NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION: DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

PROJECT_____

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INTRODUCTION

49 Code of Federal Regulations Part 26 (CFR) states that the contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national original, or sex in the performance of this contract. Contractors shall carry out applicable requirements of 49 CFR Part 26 in the solicitation, award, and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

In addition, Title VI assures that no person or group of persons may, on the grounds of race, color, national origin, sex, age, or handicap or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs or activities administered by the Department. For information regarding Title VI, see the 2005 DBE Program.

The two paragraphs above apply to every contractor on the project, including every tier of subcontractor. <u>It is the prime contractor's or subcontractor's responsibility to include the two above paragraphs in every subcontract.</u>

In this special provision:

"Apparent low bidder" means the bidder whose bid is read as low bid at the bid opening.

"Blanket quote" means when a business provides the same quote, for all projects, at a bid opening, using the same price or when a business provides one quote for an entire season, at one rate, that is not project specific. Generally this is done by trucking firms.

"Contractor" means ALL DBE (including MBE and WBE) and non-DBE firms, including prime contractors, subcontractors (under/over $500,000), suppliers, brokers, vendors, regular dealers, and manufacturers.

"Equipment supplier" is a firm who provides equipment for sale or lease, without operators, and whose primary business function is equipment sales or leasing.

"Prime Contractor" means bidders or contractors who are submitting proposals on this project, regardless of the size of the project.

"Quoter" means a DBE or a non-DBE subcontractor (under/over $500,000), supplier, broker, vendor, regular dealer, or manufacturer who submits quotes to another contractor.

"Subcontractor quoting over $500,000" means a subcontractor whose quote is over $500,000 on any project and who is not a supplier, broker, vendor, regular dealer, or manufacturer. All aggregate providers are considered subcontractors, regardless of the amount of their quote.

"Aggregate providers" are considered subcontractors rather than suppliers, regardless of the amount of their quote.

When counting DBE participation the following definitions will apply as per 49 CFR Part 26:

"Broker" means an agent who negotiates contracts of purchase, work, lease, or sale; or buys and sells goods; or negotiates between buyers and sellers; but without having custody of the property. A broker may assist in the procurement of facilities, materials or supplies required for the performance of the contract. A broker is not regarded as a supplier, manufacturer, or regular dealer for the purposes of this program.

"Manufacturer" means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

"Regular dealer" means a DBE firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

- To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

- A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided above if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

"Supplier" means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

- The firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

- "Materials" is defined as aggregate, steel, petroleum products, concrete, asphalt, and other construction materials.

SOLICITATION EFFORTS

The following is a list of actions to be taken or documentation to be provided by all bidders (including DBE primes) to obtain DBE participation. Efforts shall include, but are not limited to, the following steps:

STEP 1: ADVERTISE

- The prime contractor may place an advertisement soliciting DBE participation in either general circulation media or the supportive services newsletter before the bid opening. "General circulation media" means a newspaper in the area of a project or a trade association publication such as the Construction Bulletin

- Prime contractors who submit their proposals by mail should say so in their advertisement. The ad should also state a date and time by which all quotes may be submitted for consideration, and where quotes should be sent.

- The supportive services newsletter is published two weeks before each bid opening. Requests for ads in the newsletter must be received, in writing, by the Civil Rights Division no later than noon (Central time), 2 weeks before the bid opening date. Advertisements maybe be emailed to: subquotes@nd.gov or faxed to 701-328-0343, 701-328-4545, 701-328-1965, or mailed to the Civil Rights Division, 608 East Boulevard, Bismarck, ND 58505-0700. Bidders are also encouraged to publish an email address for their company where subcontractors and suppliers can email their quotes to.

STEP 2: SIGN IN

DBE and non-DBE prime contractors who are bidding by paper only, or subcontractors over $500,000, (excluding suppliers, brokers, vendors, regular dealers, and manufacturers) who are quoting non-electronically are not required but are strongly encouraged to sign-in utilizing one of the following two options:

- Sign-in as specified in third paragraph below: "Prior to 11 am (Central),…"

- Prior to 10:30 a.m. (Central), the day before the bid opening, he or she may call the Civil Rights Office, 701-328-3116 or 701-328-2637 if assistance is needed to sign-in electronically.

