

DBE Program Overview

MDOT Office of Business Development

March 22, 2011

AGENDA

- **Overview of January 2011 DBE Program Regulation Changes**
 - » Frank Adams
- **Historical Context of the Current Disadvantaged Business Enterprise (DBE) Program**
 - » Lisa S.Thompson
- **Overall MDOT DBE Goal-setting**
 - » Lisa S. Thompson
- **DBE Contract Goal-setting**
 - » Frank Adams

AGENDA

- **DBE Good Faith Efforts**
 - » Lisa S. Thompson
- **DBE Supportive Services**
 - » Candice Braddock
- **Monitoring CUF & Contract Administration**
 - » Reidar Keating and Alicia Cisneros

History of the Current DBE Program

Lisa S. Thompson, Support Services, OBD

Historical Overview of the DBE Program

- **1980 DOT Issues 49 CFR Part 23**
 - Started DOT MBE/WBE Program
- **Key Provisions**
 - Required DBE Programs
 - Overall and contract goals set by recipients
 - Required certification of firms
 - Separate goals for women



Historical Overview of the DBE Program

- **Surface Transportation Assistance Act of 1982**
 - Established 10 percent DOT-wide goal for MBEs only
 - Eligibility based on socio-economic disadvantage
 - Established separate administrative goals for WBEs
- **1987 - Surface Transportation and Uniform Relocation Assistance Act (STURRA)**
 - Continued 10 percent goal
 - Women included as disadvantaged
 - Required one goal
 - Size standard limitation set at \$14 million
 - Annual DBE Directory
 - Required Uniform Certification Criteria and On-Site Review

Historical Overview of the DBE Program

**1995 - Adarand Decision Issued by Supreme Court
“Strict Scrutiny Standard” applies to Congressionally
enacted Affirmative Action Programs.**

**Requires Narrow Tailoring of all
Affirmative Action Programs**



Historical Overview of the DBE Program

- **February 1999**
 - USDOT Issues Final DBE Rule {49 CFR Part 26}
 - Switched from Part 23 to Part 26
 - Goal-setting
 - Required a new Michigan Unified Certification Program (MUCP)

- **2003 Regulation**
 - Uniform Application
 - New Prompt Pay Language
 - DBE/Non-DBE truck credit

Historical Overview of the DBE Program

DBE Awards And Commitments By Fiscal Year

As of March 31, 2010

Fiscal Year	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001
Annual Goal	10.50%	10.50%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	11.00%	12.00%
Annual Attainment	6.88%	8.45%	8.67%	9.74%	9.64%	10.74%	10.76%	11.10%	12.65%	12.23%
Race Neutral Goal	3.00%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.00%	2.00%
Race Neutral Attainment	0.99%	1.09%	1.78%	0.70%	1.81%	1.71%	2.28%	2.70%	1.62%	2.11%
Race Conscious Goal	7.50%	8.00%	8.50%	8.50%	8.50%	8.50%	8.50%	8.50%	9.00%	10.00%
Race Conscious Attainment	5.69%	7.36%	6.89%	9.04%	7.83%	9.03%	8.48%	8.30%	11.03%	10.12%

Fiscal Year	2000	1999	1998	1997	1996	1995
Annual Goal	12.00%	12.00%	12.00%	14.00%	14.00%	14.00%
Annual Attainment	11.18%	10.40%	14.70%	11.34%	15.46%	15.50%
Race Neutral Goal	2.00%	2.00%*	*	*	*	
Race Neutral Attainment	1.13%	3.91%*	*	*	*	
Race Conscious Goal	10.00%	10.00%*	*	*	*	
Race Conscious Attainment	10.05%	6.49%*	*	*	*	

•Data Not Required For These Fiscal Years

New DBE Program Regulations January 2011

Frank Adams, Field Services Metro

New DBE Program Regulations

January 2011

- **Termination of DBE Firms**
 - MDOT prior written consent is required
 - Only for documented good cause
 - A prime or non-dbe subcontractors desire to self-perform DBE work is NOT “good cause”
- **DBE firms must be given 5 days notice prior to MDOT approving their replacement**
 - Replacement must be MDOT approved by both CSD and OBD prior to starting work
 - Form for replacing DBE’s is 0196 on the MDOT forms website

New DBE Program Regulations

January 2011

- **The PNW ceiling has been raised to \$1.32 million**
 - Beginning on February 28, 2011, all new certification decisions must use the revised PNW standard, even if the application was filed or a decertification action pertaining to PNW began before this date.
 - If a firm was decertified or its application denied within a year before February 28, 2011, because the owner's PNW was above \$750,000 but not above \$1.32 million the firm should resubmit PNW information without a further waiting period.

New DBE Program Regulations

January 2011

- **Monitoring and Enforcement**
 - MDOT must ensure that work committed to DBEs is actually performed by DBEs
 - This rule requires a written certification that MDOT has reviewed contracting records and monitored worksites
 - The DBE program must be adequately staffed to ensure this monitoring is done on every contract with DBEs

New DBE Program Regulations

January 2011

- **If MDOT fails to meet its overall DBE goal at the end of the fiscal year, it must:**
 - Analyze the reasons for the shortfall and
 - Establish specific steps and milestones to correct problems
 - Submit the analysis and corrective actions within 90 days of the end of the fiscal year for FHWA approval.
- **IF approved MDOT is in compliance with the regulation**
 - If not MDOT may be regarded as being in noncompliance for failing to implement its program in good faith

New DBE Program Regulations

January 2011

- **Small Business Programs :**
 - MDOT must take steps to increase small business participation on a race neutral basis on Federal contracts
 - actively implementing a program to foster small business participation is a requirement of good faith implementation of its DBE program
- **MDOT has received approval for a new small business bid preference program**
 - Program to be implemented this construction season

New DBE Program Regulations

January 2011

- **Small Business Pilot Goals for 2011**
 - Strengthen and enhance the capabilities of small, prequalified construction businesses
 - Create more opportunities to for small businesses to perform MDOT work
 - Implement a program to foster small business participation and meet the requirement of good faith implementation of its DBE program
- **Firms bidding on pilot projects must meet all requirements for MDOT contracting**
 - Maximum overall financial prequalification rating of \$1.9 million or less

New DBE Program Regulations

January 2011

- **Pilot Project Selection Criteria**

- Small Business Bid Preference projects must be MDOT-let projects.
- Engineers' estimates for the construction portion of pilot projects must be \$300,000 or less.
- Projects have key work items in which small businesses are prequalified and can competitively bid.
- Projects must have subcontracting opportunities.
- There must be a minimum of three contractors who are both prequalified in the net classification required and who meet the previously stated requirements to bid as a prime.

New DBE Program Regulations

January 2011

- **Interstate Certification**

- MDOT may accept another states certification and certify the firm.
 - In this case, the firm must provide to MDOT a copy of the certification notice from their home state.
 - MDOT must confirm this certification (e.g., by reviewing the home state's electronic directory or obtaining written confirmation from the home state
- MDOT may choose to verify the information provided to the home state by doing a document review
 - The applicant must provide MDOT with a complete copy of the application and ALL supporting documents
 - If the applicant is denied, MDOT must provide specific reasons in the regulations they believe the home state certification is in error

Setting the MDOT Overall DBE Goals

**Lisa S. Thompson, Supportive Services
MDOT Office of Business Development**

Authority to Set Goals

49 CFR, Part 26.45

Available for
download at

[http://mdot270.state.
mi.us:8080/UCP/
FormsServlet](http://mdot270.state.mi.us:8080/UCP/FormsServlet)

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Important Links
[NAICS Definitions](#)
[Small Business Administration\(SBA\) Size Standards](#)
[Wayne County Division of Human Relations](#)
[Detroit Department of Transportation](#)
[more links...](#)

Download Forms
The application must be mailed or physically delivered to one of the [Certifying Agencies](#). The application must also be complete and include all of the supportive documentation. The application includes a checklist to use to ensure your application is complete and can be processed.

