

## What if we fail to meet the project goal and the Committee determines we have not made a GFE?

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If the GFE review finds the low bidder is in non-compliance as outlined in the DBE Special Provision, the bidder has two (2) calendar days to request Administrative Reconsideration. If, after the Administrative Reconsideration the non-compliance finding is upheld, the low bidder will be declared **non-responsive**. The Department may then initiate procedures to **award the contract to the next low bidder**.

## What is Administrative Reconsideration?

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Within two (2) calendar days of notification of a finding of GFE non-compliance, a bidder may request Administrative Reconsideration by the Director's designee. The Director's designee will review all information, may meet with the bidder, and then render a decision. The written decision will explain the basis for the finding. The finding is not administratively appealable to USDOT.

## Civil Rights Division Programs:

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### Civil Rights Certification & Compliance System:

<https://dotnd.diversitycompliance.com/>

### Civil Rights Division Web Site:

<https://www.dot.nd.gov/divisions/civilrights/civilrights.htm#program-areas>

### DBE Program Home Page:

<https://www.dot.nd.gov/divisions/civilrights/dbeprogram.htm>

### Contractor Advertisement and Sign In:

<https://apps.nd.gov/dot/cr/csi/login.htm>

**Civil Rights Division  
ND Department of Transportation  
608 East Boulevard Avenue  
Bismarck ND 58505-0700**

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Phone: 701-328-2637  
Fax: 701-328-0343  
TTY: 800-366-6888

NDDOT Web Site: [www.dot.nd.gov](http://www.dot.nd.gov)

The North Dakota Department of Transportation (NDDOT) determines eligibility and certifies DBEs in North Dakota. The NDDOT Civil Rights Division ensures statewide compliance with the NDDOT federal non-discrimination and affirmative action obligations as a condition of continued federal funding for highway construction. NDDOT promotes opportunities for socially and economically disadvantaged individuals to participate on federally funded highway projects through the DBE Program.

It is the policy of the NDDOT to ensure compliance with Title VI of the Civil Rights Act of 1964, related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the U. S. Department of Transportation on the ground of race, color, sex, age, disability, or national origin.



## Disadvantaged Business Enterprise (DBE)

## GOOD FAITH EFFORTS (GFE)

Effective January 1, 2017

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Department of Transportation  
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[SubQuotes@nd.gov](mailto:SubQuotes@nd.gov)  
(701) 328-2637**

The guidance explained in this brochure is detailed in the Race/Gender Conscious (RGC) DBE Special Provision (SP) located in project proposals.

**The DBE SP states the bidder's contract requirements and responsibilities.**

**If the GFE Committee determines the bidder failed to follow the DBE SP, NDDOT may reject the bid.**

## What are Good Faith Efforts (GFE)?

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NDDOT projects with federal funding are assigned a DBE Goal; bidders have an obligation to meet the goal set for the project. When a contractor does not meet the DBE Goal set for a project, the contractor must demonstrate they made Good Faith Efforts to meet the goal.

## What actions, when taken prior to the bid opening, adequately support your GFE?

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- Use the proposal's bid items list to determine the types of work you will subcontract.
- Search DBE Directory for DBEs certified to do the work selected.
- Solicit DBEs; take time to follow up with those who do not respond.
- Track calls, faxes, and emails used to solicit DBEs.
- Ask large subcontractors to solicit DBE work for a portion of their work.
- Advertise.
- Sign in.
- Compile documentation and submit to prove your efforts to meet the goal.

## How do I contact DBEs?

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The NDDOT DBE Directory is available on the Department's Civil Rights Certification & Compliance System located at: <https://dotnd.diversitycompliance.com/>

- The Directory is downloadable and searchable by type of work.
- Contact selected DBEs certified to perform the type of work you're seeking to subcontract.
- Submit the downloaded contact spreadsheet listing DBEs you've selected to solicit with your GFE documentation.

## What needs to be tracked in your DBE solicitation contacts list?

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- Date of initial contact
- Date of follow-up, if required
- DBE's response (or non-response)

## When is a follow-up contact required?

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A follow-up contact is only required if a DBE did not respond to the initial contact. It is recommended if a DBE indicated they would be bidding and no bid has been received to also do a follow-up contact. If a DBE has indicated no interest, a follow-up is NOT required.

## Does a fax or email receipt to a DBE meet the contract requirement?

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Yes. Bidders may fax and email solicitations to DBEs. Fax and email transmittal logs are to be maintained for documentation. Be sure to include all required information on the fax or email. The bid solicitation must provide DBEs with adequate information to provide a quote.

## What factors may be used when choosing a DBE?

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Use good business judgement in negotiating with DBE and non-DBE subcontractors. Consider both the price and firm's capabilities along with the project goal. That there may be additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the DBE goal, as long as such costs are reasonable. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept non-competitive quotes from DBEs if the price difference is excessive or unreasonable.

## Do you have to use a non-competitive or excessive DBE quote?

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No, non-competitive DBE quotes may be rejected by the bidder. However, a bid item cost difference analysis must be submitted. A table comparing the DBE vs. non-DBE bid item costs must be provided in the format described on page 3 of SFN 60829 or the bidder's analysis will be rejected. The bidder also must detail the methodology applied in calculating the cost of their self-performed work items. The GFE Committee will review the bidder's GFE and determine whether the DBE quote was unreasonable. The Committee may vote to "Award Subject To" using the DBE if it determines the quote was reasonable and not excessive.

## What GFE evidence must be submitted by 4 PM 5 calendar days after the bid opening?

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The DBE RGC SP located in the project proposal details the specific requirements. (This list paraphrases the language in the DBE SP; the SP states the requirements in full.) Scan and submit your GFE package in one electronic file.

- Cover letter summarizing your GFE
- SFN 60829, Contractors GFE form
- DBE Participation Plan
- Contractor's DBE solicitations
- Contact records stating the times, dates, and result of contacts with DBE firms
- A table (excel worksheet) showing the cost difference between only the low non-DBE and low DBE quote for the same items.

**If the Committee determines the bidder's GFE is inadequate and/or the bidder's submission does not follow the applicable DBE SP, the bidder's proposal may be deemed unresponsive and subsequently, NDDOT may reject the bid.**