

**Ohio Department of Transportation
DBE/EDGE Consultant Contracting Procedures
Implementation of Contract Specific Development Goal Procedures**

In order to foster DBE and EDGE participation in accordance with 49 CFR 26.39, the Department has implemented contract specific “Development Goals” that will incorporate changes to procedures for consultant selection, fee negotiation, contract administration and performance evaluation. Development Goals are intended to help DBE and EDGE firms improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency. **Contract specific Participation Goals (current process) will continue to be used by the Department on consultant contracts in tandem with Contract Development Goals to best meet the overall objectives of the DBE and EDGE programs.**

Procedures for Implementing Contract Development Goals

The procedures for Contract Development Goals are designed to comply with both 23 CFR 172 (Administration of Engineering and Design Related Service Contracts) and 49 CFR Part 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs). Following is a summary of proposed Contract Development Goal program elements and related rules.

- **General**

1. The Contract Development Goal program is designed to meet the objectives of 49 CFR 26.39 and 49 CFR 26.51.
2. The program will be open to participation by all certified DBE and EDGE firms and will not be subdivided into group-specific goals.
3. The goal setting process will continue to establish goals on projects that include work in fields in which DBE and EDGE participation has historically been low.

- **Consultant Selection Procedures**

1. Consultant selection procedures will continue to comply with 23 CFR 172.
2. Contracts that include Contract Development Goals will use qualifications-based selection in accordance with 23 CFR 172.7(b)(2). Evaluation criteria specific to the Goal has been added to the selection rating form for all contracts that include DBE or EDGE Contract Development Goals.
3. Qualifications based evaluation criteria are based on the expected outcomes of the efforts of the prime consultant and DBE/EDGE subconsultant to assist the DBE/EDGE subconsultant in:

- a. Improving their long-term development;
 - b. Increasing their abilities to participate in a variety of kinds of work, including prequalification in new categories, and handle increasingly significant projects;
 - c. Developing their capability to utilize emerging technology and conduct business through electronic media;
 - d. Achieving eventual self-sufficiency.
4. The letter of interest will require a listing of specific accomplishments that will benefit the DBE/EDGE firm in terms of specific training and work experience.
 5. Refer to the revised Request for Letter of Interest language below.

- **Fee Negotiation**

The Department will include a line item in the fee proposal (SAFe) to cover the direct and indirect costs incurred by the prime consultant and subconsultant for specific training and assistance to the DBE/EDGE firm through the life of the agreement. An initial not to exceed amount will be established for the contract, and separate cost accounting and invoicing (in accordance with FARS Part 31) will be required for the life of the contract.

- **Contract Administration**

Prior to authorization of the agreement, the consultant and DBE/EDGE subconsultant must submit a written plan to achieve the specific accomplishments set out in the letter of interest. Volume 1 - Consultant Contract Administration of the Department's Administration of Contracts for Professional Services includes procedures for monitoring progress towards the specific accomplishments set out in the letter of interest and included in the Consultant's written plan.

- **Consultant Evaluation**

1. The Department has added a specific performance evaluation category in ODOT's Consultant Evaluation System (CES) that evaluates progress towards the specific accomplishments set out in the letter of interest and included in the Consultant's written plan. Both prime consultant and the DBE/EDGE subconsultant firm will be evaluated and receive the same score.
2. The Department will develop guidance for ODOT raters in the CES system concerning the requirement that both prime consultant and DBE/EDGE subconsultant work towards specific accomplishments, which may require additional time spent by ODOT project managers and reviewers. The overall CES rating will not penalize the prime consultant and subconsultant for this additional input and assistance by ODOT staff.

