

**SECTION 905 -- PROPOSAL (CONTINUED)**

I (We) hereby certify by digital signature and electronic submission via Bid Express of the Section 905 proposal below, that all certifications, disclosures and affidavits incorporated herein are deemed to be duly executed in the aggregate, fully enforceable and binding upon delivery of the bid proposal. I (We) further acknowledge that this certification shall not extend to the bid bond or alternate security which must be separately executed for the benefit of the Commission. This signature does not cure deficiencies in any required certifications, disclosures and/or affidavits. I (We) also acknowledge the right of the Commission to require full and final execution on any certification, disclosure or affidavit contained in the proposal at the Commission's election upon award. Failure to so execute at the Commission's request within the time allowed in the Standard Specifications for execution of all contract documents will result in forfeiture of the bid bond or alternate security.

Bidder acknowledges receipt of and has added to and made a part of the proposal and contract documents the following addendum (addenda):

ADDENDUM NO. <u>  1  </u>	DATED <u>  5/4/2021  </u>	ADDENDUM NO. <u>      </u>	DATED <u>      </u>
ADDENDUM NO. <u>      </u>	DATED <u>      </u>	ADDENDUM NO. <u>      </u>	DATED <u>      </u>
ADDENDUM NO. <u>      </u>	DATED <u>      </u>	ADDENDUM NO. <u>      </u>	DATED <u>      </u>

Number	Description
1	Revised Table of Contents; Added Supplement & NTB No. 2654; Added NTB No. 3318; Amendment EBSx Download Required.

TOTAL ADDENDA:   1    
(Must agree with total addenda issued prior to opening of bids)

Respectfully Submitted,

DATE \_\_\_\_\_

\_\_\_\_\_  
Contractor

BY \_\_\_\_\_  
Signature

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

PHONE \_\_\_\_\_

FAX \_\_\_\_\_

E-MAIL \_\_\_\_\_

(To be filled in if a corporation)

Our corporation is chartered under the Laws of the State of \_\_\_\_\_ and the names, titles and business addresses of the executives are as follows:

_____	President	Address
_____	Secretary	Address
_____	Treasurer	Address

The following is my (our) itemized proposal.

SP-0050-01(040)/ 108653301000

Pontotoc County(ies)

Revised 01/26/2016

**MISSISSIPPI DEPARTMENT OF TRANSPORTATION  
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**PROJECT: SP-0050-01(040)/108653301 - Pontotoc**

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OF SECTION 905 AS ADDENDA)

05/04/2021 10:46 AM

# MISSISSIPPI DEPARTMENT OF TRANSPORTATION

## SUPPLEMENT TO NOTICE TO BIDDERS NO. 2654

**DATE:**       **05/02/2020**

The goal is 5 percent for the Disadvantaged Business Enterprise. All Bidders are required to submit Form OCR-481 for all DBEs. Bidders are advised to check the bid tabulation link for this project on the MDOT website at:

[https://mdot.ms.gov/portal/current\\_letting](https://mdot.ms.gov/portal/current_letting)

Bid tabulations are usually posted by 3:00 pm on Letting Day.

# MISSISSIPPI DEPARTMENT OF TRANSPORTATION

SECTION 904 - NOTICE TO BIDDERS NO. 2654

CODE: (SP)

DATE: 05/02/2020

**SUBJECT: Disadvantaged Business Enterprises In Special Funded Projects**

The Department has developed a Disadvantaged Business Enterprise Program that is applicable to this contract and is made a part thereof by reference, except approvals and concurrences by the Federal Highway Administration is not applicable to this contract since it is not financed in whole or in part with Federal Funds.

Copies of the program may be obtained from:

Office of Civil Rights  
Mississippi Department of Transportation  
P. O. Box 1850  
Jackson, Mississippi 39215-1850

## **POLICY**

It is the policy of the Mississippi Department of Transportation to provide a level playing field, to foster equal opportunity in all contracts, to improve the flexibility of the DBE Program, to reduce the burdens on small businesses, and to achieve that amount of participation that would be obtained in a non-discriminatory market place. In doing so, it is the policy of MDOT that there will be no discrimination in the award and performance of these contracts on the basis of race, color, sex, or national origin.

## **ASSURANCES THAT CONTRACTORS MUST TAKE:**

MDOT will require that each contract which MDOT signs with a subrecipient or a Contractor, and each subcontract the Prime Contractor signs with a Subcontractor, includes the following assurances:

“The Contractor, subrecipient or Subcontractor shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. 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 MDOT deems appropriate.”

