



Florida Department of Transportation

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GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

STEPHANIE KOPELOUSOS
SECRETARY

April 2, 2008

Dr. Leslie McCarthy, PhD, P.E.
Program Operations Engineer
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Re: Office of Design, Specifications
Section 7
Proposed Specification: 0070024-Disadvantaged Business Enterprise Program

Dear Dr. McCarthy:

We are re-submitting, for your approval, two copies of the above referenced Supplemental Specification.

Sylvia Barge of the Equal Opportunity Office proposed this change to:

- Update the discrimination language as required by Title 49 CFR Part 26

If you have any questions relating to this specification change, please call Rudy Powell, State Specifications Engineer at 414-4110.

Sincerely,

Signature on file
Rudy Powell, Jr., P.E.
State Specifications Engineer

RP/dm
Attachment

cc: Gregory Jones, General Counsel
Florida Transportation Builders' Assoc.
State Construction Engineer
Marvin Williams, Federal Highway Administration

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.
(REV ~~6-20-07~~02-06-08) (FA 7-5-07) (1-08)

SECTION 7 (Pages 60-78) is expanded by the following:

7-24 Disadvantaged Business Enterprise Program.

7-24.1 General: Prior to award of the Contract, have an approved *Disadvantaged Business Enterprise* (DBE) Affirmative Action Program Plan filed with the Equal Opportunity Office. Update and resubmit the plan every three years. No Contract will be awarded until the Department approves the Plan. The DBE Affirmative Action Program Plan and commitment to carry out the Plan must be incorporated into and become a part of the awarded Contract.

~~7-24.27-24.2-~~ Required Contract and Subcontract DBE Assurance

Language:

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Per 49 CFR § 26.13 (b) ~~Each~~each contract FDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

“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.”

~~Failure to keep these commitments will be deemed noncompliance with these Specifications and a breach of the Contract. Take all necessary and reasonable steps to ensure that FDOT Certified Disadvantaged Business Enterprises, as defined in 49 CFR Part 26 and DOT Rule Chapter 14-78, have the opportunity to participate in, compete for and perform subcontracts. Do not discriminate on the basis of age, race, color, religion, national origin, sex or disability in the award and performance of DOT-assisted Contracts.~~

~~7-24.27-24.3~~ Plan Requirements: Include the following in the DBE Affirmative Action Program Plan:

(a) A policy statement, expressing a commitment to use DBEs in all aspects of contracting to the maximum extent feasible. The policy making body must issue a policy statement signed by the chairperson, which expresses its commitment to utilize DBEs, outlines the various levels of responsibility, and states the objectives of the program. Circulate the policy statement throughout the Contractor’s organization.

(b) The designation of a Liaison Officer within the Contractor's organization, as well as support staff, necessary and proper to administer the program, and a description of the authority, responsibility, and duties of the Liaison Officer and support staff. The Liaison Officer and staff are responsible for developing, managing, and implementing the program on a day-to-day basis for carrying out technical assistance activities for DBEs and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to participate in Contracts let by the Department.

Use techniques to facilitate DBE participation in contracting activities which include, but are not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations.

2. Providing assistance to DBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance.

3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

4. Encouraging eligible DBEs to apply for certification with the Department.

5. Contacting Minority Contractor Associations and city and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible DBE contractors to apply for certification with the Department.

~~7-24.37-24.4~~ **DBE Records and Reports:** Submit the Anticipated DBE Participation Statement at or before the Pre-Construction Conference. Report monthly, through the Equal Opportunity Reporting System on the Department's Website, actual payments, retainage, of all DBE and Minority Business Enterprise (MBE) subcontractors and DBE and MBE construction material and major suppliers. The Equal Opportunity Office will provide instructions on accessing this system. Develop a record keeping system to monitor DBE affirmative action efforts which include the following:

(a) the procedures adopted to comply with these Specifications;

(b) the number of subordinated Contracts on Department projects awarded to DBEs;

(c) the dollar value of the Contracts awarded to DBEs;

(d) the percentage of the dollar value of all subordinated Contracts awarded to DBEs as a percentage of the total Contract amount;

(e) a description of the general categories of Contracts awarded to DBEs;

and

(f) the specific efforts employed to identify and award Contracts to DBEs.

Upon request, provide the records to the Department for review.

All such records are required to be maintained for a period of five years following acceptance of final payment and have them available for inspection by the Department and the Federal Highway Administration.

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.
(REV 02-06-08)**

SECTION 7 (Pages 60-78) is expanded by the following:

7-24 Disadvantaged Business Enterprise Program.

7-24.1 General: Prior to award of the Contract, have an approved Disadvantaged Business Enterprise (DBE) Affirmative Action Program Plan filed with the Equal Opportunity Office. Update and resubmit the plan every three years. No Contract will be awarded until the Department approves the Plan. The DBE Affirmative Action Program Plan and commitment to carry out the Plan must be incorporated into and become a part of the awarded Contract.

7-24.2 Required Contract and Subcontract DBE Assurance Language: Per 49 CFR § 26.13 (b) each contract FDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: “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.”

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 - (e) a description of the general categories of Contracts awarded to DBEs;
- and
- (f) the specific efforts employed to identify and award Contracts to DBEs.
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