

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
DISADVANTAGED BUSINESS ENTERPRISES INFORMATION AT TIME OF BID

CSD:DAP

1 of 3

APPR:JDM:DBP:06-27-14
APPR FHWA: 06-27-14

Add the following sentences to subsection 102.06.A, on page 17 of the Standard Specifications for Construction.

6. The as-checked low bidder did not submit the overall DBE percentage with the bid as specified in subsection 102.18.

Delete the first and second paragraph of subsection 102.15, on page 22 of the Standard Specifications for Construction in their entirety and replace with the following:

The Department will transmit the contract form, contract bonds, Disadvantaged Business Enterprise (DBE) Participation Sheets, and when applicable, warranty forms and bonds (hereafter "award documents") electronically to the determined low Bidder, using Bid Express. The determined low Bidder will receive notification of the award documents availability at the e-mail address associated with that account. The determined low Bidder is responsible for printing the award documents for return to the Department. Within 28 calendar days of transmittal, the determined low Bidder must return, and the Department must receive the fully executed award documents and other documents required by the Department, except for the DBE Participation Sheets. The Department may grant an extension of that deadline, if the extension would not impair the Department's interests. If the Department executes a contract received after the deadline, an extension of the 28 calendar days will be deemed to have been granted.

Within 3 business days of the Department's transmittal of the award documents, the determined low Bidder must return, and the Department must receive the signed DBE Participation Sheets, or if the determined low Bidder is unable to meet the DBE participation goal, a Request for Modification/Waiver and their Good Faith Effort (GFE) documentation. The Department may grant an extension of that deadline, if the extension would not impair the Department's interests. Submit extension requests in writing to the Contract Services Division.

If the Department does not receive the signed award documents and other documents required within 28 calendar days of transmittal, or an extended deadline, the Department may award the contract to the next low Bidder, or otherwise exercise its discretion in accordance with subsection 102.13.

If the Department does not receive the signed DBE Participation Sheets or a Request for Modification/Waiver and GFE documentation within 3 business days of the Department's transmittal of the award documents, or an extended deadline, the Department may award the contract to the next low Bidder, or otherwise exercise its discretion in accordance with subsection 102.13.

Delete the first paragraph of subsection 102.17, on page 23 of the Standard Specifications for Construction in its entirety and replace with the following:

The determined low Bidder's failure to return the fully executed award documents and other required documents for the award of the contract, except for the DBE Participation Sheets or a Request for Modification/Waiver and GFE documentation, within the 28 calendar day period provided, or within a Department-approved extension to that period, will result in the payment of the bid guaranty to the awarding authority.

The determined low Bidder's failure to return the signed DBE Participation Sheets or a Request for Modification/Waiver and GFE documentation within the 3 business day period provided, or within a Department-approved extension to that period, will result in the payment of the bid guaranty to the awarding authority.

Delete the second paragraph of subsection 102.18, on page 24 of the Standard Specifications for Construction in its entirety and replace with the following:

All bidders must provide the overall DBE percentage they have attained at time of bid within the DBE Goal folder of the Expedite bid file.

Within 3 business days of the Department's transmittal of award documents, or within a Department-approved extension to that period, the determined low Bidder must submit their signed DBE Participation Sheets. If the DBE participation goal is met, no further action is required.

A determined low Bidder who fails to meet the DBE participation goal will be deemed ineligible for award of the contract subject to the provisions of subsection 102.18.A.

Delete the first paragraph of subsection 102.18.A, on page 25 of the Standard Specifications for Construction in its entirety and replace with the following:

If the determined low Bidder is unable to meet the DBE participation goal, a Request for Modification/Waiver and their Good Faith Effort (GFE) documentation must be submitted within 3 business days of the Department's transmittal of award documents. The Department may grant an extension of that deadline, if the extension would not impair the Department's interests. (A standard template for the GFE Modification/Waiver is available at www.michigan.gov/mdotdbe.) The contract will not be awarded until a determination is made by the Department.

If a Request for Modification/Waiver is submitted within 14 calendar days of the bid letting, the Department may request DBE quote information from the second and third as-checked low bidders that supported the overall DBE goal percentage submitted with their bids. If the second or third as-checked low bidders do not provide the information requested, their bidding privileges may be suspended in accordance with Administrative Rules Governing the Prequalification of Construction Contractors (R247.22(3)(i)).

Within 3 business days of the Department's receipt of the determined low bidder's Request for Modification/Waiver and supporting documentation describing good faith efforts to meet the project DBE goal, the Good Faith Effort (GFE) Committee will meet and issue a determination relative to the determined low bidder's request for DBE participation modification or waiver. Relative to DBE quote information submitted by the second and third as-checked low bidders,

the GFE Committee will only consider DBE quote information that supports the overall DBE goal percentage submitted at the time of bid. In the event a GFE request is denied, the GFE Committee will include rationale for the basis of the denial in the decision letter.

Delete the first and second paragraph of subsection 102.18.C, on page 25 of the Standard Specifications for Construction and replace with the following:

Within 2 business days of receipt of an adverse determination, the determined low bidder may appeal that decision. This appeal must be made in writing to the Appeal Panel in accordance with the DBE Program Procedures (Good Faith Effort Appeals). The determined low bidder may request to meet in person with the Appeal Panel.

Within 2 business days of receipt of the determined low bidder's appeal, the Appeal Panel will meet and issue their determination. Relative to DBE quote information submitted by the second and third as-checked low bidders, the Appeal Panel will only consider DBE quote information that supports the overall DBE goal percentage submitted at the time of bid. The determination of the Appeal Panel is administratively final (not appealable to the U.S. Department of Transportation).

In the event a GFE request is denied, the Appeal Panel will include rationale for the basis of the denial in the determination letter and the Department will reject the bid in accordance with subsection 102.06.A. The Department will then take the necessary steps to award the contract to the next as-checked low bidder, or otherwise exercise its discretion in accordance with subsection 102.13.