

Missouri Department of Transportation
Kevin Keith, Director

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October 17, 2011

Dear Consultant:

Re: Consultant Conflict of Interest
Disadvantaged Business Enterprise (DBE) Requirements

CONFLICT OF INTEREST

The Missouri Department of Transportation (MoDOT) is providing additional guidance to consultants regarding conflict of interest as it relates to Qualification Based Selection process.

The local agency and consulting firm are required to execute an engineering services contract, at fair market value and at the expense of the local agency, for professional services to develop preliminary project documents. Those documents may include but are not limited to, grant and TIP applications, project scopes, and project estimates. The consultant must not have any financial or personal interest in the federally funded project to avoid potential conflict of interest.

The consultant must have completed all deliverables listed in the engineering services contract and all services must be paid in full before the consultant can be considered eligible to submit a letter of interest for the next phase of the project. If the consultant provided the preliminary project documents as an in-house consultant an invoice for the services must be paid in full to be considered eligible. The Local Agency will be required to include all consultant developed preliminary project documents in the Request for Qualifications (RFQ). If a consultant participates in the development of the RFQ or consultant selection process, regardless of payment, that firm will not be eligible for the next phase of the project.

Please view the attached link on the U.S. Department of Transportation, Federal Highway Administration's website for additional information regarding Consultant Services.
<http://www.fhwa.dot.gov/programadmin/consultant.cfm>

ENGINEERING PROFESSIONAL SERVICES DBE REQUIREMENT

"It is the policy and commitment of MoDOT that disadvantage businesses, as defined in 49 CFR Part 26, shall have a level playing field to participate in the performance of contracts financed in whole or part with federal funds." To support this requirement, local professional contracts which include a DBE goal, will be monitored by MoDOT and FHWA for results toward meeting the goal.

For your convenience, the MoDOT DBE Program may be viewed at the provided link:

http://www.modot.org/business/contractor_resources/External_Civil_Rights/DBE_program.htm

Local Agency/MoDOT Process for obtaining a DBE Goal Determination for Professional Services:

When a local agency determines a need for design professional service on a federally funded project, the local agency should submit a request to advertise to MoDOT's district representative. The district representation will review the request and obtain a DBE goal determination from the External Civil Rights Division (ECR). The ECR Division evaluates the proposed project and determines the availability of DBE firms to provide services on the project and sets a DBE goal. This DBE goal is included in the



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Request for Qualifications (RFQ). This process allows the consulting firm to evaluate the project for DBE consulting firm's participation as they develop their Letter of Interest.

The consultant must obtain the required DBE participation or submit good faith effort supporting documentation during contract negotiations. This information must be reviewed and approved by MoDOT's External Civil Rights Division prior to approval of the contract.

Consultants are required to include a paid-to-date field on invoices to track DBE participation. To assist in this effort, MoDOT has developed an Engineering Services Sample Invoice, which includes the contractual amount to be paid to the DBE firm and a paid-to-date field. This will assist the consultant, the local agency, MoDOT and FHWA insure compliance with the federal requirement. This sample invoice may be viewed at the following link located in the Engineering Policy Guide, Section 136.6 Consultant Contracts under Additional Information.

http://epg.modot.org/index.php?title=136.6_Consultant_Contracts.

If during the project, it is determined the DBE goal cannot be met, contact the district representative for additional guidance. Verification of DBE participation is required prior to final payment. Failure to meet DBE participation goal may result in liquidated damages being assessed to the consultant.

The conflict of interest requirements went into effect on July 15, 2011 based on information that was provided to local agencies in June. The DBE requirements are effective immediately. Please direct all questions regarding this process to Jerica Holtsclaw at 573-526-8484 or Jerica.Holtsclaw@modot.mo.gov.

Sincerely,



Kenneth Voss
Missouri Department of Transportation
Local Programs Administrator