

CHECKLIST OF EPA TRANSMITTALS

TITLE	Guidance for Utilization of Small, Minority, and Women's Business Enterprises in Procurement Under Assistance Agreements
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When kept current, this checklist permits the user to see at a glance which transmittals have been filed.

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United States
Environmental Protection
Agency

Office of Small
and Disadvantaged
Business Utilization

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5/22/86

EPA

GUIDANCE FOR UTILIZATION OF SMALL, MINORITY AND
WOMEN'S BUSINESS ENTERPRISES IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

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**EPA GUIDANCE FOR UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS
ENTERPRISES IN PROCUREMENT UNDER ASSISTANCE AGREEMENTS**

THE OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

**OFFICE OF THE ADMINISTRATOR
WASHINGTON, D.C. 20460**

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

NOTICE

This guidance was prepared by the United States Environmental Protection Agency for use by EPA personnel, State and local government officials and business persons interested in participating in EPA financial assistance programs. The purpose of the guidance is to provide information regarding the utilization of small, minority and women-owned business entities under EPA's financial assistance programs.

In the event there are any conflicts between this guidance and EPA regulations, the regulations will govern.

ACKNOWLEDGEMENTS

PREPARED BY:

Office of Small and Disadvantaged
Business Utilization (A-149C)
Office of the Administrator
U.S. Environmental Protection Agency
Washington, D.C. 20460

PROJECT MEMBERS:

George K. Mori
Office of Small and Disadvantaged
Business Utilization (A-149C)
Office of the Administrator

J. Kent Holland, Jr., Esquire
Grants, Contracts and General
Law Division (LE-132G)
Office of General Counsel

Richard A. Johnson
Grants Administration
Division (PM-216)
Office of Administration

Tod A. Gold
Municipal Construction Division (WH-547)
Office of Municipal Water Control

Camille J. Lee
Hazardous Support
Response Division (WH-548)
Office of Emergency and Remedial Response

Elaine T. Rice
Office of Small and Disadvantaged
Business Utilization (A-149C)
Office of the Administrator

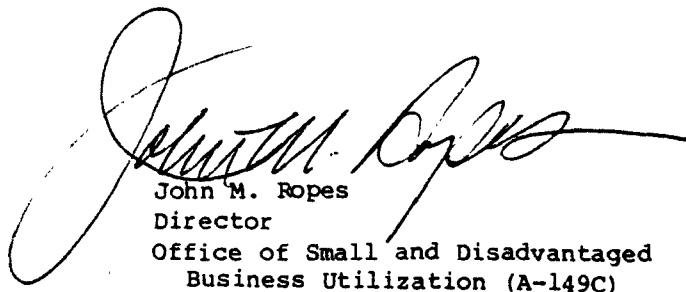
EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

Foreword

As the Environmental Protection Agency moves forward to promote greater use of small, minority and women-owned businesses under our assistance programs, it is well to note that this can only be accomplished with the full commitment of EPA's senior management, program officers, Office of Small and Disadvantaged Business Utilization personnel and recipients of our financial assistance awards.

This Guidance has been developed with you, the user in mind. We are certain that with your conscientious effort, a greater use of small, minority and women-owned businesses will be possible. We believe that special effort is needed to assure that they are afforded the opportunity to participate fully in our financial assistance programs to enable them to take their place in our nation's economic mainstream.

We believe that this objective can be achieved through the implementation of the EPA regulations and "EPA's Guidance for Utilization of Small, Minority and Women's Business Enterprise in Procurement Under Assistance Agreements" and through the sincere efforts of everyone involved with the EPA assistance program.



John M. Ropes
Director
Office of Small and Disadvantaged
Business Utilization (A-149C)

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CONTENTS OF CHAPTERS

<u>CHAPTER</u>	<u>PAGE</u>
1. <u>GENERAL INFORMATION</u>	1-1
A. GENERAL	1-1
B. POLICY	1-1
C. BACKGROUND	1-2
2. <u>AUTHORITY</u>	2-1
1. OMB Circular A-102, Attachment "O"	2-1
2. Executive Order 12138	2-1
3. Executive Order 11625	2-1
4. Executive Order 12432	2-2
5. 40 CFR Part 33	2-2
3. <u>DEFINITIONS</u>	3-1
1. Delegated State	3-1
2. Fair Share	3-1
3. Minority Business Enterprise (MBE)	3-1
4. Small Business Concern	3-3
5. Labor Surplus Area	3-4
6. Labor Surplus Area Concern	3-4
7. Positive Efforts	3-4
8. Women's Business Enterprise (WBE)	3-4
4. <u>FAIR SHARE</u>	4-1
A. FAIR SHARE POLICY	4-1
1. Wastewater Treatment Construction Grant Program	4-1
2. Superfund Program	4-2
3. Asbestos Removal Program	4-2
4. Other Programs	4-2
B. AFFIRMATIVE STEPS	4-2
1. Construction, Superfund, Asbestos and Program Grants	4-2
2. Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	4-3
C. SUGGESTED GUIDANCE FOR CARRYING OUT THE 6 STEPS	4-3
1. Including S/M/WBEs on Solicitation Lists	4-3
2. Assuring that S/M/W Businesses are Solicited	4-3

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CONTENTS OF CHAPTERS

<u>CHAPTER</u>	<u>PAGE</u>
3. Dividing Total Requirements Into Small Tasks or Quantities To Permit Participation of S/M/W Businesses	4-4
4. Establishing Delivery Schedules Which Will Permit SBes, MBes and WBes to Participate	4-4
5. Using Services and Assistance of SBA and MBDA	4-5
5. <u>RESPONSIBILITIES</u>	5-1
1. Headquarters, Office of Small and Disadvantaged Business Utilization (OSDBU)	5-1
2. Award Official	5-1
3. Assistant Administrators & Regional Administrators ..	5-2
4. Regional MBE/WBE Staff	5-2
5. Delegated States of EPA Financial Assistance	5-4
6. Recipients of EPA Financial Assistance	5-4
7. Institutions of Higher Education and Other Non-Profit Organizations	5-5
6. <u>CERTIFICATION OF SBE'S, MBE'S AND WBE'S</u>	6-1
1. Bona Fide MBE's or WBE's	6-1
2. Acceptance of Certification or Self-Certification ...	6-1
3. State or Local Certification Processes	6-1
4. EPA's Reason to Question Certification	6-1
5. Challenging the Status of a MBE/WBE	6-2
7. <u>REPORTING REQUIREMENTS</u>	7-1
A. <u>REPORTING REQUIREMENTS</u>	7-1
1. EPA Form 6005-1	7-1
2. EPA Form 6005-2	7-2
B. <u>REPORTING ON CONTINUING ENVIRONMENTAL PROGRAMS</u>	7-2
1. Continuing Environmental Program Grants	7-2
C. <u>ACTUAL REPORTING</u>	7-3
1. Explaining How the Reporting System Operates	7-3
2. Reporting on Total Subagreement Awards	7-4

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CONTENTS OF CHAPTERS

<u>CHAPTER</u>	<u>PAGE</u>
D. OTHER REPORTING REQUIREMENTS	7-4
1. MBDA-91 Report	7-4
8. <u>COUNTING MBE/WBE PARTICIPATION</u>	8-1
1. Calculating MBE/WBE Participation	8-1
2. Questions Calculating MBE/WBE Participation	8-2
3. MBE/WBE as a Prime Contractor	8-2
4. Use of Minority Press	8-2
9. <u>MANAGEMENT AND TECHNICAL ASSISTANCE</u>	9-1
1. Use of Prime Contractors for Technical Assistance ...	9-1
2. Bonding	9-1
3. Cooperation Between EPA Staff and MBDCs	9-1
10. <u>BID PROTESTS</u>	10-1
A. CHALLENGE TO MBE/WBE STATUS	10-1
B. MBE/WBE COMPLIANCE-BIDDER RESPONSIBILITY VS RESPONSIVENESS	10-1
1. General Rule on Responsibility vs Responsiveness	10-1
2. Making MBE/WBE Requirements a Matter of Responsiveness	10-2
3. Protest Examples	10-2
4. Language Failures in Bid Packages	10-2
5. Specific Language in Bid Solicitations	10-3
6. If MBE/WBE Documentation are Matters of Responsiveness	10-4
C. EPA PROTEST APPEALS PUBLICATION	10-4
11. <u>DEBARRED AND SUSPENDED CONTRACTORS</u>	11-1
1. Debarment and Suspension	11-1
2. Master List	11-1
3. Master List Updates	11-1
4. Debarred Bidder's List	11-1

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CONTENTS OF CHAPTERS

<u>CHAPTER</u>	<u>PAGE</u>
12. <u>CENTRAL RESOURCE DIRECTORY</u>	12-1
1. Reasons for Establishment	12-1
2. CRD Information Requirements	12-1
3. Transmittal of CRD Entries	12-2
4. Does Not Replace Other Directories	12-2

<u>ATTACHMENT</u>	<u>ATTACHMENTS NUMBER</u>
EPA FORM 6005-1	1
EPA FORM 6005-2	2
MBDA-91 FORM	3
RECOMMENDED CERTIFICATION FORMAT	4
EPA/MBDA MEMORANDUM OF UNDERSTANDING	5
LISTING OF MBE COORDINATORS	6
DIRECTORY of MBDA REGIONAL AND DISTRICT OFFICES...	7
MINORITY BUSINESS DEVELOPMENT CENTERS.....	8*
SURVEY OF STATES, CITIES AND COUNTIES MBE/WBE PROGRAMS	9*
40 CFR PART 33, MARCH 28, 1983	10*

* Attachments 8, 9 & 10 are available upon request.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

GENERAL INFORMATION

CHAPTER 1

TABLE OF CONTENTS

	<u>PAGE</u>
A. General	1-1
B. Policy	1-1
C. Background	1-1

CHAPTER 1

GENERAL INFORMATION

A. GENERAL

The Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for establishing policy and providing procedural guidance for the utilization of small, minority and women-owned businesses under the Agency's financial assistance programs. Some of this guidance, however, applies only to minority and women's businesses. An example is the reporting requirement wherein minority and women's business utilization are reportable items and small business utilization is not. This particular exclusion was directed by the Office of Management and Budget (OMB) inasmuch as no Federal statute or Executive Order has been established for the gathering of data for small business, whereas Executive Orders for minority and women's business require the compilation and reporting of data relative to these business entities.

This guidance does not constitute a regulation but rather guides and assists individuals in their efforts to understand and implement the EPA policies published in 40 CFR Part 33.

B. POLICY

It is EPA policy (40 CFR Sec. 33.240) that recipients of EPA financial assistance through grants and cooperative agreements award a fair share of subagreements to small, minority and women's businesses. Since each is a separate entity, the objective is to assure that each of these three business entities is given the opportunity to participate in subagreement awards under EPA financial assistance agreements. This policy applies to all subagreements for supplies, construction and services under any EPA grant or cooperative agreement. The provisions of 40 CFR Sec. 33.240 do not apply to institutions of higher education or non-profit organizations. (See 40 CFR Sec. 33.815(f)).

Small purchases as cited in 40 CFR Sec. 33.305 are subject to the fair share policy and recipients are encouraged to utilize MBEs/WBES when making such purchases.

C. BACKGROUND

In 1978, the Environmental Protection Agency issued its MBE policy statement setting forth goals for minority business utilization in the Wastewater Treatment Construction Grants Program. This policy was established as a result of the President's National Urban Policy Statement of March 27, 1978. The policy required regional offices to establish goals to achieve a fair share of procurement dollars for minority businesses.

A policy directive was also instituted for women's business enterprise and set a national goal of two (2%) percent for women's business utilization in EPA's construction grants program. This policy is no longer in effect due to the promulgation of 40 CFR Part 33. However, EPA does include women's business enterprise in the "fair share" considerations.

On December 17, 1982, the President issued a statement regarding his commitment to the goal of greater opportunity for economic progress and independence for all Americans. At that time the President announced the Administration's program to promote an economic environment in which minority entrepreneurs could achieve better lives for themselves, and as a result contribute to a stronger economic base for the country. This program is based on the following principles:

1. A healthy, growing economy is fundamental to creating the opportunity for the formation and growth of minority-owned businesses.
2. Greater economic independence for minority Americans will best be achieved through increased opportunities for private employment and business ownership.
3. Creativity, private entrepreneurship, and individual initiative will ultimately determine the success or failure of individual minority businesses.
4. Expanded involvement of the private sector is crucial to minority enterprise developmental efforts.

The President directed major federal grant-making agencies to encourage their recipients to achieve reasonable minority business participation under assistance agreements. Executive Order 12432, issued on July 14, 1983, directed the heads of departments and agencies to move forward and implement the directives.

Simultaneous with these activities, the Environmental Protection Agency (EPA) was revising its policy related to the methods for using small, minority and women's businesses in the Agency's federally assisted procurements. On March 28, 1983, EPA promulgated final regulations, 40 CFR Part 33 (48 Fed. Reg. 12922). Under these regulations, instead of requiring recipients to set goals for MBE or WBE participation, EPA requires that a recipient award a "fair share" of subagreements to SBEs, MBEs and WBEs by following six affirmative steps.

