



# **SECTION B**

## **NON-CERTIFIED AND CERTIFIED AGENCY**

### **Chapter 7-Appendix 1 Civil Rights-Tracking Local Agency Projects**

#### **A. OVERVIEW**

The purpose of these process points (Appendix 1) and the related tracking worksheet (Appendix 2) is to outline and keep track of the Civil Rights steps ODOT and local agencies must use in project delivery. The ODOT [Regional Local Agency Liaison](#) can provide updates and address questions related to this process.

**Note:** The column number on the related tracking worksheet (Appendix 2) matches the process points (Appendix 1) that follow.

#### **B. PROCESS**

##### **1. Key Number**

All projects will be identified by the key number (assigned through the STIP process).

##### **2. Project Name**

The project name shall be the same name that is identified in the STIP or the Certification Supplemental Project Agreement for certified local agency projects.

##### **3. Miscellaneous Contracts and Agreement Number**

The miscellaneous contracts and agreement number used on the supplemental project agreement is obtained from the ODOT Procurement Office.

##### **4. Goals Requests at 90 Percent PS&E**

###### **a. Local Agency**

At 90 percent Plans, Specifications and Estimates (PS&E), the certified local agency will forwards the engineer's estimate, the construction schedule and the DBE Civil Rights Requests for Goals form ODOT Form # 734-0663 (previously referred to as the yellow sheet) by electronic means, fax or hard copy to ODOT's [Regional Local Agency Liaison](#) who will forward the yellow sheet package to ODOT's [Small Business/ DBE Program](#) Manager and the External Workforce Programs Technician in the [Office of Civil Rights](#).

The local agency shall not set or include any additional Civil Rights or affirmative action goals, as requirements for the project.

*NOTE: 90 percent PS&E includes all project work to be completed (e.g. it cannot exclude one category of work such as landscaping) including but not limited to permits, verifications of quantities, correlation between plans and specifications, and standard drawings. At 90 percent PS&E, all plans and drawings for the project must be complete.*

For additional details regarding PS&E, please refer to Chapter 11 in Sections B and C within this LAG Manual.

#### **b. Office of Civil Rights**

Within three working days of receipt of the 90 percent PS&E engineer's estimate, yellow sheet and the construction schedule, the Office of Civil Rights will set goals, requirements and/or aspirational targets as appropriate, for Disadvantaged Business Enterprise (DBE), On the Job Training (OJT)/Apprenticeship, and Minorities, Women, Emerging Small Business (MWESB).

*NOTE: End here for non-certified agencies. If a certified local agency, complete steps 5-12.*

### **5. Office of Civil Rights Goal Sheet Sent Date**

After setting the goals, requirements and/or aspirational targets, the External Workforce Programs Technician in the Office of Civil Rights will send the goals, requirements and/or aspirational targets information by e-mail to the local agency with a copy to the [Regional Local Agency Liaison](#). The DBE specifications are always inserted in the solicitation documents. The DBE specifications can be incorporated by reference if there is a link to the specifications in the bid documents. In the contract between the local agency and the contractor, the DBE specifications must be incorporated in its entirety in order to capture what is in effect at the time. If the MWESB target is zero, then no MWESB specifications are inserted.

*NOTE: The Certification Program will not allow incorporating DBE language (special provisions) by reference.*

### **6. Advertised Solicitation Documents Received Date**

Upon receipt of the goals/targets information, the local agency will publish such goals/targets in their solicitation documents. The local agency will also include the following items, in the order listed below, within their solicitation documents:

- the DBE special provisions
- [DBE Commitment Certification and Utilization Form](#) (Form 734-2785)

- [Subcontractor/Supplier Solicitation and Utilization Report \(SSUR\) \(Form 734-2721\)](#)

The local agency then forwards the advertised solicitation documents (paper and electronic copies, if electronic is available) to the [Regional Local Agency Liaison](#) and the [External Workforce Programs Technician](#) in the Office of Civil Rights.

## **7. Advertised Solicitation Documents Verify Date**

Within three working days of receipt of the advertised solicitation documents, the [External Workforce Programs Technician](#) in the Office of Civil Rights will verify the goals/targets published in the advertised solicitation documents and notify the local agency of the confirmation. If a goal, requirement, or aspirational target is in error, the [Small Business/ DBE Program Manager](#) will communicate by e-mail with the local agency so the local agency can issue addenda and send a revised copy back to the Small Business / DBE Program Manager for final verification.

## **8. Advertised Solicitation Date**

This is the anticipated bid date as established at 90 percent PS&E.

## **9. Actual Solicitation Date**

This is the actual date the bids are received and opened.

## **10. DBE Solicitation Information Received Date**

On the day of bid opening, the local agency shall forward a list of the prime bidders with bid amounts for ALL bidders, including all Good Faith Efforts to the [Small Business/ DBE Program Manager](#) in the Office of Civil Rights by fax or e-mail. In addition, the local agency shall ensure that the [DBE Commitment Certification and Utilization Form \(Form 734-2785\)](#) for all bidders, is forwarded to the [Small Business/ DBE Program Manager](#) for review. This form is required as part of the bid package for award. The local agency shall include any Good Faith Effort documentation submitted by bidders.

## **11. Solicitation Evaluation Sent Date**

Within 24 hours of receipt of all necessary documentation, the Office of Civil Rights shall review and evaluate low bidders, determine responsiveness to DBE requirements, and notify local agency by e-mail. If low bidder is determined to be non-responsive, the [Small Business/ DBE Program Manager](#) in the Office of Civil Rights shall notify local agency by e-mail and include language to send by letter to low bidder offering administrative reconsideration. The local agency shall not change this language.