DBE and non-DBE prime contractors and subcontractors over $500,000, (excluding suppliers, brokers, vendors, regular dealers, and manufacturers) who are bidding or quoting electronically, (fax or email), are not required but are strongly encouraged to do the following:

- Prior to 11 a.m. (Central), the day before the bid opening date, may electronically sign-in at: http://www.dot.nd.gov/dbebidinfo.html and click on "***Sign-in for*** **Prime Contractor and Subcontractor Quoting Over $500,000,"** providing information (location, phone, email and/or fax number) where they can be contacted by businesses wishing to submit quotes, to them, between 11:00 a.m. and 8 p.m. that same day.

- Designate at that time which jobs they are bidding or quoting on.

- Between 11:00 a.m. and 8 p.m. (Central), the day before the bid opening the prime contractor and subcontractors over $500,000 should have a representative available to receive and discuss quotes at the contact location, phone/fax numbers, or email, as required above.

NOTE: To facilitate the flow of information subcontractors quoting over $500,000 are not required but are strongly encouraged to complete each phase in Step 1 above.

DBE and non-DBE suppliers, brokers, vendors, regular dealers, manufacturers, and subcontractors quoting either over/under $500,000 are not required but are strongly encouraged to:

- After 11:00 a.m. (Central), the day before the bid opening, retrieve the **"*Report for* Prime Contractor and Subcontractor Quoting Over $500,000,"** which will be posted electronically at http://www.dot.nd.gov/dbebidinfo.html A copy can be obtained by fax, by calling 701-328-3116, 701-328-2637, or 701-328-2576.

GUIDELINES FOR SUBMITTING QUOTES TO BIDDERS

All DBE and non-DBE businesses are **strongly encouraged** to follow these guidelines when quoting.

- The night before the bid opening,
  - By 2 p.m. (Central) all DBE and non-DBE suppliers, regular dealers, vendors, manufacturers, and brokers should cease quoting.
  - By 5 p.m. (Central) all subcontractors under $500,000 should cease quoting.
  - By 8 p.m. (Central) all subcontractors over $500,000 should cease quoting.

- Indicate the date of the bid opening, job number, and project number being quoted.

- Include bid item numbers and units or quantities.

- Use bid items and quantities from the proposal rather than from the Notice to Bidders.

- Show all calculations on the quote.

- Indicate whether mobilization is included, cost of bond if required, and any other special conditions.

- Indicate if a quote does not include something required by the specifications for a particular bid item.

- Include on all trucking quotes the type and number of units available and their capacity.

- Provide separate quotes for each project (each quote on a separate page).

- Indicate on all quotes for more than one bid item whether the bid items are tied or not tied.

- Subcontractors over $500,000 should attach a copy of their Form A to their quote when submitting it to the prime contractor.

- DBEs should state on their quote the dollar value of the work to be actually performed by their own forces or other DBEs they intend to use.

- Blanket quotes for trucking for the construction season or for an entire bid opening are not allowed

- Faxed quotes must clearly indicate the date and time the fax was sent.

SUBMITTING QUOTES TO DEPARTMENT OF TRANSPORTATION

By the times listed in the chart below, the night before a bid opening, all DBE and non-DBE subcontractors (under/over $500,000), suppliers, regular dealers, vendors, manufacturers, or brokers **should submit a copy** of all phone or paper quotes given for each project. Quotes may be emailed to subquotes@nd.gov or faxed to the DBE Liaison Officer, 701-328-1965, 701-328-0343, 701-328-4545.

