Part 2  Precontract/Preconstruction

Copies of the CA Agreement and all advertising and award information need to be kept with your contract documentation. These are the Affidavit of Publication and any Selection and Award process the agency practices.

Originals are often kept in another department and have been known to be discarded prior to PMRs or audits by the State Auditor or Federal Highway Administration (FHWA) auditors. These requirements apply to Consultant Agreements as well as construction contracts.

FHWA projects should be advertised for a three-week period. The three-week advertising period begins when the first of two advertisements is published. The project will be advertised in the official legal publication for the agency and, if necessary, other newspapers to provide the widest possible coverage commensurate with the size of the project. A two-week advertising period may be acceptable depending upon individual project conditions. Contact your Local Programs Engineer for assistance.

Bid Proposal/Bid Documents (Construction Manual Section 1-2.1)

When the design of a project has been completed and all pre-award requirements of Local Agency Guidelines Section 46.1 have been met, advertisements are placed asking for bids.

As a minimum, the Bid Proposal shall contain:

1. **Proposal** listing all of the bid items, plan quantities, items descriptions, unit of measurement, and a place for unit bid prices and totals (Standard Specifications Section 1-02.5). The proposal will also include the following.

2. **Bid Bond Form**. It is highly recommended that the bid bond form provided in the proposal be noted as the only acceptable bond form for submission by the bidder. This will avoid any problems that may arise from the low responsive bidder using a conditioned bid bond.

3. **Non-Collusion Declaration** (Standard Specifications Section 1-02.8).

4. **Certification Federal Aid Contracts** (Standard Specifications Section 1-02.8(2)).

5. **Disadvantaged Business Enterprise Utilization Certification and Instructions** (WSDOT Form 272-056) (Figure 2-1) if a mandatory DBE goal has been established for the project by HQ H&LP (Standard Specifications Section 1-02.6).

6. **Disadvantaged Business Enterprise Written Confirmation Document** (WSDOT Form 422-031A) (Figure 2-2) if a mandatory DBE goal has been established for the project by HQ H&LP.

7. **Written Notice of receipt by the bidder of all agency issued addendum**.
8. **Subcontractor’s List** (WSDOT Form 271-015A) (Figure 2-3) if Engineer’s estimate is greater than or equal to $1 million. If HVAC, plumbing or electrical is included in the contract.

9. Other documents as may also be required by the contact.

*Note: Local Agency Guidelines* Appendix 44.72 shows a sample advertisement and Appendix 44.73 is the new Bid Proposal Package of forms that can be downloaded from the WSDOT website at [http://fmapps.wsdot.wa.gov/forms/eforms.php](http://fmapps.wsdot.wa.gov/forms/eforms.php). Select the “On Screen” option for a download with a runtime that will allow the package to operate on any computer.

**Award and Execution (Construction Manual Section 1-2.1B)**

Bids for contract are opened at a public meeting and award of the contract is made to the lowest bidder deemed responsible by the contracting agency. Normally, contract award or bid rejection will occur within 45 calendar days after bid opening. **Non-CA agencies must have all awards approved by their CA authority prior to award. All projects with DBE goals require region concurrence prior to award.**

After bid opening and prior to award, you must email bid tabs, and DBE utilization certification to the Region Local Programs Office for concurrence PRIOR TO AWARDING THE CONTRACT. Failure to obtain concurrence may jeopardize your federal funds.

Before construction begins, the local agency must submit the following information to the Region Local Programs Engineer:

- Tabulation of bids
- Engineer’s estimate
- Award letter to the contractor
- Names and addresses of all firms that submit a quote to the successful low bidder
- DBE Utilization Certification, WSDOT Form 272-056A (if applicable)
- DBE Written Confirmation Document, WSDOT Form 422-031A (if applicable)

Failure to submit the above listed information, before the construction begins, will result in a delay of reimbursement for the billed cost, until the information is received.

Initially the contracting agency shall review the proposals for correctness and determine the lowest responsive bid. After determining the lowest responsive bidder, the agency will notify the contractor of the award in writing.

When a DBE goal is included in the contract, the agency will request a further breakdown of the Disadvantage Business Enterprise **Condition of Award**. See Chapter 26 of the *Local Agency Guidelines*. 
The agency will also request a list of the names and addresses of every firm that submitted a bid or quote, successful or not, from successful bidders as part of the bidding process. This information must be supplied prior to contract execution. If you do not get this information, the bid can be considered non-responsive and your funding may be in jeopardy.