## **DEFINITIONS**

For purposes of this provision the following definitions will apply:

"Disadvantaged Business" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individual(s) or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially

and economically disadvantaged individual(s); and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individual(s) who own it. It is important to note that the business owners themselves must control the operations of the business. Absentee ownership or title ownership by an individual who does not take an active role in controlling the business is not consistent with eligibility as a DBE under 49 CFR Part 26.71.

### **CONTRACTOR'S OBLIGATION**

The Contractor and all Subcontractors shall take all necessary and reasonable steps to ensure that DBE firms compete for and participate in the performance of a portion of the work in this contract and shall not discriminate on the basis of race, color, sex or national origin. Failure on the part of the Contractor to carry out the DBE requirements of this contract constitutes a breach of contract and after proper notification the Department may terminate the contract or take other appropriate action as determined by the Department.

When a contract has a zero percent (0%) DBE goal, the Contractor still has the responsibility to take all necessary and reasonable steps to ensure that DBE firms can compete for and participate in the performance of the work in the contract. In this case, all work performed by a certified DBE firm is considered to be a “race neutral” measure and the Department will receive DBE credit towards the overall State goals when the DBE firm is paid for their work. If the Prime Contractor is a certified DBE firm, the Department can receive DBE credit only for the work performed by the Prime Contractor’s work force or any work subcontracted to another DBE firm. Work performance by a non-DBE Subcontractor is not eligible for DBE credit.

### **CONTRACT GOAL**

The goal for participation by DBEs is established for this contract in the attached Supplement. The Contractor shall exercise all necessary and reasonable steps to ensure that participation is equal to or exceeds the contract goal.

If the percentage of the contract that is proposed for DBEs is 1% or greater, shall be so stated on the last bid sheet of the proposal.

All Bidders shall submit to the Office of Civil Rights Form OCR-481, signed by the Prime Contractor and the DBE Subcontractors, no later than the 3<sup>rd</sup> business day after opening of the bids.

Form OCR-481 is available on the MDOT website at [www.mdot.ms.gov](http://www.mdot.ms.gov) under the Civil Rights tab, or by calling 601-359-7466.

The OCR-481 Form must contain the following information:

The name and address of each certified DBE Contractor/Supplier;

The Reference Number, percent of work to be completed by the DBE subcontractor and the dollar amount of each item. If a portion of an item is subcontracted, a breakdown of that item

including quantities and unit price must be attached, detailing what part of the item the DBE firm is to perform and who will perform the remainder of the item.

If the DBE Commitment shown on the last bid sheet of the proposal, does not equal or exceed the contract goal, the bidder must submit, to MDOT Contract Administration Division prior to bid opening, information to satisfy the Department that adequate good faith efforts have been made to meet the contract goal.

Failure of the lowest bidder to furnish acceptable proof of good faith efforts, submitted to MDOT Contract Administration Division prior to bid opening, shall be just cause for rejection of the proposal. Award may then be made to the next lowest responsive bidder or the **project** may be re-advertised.

### **GOOD FAITH EFFORTS**

The following factors are illustrative of matters the Department will consider in judging whether or not the bidder has made adequate good faith effort to satisfy the contract goal.

- (1) Whether the bidder attended the pre-bid meeting that was scheduled by the Department to inform DBEs of subcontracting opportunities;
- (2) whether the bidder advertised in general circulation, trade association, and minority-focus media concerning the subcontracting opportunities;
- (3) whether the bidder provided written notice to a reasonable number of specific DBEs that their interest in the contract is being solicited;
- (4) whether the bidder followed up initial solicitations of interest by contacting DBEs to determine with certainty whether they were interested;
- (5) whether the bidder selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the contract goal;
- (6) whether the bidder provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- (7) whether the bidder negotiated in good faith with interested DBEs and did not reject them as unqualified without sound reasons based on a thorough investigation of their capabilities; and
- (8) whether the bidder made efforts to assist interested DBEs in obtaining any required bonding or insurance.
- (9) whether the bidder has written notification to certified DBE Contractors soliciting subcontracting for items of work in the contract.
- (10) whether the bidder has a statement of why an agreement was not reached.

- (11) Proof of written notification to certified DBE Contractors by certified mail that their interest is solicited in subcontracting the work defaulted by the previous DBE or in subcontracting other items of work in the contract.

The bidder's execution of the signature portion of the proposal shall constitute execution of the following assurance:

The bidder hereby gives assurance that a good faith effort has been made to meet the contract goal for DBE participation for which this proposal is submitted.