Important Note:
All forms are in PDF format and require Adobe Acrobat Reader to view and print. This software is provided free of charge and you may download the latest version by clicking on the "Get Acrobat Reader" button.

Forms
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These forms require a signature, notary and date after printing. All forms must be printed and mailed to one of the [Certifying Agencies](#) for processing.
Attention Wayne County applicants, please read [Attention All DBE Applicants](#) before applying.

Form	Last Revised
MDOT DBE APPLICATION (use if sending to MDOT)	04/01/2009
MUCP DBE CERTIFICATION APPLICATION	04/01/2009
Annual DBE Renewal Affidavit	04/13/2010
Program Procedures 2009	07/10/2009
49CFR Part 26 Federal DBE Program Regulations	01/19/2005
DBE Supplier Question and Answer Brochure	06/20/2005
MUCP DBE CERTIFICATION APPLICATION (Spanish)	04/01/2007

Setting the Overall Department Goal

- **A Quantitative Process**
 - Calculate the relative availability of DBE firms to perform on MDOT contracts
 - Review contract dollars to be expended
 - Aggregate the resulting weighted average figures
- **A Qualitative Process**
 - Explains how portions of the forecasted yearly overall goal are achieved using race-neutral and race-conscious means

Setting the Overall Department Goal

- **MDOT's overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts.**

Setting the Overall Department Goal

- **Step 1.**
 - We must begin our goal-setting process by determining a base figure for the relative availability of DBEs.
- **Step 2.**
 - Once we have calculated a base figure, we must examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at our overall goal.

Setting the Overall Department Goal

- **MDOT must set overall goals on three-year basis, then must submit them to the FHWA Michigan Division for review on Aug. 1 of that first year.**
- **Our goal was due Aug. 1, 2010 for FY 2011 - 2013.**
- **In establishing an overall goal, MDOT must provide for public participation.**

Setting the Overall Department Goal

- **MDOT – 10.5 percent (7 percent RC & 3.5 percent RN)**
 - **Race/Gender Neutral (RN) – DBE dollars earned on contracts with no DBE percentage or by DBE prime contractors.**
 - **Race/Gender Conscious (RC) – DBE dollars earned on contracts with a DBE percentage.**

Setting the Overall Department Goal

Process outlined in MDOT's DBE Program Procedures

<http://mdot270.state.mi.us:8080/UCP/FormsServlet>



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Setting the Overall Department Goal

Fiscal Year (FY)	Overall MDOT Goal	DBE Goal Obtained on Federal Dollars Only	Race Neutral Obtained %	Race Conscious Obtained %	DBE Dollars Earned on Federal, State and Local Contracts
2007	11.00 %	9.74 %	0.70 %	9.04 %	\$109,937,198
2008	11.00 %	8.67 %	1.78 %	6.89 %	\$93,418,975
2009	10.50 %	8.45 %	1.09%	7.36%	\$98,791,391
*2010	10.50%	10.50 %	3.00 %	7.50 %	\$106,334,860

*** FY 2010 IS PROJECTED**

Race Neutral – DBE dollars earned on contracts with no DBE percentage
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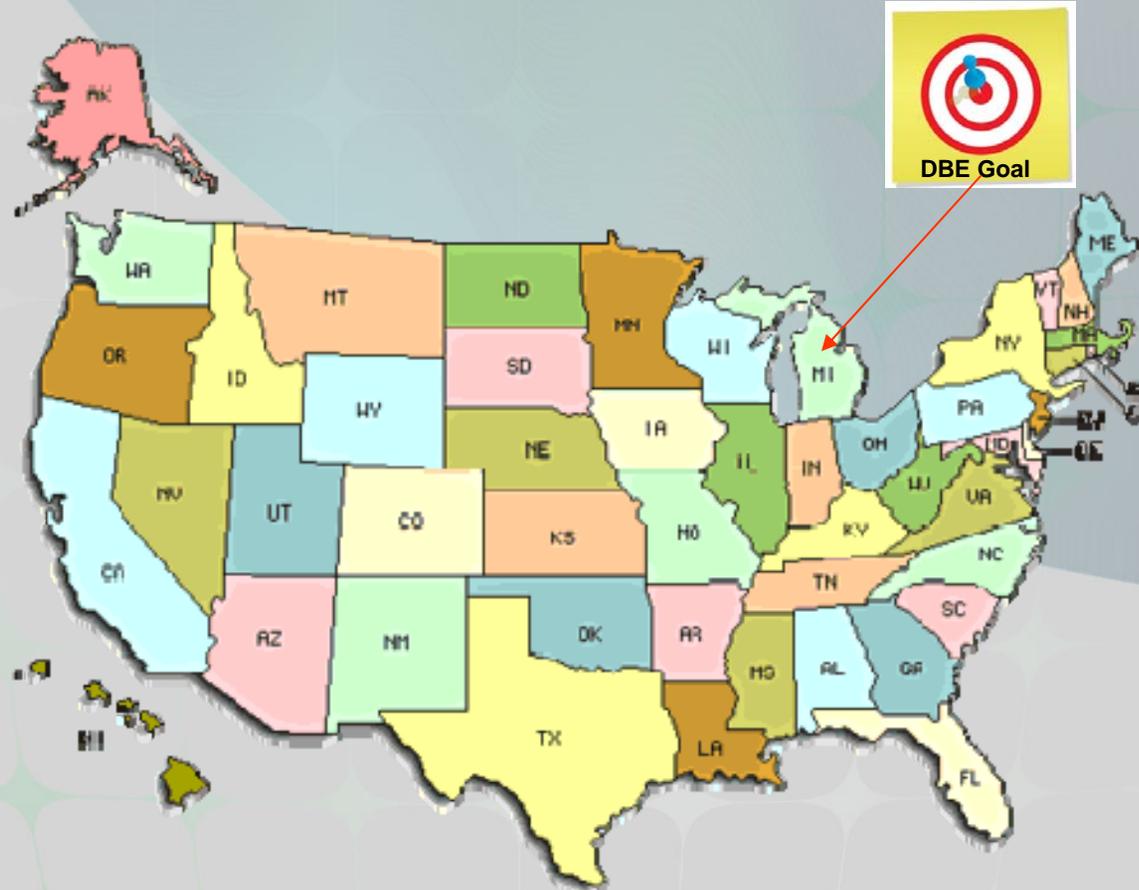
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Setting DBE Goals on Individual Contracts

**Frank Adams Mgr. Field Services, Oak Park
Office of Business Development**

Setting DBE Goals on Contracts

Each state DOT, including MDOT, must meet its overall DBE goal by setting goals on selected individual projects.