*A copy of the Award Letter should be in the contract files for project reviews.

Note: See the GSP for DBE in your contract document and the section within that GSP on Procedures Between Award and Execution for additional information on DBE participation.

Excerpt from the GSP describing DBE Participation on a Federal Aid Contract

Procedures Between Award and Execution . . . . .

The contractor will provide:

(2) A list of all firms who submitted a bid or quote in an attempt to participate in this project **whether they were successful or not**. Include the correct business name, federal employer identification number (optional) and a mailing address. The firms identified by the Contractor may be contacted to solicit general information as follows: 1. age of the firm 2. average of its gross annual receipts over the past three years.

Contractors that do not supply this information prior to execution are considered non responsive by FHWA and project funding may be denied if the agency awards to a non responsive bidder.

After execution, the contractor shall begin work within 10 calendar days from the date of execution or as provided for in the contract document. No work shall be performed within the project limits or on contracting agency furnished sites prior to the execution of the contract by the contracting agency. Any work performed or any material ordered prior to execution, shall be at the risk of the contractor.
Instructions for Disadvantaged Business Enterprise Utilization Certification (DOT Form 272-056)

To be eligible for award of the contract, the bidder shall properly complete and submit a Disadvantaged Business Enterprise Utilization Certification form with the bidder’s sealed Bid Proposal that demonstrates how the bidder intends to meet the DBE Condition of Award (COA) goal.

Box 1: Name of Bidder (Proposal holder) submitting a bid.

Column 1: Name of the Disadvantaged Business Enterprise (DBE) and Certificate Number.

Column 2: The Project Role that the DBE will be performing as follows:

- Prime,
- Joint Venture,
- Subcontractor,
- Manufacturer,
- Regular Dealer*

The role is used to determine what portion of the DBE participation may be credited toward the goal. See Crediting DBE Participation toward Meeting the Goal as described in the Disadvantaged Business Enterprise Condition of Award Participation specification.

Column 3: A description of the work to be performed by the DBE consistent with the eligible Description of Work in the Directory of Certified DBE firms. If the DBE is to perform a portion of a bid item, then state Partial and what work is included, e.g., “Electrical (Partial) – Trenching”. “Mobilization” will not be accepted as a description of work as it is not considered a distinct item of work that a DBE is certified to perform. The bidder may rely upon the descriptors listed in the Directory of Certified DBE Firms.

Column 4: The dollar amount for each DBE listed in the certification that the prime intends to apply towards meeting the DBE contract goal. It may be that only a portion of the amount paid to the DBE is eligible as COA participation. See Crediting DBE Participation in the special provisions; Disadvantaged Business Enterprise Condition of Award Participation.

Box 2: The goal stated in the contract in terms of a dollar amount or a percentage as noted under the general special provision; DBE Condition of Award (COA) Goal, Disadvantaged Business Enterprise Condition of Award Participation. When expressed as a percentage it is a percentage of the sum total of all bid items as submitted in the bidder’s proposal.

Box 3: The total for column 4. This value must equal or exceed the goal amount.

* Note: In accordance with 49 CFR 26.55(e)(2)(i), if the materials or supplies are purchased from a DBE Regular Dealer, the amount to be counted towards the DBE will be sixty percent (60%) of the cost of the materials or supplies, e.g., Material cost: $100,000, allowable amount toward DBE goal; $60,000.
Disadvantaged Business Enterprise Utilization Certification

To be eligible for award of this contract the bidder must fill out and submit, as part of its bid proposal, the following Disadvantaged Business Enterprise Utilization Certification relating to Disadvantaged Business Enterprise (DBE) requirements. The Contracting Agency shall consider as non-responsive and shall reject any bid proposal that does not contain a DBE Certification which properly demonstrates that the bidder will meet the DBE participation requirements in one of the manners provided for in the proposed contract.

The Bidder must submit good faith effort documentation with the DBE Utilization Certification only in the event the bidder’s efforts to solicit sufficient DBE participation have been unsuccessful. The successful bidder’s Disadvantage Business Enterprise Utilization Certification shall be deemed a part of the resulting contract. Information on certified firms is available from OMWBE, telephone 360-753-9693 or Toll Free 1-866-208-1064.