Proposed Request for Letter of Interest Language Revised to Reflect Use of both Participation and Development Goals

DBE and EDGE Goals

It is the policy of the Ohio Department of Transportation that Disadvantaged Business Enterprises (DBEs) and firms certified as EDGE (Encouraging Diversity, Growth and Equity) by the Director of Administrative Services shall have equal opportunity to compete for and perform subcontracts which the Consultant enters into pursuant to agreements included in this request for Letters of Interest. For projects noted as having DBE or EDGE goals, the Consultant must use good faith efforts to include DBE or EDGE subconsultants. Consequently, the requirements of Title 49 CFR Part 26 will apply to agreements noted as having DBE goals, and Ohio Revised Code Section 123.152 will apply to agreements noted as having EDGE goals. For projects with DBE goals, the Consultant must ensure that the DBE subconsultant(s) is performing a "commercially useful function" as defined in 49 CFR 26.55. Contracts may include either:

- DBE or EDGE Contract Participation Goals that establish a percent of the contract amount to be subcontracted to DBE/EDGE firms; or
- DBE or EDGE Contract Development Goals that are intended to help DBE and EDGE firms improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency. Contract Development Goals **do not include** a percentage of the fee or amount that must be subcontracted to DBE/EDGE firms.

DBE or EDGE Contract Development Goal Procedures

Contract Development Goals established for individual projects are based on efforts to assist DBE or EDGE firms in:

1. Improving their long-term development;
2. Increasing their abilities to participate in a variety of kinds of work including prequalification in new categories, and handle increasingly significant projects;
3. Developing their capability to utilize emerging technology and conduct business through electronic media;
4. Achieving eventual self-sufficiency.

The Department's selection process will include a qualifications based evaluation of the expected outcomes of the consultant's plan to assist the DBE/EDGE firm in Items 1 through 4 above.

The Consultant's Letter of Interest must include:

1. The percentage of work to be performed by each DBE or EDGE subconsultant, and a description of the work to be performed by each.

2. A one page description (within the stated page limit) included in the Key Staff and Project Approach template, describing the expected outcomes of the efforts of the consultant and DBE/EDGE subconsultant to assist the DBE/EDGE firm in:

- Improving their long-term development;
- Increasing their abilities to participate in a variety of kinds of work, including prequalification in new categories, and handle increasingly significant projects;
- Developing their capability to utilize emerging technology and conduct business through electronic media;
- Achieving eventual self-sufficiency.

The Department will increase the stated page limit of the Key Staff and Project Approach template to allow for the required one page description describing the expected outcomes. **Do not exceed the stated page limit.**

In order to assist DBE/EDGE firms in becoming prequalified with the Department, DBE/EDGE firms may perform services for which they are not prequalified in order to gain experience towards prequalification. The prime consultant must actively supervise and check the work being performed. This policy will effectively provide a waiver to the provision of Section 2.30 of the Specifications for Consulting Services 2016 Edition. If this option is being proposed, please provide an explanation in the Key Staff and Project Approach template.

Selection Evaluation for Projects that Include Contract Participation Goals

For projects noted as having DBE or EDGE Contract **Participation** Goals, the letter of interest must show that the consultant has made good faith efforts to meet the goal. Good faith efforts may include: (1) Documentation that the consultant has obtained enough DBE or EDGE participation to meet the goal; or (2) Documentation that it made adequate good faith efforts, as defined in 49 CFR 26.53, to meet the goal, even though it did not succeed in obtaining enough DBE/EDGE participation to do so.

For projects that include DBE or EDGE Participation Goals, the Department will determine whether the consultant has made a good faith effort to meet the goal in accordance with 49 CFR 26.53 and Appendix A to Part 26. Consultants that do not show good faith efforts to meet the Goal will not be eligible for selection.

Selection Evaluation for Projects that Include Contract Development Goals

Contracts that include DBE or EDGE Contract Development Goals will use qualifications-based selection in accordance with 23 CFR 172.7(b)(2). For projects noted as having DBE or EDGE Contract Development Goals, an additional five (5) points will be allocated in the selection rating based on evaluation of the expected outcomes described in the letter of interest. Refer to Note 5 of Exhibit 4 below for detailed selection rating guidance.

