



DIVISION OF SMALL BUSINESS OPPORTUNITY

Frequently Asked Questions: About Compliance

Where can I find the DSBO ordinance?

Because the DSBO ordinance was revised and reauthorized in mid-2020, you need to know when the project you're working on was solicited.

[Current Ordinance – Projects solicited after May 2, 2020](#)

[Previous Ordinance – Projects solicited prior to May 2, 2020](#)

Where can I find project goals?

Visit the links below for business utilization determinations on upcoming bidding opportunities with various city agencies:

[Denver International Airport \(DEN\)](#)

[Denver Parks and Recreations \(DPR\)](#)

[Department of Transportation and Infrastructure \(DOTI\)](#)

[General Services \(GS\)](#)

How do I resolve an outstanding payment?

Start with DSBO's [Payment Alert & Investigation Desk](#) (PAID) program, which applies to projects solicited after May 2, 2020. Even if your outstanding payment does not fit the PAID program guidelines, we can investigate your concern and help resolve it. To get started on payment investigations on projects solicited prior to May 2, 2020, you may call 720-913-1714 during regular business hours or email us at compliance@denvergov.org.

What is B2GNow and how do I create a profile for my company?

B2GNow, also referred to as the [Small Business Certification and Contract Management System](#), is the software system DSBO requires contractors/consultants/vendors to utilize to streamline and automate data-gathering, tracking, reporting, vendor management, and administrative processes. DSBO will create a vendor profile if one already does not exist and you will be notified of the account creation.

What is Contractor Prompt Payment?

Each contractor on a city contract with certified MWBEs as subcontractors shall pay the respective subcontractors any invoiced and undisputed amounts for accepted and completed work within 35

days of the contractor's receipt of the subcontractor's invoice. Payment to the subcontractor shall be timely made as required under this section regardless of whether the contractor has been paid for the same work or payment period. For the purposes of the [section 28-72](#), any subcontractor, regardless of whether that subcontractor holds a city contract, may be required to make payments to MWBEs as set forth in this section.

A contractor is required to provide written notice to its subcontractor of either approval or rejection of the subcontractor's invoice within 10 days of receipt. If the invoice is rejected, the written notice to the subcontractor shall include the deficiencies or disputes regarding the invoice. Failure to comply with the payment requirements in this section may be grounds for withholding of payment by the city to the contractor and may be grounds for breach of the city contract.

These payment requirements shall apply to MWBE subcontractors regardless of tier. This [section 28-72](#) applies only to city contracts in the amount of \$1M or more based on the original contract amount before amendments or changes.

What is the process for termination of a certified firm?

If a contractor or consultant intends to substitute or terminate an MWBE subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer's representative or broker, or otherwise modify or eliminate all or a portion of work attributable to an MWBE, the activity to do so must comply with [section 28-73](#) of the ordinance.

What is a Good Faith Effort?

If the proposer has not fully met the participation goal as provided in [section 28-62](#) or [section 28-66](#), then it shall demonstrate that it has made good faith efforts to meet such goal. The proposer shall furnish to DSBO on or before the time of the proposal submitted to and authorized by the city or a private owner, a detailed statement of its good faith efforts to meet the participation goal set by DSBO. This statement shall address each of the items in [section 28-60, subsection \(b\)](#) and any additional criteria that DSBO may establish by rule or regulation consistent with the purposes of this article III and its divisions. Good faith efforts must be demonstrated to be meaningful and not merely for formalistic compliance with Article III and its divisions. Substantive and meaningful efforts will be considered in determining whether the bidder or proposer has complied with the good faith effort requirements.

The statement of good faith efforts shall include a specific response and verification with respect to each of the good faith effort categories, which may be further defined by rule or regulation. A proposer may include any additional information it believes may be relevant. Failure of a proposer to show good faith efforts as to any one of the following categories in [section 28-60, subsection \(b\)](#) of the ordinance shall render its overall good faith effort showing insufficient and its proposal deemed nonresponsive.

These factors shall also apply to instances where the participation goal may not be met. Proposers or contractors are required to make continuous good faith effort throughout the contract term and document these efforts. Agencies will notify DSBO of impending contract closeout to allow DSBO to request remaining good faith effort and other required documents from the contractor. The contractor may remain subject to the requirements, including potential violations of Article III and its divisions, after contract closeout.

How do I count MWBE participation for materials/supplies purchased?

You are allowed to count expenditures with MWBEs for materials or supplies toward MWBE goals as provided in the following:

- If the materials or supplies are obtained from a MWBE manufacturer, count 100% of the cost of the materials or supplies toward MWBE goals.
- A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
- If the materials or supplies are purchased from a MWBE regular dealer, count 60% of the cost of the materials or supplies toward MWBE goals.
- A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.

With respect to materials or supplies purchased from a MWBE which is neither a manufacturer nor a regular dealer, you are allowed to count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward MWBE goals provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward MWBE goals, however.

You must determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expeditor) on a contract-by-contract basis.

Is the bidder/proposer required to submit a Letter of Intent if utilizing a certified firm for a project with a 0% goal?

Yes, the ordinance and any corresponding rules & regulations still apply to projects with 0% goals. DSBO is responsible for tracking participation and ensuring the contractor/consultant/vendor are still complying with the ordinance.

Isn't 0% goal the same as no goal?

No, they are not the same thing. With a 0% goal, the DSBO ordinance and any corresponding rules and regulations still apply to the project. The ordinance and rules & regulations do not apply to a no goal project.

If a company is ACDBE certified, will that count toward the MWBE goal?

No, that is a different certification. The company must be certified as an MWBE with the city in order to count toward an MWBE goal.

If a company qualifies to be MWBE, will they be allowed additional time to complete certification in order to contribute to the MWBE goal?

No. The company must be certified as an MWBE with the city on or before the time of proposal submission or bid opening. There are no exceptions.

Where can I find DSBO Compliance Forms?

All forms can be found at www.denvergov.org/dsbo, and included here:

- [Letter of Intent](#)
- [Commitment to MWBE Participation](#)
- [Commitment to SBE Participation](#)
- [Commitment to DBE Participation](#)
- [1A – List of Proposed Subcontractors, Subconsultants, and/or Suppliers](#)
- [1B – List of Proposed Subcontractors, Subconsultants, and/or Suppliers](#)

Where can I find the applicable Rules and Regulations?

Different rules apply based on when the project you're working on was solicited.

[Current R&R – Projects solicited after May 2, 2020](#)

[Previous R&R – Projects solicited prior to May 2, 2020](#)

I still have questions about compliance. How do I contact DSBO?

For DEN compliance, use DSBO@flydenver.org.

For all other compliance, use DSBO@denvergov.org, and you may also call 720-913-1714 during regular business hours.

denvergov.org/dsbo

720-913-1714