The Secretary of Commerce acting as Chairman pro-tempore of the Cabinet Council on Commerce and Trade issued additional instructions for the implementation of E.O. 12432 by directing Federal agencies to establish numeric objectives for any program using Federal funds. These instructions

6010
5/22/86

were in accordance with directives set forth in the Presidential Executive Order. EPA moved promptly to fully implement the Executive Order and the additional instructions.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

AUTHORITY

CHAPTER 2

TABLE OF CONTENTS

	<u>PAGE</u>
1. OMB Circular A-102, Attachment "O"	2-1
2. Executive Order 12138	2-1
3. Executive Order 11625	2-1
4. Executive Order 12432	2-1
5. 40 CFR Part 33	2-1

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 2

AUTHORITY

AUTHORITY

EPA's authority to adopt and implement guidelines for the procurement of construction services and supplies from small, minority and women-owned businesses stems directly from OMB Circular A-102, Attachment "O", and from Executive Orders 11625, 12138 and 12432.

1. OMB Circular A-102, Attachment "O" outlines standards to be used by Federal agencies in establishing procedures for the procurement of supplies, services and construction with Federal assistance funds. 42 Fed. Reg. 45828, 45890 (Sept. 12, 1977). Section (3)(c)(3) of the 1977 version of Attachment "O" provided in part that "positive efforts" shall be made by grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing federal grant funds.

On August 15, 1979, OMB promulgated a revised version of Attachment "O", (44 Fed. Reg. 47874), which reiterated the Government's commitment to increase the use of Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms in Federally funded projects and outlined certain "affirmative steps" that grantees must take to implement these objectives.

2. Executive Order 12138 was issued on May 18, 1979. The Order directed all Federal agencies to: (1) facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system; (2) take affirmative action in support of women's business enterprise; and (3) extend Federal financial assistance to any program or activity ... Each department or agency empowered to, shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise. Pursuant to Executive Order 12138, the regulations implemented by the agencies shall prescribe sanctions for noncompliance. Sanctions by EPA are set forth in 40 CFR Part 30.

3. Executive Order 11625 was issued on October 13, 1971. The Order clarified the authority of the Secretary of Commerce to implement policy and to assist minority business enterprise. One of the factors was, "... to coordinate the participation of Federal departments and agencies in an increased minority enterprise effort." As a result of this, the Order required the Secretary of Commerce to, "... Promote the mobilization of

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations and volunteer groups toward the growth of minority business enterprise, and facilitate the coordination efforts of these groups with those of Federal departments and agencies."

The Order further requires that the Secretary, with the participation of other Federal departments and agencies, as appropriate, develop comprehensive plans and specific program goals; establish regular program, monitoring and reporting systems; and evaluate the impact of Federal support in achieving the objectives established by this Order.

The Order requires the head of each Federal department or agency to furnish information and reports in a manner prescribed by the Secretary of Commerce. It further stipulates that within the constraints of law and appropriations, Federal departments and agencies shall foster and promote minority business enterprise.

4. Executive Order 12432 was issued on July 14, 1983. The Order directed all Federal agencies to: (1) develop an MBE plan on an annual basis; (2) establish MBE objectives; (3) identify methods for encouraging prime contractors and grantees to utilize MBEs; (4) build upon programs administered by the Small Business Administration and Minority Business Development Agency; (5) furnish an annual report regarding the accomplishments of their MBE programs; and (6) establish programs to deliver management and technical assistance to MBEs.

5. 40 CFR Part 33. EPA has implemented its current, small business, minority business and women-owned business programs through its Procurement Under Assistance Agreements Regulation, 40 CFR Part 33. This regulation was promulgated as an interim final rule on May 12, 1982, and was subsequently published as a final rule on March 28, 1983. The SBE/MBE/WBE provisions in both the interim-final and final rule are the same with respect to the affirmative steps requirement.

NOTE: For the purposes of this guidance, whenever reference is made to 40 CFR Part 33, it will be to the final rule as published on March 28, 1983.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

DEFINITIONS

CHAPTER 3

TABLE OF CONTENTS

	<u>PAGE</u>
1. Delegated State	3-1
2. Fair Share	3-1
3. Minority Business Enterprise (MBE)	3-1
4. Small Business Concern	3-3
5. Labor Surplus Area (LSA)	3-4
6. Labor Surplus Area Concern	3-4
7. Positive Efforts	3-4
8. Women's Business Enterprise (WBE)	3-4

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 3

DEFINITIONS

The following definitions are provided for your use when utilizing this guidance.

1. Delegated State. EPA's policy is to delegate management of the wastewater treatment works construction grants program to the maximum extent possible consistent with the objectives of the Act, prudent fiscal management and EPA's overall national responsibility for the program. The policy is premised on an on-going partnership between EPA and the States that includes consultation with the States in formulation of policy and guidance by EPA. EPA expects States to undertake full delegation of all project level activities. Program delegation is accomplished through a formal delegation agreement between the Regional Administrator and the State. The delegation agreement will list the functions delegated and to be delegated, with a schedule for their assumption by the State. For the purpose of this guidance, whenever reference is made to a delegated State it will mean that the MBE/WBE functions have been delegated.

2. Fair Share. Fair Share is a reasonable amount of funds commensurate with the total project funding, demographic factors and the availability of minority and women's businesses. A fair share does not constitute an absolute goal, but a commitment on the part of the recipient to attempt to use minority and women's businesses by carrying out the six affirmative steps in 33.240. The recipient must document the actions taken to comply with the affirmative steps. If a State or local government has a law, ordinance, or executive order which establishes a goal for minority and/or women's businesses, the recipient may use that goal as the "fair share" objective for the project.

3. Minority Business Enterprise (MBE) is a business concern which is:

a. Certified as socially and economically disadvantaged by the Small Business Administration;

(1) Socially disadvantaged individuals means such persons which are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar invidious circumstances.

(2) Economically disadvantaged individuals means socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. Individuals who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans,

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

Asian-Pacific Americans, Asian-Indian Americans), are to be considered socially and economically disadvantaged.

b. Certified as a minority business enterprise by a State or Federal agency; or

c. An independent business concern which is at least 51 percent owned and controlled by minority group member(s).

(1) A minority group member is an individual who is a citizen of the United States and one of the following:

- (a) Black American;
- (b) Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America);
- (c) Native American (American Indian, Eskimo, Aleut, native Hawaiian); or
- (d) Asian-Pacific American (with origins from Japan, China, the Phillipines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan or the Indian subcontinent).

(2) In order to satisfy this third criteria of the MBE definition, the minority ownership's interest must be real, substantial and continuing. Such interest is characterized by:

(a) Risk of loss/share of profit commensurate with the proportional ownership; and

(b) Receipt of the customary incidents of ownership, such as salary and/or intangible benefits.

(3) A minority owner must have and exercise control of the business decisions. Characteristics of control include, but are not limited to:

- (a) Authority to sign bids and contracts;
- (b) Decisions in price negotiations;
- (c) Incurring liabilities for the firm;
- (d) Final staffing decisions;
- (e) Policy-making; and
- (f) General company management decisions.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

d. Only those firms performing a useful business function according to custom and practice in the industry, are qualified as MBEs. Acting merely as a passive conduit of funds to some other firm where such activity is unnecessary to accomplish the project does not constitute a "useful business function according to custom and practice in the industry". The purpose of this approach is to discourage the use of MBE "fronts" and limit the creation of an artificial supplier and broker marketplace.

4. Small Business Concern. Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards set forth in 13 CFR 121.

a. Concern. Means any business entity located inside the United States that is organized for profit (even if it is owned by a non-profit entity), pays U. S. taxes, and/or uses American products, materials, and/or labor, etc. A "concern" may be an individual, a partnership, a corporation, a joint venture, an association, or a cooperative.

b. Not dominant in the field of operation means not exercising a controlling or major influence in an industry. A controlling or major influence can be derived from factors such as business volume, number of employees, financial resources, competitiveness, ownership or control of materials, processes, patent license agreements, facilities, sales territory, and nature of business activity.

c. Affiliates. Business concerns are affiliates of each other, if directly or indirectly:

- (1) Either one controls or has the power to control the other; or
- (2) Another concern controls or has the power to control both.

In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management and contractual relationships; provided that restraints imposed by a franchise agreement are not considered in determining whether the franchisor controls or has the power to control the franchisee, if the franchisee has the right to profit from its efforts, commensurate with ownership, and bears the risk of loss or failure. Any business entity may be an affiliate, whether or not it is organized for profit or located inside the United States.

d. Annual receipts. Means the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

acceptable accounting basis). If a concern has been in business less than a year, its annual receipts for the purpose of a size standard will be based on 1 year's receipts and shall be computed by dividing its average weekly figure by 52. If a concern has been in business less than 3 years, its average annual receipts for the purpose of a size standard based on 3 years' receipts shall be computed by determining its average weekly receipts for the period in which it has been in business, and multiplying such figure by 52. If a concern acquired an affiliate during the applicable accounting period, the affiliate's receipts for the period during which it was an affiliate must be added to the applicant's receipts. The receipts of a former affiliate are not included even if such a concern had been an affiliate during a portion of the applicable accounting period.

5. Labor Surplus Area. Means a civil jurisdiction determined by the Bureau of Labor Statistics (Department of Labor) to have an average unemployment rate of 120 percent of the national average or 10 percent or higher, except that no area will qualify if the average unemployment rate is less than 6 percent.

6. Labor Surplus Area Concern. Means a concern that together with its first-tier subcontractors will perform work substantially (at least 50 percent of the costs for manufacturing production or services) in labor surplus areas.

7. Positive Efforts are documentable attempts to use small businesses and minority businesses.

8. Women's Business Enterprise (WBE) is a business which is certified as such by a State or Federal agency, or which meets the following definition:

"A women's business enterprise is an independent business concern which is at least 51 percent owned by a woman or women, who also control and operate it. Determination of whether a business is at least 51 percent owned by a woman or otherwise qualified WBE which is 51 percent owned by a married woman in a community property State will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business".

As in the case of an MBE, only United States citizens will be deemed to be WBEs. Similar to the MBE criteria, WBE should meet the criteria cited in subparagraphs 3.c.(2) and (3) and 3.d.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

FAIR SHARE

CHAPTER 4

TABLE OF CONTENTS

	<u>PAGE</u>
A. Fair Share Policy	4-1
1. Wastewater Treatment Construction Grant Program.....	4-1
2. Superfund Program	4-2
3. Asbestos Removal Program.....	4-2
4. Other Programs.....	4-2
B. Affirmative Steps.....	4-2
1. Construction, Superfund, Asbestos and Program Grants...	4-2
2. Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	4-3
C. Suggested Guidance For Carrying Out The Six (6) Steps.....	4-3
1. Including S/M/WBES on Solicitation Lists.....	4-3
2. Assuring That S/M/WBES are Solicited.....	4-3
3. Dividing Total Requirements Into Small Tasks or Quantities To Permit Participation of S/M/WBES	4-4
4. Establishing Delivery Schedules Which Will Permit S/M/WBES to Participate	4-4
5. Using Services and Assistance of SBA and MBDA	4-5

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 4

FAIR SHARE

A. FAIR SHARE POLICY

It is EPA's policy that recipients award a fair share of subagreements to small, minority and women's businesses. The policy requires that fair share objectives for minority and women-owned business enterprises be negotiated with the States and/or recipients, but does not require fair share objectives be established for small businesses. Fiscal year objectives are set based upon the negotiations which have taken place between the Regions and either the delegated State or the recipient as the case may warrant.

The Regional MBE/WBE Staff function must report the negotiated fair share for delegated States and major program grants and cooperative agreements to Headquarters, Office of Small and Disadvantaged Business Utilization (OSDBU). Headquarters, OSDBU will use these objectives to assist in the establishment of the National Objective. The National Objective is comprised of the Regional and National inputs which are used for EPA purposes only and are not imposed on individual recipients or projects.

Fair share applies to EPA Programs as follows:

1. Wastewater Treatment Construction Grants Program: The Regional Administrator or designee will negotiate an overall fair share with delegated States, (i.e., States delegated by EPA with MBE/WBE responsibilities). A State's fair share should be based upon the State project priority list, cumulative grant awards and/or projected awards for the current fiscal year, or other State or recipient established goals or standards. A fair share objective is not required on each particular grant. The delegated State may allocate its fair share to particular construction projects as it sees fit. The delegated State and not EPA determines the amount of the fair share for each project. If an objective has not been established for a specific grant project, the recipient should establish an objective which it considers reasonable and achievable based on a number of factors such as the availability of minority and women-owned businesses in the geographic area where the project is being built. The absence of a fair share objective on a particular grant does not relieve the recipient or the prime contractor from the requirement that they carry out the affirmative steps cited in 40 CFR Sec. 33.240.

For Wastewater Treatment Construction Grants which are awarded in States not having been delegated the procurement activity, a fair share negotiation shall take place between the Regional Administrator or his designee and each recipient.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

The fair share is to be used as an administrative guide. Failure by a prospective contractor to meet an objective does not necessarily reflect a lack of positive efforts or affirmative steps. The contractor must be prepared, however, to provide documentation of the positive efforts made if a subcontract is awarded.

2. Superfund Program. The fair share objective on Superfund projects operates in much the same way as it does on other forms of financial assistance. However, the recipient must either agree to a specific dollar amount as a fair share objective and incorporate that amount into the cooperative agreement or must negotiate a fair share objective with EPA prior to procurement of supplies or services.

3. Asbestos Removal Program. The fair share objective on the Asbestos Removal projects operates in the same manner as other programs, however, the fair share should be negotiated and made a part of the grant or loan package prior to the award.

4. Other EPA Programs. For other EPA financial assistance programs, the Assistant Administrator, Regional Administrator or a designated EPA official as appropriate, will conduct fair share negotiations directly with the award recipients.

