**DEPARTMENT OF TRANSPORTATION**
DIVISION OF ENGINEERING SERVICES
OFFICE ENGINEER
1727 30th Street MS-43
P.O. BOX 168041
SACRAMENTO, CA 95816-8041
FAX (916) 227-6214
www.dot.ca.gov/hq/esc/oe

*Serious Drought.*
*Help save water!*

January 15, 2015

04-Ala-260-R0.8/R2.0
04-4A4804
Project ID 0400001137
ACNHP-P260(005)E

Addendum No. 1

Dear Contractor:

This addendum is being issued to the contract for CONSTRUCTION ON STATE HIGHWAY IN ALAMEDA COUNTY IN ALAMEDA AND OAKLAND AT POSEY TUBE AND WEBSTER STREET TUBE.

Submit bids for this work with the understanding and full consideration of this addendum. The revisions declared in this addendum are an essential part of the contract.

Bids for this work will be opened on Thursday, February 5, 2015.

This addendum is being issued to revise the *Notice to Bidders and Special Provisions*, the *Bid* book and the Federal Minimum Wages with Modification Number 0 dated 01/02/2015.

In the Special Provisions, Section 2-1.12 is added as attached.

In the Special Provisions, Section 2-1.33 is added as attached.

In the Special Provisions, Section 3-1.12 is added as attached.

In the Special Provisions, Section 3-1.18 is added as attached.

In the Special Provisions, Section 5-1.13B is added as attached.

04-Ala-260-R0.8/R2.0
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In the *EBS* file, the *DBE Commitment* and *Good Faith Efforts Documentation -DBE* forms are replaced *as attached.*

To *Bid* book holders:

Inquiries or questions in regard to this addendum must be communicated as a bidder inquiry and must be made as noted in the *Notice to Bidders* section of the *Notice to Bidders and Special Provisions.*

Submit the *Bid* book as described in the *Electronic Bidding Guide* at the Bidders' Exchange website.

**http://www.dot.ca.gov/hq/esc/oe/electronic_bidding/electronic_bidding.html**

Inform subcontractors and suppliers as necessary.

This addendum, EBS addendum file, attachments and the modified wage rates are available for the Contractors' download on the Web site:

**http://www.dot.ca.gov/hq/esc/oe/project_ads_addenda/04/04-4A4804**

If you are not a *Bid* book holder, but request a book to bid on this project, you must comply with the requirements of this letter before submitting your bid.

Sincerely,

MOHSEN SULTAN
Chief, Office of Contracting Systems
Office Engineer
Division of Engineering Services

Attachments

**Replace section 2-1.12 of the RSS for section 2 with:**

## 2-1.12 DISADVANTAGED BUSINESS ENTERPRISES

### 2-1.12A General

Section 2-1.12 applies to a federal-aid contract.

Under 49 CFR 26.13(b):

> 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.

Include this assurance in each subcontract you sign with a subcontractor.

### 2-1.12B Disadvantaged Business Enterprise Goal

#### 2-1.12B(1) General

Section 2-1.12B applies if a DBE goal is shown on the *Notice to Bidders*.

The Department shows a goal for DBEs to comply with the DBE program objectives provided in 49 CFR 26.1.

Make work available to DBEs and select work parts consistent with available DBEs, including subcontractors, suppliers, service providers, and truckers.

Meet the DBE goal shown on the *Notice to Bidders* or demonstrate that you made adequate good faith efforts to meet this goal.

You are responsible to verify at bid opening the DBE firm is certified as a DBE by the California Unified Certification Program and possess the work codes applicable to the type of work the firm will perform on the Contract.

Determine that selected DBEs perform a commercially useful function for the type of work the DBE will perform on the Contract as provided in 49 CFR 26.55(c)(1)–(4). Under 49 CFR 26.55(c)(1)–(4), the DBE must be responsible for the execution of a distinct element of work and must carry out its responsibility by actually performing, managing, and supervising the work.