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<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of DBE Certificate Number</td>
<td>Project Role (Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer)</td>
<td>Description of Work</td>
<td>Amount to be Applied Towards Goal</td>
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Disadvantaged Business Enterprise Subcontracting Goal: __________ DBE Total $ __________

* Regular Dealer status must be approved prior to bid submittal by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.

** See the section “Crediting DBE Participation Toward Meeting the Goal” in the Contract Document.

*** The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly. Participation in excess of the goal amount will be considered voluntary or race-neutral participation.

DOT Form 272-056 EF
Revised 06/2011

Disadvantaged Business Enterprise Utilization Certification (page 2 of 2)

Figure 2-1
Local Agency Disadvantaged Business Enterprise (DBE) Written Confirmation Document

As an authorized representative of the Disadvantaged Business Enterprise (DBE), I confirm that we have been contacted by the referenced bidder with regard to the referenced project and if the bidder is awarded the contract we will enter into an agreement with the bidder to participate in the project consistent with the information provided in the bidder’s Disadvantaged Business Enterprise Utilization Certification.

Contract Title: ________________________________

Bidder’s Business Name: ________________________________

DBE’s Business Name: ________________________________

DBE Signature: ________________________________

DBE’s Title: ________________________________

Date: ________________________________

The entries must be consistent with what is shown on the bidder’s Disadvantaged Business Enterprise Utilization Certification. Failure to do so will result in bid rejection. See contract provision; Disadvantaged Business Enterprise Condition of Award Participation.

Description of Work: ________________________________

Amount to be Applied Towards Goal: ________________________________

Disadvantaged Business Enterprise (DBE) Written Confirmation Document

Figure 2-2
Local Agency Subcontractor List
Prepared in compliance with RCW 39.30.060 as amended

To Be Submitted with the Bid Proposal

<table>
<thead>
<tr>
<th>Local Agency Name</th>
<th>Local Agency Address</th>
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Project Name

Failure to list subcontractors who are proposed to perform the work of HVAC (heating, ventilation and air conditioning), plumbing, as described in Chapter 18.106 RCW, and electrical as described in Chapter 19.28 RCW, or naming more than one subcontractor to perform the same work will result in your bid being non-responsive and therefore void.

Subcontractor(s) that are proposed to perform the work of heating, ventilation and air conditioning, plumbing, as described in chapter 18.106 RCW, and electrical as described in chapter 19.28 RCW must be listed below. The work to be performed is to be listed below the subcontractor(s) name. The requirement to name the prime contract bidder’s proposed HVAC, plumbing and electrical subcontractors applies only to proposed HVAC, plumbing, and electrical subcontractors who will contract directly with the prime contract bidder submitting the bid to the public entity.

If no subcontractor is listed below, the bidder acknowledges that it does not intend to use any subcontractor to perform those items of work.

<table>
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<tr>
<th>Subcontractor Name</th>
<th>Work to be Performed</th>
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Bidder’s are notified that in the opinion of the enforcement agency PVC or metal conduit, junction boxes, etc, are considered electrical equipment and must be installed by a licensed electrical contractor, even if the installation is for future use and no wiring or electric current is connected during the project. A licensed electrical contractor must be listed to perform the work.
INVITATION TO BID
LOCAL AGENCY'S LETTERHEAD
DEPARTMENT OF
ENGINEERING WASHINGTON

Sealed bids will be received by the (Local Agency), at the reception desk located in Room________ of the __________, Washington, until ________ a.m. on ________ and will then and there be opened and publicly read for the construction of the improvement(s).

All bid proposals shall be accompanied by a bid proposal deposit in cash, certified check, cashier’s check, or surety bond in an amount equal to five percent (5%) of the amount of such bid proposal. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated in the specifications, the bid proposal deposit shall be forfeited to the (Local Agency).

The right is reserved to reject any and all bids and to waive informalities in the bidding.

Maps, plans, and specifications may be obtained from this office upon payment of the amount of $______.

Informational copies of maps, plans, and specifications are on file for inspection in the Office of the Local Agency Engineer, (Local Agency), Washington.

The following is applicable to federal aid projects.

The (Local Agency) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

The improvement for which bids will be received is described below:

*THIS BOLDED PARAGRAPH CANNOT BE REWARDED FOR FHWA FUNDED PROJECTS.*