B. AFFIRMATIVE STEPS

1. Construction Grants, Superfund, Asbestos, and Program Grants. Pursuant to Sec. 33.240, the affirmative steps to be followed by recipients are:

a. Including qualified small, minority, and women's businesses on solicitation lists;

b. Assuring that small, minority, and women's businesses are solicited whenever they are potential sources;

c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses;

d. Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority, and women's businesses;

e. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency, U. S. Department of Commerce, as appropriate; and

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

f. If the prime contractor awards subagreements, requiring the contractor to take the affirmative steps in paragraphs 1.a through 1.e of this section.

2. Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. These entities are required to make positive efforts to use small and minority businesses as sources of supplies and services. (See 40 CFR Sec. 33.815(f)(1)). They are not required to meet the six affirmative steps in Sec. 33.240(a)(1) through (6), however, because 40 CFR Sec. 33.815(f) limits these recipients to the "positive efforts" requirements of OMB Circular A-110.

C. SUGGESTED GUIDANCE FOR CARRYING OUT THE SIX AFFIRMATIVE STEPS

EPA offers the following suggestions to assist State and local government recipients and contractors in carrying out the affirmative steps of 40 CFR Sec. 33.240. EPA or delegated States should encourage recipients to adopt these suggestions and use them to evaluate recipient's affirmative actions. These suggestions may also be used by institutions of higher education, hospitals, and non-profit organizations in carrying out the "positive efforts" standard. The suggestions are as follows:

1. Including qualified small, minority and women's business enterprises on solicitation lists.

a. Do you, the recipient, maintain and update a listing of qualified SBEs, MBEs, and WBEs that can be solicited for supplies, construction and/or services?

b. Is this listing appropriately provided to all interested parties who requested to be placed on your bidder's mailing lists or requested copies of the bidding or proposing documents?

c. Do you contact appropriate sources within your geographic area and State to identify qualified MBEs and WBEs for placement on your minority and women's business listings?

d. Are any other MBE/WBE listings utilized such as the State's minority business office, the Small Business Administration, Minority Business Development Agency, U. S. Environmental Protection Agency, Office of Small and Disadvantaged Business Utilization (OSDBU), or the Department of Transportation?

2. Assuring that small, minority and women's businesses are solicited.

a. Do you conduct meetings, conferences, and follow-ups with SBEs, MBEs and WBEs, small, minority and/or women's business associations, minority media, etc., to inform these groups of opportunities to provide supplies, services, and construction?

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

b. Do you conduct pre-bid, pre-solicitation, and post award conferences to ensure that consultants, suppliers, and builders solicit SBES, MBES and WBES?

c. Do you provide bidders and offerors with listings of qualified SBES, MBES and WBES and establish that a fair share of subagreements should be awarded?

d. Do you advertise in general circulation, trade publications, State agency publications of identified MBES/WBES, minority or women's business focused media etc., concerning contracting opportunities on your projects? Do you maintain a list of minority or women's business-focused publications that may be utilized to solicit MBES or WBES?

e. Do you provide interested SBES, MBES or WBES with adequate information about plans, specifications, timing and other requirements of the proposed projects?

f. Do you provide SBE, MBE and WBE trade organizations with succinct summaries of solicitations?

g. Do you consider notifying SBES, MBES, and WBES of future procurement opportunities so that they may establish bidding solicitations and procurement plans?

3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority and women's businesses.

a. Is an analysis performed to identify portions of work that can be divided and performed by qualified SBES, MBES and WBES?

b. Are the elements of the total project scrutinized to develop economically feasible units of work that are within the bonding range of SBES, MBES, or WBES?

c. Are bid packages analyzed to afford SBES, MBES and WBES maximum participation?

4. Establishing delivery schedules, where requirements of the work permit, which will encourage participation by small, minority and women's businesses.

a. Do you consider lead times and scheduling requirements often needed by SBE, MBE or WBE participation?

b. Do you develop realistic delivery schedules which may provide for greater SBE, MBE or WBE participation?

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

5. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce, as appropriate.

a. Do you use the services of outreach programs sponsored by the Minority Business Development Agency and/or the Small Business Administration to recruit bona fide firms for placement on SBES, MBES, or WBES bidders lists and to assist these firms in the development of bid packaging?

b. Do you seek out Minority Business Development Centers (MBDCs) to assist you in identifying MBES for potential work opportunities on your projects? A memorandum of understanding (Attachment 5) between EPA and MBDA to assist in providing management and technical assistance?

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

RESPONSIBILITIES

CHAPTER 5

TABLE OF CONTENTS

	<u>PAGE</u>
1. Headquarters, Office of Small and Disadvantaged Business Utilization	5-1
2. Award Official	5-1
3. Assistant Administrators and Regional Administrators.....	5-2
4. Regional MBE/WBE Staff.....	5-2
5. Delegated States of EPA Financial Assistance.....	5-4
6. Recipients of EPA Financial Assistance.....	5-4
7. Institutions of Higher Education and Other Non-Profit Organizations	5-5

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 5

RESPONSIBILITIES

ROLES AND RESPONSIBILITIES

1. Headquarters, Office of Small and Disadvantaged Business Utilization, (OSDBU): The Director, OSDBU has the principal responsibility for developing and promulgating the Agency's policies to assure reasonable participation by small, minority and women's businesses in performing activities under EPA's financial assistance agreements. OSDBU will perform the following:

a. Prepare an annual plan in consultation with the program and Regional Offices for submission to the Administrator for approval and signature. The plan will encompass the projections for minority and women's business utilization in activities assisted by EPA grants and cooperative agreements;

b. Provide guidance and training to EPA Headquarters and Regional staff, and to State personnel performing activities under delegated agreements with EPA;

c. Develop, and provide guidelines suggesting ways and means of promoting fair share activities and provide training in their use to Agency program and Regional officials as well as State and local government officials;

d. Maintain records of MBE/WBE participation and prepare a quarterly report (MBDA Form 91) which will be a composite of all reports from the Headquarters elements as well as the Regions. The MBDA Form 91 will be prepared for the Deputy Administrator's signature and transmitted to the Director, Minority Business Development Agency, U. S. Department of Commerce, and the Regions;

e. Review Regional guidance, SBE/MBE/WBE guidance to insure consistency with Agency policies and guidance;

f. Establish and maintain a working relationship with the Minority Business Development Agency (MBDA);

g. Maintain SBE/MBE/WBE source lists from data supplied by the firms requesting placement in the Agency's Central Resource Directory.

2. Award Official. The appropriate EPA Award Official is responsible for seeing that project officers, other staff, delegated States and recipients comply with EPA's policy of awarding a fair share of subagreements to small, minority and women's business enterprises, when applicable.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

3. Assistant Administrators and Regional Administrators.

a. In the Wastewater Treatment Construction Grants Program, the Regional Administrator or designee will negotiate an overall fair share with each delegated State.

b. For other EPA financial assistance programs, the Assistant Administrator, Regional Administrator or other designated EPA official, as appropriate, will conduct fair share negotiations directly with the recipients.

4. Regional MBE/WBE Staff. The Regional MBE/WBE staff is responsible for all functional activities relating to small, minority and women's business enterprises within the respective Region. In this capacity, the Regional MBE/WBE staff is responsible to the Deputy Regional Administrator or his/her designated Regional official to assure that all facets of this program are properly carried out. The MBE/WBE Staff Coordinator will be responsible for the following activities:

a. Implement policy for ensuring participation of small, minority and women's business enterprises in EPA's financial assistance programs;

b. Implement procedures for ensuring the effective execution of the Agency's regulations and policy guidance governing small, minority and women's business enterprises in the grants and cooperative agreements programs;

c. Provide technical oversight, guidance and assistance to Agency personnel, State and local officials, and small, minority and women's business entrepreneurs on an as required basis;

d. Ensure that Regional personnel responsible for the awarding of grants and cooperative agreements receive adequate training and information on utilization of small, minority and women's business enterprises;

e. Maintain adequate records and monitor the preparation of reports concerning small, minority and women's business participation in the Region's grants and cooperative agreements programs;

f. Review and report accomplishments of Region's activities with respect to minority and women's business enterprise. If shortfalls are encountered, the MBE/WBE Coordinator is responsible for promoting actions to improve the situation for future procurements. In the case of delegated States, coordination will be made with the cognizant party in the State by the MBE/WBE Coordinator to establish what actions can be taken to promote greater utilization of minority and women's businesses.

g. Establish, maintain and disseminate information to small, minority and women's business entrepreneurs on opportunities available under

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

the Agency's grants and cooperative agreements programs. Inform these business entities of sources or contacts for subagreement considerations;

h. Participate and cooperate with Federal programs and other programs designed to provide financial, technical, management and other forms of technical support and assistance to small, minority and women's business entrepreneurs interested in opportunities which are available in the Region's grants and cooperative agreements programs;

i. Serve as the principal focal point between the Region and Headquarters, OSDBU on matters pertaining to small, minority and women's business enterprise programs;

j. Coordinate activities, reports, reviews, etc., with other Regional personnel who have been designated as MBE/WBE liaisons for their respective grants and/or cooperative agreements programs;

k. Serve as principal individual for the Region on matters pertaining to small, minority and women's business enterprise when dealing with sister agencies involved in the same areas of work, i.e., Small Business Administration (SBA), Minority Business Development Agency (MBDA) or any of its funded activities, e.g., Minority Business Development Centers (MBDCs), State and local assistance grantees, etc., when such functions relate to EPA funded programs;

l. Serve as MBE/WBE Training official when providing such to State and local officials, prime contractors or small, minority and women-owned business entrepreneurs;

m. Maintain lists of MBES and WBEs that have participated in EPA funded projects and seek out and identify additional firms for inclusion on EPA listings, such as the Central Resource Directory, Regional SBE/MBE/WBE listings or for placement on MBDA's Profile System;

n. Work in cooperation with the MBDA, MBDCs, the Minority Business Opportunity Committees (MBOCs) or other State or local activities involved in similar efforts; and,

o. Provide assistance to Headquarters, OSDBU in the preparation of the annual work plan as required by MBDA. Reports on the Regional "Fair Share" objective which is established at the beginning of each fiscal year. Develops other data, as required, to meet the requirements which MBDA may request.

p. For those States that have not been delegated MBE/WBE responsibilities, the Regional Offices are responsible for ensuring that grantees comply with 40 CFR Part 33.211 and 33.240. In these non-delegated States, Regional Offices will negotiate the amount of contract awards that will be made to MBES and WBEs with each recipient prior to submitting their fair share projections to Headquarters.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

5. States Delegated the Responsibility to Review Recipient Procurement Procedures of EPA Financial Assistance. Delegated States are responsible for assuring that the fair share principle is carried out.

a. In order to ensure that the delegated States perform all of their MBE/WBE responsibilities, the EPA Regional Offices should consider specifically incorporating the responsibilities into the delegation agreements.

b. Delegated States will negotiate an overall fair share with the Regional Administrator or designee. A State's fair share should be based upon the State project priority list, cumulative grant awards and/or projected awards for the current fiscal year, or other State or recipient established goals or standards. A fair share objective is not required on each particular grant. The delegated State may allocate its fair share to particular construction projects as it sees fit. The delegated State and not EPA determines the amount of the fair share for each project.

6. Recipients of EPA Financial Assistance. Recipients of EPA financial assistance are responsible for assuring that the fair share principle is carried out.

a. Recipients must comply with the small, minority, and women's business enterprise requirements in Sec. 33.240.

b. The recipient is responsible for ensuring that the prime contractor(s) awarding subagreements carries out the affirmative steps as required by the regulation.

c. Recipients must encourage the solicitation of SBEs, MBEs and WBEs whenever they are potential sources. Examples of activities used by some recipients include the following:

(1) Holding pre-bid conferences, with interested SBEs, MBEs and WBEs in attendance when possible, to highlight and explain the requirements of the SBE, MBE and WBE policies and procedures to prospective bidders;

(2) Including MBE and WBE policies and procedures and project objectives in requests for proposals (RFP) and invitations for bids (IFB);

(3) Publishing announcement(s) of MBE and WBE opportunities for work on EPA funded projects;

(4) Providing prospective bidders/offers with MBE/WBE source list(s); and,

(5) Providing liaison services between MBEs and WBEs and prospective bidders/offers. Liaison services should not be delegated to consultants where a potential or possible conflict of interest exists.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

d. After bid opening or receipt of proposal(s), the recipient must evaluate bids to determine whether they are responsive to all material terms of the bid solicitation.

e. Recipients must retain all records documenting the positive efforts employed by the recipient or its prime contractor(s) to award a reasonable share of its subcontracts to MBEs and WBEs.

f. Submit quarterly an EPA Form 6005-1 (see attachment #1) detailing MBE/WBE utilization during the subagreement award phases of the grant or cooperative agreement;

7. Institutions of Higher Education and Other Nonprofit Organizations. In accordance with 40 CFR Section 33.815(f), institutions of higher education, hospitals, and other non-profit organizations must implement the "positive effort requirement" of OMB Circular A-110. This circular provides:

"Positive efforts shall be made by recipients to utilize small business and minority-owned business as sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Federal funds."

a. These institutions are not required to report on their fair share obligations. They are required to negotiate a fair share objective for their grant or cooperative agreements.

b. The fair share objective under these conditions becomes an administrative action to encourage the use of minority and women's business enterprise in subagreement awards subsequently issued by such institutions. The fair share objective applies to both the Federal and non-Federal share of procurement dollars associated with the grant or cooperative agreement.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CERTIFICATION OF SBE'S, MBE'S AND WBE'S

CHAPTER 6

TABLE OF CONTENTS

	<u>PAGE</u>
1. Bona Fide MBE's and WBE's	6-1
2. Acceptance of Certification or Self-Certification ..	6-1
3. State or Local Certification Processes	6-1
4. EPA's Reason to Question Certification	6-1
5. Challenging the Status of an MBE/WBE	6-2

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 6

CERTIFICATION OF SBE'S, MBE'S AND WBE'S

CERTIFICATION OF MBE'S AND WBE'S.

