that will allow users to access the OMWBE web page via the DelDOT DBE home page; and
- Working with OMWBE to expand DBE outreach events and to develop a target audience that includes M/WBE's that may be ineligible for the Federal DBE program however eligible for OMWBE certification.

## **VIII. INFORMATION COLLECTION AND M/WBE RECRUITING**

Regarding information collection and M/WBE recruiting, DelDOT's responsibilities shall include but are not limited to:

- Submitting data involving DelDOT M/WBE participation and awards to OMWBE when requested;
- Assessing DelDOT M/WBE participation and awards quarterly;
- Making use of the required reporting format for M/WBE participation as developed and disseminated by OMWBE;

- Using participation assessments to develop a tracking and management system, conducting recurring spend analyses, and identifying supply chain opportunities and comprehensive sourcing activities;
- Submitting information to OMWBE regarding M/WBE bidding data for over threshold bid opportunities;
- Developing a process to record active M/WBE bidders that were non-successful in being awarded a DelDOT state-funded contract;
- Soliciting feedback from M/WBEs regarding real or perceived barriers in DelDOT's contracting and procurement processes;
- Adding OMWBE application information to selected DelDOT DBE correspondence in an effort to offer contractors and vendors an alternate level of certification for which they may qualify; and
- Developing an automated procedure to gather second tier/under-threshold contracting data.

## **IX. DELDOT PROCUREMENT PROCESS**

DelDOT's procurement responsibilities shall include but not be limited to:

- Soliciting the OMWBE directory to procure at least one quote for all Public Works (construction) contracts, material purchases, and non-professional services that require three letter bids or written quotes;
- Communicating to OMWBE any agency-specific procurement processes, rules or regulations;
- Providing instructional guidance documents on agency-specific processes to OMWBE;
- Communicating federal supplier diversity requirements made part of their procurement process;
- Recognizing and working to eliminate potential barriers to new vendors attempting to solicit business;
- Reviewing past expenditures to identify potential uncertified M/WBE firms and sharing OMWBE's certification process with those firms; and
- Adding a link to [bids.delaware.gov](http://bids.delaware.gov) on the "Doing Business with DelDOT" webpage to connect users with state bid opportunities.

## **X. REPORTING**

DelDOT will report successes and opportunities for improvements for supplier diversity to OMWBE by first using fiscal year 2010 M/WBE spending as a benchmark. DelDOT's reporting responsibilities to OMWBE shall include but not be limited to:

- Providing OMWBE feedback on best practices of proposal submission and evaluation;
- Providing agency spend data for M/WBE's on an annual basis; and
- Supplying M/WBE participation data on under-threshold contracts on an annual basis.