

The following information must be selected or entered in the electronic bid:

- A. The names and addresses of certified DBEs whose services or materials will be used in the contract.
- B. Work Type and Work Code selected from a drop-down list. When one of these is selected, the other will be filled in automatically.
- C. An Item of work, approximate Quantity of work to be performed or materials to be supplied, Unit (of measurement), Unit Price, and the extended dollar amount of participation by each DBE listed.
 - (1) Item: The Item is the bid item with which the DBE will be associated and must be selected from the Schedule of (Bid) Items found in the drop-down list. If the proposed work is for only a portion of an Item of work (i.e. hauling of materials, tying of reinforced steel, etc.) an adequate description of this work shall be included in the Note block.
 - (2) Quantity, Unit, & Unit Price: Initially when an Item is selected, the contract quantity, unit, and the bidder's unit price and extension will appear. If the proposed work is for only a portion of an item as described in (1) above, then the Quantity, Unit Price and /or Extension shall be changed to reflect the actual amount of work committed to the DBE. The Unit (of measurement) cannot be changed.
- D. The bidder must also submit a copy of a signed statement or quote from each of the DBEs listed in the DBE List folder of the electronic bid. The signed statements or quotes should verify the items, quantities, units, unit prices, and dollar values listed in the DBE List folder of the electronic bid. COPIES OF THE SIGNED STATEMENTS MUST BE SUBMITTED TO THE SCDOT CONTRACT ADMINISTRATION OFFICE WITHIN SIX (6) CALENDAR DAYS OF THE BID LETTING. The Department will accept facsimiles of the verified statements with the caveat that the bidder must furnish the original document to the SCDOT upon request.

3. GOOD FAITH EFFORTS REQUIREMENTS

- A. Requirements for Submission for Approval of a Good Faith Effort. If the bidder does not meet the DBE contract goal through the DBE committals submitted with the electronic bid, the bidder may submit additional information to satisfy the SCDOT that good faith efforts have been made by the bidder in attempting to meet the DBE contract goal. THIS INFORMATION MUST BE FURNISHED TO THE SCDOT CONTRACT ADMINISTRATION OFFICE IN WRITING WITHIN THREE (3) DAYS OF THE LETTING. One complete set and five copies of this information must be received in the office of the Contracts Engineer no later than 12:00 noon of the third day following the letting. Where the information submitted includes repetitious solicitation letters, it will be acceptable to submit a sample representative letter along with the list of the firms being solicited. The documented efforts listed in item (C.) below are some of items the SCDOT will consider in evaluating the bidder's good faith efforts. The documentation may include written subcontractor quotations, telephone log notations of verbal quotations, or other types of quotation documents.
- B. Failure to Submit Required Material. If the bidder fails to provide this information by the deadline, the SCDOT may impose one or more of the following sanctions:
 - (1) Disqualification of the bidder and any affiliated companies from further bidding for a period of time not to exceed 90 days from the date of disqualification as established in notification by certified mail;
 - (2) Disqualification of the bidder and any affiliated companies for award of all contracts for which bids have been received and opened; or,
 - (3) Disqualification of the bidder from the contract in question.

- C. Evaluation of a Good Faith Effort. The SCDOT may consider the following factors in judging whether or not the bidder made adequate and acceptable good faith efforts to meet the DBE contract goal:
- (1) Did the bidder attend any pre-bid meetings that were scheduled by the SCDOT to inform DBEs of subcontracting opportunities?
 - (2) Did the bidder provide solicitations through all reasonable and available means. For example: posting a request for quotes from DBE subcontractors on the SCDOT Construction Extranet webpage, or advertising in newspapers owned by and targeted toward DBEs at least 10 days prior to the letting, or providing written notice to all DBE's listed in the SCDOT DBE Directory that specialize in the areas of work in which the bidder will be subcontracting.
 - (3) Did the bidder follow-up initial solicitations of interests by contacting DBEs to determine with certainty whether they were interested or not? If a reasonable amount of DBEs in the area of work do not provide an intent to quote, or there are no DBEs that specialize in the area of work to be subcontracted, did the bidder call the SCDOT Office of DBE Program Development to give notification of the bidder's inability to obtain DBE quotes?
 - (4) Did the bidder select portions of the work to be performed by DBEs in order to increase the likelihood of meeting the contract goal? This includes, where appropriate, breaking out contract items of work into economically feasible units to facilitate DBE participation, even when the bidder might otherwise perform these items of work with its own forces.
 - (5) Did the bidder provide interested DBEs with adequate and timely information about the plans, specifications, and requirements of the contract?
 - (6) Did the bidder negotiate in good faith with interested DBEs, or reject them as unqualified without sound reasons based on a thorough investigation of their capabilities? Any rejection should be noted in writing with a description as to why an agreement could not be reached. The fact that the bidder has the ability or desire to perform the work with its own forces will not be considered as sound reason for rejecting a DBE's quote.
 - (7) Was a quote received from an interested DBE, but rejected as unacceptable because it was not the lowest quote received? The fact that the DBE's quote is not the lowest quote received will not in itself be considered a sound reason for rejecting the quote.
 - (8) Did the bidder specifically negotiate with non-DBE subcontractors to assume part of the responsibility to meet the contract goal when the work to be sublet includes potential for DBE participation?
 - (9) Did the bidder make any efforts and/or offer any assistance to interested DBEs in obtaining the necessary equipment, supplies, materials, insurance, and /or bonding to satisfy the work for items in the bid proposal?
 - (10) Any other evidence that the bidder submits which demonstrates that the bidder has made reasonable good faith efforts to include DBE participation.
 - (11) The DBE commitments submitted by all other bidders.