All DBE participation will count toward the Department's federally-mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs will be evaluated on a contract-by-contract basis and counts toward the goal in the following manner:

1. 100 percent if the materials or supplies are obtained from a DBE manufacturer.
2. 60 percent if the materials or supplies are obtained from a DBE regular dealer.
3. Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies, if they are obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit toward the goal if you employ a DBE trucking company that is performing a commercially useful function. The Department uses the following factors in determining whether a DBE trucking company is performing a commercially useful function:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

[49 Fed Reg 59595 (10/2/14) (to be codified at 49 CFR 26.55(d)]

**2-1.12B(2) DBE Commitment Submittal**

Submit DBE information under section 2-1.33.

Submit written confirmation from each DBE shown on the DBE Commitment form stating that it will be participating in the Contract in the kind and amount of work on the form. If a DBE is participating as a joint venture partner, submit a copy of the joint venture agreement.

**2-1.12B(2) DBE Good Faith Efforts Submittal**

You can meet the DBE requirements by either documenting commitments to DBEs to meet the Contract goal or by documenting adequate good faith efforts to meet the Contract goal. An adequate good faith effort means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal.

If you have not met the DBE goal, complete and submit the DBE Good Faith Efforts Documentation form under section 2-1.33 showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed toward obtaining participation by DBEs are considered.

Submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Department finds that the DBE goal has not been met.

Refer to 49 CFR 26 app A for guidance regarding evaluation of good faith efforts to meet the DBE goal.

The Department considers DBE commitments of other bidders in determining whether the low bidder made good faith efforts to meet the DBE goal.

**Replace section 2-1.33 of the RSS for section 2 with:**

## 2-1.33 BID DOCUMENT COMPLETION AND SUBMITTAL

Complete the forms in the *Bid* book.

Complete and deliver to Office Engineer the DBE Commitment and DEB Good Faith Efforts Documentation forms.

For a paper bid, submit your bid:

1. Under sealed cover
2. Marked as a bid
3. Identifying the contract number and the bid opening date

For an electronic bid, complete and submit the *Bid* book under the *Electronic Bidding Guide* at the Bidders' Exchange website.

Submit the forms and form information to the Office Engineer according to the schedule shown in the following table:

**Bid Form Submittal Schedule**

| Contract type | Forms to be submitted at the time of bid | Forms to be submitted no later than 24 hours after bid opening[a] | Forms to be submitted no later than 4 p.m. on the 2nd business day after bid opening[a] | Forms to be submitted no later than 4 p.m. on the 4th business day after bid opening[a] |
|---|---|---|---|---|
| All contracts | • Bid to the Department of Transportation<br>• Business name and location and description of portion of subcontracted work on the Subcontractor List<br>• Opt Out of Payment Adjustments for Price Index Fluctuations[c] | • Bid item nos. and percentage of bid item subcontracted on the Subcontractor List[b] | -- | -- |
| Non-federal-aid contracts only | • California contractor license number on the Subcontractor List<br>• California Company Preference<br>• Request for Small Business Preference or Non–Small Business Preference[c] | -- | • Certified Small Business Listing for the Non–Small Business Preference[c] | • Certified DVBE Summary[d] |
| Federal-aid contracts only | • Small Business Status | -- | -- | • DBE Commitment<br>• DBE Good Faith Efforts Documentation |

[a]The forms and information may be submitted at the time of bid.
[b]If the information is not submitted at the time of bid, fax it to (916) 227-6282. This after-bid submittal does not apply to an informal-bid contract. For an informal bid contract, submit the completed form at the time of bid.
[c]Applicable only if the preference or option is chosen.
[d]Not applicable to an informal-bid contract or a project with an estimated cost of more than $5 million. For an informal bid contract, submit the completed form at the time of bid. For a project with an estimated cost of more than $5 million, applicable only if you obtain DVBE participation or you are the apparent low bidder, 2nd low bidder, or 3rd low bidder and you choose to receive the specified incentive.