1. In order to be deemed a bona fide MBE or WBE, a firm must satisfy appropriate definitions of Sec. 33.005. That is, it must be:

- a. certified by the Small Business Administration, or
- b. certified by a State or Federal agency, or
- c. be an independent business concern which is at least 51 percent owned and controlled by minority group member(s) for MBE(s) or women WBE(s) who are citizens of the United States. (The criteria concerning U.S. citizenship applies to subparagraphs b. and c. above.)

2. Because the EPA regulation at 40 CFR Sec. 33.005 defines MBE and WBE as firms certified as MBEs/WBEs by a State or Federal agency, EPA will accept as bona fide any MBE/WBE which is certified by SBA or a State or Federal agency (EPA does not certify firms) and will not generally require such MBEs/WBEs to submit answers to lengthy questionnaires or provide detailed corporate information. However, where EPA has reasonable cause to believe that a firm doing business is not a legitimate SBE, MBE, or WBE, EPA may require that firm to submit appropriate data to prove ownership and control.

3. Delegated States or recipients may decide to develop a certification form for bidders or offerors, including first tier subcontractors and suppliers who submit bids and offers to the recipients and/or prime contractors, stating whether or not the bidder or offeror is a small, minority or women's business. If this certification is required to be submitted prior to award of subagreements, it may help ensure that only bona fide minority and women's businesses are making bids/offers. By certifying, a bidder or offeror is stating that it is (or is not) a bona fide small, minority, or women's business, and a false certification carries with it the penalties for making a false statement as prescribed in State laws and 18 U.S.C. Section 1001. (See sample form at Attachment 4.)

4. In the event EPA has reason to question the certification of an SBE, MBE or WBE, EPA may request additional information including, but not limited to:

- a. the certificate described above; and
- b. specific information concerning the firm, including:

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

- (1) name, address and telephone number;
- (2) type of business entity (e.g., partnership, corporation, sole proprietor);
- (3) date firm was established;
- (4) names and addresses of legal owners including the race, gender, percentage of ownership, percentage of control and the date each owner became an owner in the firm;
- (5) financial, banking and credit information;
- (6) whether the firm has ever been denied certification as an MBE/WBE by SBA, a State or Federal agency, and if so when and by whom; and
- (7) Other information demonstrating ownership and control.

5. A protest by a firm challenging another firm's status as a SBE/MBE/WBE will not be entertained under the bid protest procedures of Part 33. In the event that a firm has misrepresented its status as an MBE/WBE, the matter may, at the option of EPA, be investigated by the Office of Inspector General and, where appropriate, turned over to the Department of Justice for criminal and/or civil prosecution.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

REPORTING REQUIREMENTS

CHAPTER 7

TABLE OF CONTENTS

	<u>PAGE</u>
A. Reporting Requirements	7-1
1. EPA Form 6005-1 Recipients Report	7-1
2. EPA Form 6005-2 Quarterly MBE/WBE Consolidation Report	7-2
B. Reporting On Continuing Environmental Programs	7-2
Continuing Environmental Programs	7-2
C. Actual Reporting	7-3
1. Explaining How the Reporting System Operates	7-3
2. Reporting on Total Subagreement Awards	7-4
D. Other Reporting Requirements	7-4
MBDA-91 Report Agency Minority Business Development Performance Report	7-4

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 7

REPORTING REQUIREMENTS

A. REPORTING REQUIREMENTS.

The effectiveness of the fair share policy will be measured through quarterly reports. The reporting of data is essential in order to carry out the mandates of E.O. 12432 and the directives established by the Secretary of Commerce acting as Chairman, Pro Tempore of the Cabinet Council on Commerce and Trade. These latter directives require that quarterly and annual reports be submitted by each Federal agency indicating the level of financial assistance provided and the amounts of such funds which were subsequently awarded to minority business enterprises.

As a result of the above, EPA has developed a simplified system for reporting the above information. The basic reporting system is further explained below:

1. EPA Form 6005-1, "U.S. ENVIRONMENTAL PROTECTION AGENCY RECIPIENT
REPORT ON MINORITY WOMEN'S BUSINESS UTILIZATION."

a. Recipients must submit a properly executed EPA Form 6005-1 to the delegated State or the Award Official in every Federal fiscal quarter that the recipient or its contractor(s) awards a subagreement(s) to a MBE or WBE business for activities or tasks identified in the grant agreement. The recipient or its prime contractors does not report until the first subagreement is awarded. Reports will continue until the final subagreement is awarded, at which time all subsequent reports will end. For example, if the first subagreement is awarded during the second quarter of the current fiscal year, 6005-1 Forms will be prepared and submitted starting in the second quarter and continuing on until the quarter when the final subagreement is awarded.

Each fiscal year should be treated as totally separate from the previous year's reporting. For example, the total amounts reflected for awards for the current fiscal year will culminate in the 4th quarter's report. At the beginning of the new fiscal year, the count will start over again. Cumulative amounts will be noted on a fiscal year basis only, there will be no carryover of any figures. Each fiscal year begins a new reporting cycle.

b. Applicants for a Step 2+3 construction grant must submit a completed EPA Form 6005-1 indicating the level of MBE/WBE participation during the planning phase of the project. The form must be submitted before the applicant begins building the project. (See 40 CFR 35.2104(d) of the Wastewater Treatment Construction Grants regulation).

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

c. Applicants for a Step 3 construction grant which includes an allowance for planning and/or design must include with their applications a completed EPA Form 6005-1 indicating the level of MBE/WBE participation during the planning and design phases of the project.

2. EPA FORM 6005-2 "U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION MINORITY AND WOMEN'S CONSOLIDATION REPORT."

a. Individuals designated by Assistant Administrators and Regional Administrators in the various program Regional offices or delegated States will collect, collate and monitor the reports submitted by recipients. After compiling the data on an EPA Form 6005-2, the Regional designees or delegated States will submit the EPA Form 6005-2 to the Regional MBE/WBE coordinator who will, in turn forward a consolidated report to OSDBU. Headquarters' designees will also forward the report to the Director, OSDBU. In both cases the Form 6005-2 must be received by OSDBU Headquarters by not later than January 31, April 30, July 31, and October 31.

B. REPORTING ON FINANCIAL ASSISTANCE FOR CONTINUING ENVIRONMENTAL PROGRAMS.

Continuing Environmental Program Grants are defined as financial assistance to State or local recipients for Continuing Environmental Programs which are required by the various Federal Environmental Statutes. These programs do not include the Wastewater Treatment Construction or Superfund Grant programs.

Because of the difficulty which has been encountered in attempting to establish a fair share objective or to report on these programs, the following simplified guidance has been established:

a. On those program grants or cooperative agreements having minimal dollars for extramural activity, i.e., less than 5 to 10 percent of the total grant or cooperative agreement, and where such subagreements for the most part are placed through a central procuring office, e.g., General Services, Central Purchasing Office, etc., for supplies and/or services, such grant or cooperative agreement will require a negotiated "fair share" objective. However, in calculating the fair share achievements, the delegated State or recipient may utilize one of the following criteria:

(1) If adequate records are maintained, such as procurement history files and it can be determined that a minority or woman-owned business was the seller of the product(s) or service(s), the actual dollars expended may be counted for each of the affected groups;

(2) If adequate records are not maintained, but historically the purchasing office has been authorized to estimate the total dollars being placed with minority or women-owned businesses, such estimate will be accepted; or,

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

(3) In the absence of historical data or actual records, an estimate for each affected group, i.e., minority and women-owned businesses, may be used, provided it does not exceed the negotiated "fair share" amount of the grant or cooperative agreement involved or exceed the State or local jurisdiction's goal established by law, ordinance or local decree (if such exists).

b. The criteria cited above allows the recipient of a grant or cooperative agreement to report utilization exceeding the "fair share" amount in the case of (1) and (2) above, but does not allow for any increase in the case of (3). The recipient should choose "up front" the method of calculating and reporting on the fair share objective under these types of financial awards.

c. The recipient has the option of filing a one time only report, i.e., the first quarter of each year, or filing on a quarterly basis, as each case may warrant.

C. ACTUAL REPORTING.

1. The purpose of this part is to explain how the reporting system operates. The requirements imposed on the recipient are designed to minimize the amount of reporting required. Therefore, the EPA Form 6005-1 under the Wastewater Treatment Construction Grants Program, the Superfund Program and the Asbestos Program will be accomplished in the following manner:

a. The first report will be prepared at the end of the quarter during which the first subagreement under the grant or cooperative agreement was awarded and will continue every quarter thereafter until the final subagreement has been awarded. For example, if the first subagreement award occurs in the third quarter, this will be the first report prepared. Subsequently, if in the next quarter no MBE or WBE subagreement occurs, a report will be submitted stating that no MBE/WBE subagreements were executed. Reports will continue until the final subagreement has been awarded. No report is required after the final subagreement has been awarded. If a new subagreement award is made after the final report has been submitted, the system of reporting cited above will be reinstituted. (See Attachment Number 1 for a copy of EPA Form 6005-1).

b. The recipient will make an annotation in the remarks section of EPA Form 6005-1 indicating the start of subagreement activity and will also make a notation when the final subagreement has been awarded on the appropriate quarterly report.

c. Reports will be compiled on a fiscal year basis. In the event a subagreement is awarded during the third quarter and additional subagreements are awarded during the fourth quarter, the cumulative value of the two quarters will be made on the fourth quarter's report. This cumulative amount will not be carried forward to the new fiscal year

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

reporting. Reports are made on a quarterly basis as well as a cumulative basis; therefore each report will cite what was accomplished for the individual quarter which is being reported upon, as well as a cumulative amount for the fiscal year.

d. In Item 6 of EPA Form 6005-1, in lieu of stating the grant or cooperative agreement amount, the total project amount will be cited. For example, in the Wastewater Treatment Construction Grants Program, the total project amount is the amount available for procurement (i.e., all eligible and ineligible costs on the project, with the exception of force account costs).

2. The States and Regions report the total amount of subagreements awarded to MBES and WBEs on a quarterly basis on EPA Form 6005-2. These amounts include the Federal, State and local shares in the subagreement awards. Although the negotiated fair share is based solely on the Federal share, the reportable amounts are the total subagreement awards, regardless of the funding source or percentage.

D. OTHER REPORTING REQUIREMENTS.

MBDA-91 FORM, "MINORITY BUSINESS DEVELOPMENT AGENCY PERFORMANCE REPORT"

The MBDA-91 Form has been developed by the Department of Commerce for the purpose of compiling all relevant data from all Federal activities having financial assistance authority. Like the EPA Forms, the MBDA-91 Form is due on a quarterly basis and the data collected is comparable to that which is contained in the EPA 6005-1. The purpose of the form is twofold, first it is utilized as an annual plan, hence the need for fair share objectives; and second, it is used to collect data on a cumulative quarterly basis to ascertain how well EPA is moving towards achieving its objective. (A copy of the MBDA Form 91 is enclosed as Attachment Number 3)

a. Headquarters and Regional input to complete Form 91 will consist of the following data:

(1) Fair Share Negotiations. The following guidelines are provided to assist you in establishing your Region's Fair Share.

(a) In developing a base for negotiation purposes, it should be remembered that only the dollars associated with procurement/subagreement activity should be considered. For example, if the Federal share is 50 percent of the grant or cooperative agreement but the total available for subagreements is only 10 percent of the combined Federal, State and/or local funds, then a proportionate amount should be derived from the 10 percent level. A consolidation of all grants and cooperative agreements awarded to a particular State or local activity in which subagreements are to be awarded during the given fiscal year should establish a dollar objective for that State for that year.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

(b) A consolidation of all dollar amounts subsequently negotiated with each State for your Region will then be calculated against the total to establish the percentage for your Region's fair share.

(2) Total amount of funds in grants and cooperative agreements your Region plans to award during the ensuing Fiscal Year;

(3) Total amount of extramural funds from your grants and cooperative agreements which should result in subagreements during the fiscal year. It should be noted that funds to be expended in the form of subagreements are not limited to only those grants and cooperative agreements awarded during the planned fiscal year, but could include any previous carry-over funds from grants or cooperative agreements which did not result in subagreements being issued during the previous year(s);

(4) Total "fair share" objective for contemplated awards to MBES during the ensuing fiscal year. This amount is to be also expressed in dollar figures and also cited as a percentage of (3) above;

(5) Total "fair share" objective for contemplated awards to WBES during the ensuing fiscal year. This amount also is to be expressed in dollar figures and also cited as a percentage of (3) above;

(6) Total amount of grants and cooperative agreements to be awarded to institutions of Higher Education, Hospitals or other Non-Profit Organizations;

(7) Total amount of awards to be made to minority Institutions of Higher Education, Hospitals and other Non-Profit Organizations. Such operations may include the National Urban League, NAACP, LULAC and the Historically Black Colleges and Universities (HBCUs) (if any). It may also include grants made to minority individuals;

(8) Total amount of R&D grants or cooperative agreements to be awarded during the ensuing fiscal year (if any); and

(9) Total amount of any grants or cooperative agreements from (7) above which may be contemplated for award to a minority concern, minority institution of higher education or a minority individual.

