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SUBCONTRACTING PROCESS – Effective March 23, 2007

The department has completed the two-year pilot on the construction subcontracting process. Once the pilot was completed, the team that helped establish the new subcontracting process reconvened and evaluated the results of the pilot study. Assisting on the team were representatives of MDOT, the Federal Highway Administration, and MITA. Our findings were that the new process was working well and that it should be continued as a regular business process.

As a part of our discussions, we talked about consequences for prime and subcontractors who failed to follow the new process. The team has agreed upon a 4-tiered approach to contractor infractions. A description of the tiers that we will follow, and examples of infractions at each tier, is attached. The vast majority of contractors followed proper subcontracting procedures during the pilot study. It is the team's expectation that the success rates shown in the study will continue and that MDOT and the contracting industry will be able to use our new subcontracting processes for a long time.

The team looks forward to your continued cooperation and successful use of the subcontracting process.

Construction Subcontracting

December 1, 2006

Tier 1

Infrequent, lesser infractions

Examples:

- Subcontract executed, but not prior to subcontract work beginning
- Missing signature on subcontract
- Missing signature on Form 1386

Recommended consequence for prime contractor and/or subcontractor – no action necessary

Tier 2

Infrequent more significant infractions, or frequent repeated lesser infractions

Examples:

- No subcontract in place
- No Form 1386 completed

Recommended consequences for prime contractor and/or subcontractor – warning letter, continued tracking of subcontract activities

Tier 3

Significant and/or frequent and/or flagrant infractions

- Subcontractor not prequalified to perform work
- Prime contractor performed less than 40% of the original contract amount
- Information on Form 1386 is blatantly incorrect
- Prime contractor did not meet DBE participation levels (no Good Faith Effort request approved for lesser level)

Recommended consequences for prime contractor and/or subcontractor

- Warning letter, and corrective action plan required from the contractor/subcontractor

Tier 4

Frequent or flagrant infractions, or failure to respond adequately to MDOT concerns

Recommended consequences for prime contractor and/or subcontractor

- Letter to the Prequalification Committee indicating recommended sanctions against contractor(s)