

FAIR SHARE OBJECTIVES

Program Comparison

Old MBE/WBE Program

New DBE Program

Recipients must negotiate fair share objectives with the Agency.	Recipients must negotiate fair share objectives with the Agency. Proposed fair share objectives and supporting documentation must be submitted within 120 days after the acceptance of the assistance award.
For Superfund grants, fair share objectives must be negotiated before funds may be expended for procurement under the financial assistance agreement.	For all grants, fair share objectives must be negotiated before funds may be expended for procurement under the financial assistance agreement.
Fair share objectives must be based on an availability analysis, disparity study, or other supporting data and documentation.	No Change
Fair share objectives will remain in effect for 3 fiscal years, unless there are significant changes to the data supporting the fair share objectives.	No Change
Recipients may adopt the fair share objective of another recipient.	No Change. Recipients will affirm the acceptance of the other recipient's fair share objective in the grant terms and conditions.
No exemptions to the fair share objectives requirement.	The following are exemptions from the fair share objective requirements: <ul style="list-style-type: none"> • Grant and loan recipients receiving a total of \$250K or less in EPA financial assistance in a given fiscal year. • Tribal recipients of Performance Partnership Eligible grants under 40 CFR Part 35, Subpart B. <ul style="list-style-type: none"> – There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients. • Recipients of Technical Assistance Grants.

What are Fair Share Objectives?

- A fair share objective is goal based on the capacity and availability of qualified, certified MBEs and WBEs in the relevant geographic market for the procurement categories of construction, equipment, services, and supplies...compared to the number of all qualified entities in the same market for the same procurement categories, adjusted, as appropriate, to reflect the level of MBE and WBE participation expected absent the effects of discrimination.
- A fair share objective is **not a quota**.
- A recipient cannot be penalized for not meeting its fair share objectives.

What is the process for negotiating fair share objectives?

- A recipient must submit its proposed MBE and WBE fair share objectives and supporting documentation **to its designated Regional MBE/WBE Coordinator within 120 days** after its acceptance of its financial assistance award.
- EPA must respond in writing to the recipient's submission **within 30 days of receipt**, either agreeing with the submission or providing initial comments for further negotiation. Failure to respond within this time frame may be considered as agreement by EPA with the fair share objectives submitted by the recipient.
- MBE and WBE fair share objectives **must be agreed upon by the recipient and EPA before funds may be expended** for procurement under the recipient's financial assistance agreement.
- **Fair Share Objectives will remain in effect for three fiscal years** unless there are significant changes to the data supporting the fair share objectives.

Under the new DBE Program, may I adopt the Fair Share Objective of another recipient?

- Yes! Recipients may use the approved fair share objective of another recipient with the same or similar relevant geographic buying market, purchasing the same or similar items.
- Recipients who normally accept the negotiated fair share objective of the state in which they are located, can continue to do so. This will be done by affirming the acceptance of the fair share objective in the grant terms and conditions. However, they may also elect to negotiate their own fair share objectives.

How do I determine a fair share objective?

There are many methods that can be used to formulate a fair share objective. For more information on methods, please refer to the DBE Rule at 40 C.F.R Part 33, Subpart D. A link to the new DBE Rule can be found at www.epa.gov/OSBP.