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HUB Subcontracting Plan (HSP) and DBE Contract Provisions

2024 PEPS Conference

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Presentation Topics

1

HUB Subcontracting Plan
Tricia Litchfield, TxDOT

2

DBE Contract Provisions
Billy Connolly, TxDOT

3

Questions and Answers

HUB Subcontracting Plan (HSP)

Historically Underutilized Business (HUB) Program

Promotes full and equal business opportunities for small, minority- and women-owned businesses to contract with the State

- Companies interested in doing business with the State are encouraged to become HUB certified.



HUB Program

Additional Information



- Eligibility Requirements, Rules and Regulations
- HUB Application, Forms, HUB Directory
- Centralized Master Bidders List and HUB Search
- Training Resources
 - HSP Completion Overview

HUB Forms

- **Exhibit H-2:** HUB Subprovider Commitment Agreement

- Work Authorizations(WAs)
- Specific Deliverable (SD) Contracts without WAs

- **Exhibit H-4:** Sub Provider Final Report
- **Exhibit H-6:** Sub Provider Monthly Progress Assessment Report (PAR)
- **Form 2579:** TxDOT Monthly HUB HSP Progress Compliance Form

Electronically generated

HUB Forms

HUB Subprovider Commitment Plan (HSP)

- Texas Comptroller of Public Accounts form - document subcontracting participation. (HUB & non-HUB)
 - Part of the proposal package
 - demonstrates good faith effort
 - becomes part of the contract

Form 2580 HSP Change Request –

- Required to Update HSP



HUB Forms



HUB Subcontracting Plan (HSP)

Rev. 2/17

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

HSP Common Errors

Incorrect Method/Sections completed

Section 4: Affirmation is not signed

**Section 2 Subcontracting Opportunity Item # and Description do
Not match item listed in Section A-1**

Firm legal name not used

Texas Certified HUB, Yes or No, is not selected

Texas VID # blank or incorrect


Expected % of contract value blank

HSP Common Errors

Incorrect Method, Sections, and the responses

The Quick Checklist includes Four Options available

- Use this section as a quality review checklist

 **HUB Subcontracting Plan (HSP)**
QUICK CHECKLIST
Rev. 2017

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

➤ If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:

- ☐ Section 1 - Respondent and Requestion Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors
- ☐ Section 2 c. - Yes
- ☐ Section 4 - Affirmation
- ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

➤ If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:

- ☐ Section 1 - Respondent and Requestion Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- ☐ Section 2 c. - No
- ☐ Section 2 d. - Yes
- ☐ Section 4 - Affirmation
- ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

➤ If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:

- ☐ Section 1 - Respondent and Requestion Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
- ☐ Section 2 c. - No
- ☐ Section 2 d. - No
- ☐ Section 4 - Affirmation
- ☐ GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.

➤ If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:

- ☐ Section 1 - Respondent and Requestion Information
- ☐ Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
- ☐ Section 3 - Self Performing Justification
- ☐ Section 4 - Affirmation

HSP Common Errors

Affirmation is not signed, response Non-Compliant

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature Printed Name Title Date (mm/dd/yyyy)



SIGN

HSP Common Errors

Subcontracting Opportunity Item # and Description do Not match Section A-1

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%

SECTION A-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment:

Item Number: Description:

HSP Common Errors

Firm legal name, Check Yes or No, Expected % of Contract

SECTION A-2: SUBCONTRACTOR SELECTION

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- Use Firm legal name
- Do Not include 'To Be Determined'

- Include a check for Yes or No
- Include correct VID or Federal EIN
- Include 'Expected % of Contract'

HSP Revisions

When should the HSP be revised?

For **any** subcontracting change

Examples

- Adding HUB Subprovider
- Name change
 - HUB Subprovider acquired
- HUB Subprovider certification expired

Required Documents:

- Form 2580
 - HSP Change Request Form
- Revised HSP

HSP Revisions

If a HUB Subprovider's certification expires

The Prime can...