DBE AND NON-DBE	SHOULD TURN IN QUOTES
Suppliers, brokers, vendors, regular dealers, and manufacturers	3:00 p.m. (Central)
Subcontractors **under** $500,000	6:00 p.m. (Central)
Subcontractors **over** $500,000	9:00 p.m. (Central)

FORM A

By noon (Central) on the next work day following the bid opening, the apparent low bidder **must** submit Form A to the DBE Liaison Officer. Form A is a list of all the DBEs intended for use on the project including DBE's intended to perform work in the first tier(or below) of subcontracting**.**

FORM B OR COPIES OF QUOTES

Within 5 working days after the bid opening, all bidders must either:

- Submit Form B to include all tiers of subcontracting on the project or
- Provide copies of all quotes received to include all tiers of subcontracting on the project to the DBE Liaison Officer, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, ND 58505-0700**.** Copies may be faxed to 701-328-1965 or emailed to subquotes@nd.gov

When submitting a Form B, copies of all quotes **must** be retained, by each bidder, for **45 days after the bid opening date**. If a quoter has not provided a copy of their quote to the Department, the bidder **must** provide a copy of the quote, upon request, by the Department.

After January 1, 2008, firms who fail to complete the requirements under "Form B or Copies of Quotes" will be notified orally and in writing the first time. Their name will be posted on the Civil Rights Division's DBE webpage under the "Missed Step List." If the firm stays in compliance for six months their name will be removed from the list. If during the six months, the firm misses a step a second time, they may not be used in a bid differential situation for 12 months from the date of the bid opening when the second infraction occurred.

FORM C

Within 10 working days after the bid opening, the apparent low bidder **must** submit a For C for each DBE listed on Form A to the address below, unless NDDOT grants a time extension.

No award will be made on a project until all Form C's, for each DBE, are submitted to NDDOT. The contractor and DBE **must both** sign the form. Form C applies to all tiers of subcontractors working with DBEs.

Form Cs may be faxed to NDDOT's DBE Liaison Officer at 701-328-1965 or mailed to the DBE Liaison Officer, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, ND 58505-0700.

Signatures need not be original; faxed signatures are acceptable.

If Form C contains additional pages or an attachment, each page or attachment must be signed by the intended DBE.

If Form A an Form C contain different information (e.g., bid items numbers, quantities, or dollar amounts), the prime contractor or subcontractor must explain the difference in writing to NDDOT when submitting Form C.

LIST OF DBE PARTICIPATION

Generally, two working days after the bid opening, the DBE Participation list is posted to the NDDOT website: http://www.dot.nd.gov/dbebidinfo.html To request a paper copy of the DBE participation web site listing, contact DBE Liaison Officer, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, ND 58505-0700, fax 701-328-1965, phone 701-328-2637 or 701-328-3116.

FAILURE TO PROVIDE REQUIRED DOCUMENTATION

Prime contractors and subcontractors are encouraged to discuss the requirements of this special provision with all businesses providing quotes on a specific project.

Apparent low bidders may be denied future quoting or bidding privileges for failure to submit Form A and Form C as required.

CONSTRUCTION PROGRESS CHART

Before the award of the contract, the apparent low bidder must create a construction progress chart for each DBE to be used on the contract (excluding oil haulers, suppliers, brokers, vendors, regular dealers, or manufacturers). The chart must state the type of work to be performed and when it will be performed.

The apparent low bidder must supply all charts to the Department and the appropriate chart to each DBE to be used on the contract. Any subsequent charts noting a change in schedule **must** also be provided to the Department and all DBEs.

AWARD OF CONTRACT

Contract award will be made to the bidder who submits the lowest responsive proposal meeting the pre-bid and pre-award requirements.

PRE-JOB CONFERENCE

It is the prime contractors' responsibility to invite all DBEs listed on Form C to the pre-job conference and to encourage attendance. If the DBE is unable to attend the pre-job conference **it is the prime contractors' responsibility to provide a copy of the pre-job conference minutes to each DBE.** In addition, it is the prime contractors' responsibility to discuss any project issues necessary for joint DBE program compliance on the part of the prime contractor, non-DBEs subcontractors and their DBE subcontractors, manufacturers, or regular dealers.

CONTRACT MONITORING, RESPONSIBILITIES, AND REPORTING

For the life of the project, the prime contractor is responsible for the DBEs listed on Form C and for the specific bid items or products that the bidder committed to during the pre-award process.
It is the prime contractors' responsibility to monitor DBE performance on the project, to ensure that the DBE performs a commercially useful function and to ensure both the prime contractor and their subcontractors, suppliers, manufacturers, and regular dealers comply with the requirements of this special provision.