Setting DBE Goals on Contracts

- **MDOT OBD sets DBE contract goals on highway projects.**
- **Architectural and engineering contracts have goals set by Contract Services Division prior to advertising the RFP.**
- **Bureau of Aeronautics and Freight Services and the Passenger Transportation Division work with OBD to set goals on FTA and FAA-funded projects.**

Setting DBE Goals on Contracts

- **OBD sets contract goals through the Contract Selection Team (CST).**
- **The CST reviews all projects let by MDOT to determine the appropriate DBE contracting goal.**
- **Team members include design and construction engineers, OBD staff, planners, field staff and all are voting members.**

Setting DBE Goals on Contracts

- **The CST meets monthly.**
- **CST Reviews the following info on MDOT let contract:**
 - **The year the project is scheduled to be let.**
 - **The location of the work.**
 - **A description of the work.**
 - **The number of miles of the project (if applicable).**
 - **The projected cost of the project.**

Setting DBE Goals on Contracts

The CST will consider all of this information, rely on their collective training and experience and come to a consensus on the Project DBE Goal.

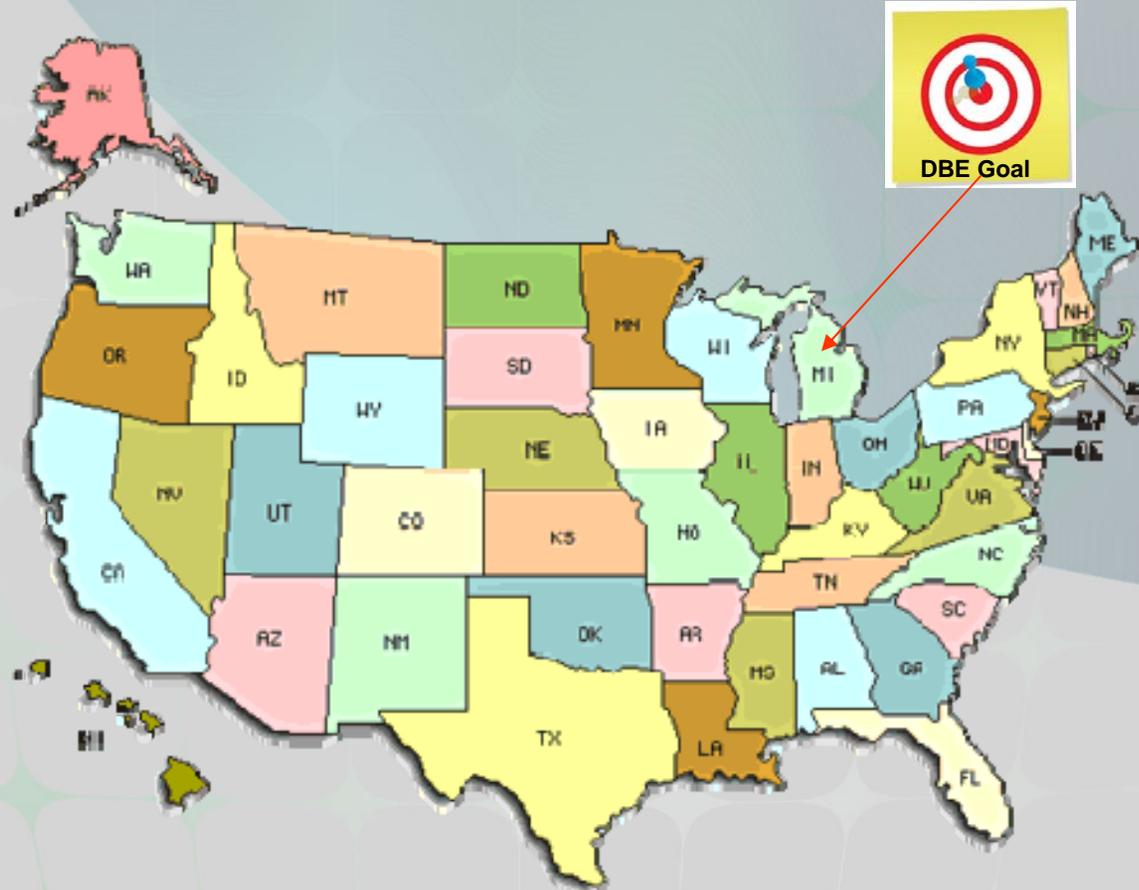


Setting DBE Goals on Contracts

- **Following the CST meeting, the proposed goal is forwarded to region offices for review and comment.**
- **Once the CST and the region agree, the DBE percentages are set on each project.**
- **Projects are then advertised with these goals.**

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Setting DBE Goals on Contracts

Additional detail on this process is available in the DBE Program Procedures manual, which is on the Web at: www.michigan.gov/mucp

Follow the “download forms” link in the middle of the page.

The screenshot shows the Michigan MUCP website. At the top, there is a header for the Department of Transportation and Michigan.gov. Below the header, there are navigation links: Michigan.gov Home, MUCP Home, Contact MUCP, and MUCP Help. The main content area is divided into several sections:

- Michigan MUCP Unified Certification Program**: The main logo and title.
- Welcome**: A paragraph explaining the MUCP's purpose and providing a "one-stop shopping" service for businesses seeking certification.
- News & Events**: A list of links including "EATRAN RFP for Architectural and Engineering Services", "The State of Michigan Bid System", "Clinton Area Transit System Product & Service Quote Request", "Fraud and Abuse Hotline", and "New DBE Link For AERO Advertisements/Projects".
- Important Links**: A list of links including "NAICS Definitions", "Small Business Administration(SBA) Size Standards", "Wayne County Division of Human Relations", and "Detroit Department of Transportation".
- Search Certified Companies**: A search form with fields for "DBE Firm Name:", "NAICS Code:", and "MDOT Codes:". The "MDOT Codes" dropdown menu is open, showing options: "B - Concrete Pavement", "Ba - Concrete Pavement-Patching/Widening", "Ca - Chip Seals", and "Cb - Plant-Mix/Hot Mix Asph/Bituminous Paving". Below the search form, there are links for "view list of codes" and "view list of MDOT codes".
- Type of Business:** A dropdown menu set to "All".
- Work Location County:** A dropdown menu set to "All".
- Work Description:** A text input field.
- When searching for a Firm Name or Work Description please do not use punctuation marks.**
- Search**: A button with a magnifying glass icon.
- View Helpful Search Tips**: A link.
- Download MDOT Only DBE Directory**: A link.
- Download Complete Michigan DBE Directory**: A link.
- To download the Complete Michigan DBE Directory as a Microsoft Excel file, right click on the link below and save the file as dba.xls.**
- Right click to download as excel**: A link.

A red arrow points to the "Download forms" link in the "Important Links" section.