(10) Develop and furnish an estimate of your Region's costs in aiding MBES/WBES. Identify the program name or staff function(s)/position(s) that offer such assistance. Also indicate those programs that directly benefit minority business development. This should include, but not limited to, direct assistance to MBES/WBES via personal contacts, telephone inquiries, correspondence requests, conferences, seminars, meetings, etc. It could also include any Regional personnel's salaries, travel, per diem, etc., in the cost computation. This input is essential since you will be reporting on your outlays each quarter.

6010
5/22/86

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

b. The above information will be submitted to Headquarters, OSDBU for preparation of the Annual Plan. The Annual Plan will be prepared by the 45th day following the end of the Federal fiscal year. The OSDBU will prepare the MBDA Form 91 for the Deputy Administrator's or the Director, OSDBU's signature and transmitted to the Director, Minority Business Development Agency, U.S. Department of Commerce.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

COUNTING MBE/WBE PARTICIPATION

CHAPTER 8

TABLE OF CONTENTS

	<u>PAGE</u>
1. Calculating MBE/WBE Participation	8-1
2. Questions Calculating MBE/WBE Participation	8-2
3. MBE/WBE as a Prime Contractor	8-2
4. Use of Minority Press	8-2

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 8

COUNTING MBE/WBE PARTICIPATION

COUNTING MBE/WBE PARTICIPATION.

1. For purposes of reporting, the following is the approach EPA will use in calculating MBE/WBE participation.

a. Credit for MBE/WBE participation under these policies shall be granted for MBEs/WBEs performing a useful business function according to custom and practice in the industry. No credit will accrue for an MBE/WBE acting merely as a passive conduit of funds to some other, non-minority firm. However, an MBE or WBE may further subcontract a portion of the work to SBEs provided that such further subcontracting is in accordance with that cited above and that the majority of work is being performed by the MBE or WBE having the contract. MBE/WBE participation will not be counted when the MBE or WBE subcontracts back to the prime contractor.

b. Objectives for MBE/WBE participation shall be calculated as a percentage of total eligible subagreement costs.

c. Credit for MBE/WBE project-related work that is not eligible for EPA assistance may be included in the calculation of MBE/WBE participation.

d. Joint Venture - Joint ventures shall be credited towards the grantee's percentage of MBE/WBE participation by crediting the portion of the dollar amount of the joint venture's subagreement equal to the proportion of the MBE's/WBE's share in the profit of the joint venture. Where the MBE's/WBE's risk of loss, control or management responsibilities are not commensurate with the share of profit, the Regional or Assistant Administrator may direct an adjustment in the percentage of participation.

e. Suppliers are defined as follows: A supplier is a business which acts as a distributor of materials or equipment, and which provides a commercially useful function when such activity is traditional in the industry manufacturing the material or equipment supplied. Commercially useful function will normally include:

(1) Providing technical assistance to the purchaser prior to the purchase, during installation and after the supplies or equipment are placed in service;

(2) Manufacturing (including first tier below manufacturer) of the supplies or equipment;

(3) Providing functions other than just accepting and referring requests for supplies or equipment to another party for direct shipment to a contractor.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

2. Should a recipient or contractor have any questions on calculating MBE/WBE participation, they should contact their appropriate State agency, or the EPA Regional Coordinator.

3. Should the prime contractor be a minority or women-owned business, this will not relieve the firm from the reporting requirements, nor will it relieve the firm from the six affirmative steps should any subagreements be awarded.

4. Minority business utilization is facilitated if the recipient or prime contractor advertises through the minority press. Such advertisements may include, but are not limited to, contracting and subcontracting opportunities, hiring and employment, or any other matter related to the project.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

MANAGEMENT AND TECHNICAL ASSISTANCE

CHAPTER 9

TABLE OF CONTENTS

	<u>PAGE</u>
1. Use of Prime Contractors for Technical Assistance ..	9-1
2. Bonding	9-1
3. Cooperation Between EPA Staff and MBDCs	9-1



EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 9

MANAGEMENT AND TECHNICAL ASSISTANCE

MANAGEMENT AND TECHNICAL ASSISTANCE.

Executive Order 12432 requires that federal programs deliver procurement assistance management and technical assistance and direct assistance to minority-owned businesses. EPA has responded to this requirement in three ways. First, EPA has developed a Memorandum of Understanding with the Minority Business Development Agency (MBDA). Under this agreement the MBDA will utilize its Minority Business Development Centers (MBDC) network to assist the EPA in meeting its minority business objectives by providing information on minority businesses capable of participating in EPA's programs.

MBDA will also identify qualified minority firms and provide business management and technical information to these minority businesses.

Second, the EPA will conduct training sessions for MBDA regional staffs, State and local EPA officials and MBEs and WBEs. These training sessions will be centered around this guidance document.

Third, the EPA will provide assistance by training recipients and recommending that they assist MBEs/WBEs in the following areas:

1. Use of Prime Contractors For Technical Assistance. Successful prime contractors can provide valuable insight and training in technical aspects to subcontractors who may be relatively inexperienced. The prime contractor can also provide needed guidance on project management and in particular make the MBE/WBE aware of techniques which may improve productivity and competitiveness. Other areas where training may be of benefit are in plan interpretation, estimating, and cost accounting methods. In each of these areas, however, the MBE/WBE subcontractor must retain the final decision making responsibility.

2. Bonding. There are at least two ways in which a prime contractor commonly assists subcontractors with bonding. In many instances, the prime will bond the entire job and will in turn charge his subcontractors their pro rata share of the bond cost. In other instances, the prime contractor may bond the entire job and "carry" the subcontractors, absorbing the cost of the bond themselves. It is useful for MBE/WBE subcontractors to bond jobs on their own, in order to establish a track record with a surety company. In many cases, this will aid in obtaining future bonding.

3. Cooperation between EPA staff and MBDCs. As noted above, the Memorandum of Understanding between EPA and the MBDA provides for outreach services to help locate qualified minority firms to perform work/services under the assistance award. It is envisioned that MBDA's Minority Business

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

Centers and/or funded State agencies could perform this service. It should be noted that the latter organizations have been separated into two distinct groups. Most of the MBDCs are operated by private organizations, however, some of these centers are activities located within State and local governments.

Regional offices should encourage either delegated States or recipients to utilize the services of these activities to enhance their performance in identifying and soliciting minority entrepreneurs for potential contracting and subcontracting.

MBDA and their respective regional and district offices as well as their MBDCs have been informed of their participatory role in assisting EPA's Regional staffs, delegated States and recipients of our financial assistance. This cooperative spirit should be nurtured to the maximum extent practicable.

a. Regional MBE Staff and/or delegated States or recipients are encouraged to:

(1) Conduct periodic meetings with their MBDA and MBDC counterparts to inform them of present and future requirements in which MBEs may be required;

(2) Encourage the MBDCs to verify firm's capabilities, certifications, etc., and relay such information to the respective recipient or prime contractors;

(3) Encourage MBDCs to actively conduct "out-reach" programs to identify additional qualified MBEs to participate in EPA funded programs;

(4) Encourage the MBDC's to contact EPA recipients and offer them their services and make frequent follow-up calls to remind them of their availability;

(5) Have the MBDCs notify a Regional MBE staff member when they have reason to believe or have knowledge of a bogus MBE or WBE serving as a front.

b. Regional MBE staff should assure that recipients provide MBDCs with as much advance information as practicable on proposed project awards. If possible the advance information should include a list of prospective prime contractors who are likely to bid on the project, a listing of any subparts of the procurement package which the recipient has indicated are possible for MBE participation; the location of the project and projected opening and closing dates of the bid solicitation.

c. The closer the working relationships the better the opportunities for success. In the event that either EPA staff or MBDC staff believes active participation is not being conducted by either party, or the

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

recipient, steps should be taken to rectify this matter. If such corrective action cannot be accomplished at the Regional level, Headquarters OSDBU should be notified at the earliest reasonable date.

d. Recipients are also encouraged to contact the Regional EPA MBE staff if they are not receiving the services that the MBDCs have agreed to perform. No corrective action can be taken if EPA is unaware of the problems being incurred.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

BID PROTEST

CHAPTER 10

TABLE OF CONTENTS

	<u>PAGE</u>
A. Challenge to MBE/WBE Status	10-1
Complaints	10-1
B. MBE/WBE Compliance--Bidder Responsibility vs Responsiveness	10-1
1. General Rule on Responsibility vs Responsiveness	10-1
2. Making MBE/WBE Requirements a Matter of Responsiveness	10-2
3. Protest Examples	10-2
4. Inconsistencies in Bidding Documents	10-3
5. Consequence of Responsiveness	10-4
6. Effective Use of Responsibility Criteria	10-4
C. EPA Protest Appeals Publication	10-4

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 10

BID PROTESTS

A. CHALLENGES TO MBE/WBE STATUS

Complaints by firms challenging another firm's status as an MBE/WBE will not be entertained under the bid protest procedures of 40 CFR Part 33. Any firm or individual that files a false statement may be prosecuted under 18 U.S.C. 1001. Because of the interest of bona fide MBEs/WBEs in obtaining subagreements, it is reasonable to conclude that such bona fide firms will help EPA and appropriate Federal authorities identify "bogus" or "front" MBEs/WBEs. In the event that allegations are made that a firm misrepresented its status as an MBE/WBE, the matter may be investigated by the Office of the Inspector General and, where appropriate, turned over to the Department of Justice for criminal and/or civil prosecution.

Such firms can also be excluded from further participation in Federal programs by debarment or suspension action. Actions for exclusion from all Federal Acquisition activities are taken under the Federal Acquisition Regulations, 48 CFR Subpart 9.4; actions for exclusion from EPA assistance programs are taken under 40 CFR Part 32. See Chapter 11.

B. MBE/WBE COMPLIANCE -- BIDDER RESPONSIBILITY vs BID RESPONSIVENESS

1. As a general rule, MBE/WBE documentation (i.e., documentation demonstrating positive efforts or compliance with grantee MBE/WBE requirements) is a matter of bidder "responsibility".

a. Responsibility. The term responsibility means the apparent ability of the bidder to successfully carry out the requirements of a contract. Aspects of responsibility include such things as financial resources, technical qualifications, experience, organization and facilities adequate to carry out the project, ability to meet the completion schedule, satisfactory contract performance record and compliance with or willingness to comply with civil rights laws and other legal requirements. See 40 CFR 33.220. The determination of bidder responsibility focuses upon the bidder's apparent ability to perform in the required manner on the date performance is required. Where a bidder has failed to submit information required to demonstrate its responsibility, such information may be submitted after bid opening, but prior to contract award. Consequently, a bidder who is not responsible when bids are submitted may still qualify for contract award if it can establish its responsibility before the contract award date.

MBE/WBE compliance documentation serves the principle purpose of assisting the recipient in determining whether the bidder is responsible, i.e., has the ability to meet, or make good faith efforts to meet, the

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

recipient's MBE/WBE goals and satisfy the EPA MBE/WBE policy. Therefore, if a bidder fails to complete all the MBE/WBE forms with its bid or fails to take positive efforts prior to submitting the bid, these shortcomings may be corrected after bid opening. The exception to this rule occurs when the recipient has specifically made MBE/WBE requirements and demonstration of positive efforts matters of bid "responsiveness" to be determined at the time of bid opening.

b. Responsiveness. A "responsive" bid is one which on its face meets the specifications and the material terms of the Invitation for Bid (IFB). Material terms are those terms affecting price, quantity, quality or delivery and any other terms which are clearly identified by the bid solicitation documents as requirements that must be complied with at the time of bid in order for the bid to be accepted as "responsive".

A failure of a bid to meet a material term of the IFB cannot be cured after bid opening. This is the most significant difference between matters of responsiveness and responsibility.

2. Careful and Clear Drafting. Recipients may make compliance with MBE/WBE requirements a matter of responsiveness instead of responsibility. However, because such requirements are normally matters of responsibility, they will have to be treated as such unless the recipient clearly and unequivocally states in the bid solicitation documents that failure to meet the MBE/WBE requirements will cause the bid to be rejected as nonresponsive. In deciding to make these requirements matters of responsiveness, the recipient must exercise extreme care in drafting the IFB and all bid solicitation documents. If there is any ambiguity in these documents concerning whether a bid failing to comply with the requirements will be automatically rejected as nonresponsive, the requirement will be considered to be a matter of responsibility which can be cured by the bidder after bid opening. Consequently, where there is such ambiguity in the bid solicitation documents the recipient must not reject a nonconforming bid as nonresponsive.