DBEs are responsible for performing a commercially useful function. Should the DBE be unable to perform a commercially useful function or perform as stated on Form C it is their responsibility to **immediately notify** the prime contractor orally and in writing. See pages 9 and 10 of this special provision for information regarding commercially useful function.

The prime contractor must submit a completed copy of the DBE Participation Certification (SFN 14268B), signed by the prime contractor and the DBE, to the project engineer upon completion of the contract to verify DBE participation. This includes DBEs used that were not included on Form A. The project will be monitored to ensure the DBE is performing a commercially useful function.

MAINTAINING RECORDS AND TRACKING PAYMENTS

The Department will require prime contractors and subcontractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. The three year period will commence upon acceptance of the final payment from NDDOT. These records will be made available for inspection, upon request, by an authorized representative of the NDDOT or USDOT. This reporting requirement also applies to any certified DBE.

Prime contractors and subcontractors must keep a running tally of actual payments to DBEs for work committed to them at any time during the life of the contract. Prime contractors and subcontractors will be required to complete the Record of DBE Project Payments (SFN 53664) on a semi-annual basis. The record must be submitted to the NDDOT by the tenth working day after the October-March period, and the tenth working day after the April-September period. The record must contain the name of the prime contractor or subcontractor, the DBE firm name, the project number, the bid opening date, the amount paid, and the date of payment to the DBE for the reporting period only. Send the record to the DBE Liaison Officer, North Dakota Department of Transportation, 608 E. Boulevard Ave., Bismarck, ND 58505-0700.

NDDOT may perform interim audits on contract payments to DBEs to ensure that the actual amount paid to DBEs equals or exceeds the dollar amount stated on Form C.

MONITORING AND ENFORCEMENT MECHANISMS

The Department will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, or referral to the USDOT Inspector General for action under Suspension and debarment or Program Fraud and Civil Remedies rules) provided in subsection 26.107 of 49 CFR Part 26. The Department will also consider similar action under its own legal authorities, including responsibility determination in future contracts.

COUNTING DBE PARTICIPATION

The Department will count DBE participation toward our overall annual goal as provided in 49 CFR 26.55 as noted below:

1. When a DBE participates in a contract, the Department counts only the value of the work actually performed by the DBE toward DBE goals.

    A. The Department counts the entire amount of that portion of a construction contract (or other contract not covered by paragraph 1B of this section) that is performed by the DBE's own forces. Included are the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

    B. The Department counts the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, if the Department determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

    C. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is also a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

2. When a DBE performs as a participant in a joint venture, the Department counts a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

3. The Department counts expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

    A. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Department must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the

contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the Department must examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department must presume that it is not performing a commercially useful function.

D. When a DBE is presumed not to be performing a commercially useful function as provided in paragraph 3C of this section, the DBE may present evidence to rebut this presumption. The Department may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

E. The Department's decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to USDOT.

4. The Department will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

C. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks its owns, insures, and operates using drivers it employs.

D. The DBE may lease trucks from another DBE firm, including an owner-operator certified as a DBE. The DBE leasing trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

E. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.

Example to this paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y,

and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

F. For purposes of this paragraph (4), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

5. The Department counts expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

A. If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies toward DBE goals.

(1) For purposes of this paragraph (5A), a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

B. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(1) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

a. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

b. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (5B[1]) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

c. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (5B).

C. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site,

toward DBE goals, if the Department determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

6. If a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, the Department does not count the firm's participation toward any DBE goals, except as provided for in §26.87(i).