Category	Total Value	Scoring Criteria	Score
Management & Team			
Project Manager	10	See Note 1, Exhibit 4	
Strength/Experience of Assigned Staff including Subconsultants	25	See Note 2, Exhibit 4	
Firm's Current Workload/ Availability of Personnel	10	See Note 4, Exhibit 4	
Consultant's Past Performance	30	See Note 3, Exhibit 4	
Project Approach	25		
DBE/EDGE Development Goal Outcomes and Plan (If applicable)	5	See Note 5, Exhibit 4	
Total	105		

If Applicable: Adequate good faith efforts made to meet DBE/EDGE Contract
 Y/N
 Participation Goal

Exhibit 4 - Consultant Selection Rating Form Notes

1. The proposed project manager for each consultant shall be ranked, with the highest ranked project manager receiving the greatest number of points, and lower ranked project managers receiving commensurately lower scores. The rankings and scores should be based on each project manager's experience on similar projects and past performance for the Department. The selection committee may contact other Districts and outside agencies if necessary. Any subfactors identified should be weighed heavily in the differential scoring.

Differential scoring should consider the relative importance of the project manager's role in the success of a given project. The project manager's role in a simple project may be less important than for a complex project, and differential scoring should reflect this, with higher differentials assigned to projects that require a larger role for the project manager.

2. The experience and strength of the assigned staff, including subconsultant staff, should be ranked and scored as noted for Number 1 above, with higher differential scores assigned on more difficult projects. Any subfactors identified in the project notification should be weighed heavily in the differential scoring.

As above, other Districts and other agencies may be contacted.

3. The consultants' past performance on similar projects shall be ranked and scored on a relative, differential scoring type basis, with the highest ranked consultant receiving a commensurately greater number of points. The selection team should consider CES performance ratings if available, and consult other Districts, ODOT Central Offices, and other agencies as appropriate. The use of CES ratings shall place emphasis on the specific type of services requested.

The differential scoring should consider the complexity of the project and any subfactors identified in the project notification.

4. In instances when a consultant is simultaneously being considered for selection on multiple projects, or a consultant's current workload may impact their ability to complete the work as proposed, the firm's current workload and availability of qualified personnel shall be considered. In the selection rating form, the full value of the "Firm's Current Workload/Availability of Personnel" rating category (ten points) shall be allocated to the selected firm to indicate the Department's quantifiable concerns regarding the ability of a firm (or firms) rated higher in other categories to complete the work with staff members named in the letter of interest.

5. For projects noted as having DBE or EDGE Contract Development goals, a maximum of 5 points shall be allocated as a measure of the expected outcomes and efforts of the Consultant and DBE/EDGE subconsultant to assist the DBE/EDGE firm in:

- Improving their long-term development;
- Increasing their abilities to participate in a variety of kinds of work, including prequalification in new categories, and handle increasingly significant projects;
- Developing their capability to utilize emerging technology and conduct business through electronic media;
- Achieving eventual self-sufficiency.

5 Points The expected outcomes and plan for achieving them will provide an opportunity for the DBE/EDGE firm to significantly improve in all four objectives listed above, including measurable improvement in one or more categories such as experience that would lead to prequalification in a new category or the ability to handle increasingly significant projects.

- 4 Points** The expected outcomes and plan for achieving them will provide an opportunity for the DBE/EDGE firm to significantly improve in at least three of the objectives listed above, including measurable improvement in one or more categories such as experience that would lead to prequalification in a new category or the ability to handle increasingly significant projects.
- 3 Points** The expected outcomes and plan for achieving them will provide an opportunity for the DBE/EDGE firm to significantly improve in at least two of the objectives listed above.
- 2 Points** The expected outcomes and plan for achieving them will provide workload for the DBE/EDGE firm, but opportunities to improve in more than one of the objectives listed above are lacking.
- 1 Point** The expected outcomes and plan for achieving them will provide workload for the DBE/EDGE firm, but provide only limited or no opportunities for the firm to improve their skills and capabilities in the objectives listed above.