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The main content area is divided into three columns:

- Left Column:** Features the MUCP logo and "Unified Certification Program". Below it is a "News & Events" section with links to "EATRAN RFP for Architectural and Engineering Services", "The State of Michigan Bid System", "Clinton Area Transit System Product & Service Quote Request", "Fraud and Abuse Hotline", and "New DBE Link For AERO Advertisements/Projects". There is also a "more news..." link.
- Middle Column:** Starts with a "Welcome" message: "Welcome to the Michigan Unified Certification Program (MUCP) website. This site provides a searchable directory of all current Michigan Disadvantaged Business Enterprise (DBE) certified firms. We have forms, applications, news, current events, other important websites, and information to help businesses working in Michigan." Below this is a paragraph: "The purpose of the MUCP is to provide 'one-stop shopping' for everyone seeking to be certified. The MUCP makes decisions on behalf of all businesses in the state of Michigan that want to be certified DBEs and represents all USDOT funded agencies with DBE programs. In other words, firms certified as DBEs with the MUCP are eligible to work on any federally-funded airport, highway or transit contract, as a DBE." At the bottom of this column is a list of links: "Learn more about the program", "Learn how to become certified", "HELP searching for DBEs", and "Download forms" (which is circled in red).
- Right Column:** Contains a "Search Certified Companies" form. It has input fields for "DBE Firm Name:" and "NAICS Code:", with a "view list of codes" link below. There is a "MDOT Codes:" dropdown menu with options: "B - Concrete Pavement", "Ba - Concrete Pavement-Patching/Widening", "Ca - Chip Seals", and "Cb - Plant-Mix/Hot Mix Asph/Bituminous Paving". Below this is a "view list of MDOT codes" link. There are also dropdown menus for "Type of Business:" (set to "All") and "Work Location County:" (set to "All"). A "Work Description:" field is present. Below the form is a note: "When searching for a Firm Name or Work Description please do not use punctuation marks." and a "Search" button with a play icon. There is also a "View Helpful Search Tips" link.

At the bottom of the page, there are two download links: "Download MDOT Only DBE Directory" and "Download Complete Michigan DBE Directory". Below these is a note: "To download the Complete Michigan DBE Directory as a Microsoft Excel file, right click on the link below and save the file as dba.xls." and a "Right click to download as excel" link.

Good Faith Efforts (GFE)

Lisa S. Thompson
Office of Business Development

Purpose

To support the DBE Program goal of “leveling the playing field” between large and disadvantaged contractors by ensuring that Prime contractors put forth their “best effort” in DBE participation.



Types GFE of Requests

- **Pre-Award**
- **Post Award**
- **Blue Sheet At Time of Bid**

GFE Process

- Complete and Submit Form 0188
- Review by GFE Committee
- Decision Rendered
- Submit Appeal Request
- Review by Appeals Committee
- Decision Rendered

[Clear Form](#) Page 1 of 3

Michigan Department of Transportation
DBE (DBE)

CONTRACTOR GOOD FAITH EFFORT APPLICATION

The application is for consideration of a waiver or modification of the DBE contract goal. All supporting documentation and evidence of good faith efforts must be clearly labeled and submitted with this application. All specified items WITHOUT such information, the application will be deemed incomplete and returned without review. The Department reserves the right to discuss the contents of the application with the applicant.

PART A - APPLICANT INFORMATION

APPLICANT NAME _____
 ADDRESS STREET CITY STATE ZIP CODE _____
 PHONE NO. FAX NO. EMAIL ADDRESS _____
 CONTACT PERSON TITLE _____

PART B - PROJECT DESCRIPTION

LETTING DATE _____ LETTING ITEM NO. _____
 CONTRACT ID _____ JOB NO. & FEDERAL ID _____ Attach copy of the MCOE Amendment to this proposal form page for this item.
 ANTICIPATED START DATE (based on Progress Schedule) _____ EXPECTED COMPLETION DATE (based on Progress Schedule) _____

PART C - WAIVER OR MODIFICATION REQUEST INFORMATION

DESIGNATED DBE GOAL _____% REQUESTED DBE GOAL _____% One of applicant - Check one only The award
 TOTAL DBE PARTICIPATION DOLLARS BASED ON ADVERTISED DBE GOAL (7/16/1998 Bill #1 DBE1) _____

PART D - PROJECT SUMMARY AMOUNTS

TOTAL PRIME BIDDING	\$
TOTAL DOLLARS COMMITTED TO NON-DBE	\$
DBE GOALS TO BE OBTAINED BY DBE	\$
TOTAL DOLLARS COMMITTED TO DBE	\$
DBE GOALS TO BE OBTAINED BY DBE	\$
TOTAL DOLLARS NOT COUNTED COMMITTED TO DBE SUPPLIERS	\$
WORK TO BE PERFORMED BY PRIME	\$
PERCENT OF WORK PERFORMED BY PRIME	%
TOTAL DBE PARTICIPATION REMAINING	\$

PART E - DBE COMMITMENTS

COMMITTED DOLLARS	DBE COMMENTS (List only DBEs who have executed DBE participation forms MCOE Form 0188 (DBE1))	TYPE OF WORK QUOTED	STATUS	DATE SUBCONTRACT OR P.O. EXECUTED
1.				
2.				
3.				
4.				
5.				

PART F - NON-DBE COMMITMENTS

COMMITTED DOLLARS	NON-DBE COMMITMENTS (List all non-DBE subcontractors, vendors, materials suppliers & other service providers you will use on this project.)	TYPE OF WORK QUOTED	STATUS	DATE SUBCONTRACT OR P.O. EXECUTED
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

PART G - DBE QUOTED BUT NOT SELECTED

WHO QUOTED, BUT WERE NOT SELECTED	TYPE OF WORK QUOTED	REASON NOT SELECTED
		<input type="checkbox"/> Quote too high
		<input type="checkbox"/> Quote too low
		<input type="checkbox"/> Other (Please attach explanation)
		<input type="checkbox"/> Quote too high
		<input type="checkbox"/> Quote too low
		<input type="checkbox"/> Other (Please attach explanation)
		<input type="checkbox"/> Quote too high
		<input type="checkbox"/> Quote too low
		<input type="checkbox"/> Other (Please attach explanation)

MCOE 0188 (DBE1)

4. Quote too high
 Quote too low
 Other (Please attach explanation)
 5. Quote too high
 Quote too low
 Other (Please attach explanation)
 6. Quote too high
 Quote too low
 Other (Please attach explanation)
 7. Quote too high
 Quote too low
 Other (Please attach explanation)
 8. Quote too high
 Quote too low
 Other (Please attach explanation)
 9. Quote too high
 Quote too low
 Other (Please attach explanation)
 10. Quote too high
 Quote too low
 Other (Please attach explanation)

NUMBER OF DBES SOLICITED _____

All DBEs who quoted, but who were not chosen to work on this contract, are to be included below:
 Attach copies of quotes of all DBEs who quoted but who were not selected.
 Attach copies of quotes from the non-DBE selected to do work quoted by the DBEs listed below.
 Attach copies of proof of payments to DBEs on any other projects mentioned in cover letter.

METHODS USED TO SOLICIT DBE PARTICIPATION FOR THIS PROJECT:

Incomplete applications will be returned without review. Once all required information is submitted, the GFE Committee will review your request.

Fax (Sample of the fax, transmittal log, identifying each DBE firm solicited based on each fax number and the appropriate telephone toll-free number. Please do not fax DBE firm numbers.)
 Telephone (Telephone log showing the name of each DBE firm contacted, the telephone contact date, and brief notes about each contact as appropriate.)
 Mail (Documentation: include a sample letter and include solicitations which were returned undeliverable.)
 E-mail (Attach E-mail copy sent and distribution list.)
 Website address _____
 Advertisement placed in: _____ (Attach copy of advertisement(s) referencing specific letting items and dates.)
 Attendance at events(s) sponsored by MCOE's DBE program (person name(s)/title(s)) _____
 Other (describe, and if applicable, attach sample copy) _____
 A cover letter describing relevant facts MCOE should consider in making a determination is included.