7. The Department does not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the Department's overall annual goal.

8. The Department does not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

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DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION(RN)

North Dakota Department of Transportation, Civil Rights Division
SFN 52012 (Rev. 12-2006)

FORM A

Contractor		Phone
Job No.	Project No.	Bid Opening Date

By noon (Central time) on the next work day following the bid opening, all apparent low bidders must provide a list of the DBE firms intended for use on this project to the NDDOT Civil Rights Division. The information provided may be submitted on this Form A or on a computer-generated form, giving the same information, attached to this Form A. If the prime contractor intends to use DBE quotes received from a subcontractor, the prime contractor **must** attach the subcontractor's Form A to the prime contractor's Form A.

PRINT ALL NUMBERS CLEARLY AND LEGIBLY.

1. For each DBE firm, list the specific bid item numbers to be performed and the total dollar value of the contract:
   a. If the DBE firm is perform do only a portion of a bid item (supply, haul, etc.), this **must** be so noted, in parenthesis, after the bid item number **the bidder must state why the DBE was not used for the**

   b. For DBE subcontractors, suppliers (regular dealers), and manufacturers, **list only the amount of work to be completed with each DBE's own employees and equipment.**
   c. For DBE trucking firms, **list the amount of hauling to be performed by the DBE with its own trucks and employees;** or the fees or commissions earned on non-DBE leased trucks. However, if the DBE is leasing trucks from a non-DBE firm, including an owner-operator, you can count the total value of the services provided by the non-DBE, not to exceed the total value of the services provided by the DBE-owned trucks). (See page 9, number 4, of this special provision for more detailed information.)
2. DBE prime contractors **must** list the work they will perform with their **own forces** and any work subcontracted to or materials purchased from other DBEs.
3. If the information provided on Form C **differs** from the information provided on this Form A (bid item numbers, quantities, or dollar amounts), the apparent low bidder or subcontractor **must** provide, with the Form C, a written explanation for the difference.
4. The apparent low bidder or subcontractor **must** use the DBEs listed for the intended work indicated on Form C.
5. DBE bidders **must** list the work they will perform with their **own employees and equipment** and any work subcontracted to or materials purchased from other DBEs.

DBE Firm	
List Specific Bid Item Numbers or Products to be Supplied	Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $

DBE Firm	
List Specific Bid Item Numbers or Products to be Supplied	Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $

DBE Firm	
List Specific Bid Item Numbers or Products to be Supplied	Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $

FORM A (continued)

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

DBE Firm		
List Specific Bid Item Numbers or Products to be Supplied		Total Contract Dollar Value $
Percent DBE will do with own equipment/forces = % Percent Non-DBE will do (trucking only) = %	If Regular Dealer, X 60% = $	

Use additional pages, following the same format, if necessary.

The NDDOT DBE Liaison Officer can be contacted at:

CIVIL RIGHTS DIVISION
ND DEPARTMENT OF TRANSPORTATION
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

digoe@nd.gov
phone (701) 328-2576
fax (701) 328-1965, (701) 328-0343

LIST OF BUSINESSES THAT SUBMITTED QUOTES (RN)

North Dakota Department of Transportation, Civil Rights Division
SFN 52013 (Rev. 07-2006)

FORM B

Contractor		Phone
Job No.	Project No.	Bid Opening Date

SUBMIT WITHIN 5 WORKING DAYS OF BID OPENING

Within 5 working days after the bid opening, all bidders must either:

- Submit Form B to include all tiers of subcontracting on the project or
- Provide copies of all quotes received to include all tiers of subcontracting on the project to the DBE Liaison Officer, North Dakota Department of Transportation, 608 E Boulevard Ave., Bismarck, ND 58505-0700. Copies may be faxed to (701) 328-1965 or emailed to subquotes @nd.gov

When submitting a Form B, copies of all quotes **must** be retained, by each bidder, for **45 days after the bid opening date**. If a quoter has not provided a copy of their quote to the Department, the bidder **must** provide a copy of the quote, upon request by the Department.

This includes information from all tiers of subcontractors for the project.

List below the names of all businesses, including subcontractors, suppliers, vendors, regular dealers, manufacturers, and brokers who provided you quotes for this project. This includes information from any large subcontractor who also provided you a quote on this project and their subcontractors, suppliers, vendors, regular dealers, manufactures, and brokers.