## **12. Subcontractor/Supplier Solicitation and Utilization Form Received Date**

All bidders shall submit the [Subcontractor/Supplier Solicitation and Utilization Report \(SSUR\)](#) (the SSUR goes in the solicitation documents) to [Small Business/ DBE Program Manager](#) the local agency within 10 days of bid opening. The local agency shall forward by electronic means or fax to the [Small Business/ DBE Program Manager](#) in the Office of Civil Rights.

The local agency shall immediately forward all responses to this letter to the Office Civil Rights. The local agency contract award process shall not continue until the DBE process is concluded.

*NOTE: The Office of Civil Rights shall be the sole responsible party for the DBE administrative reconsideration process. The Local Agency should not send the Notice of Intent to Award to the low responsive bidder until the allotted time for any Administrative Appeals Requests has passed and there are no outstanding appeals.*

### **13. The Notice of Intent to Award Letter**

Within ten days of the notice of intent to award, the apparent awardee must submit the [“Committed DBE Breakdown and Certification Form” \(Form 734-2531\)](#) to the local agency for any projects with a DBE goal greater than 0 percent, for evaluation of their continued responsiveness to the DBE requirements. Then, local agency shall submit the completed [“Committed DBE Breakdown and Certification Form” \(Form 734-2531\)](#) to [Small Business/DBE Program Manager](#) in the Office of Civil Rights, who will evaluate continued responsiveness and notify the local agency of the results.

*NOTE: The Office of Civil Rights shall be the sole responsible party for the DBE administrative reconsideration process.*

### **14. Award Letter Received Date**

When the local agency sends the Award Letter to the contractor, the local agency must also forward a copy to the [Regional Local Agency Liaison](#) and the [Small Business/DBE Program Manager](#) in the Office of Civil Rights.

*Note: The Office of Civil Rights should only receive the Award Letter, NOT the Intent to Award Letter. The local agency must only send the Award Letter after one week has passed, without challenges, from the date that the local agency sent the Intent to Award Letter.*

### **15. Pre-Con Packet Sent Date**

Within three working days of receipt of the Award Letter, the Office of Civil Rights shall send the pre-construction packet to the local agency, who forwards the packet to the awarded contractor. The packet includes letters regarding DBE, EEO, OJT/Apprenticeship and Labor Compliance as well as required posters. The Office of Civil Rights will forward the pre-construction packet letters to the designated local agency project manager and ODOT’s [Regional Civil Rights Specialist](#).

## **16. Disadvantaged Business Enterprise Work Plan Proposal Form 3A (734-2165A)**

As applicable, within ten days of receipt of the Award Letter or at the pre-construction conference, the contractor must submit the [Disadvantaged Business Enterprise Work Plan Proposal Form 3A \(734-2165A\)](#) to ODOT's Regional [Civil Rights Field](#) Coordinator. The [Disadvantaged Business Enterprise Work Plan Proposal Form 3A \(734-2165A\)](#) is not required when the DBE goal is set at zero.

## **17. Local Agency Project Manager Contact Information**

The Regional Local Agency Liaison shall ensure that ODOT's Regional Field Coordinator has the project manager's name and phone number. .

## **18. Civil Rights Specialist Receives Work Plan Proposal Form 3A (As Applicable)**

Upon receipt of the [Disadvantaged Business Enterprise Work Plan Proposal Form 3A \(734-2165A\)](#), ODOT's Regional Field Coordinator will review and sign the Form 3A as appropriate, then return a copy to the local agency's project manager.

## **19. Receipt of Subcontractor Agreements**

Once the local agency receives copies of the subcontractor agreements, the local agency must forward copies of the agreements to ODOT's Regional [Civil Rights Field](#) Coordinator. Each month, the local agency shall forward copies of the [Summary Report of Subcontractor's Paid \(734-2722\)](#) to ODOT's Regional Field Coordinator.

When the [Civil Rights Field](#) Coordinator receives copies of the subcontractor agreements, the [Civil Rights Field](#) Coordinator enters data into the Civil Rights Compliance Tracking (CRCT) system for tracking related payments, DBE, OJT/Apprenticeship and Equal Employment Opportunity (EEO) compliance.

ODOT tracks OJT compliance by reviewing appropriate OJT forms including:

- [Apprentice/Trainee Approval Request](#) (731-0294)
- [Training Program Form](#) (731-0335)
- [ODOT Apprentice/Trainee Monthly Progress Record](#) (731-0332)

ODOT tracks EEO compliance by reviewing appropriate EEO forms such as the:

- [Project Manager's Monthly EEO Report](#) (734-3858)
- [Monthly Employment Utilization Report \(MEUR\)](#) (731-0394)

## **20. Commercial Useful Function Review**

Anytime there is a DBE on a project, even if the project's DBE goal is set at zero, there needs to be a Commercial Useful Function (CUF) review.

It is the responsibility of the Project Manager or the Project Inspector to ensure that the CUF review is completed and the related [Disadvantaged Business Enterprise Commercially Useful Function](#) Form 3B (734-2165) is forwarded to ODOT's [Civil Rights Field Coordinator](#).

## **21. Project Inspectors**

ODOT recommends that project inspectors be ODOT-trained general inspectors. Such [training](#) is available annually and includes pertinent Civil Rights components. Some inspector functions require ODOT certification for inspection services such as traffic signals and drilled shafts.