## DISADVANTAGED BUSINESS ENTERPRISE (DBE) SPECIAL PROVISIONS

**Federal Transit Administration (FTA)**

**Goods and Services**

RACE/GENDER NEUTRAL GOAL

|  |  |
| --- | --- |
| **Project Information** | |
| **MnDOT Grant Agreement Number**: | **This contract uses the following project delivery method:**   * For the procurement of Goods * For the procurement of Services * For the procurement of Third Party Operations/Services   **OR**   * For the procurement of Professional Services |
| **This contract will be solicited and administered by:**   * A subrecipient of Federal FTA Funds   (governments or non-profit agaeny) |

**Introduction**

**Federal Regulations Govern**. Some or all of the funds for this contract will come from the U.S. Department of Transportation (USDOT). Therefore, the federal Disadvantaged Business Enterprise (DBE) program described at Title 49, Part 26 of the Code of Federal Regulations (CFR) applies to this contract. The responder is responsible for understanding and following the requirements of 49 CFR Part 26.

**Purpose**. These special provisions (1) outline the responder’s obligations under the federal DBE program, (2) explain the process MnDOT Office of Civil Rights (OCR) will follow to evaluate the responder’s compliance with DBE program requirements, and (3) identify sanctions for failing to comply with DBE program requirements. These provisions apply *in addition to* any other requirements applicable to award of this contract.

**Policy Statement**. MnDOT must ensure nondiscrimination in the award and administration of contracts funded in whole or in parts with federal funds.. The DBE program seeks to:

* Create a level playing field on which DBEs can compete fairly for federally funded projects,
* Ensure that the DBE program is narrowly tailored,
* Ensure that only eligible firms are permitted to participate as DBEs,
* Help remove barriers to the participation of DBEs in federally funded projects, and
* Provide flexibility in establishing and providing opportunities for DBEs.

**Contract Assurance**. The USDOT requires MnDOT, as a recipient of federal funds, to include the following paragraph in contracts for federally funded projects. It applies to the responder, and the responder must also include it in subcontracts the responder executes for this project.

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to, (1) withholding monthly progress payments, (2) assessing sanctions, (3) liquidated damages, and/or (4) disqualifying the contractor from future bidding as non-responsible.

**Application and Interpretation**. Terms must be interpreted as follows:

* “Responder” refers to the bidder, apparent low bidder, proposer, or apparent successful proposer.
* “Proposal” includes a bid, proposal or price proposal.

### 

### RACE/GENDER NEUTRAL GOAL

If the DBE goal is Race/Gender Neutral (RGN), all responders are encouraged to include their anticipated DBE utilization for the contract in their proposals. **Each responder will still be required to submit a bidders list (Part D) of all subcontractors and suppliers (both DBE and non-DBE) on projects with an RGN goal.** While DBE participation is encouraged on proposals with an RGN goal, responders who are able to meet DBE participation are to **complete and submit the Contractors Payment Form and DBE Total Payment Affidavit).**

### ADDITIONAL SUBCONTRACTORS, SUPPLIERS AND SERVICE PROVIDERS

Whenever an additional subcontractor, supplier or service provider is selected, and this information has not been previously reported to the Mn/DOT Office of Civil Rights, the Contractor or its designated OCR Officer shall promptly provide Mn/DOT OCR with the following information regarding the subcontract:

1. The name of the subcontractor; supplier or service provider;
2. The total dollar amount of the subcontract;
3. The specific work items covered by the subcontract;
4. Estimated quantities of each work item; and
5. Individual unit prices (if applicable).

### SUBMITTAL OF DOCUMENTATION

Upon award of the contract, the Contractor shall submit on the attached Bidders List, a complete list of all subcontractors, service providers, suppliers and consultants that submitted bids, and shall indicate the successful quotes that will be used on the contract.

Additionally, during the life of the contract, the Contractor shall submit progress payment reports on the attached Contractor Payment Form regarding the payments made to its subcontractors, suppliers, service providers and sub-consultants. In accordance with federal regulations and Minnesota’s Prompt Payment law, Contractors are required to pay their subcontractors within ten

(10) days of receiving progress payments from Mn/DOT. Contractors are also required to submit to the Project Engineer and the Mn/DOT OCR the Contractor Payment Forms no later than ten

(10) days after receiving payment from Mn/DOT. PROMPT PAYMENT

The prime contractor agrees to pay each subcontractor under this prime contract within ten days of the prime contractor’s receipt of payment from the state for undisputed services provided by the subcontractor. The prime contractor must pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The prime contractor agrees further to return retainage payments to each subcontractor within ten days after the subcontractor’s work is satisfactorily completed. This clause applies to both DBE and non-DBE subcontractors. Any contractor making payments to subcontractors must complete and submit the attached Contractor Payment form.