In the event one bidder is the apparent low bidder on more than one project located in the same geographical area in the same letting, the SCDOT will consider allowing the bidder to combine DBE participation as a part of the good faith effort, as long as the total of the DBE contract goals of all projects is achieved.

Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy DBE contract goals.

4. DETERMINATION AND RECONSIDERATION PROCEDURES

After the letting, the SCDOT will determine whether or not the low bidder has met the DBE contract goal or made good faith efforts to meet the goal. If the SCDOT determines that the low bidder failed to meet the goal and did not demonstrate a good faith effort to meet the goal, the SCDOT will notify the low bidder of its determination in writing. The low bidder may request a reconsideration of this determination.

The bidder must make a request for reconsideration in writing within two (2) calendar days of receipt of the determination. Within six (6) calendar days of receipt of the determination, the bidder must provide written documentation to SCDOT Director of Construction supporting its position.

The State Highway Engineer will designate an official who did not take part in the original determination (hereinafter referred to as the "Reconsideration Official"), to reconsider the bidder's DBE commitment or good faith efforts. The Reconsideration Official will contact the bidder and schedule a meeting. The Reconsideration Official will make reasonable efforts to accommodate the bidder's schedule; however, if the bidder is unavailable or not prepared for a hearing within ten (10) calendar days of receipt of the SCDOT original written determination, the bidder's reconsideration rights will be considered to have been waived.

The meeting will be held at the SCDOT Headquarters Building, 955 Park Street, Columbia, South Carolina. The bidder will be allowed up to two hours to present written or oral evidence supporting its position.

The Reconsideration Official will issue a written report to the State Highway Engineer. The SCDOT shall not award the contract until the State Highway Engineer issues a decision or the bidder waives its reconsideration right either through failure to request reconsideration or failure to be available for the meeting.

5. CONSEQUENCES OF FAILURE TO COMPLY WITH DBE PROVISIONS

Failure on the part of the bidder to meet the DBE contract goal or to demonstrate good faith efforts to meet the DBE contract goal may result in the bid being declared non-responsive, and the award being made to the next lowest responsible bidder. The SCDOT also reserves the right to reject all bids.

6. DIRECTORY OF CERTIFIED DISADVANTAGED BUSINESS ENTERPRISES

The electronic DBE BIN file found on the electronic bidding service website, *Bid Express*, contains data from the "Directory of Certified Disadvantaged Business Enterprises" approved for use in each particular letting. **The file must be downloaded for each letting because the directory approved for use in each letting may differ.** The bidder is advised that this directory pertains only to DBE certification and not to qualifications. It is the bidder's responsibility to determine the actual capabilities and/or limitations of the certified DBE firms.

In meeting the DBE contract goal, the bidder shall use only DBEs that are included in the DBE Directory contained in the DBE BIN file current for the month the bid is submitted. The bidder may only count toward the DBE goal work in the areas for which the DBE has been certified, unless prior written approval from the SCDOT is obtained. The bidder and the DBE must jointly apply to the SCDOT's Director of Construction for approval of work in an area of work other than that in which the DBE has been certified. The requested work must be in an area related to the area of work in which the DBE has been certified. Such request must be submitted in writing to the Director of Construction no later than ten (10) days prior to the date of the letting. The Director of Construction has the right to approve or disapprove the request. The Director of Construction will give the bidder and the DBE written notice of his decision no later than five (5) days prior to the date on which bids are received. If approved, a copy of the written approval must accompany the submission of the subcontractor's quote.

Certification of a DBE for work in a certain area of work or approval to perform work in a related area shall not constitute a guarantee that the DBE will successfully perform the work or that the work will be performed completely. Such certification or approval shall only imply that the successful completion of the work by the DBE can count toward satisfying the DBE contract goal in accordance with the counting rules set forth in 49 CFR Part 26 (see Section 4 of the DBE Supplemental Specifications.)

The bidder may print a copy of the DBE Directory from the SCDOT web page at www.scdot.org under "Doing Business with SCDOT."

7. ADDITIONAL DBE PARTICIPATION

The bidder is strongly encouraged to obtain the maximum amount of DBE participation feasible on the contract. Any DBE participation in excess of the DBE contract goal shall also be included in the Quarterly Reports.

8. CONTRACTOR'S RESPONSIBILITY TO REPORT BIDDER INFORMATION

The Bidder should keep a list of all subcontractors (DBE or non-DBE) who bid or quoted for subcontracts on this project. As a condition to prequalification or renewal of prequalification, Contractors must submit the names and addresses of all firms (DBE and non-DBE) who quoted the Contractor for subcontracts on SCDOT projects throughout the course of the previous year.

Subcontractors should also keep a list of second tier subcontractors who bid or quote on second tier subcontracts. As a condition to approval as a subcontractor, SCDOT will require a subcontractor to submit, or have submitted within the previous year, the names and addresses of all firms (DBE and non-DBE) who quoted the subcontractor for second tier subcontracts on SCDOT projects throughout the course of the previous year. A subcontractor will not be approved for work on a SCDOT project until the subcontractor has submitted this information.