3. Protest Examples. EPA has reviewed numerous recipient procurement actions involving the issue of whether MBE/WBE requirements were made matters of responsiveness or responsibility. The rule which is consistently followed by EPA is that in order for a recipient to reject a bid as nonresponsive due to a failure to do something which is generally a matter of responsibility (such as listing subcontractors and submitting positive efforts information), the solicitation for bids must have clearly and unequivocally stated that such failure would cause the bid to be rejected as nonresponsive. Many of the bid protest appeals considered by EPA involve bid solicitations which were ambiguous as to when the MBE/WBE requirements had to be met by the bidder.

a. Examples of language which failed to make it sufficiently clear and mandatory that MBE/WBE documentation and requirements must be submitted with the bid include provisions in the bid solicitation stating that:

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

(1) Failure to submit such information "may be cause to reject the bid," City of Mt. Pleasant, Michigan, (Region V, June 25, 1979) (Protest of Collavinc Const., Inc.);

(2) "Failure to list . . . will render the bid nonresponsive and may cause its rejection." Sand Point, Idaho (Region X, March 3, 1983) (Protest of Ludig Const., Inc.); and

(3) "Failure to complete the equipment manufacturers form shall be grounds for rejection of his bid as nonresponsive" New Hampshire Water Supply and Pollution Control Commission (Region I, March 16, 1984) (Protest of Cattamount Const., Inc.)

b. In each of these examples the language failed to provide for the automatic, mandatory rejection of non-conforming bids. The statement that failure to do something may result in the rejection of the bid is ambiguous. The action verb "may" is equivocal and non-mandatory because of its permissive nature. The fact that it may be rejected implies the possibility that it "may not" be rejected. Where such language is used in the bid solicitation, the recipient cannot reject as nonresponsive a bid which fails to provide documentation of a requirement which is generally considered to be a matter of responsibility. Where an IFB clearly and unequivocally states that failure to submit a subcontractor list or MBE documentation will make a bid nonresponsive, but the IFB does not state what action will be taken regarding such a nonresponsive bid (e.g., rejection), it is nevertheless correct to reject the bid since pursuant to 40 CFR Sec. 33.430(b), award can only be made to responsive bids. See Monterey, California (EPA Region IX, September 12, 1985) (Protest of Mortenson/Natkin).

4. In reviewing bid solicitations to determine whether MBE/WBE matters have been made matters of responsiveness, EPA looks beyond the specific language in the bid form or IFB and examines all areas of the bid solicitation documents to determine whether they are clear and unequivocal. For example, if the language in one portion of the bid documents clearly states that documentation is a matter of responsiveness but the language which appears elsewhere in the document gives a different meaning, the requirement cannot be considered a matter of responsiveness. See, New Hampshire Water Supply and Pollution Control Commission. supra. If the recipient chooses to make certain items, such as commitment to a fair share percentage, a matter of responsiveness, and other items, such as submission of data sheets, a matter of responsibility, the recipient should clearly separate these items and make it clear to bidders which items are matters of responsiveness and which are matters of responsibility.

5. Consequence of Responsiveness. If the recipient makes MBE/WBE documentation and requirements matters of responsiveness, it must then reject any bid which fails to satisfy the requirements of the solicitation as of the time of bid opening. The recipient has no real discretion in making this decision because a nonresponsive bid cannot be cured and made

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

responsive after bid opening. Consequently, a bid which is not responsive to the MBE/WBE requirements must be rejected even if the recipient believes that accepting the bid is in its best interests and the best interests of the MBE/WBE program. For example, it would be necessary to reject a bidder that did not submit documentation (if it were a matter of responsiveness) even though after bid opening that bidder demonstrates it satisfies the affirmative steps and attained or promised to attain MBE/WBE participation exceeding the grantee's goals and/or exceeded the MBE/WBE participation offered by the next low bidder. See, Village of Palatine, Illinois (EPA Region V, July 19, 1983) (Protest of Di Paolo-Rossetti). However in Toronto, Ohio (EPA Region V, February 2, 1984) (Protest of Cavanaugh Co.), a bid that failed to submit documentation required by the IFB was nevertheless responsive because it specifically committed to meeting the grantee's MBE goals. Since the bidder was contractually committed to the goal, the documentation was only relevant to evaluating the bidder's responsibility, that is, its ability to meet the goal.

6. Effective Use of Responsibility Criteria. Assistance recipients can effectively use definitive responsibility criteria to assure that bidders exercise the affirmative steps required by 40 CFR Sec. 33.240. For example, the Invitation For Bids (IFB) may require that bidders advertise in various newspapers and trade journals, solicit subcontractors by using lists of MBE/WBEs provided by federal, state or local agencies, and take other specific action to demonstrate that the affirmative steps were taken. The recipient can then determine after bid-opening (before contract award) whether the low bidder satisfied the required definitive responsibility criteria and reject any bidder that failed to meet the criteria. See, San Bernardino, Ca. (EPA, Region 9, January 15, 1986) (Protest of MCI Constructors, Inc.).

C. EPA PROTEST APPEALS PUBLICATION

A publication containing extracts of EPA protest appeal determinations concerning MBE/WBE matters is available from OSDPU and the Regional EPA offices.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

DEBARRED AND SUSPENDED CONTRACTORS

CHAPTER 11

TABLE OF CONTENTS

	<u>PAGE</u>
1. Debarment and Suspension.....	11-1
2. Master List.....	11-1
3. Master List Updates.....	11-1
4. Debarred Bidder's List.....	11-1

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 11

DEBARRED AND SUSPENDED CONTRACTORS

DEBARRED AND SUSPENDED CONTRACTORS

1. Under 40 CFR Part 32 "Debarment and Suspension Under EPA Assistance Programs, EPA publishes a Master List of Debarred, Suspended, or Voluntarily Excluded Persons. No EPA assistance or subagreement under EPA assisted programs may be awarded to any person or firms on this list during the designated period unless specifically approved by the Headquarters' Grants Administration Division.

2. The Master List is accessible through the use of an on-line data set at the National Computer Center by any EPA or State office that has an EPA account and User I.D. To access an up-to-date listing you should instruct your ADP operator as follows:

- a. Use Text Editing Language: OBS WYLBUR
- b. Use: SGICWBR2.REG.DEBAR CLR
- c. Use: LIST OFFLINE CC UNN DEST RMTNNN (NNN=Your Regional/State remote site)

3. The Master List is updated by Headquarters each Friday afternoon. The new list can be retrieved each Monday.

The Part 32 actions are also published at the end of each calendar quarter in the Federal Register. This short list is provided for informational purposes only and is not to be relied on in determining a person's current eligibility status.

When MBE Coordinators and/or recipients receive the names of proposed SBE/MBE/WBE contractors and subcontractors, they should verify that the firm and principals are not on the current Master List.

4. The Consolidated List issued by the General Services Administration for direct Federal procurements is not applicable to the financial assistance programs. If a firm has been debarred under this listing, (but has not been debarred under EPA financial assistance program), the firm may still bid on any solicitation issued as a result of Federal financial assistance. Any firm or individual who is debarred under procurement or assistance programs will appear on the EPA master list. Therefore, it is important that all prospective subagreements as well as assistance awards be checked against EPA's master list.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CENTRAL RESOURCE DIRECTORY

CHAPTER 12

TABLE OF CONTENTS

	<u>PAGE</u>
1. Reasons for Establishment	12-1
2. CRD Information Requirements	12-1
3. Transmittal of CRD Entries	12-1
4. Does Not Replace Other Directories	12-1

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

CHAPTER 12

CENTRAL RESOURCE DIRECTORY

CENTRAL RESOURCE DIRECTORY

1. In order to accomplish the objective of assuring that a fair share of subagreement activities are provided to SBEs, MBEs and WBEs, it is essential that the delegated States and local municipalities receiving EPA grants or cooperative agreements or prime contractors performing under these grants or cooperative agreements be able to identify qualified, responsive and responsible SBEs, MBEs and WBEs.

EPA is attempting to assist the recipients and prime contractors in identifying SBEs, MBEs and WBEs who could possibly qualify for work to be performed on these EPA funded projects. Therefore, we have sought to identify a number of sources by contacting all known repositories of these types of business entities. As a result, a Central Resource Directory (CRD) has been established within the Office of Small and Disadvantaged Business Utilization, (OSDBU), Washington, D.C.

The principal purpose of the establishment of the CRD is to identify small, minority and women-owned businesses which have capabilities which would lend themselves to EPA funded projects.

The CRD is operated by Headquarters, OSDBU, which sends out periodic mailings to firms which have been identified by a number of sources, i.e., listings from the Minority Business Development Agency's PROFILE System, the Small Business Administration's Procurement Automated Source System (PASS), various State and local listings and from firms seeking information from EPA.

The CRD is currently organized by Regions and States and is coded for a particular type of industry or service which the firms consider as their principal lines of business. Although each firm may indicate that they are a small, minority or women-owned business, the Agency has adopted a disclaimer which states that we neither certify nor guarantee that the firms listed are, in-fact, small, minority or women's business enterprises and that such identification must be verified by the recipient or the contractor who may plan to utilize their services.

2. It is the intent of the CRD to identify firms by the types of services and/or supplies which the MBE or WBE provides, the area in which they wish to be considered for potential work and the size of subagreement which the firm believes it can perform. In order to accomplish this, a firm may submit the following information to the CRD: (the submission of data is voluntary).

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

- a. Name of firm and full address, including ZIP code.
 - b. Name of principal owner(s), partners, officials of the firm.
 - c. Telephone number(s), including Area Code Number.
 - d. A concise statement of the firm's capabilities and any other matters which are essential to explain the firm's business operations. (This is not to be construed as a capability statement.)
 - e. Principal lines of business, e.g., electrical, structural, demolition, paving, etc. Also include types of any work performed to date.
 - f. Whether the firm has been certified by the SBA, a State, city or local jurisdiction or by an agency of the Federal government as either a small, minority, or women-owned business.
 - g. Work performed in the last 2 years for a State or local project or for the Federal Government. If such work had been performed, a brief statement as to the size of the subagreement, contract or subcontract, what the firm provided in terms of goods or services and your performance record.
3. The CRD entries are transmitted once each quarter to each of the ten (10) EPA Regions for their use. It is expected that these listings will be made available to delegated States or recipients who express a desire to obtain information on firms such as these which are located in their areas.
4. The establishment of the CRD is not meant to displace nor supersede any listing that the Regional offices, the delegated States or recipients may have available. It is simply meant as a supplement to these listings and is considered as a part of EPA's outreach program.

EPA GUIDANCE FOR UTILIZATION OF S/M/WBE IN PROCUREMENT
UNDER ASSISTANCE AGREEMENTS

ATTACHMENTS

EPA Form 6005-1	1
EPA Form 6005-2	2
MBDA 91 Form	3
Recommended Certification Format	4
EPA/MBDA Memorandum of Understanding	5
Listing of MBE/WBE Coordinators	6
Directory of MBDA Regional & District Offices	7
Minority Business Development Centers	8*
Survey of States, Cities & County MBE/WBE Programs	9*
40 CFR Part 33, March 28, 1983	10*

*Attachments 8, 9, and 10 are available upon request.

6010
5/22/86

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

**MINORITY
AND
WOMEN'S
BUSINESS
UTILIZATION
REPORT**



REPORTING REQUIREMENTS ON MINORITY AND WOMEN'S BUSINESS ENTERPRISE UTILIZATION

These instructions apply to reporting on the utilization of minority and women's business enterprises (MBEs/WBEs) under assistance agreements awarded by the Environmental Protection Agency (EPA). They are intended to provide guidance to EPA financial assistance recipients in filling out the MBE/WBE utilization form. Reporting on MBEs and WBEs is based on Executive Orders 11625, 12138, and 12432, and a Memorandum of Understanding between EPA and the Department of Commerce. The reporting requirement applies to all EPA assistance agreements awarded after April 1, 1984.

Each assistance agreement recipient must submit quarterly an EPA Form 6005-1 on MBE/WBE utilization for each grant or cooperative agreement for which the recipient or its contractor(s) awards a subagreement. Recipients must submit the forms to the EPA award official within 15 days following the close of each fiscal year quarter (i.e., January 15, April 15, July 15, and October 15) during which the recipient or its contractor(s) awards a subagreement(s). Additionally, applicants for a Step 2+3 wastewater treatment construction grant which includes an allowance for facilities planning must submit an EPA Form 6005-1 to the award official prior to grant award, indicating the level of MBE/WBE participation during facilities planning. Applicants for a Step 3 wastewater treatment construction grant that includes an allowance for facilities planning and/or design must submit an EPA Form 6005-1 to the award official prior to grant award, indicating the level of MBE/WBE participation during the allowance period.

Recipients are advised to contact the regional office if there are any questions concerning these instructions.

INSTRUCTIONS FOR FILLING OUT BUSINESS UTILIZATION REPORT


1. The name and address of recipient organization to which EPA made the award (sewer or water authority, state or state agency, etc.).
2. Name of the official representing the recipient.

3. (a) Self-explanatory, and (b) grant activity (e.g., air, public water supply, wastewater construction, etc.).
4. Assistance agreement identification number assigned by EPA.
5. Self-explanatory.
6. Total amount of EPA award.
7. Indicate EPA region in which work is being performed.
8. Date that the assistance agreement was made.
9. Indicate MBE and WBE goals or standards, including, where applicable, a fair share estimate.


Wastewater Construction Grant Awards. The Regional Administrator will negotiate an overall fair share with delegated States. The delegated State and not EPA may determine whether and to what extent a fair share should be established for each project. A fair share for each project is not required.

All Other Applicable Assistance Agreements. When the assistance agreement includes procurement, the Assistant Administrator or Regional Administrator, or other designated EPA official, as appropriate, will conduct fair share negotiations directly with assistance recipients.

10. Recipients of wastewater construction grant awards who received an allowance for planning and design activities (Steps 1 and 2) must indicate the level of MBE and WBE participation during the allowance period by (a) A/E award(s), and (b) other award(s).
11. Recipients of assistance awards, including Step 2+3 and Step 3 wastewater construction grant recipients awarding subagreements for building, must indicate the levels of MBE and WBE participation in all subagreements by (a) A/E award(s), and (b) other award(s).
12. Person signing must be the authorized representative of the recipient organization.
13. Additional comments or explanations. Refer to the specific item number on the form, if applicable.