The cover letter includes a statement that subcontractors were asked to try to obtain DBE participation as a lower tier subcontractor, and contains the outcome of these efforts.
 For post-award Good Faith Effort Applications, the cover letter details the reasons a post-award modification is needed.
 The cover letter certifies that the Michigan Unified Certification Program (MUCP) Web site was used to search DBEs who work in the county where the contract is located. The MUCP Web site is located at: www.michigan.gov/DBE
 The cover letter includes whether the contractor used summary for the respective job was used to help identify DBEs. Cost summaries are published on the MCOE Web site and are available upon request from MCOE's Office of Business Development.
 Include the first page of the results of your targeted MUCP search using the cost summary and county.

PART H - CERTIFICATION

SIGNATURE (Authorized Representative) _____ TITLE _____ DATE _____

Please review the application to ensure it is completed in entirety and then submit to: Michigan Department of Transportation, Office of Business Development, P.O. Box 30000, 425 West Ottawa, Lansing, Michigan 48909 Phone: (517) 373-2377

DBE Expectations

- **Regular review of MDOT letting items**
- **Proactively bidding as prime/sub contractors**
- **Responsive to Prime contractor solicitations**
- **Responsibly managing company work flow/schedule**

Prime Contractor Expectations

- **Best effort to utilize DBE contractors**
- **Document DBE solicitation efforts**
- **Be open to using a variety of DBEs**
- **Use a variety of methods to solicit DBEs**
- **Make sub-contracting decisions with consideration of the DBE participation requirement for the project**

GFE Committee Members

- **DBE Administrator, OBD (Chair)**
- **Engineer of Highway Development or designee**
- **Engineer of Highway Delivery or designee**
- **Contract Services Division Administrator or designee**
- **Construction and Technology Division Administrator or designee**
- **One Region Engineer or designee**
- **Section Manager, OBD**

GFE Committee Considerations

- **DBEs solicited**
- **DBE quotes versus non-DBE quotes**
- **Types of work made available by Prime contractor for sub-contracting**
- **Amount of work being performed by Prime contractor**
- **Efforts of non-DBE sub-contractors to supply DBE participation**

Decisions and Next Steps

- **Approved**
 - Project is awarded and DBE goal is adjusted
- **Denied**
 - Contractor may appeal the decision
 - Project awarded to next “low bidder”

GFE Appeals Committee

- **Office of Business Development (vacant)**
- **Bureau of Finance and Administration, Bureau Director or designee**
- **MDOT Chief Operations Officer or designee**
- **MDOT Chief Deputy Director or designee (vacant)**

Appeal Committee Actions

- **Approve and award project to Prime contractor**
- **Deny and award project to next “low bidder”**

DBE Supportive Services

**Candice Braddock, Outreach Analyst
Office of Business Development**

Supportive Services

- **Annual DBE Conferences**
- **Workshops**
- **MDOT Partners**
- **Call Services**
- **Networking and Technical Sessions**
- **DBE Technicians**
- **FHWA, FTA and FAA Goal Reporting**

DBE Project Monitoring, CUF and Forms

Reidar Keating & Alicia Cisneros
Field Services, OBD, Lansing

Commercially Useful Function Regulation

49 CFR , Part 26.55

Department of Transportation

Michigan.gov Home | MUCP Home | Contact MUCP | MUCP Help

MICHIGAN MUCP
Unified Certification Program

News & Events

- [EATRAN RFP for Architectural and Engineering Services](#)
- [The State of Michigan Bid System](#)
- [Clinton Area Transit System Product & Service Quote Request](#)
- [Fraud and Abuse Hotline](#)
- [New DBE Link For AERO Advertisements/Projects](#)
- [more news...](#)

Important Links

- [NAICS Definitions](#)
- [Small Business Administration\(SBA\) Size Standards](#)
- [Wayne County Division of Human Relations](#)
- [Detroit Department of Transportation](#)
- [more links...](#)

Download Forms

The application must be mailed or physically delivered to one of the [Certifying Agencies](#). The application must be signed and notarized. The application must also be complete and include all of the supportive documentation. The application includes a checklist to use to ensure your application is complete and can be processed.

Important Note:

All forms are in PDF format and require Adobe Acrobat Reader to view and print. This software is provided free of charge and you may download the latest version by clicking on the "Get Acrobat Reader" button.



Want your business to be certified?

- [Learn how](#)
- [Download forms](#)

Forms

To download a form, RIGHT-CLICK on the form's name, then specify a location where you want to save the form on your local computer.

These forms require a signature, notary and date after printing. All forms must be printed and mailed to one of the [Certifying Agencies](#) for processing.

Attention Wayne County applicants, please read [Attention All DBE Applicants](#) before applying.

Form	Last Revised
MDOT DBE APPLICATION (use if sending to MDOT)	04/01/2009
MUCP DBE CERTIFICATION APPLICATION	04/01/2009
Annual DBE Renewal Affidavit	04/13/2010
Program Procedures 2009	07/10/2009
49CFR Part 26 Federal DBE Program Regulations	01/19/2005
DBE Supplier Question and Answer Brochure	06/20/2005
MUCP DBE CERTIFICATION APPLICATION (Spanish)	04/01/2007

Meeting the CUF Standard

- **The DBE executes the work, carries out the contract requirements**
- **The DBE negotiates price, determines quantities and quality**
- **The DBE pays for materials and supplies needed to finish the contract**

A CUF Requires the DBE to:

- **Manage**
- **Supervise**
- **Perform**
 - **The essential work as required in the contract.**

When the CUF Standard is Not Met

- **Regular movement of employees between contractors**
- **DBE employees paid by the Prime**
- **DBE using Prime contractors equipment**
- **Prime deducting payment from the DBE for equipment**
- **Supervision of DBE employees by another contractor**

When the CUF Standard is Not Met

- **DBE provides little or no supervision**
- **DBE not aware of status of the job**
- **Materials for DBE ordered, or paid for, by the Prime**
- **Two-party checks delivered by the Prime**
- **DBE works for one contractor**
- **Work volume beyond the DBE's capacity**

Monitoring and Project Administration

The Blue Sheet (and any attachments) are electronically forwarded to the project office and the information on the sub-contractors is entered into the Construction Contract Inquiry system on MDOT's Web site.

Monitoring and Project Administration

GENERAL CONTRACT LEVEL INFORMATION FOR CONTRACT: 30011-79838

Project(s):	102693A 103052A 79838A 90369A	Federal Project:	STP 0830(012)
Contractor:	Bailey Excavating, Inc.	Letting Date:	09/05/2008
Proj Engr:	N/A	Date Awarded:	11/14/2008
Proj Engr Phone:	N/A	Work Began:	11/18/2008
Proj Engr Fax:	N/A	Current Completion date:	09/19/2011
Resi Engr:	N/A	Work Completed:	N/A
Managing Off:	N/A	Date Accepted:	N/A
Location:	M-49 from Silver Street to State Street	ADM Brd Approval:	09/23/2008
Description:	Streetscape enhancement work.	Orig Contract Amt:	\$7,855,803.03
Surety:	Guarantee Company of North America	Auth Contract Amt:	\$8,020,385.81
Bond Number:	10052697	Percent Complete:	99.96

Contract	To Date
Total Earnings	\$8,016,853.09
Material Allowance	\$0.00
Gross Earnings	\$8,016,853.09
Retainage	\$0.00
Net Earnings	\$8,016,853.09

For questions or problems, contact:

Connie Kern 517-335-2318

[email: kernc@michigan.gov](mailto:kernc@michigan.gov)

| [Search Again](#)

