

## **CERTIFIED SMALL BUSINESS ASPIRATIONAL TARGET PROVISIONS (Feb 2019)**

These provisions shall be attached or incorporated into all applicable Contracts and agreements.

### **1. State Policy**

Contracting agencies shall aggressively pursue a policy of providing opportunities to Certified Small Businesses (hereinafter "Certified Firms") according to ORS 200.090. As such, Oregon Certified firms must have an equal opportunity to participate in the performance of contracts financed with state funds.

It is the policy of the Oregon Department of Transportation that Contractors shall take reasonable steps to ensure that Certified Firms are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement.

By signing the Contract, Contractor certifies and agrees that it has not discriminated and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation or national origin, and it has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business certified under ORS 200.055.

### **2. Definitions**

**"Aspirational Target"** means a target of intended utilization of any combination of Certified Firms that Contractor has no contractual obligation to meet, but that the Agency encourages. When the Agency assigns an Aspirational Target to a contract it is shown as a numerical percentage of the contract value; represents Agency's evaluation of the availability of Certified Firms; and expresses the degree of involvement by those firms that could be expected without having a negative impact on non-certified firms.

**"Certified Firm"** means a small business certified under ORS 200.055 by the Oregon Certification Office for Business Inclusion and Diversity ("COBID") as "disadvantaged business enterprise", "minority-owned business", "woman-owned business", "emerging small business" or "a business that a service-disabled veteran owns".

For purposes of this Exhibit, **"Contract"** means any project-specific contract, price agreement, work order contract, task order, or any other contract entered into with ODOT (or local agency when applicable); and **"Consultant"** and **"Contractor"** are hereinafter referred to as **"Contractor"**.

### **3. Aspirational Targets**

Agency will assign Certified Small Business Aspirational Targets as follows:

- State funded A&E and Related Services and non-A&E Contracts exceeding or expected to exceed \$100,000 will receive Agency's standard Aspirational Target in place at the time of solicitation or, if there is no solicitation, at the time of Contract execution.
- State funded construction Contracts exceeding or expected to exceed \$1,000,000 will be evaluated for assignment of Aspirational Targets.

<ul style="list-style-type: none"><li>• <b>If an Aspirational Target is assigned, it will be set forth on page 1 of the WOC or project-specific Contract (as applicable).</b></li></ul>
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### **4. Termination and Substitution of Certified Firms**

Contractor shall notify Agency in writing and confer with Agency before terminating or replacing a Certified Firm that has a signed contract with the Contractor.

**5. Changes in Work Committed to Certified Firms**

Agency will consider the impact on Certified Firms participation in instances where Agency changes, reduces, or deletes work contracted to Certified Firms at the time of Contract award. In such instances, the Contractor shall not be required to replace the work but is encouraged to do so. If the prime Contractor proposes any changes that involve a contracted Certified Firm, the Contractor shall notify the Certified Firm of the proposed change, reduction, or deletion of any work committed at the time of contract award prior to executing the Contract amendment. The Contractor can choose to enable the affected Certified Firm to participate in the Contract amendment and is requested to make every effort to maintain the contracted Certified Firms percentage.

**6. Contractor Payments to Subcontractors**

Contractor shall maintain records of all subcontracts entered into with Certified Firms and records of services or materials purchased from Certified Firm suppliers. Such records shall show the name and business address of each Certified Firm subcontractor or vendor and the total dollar amount actually paid to each Certified Firm subcontractor or vendor. The Contractor shall pay each subcontractor for satisfactory performance of its contract no later than ten Calendar Days from receipt of each payment the Contractor receives from the Agency. The Contractor shall also return retainage payments to each subcontractor within ten Calendar Days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Project Manager. This policy applies to all subcontractors.

**7. Subcontractor Reporting**

Contractor shall report payment information for all subcontractors and suppliers used under the Contract throughout the period of performance. Contractor shall complete and submit initial, interim and final [Paid Summary Report\(s\)](#) [form 734-2882] per the instructions included on the form (A&E, non-A&E and trade services follow "A&E Instructions"). The participation of a Certified Firm subcontractor will not be credited towards the prime Contractor's Aspirational Target achievements until the amount being counted toward the target and any retainage held by the prime Contractor has been paid to the Certified Firm. A firm will not be eligible to participate as a Certified Firm on current or future Contracts if it is decertified by COBID.

**8. Further Information**

For further information concerning Certified Firms participation, contact:

Oregon Department of Transportation  
Office of Civil Rights  
3930 Fairview Industrial Drive SE (MS 23)  
Salem, OR 97302  
Telephone No. (503) 986-4350  
Fax No. (503) 986-6382