 <div style="display: inline-block; text-align: right;"><div>US ENVIRONMENTAL PROTECTION AGENCY OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION WASHINGTON, DC 20460</div><div>Form Approved OMB No. 2090-0006 Expires 10-31-86</div></div>				
RECIPIENT'S REPORT				
NOTE: Please Read Instructions Before Completing Form.				
1. RECIPIENT NAME AND ADDRESS				
2. AUTHORIZED REPRESENTATIVE				
3. TYPE OF ASSISTANCE AGREEMENT				
a. Check one: <input type="checkbox"/> Grant <input type="checkbox"/> Cooperative Agreement				
b. Grant Activity				
4. ASSISTANCE AGREEMENT ID NUMBER				
5. PROJECT TITLE				
6. ASSISTANCE AMOUNT \$	7. REGION			
8. DATE OF ASSISTANCE AWARD				
9. RECIPIENT'S GOAL, STATE GOAL, OR OTHER STANDARDS (if any)				
Dollar Amount				
Percentage of Assistance Amount				
MBE	\$ %			
WBE	\$ %			
10(a). A/E SUBAGREEMENT AWARDS MADE DURING THE ALLOWANCE PHASE (Planning and Design) OF A WASTEWATER TREATMENT CONSTRUCTION GRANT PROJECT				
Name, Address, and Telephone Number (1)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (2)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (3)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
10(b). OTHER SUBAGREEMENT AWARDS MADE DURING THE ALLOWANCE PHASE (Planning and Design) OF A WASTEWATER TREATMENT CONSTRUCTION GRANT PROJECT				
Name, Address, and Telephone Number (1)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (2)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (3)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award

11(a). A/E SUBAGREEMENT AWARDS MADE UNDER GRANTS/COOPERATIVE AGREEMENTS				
Name, Address, and Telephone Number (1)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (2)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (3)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
11(b). OTHER SUBAGREEMENT AWARDS MADE UNDER GRANTS/COOPERATIVE AGREEMENTS				
Name, Address, and Telephone Number (1)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (2)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
Name, Address, and Telephone Number (3)	MBE	WBE	Type of Services Procured	
			Subagreement Number	
			Subagreement Amount \$	Date of Award
12(a). NAME & TITLE OF AUTHORIZED REPRESENTATIVE		12(b). SIGNATURE		12(c). DATE
13. SPACE PROVIDED FOR ADDITIONAL COMMENTS, EXPLANATIONS, OR ADDITIONAL SUBAGREEMENT AWARDS				

US ENVIRONMENTAL PROTECTION AGENCY OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION WASHINGTON, DC 20460					
 QUARTERLY MBE/WBE CONSOLIDATION REPORT					
FISCAL YEAR	REGION	REGIONAL FAIR SHARE	PREPARED BY		DATE
			1st Federal FY Quarter	2d Federal FY Quarter	3d Federal FY Quarter
			4th Federal FY Quarter	1 Quarterly Cumulative	
Total Grant or Cooperative Agreement Subagreement Dollars Awarded			\$	\$	\$
Total Subagreement Dollars Awarded to MBEs			\$	\$	\$
			%	%	%
Total Subagreement Dollars Awarded to WBEs			\$	\$	\$
			%	%	%
GRANT/COOPERATIVE AGREEMENT ACTIVITY			FISCAL YEAR QUARTER		
			MBE	STATE(S)	WBE
			STATE(S)		
Air (Section 105)			\$		\$
Water (Section 106)					
Drinking Water (PWSS)					
Operator Training					
Underground Injection Control (UIC)					
Hazardous Waste					
Pesticides Enforcement					
Pesticides Certification and Training					
Rural Water Association					
Clean Lakes					
Research and Development					
Superfund (State)					
WWT Construction Grants					
Allowance (Applies to step 2+3 and step 3P)					
Other			\$		\$
¹ This figure reflects the accumulation of fiscal year cumulative reporting (e.g., quarterly cumulative will be a cumulation of quarters 1 and 2, etc.). ² and ³ — See reverse side for explanation.					

²Use this line to report the allowance portion of Step 2+3 and Step 3 A/E subagreement awards.

³Use this line to break out minority and women's business participation by State for a particular grant/cooperative agreement activity. If additional space is required, indicate "See Reverse," then show the overall figure on the front side of the form.

EXAMPLE

	MBE	STATE(s)	WBE	STATE(s)
WWT Construction Grants	\$310,000	See Reverse	\$67,000	See Reverse
Allowance (applies to Step 2+3 and Step 3)	65,000	See Reverse	18,600	See Reverse

On this side, show the breakout by State in the space below or attach a separate sheet.

EXAMPLE

STATES	CONSTRUCTION		ALLOWANCE	
	MBE	WBE	MBE	WBE
NJ	\$100,000	\$22,000	\$21,000	\$6,600
VI	10,000	0	2,000	0
PR	50,000	10,000	10,000	3,000
NY	150,000	35,000	32,000	9,000
	<u>\$310,000</u>	<u>\$67,000</u>	<u>\$65,000</u>	<u>\$18,600</u>

Entries to be made for any of the other grant/cooperative agreement activities should be handled accordingly.

MINORITY BUSINESS DEVELOPMENT PROGRAM MBDA-91 REPORT

6010
5/22/86

I. INTRODUCTION

Executive Order 12432 (July 14, 1983) requires that each Federal Agency identified as having substantial procurement or grant making authority develop an Annual Minority Business Development Plan to increase Minority Business Participation and report on the progress towards accomplishing this plan. Agency plans should encourage prime contractors and grantee recipients to increase the use of minority firms as subcontractors. The Minority Business Development Agency (MBDA), U.S. Department of Commerce, in cooperation with the Small Business Administration (SBA), has revised the MBDA-91 for use by each agency in the implementation of the required plans and quarterly reports.

Individual agency reports will be reviewed and integrated into the Annual Federal Agency Performance Report and submitted to the President by the Secretary of Commerce through the Cabinet Council on Commerce and Trade.

II. GENERAL INSTRUCTIONS

The MBDA-91 Report is used both to prepare the Annual Plan due on December 1 and report accomplishments in Procurement Activity, Incentive Programs, Credit Assistance to include bank deposits, grant assistance and business management and technical assistance. Each agency is required to report cumulative information quarterly. Reports are due no later than 60 days following the end of each quarter. The fourth (4th) Quarter Report will represent the agency's final report. Send all reports to:

U.S. Department of Commerce
Minority Business Development Agency
Information Management Division, AR&I
Room 5709
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

III. PROCUREMENT PROGRAM ACTIVITIES

The Procurement section should be used to report agency procurement activities **regardless of dollar value**. The annual plan will identify total procurement objectives for the fiscal year for each category.

- A. **Total Agency Procurement** includes all agency appropriated procurement awards. This includes prime contracts, modifications, purchase orders, delivery orders against GSA or other Federal agencies, set-asides, 8(a) awards, and other contracts. Excluded are Fedstrip/ Milstrip, interagency purchasing, impress funds, and SF-44 purchases.
- B. **Small Business Procurement** includes agency awards to all small businesses, as identified within total procurement.
- C. **Minority Business Direct Procurement** awards include all prime awards and modifications to minority business firms, regardless of firm size or award amount, **excluding 8(a) awards**, as identified within total procurement.
- D. **8(a) Procurement** awards include any contract or contract modification awarded under Section 8(a) of the Small Business Act.
- E. **Total Agency Subcontracts** include all subcontract awards made by non-minority prime contractors as identified by the agency.
- F. **Minority Business Subcontracts** include all subcontract awards identified in E above that were awarded to minority business enterprise.
- G. **Minority Percentage of Total Procurement** includes items C, D, and F divided by item A.

IV. INCENTIVE PROGRAM ACTIVITY

Section 211 of Public Law 95-507, authorizes each Federal agency to provide appropriate incentives within negotiated Contracts in order to encourage subcontracting opportunities with Small Business firms and minority-owned businesses. Incentives can include pre-award evaluation points for proposals considered favorable by contracting agencies. It can also include costs plus an award fee or bonus. Likewise incentive programs can be developed to provide awards, certificates and citations to contractors or agency employees for excellent performance.

Agencies are encouraged to develop in-house incentives to assist minority business development, other than those required by Feder-

al regulations or law. Incentives included in grant and cooperative agreements must also be considered.

V. CREDIT ASSISTANCE

Credit Assistance involves financial assistance provided through loans or loan guarantees, bonding assistance, insurance or insured mortgage guarantee programs and disaster assistance.

Also requested is the average daily balance data for Federal deposits in banks and savings and loan institutions.

VI. GRANT AND COOPERATIVE AGREEMENT ASSISTANCE PROGRAMS

Definitions and guidelines for reporting grants and cooperative agreements are based on the index to the Catalog of Federal Domestic Assistance and the Cooperative Agreement Act (Public Law 95-224).

Assistance will include formula or discretionary grant awards, both project and direct payments, as well as other grant awards.

VII. BUSINESS MANAGEMENT AND TECHNICAL ASSISTANCE

Most Federal agencies offer some type of business management and technical assistance. This could include administrative assistance, financial management services, procurement contract services, construction related services, exporting assistance, counselling, training, and other referral services that assist business development. Some agencies offer actual structured programs while others provide assistance by Federal employees on an informal/walk-in operation. Management and Technical Assistance also includes expansion of the industrial base by outreach program activities.

VIII. FURTHER GUIDELINES AND PROGRAM DEFINITIONS

Reference is made throughout these forms to "minority business." The general definition for these terms are listed below. In some cases, agencies with specific statutory programs may have more definitive definitions. Executive Order 12432 and The Presidential statement of December 17, 1982, makes direct reference to minority business development.

"Minority business enterprise" means a business which is at least 51% owned by one or more minority individuals, or in the case of any publicly owned business, at least 51% of the voting stock is owned by one or more minority individuals. The daily business operations are likewise managed by the minority owner.

"Minority individuals" are those U.S. citizens who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of this group without regard to their individual qualities. Such groups include, but are not limited to:

1. Black Americans - persons having origins in any of the black racial groups of Africa.
2. Hispanic Americans - all persons of Mexican, Puerto Rican, Cuban, South or Central American, Caribbean and other Spanish or Portuguese culture or origin.
3. Native Americans - persons having origins in any of the original peoples of North America or the Hawaiian Islands, in particular, American Indians, Eskimos, Aleuts and Native Hawaiians.
4. Asian-Pacific Americans - persons having origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan and India.
5. Other groups whose members are U.S. citizens and are found to be disadvantaged by the Small Business Administration pursuant to Section 8(d) of the Small Business Act as amended (15 U.S.C. 637(d)), or the Secretary of Commerce.

6010
5/22/86

Section 1. Procurement Program Activities

FY _____

6010
5/22/86

Agency:	Period Covered		Report of Actual <input type="checkbox"/>
	From	To	Annual Plan <input type="checkbox"/>

(To the Dollar)

- A. Total Agency Procurement: _____
- B. Small Business Procurement: _____
- C. Minority Business Direct Procurement: _____
- D. 8(a) Procurement: _____
- E. Total Agency Subcontracts: _____
- F. Minority Business Subcontracts: _____
- G. Minority Percentage of Total Procurement: _____
- $\frac{C+D+F}{A}$
- _____

Section 2. Incentive Program Activity FY _____

(To the Dollar)

- A. Number of Agency contracts under PL 95-507 with incentive provisions for minority business subcontracting plans: _____
- B. Dollar Value of Agency contracts under PL 95-507 with incentive provisions for minority business subcontracting plans: _____
- C. Number of Agency contracts below the threshold requirements of PL 95-507 that include incentive provisions for minority business subcontracting plans: _____
- D. Dollar value of Agency contracts below the threshold requirements of PL 95-507 that include incentive provisions for minority business subcontracting plans: _____
- E. If incentive provisions were included within a grant award program to encourage minority business subcontracting, identify the program name:
1. _____
 2. _____
 3. _____
 4. _____
 5. _____

(To the Dollar)

- A. Total dollar value of Agency business loans and business loan guarantees: _____
- B. Dollar value of Agency minority business loans and minority business loan guarantees: _____
- C. Total dollar value of Agency surety bond guarantees: _____
- D. Dollar value of Agency minority business surety bond guarantees: _____
- E. Average daily balance of Agency deposits in banks and savings and loan institutions: _____
- F. Average daily balance of Agency deposits in minority banks and minority savings and loan institutions: _____

Section 4. Grant and Cooperative Agreement Assistance Programs FY _____

(To the Dollar)

A. Federal Agency Grants and Cooperative Agreement Awards To:

1. State and Local Governments
2. Non-Profit Organizations and Educational Institutions
3. Business Firms
4. Others (to include individuals)

Totals

Total Awards	Minority Business Awards
\$	\$
	N/A
	X

B. Grant Contracts Awarded by:

1. State and Local Governments
2. Non-Profit Organizations and Educational Institutions
3. Business Firms
4. Others (to include individuals)

Totals

Total Awards	Minority Business Awards
\$	\$

(To the Dollar) 6010
1. Total dollar value of agency business management and technical assistance programs: 5/22/86

2. Dollar value of agency business management and technical assistance programs indicated in Item 1, which directly benefit minority business development:

3. Identify the program name or staff function(s)/position(s) that offer business management and technical assistance. Also, indicate those programs that directly benefit minority business development:

1. _____
2. _____
3. _____
4. _____
5. _____

MINORITY, SMALL, AND WOMEN'S BUSINESS ENTERPRISE CERTIFICATION

I understand that the information I submit in this certification must be accurate and complete. I also understand that Title 18, U.S.C., Section 1001, prescribes penalties for making false statements in this certification. I certify that:

1. This business meets the appropriate definition in 40 CFR §33.005(b) for a small business

Name (signed)

Name (printed or typed)

Title

Name of Business

2. This business meets the appropriate definition in 40 CFR §33.005(b) for a Minority business enterprise:

Name (signed)

Name (printed or typed)

Title

Name of Business

3. This business meets the appropriate definition in 40 CFR §33.005(b) for a Women's business enterprise:

Name (signed)

Name (printed or typed)

Title

Name of Business

- 2 -

4. This business is at least 51 percent owned and controlled by United States citizens:

Name (signed)

Name (printed or typed)

Title

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
AND THE
MINORITY BUSINESS DEVELOPMENT AGENCY

INTRODUCTION

This Memorandum of Understanding (MOU) provides the details of a working relationship between the U.S. Environmental Protection Agency [hereinafter, EPA] and the Minority Business Development Agency [hereinafter, MBDA]. EPA and MBDA will enter into a joint arrangement which will be known as the "EPA/MBDA Minority Assistance Program."