### FINAL PAYMENT AFFIDAVIT

Pursuant to Mn/DOT Standard Specifications for Construction Sec. 1908, “Unless a Contractor has presented an Affidavit showing the total dollar amounts of works performed by disadvantaged business enterprise (DBE), final payment may be withheld.” The DBE Total Payment Affidavit shall be executed by the Prime Contractor after all work has been performed by DBE(s) on the project.

## This Race/Gender Neutral Goal Language is an addendum to the Mn/DOT DBE Special Provisions.



Contractor:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **PART D – BIDDERS LIST – NON-DBE and DBE QUOTES SUBMITTED** | | | | | | | |
| DBE COMMITMENTS  List all DBE firms who provided quotes or bid proposals. Indicate whether the quotes were accepted. Please include a copy of their quote(s).  DBE Contractor Information | | | | | **DBE Goal Submitted?**  **Description of Work** | **Dollar Amount Of Bid/Proposal.** | **Will Firm Be Used?** |
| **1.** | DBE  Contractor Name |  | | |  |  | Yes |
| **Contact Name** |  | | |  |
| Address |  | | | No |
| Federal Tax # |  | E-mail |  |  |
| Phone |  | Fax: |  |  |
| **2.** | DBE  Contractor Name |  | | |  |  | Yes |
| **Contact Name** |  | | |  |
| Address |  | | | No |
| Federal Tax # |  | E-mail |  |  |
| Phone |  | Fax |  |  |
| **3.** | DBE  Contractor Name |  | | |  |  | Yes |
| **Contact Name** |  | | |  |
| Address |  | | | No |
| Federal Tax # |  | E-mail |  |  |
| Phone |  | Fax |  |  |
| **4.** | DBE  Contractor Name |  | | |  |  | Yes |
| Contact Name |  | | |  |
| Address: |  | | | No |
| Federal Tax # |  | E-mail |  |  |
| Phone |  | Fax |  |  |

**Make additional copies of this page as necessary**

Office of Civil Rights - Good Faith Efforts Consolidated Form

# Contractor Payment Form

**State Project Number Prime Contractor:**

**1st Tier Sub-**

**Contractor:**

**Payment Reporting Period:** From: To:

Instructions: All Contractors making payments to Contractors/Subcontractors/Suppliers/Service Providers, regardless of their tier or DBE status, are required to complete and submit this form to the Mn/DOT Office of Civil Rights (OCR), each time payments are made to sub-contractors until final payment is made. Failure to comply with this form and Minnesota’s prompt payment law may cause progress payments to be withheld. Submit one copy of this form to the Mn/DOT OCR and one copy to the Project Engineer, no later than ten (10) days after receiving payment from Mn/DOT.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Contractor Information** | | | | | **Original Contract Amount** | **Committed DBE %** | **Actual DBE % to Date** |
| Name: |  | | | |  |  |  |
| Address: |  | | | |
| Phone: |  | | | |
| **Name of Subcontractor/Supplier** | | | | **DBE?**  **(Check if Yes)** | **Description of Work** | | **Subcontract Amount** |
| 1. | | | |  | 1. | | 1. |
| 2. | | | |  | 2. | | 2. |
| 3. | | | |  | 3. | | 3. |
| 4. | | | |  | 4. | | 4. |
| 5. | | | |  | 5. | | 5. |
| 6. | | | |  | 6. | | 6. |
| **Amount of Current Payment** | | **Total Sub-Contractor Payment-To-Date** | | | **% Paid to date** | **Final Payment? Yes/No** | |
| 1. | | 1. | | | 1. | 1. | |
| 2. | | 2. | | | 2. | 2. | |
| 3. | | 3. | | | 3. | 3. | |
| 4. | | 4. | | | 4. | 4. | |
| 5. | | 5. | | | 5. | 5. | |
| 6. | | 6. | | | 6. | 6. | |
| **Company Officials Signature & Title** | | | **Date Signed** | | **Name & Title of Individual Completing Report (Type or Print Clearly)** | | |
|  | | |  | |  | | |
| Title: | | | | | Title: | | |
| Phone: | | Fax: | | | Phone: | Fax: | |

