October 2024

CONTRACT PROVISION

Targeted Small Business (TSB) Affirmative Action Responsibilities on Non-Federal-aid Projects (Third-party State-Assisted Projects)

1. TSB DEFINITION

   A TSB is a small business, as defined by Iowa Code Section 15.102(10), which is 51% or more owned, operated and actively managed by one or more women, minority persons, service-disabled veterans or persons with a disability provided the business meets all of the following requirements: is located in this state, is operated for profit and has an annual gross income of less than 4 million dollars computed as an average of the three preceding fiscal years.

2. TSB REQUIREMENTS

   In all State-assisted projects made available through the Iowa Department of Transportation, local governments have certain affirmative action requirements to encourage and increase participation of disadvantaged individuals in business enterprises. These requirements are based on Iowa Code Section 19B.7. These requirements supersede all existing TSB regulations, orders, circulars, and administrative requirements.

3. TSB DIRECTORY INFORMATION

   Available from: Iowa Economic Development Authority
   Targeted Small Business Certification Program
   1963 Bell Avenue
   Suite 200
   Des Moines, IA 50315
   Phone: (515) 348-6200
   Website: https://www.iowaeda.com/small-business/targeted-small-business/

4. THE CONTRACTOR'S TSB POLICY

   The contractor is expected to promote participation of disadvantaged business enterprises as suppliers, manufactures and subcontractors through a continuous, positive, result-oriented program. Therefore, the contractor's TSB policy shall be:

   > It is the policy of this firm that Targeted Small Business (TSB) concerns shall have the maximum practical opportunity to participate in contracts funded with State-assisted funds which are administered by this firm (e.g. suppliers, manufacturers and subcontractors). The purpose of our policy is to encourage and increase the TSB participation in contracting opportunities made available by State-assisted programs.

5. CONTRACTORS SHALL APPOINT AN EQUAL EMPLOYMENT OPPORTUNITY (EEO) OFFICER

   The contractor shall designate a responsible person to serve as TSB officer to fulfill the contractors affirmative action responsibilities. This person shall have the necessary statistics, funding, authority, and responsibility to carry out and enforce the firm's EEO policy. The EEO officer shall be responsible for developing, managing, and implementing the program on a day-to-day basis. The officer shall also:

   A. For current TSB information, contact the Iowa Economic Development Authority (515-348-6200) to identify potential material suppliers, manufacturers, and contractors.

B. Make every reasonable effort to involve TSBs by soliciting quotations from them and incorporating them into the firm's bid.

C. Make every reasonable effort to establish systematic written and verbal contact with those TSBs having the materials or expertise to perform the work to be subcontracted, at least two weeks prior to the time quotations are submitted. Maintain complete records of negotiations efforts.

D. Provide or arrange for assistance to TSBs in seeking bonding, analyzing plans/specifications or other actions that can be viewed as technical assistance.

E. Ensure the scheduled progress payments are made to TSBs as agreed in subcontract agreements.

F. Require all subcontractors and material suppliers to comply with all contract equal opportunity and affirmative action provisions.

6. COUNTING TSBs PARTICIPATION ON A PROJECT

TSBs are to assume actual and contractual responsibilities for provision of materials/supplies, subcontracted work, or other commercially useful function.

A. The bidder may count:

1) Planned expenditures for materials/supplies to be obtained from TSB suppliers and manufacturers; or
2) Work to be subcontracted to a TSB; or
3) Any other commercially useful function.

B. The contractor may count:

1) 100% of an expenditure to a TSB manufacturer that produces/supplies goods manufactured from raw materials.
2) 60% of an expenditure to TSB suppliers that are not manufacturers; provided the suppliers perform a commercially useful function in the supply process.
3) Only those expenditures to TSBs that perform a commercially useful function in the work of a contract, including those as a subcontractor.
4) Work the Contracting Authority has determined that it involves a commercially useful function. The TSB must have a necessary and useful role in the transaction of a kind for which there is a market outside the context of the TSB program. For example, leasing equipment or purchasing materials from prime contractor would not count.

7. REQUIRED DATA, DOCUMENTS AND CONTRACT AWARD PROCEDURES FROM BIDDERS/CONTRACTORS

A. Bidders

Bidders who fail to demonstrate reasonable positive efforts may be declared ineligible to be awarded the contract. Bidders shall complete the bidding documents plus Form 730007, TSB Pre-Bid Contact Information. Form 730007 can be found here: https://iowadot.seamlessdocs.com/f/TargetedSmallBusinessTSBPrebidContactInfo

B. Contractors Using Quotes From TSBs

Use those TSBs whose quotes are listed in the "Quotation Used in Bid" column along with a "yes" indicated on the Pre-BID Contract Information Form.

C. Contractors NOT Using Quotes From TSBs

If there are no TSBs listed on the Pre-bid Contact Information Form, then the contractor shall document all efforts made to include TSB participation in this project by documenting the following:

1) What pre-solicitation or pre-bid meetings scheduled by the contracting authority were attended?
2) Which general news circulation, trade associations and/or minority-focused media were advertised concerning the subcontracting opportunities?
3) Were written notices sent to TSBs that TSBs were being solicited and was sufficient time allowed for the TSBs to participate effectively?
4) Were initial solicitations of interested TSBs followed up?
5) Were TSBs provided with adequate information about the plans, specifications, and requirements of the contract?
6) Were interested TSBs negotiated with in good faith? If a TSB was rejected as unqualified, was the decision based on an investigation of their capabilities?
7) Were interested TSBs assisted in obtaining bonding, lines of credit or insurance required by the contractor?
8) Were services used of minority community organization, minority contractors' groups; local State and Federal minority business assistance offices or any other organization providing such assistance.

The above documentation shall remain in the contractor's files for a period of three (3) years after the completion of the project and be available for examination by the Iowa Economic Development Authority.