

Engineering Consultant Contract Goals

July 2007

Introduction

- The Louisiana Department of Transportation's Consultant Contract Services Section will be using the following procedure to review contracts that are being advertised for applicability of goals

The Goal Setting Process

- Contracts which are greater than or equal to \$250,000 are reviewed for goals
- The work types with percentages are identified by the Project Manager
- The Compliance Section gathers the number of available DBE firms/firms with specialties in the identified work categories in the project area

The Process (cont)

- All pertinent information is presented to the evaluation committee
- The evaluation committee will discuss the projects, and set the goal for the contract



DOTD Matrix for Initial Project Selection

- The matrix for initial project selection will include the following
 - DBE's available by area
 - DBE's specialty
 - Breakdown of project by % work type
 - Cost of project

Engineering DBE Goal Committee Composition

- Consultant Contract Engineer
- Representative from the Compliance Section
- Representative from Design / Project Manager
- FHWA Area Engineer
- Project Development Division Chief

Engineering DBE Goal Committee Member Duties

- ***Consultant Contract Engineer*** – Chairman
- ***Representative from the Compliance Section*** - to provide information on DBE firms and support goal
- ***Representative from Design / Project Manager***
Rotational – project specific to provide detailed breakdown of possible tasks to be performed by a DBE
- ***FHWA Area Engineer*** - to provide support for the DBE goal and to provide input of area they oversee
- ***Project Development Division Chief*** - to provide knowledge, consistency, and guidance for project development

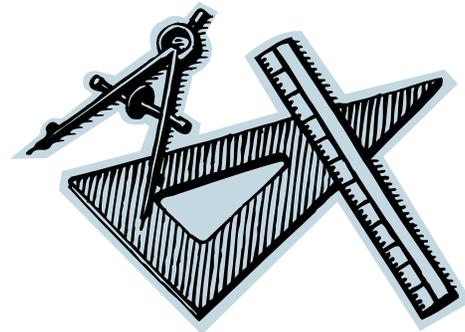
Eligibility

- In order for small disadvantaged firms, including those owned by minorities and women, to participate in the DBE program they must apply for and receive certification as a DBE
 - The firms should contact the LADOTD Compliance Section if further information on certification is required

Lists

- A complete list of those firms registered as DBEs with their specialties can be found at www.dotd.louisiana.gov/cgi-bin/construction.asp
- A list by work type can be found at www.dotd.louisiana.gov/lettings/subsdbed/dbhq20070530.asp

Engineering DBE Program Expectations



Engineering DBE Program Expectations

- The prime consultant must
 - Demonstrate the goal will be met or exceeded
 - Submit the name of the DBE firm(s) they intend to use to meet the goal

OR

- Submit documentation of good faith efforts to meet the goal

Good Faith Efforts

- The prime consultant should provide written notice to all certified DBEs who have capabilities pertinent to the work of the contract that their interest in the contract is being solicited
- This notice shall be in sufficient time to allow the DBEs to respond to the written solicitation
- Follow-up initial solicitations of interest by contacting DBEs to determine with certainty whether they were interested

Good Faith Efforts

- Select portions of the work to be performed by DBEs that will increase the likelihood of the DBE goals being achieved
 - This may include, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation
- Provide interested DBEs with adequate information about the scope and requirements of the contract

Good Faith Efforts

- Negotiate in good faith with interested DBEs
 - This should include the names, addresses, and telephone numbers of the DBEs considered
 - A description of the information provided
 - A statement as to why additional agreements could not be reached for DBEs to perform the work
- A prime consultant cannot reject DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities

Engineering DBE Program Commercially Useful Function

Commercially Useful Function

- A DBE's role cannot be limited to that of an extra participant in a project through which funds are passed in order to obtain the appearance of DBE participation
- When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption

Commercially Useful Function

- DBEs are required to furnish all supervision and labor necessary to perform tasks prescribed in the contract
- The DBE must manage the work that has been contracted including:
 - Scheduling work operations
 - Preparing and submitting payrolls and all required reports and forms
 - Hiring and firing employees including supervisory positions

Commercially Useful Function

- The DBE must perform the work of the contract with his/her own forces
 - There must be no formal or informal constraints placed upon the DBE by the prime consultant which requires the DBE to use employees of the prime consultant or any other consulting firm to perform the work
 - Use by a DBE of personnel from other consultants will not satisfy the requirement

Replacement of DBE

- A prime cannot terminate a DBE sub-consultant and self-perform the work without prior written approval from Compliance Programs and Contract Services
- DBEs can be replaced only if they are unable or unwilling to perform

Replacement of DBE

- If it appears that the DBE goal cannot be achieved, the prime consultant shall immediately notify Compliance Programs and Consultant Contract Services
- Department approved revisions to the contract which eliminate work of the DBE do not require replacement

REPLACEMENT OF DBE

- The prime consultant must make good faith efforts to find a replacement for the DBE
- The required good faith efforts are essentially the same as those required prior to award of the contract, such as written notice, personal contact, follow up, negotiations, etc.

Replacement Procedure

- Good faith efforts used to try to meet at least a portion of the goal should be documented and submitted to Compliance Programs and the Consultant Contract Services Section for evaluation

Replacement Procedure (cont)

- The Compliance Programs Office will review the quality, quantity, and intensity of the prime consultant's efforts. Those which are merely for the record, without personal contacts, cannot be approved

Replacement Procedure (cont)

- If the consultant is able to demonstrate adequate good-faith efforts, DOTD will recommend that the remainder of the goal be waived
- The FHWA must concur in any decision made by DOTD to reduce or waive a contract goal

Questions?



Contact the Compliance Section