

Diversity Compliance Group Tackles GC Issues

February 25, 2011

U.S. Transportation Secretary Ray LaHood announced a final rule that will help economically and socially disadvantaged businesses take advantage of opportunities to participate in federally funded highway, transit and airport projects. The final rule, effective February 28, 2011, will also hold states and local agencies more accountable for including disadvantaged businesses in their transportation plans. The U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) Program helps small businesses owned and controlled by socially and economically disadvantaged individuals compete for government contracts. The Department also requires state and local transportation agencies to establish goals for DBE participation.

The Department of Transportation's new rulemaking makes the following changes:

- Requires greater accountability from state and local transportation agencies for including disadvantaged businesses in their spending plans;
- Adjusts the personal net worth limit for DBE owners for inflation from the present \$750,000 to \$1.32 million
- Adds provisions to ensure that prime contractors fulfill commitments to use DBE subcontractors
- Requires state and local agencies to monitor each contract to make sure prime contractors are fulfilling their obligations and do not dismiss DBE subcontractors without good cause;
- Requires state and local agencies to create a plan for improving the use of small businesses, including DBEs; and
- Reduces burdens on small businesses seeking DBE certification in more than one state.

Offit Kurman's Government Contracting Group has continued success and concentration in assisting government contractors and subcontractors with Diversity Compliance. Our attorneys have a history of helping prime contractors working with federal, state, and local governments fully understand their diversity compliance requirements and implement best practices for meeting MBE and WBE goals. Just as important, Offit Kurman's attorneys have assisted countless subcontractors in ensuring that their contractual rights are enforced and their opportunities are fully realized when they are used to meet WBE and MBE goals.

With the increasing emphasis on preferential entities in government procurement, new alliances, joint ventures and subcontracts with preference entities is becoming a critical part of compliance with state and federal procurement diversity efforts. Our attorneys routinely help Minority, Women-Owned and Service Disabled businesses achieve preferential certification increasing their eligibility for procurement opportunities. Along with ensuring compliance, the Government Contracting Group keeps up on the latest SBA decisions and regulations in establishing teaming arrangements, subcontracts and in forming entities which will maximize the ability to meet these government initiatives.

Our extensive experience in government procurement, compliance, construction law, and litigation are invaluable to assisting our clients in maximizing these government contracting opportunities. Through active involvement with a wide array of clients who are diverse in size and services, our attorneys proactively help businesses develop strategies to maximize procurement opportunities, accountability and equal opportunity.