- Move the remainder of the % to an existing HUB
- Assign a different task to an existing HUB
- Look for a new HUB to fulfill the remainder
 - if another HUB can't be found, the documentation is the same as when they first looked for Subproviders



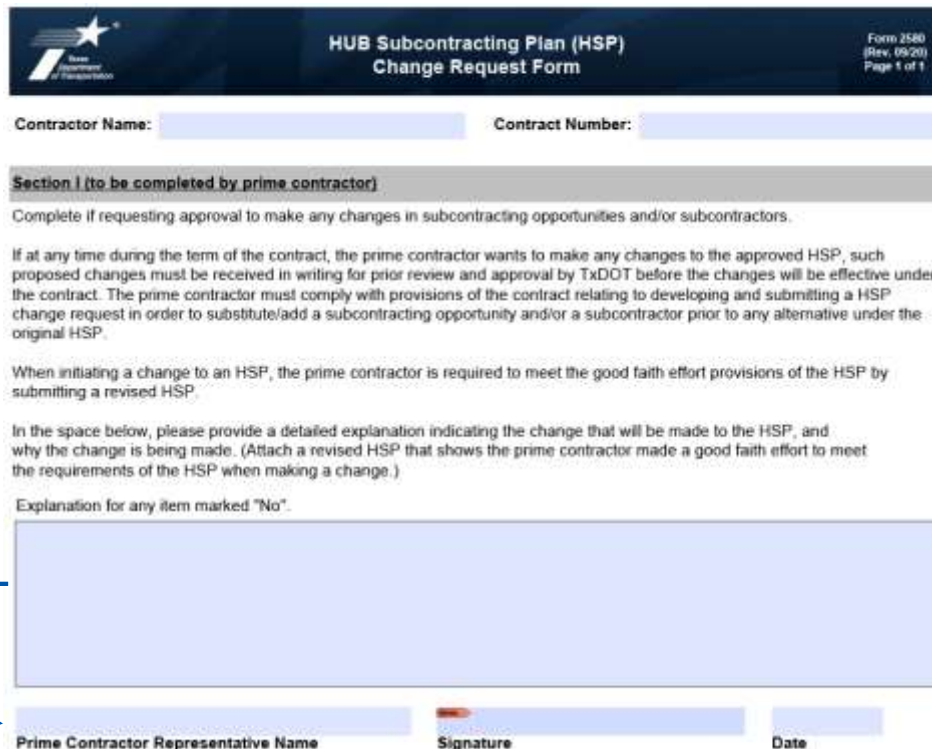
If the Prime does not meet their HUB goal, a detailed explanation must be submitted and include all documentation of their efforts.

HSP Revisions: Form 2580

Change Request Form

Include:

- Firm legal names used
- What is changing and Why
- Include original commitment percentage and the progress made towards the commitment
- Sign and Date



**HUB Subcontracting Plan (HSP)
Change Request Form**

Form 2580
(Rev. 09/20)
Page 1 of 1

Contractor Name: _____ Contract Number: _____

Section I (to be completed by prime contractor)

Complete if requesting approval to make any changes in subcontracting opportunities and/or subcontractors.

If at any time during the term of the contract, the prime contractor wants to make any changes to the approved HSP, such proposed changes must be received in writing for prior review and approval by TxDOT before the changes will be effective under the contract. The prime contractor must comply with provisions of the contract relating to developing and submitting a HSP change request in order to substitute/add a subcontracting opportunity and/or a subcontractor prior to any alternative under the original HSP.

When initiating a change to an HSP, the prime contractor is required to meet the good faith effort provisions of the HSP by submitting a revised HSP.

In the space below, please provide a detailed explanation indicating the change that will be made to the HSP, and why the change is being made. (Attach a revised HSP that shows the prime contractor made a good faith effort to meet the requirements of the HSP when making a change.)

Explanation for any item marked "No".

Prime Contractor Representative Name

Signature

Date

HSP Revisions: Scenario 1

Firm was HUB certified when contract was executed but HUB Certification has expired.