Monitoring and Project Administration

DBE Commitment Summary for Contract: 30011-79838

Contractor:	Bailey Excavating, Inc.
Award Value:	\$7,855,803.03
DBE Participation %:	10.00 DBE % as modified: 5.15
Location:	At four locations

DBE Vendor Name	Work Class	Work Class Narrative	Original Commitment Amount	Current Commitment Amount	Subcontract Value
B. N & M Trucking Company	TBR	Ashp/Petrl Prod-Dealer	\$5,424.90		\$0.00
Martin J. Concrete, Inc.	J	Concrete C, C&G, Driveways, Sidewalks	\$362,601.29		\$362,601.29
C & S Carriers, Inc.	RJ	Trucking Heavy Construction Materials	\$29,855.17		\$0.00
Hamlin Trucking, Inc.	RJ	Trucking Heavy Construction Materials	\$6,438.00		\$0.00

For questions or problems, contact:

DBE Field Services via 866-323-1264 or

Nick Sundberg at SundbergN@michigan.gov or 517-241-4806.

| [Search Again](#)

Monitoring and Project Administration

SUBCONTRACT SUMMARY FOR CONTRACT: 30011-79838

Contractor: Bailey Excavating, Inc.
Surety: Guarantee Company of North America
Location: M-49 from Silver Street to State Street
Description: Streetscape enhancement work.

Seq No	Parent Sub No	Sub Vendor	Sub Vendor Name	Received Date	Approved Date	Sub Status	DBE/WBE	SubCont Value
001		00529	Michigan Paving and Materials Company	11/18/2008	N/A			\$1,390,054.65
002		00996	L & L Construction Company, Incorporated	11/18/2008	N/A			\$39,968.10
003		02136	Poco Sales, Inc.	11/24/2008	N/A			\$26,290.04
004		01684	P.K. Contracting, Inc.	12/10/2008	N/A			\$123,000.56
005		04094	Martin J. Concrete, Inc.	12/29/2008	N/A		DBE	\$362,601.29
006		05636	Terry Asphalt Materials Inc.	12/29/2008	N/A			\$1,876,394.14
007		03949	Chapman's Nursery and Landscaping, Inc.	12/29/2008	N/A			\$15,821.00
008		08012	Testing Engineers & Consultants, Inc.	12/29/2008	N/A			\$47,600.00
009		05757	Marx Contracting, Inc.	12/29/2008	N/A			\$74,575.00
010		05377	Zimmerman & Sons Electric LLC	01/15/2009	N/A			\$49,900.00
011	05377	03303	J. Ranck Electric, Inc.	03/13/2009	N/A			\$9,960.00
012	05636	07091	Strawser Construction Inc.	05/11/2009	N/A			\$194,763.57
013	00529	03171	Gerken Paving, Inc.	07/01/2009	N/A			\$26,915.92
014		04861	J & J Contracting, Inc.	07/02/2009	N/A			\$23,286.50
015	00529	05184	Cadillac Asphalt, L.L.C.	07/02/2009	N/A			\$8,582.00

For questions or problems, contact:

[Roger Mullins](#): work 517-241-3755 cell 517-243-2491

or [Susan Long](#): 517-373-7325.

Fax Number: 517-241-1454.

For insurance questions, contact [Roxanne Wilkins](#): 517-373-9966.

[Search Again](#)

Monitoring and Project Administration

- **No DBEs are to be removed or substituted on projects without the approval of:**
 - **The MDOT project office**
 - **Contract Services Division of the Bureau of Finance and**
 - **the Office of Business Development (OBD).**

Monitoring and Project Administration

Michigan Department
of Transportation
0196 (07/10)

REQUEST TO REPLACE A DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR 26.53 provides that a prime may not terminate for convenience an approved DBE working on a federally-assisted contract. MDOT must be notified immediately of a DBE's inability to perform any or all of its work and the Primes intent to obtain a substitute DBE. Primes are required to make a good faith effort to replace a DBE that is unable to perform, with another DBE. The substitute DBE must be approved by the Project Manager and Contract Services Division prior to starting work.

Once approved, this DBE must be included on the *Prime Contractor/Consultant Statement of DBE Subcontractor Payments, MDOT Form 0165*.

The replacement DBE can not work on the contract until its work eligibility has been confirmed and required subcontracts, supply, trucking commitments, or other services have been approved by the department.

Submit the original, signed copy of this form to the MDOT Project Manager for review, approval and submittal to Contract Services Division. A copy of this form MUST be provided at the same time to the MDOT Office of Business Development via fax (517) 335-0945 or Email at MDOT-DBE@michigan.gov

DBE FIRM BEING REPLACED	DOLLAR VALUE COMMITTED TO THIS DBE \$	WORK PERFORMED TO DATE \$	CONTRACT NO./AUTHORIZATION NO.
REASON THIS DBE IS BEING REPLACED:			PRIME CONSULTANT
			PRIME EMAIL ADDRESS
			PRIME PHONE
			PRIME CONTACT PERSON
			ADVERTISED DBE GOAL %
			MODIFIED DBE GOAL (if applicable) %
			IF THE DBE BEING REPLACED SUBCONTRACTED WITH A LOWER TIER SUB, NAME THE "PARENT" SUBCONTRACTOR:

DBE CONTACT PERSON NAME

REPLACEMENT DBE FIRM NAME

ADDRESS	CITY	STATE	ZIP CODE
PHONE NUMBER	EMAIL ADDRESS		

FULLY DESCRIBE THE TYPE OF WORK, SUPPLY**, OR SERVICE THIS REPLACEMENT DBE WILL PERFORM

DBE credit may be claimed only for types of work in which the DBE firm is both certified and, if required, prequalified. DBE work classification eligibility can be confirmed using the Michigan Unified Certification Program (MUCP) Web site at www.michigan.gov/MUCP, and the MDOT vendor/consultant services website.

DOLLAR AMOUNT OF SUBCONTRACT OR PURCHASE ORDER	IF THIS FIRM IS ACTING AS A SUPPLIER/REGULAR DEALER, 60% OF PURCHASE ORDER VALUE IS
--	---

ACKNOWLEDGED BY

By signing this replacement form, we certify that the DBE firm is MDOT-certified as a DBE, and, if prequalification is required, is prequalified in the types of work to be performed.

DBE AUTHORIZED SIGNATURE	TITLE	DATE
PRIME VENDOR AUTHORIZED SIGNATURE	TITLE	DATE

*DBE Truckers MUST be approved by the MDOT Office of Business Development prior to working on the contract: fax trucking form 4101 to (517) 335-0945.

** DBE Suppliers MUST list supplies/materials to be provided, including cost to be charged for each supply/material. (Attach a separate sheet if necessary). Regular dealers: the cost of materials MUST include the delivery charge. This total cost of materials plus delivery is then multiplied by 60% and listed in the appropriate space above.