### **DIRECTORY**

A list of “Certified DBE Contractors” which have been certified as such by the Mississippi Department of Transportation and other Unified Certification Partners (UPC) can be found on the Mississippi Department of Transportation website at [www.mdot.ms.gov](http://www.mdot.ms.gov). The DBE firm must be certified at the time the project is let and approved by MDOT to count towards meeting the DBE goal.

### **REPLACEMENT**

If a DBE Subcontractor cannot perform satisfactorily, and this causes the OCR-481 commitment to fall below the contract goal, the Contractor shall take all necessary reasonable steps to replace the DBE with another certified DBE Subcontractor or submit information to satisfy the Mississippi Department of Transportation that adequate good faith efforts have been made to replace the DBE. The good faith efforts outlined previously in this document still apply. The replacement DBE must be a DBE who was on the Department's list of "Certified DBE Contractors" when the job was let, and who is still active All DBE replacements must be approved by the Department.

Under no circumstances shall the Prime or any Subcontractor perform the DBE's work (as shown on the OCR-481) without prior written approval from the Department. See "Sanctions" at the end of this document for penalties for performing DBE's work.

When a Contractor proposes to substitute/replace/terminate a DBE that was originally named on the OCR-481, the Contractor must obtain a release, in writing, from the named DBE explaining why the DBE Subcontractor cannot perform the work. A copy of the original DBE's release must be attached to the Contractor's written request to substitute/replace/terminate along with appropriate subcontract forms for the substitute/replacement/terminated Subcontractor, all of which must be submitted to the DBE Coordinator and approved, in advance, by MDOT.

### **PREBID MEETING**

A pre-bid meeting will be held in the Commission Room on the 1<sup>st</sup> floor of the MDOT Administration Building in Jackson at 2:00 P.M. on the day preceding the date of the bid opening.

This meeting is to inform DBE firms of subcontracting and material supply opportunities. Attendance at this meeting is considered of prime importance in demonstrating good faith effort to meet the contract goal.

**PARTICIPATION / DBE CREDIT**

Participation shall be counted toward meeting the goal in this contract as follows:

- (1) If the Prime Contractor is a certified DBE firm, only the value of the work actually performed by the DBE Prime can be counted towards the project goal, along with any work subcontracted to a certified DBE firm.
- (2) If the Prime Contractor is not a DBE, the work subcontracted to a certified DBE Contractor will be counted toward the goal.
- (3) The Contractor may count toward the goal a portion of the total dollar value of a contract with a joint venture eligible under the standards of this provision equal to the percentage of the DBE partner in the joint venture. The joint venture must submit a Joint Venture Eligibility Form provided by the Mississippi Department of Transportation.
- (4) Expenditures to DBEs that perform a commercially useful function may be counted toward the goal. A business is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of the work and carries out its responsibilities by actually performing, managing, and supervising the work involved.
- (5) The Contractor may count 100% of the expenditures for materials and supplies obtained from certified DBE suppliers and manufacturers that produce goods from raw materials or substantially alters them for resale provided the suppliers and manufacturers assume the actual and contractual responsibility for the provision of the materials and supplies. The Contractor may count 60 percent of the expenditures to suppliers that are not manufacturers, provided the supplier performs a commercially useful function in the supply process. Within 30 days after receipt of the materials, the Prime Contractor shall furnish to the DBE Coordinator invoices from the certified supplier to verify the DBE goal.
- (6) Any work that a certified DBE firm subcontracts or sub-subcontracts to a non-DBE firm will not count towards the DBE goal
- (7) Only the dollars actually paid to the DBE firm may be counted towards the DBE goal.

**AWARD**

Award of this contract to the low bidder will be contingent upon the following condition:

- (1) **All Bidders** must submit to the Office of Civil Rights for approval, Form OCR-481 (DBE Commitment) no later than the 3<sup>rd</sup> business day after opening of the bids, or submit information with the bid proposal to satisfy the Department and that adequate good faith

efforts have been made to meet the contract goal. For answers to questions regarding Form OCR-481, contact the MDOT Office of Civil Rights at (601) 359-7466.

- (2) Bidder must include OCR-485 information with their bid proposal listing all firms that submitted quotes for material supplies or items to be subcontracted. OCR-485 information must be **signed and** included with the bid proposal. If the OCR-485 information is not included as part of bid proposal, your bid will be deemed irregular.

Prior to the start of any work, the bidder must notify the Project Engineer, in writing, of the name of the designated "DBE Liaison Officer" for this project. This notification must be posted on the bulletin board at the project site.