Applies to HUBs that graduate from the program.

- List the firm twice in section 2A of the HSP for each task assigned
 - First listing: check Yes for HUB, include adjusted "Expected Percentage of Contract". The % of work completed through to the end of the fiscal year.
 - Second listing: check No for HUB, include adjusted percentage
 - Reassign to a current HUB

HSP Revisions: Scenario 1 Example

SECTION A-2: SUBCONTRACTOR SELECTION

Original HSP

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
Company ABC, Inc.	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	12345678999	\$	5 %
Engineering EFG Consult, LLC	<input type="checkbox"/> - Yes <input checked="" type="checkbox"/> - No	77773337773	\$	1 %
XYZ Company, Inc.	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	45454545454	\$	3 %

Revised HSP: the % change should be reassigned to another HUB

Company ABC, Inc.	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	12345678999	\$	2 %
Company ABC, Inc.	<input type="checkbox"/> - Yes <input checked="" type="checkbox"/> - No	12345678999	\$	3 %
Engineering EFG Consult, LLC	<input type="checkbox"/> - Yes <input checked="" type="checkbox"/> - No	77773337773	\$	1 %
XYZ Company, Inc.	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	45454545454	\$	3 %

HSP Revisions: Scenario 2

Firm is sold, Vendor Identification Number/Name changes, Acquirer is Not HUB certified. Only get credit prior to the change.

SECTION A-2: SUBCONTRACTOR SELECTION

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
Company ABC, Inc.	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	12345678999	\$	2 %
ABCD Engineering, LLC (formerly Company ABC, Inc.)	<input type="checkbox"/> - Yes <input checked="" type="checkbox"/> - No	56789567891	\$	3 %

HSP Revisions: Scenario 3

**Firm is sold, the Vendor Identification Number and Name changes.
Acquirer is HUB certified.**

No interruption to the HUB goal.

SECTION A-2: SUBCONTRACTOR SELECTION

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
Company ABC, Inc.	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	12345678999	\$	2 %
ABCD Engineering, LLC (formerly Company ABC, Inc.)	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No	56789567891	\$	3 %

HSP Revisions Reminders



- Reassign the tasks to other HUBs on the contract
- All tasks listed in the HSP are possible tasks that can be assigned to HUB Subproviders
- Notify the TxDOT PM as soon as you are aware of any changes

TIPS: Completing the HSP



- Plan in advance
 - Allow HUB Subproviders seven-day response period
- Research
- Ask Questions
- Quality Review

DBE Contract Provisions

DBE Defined



- *Disadvantaged Business Enterprise or DBE* means a for-profit small business concern—
- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged; and
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.



Home / Business / Construction, architectural and technical consultants / Additional requirements for contractors with PEPS

HUB or DBE subcontracting goals

HUB goals

Different than DBE goals, Historically Underutilized Business (HUB) Program goals are implemented statewide, and there is an individual goal for each spending category that TxDOT must meet on a yearly basis: heavy construction, building construction, special trade construction contracts, professional services contracts, other services contracts, and commodities contracts. Any contracts or purchases with businesses actively certified as a HUB will count towards the goal for the appropriate spending category.

DBE goals

Disadvantaged Business Enterprise (DBE) Program participation goals are set on all federally funded projects to encourage contracting with DBE-certified small businesses. Contracting with DBE-certified firms on a project with a DBE participation goal will count as participation towards that goal. All prime contractors awarded a contract with a DBE participation goal are required to meet the goal or document evidence of good faith efforts.

Compliance

After a contract has been awarded, your firm's project manager will be required to report on HUB or DBE activity during the life of the contract to maintain compliance with the State and Federal laws. Reference your contract Attachment H Provisions which outlines the compliance requirements. Additional information on the requirements can be found in 43 TAC Part 1, Chapter 9, [Subchapter J](#) (5) and [Subchapter L](#), (5).

