

SFI JV UDBE/DBE Division

**UDBE/DBE Compliance &
Utilization Review
April 27, 2016**



Project Overview JV/TEAM

Shimmick Construction Company, Inc./FCC Construction S.A./Impregilo S.p.A, A Joint Venture (SFI), an equal opportunity Prime Contractor, is actively seeking **qualified subcontractors/suppliers and encourages participation of certified Underutilized **Disadvantaged Business Enterprises (UDBE) firms to help attain the project goal of 11% UDBE.****

GERALD DESMOND BRIDGE REPLACEMENT PROJECT

Construction of a new 2000 ft. cable stay main span bridge with approximately 3 miles of approach bridge structures in the Port of Long Beach.



NOTICE & DISCLAIMER

Notice:

Although we have strived to make this meeting as informative as possible, contractors are advised that individual contracts may have unique requirements. Bidders are advised to thoroughly review the contract documents (plans, specifications, materials information, bid items, addenda and compliance requirements).

Disclaimer:

SFI JV is providing this information as a convenience to potential bidders. It does not constitute a legal standard, nor does it establish SFI JV policy.

OVERVIEW

- **What is a UDBE?**
- **DBE Certification and Work Codes**
- **Counting UDBE Participation: Manufacturer, Supplier, Broker, Trucker**
- **Good Faith Efforts (Compliant and Effective Outreach & Communication)**
 - **Identify Subcontractable Trades Available per Project**
- **Commercially Useful Functions**
- **DBE/UDBE Policy and Reporting (Required Forms)**
- **SFI JV Audit**

What is UDBE?

Underutilized Disadvantaged Business Enterprise

- **African American**
- **Asian-Pacific Americans:** Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the US Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Mariana Island, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong
- **Native Americans:** American Indians, Eskimos, Aleuts or Native Hawaiians
- **Women**

Excluded:

- **Hispanic Americans:** Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
- **Subcontinent Asian Americans:** India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka

DBE Certifications and Work Codes

What to Consider

- Work Codes is a descriptor that supplements the NAICS Codes to describe work.
- No such thing as a “generic” certification. Meaning, firms are not certified in general terms, in ways that make them eligible to perform any sort of work or work they intend to do in future.

FIRM A	
DBE NAICS	423310; 423320; 423390; 423510; 423610; 423720; 423730; 423830; 423860; 425120; 532412; 561320;
Work Codes	C0600 MISC SUPPLIERS; C0639 ASPHALT SUPPLIER; C0651 CONCRETE & CEMENT SUPPLIER; C0652 REINFORCING BAR SECTION SUPPLIER; C0655 STEEL SUPPLIER; C0670 PIPE SUPPLIER; C0686 ELECTRICAL & SIGNALS SUPPLIER; C0699 TOOLS Supplier; C9999 BROKER; D3620 ELECTRICAL INDUSTRIAL APPARATUS; F5070 HARDWARE, PLUMBING & HEATING EQUIPMENT; F5080 MACHINERY, EQUIPMENT, & SUPPLIES; F5210 LUMBER & OTHER BUILDING MATERIALS; I7350 MISC EQUIPMENT RENTAL & LEASING; I7360 PERSONNEL SUPPLY SERVICES;
Licenses	
Trucks	
Gender	M
Ethnicity	BLACK
Firm Type	DBE

Firm B	
DBE NAICS	425120; 541613;
Work Codes	C8700 CONSULTANT, NON ENGINEERING; C9999 BROKER;
Licenses	
Trucks	
Gender	F
Ethnicity	HISPANIC
Firm Type	DBE

Counting UDBE Participation: 49 C.F.R. Part 26.

Manufacturer/Supplier/Broker Credit

Credit for materials or supplies purchased from UDBEs counts towards the goal in the following manner:

- **100 percent** counts if the materials or supplies are obtained from a **UDBE manufacturer.**
- **60 percent** counts if the materials or supplies are obtained from a **UDBE regular dealer.**
- If not a manufacturer or regular dealer, only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count: ***49 C.F.R. 526.55 defines "manufacturer" and "regular dealer."***

Count UDBE/DBE Participation: 49 C.F.R. Part 26 (d).