# Contractor Payment Form Instructions

All Contractors making payments to Contractors/Subcontractors/Suppliers/Service Providers, regardless of their tier or DBE status, are required to complete and submit this form to the Mn/DOT Office of Civil Rights (OCR), each time payments are made to sub-contractors until final payment is made. Failure to comply with this form and Minnesota’s prompt payment law may cause progress payments to be withheld. Submit one copy of this form to the Mn/DOT OCR and one copy to the Project Engineer, no later than ten (10) days after receiving payment from Mn/DOT.

**State Project Number:** As identified by Mn/DOT

**Prime Contractor:** The contractor who was awarded the project.

**1st Tier Sub-Contractor:** If there is an instance of a sub who has a subcontractor, list the 1st tier sub here and then list all of the 2nd tier Subcontractor(s) in the Name of Subcontractor/Supplier area. *All areas should be filled in regarding the prime as well.*

**Payment Reporting Period:** This should reflect the current payment period.

**Contractor Information:** Contractor’s information who is making the payments. Should be filled out completely.

**Original Contract Amount:** Prime contractor’s contract dollar amount.

**Committed DBE%:** The DBE requirement as certified by the prime in the proposal that is the minimum percentage to be met.

**Actual DBE % to Date:** The percent met to date.

**Name of Subcontractor/Supplier:** Company who is working for the prime contractor on this project. (If a sub was contracted for more than one contract, list each contract separately.)

**DBE?:** Check this box if the subcontractor is a certified DBE in Minnesota. You can find a listing of the DBE firms certified in Minnesota at <http://www.dot.state.mn.us/eeocm/ucpdirectory.html>.

**Description of Work:** The type of work the subcontractor was contracted for. **Subcontract Amount:** The dollar amount the subcontractor was contracted for. **Amount of Current Payment:** The current dollar amount being paid to the sub.

**Total Sub-Contractor Payment-to-Date:** Total dollar amount paid to the sub including the current payment.

**% Paid to Date:** Percentage of total payments made in comparison to the prime’s award amount.

**Final Payment?:** Indicate weather this is the final payment being made to the sub.

**Company Officials Signature & Title:** Self explanatory

**Name & Title of Individual Completing Report:** Self explanatory

*If you have questions on completing the form, call the Office of Civil Rights at (651) 366-3073.*

Minnesota Department of Transportation Office of Civil Rights

**DBE Total Payment Affidavit**

Pursuant to Mn/DOT Standard Specifications for Construction, Section 1908, the following DBE Total Payment Affidavit shall be executed by the Prime Contractor after all work has been performed by a DBE on this project. If the dollar value of the DBE firm’s total work is less than the DBE’s original subcontract, please explain. Attach additional sheets if necessary.

State Project Number:

STATE OF MINNESOTA

COUNTY OF

I, , being first duly sworn, do depose and say that:

1. I am the authorized representative of

(Name of Individual, Company, Partnership or Corporation)

and I have the authority to make this Affidavit for and on behalf of said Prime Contractor.

1. The following DBE Subcontractors/Suppliers/Service Providers/Sub-Consultants have preformed work on this contract/project with a total dollar value of:

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of DBE Firm** | | **Dollar Amount of Subcontract** | **Total Dollar Amount** |
| **1.** |  |  |  |
| **2.** |  |  |  |
| **3.** |  |  |  |
| **4.** |  |  |  |
| **5.** |  |  |  |
| **6.** |  |  |  |
| **7.** |  |  |  |
| **8.** |  |  |  |

1. I have fully informed myself regarding the accuracy of the statements made in this Affidavit.

Signed:

(Prime Contractor or Authorized Representative)

Subscribed and sworn to before me

This day of , 20

(Notary Public)

My commission expires , 20

Prepare Affidavit in duplicate. Submit one original to the Project Engineer, and one original to:

**Mn/DOT’s Office of Civil Rights 395 John Ireland Blvd., MS 170 St. Paul, MN 55155**

**No. 1908 – Standard Specifications for Construction** Unless the Contractor has presented an Affidavit showing the total dollar amounts of work performed by Disadvantaged Business Enterprises (DBE), final payment may be withheld.

DBE Special Provisions 01/2008