### **DEFAULT**

If the contract goal established by MDOT in this proposal is 1% or greater, it must be met to fulfill the terms of the contract. The Contractor may list DBE Subcontractors and items that exceed MDOT's contract goal, but should unforeseen problems arise that would prevent a DBE from completing its total commitment percentage, the Contractor will meet the terms of the contract as long as it meets or exceeds MDOT's Contract Goal. For additional information, refer to "Replacement" section of this Notice.

### **DBE REPORTS**

- (1) OCR-481: Refer to "CONTRACT GOAL" section of this Notice to Bidders for information regarding this form.
- (2) OCR-482: At the conclusion of the project the Contractor will submit to the Project Engineer for verification of quantities and further handling Form OCR-482 whereby the Contractor certifies to the amounts of payments made to each Contractor/Supplier. The Project Engineer shall submit the completed Form OCR-482 to the DBE Coordinator (Office of Civil Rights). Final acceptance of the project is dependent upon Contract Administration Division's receipt of completed Form OCR-482 which they will receive from the Office of Civil Rights.
- (3) OCR-483: The Project Engineer/Inspector will complete Form OCR-483, the Commercially Useful Function (CUF) Performance Report, in accordance with MDOT S.O.P. No. OCR-03-05-02-483. Evaluations reported on this form are used to determine whether or not the DBE firm is performing a CUF. The Prime Contractor should take corrective action when the report contains any negative evaluations. DBE credit may be disallowed and/or other sanctions imposed if it is determined the DBE firm is not performing a CUF. This form should also be completed and returned to the DBE Coordinator (Office of Civil Rights).
- (4) OCR-484: Each month, the Prime Contractor will submit to the Project Engineer OCR-484 that certifies payments to all Subcontractors and shows all firms even if

the Prime Contractor has paid no monies to the firm during that estimate period (negative report). The Project Engineer will attach the form to the monthly estimate before forwarding to the Contract Administration Division for further processing. Failure of the Contractor to submit the OCR-484 will result in the estimate not being processed and paid.

- (5) OCR-485: Bidder must submit **signed form with bid proposal** of all firms that submitted quotes for material supplies or items to be subcontracted. If the OCR-485 information is not included as part of bid proposal, your bid will be deemed irregular.
- (6) OCR-487: Only used by Prime Contractors that are certified DBE firms. This form is used in determining the exact percentage of DBE credit for the specified project. **The low Bidder** should **return this form** to MDOT with the OCR-481 form, or can also be returned with the Permission to Subcontract Forms (CAD-720, CAD-725 and CAD-521).

DBE Forms, can be obtained from the Office of Civil Rights Division, MDOT Administration Building, 401 North West Street, Jackson, MS, or at [www.mdot.ms.gov](http://www.mdot.ms.gov) under the Civil Rights tab.

**SANCTIONS**

The Department has the option to enforce any of the following penalties for failure of the Prime Contractor to fulfill the DBE goal as stated on the OCR-481 form or any violations of the DBE program guidelines:

- (1) Disallow credit towards the DBE goal
- (2) Withhold progress estimate payments
- (3) Deduct from the final estimate or recover an amount equal to the unmet portion of the DBE goal which may include additional monetary penalties as outlined below based on the number of offenses and the severity of the violation as determined by MDOT.

Offense #1	10% of unmet portion of goal	or	\$5,000 lump sum payment	or	Both
Offense #2	20% of unmet portion of goal	or	\$10,000 lump sum payment	or	Both
Offense #3	40% of unmet portion of goal	or	\$20,000 lump sum payment	or	\$20,000 lump sum payment and debarment

- (4) Debar the Contractor involved from bidding on Mississippi Department of Transportation projects **for a period of up to 12 months after notification by certified email.**

## MISSISSIPPI DEPARTMENT OF TRANSPORTATION

**SECTION 904 - NOTICE TO BIDDERS NO. 3318**

**CODE: (SP)**

**DATE: 04/29/2021**

**SUBJECT: DBE Pre-Bid Meeting**

Due to the COVID-19 pandemic and the Department not allowing visitors in the Administration Building at this time, the DBE Pre-Bid Meeting referenced on Pages 4 & 5 of Notice to Bidders No. 2654 will be held by **video conference only**. The meeting will be held at 2:00 P.M. on the day preceding the date of the bid opening using Zoom video conferencing software. Anyone interested in participating can download Zoom and connect to the meeting at the below link.

<https://zoom.us/j/5548736403?pwd=SDh5S2hQSE5pNG5FOEkzR3NsUnBYQT09>

Password (if prompted): 272147

For those unable to participate via Zoom, the below teleconference number may be used instead.

1-888-227-7517

Conference Code: 404496