

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
**SUBLETTING CONTRACT WORK TO DISADVANTAGED BUSINESS
ENTERPRISES**

CSD:LFS

1 of 2

APPR:KMF:LST:11-09-23

FHWA:APPR:11-13-23

Replace subsection 102.17 on page 1-30, of the Standard Specifications for Construction, in its entirety and replace with the following:

102.17. Subletting Contract Work to Disadvantaged Business Enterprises (DBEs)

The DBE participation goal specified in the notice of advertisement must be made available to certified DBEs. Compliance with the designated DBE participation goal must be met by using DBEs to perform commercially useful functions as required by 49 CFR 26.55.

- A. **Pre-Award.** All Bidders must provide the overall DBE percentage they have attained at time of bid within the DBE goal tab of the bid file on all projects with a DBE goal designation. All Bidders must submit MDOT Forms 2653 *Contractor Good Faith Efforts* and 2653D *Commitment Confirmation for DBE Subcontractors* within 5 calendar days of the bid letting. These forms must be submitted whether or not the Bidders have been able to meet the DBE participation goal. Submit these forms by e-mail to MDOT-DBESheets@Michigan.gov.

A Bidder who fails to meet the submittal requirements for DBE participation will be deemed ineligible for award of the contract. If a Bidder fails to achieve the DBE participation goal set for a contract, the Department will evaluate the efforts of all Bidders to determine eligibility for award.

- B. **Post Award.** If the Contractor determines during construction that the approved the DBE participation goal will not be met, the Contractor must submit updated MDOT Forms 2653 and 2653D to MDOT-GFE@michigan.gov within 7 calendar days in accordance with current Department DBE Program Procedures.

Prime Contractors may not terminate for convenience an approved DBE working on a federally assisted contract and then perform the work of the terminated DBE.

The Contractor must notify the Department immediately of a DBE's inability to perform any of its work and the Contractor's intent to obtain a substitute DBE by filling out MDOT Form 0196 (DBE Removal/Substitution Request).

- C. **Reconsideration.** Bidders whose Good Faith Efforts (GFE) have been found insufficient may have their GFE reconsidered in accordance with current Department DBE Program Procedures.

The Department reserves the right to modify any requirement or shorten any time period when the need to place the project under contract is such that the public interest warrants such action and would be impaired by further delay. If the Department waives any of these requirements, except the length of a time period, it will ensure that no Bidder is given a material competitive advantage by these actions.

- D. **Reports.** The Contractor is required to submit payments to subcontractors and all DBEs on the project in the MDOT 2124A Employment Reporting System (MERS) to the Engineer in accordance with the contract.
- E. **Penalties.** Failure to fulfill the DBE subcontracting requirement may be considered a breach of contract and may result in the Department's exercising the rights and remedies available in accordance with the provisions of the contract. Remedies may also include suspension, reduction, or removal of the Contractor's prequalification as stated in the Administrative Rules Governing the Prequalification of Construction Contractors.