Monitoring and Project Administration

- **The project office should record its observations of a DBE's work in the Inspector's Daily Report (IDR).**
- **Equipment must belong to the DBE and have the DBE's name on it.**
- **A DBE can lease from an equipment leasing company or, for trucking participation, from another trucking company for a 1-to-1 match with its own trucks.**
- **A DBE is not allowed to lease equipment from the Prime contractor or the contractor for which it is working on the project.**

Monitoring and Project Administration

- **The DBE must manage its own work, which includes supervising its own crew with its own supervisor, ordering and placing any materials associated with its work items, etc.**
- **The DBE must have its own crew.**
 - **There should be no overlap of employees with other contractors on the project.**

Monitoring and Project Administration

- **The project office should ensure that the primes submit the required Prime Contractor Bi-Weekly Statement of DBE Subcontractor Payments or the Quarterly MDOT Form # 0164 as applicable.**
- **The project office should enforce the submittal of Form #2124 or #0164 just as it would the submittal of certified payrolls.**

Michigan Department
Of Transportation
2124 (07/10)

PRIME CONTRACTOR BI-WEEKLY STATEMENT OF DBE SUBCONTRACTOR PAYMENTS

Information required in accordance with 49 CFR part 26.37 (as detailed in the prompt payment provisions to monitor the progress of the prime contractor in meeting contractual DBE obligations.)

SEE INSTRUCTIONS ON REVERSE

PRIME CONTRACTOR	CONTROL SECTION	JOB NUMBER
------------------	-----------------	------------

BI-WEEKLY PERIOD PENDING:	PROJECT COMPLETION
FINAL ESTIMATE	

CERTIFIED SUBCONTRACTOR, TRUCKER, SUPPLIER OR SERVICE PROVIDER	SERVICES/WORK CLASSIFICATION	TOTAL SUB CONTRACT AMOUNT	CUMULATIVE DOLLAR VALUE OF SERVICES COMPLETED	DEDUCTIONS	ACTUAL AMOUNT PAID TO DATE	DBE AUTHORIZED SIGNATURE AT PROJECT COMPLETION AND FINAL ESTIMATE ONLY	DATE

As the authorized representative of the above prime contractor, I state that to the best of my knowledge, this information is true and accurate.

CONTRACTORS AUTHORIZED REPRESENTATIVE (Signature)	TITLE	DATE
---	-------	------

FOR THE MICHIGAN DEPARTMENT OF TRANSPORTATION USE ONLY

COMMENTS

RESIDENT/PROJECT ENGINEER (Signature)	DATE
---------------------------------------	------

INSTRUCTIONS

PRIME CONTRACTOR or AUTHORIZED REPRESENTATIVE:

This statement reports the actual dollar amounts of the project cost earned by and paid to DBE subcontractors. Complete and submit a signed copy to the Resident/Project Engineer on a bi-weekly basis during the course of the project. This form must also be submitted 60 days after project completion, and 20 days after the engineer's submission of the final payment estimate.

For "*Control Section*" and "*Job No.*" Use the numbers assigned by MDOT.

For "*Services/Work Classification*", report services performed by the subcontractor, listed by work classification code. A list of work classification codes is available at www.michigan.gov/mucp.

For "*Total Subcontract Amount*", report total amount of the contract between the prime contractor and the subcontractor.

For "*Deductions*", report deductions made by the prime contractor to the subcontractor's "*Cumulative Dollar Value of Services Completed*" for bond or other fees, materials, services or equipment provided to the subcontractor according to mutual, prior agreement (documentation of such agreement may be required by MDOT).

For "*Actual Amount Paid to Date*", report cumulative actual payments made to the subcontractor for services completed.

Provide "*DBE Authorized Signature*" on the project completion and final estimate reports.

Be sure to sign, title and date this statement.

MDOT RESIDENT/PROJECT ENGINEER:

Please complete the "*Comments*" area, sign, date and fax to 517-335-0945 or email to mdot-paymentstatements@michigan.gov within 7 days of receipt from prime.

MDOT Office of Business Development
P.O. Box 30050
Lansing, Michigan 48909
Questions about this form? Call Toll-free, 1866-DBE-1264

Monitoring and Project Administration

The Project Engineer should compare the names of the DBEs and their payments listed on the 2124 (or 0164) to ensure that the information corresponds with:

- **The DBEs listed on the Blue Sheet.**
- **The types of work listed on the Blue Sheet.**
- **The phases of the project in which the DBEs are supposed to be working and getting paid.**
- **The history of pay estimates released, etc.**

Monitoring and Project Administration

- **If there are any deductions listed on the 2124 (or 0164), the project office will ask the Prime contractor what was deducted.**
- **Primes holding retainage are in violation of the MDOT Prompt Payment Special Provision 03SP 109(A) in the project proposal.**

Monitoring and Project Administration

- **Once the 2124 (or 0164) is reviewed and determined to be acceptable, it is to be signed and a signed copy is to be forwarded to the OBD's Lansing office.**
- **The OBD reports this information to FHWA on a semi-annual basis.**

Monitoring and Project Administration

Prime contractors are to submit MDOT Form #1386 (Post Certification of Subcontract Compliance) as their projects come to a close. Some projects will be audited by MDOT Contract Services Division.

POST CERTIFICATION OF SUBCONTRACT COMPLIANCE

INSTRUCTIONS: Contractor complete and retain original form. Submit copy of form to Engineer for filing.
Submittal of this form is required before release of retainage for those projects let prior to January 2006.

CONTRACT ID	CONTRACT AMOUNT (ORIGINAL)	DBE % REQUIREMENT
--------------------	-----------------------------------	--------------------------

I, _____ of _____ do hereby certify that I have complied with all State and Federal requirements pertaining to subcontracting, including but not limited to the following:

- A. The Prime Contractor has performed not less than 40 percent of the original contract amount unless changed by special provision.
- B. The Prime Contractor has used only prequalified subcontractors (whether or not a subcontract is required) unless there was no prequalified category.
- C. The subcontractors have performed not less than 50 percent of the total value of the subcontract amount with the subcontractor's own organization.
- D. The Prime Contractor has met the project specific D.B.E. participation level requirement or received written approval for a good faith effort modification or waiver from MDOT's Office of Business Development.
- E. The Prime Contractor has used the designated subcontractors indicated on the Designated and Specialty sheet.
- F. All required subcontracts were properly executed and signed prior to any subcontract work beginning.
- G. The Prime Contractor has maintained all required insurances and bonds throughout the life of the contract.
- H. The subcontractor and the sub-subcontractor were prequalified, when applicable, in all work classes that were subcontracted or sub-subcontracted.

Work Types not Requiring Subcontracts

Delivery of Materials*	Delivery of Traffic Control Devices*	Broker Trucking*
Pavement Sweeping	Destructive Testing of Materials	Concrete Pumping

*This type of work will not impact the 60% maximum allowable for subcontracting calculation. All other work will impact the 60% maximum allowable for subcontracting.

Work types not requiring subcontracts if the amount of work does not exceed 5% of the prime contract amount or exceed \$20,000, which ever is less. These items will require prequalified subcontractors, and be calculated into the 60% maximum subcontracting amount.

Flagging Operations	Tree Removal	Video Taping Pipes
Stay in Place Forms	Post Tensioning of Beams	Saw Cutting
Shear Developers	Sealing Bridge Joints	Bump Grinding
Cold Milling		Heat Straightening

Sub To Sub	Work Not Performed by Prime Contractor		*See below
	Work Performed by (Including sub to sub work) If sub to sub also check box on left (see example below)	Original Amount	Final Amount Paid
1		\$	\$
2		\$	\$
3		\$	\$
4		\$	\$
5		\$	\$
6		\$	\$
7		\$	\$
8		\$	\$
9		\$	\$
10		\$	\$
11		\$	\$
12		\$	\$
	Total	\$	\$
	Total Page 3	\$	\$
	Grand Total		
Percentage of actual DBE work performed (See Additional comments on page 2)			

*Please indicate the final amount paid or the amount that will ultimately be paid.