Trucking

- The listed UDBE must itself **own and operate at least one fully licensed, insured, and operational truck used on the contract.**
- **100% credit** for total value of the transportation services if UDBE uses trucks it owns, insures, and operates, and using drivers it employs.
- **100% credit** for total value of the transportation services if UDBE leases trucks from another UDBE firm, including an owner-operator who is certified as a UDBE.
- UDBE trucking firms who sublease to **non-UDBE** trucking firms or non-UDBE owner operators receive credit for the transportation arrangement or **broker fees only.**
- If the **UDBE is not a truck broker**, it cannot get credit for any brokered trucks. UDBEs only get credit for work that they are certified to perform.

GOOD FAITH EFFORTS

DBE/UDBE COMPLIANCE

Two Primary Objectives:

1. Ensure that as many qualified UDBEs as possible are aware of the specific trades/services bids that are or will be available; **and**
2. Provide UDBEs with every reasonable opportunity to bid for such work

The Following Practices Must Be Observed:

- Solicit through all reasonable and available means.
- Ensure UDBE is certified (NAICS CODE & Work Code) in the relevant trade/service.
- Provide Reasonable Opportunity To Submit Bids [**10 days**]
- Structure the Project Work to Maximize Potential for UDBE Participation.
- Keep Thorough Records/Maintain Solicitation and Utilization Report

GOOD FAITH EFFORTS

DBE/UDBE COMPLIANCE

Key Considerations:

- California Subletting & Subcontracting Fair Practices Act.
- Non-Competitive DBE: When a DBE quote is more than 10% higher than a non-DBE quote, the DBE may be declared non-competitive. ***[There is not number set by Caltrans – case by case]***
- Terminating Contract with UDBE or Replacing a UDBE
- Project Team must negotiate in good faith with UDBE nor unjustifiably reject as unsatisfactory bids prepared UDBE.
- Sending Bid Package out without reasonable time for a response.

Commercially Useful Function

What to Consider

- **Normal Industry Practice:** Is UDBE performing work in the manner normally performed by all contractors ? Is Price “normal”?
- **UDBE Performance: 5 Areas**
 - Management: UDBE must manage the work that has been contracted to its firm; Scheduling, Ordering, Completing Certified Payroll, Hiring/Firing.
 - Workforce: UDBE must perform at least 30% of the **total cost of contract** with own workforce.
 - Equipment: UDBE May lease specialized equipment from a contractor, not Prime, if consistent with normal industry practices & at competitive rates. The lease must specify the terms of the agreement

Commercially Useful Function

What to Consider

UDBE Performance Continued: 5 Areas

- Materials: To receive credit, UDBE must furnish and install materials. UDBE must perform the following four functions: (1) negotiate price; (2) determine quality & quantity; (3) order the materials; and (4) pay for the material itself.
- Performance: The UDBE must be responsible for the performance, management and supervision of a distinct element of the work, in accordance with normal industry practice.

DBE/UDBE POLICY & MANDATORY REPORTING

SFI JV REQUIRED RECORD-KEEPING/SFI JV AUDIT

- **Summary of All Subcontractors/Suppliers (DBE and Non-DBE Sub-tiers)**
- **UDBE/DBE Subcontractor/Supplier List**
- **Subcontractor Payment Monthly Progress Report**
- **Owner - Operator Trucking Form (as applicable)**
- **Monthly DBE Trucking Verification Form (as applicable)**
- **Good Faith Tracking**

5 AREAS TO MONITOR

DBE/UDBE COMPLIANCE

- 1. Identify Subcontractable Trades Available per Project**
- 2. Outreach/Good Faith**
- 3. Qualification**
- 4. Utilization & Due Diligence**
- 5. Data Collection and Reporting**

QUESTIONS?

Bid Questions: Contact **Nancy Nguyen** at nancy.nguyen@sfigdb.com or 949-398-6153.

For UDBE Information: Contact **Denise Williams** at denise@dbeworldwide.com or 866.338.6280 Ext. 2