For an electronic bid:

1. Forms to be submitted at the time of bid must be submitted as described in the *Electronic Bidding Guide*.
2. Your authorized digital signature is your confirmation of and agreement to all certifications and statements contained in the *Bid* book.
3. On forms and certifications that you submit through the electronic bidding service, you agree that each form and certification where a signature is required is deemed as having your signature. On forms that you submit after bid opening, sign the forms in ink where a signature is required.

Failure to submit the forms and information as specified may result in a nonresponsive bid.

If an agent other than the authorized corporate officer or a partnership member signs the bid, file a Power of Attorney with the Department either before opening bids or with the bid. Otherwise, the bid may be nonresponsive.

## 3 CONTRACT AWARD AND EXECUTION

**Delete the 3rd paragraph of section 3-1.12.**
**Delete item 6 of the 2nd paragraph of section 3-1.18.**

**Delete all RSSs for sections 5-1.13B(1) and 5-1.13B(2).**
**Replace section 5-1.13 B with:**

## 5-1.13B Disadvantaged Business Enterprises

### 5-1.13B(1) General

Section 5-1.13B applies to a federal-aid contract.

Use each DBE as listed on the DBE Commitment form unless you receive authorization for a substitution. Ensure that all subcontracts and agreements with DBEs to supply labor or materials are performed under 49 CFR 26.

Maintain records including:

1. Name and business address of each 1st-tier subcontractor
2. Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
3. Date of payment and total amount paid to each business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th day of each month for the previous month's work, submit:

1. Monthly DBE Trucking Verification form
2. Monthly DBE Payment form

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change form. Submit the form within 30 days of Contract acceptance.

Upon work completion, complete a Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors form. Submit it within 30 days of Contract acceptance. The Department withholds $10,000 until the form is submitted. The Department releases the withhold upon submission of the completed form.

### 5-1.13B(2) Performance of Disadvantaged Business Enterprises

Section 5-1.13(B)(2) applies if a DBE goal is shown on the *Notice to Bidders*.

DBEs must perform work or supply materials as listed on the DBE Commitment form.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or those of an affiliate, a non-DBE firm, or another DBE firm or obtain materials from other sources without authorization from the Department.

The Department authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on the plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractors license and the listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the Contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract.
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. Department determines other documented good cause under 49 CFR 26.53.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Department of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. 1 or more of the reasons listed in the preceding paragraph
2. Notices from you to the DBE regarding the request
3. Notices from the DBE to you regarding the request

If the Department authorizes the termination or substitution of a listed DBE, make good faith efforts to find another DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the Contract to the extent needed to meet the DBE goal. Submit your good faith effort documentation within 7 days of your request for authorization of the substitution. The Department may authorize a 7-day extension of this submittal period at your request. Refer to 49 CFR 26 app A for guidance regarding evaluation of good faith efforts to meet the DBE goal.

Unless the Department authorizes a request to terminate or substitute a listed DBE, the Department does not pay for work unless it is performed or supplied by the DBE listed on the DBE Commitment form. You may be subject to other sanctions under 49 CFR 26.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

# DBE COMMITMENT

DES-OE-0102.10D (REV 11/2014)

CONTRACT NO.

BID AMOUNT

$

BID OPENING DATE

BIDDER'S NAME

DBE GOAL FROM CONTRACT (%)

| DBE PRIME CONTRACTOR CERTIFICATION[1] | TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE) | TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE) |
|---|---|---|
| | | |

| BID ITEM NO. | ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED[2] | WORK CATEGORY CODES[3] | NAME OF DBEs (Must be certified on the date bids are opened. Include Caltrans' certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors) | AMOUNT ($) |
|---|---|---|---|---|
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Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the Contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq.).

[1]Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

[2]If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of item to be performed or furnished.