Sub To Sub	Work Not Performed by Prime Contractor		*See below
	Work Performed by (Including sub to sub work) If sub to sub also check box on left	Original Amount	Final Amount Paid
1		\$	\$

Exceptions to any of the subcontract requirements and an explanation for the exceptions should be noted below.

Additional Comments:

If some or all of the DBE % requirement was met through Delivery of Materials, please indicate how the DBE percentage was attained. If the DBE % requirements was not attained, please indicate the reason.

This post certification shall be signed by an authorized representative of the Prime Contractor

SIGNATURE

DATE

PRINT NAME

PRINT TITLE

Sub To Sub	Work Performed by (Including sub to sub work) If sub to sub also check box on left	Original Amount	Final Amount Paid
13		\$	\$
14		\$	\$
15		\$	\$
16		\$	\$
17		\$	\$
18		\$	\$
19		\$	\$
20		\$	\$
21		\$	\$
22		\$	\$
23		\$	\$
24		\$	\$
25		\$	\$
26		\$	\$
27		\$	\$
28		\$	\$
29		\$	\$
30		\$	\$
31		\$	\$
32		\$	\$
33		\$	\$
34		\$	\$
35		\$	\$
36		\$	\$
37		\$	\$
38		\$	\$
39		\$	\$
40		\$	\$
41		\$	\$
42		\$	\$
43		\$	\$
44		\$	\$
45		\$	\$
46		\$	\$
47		\$	\$
48		\$	\$
49		\$	\$
50		\$	\$
51		\$	\$
52		\$	\$
53		\$	\$
54		\$	\$
55		\$	\$
56		\$	\$
Total This Page			

Monitoring and Project Administration

If a DBE fails to perform a CUF or if a Prime or other contractor on the project fails to meet its obligations under the DBE regulations and/or contract provisions (49 CFR Part 26), this should be reflected in Item A, #5 of their respective Contractor Performance Evaluations (MDOT Form #1182W), with descriptive comments given at the end of the form.

	C. Work Performance
	8. To what degree does the Contractor have good safety practices? Does the Contractor follow their own safety program?
	9. To what degree did the Contractor comply with contract requirements for maintaining traffic?
	10. If applicable, to what degree does the Contractor meet the contract requirements for Contractor Quality Control (CQC)?
	11. To what degree does the Contractor provide a quality product?
	12. To what degree does the Contractor properly notify and coordinate work with utility companies, railroads, property owners, local unit of government, and Contractor's working on adjacent projects?
	13. To what degree does the Contractor submit the necessary documentation to permit timely closeout and finaling of project?
	14. To what degree does the Contractor meet the environmental requirements of the contract?
	D. Subcontractor Management
	15. To what degree does the Contractor coordinate work with subcontractor's work, exercise authority over subcontractors, provide notice of subcontractor's work schedule and ensure that subcontractors are in compliance with contract requirements?

ADDITIONAL COMMENTS:

SUBMITTED BY RATER (Print Name)	MANAGING OFFICE
RATER'S SIGNATURE	DATE
DELIVERY/PROJECT ENGINEER SIGNATURE	DATE
TSC MANAGER'S SIGNATURE	DATE

Project Monitoring and Enforcement

Questions?

Contact:

Tonya Doyle-Bicy, Lansing Field Services Manager

Phone: 866-323-1264

E-mail: doyle-bicyt@michigan.gov

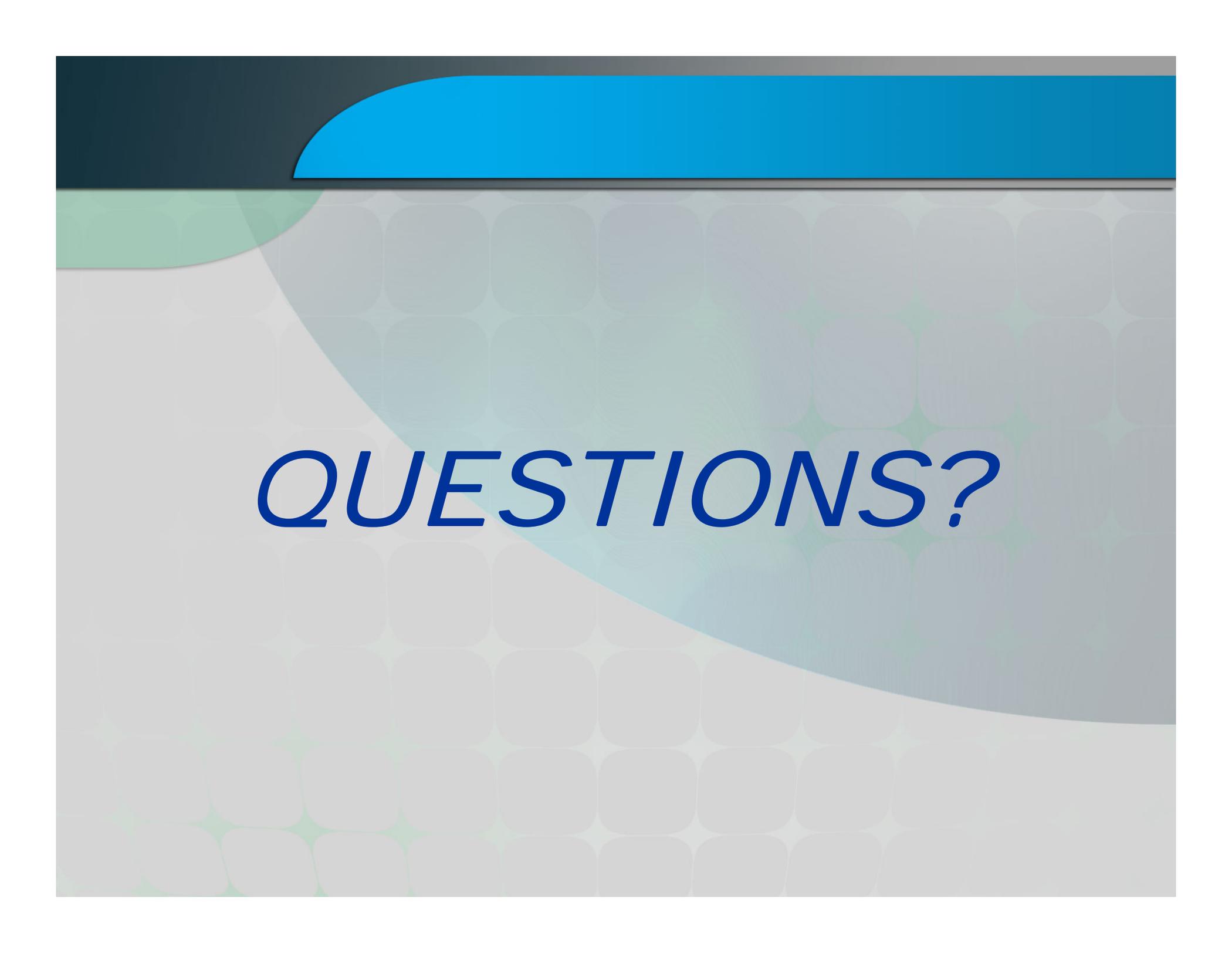
**Bay, Grand, North, Southwest, Superior and University
Regions**

Frank Adams, Metro Field Services Manager

Phone: 866-323-4009

E-mail: adamsf@michigan.gov

Metro Region



QUESTIONS?

THANK YOU