The EPA/MBDA program will combine the resources of both agencies in a manner designed to assist minority business to enhance their participation in contracts under EPA grants and cooperative agreements. This program is designed to enhance EPA responsibilities under Executive Order (EO) 12432 and MBDA's objective to provide assistance to minority business.

WHEREAS, the MBDA, U.S. Department of Commerce, has specific authority to establish policies and programs for the development of minority business enterprises; and,

WHEREAS, the MBDA, U.S. Department of Commerce, has been designated by the Cabinet Council on Commerce and Trade to assist the Council in its implementation of EO 12432; and,

WHEREAS, it is the policy of EPA to encourage and assist its grantees to implement effective programs of minority subcontracting that will meet requirements of EO 12432 and President Reagan's minority business objectives announced December 17, 1982; in accordance with the Secretary of Commerce's uniform program guidance issued to EPA, November 22, 1983;

Now, Therefore, EPA and MBDA agree as follows:

A. MBDA Responsibilities

1. MBDA agrees to coordinate use of its electronic mail system for the purposes of receiving EPA notices of potential grant awards as well as notices of minority subcontracting opportunities under EPA grants and cooperative agreements.
2. MBDA, as appropriate, will encourage its Minority Business Development Centers (MBDCs) to identify minority firms interested in and capable of participating in procurements under EPA grants and cooperative agreements, and to the extent feasible, will provide business management and technical information to those minority businesses identified.

2.

3. MBDA will provide EPA information on the results of this program.
4. MBDA Regional Directors will establish and maintain a liaison program with EPA regional staff in support of this program.
5. MBDA will coordinate training with EPA for MBDA regional offices and funded organizations to implement this program.
6. MBDA will encourage its MBDCs to work directly with EPA designated state offices.

B. EPA Responsibilities

1. EPA will provide notices of potential grant and cooperative agreement awards to MBDCs through the MBDA electronic mail system, or other appropriate procedures.
2. EPA regional staff will provide MBDCs with information on procurement opportunities under EPA awarded grants and cooperative agreements in a timely and systematic manner through the MBDA electronic mail system or other appropriate procedures.
3. EPA regional staff will encourage all award recipients to notify MBDCs of any pre-bid conferences and ensure that minority entrepreneurs are notified and encouraged to attend such conferences.
4. EPA will designate a representative to monitor the progress made under this agreement and will prepare quarterly reports as part of its reports under EO 12432 through the use of the MBDA-91 Form.
5. EPA will share information on its programs and policies, as needed, with MBDA.
6. If EPA decides to make use of the MBDA electronic mail system, prior to such utilization EPA will enter into an interagency agreement with MBDA under the Economy Act of 1932, as amended (31 U.S.C. §1535) to reimburse MBDA for the use of this service.
7. EPA will encourage recipients of its grants and cooperative agreements to use MBDCs to comply with EPA minority subcontracting requirements.

3.

C. Monitoring


The MBDA and EPA will participate in the monitoring of this agreement. EPA will have primary responsibility for evaluating the results of this agreement as part of EO 12432 reporting procedure.

D. Duration


This agreement is effective when signed by both agencies. Either party may terminate this agreement provided that a thirty-day advance notice in writing is provided to the other party.

E. Effective

Signed in Washington, District of Columbia this 13th day
of Aug. 1985.



James H. Richardson Gonzales
Director
Minority Business Development Agency



A. James Barnes
Deputy Administrator
U.S. Environmental Protection Agency

HEADQUARTERS AND REGIONAL SDBU COORDINATORS
AND
MBE PROGRAM REPRESENTATIVES

6010
5/22/86

Headquarters MBE Coordinator

Lupe Saldana

FTS (8) 382-5245/CM(202) 382----

U.S. Environmental Protection Agency
Grants Administration Division
401 M Street, S.W.
Washington, D.C. 20460

Region I

George Coblyn, Coordinator
Ruth Ricker (Water)
Joe Fripp (Water)
Susan Zoino-Quealy (Superfund)

FTS (8) 223-4631/CM(617)-223-----
223-3961
223-3961
223-1950

Environmental Protection Agency
John F. Kennedy Federal Building
Boston, MA 02203

STATES
Conn. New Hampshire
Mass. Rhode Island
Maine Vermont

Region II

Carmen Negron, Coordinator
Vacant (Water)
Steve Lustig (Superfund)

FTS (8) 264-1709/CM(212)-264-----
264-2647

Environmental Protection Agency
26 Federal Plaza
New York, NY 10278

STATES
New Jersey Puerto Rico
New York Virgin Islands

Region III

Rochelle Suylas, Coordinator
Alan Hollis (Water)
Lorna Shull (Superfund)

FTS (8) 597-6157/CM(215)-597-----
597-9868
597-6906

Environmental Protection Agency
841 Chestnut Bldg.
13th Floor
Philadelphia, PA 19106

STATES
Delaware Penn.
District of Col. Virginia
Maryland West Virginia

Region IV

Vivian Jones, Coordinator
Jim Favors (Water)
Russ Wright (Superfund)

FTS (8) 257-7900/CM(404)-257-----
257-4491
257-2643

Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, GA 30365

STATES
Alabama Mississippi
Florida North Carolina
Georgia South Carolina
Kentucky Tennessee

Region V

Robert Springer
Garnetta Clark, Coordinator
Bob Richardson (Water)
Tom Mateer (Superfund)

FTS (8) 353-2024/CM(312)-353-----
886-5262
353-2190
886-6157

Environmental Protection Agency
230 South Dearborn Street
Chicago, IL 60604

STATES
Illinois Minnesota
Indiana Ohio
Michigan Wisconsin

Region VI

Ben Chavez, Coordinator
Hendon Crane (Water)
Bonnie De Vos (Superfund)

FTS (8) 729-9893/CM(214)-767-----
729-2848
729-9091

Environmental Protection Agency
First International Building
1201 Elm Street
Dallas, TX 75270

STATES
Arkansas Oklahoma
Louisiana Texas
New Mexico

Region VII

Georganne Mullins, Coordinator
R. Katherine Biggs (Superfund)

FTS (8) 757-2825/CM(913)-236-----
757-2856

Environmental Protection Agency
726 Minnesota Ave.
Kansas City, Kansas 66101

STATES
Iowa Missouri
Kansas Nebraska

Region VIII

Bobby Hodges, Coordinator
Maurice Velasquez (Water)
Martha Rosenberg (Superfund)

FTS (8) 564-1494/CM(303)-293-----
564-1558
564-1519

Environmental Protection Agency
999 18th Street - Suite 1300
Denver, CO 80202

STATES
Colorado South Dakota
Montana Utah
North Dakota Wyoming

Region IX

Don De La Cerna, Coordinator
Karen Englehart (Water)
Keith Takata (Superfund)

FTS (8) 454-8020/CM(415)-974-----
454-8305
454-7076

Environmental Protection Agency
215 Fremont Street
San Francisco, CA 94105

STATES
Arizona Hawaii
California Nevada

Region X

Carolyn Jones, Coordinator
Kathy Davidson (Superfund)

FTS (8) 399-7268/CM(206)-442-----
399-1088

Environmental Protection Agency
1200 6th Avenue
Seattle, WA 98101

STATES
Alaska Oregon
Idaho Washington

HEADQUARTERS
CONTACTS

Office of Small and Disadvantaged Business Utilization

George K. Mori (Policy)
Elaine Rice (Operations)

FTS(8) 557-9301/CM(703) 557-----
557-9300

U.S. Environmental Protection Agency
401 M Street, S.W.
(A-149C)
Washington, D.C. 20460

Office of General Counsel

J. Kent Holland, Jr. (Operations)
Mark Gordon (Policy)

FTS(8) 382-5313/CM(202) 382-----
475-8886

U.S. Environmental Protection Agency
401 M Street, S.W.
(LE-132G)
Washington, D.C. 20460

Grants Administration Division

Richard A. Johnson (Policy)

FTS(8) 382-5296/CM(202) 382-----

U.S. Environmental Protection Agency
401 M Street, S.W.
(PM-216)
Washington, D.C. 20460

Municipal Construction Division

Tod Gold

FTS(8) 382-7376/CM(202) 382-----

U.S. Environmental Protection Agency
401 M Street, S.W.
(WI-547)
Washington, D.C. 20460

Superfund

Camille Joel-Lee

FTS(8) 382-7906/CM(202) 382-----

U.S. Environmental Protection Agency
401 M Street, S.W.
(WI-548A)
Washington, D.C. 20460

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5/22/86

DIRECTORY OF
REGIONAL & DISTRICT OFFICES
AND
MINORITY BUSINESS DEVELOPMENT CENTERS
FEBRUARY 1, 1986

MINORITY BUSINESS DEVELOPMENT AGENCY
U.S. DEPARTMENT OF COMMERCE

PREFACE

Established in the U.S. Department of Commerce by Executive Order 11458 in 1969, and expanded by Executive Order 11625 in 1971, the Minority Business Development Agency (MBDA) promotes and encourages minority business ownership. Originally called the Office of Minority Business Enterprise, it was renamed in 1979 and redirected in support of larger minority firms in growth industries.

MBDA coordinates and monitors minority business support in the public and private sectors, and sponsors a national network of Minority Business Development Centers (MBDCs) offering management counseling to minority entrepreneurs. The centers receive operating funds from MBDA and report client services to MBDA.

Business Development Center counselors advise minority owners in areas such as marketing, accounting, personnel management, and business training. They help owners to secure government and private procurement contracts, and to assemble financial packages for submission to lenders. The Minority Business Development Agency itself does not make loans.

Business services are offered for a nominal fee to current minority business operators and those considering starting a business.

Executive Order 11625 defines a minority business enterprise as follows:

"Minority business enterprise" means a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos, and Aleuts.

For Further information, contact:

Information Clearinghouse, Room 6708
Minority Business Development Agency
U.S. Department of Commerce
Washington, D.C. 20230
202/377-2414

FEB. 1, 1986

REGIONAL OFFICES

<u>NAME/TITLE</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
Xavier Mena Director	SAN FRANCISCO REGIONAL OFFICE 221 Main Street, Room 1280 San Francisco, CA 94105	415-974-9597 FTS-454-9597
OPERATE STATES:	Alaska, American Samoa, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington	
Willie Williams Director	WASHINGTON REGIONAL OFFICE 14th & Constitution Avenue, N.W. Room 6711	202-377-8275 FTS-377-8275
OPERATE STATES:	Washington, D.C. 20230 Delaware, Maryland, Pennsylvania, Virginia, Washington-D.C., West Virginia	
Carlton Eccles Director	ATLANTA REGIONAL OFFICE 1371 Peachtree Street, N.E. Suite 505	404-881-4091 FTS-257-4091
OPERATE STATES:	Atlanta, GA 30309 Alabama, Florida, Georgia, Kentucky, Mississippi, No. Carolina, So. Carolina, Tennessee	
David Vega Director	CHICAGO REGIONAL OFFICE 55 East Monroe Street Suite 1440	312-353-0182 FTS-353-0182
OPERATE STATES:	Chicago, IL 60603 Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin	
Georgina A. Sanchez Director	NEW YORK REGIONAL OFFICE 26 Federal Plaza, Room 3720 New York, NY 10278	212-264-3262 FTS-264-3262
OPERATE STATES:	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Puerto Rico, Rhode Island, Vermont, The Virgin Islands	
Melda Cabrera Acting Director	DALLAS REGIONAL OFFICE 1100 Commerce Street Room 7B19	214-767-8001 FTS-729-8001
OPERATE STATES:	Dallas, TX 75242 Arkansas, Colorado, Louisiana, Montana, New Mexico, No. Dakota, So. Dakota, Oklahoma, Texas, Utah, Wyoming	

DISTRICT OFFICES

<u>NAME/TITLE</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
Vacant District Officer	2500 Wilshire Blvd., Suite 908 Los Angeles, CA 90057	213-688-7157 FTS-798-7157
Vacant District Officer	333 W. Colfax Avenue, Room 305 Denver, CO 80204	303-844-2767 FTS-564-2767
Rudy Suarez District Officer	Federal Office Bldg., Room 930 51 SW 1st Avenue Miami, FL 33130	305-350-5054 FTS-350-5054
R. K. Schwartz District Officer	441 Stuart St., 9th Floor Boston, MA 02116	617-223-3726 FTS-223-3726
Alfonso C. Jackson District Officer	Federal Office Bldg., Rm. 9436 600 Arch Street Philadelphia, PA 19106	215-597-9236 FTS-597-9236