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Date: August 29, 2024

Purpose

This bulletin provides guidance for Local Programs' implementation of changes to the DBE program.

Background

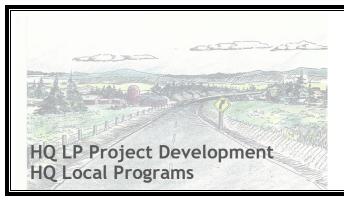
USDOT issued the final rule making modification to 49 CFR parts 23 and 26 on 4/9/24. The new rules became effective on 5/9/24. A final rule making summary is available at <u>Final Rule Summary | US Department of Transportation</u>. Many of the changes to the DBE program do not directly affect Local Agencies, however WSDOT is implementing a new form and specifications which will be required to come into compliance with regulations. This bulletin will provide guidance as it pertains to projects federally funded with FAA, FTA, and FHWA funds that are being advertised for construction.

Specifically, this bulletin addresses the requirement to collect bidder data for all DBE and non-DBE subcontractors that have bid or provided a quote to Contractors to perform work on a project. USDOT has indicated that a national database will be available by the end of 2024 to collect this information.

Guidance

The WSDOT construction office is issuing a new form along with new and updated GSPs that become effective on 9/3/24. Local Programs will adopt the new WSDOT form 272-022 "Bidder Questionnaire." The following new or revised general special provisions will be required:

WSDOT General Special Provisions (GSP)/Spec	Local Programs GSP/Spec	GSP Exist/New	Comments
1-02.6.OPT3.GR1 Revised 9/3/24.	None	Existing	Spec lists documents to be included with proposal for DBE program. Formerly 1-02.6.OPT3.NEW.GR1.
1-02.6.OPT7.GR1 Dated 9/3/24	none	New	Adds Bidder's Questionnaire
1-02.6.OPT8.2026.GR1 Dated 9/3/24	1-02.6.OptionA.rtf Dated 9/3/24	New	Clarifies that the Bidder List required by State law is different than the "Bidder Questionnaire" required by CFR. Agency chooses one version to include.
1-02.9.OPT1.GR1 Revised 9/3/24.	1-02.9.OptionsA to OptionsD.rtf Dated 7/8/24	Existing	Describes when documents are Must choose APWA A, B, C or D.



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WSDOT General Special	Local Programs	GSP	Comments
Provisions (GSP)/Spec	GSP/Spec	Exist/New	
1-03.3.OPT2.GR1	1-03.3.OptionB.rtf	Existing	Describes where trucking forms are
Dated 7/2/24	Dated 7/8/24		delivered.
1-02.13.OPT1.2026.GR1	1-02.13.rtf	Existing	Must include.
Dated 9/3/24	Revised 9/3/24		
1-07.11.OPT3.FR1	1-07.11.OptionB.rtf	Existing	GSP is reorganized, includes minor
Dated 9/3/24	Dated 9/3/2024		modifications, and includes
			modifications to comply with the
			new regulations, Must include.
1-08.1, 2025 Standard	1-08.1(9).OptionA.rtf	New	Requirements for DBE Subcontracts
Specifications for Roads	Dated 9/3/2024		were removed from the DBE GSP
& Bridges			107.11, Option B. WSDOT
			incorporated the requirement to
			send DBE Subcontracts to OECR in
			the 2025 Standard Specs and
			expanded it to include all non-DBE
			Subcontracts. The APWA version
			revises 2025 to only require DBE
			Subcontracts to be forwarded to
			OECR.

Shaded cells are required to be included in the contract special provisions. When both the WSDOT GSP and APWA cells are shaded, the agency may choose to use either version.

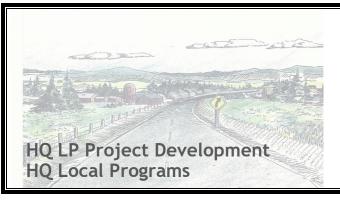
Implementation Plan

Changes to bid / proposal packages:

- Agencies' proposal packages must include new WSDOT form 272-022 for all projects receiving federal financial assistance. Consider cross referencing GSP Sections 1-02.6 and 1-02.13 in the call to bids. Sample language, "Bidders are made aware of the requirement to include a Bidders Questionnaire (WSDOT form 272-022) in accordance with special provisions section 1-02.6. Bids that do not include this form at the time of bid will be rejected in accordance with Section 1-02.13 of the special provisions."
- Special Provisions must include GSPs indicated in guidance section of this GSP.

After bids are opened (directly after bid opening), Agencies are instructed to:

Reject bids that do not include the Bidder Questionnaire (Form 272-022). Reject bids that do
not include a DBE Utilization Certification (Form 272-056). See 1-02.13 Irregular Proposals.



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 Review the Bid Item Breakdown (Form 272-054) which is not required to be submitted at the time of bid. However, should this form be submitted at the time of bid the agency should review for minor corrections that can be made. The Contractor has 5 calendar days (not including Saturdays, Sundays and holidays) to make minor corrections.

48 hours after bid opening, Agencies are instructed to:

- Reject bids, where bidders fail to submit either the Bid Item Breakdown (Form 272-054) or DBE Written Confirmation (Form 422-031) within 48 hours. See 1-02.13 Irregular Proposals.
- Transmit certified bid tabs including all bid documents for the three low apparent bidders, including all rejected bids, and Bidder Questionnaire for all bidders to Local Programs when requesting concurrence to award a project. Include copies of any protests that have been received from bidders and correspondence the agency has issued rejecting bids.

Guidance for projects on advertisement

- Agencies must begin using the form and specifications no later than September 3, 2024, regardless of which version of the standard specifications they are using. Projects that are currently being advertised for bid, where bids will be opened on or after September 9th, 2024, must issue an addendum and include updated GSPs and WSDOT Form 272-022.
- Projects that are assigned a zero goal will require Form 272-022 and associated specs.

Resources

<u>Local Agency General Special Provisions (GSPs) | WSDOT (wa.gov)</u> <u>General Special Provisions (GSPs) | WSDOT (wa.gov)</u>

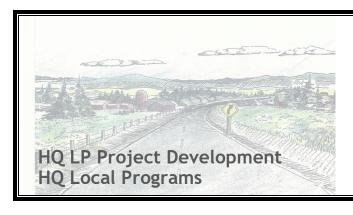
LP-Spec-Check-in-Form - See Local Agency GSP Web Page (Local Agency forms and documents) <u>Electronic forms | WSDOT (wa.gov)</u>, See form 272-022

Contact Information

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Comments

Local Programs recognizes this adds an extra step for Contractors to the bidding process. Any resources the agency has to get the word out to Contractors about this change would greatly benefit the program. Feel free to provide feedback to the above contact information.

Appendix A Bidder's Questionnaire

