March 29, 2019

Members of the 80th Oregon Legislative Assembly
900 Court Street NE
Salem, OR 97301

RE: HB 3264 (Prompt Payment) Report to Legislature

Dear Members of Oregon’s 80th Legislative Assembly:

House Bill 3264 was passed by the Oregon Legislature during the 2017 legislative session. The measure directed ODOT to conduct a pilot program on prompt payments to small businesses (those with fewer than 50 employees) performing Architectural, Engineering, Land Surveying, and Related Services (A&E) contracts as defined by ORS 279C.100. To participate, a contractor need only to self-certify as a small business using the 15-Day Payment Certification form (Attachment A). The pilot applies to those A&E contracts executed on or after January 1, 2018, and invoices received before June 30, 2019. The Department is required to report to the Legislature on the status of the pilot by March 31, 2019.

Pilot implementation included the development of a new payment process, internal procedures, updating procurement forms, and executing a communication strategy to train ODOT employees and inform eligible businesses of their ability to receive prompt payment. To communicate with potential vendors ODOT placed a notice on our Consultant Forms & Resources webpage (Attachment B), a frequently used webpage by ODOT’s contractors and consultants, notifying vendors of the opportunity to self-certify their eligibility for the program. Additionally, contracting forms were updated (Attachment C) to provide prospective vendors with information regarding the program.

Between January 1, 2018 and March 25, 2019:

| Total number of ODOT contracts executed | 1,131 |
| Total number of A&E contracts executed | 452 |
| Total number of A&E firms contracting with ODOT | 103 |
| A&E contracts as a percentage of total | 39.9% |
| Total number of eligible A&E firms (50 or fewer employees)¹ | 19 |
| Total number of eligible firms participating in the program | 6 |

¹ This information was provided by the American Council of Engineering Companies of Oregon. The dataset provided includes some member firms from southwest Washington.
As of March 25, 2019 ODOT processed a total of 17 invoices for qualified firms, in which 16 have been processed within the 15-day timeframe required by HB 3264. With one exception, the results of the pilot demonstrate an interest among the vendor community in receiving prompt payment and ODOT’s ability to process invoices within a shorter timeline. Achieving this shortened payment schedule required business process changes and additional workload, but with the eligible group captured in this pilot program that work was absorbable within existing resources.

Should the eligible group expand to include larger firms or otherwise significantly increase the number of payments processed on a different schedule, ODOT may consider additional resourcing, resource shifting, or other business process changes to ensure we remain flexible and responsive to our small business partners.

ODOT appreciated the opportunity to pilot this innovative prompt payment system and received positive feedback from participating businesses.

Please let me know if you have any questions.

Sincerely,

Matthew L. Garrett
Director
Oregon Department of Transportation
Attachment A – 15-day Payment Certification Form

15-DAY PAYMENT CERTIFICATION
2017 HB 3264 (Pilot Program)

NAME OF CONSULTING FIRM

CONTACT NUMBER

By signing below, I certify that the above-named consulting firm employs ______ employees. This certification is for the business and not for a branch office.

Number of employees for a "small business" as defined by 2017 HB 3264, specifically, “A business that employs not more than 50 employees.”

Additional requirements:

- Enter "15 Day Payment Invoice" in the subject line of email when submitted to ODOT for timely processing.
- A copy of this signed self-certification document must be attached to each invoice billing.
- Applies to those amounts due for services completed and accepted under the terms of the contract.

Consultant's authorized representative:

NAME

TITLE

SIGNATURE

DATE

A person who knowingly supplies false information to the Department of Transportation in connection with a certification under section 1(3) of 2017 HB 3264 commits a Class A misdemeanor.

731-0797 (12/2017)
Attachment B – Consultant Forms and Resources Webpage

This page includes templates, forms and guidance documents related to procurement of personal and professional services for Oregon Department of Transportation projects and ODOT-sponsored local agency projects.

Pilot program for 15-day payment: House Bill 3264 was passed by the Legislature on May 24, 2017. This new law requires ODOT to be the pilot agency to make prompt payments to small businesses performing A&E and related services contracts (as defined by ORS 279C.100). This 15-month pilot is applicable to all new A&E and related services contracts executed on or after January 1, 2018 through invoices received on or before June 30, 2019. Under the pilot, each invoice must include a signed Prompt Payment Certification Form clearly certifying that the business is indeed a small business (defined as businesses which employ not more than 50 employees). ODOT must pay small businesses within 15 calendar days of the department receiving a properly completed invoice with attached certification form. Review contract provisions for all applicable invoice and 15-day payment requirements.
Attachment C – Updated Contracting Language

Certification for 15-Day Payment (per pilot program in HB 3264 (2017) Oregon Laws, chapter 216 that applies only to subject invoices received by Agency before June 30, 2019). For Services completed and accepted under the terms of a WOC executed on or after January 1, 2018, a business that employs no more than 50 employees may request Agency payment within 15 calendar days of Agency’s receipt of a properly completed and submitted invoice. To request 15-day payment, Consultant must submit a certification (using the Prompt Payment Certification Form) as an attachment to the invoice. The certification must state the number of employees currently employed by Consultant and be signed and dated. Agency will endeavor to notify Consultant within 10 business days of receipt of invoice regarding any necessary revisions to the invoice. If revisions are necessary, payment will be made no later than 15 calendar days from Agency’s receipt of the revised and properly completed invoice.