[3]Use Work Category Codes from the California Unified Certification Program database.

| | | |
|---|---|---|
| | **Total Claimed Participation** | $ |
| | | % |

**The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the Contract goal (49 CFR 26.53).**

Signature of Bidder

Date

(Area Code) Phone Number

Person to Contact (Type or Print Name)

**ADA Notice:** For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

# DBE GOOD FAITH EFFORTS DOCUMENTATION

DES-OE-0102.11A (REV 11/2014)

Bidder's Name _____

Contract No. _____



1. List items of work the Bidder made available to DBE firms. Identify items of work the Bidder might otherwise perform with its own forces, items that have been broken down into economically feasible units to facilitate DBE participation, and items for which the Bidder has established flexible time frames for performance and delivery schedules in a manner that encourages and facilitates DBE participation. For each item listed, show the dollar value and percentage of the total contract. The Bidder must demonstrate that sufficient work to meet the goal was made available to DBE firms.

| Item of Work Offered, Services Offered, or Materials Supplied | Bidder Normally Performs Item Yes/No | Items Broken Down to Facilitate Participation Yes/No | Established Flexible Timeframes for Performance and Delivery Schedules Yes/No | Amount ($) | Percentage of Total Bid |
|---|---|---|---|---|---|
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
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| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |
| | ☐ Yes ☐ No | ☐ Yes ☐ No | ☐ Yes ☐ No | | |

# DBE GOOD FAITH EFFORTS DOCUMENTATION

DES-OE-0102.11A (REV 11/2014)

Bidder's Name _____

Contract No. _____



2. List the names of certified DBEs and the all dates on which they were solicited to bid on this project. Include the items of work offered and the dates and methods used for initial and follow-up solicitations to determine with certainty whether the DBEs were interested. Attach copies of solicitations, e-mail messages, telephone records, fax confirmations, etc.

| Name of DBE Solicited | Date of Initial Solicitation | Items of Work Offered | Follow-Up Methods and Dates |
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3. For each item of work made available, indicate whether the Bidder provided plans and specifications specific to the items of work being offered, list the selected firm and its status as a DBE, the DBEs that provided quotes, the price quote for each firm, and the price difference for each DBE if the selected firm is not a DBE. Provide copies of each DBE and Non-DBE quote submitted to the Bidder whenever a Non-DBE firm was selected over a DBE for work on the Contract.

| Items of Work | Provided Plans/Specifications for Work Offered (Yes/No) | Name of Selected Firm | DBE or Non-DBE | Name of Rejected Firm | Quote ($) | Price Difference ($) |
|---|---|---|---|---|---|---|
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If the firm selected for the item is not a DBE, provide the reasons for the selection on a separate sheet and attach names, addresses, and phone numbers for the firms listed above. Provide evidence as to why additional agreements could not be reached for DBEs to perform work.

# DBE GOOD FAITH EFFORTS DOCUMENTATION

DES-OE-0102.11A (REV 11/2014)

Bidder's Name _____

Contract No. _____



4. Describe the Bidder's outreach efforts to identify and solicit the interest of all certified DBEs that have the capability to perform the work of the Contract. Provide copies of supporting documents.

| Description of Outreach | Dates | Location (if applicable) | Results |
|---|---|---|---|
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5. Describe the Bidder's efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the Contract to assist them in responding to a solicitation. Identify the DBEs assisted, the type of information provided, and the date of the contacts. Provide copies of supporting documents.

6. Describe the Bidder's efforts made to assist interested DBEs in obtaining bonding, lines of credit, or insurance. Identify the DBEs assisted, the type of assistance offered, and the dates. Provide copies of supporting documents.

7. Describe the Bidder's efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE purchases or leases from the prime contractor or its affiliate. Identify the DBEs assisted, the type of assistance offered, and the dates. Provide copies of supporting documents.

# DBE GOOD FAITH EFFORTS DOCUMENTATION

DES-OE-0102.11A (REV 11/2014)

Bidder's Name _____

Contract No. _____



8. List the names of agencies and the dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.

| Name of Agency | Date of Contact | Method of Contact | Results |
|---|---|---|---|
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9. Include additional data to support a demonstration of good faith efforts.

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NOTE: Use additional sheets of paper if necessary.

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