Name of Business	Contact Person	Phone
Mailing Address		Type of Work (See Reverse Side for Codes)
Name of Business	Contact Person	Phone
Mailing Address		Type of Work (See Reverse Side for Codes)
Name of Business	Contact Person	Phone
Mailing Address		Type of Work (See Reverse Side for Codes)
Name of Business	Contact Person	Phone
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Name of Business	Contact Person	Phone
Mailing Address		Type of Work (See Reverse Side for Codes)
Name of Business	Contact Person	Phone
Mailing Address		Type of Work (See Reverse Side for Codes)

Use additional pages, following the same format, if necessary.

FORM B (continued)

A-1	**Engineering -** Professional services such as design or construction inspections performed by an engineering firm.
A-5	**Other -** Other professional services such as supportive services and research contracts.
B-1	**Grading/Drainage -** Grading, drainage, clearing, and related construction items.
B-2	**Paving -** Construction of base course, pavements, and related items.
B-3	**Structures/Buildings -** Bridge construction operations, including piling, substructure, superstructure, etc.; and building construction, including plumbing, heating, electrical, etc.
B-4	**Trucking -** Hauling of earthwork or other materials for a construction project.
B-5	**Traffic Control -** Permanent traffic control items such as signs, signals, and markings; and temporary traffic control items such as barricades and flagging.
B-6	**Landscaping -** Landscaping, seeding, sodding, erosion control, and related items.
B-7	**Other -** Other construction activities such as lighting contracts and guardrail.
C-	**Supplies -** The packaging and shipment of a product (materials, goods, and supplies) and the furnishing of BULK ITEMS which are incorporated into a construction project. C-1 Aggregate C-2 Concrete C-3 Electrical C-4 General C-5 Petroleum Products C-6 Pipe C-7 Ready Mix
D	**Manufacturing -** The physical production of materials and supplies through standard manufacturing processes obtained by a contractor for incorporation into a construction project.
E	**Equipment -** Purchases and rental of equipment for use on a specific construction project.

The DBE Liaison Officer can be contacted at:

CIVIL RIGHTS DIVISION
ND DEPT OF TRANSPORTATION
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

E-mail: digoe@nd.gov
Phone: (701) 328-2576
Fax: (701)328-1965, (701) 328-0343

NOTIFICATION OF INTENT TO USE DBE (RN)

North Dakota Department of Transportation, Civil Rights Division
SFN 52160 (Rev. 12-2006)

FORM C

1. The prime contractor and any subcontractors who listed DBE Participation on Form A **must** complete a Form C for each of their respective, intended DBEs. The prime contractor is responsible for the completion and submission of a Form C for each DBE commitment made by any lower-tier subcontractor.

2. If the information on a Form C **differs** from the information provided on Form A (bid item numbers, quantities, or dollar amounts), a written explanation for the difference **must** be provided by the prime contractor or subcontractor with the Form C.

3. The Form C **must be signed** by the prime contractor or subcontractor and their respective, intended DBE. If Form C contains additional pages or an attachment, each page **must** be signed by the intended DBE. Signatures do not have to be original (faxed signatures are acceptable).

4. The forms **must** be returned to the NDDOT Civil Rights Division **within ten working days** after the bid opening. Forms may be faxed to the Civil Rights Division at (701) 328-1965 or (701) 328-0343. **Award will not be made** until a Form C is received for each intended DBE listed on Form A.

This form is NOT a contract and does not take the place of any contract. It is an indication to NDDOT that all DBEs listed on Form A understand they will be used on this project.

Prime Contractor or Subcontractor	Project No.	
Intended DBE	Bid Opening Date	Job No.

Bid Item Nos.	Work Description	Units	Approx. Quantity	Unit Costs	Amount
				Total	

Comments

Prime Contractor/Subcontractor Signature	Title	Date
Intended DBE Signature	Title	Date

The NDDOT DBE Liaison Officer can be contacted at the Civil Rights Division, ND Department of Transportation, 608 E. Boulevard Ave., Bismarck, ND 58505-0700, digoe@nd.gov, phone (701) 328-2576, or fax (701) 328-1965, (701) 328-0343..