



# Office of Supplier Diversity

## EQUAL BUSINESS OPPORTUNITY PROGRAMS

### DEFINITION OF A DISADVANTAGED BUSINESS ENTERPRISE

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The City of New Orleans implements the **State & Local Disadvantaged Business Enterprise (SLDBE) Program** as a race- and gender-neutral disadvantaged business enterprise program to provide for the participation of businesses owned by socially and economically disadvantaged persons in procurement opportunities with the City of New Orleans. The Office of Supplier Diversity has prepared this document to define the term **Disadvantaged Business Enterprise (DBE or SLDBE)** as it relates to City of New Orleans bids, RFPs or RFQs.

**City of New Orleans Chief Administrative Officer (CAO) Policy Memorandum 46(R) defines a Disadvantaged Business Enterprise as follows:**

***A "Disadvantaged Business Enterprise" or "DBE" means a business entity that is owned and controlled<sup>i</sup> by socially disadvantaged<sup>ii</sup> and economically disadvantaged<sup>iii</sup> persons who hold at least 51% equity interest in the entity, such that the business entity's ability to compete in the business world has been restricted due to industry practices and/or limited capital and/or restricted credit opportunities that beyond its control.***

***"DBE Prime" shall mean that, with respect to seeking a particular City contract, one or more DBEs will perform in excess of 50% of the contract through its own forces and will share an amount of the monetary contract award equal to the work performed by the DBE(s).***

In addition to the definition as provided in CAO Policy Memorandum 46(R), other considerations for designation as a disadvantaged business enterprise include:

- 1) A for-profit small business based on current U.S. Small Business Administration size standards<sup>iv</sup>;
- 2) A for-profit small business licensed to conduct business in Louisiana and the City of New Orleans; and
- 3) A firm that is independently owned and operated<sup>v</sup>.

Any business owner that can demonstrate social and economic disadvantage may be certified as a DBE<sup>vi</sup>. Applicants carry the initial burden of proof regarding their eligibility and must demonstrate that they meet all requirements concerning individual disadvantage, business size, ownership, and control.

The City of New Orleans **does not presume** that Blacks, Hispanics, Native Americans, Asians, Pacific Islanders, women and persons with disabilities as inherently socially and economically disadvantaged due to their membership in a particular group. As a result, businesses owned by members of those groups are not automatically granted DBE status.

The City of New Orleans **does not recognize** employees of a business as meeting the standard or definition of DBE. For example, a firm that employs 50% women and 10% Asians is not a DBE, nor does it meet the goal of local and DBE participation on City of New Orleans contracts as defined by Ordinance 70.432.1<sup>vii</sup>.

#### FAQs

**Q:** *I am an African-American business owner, is my business considered a DBE?*

**A:** Not automatically. You must apply for SLDBE status with the city and be approved by the certification panel.

**Q:** *I have a business that is certified as WBE (Woman Business Enterprise), is my business considered a DBE?*

**A:** The city does not offer reciprocity to firms certified as WBE or MBE (Minority Business Enterprise). You must apply for SLDBE status with the city and be approved by the certification panel.

**Q:** *My business is certified as a DBE with the U.S. Department of Transportation, is my business considered a DBE?*

**A:** Pursuant to Executive Order MJL 10-02, your firm may be granted provisional certification as a DBE<sup>viii</sup>, allowing your firm to bid and perform as a DBE on city contracts. You should request a letter for the Office of Supplier Diversity acknowledging your firm's reciprocal DBE status with the city.

## Definitions

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<sup>i</sup> **Own, Manage and Control (Def.)** The person or persons claiming DBE status 1) must own fifty-one percent (51%) or more of the stock or shares of the company, 2) must possess the power to direct or cause the direction of the management and policies of the firm and 3) must also have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged.

<sup>ii</sup> **Socially Disadvantaged (Def.)** By definition, a socially disadvantaged individual is one who has been subjected to racial or ethnic prejudice or cultural bias because of his or her identity as a member of a group without regard to the person's individual qualities.