Laws, rules, and regulations

- [Texas Government Code 2101.05](#)
- [49 CFR Part 23.05](#)
- [49 CFR Part 26.05](#)

HUB and DBE directories

- [Centralized Member Rosters List - HUB Directory Search](#) (5)
- [Texas Unified Certification Program \(TUCP\) DBE Directory](#) (5)

PEPS resources for HUB and DBE utilization compliance

- [Roles and responsibilities - subprovider utilization - HUB](#)
- [Roles and responsibilities - subprovider utilization - DBE](#)
- [Contract Attachment H - subcontracting \(HUB\)](#)
- [Contract Attachment H - subcontracting \(DBE\)](#)
- [Subprovider utilization report template](#)
- [Subprovider utilization report template how to use video](#) (5)
- [Manage active contracts with PS-CAMS](#)
- [Attachment H frequently asked questions](#)
- [PEPS 2022 conference presentation - HUB and DBE updates and FAQs](#)
- [PEPS 2021 conference presentation - HUB and DBE Presentation and Handout](#)



PEPS resources for HUB and DBE utilization compliance

- [Roles and responsibilities - subprovider utilization - HUB](#)
- [Roles and responsibilities - subprovider utilization - DBE](#)
- [Contract Attachment H - subcontracting \(HUB\)](#)
- [Contract Attachment H - subcontracting \(DBE\)](#)
- [Subprovider utilization report template](#)

Provider Requirement 1



- Opportunity to compete fairly
- Federal regulation definition of DBE
- TxDOT's DBE program

Provider Requirement 2



- Discrimination language
- Include in all subcontracts

Provider Requirement 3



- Pay all subproviders promptly
- Required by federal regulations
- Required by Texas regulations

Provider Requirement 4



- Comply with 49 CFR Part 26

Provider Requirement 5



- Report subprovider payments
- Use PEPS reporting system
- Every month, even if \$0.00

Provider Requirement 6

- Comply with TxDOT DBE program
- Requirements, processes, procedures



Provider Requirement 7



- Make a Good Faith Effort (GFE) to meet the contract DBE goal
- H-1 Subcontracting Plan
- Execute the plan

Provider Requirement 8



- Cooperate promptly to requests
- Audits, reviews, investigations, etc.

Failure to Comply with Requirements



The State may:

- Terminate contract
- Deduct DBE amount not accomplished
- Other remedies

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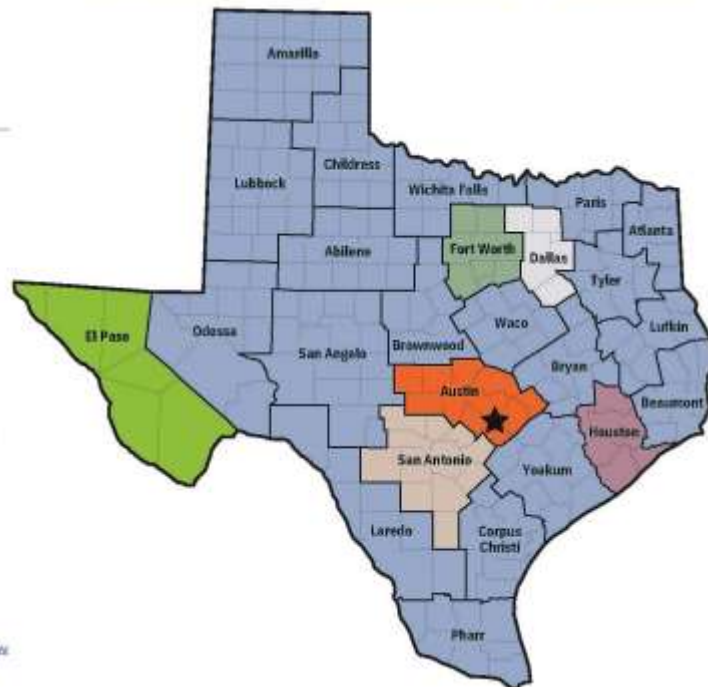
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