<sup>iii</sup> **Economically Disadvantaged (Def.)** By definition, an economically disadvantaged individual is one who is socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area that are not socially disadvantaged.

<sup>iv</sup> **U.S. Small Business Administration Size Standards (Def.)** To qualify as a small business concern for most SBA programs, small business size standards define the maximum size that a firm, including all of its affiliates, may be. The SBA has established two widely used size standards – 500 employees for most manufacturing and mining industries and \$7.0 million in average annual receipts for most nonmanufacturing industries. However, many exceptions exist. For the applicable size standard, see the SBA's Small Business Size Regulations, 13 CFR §121 or the Table of Small Business Size Standards matched to NAICS industries for which SBA has established standards. The general range of size standards by industry division follows:

**Construction** – General building and heavy construction contractors have a size standard of \$33.5 million in average annual receipts. Special trade construction contractors have a size standard of \$14.0 million. The size standard for Land Subdivision is \$7.0 million in average annual receipts. The size standard for Dredging is \$20.0 million in average annual receipts.

**Manufacturing** – For approximately 75 percent of the manufacturing industries, the size standard is 500 employees. A small number have a 1,500 employee size standard and the balance have a size standard of either 750 or 1,000 employees.

**Mining** – All mining industries, except mining services, have a size standard of 500 employees.

**Retail Trade** – The size standard for most retail trade industries is \$7.0 million in average annual receipts. A few, such as grocery stores, department stores, motor vehicle dealers and electrical appliance dealers, have higher size standards. None are above \$29.0 million.

**Services** – For the service industries, the most common size standard is \$7.0 million in average annual receipts. Computer programming, data processing and systems design have a size standard of \$25.0 million. Engineering and architectural services have different size standards, as do a few other service industries. The highest annual receipts size standard in any service industry is \$35.5 million. Research and development and environmental remediation services are the only service industries with size standards stated in number of employees.

**Wholesale Trade** – For all wholesale trade industries, a size standard of 100 employees is applicable for loans and other financial programs. When acting as a dealer on Federal contracts set aside for small business or issued under the 8(a) program, the size standard is 500 employees and the firm must deliver the product of a small domestic manufacturer, as set forth in SBA's nonmanufacturer rule, unless waived by the SBA for a particular class of product. However, for those procurements made under the Simplified Acquisition Procedures of the FAR and where the purchase does not exceed \$25,000, the nonmanufacturer may deliver the goods of any domestic manufacturer.

**Other Industries** – Other industry divisions include: Agriculture; transportation, communications, electric, gas, and sanitary services; and finance, insurance and real estate. Because of wide variation in the industry structure of the industries in these divisions, there is no common pattern of size standards. For specific size standards as of January 1 of each year refer to the size regulations in 13 CFR §121.201. SBA's table of small business size standards includes all changes and modifications made since January 1 of the most recent year.

<sup>v</sup> **Independent (Def.)** The business is not tied to another firm in such a way as to compromise its independence and control.

<sup>vi</sup> **Certified DBE (Def.)** A business that has completed the SLDBE certification application has been approved by the SLDBE certification panel.

<sup>vii</sup> **Sec. 70-432.1. Local and disadvantaged business enterprise (DBE) goals for the City of New Orleans** Subject to the limitations set forth in paragraph (3) below, the City of New Orleans establishes an overall goal of 50 percent utilization of businesses that are locally owned and controlled for all public spending or private projects that utilize public funding and/or incentives. An overall goal of 35 percent is established for utilization of socially and economically disadvantaged businesses, particularly of those businesses located in storm damaged areas.

**Source:** <http://library.municode.com/index.aspx?clientId=10040&stateID=18&statename=Louisiana>

<sup>viii</sup> A copy of MJL 10-02 is available at <http://www.nola.gov/en/BUSINESSES/Office-of-Supplier-Diversity>