

Resources Topics – DBE & HUB Compliance – 2021 PEPS Conference

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**DBE NAICS Codes
for Standard Work Categories**

Work Category No.	Category Name	Applicable Disadvantaged Business Enterprise (DBE) NAICS Work Codes
1.1.1	Policy Planning	541330 or 541320
1.2.1	Systems Planning	541330
1.3.1	Subarea/Corridor Planning	541330
1.4.1	Land Planning/Engineering	541330
1.5.1	Feasibility Studies	541330
1.6.1	Major Investment Studies	541330
1.7.1	Traffic Demand Modeling	541330
1.8.1	Public Involvement	541820 or 541330
2.1.1	Traffic Noise Analysis	541330 or 541620
2.2.1	Air Quality Analysis	541330 or 541620
2.3.1	Wetland Delineation	541330 or 541620
2.3.2	Conditional/Functional Assessment	541330 or 541620
2.4.1	Nationwide Permit	541330 or 541620
2.4.2	Clean Water Act Sec. 404 Permits	541330 or 541620
2.4.3	U.S. Coast G. & U.S. Army Corps Of Engr. Permits	541330 or 541620
2.5.1	Geological Assessment for Edwards Aquifer Recharge Zone	541330 or 541360 or 541620
2.6.2	Impact Evaluation Assessments	541330 or 541620
2.6.4	Biological Evaluations/Assessments	541330 or 541620
2.7.1	Sec. 4(F)/6(F) Evaluations	541330 or 541620
2.7.2	Historic Sites Sec. 4(f) Evaluations	541330 or 541620 or 541310
2.10.1	Archaeological Surveys, Doc., Excavation, Testing Rpts	541330 or 541620
2.12.1	Socio-Economic and Environmental Justice Analysis	541330 or 541620
2.13.1	Hazardous Materials Initial Site Assessment	541330 or 541620
2.14.1	Environmental Document Preparation	541330 or 541620
2.15.1	Historical Research of Extant Bldgs, Struct, Landsc., & Obj.	541310 or 541620
2.15.2	Historical Surveys & Doc. of Bldgs, Struct, Landsc., & Obj.	541310 or 541620
3.2.1	Route Studies & Schematic Design	541330
4.2.1	Roadway Design	541330
4.4.1	Freeway Interchanges	541330
4.5.1	Constructability Review	541330
4.6.1	3-D Design Visualization Services	541330 or 541340
5.2.1	Bridge Design	541330
5.3.1	Multi-Level Interchange Design	541330
5.5.1	Bridge & Non-Bridge Class Culvert and Inlet Design	541330
6.1.1	Routine Bridge Inspection Team Leader	541330
6.1.2	Routine Bridge Inspection Project Manager	541330
6.2.1	Complex Bridge Inspection Team Leader	541330
6.2.2	Complex Bridge Inspection Project Manager	541330
6.3.1	Tunnel Inspection Team Leader	541330
6.3.2	Tunnel Inspection Project Manager	541330
6.4.1	Underwater Bridge Inspection Team Leader	541330
6.5.1	Non-Destructive Testing	541330 or 541380
7.1.1	Traffic Engineering Studies (Traffic Counting 541990)	541330
7.3.1	Traffic Signal Timing	541330
7.4.1	Traffic Control Systems Analysis, Design & Implementation	541330
7.5.1	Intelligent Transportation System	541330
8.1.1	Signing, Pavement Marking & Channelization	541330
8.2.1	Illumination	541330
8.3.1	Signalization	541330
8.4.1	ITS Control Systems Analysis, Design & Implementation	541330
8.6.1	Rail-Highway Design	541330
9.1.1	Bicycle & Pedestrian Facility Development	541330
10.1.1	Hydrologic Studies	541330
10.2.1	Roadway Hydraulic Design	541330
10.3.1	Bridge Hydraulic Design	541330

**DBE NAICS Codes
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Work Category No.	Category Name	Applicable Disadvantaged Business Enterprise (DBE) NAICS Work Codes
10.4.1	Storm Water Pump Station-Hydraulic Design	541330
10.4.2	Pump Stations-Electrical	541330
10.4.3	Pump Stations-Structures	541330
10.5.1	Bridge Scour Evaluations And Analysis	541330
10.6.1	Coastal Hydraulic Design	541330
10.7.1	Riverine Hydraulic Design	541330
10.8.1	FEMA Regulations and Permits	541330
11.1.1	Roadway Construction Management And Inspection	541330
11.2.1	Bridge Construction Management And Inspection	541330
11.3.1	Construction Superintendent	541330
11.4.1	Environmental Inspections	541330 or 541620
11.5.1	Construction Scheduling Project Manager	541330
11.6.1	Construction Schedule Support- General	541330
11.7.1	Construction Schedule Support- Relating to Scheduling of Roadway Design	541330
11.8.1	Construction Schedule Support- Relating to Construction Management of Projects Including Bridges or Multi-level Interchanges	541330
12.1.1	Asphaltic Concrete Production	541330 or 541380
12.1.2	Portland Cement Concrete	541330 or 541380
12.1.3	Materials Engineering	541330 or 541380
12.1.4	Asphaltic Concrete Placement	541330 or 541380
12.1.5	Portland Cement Concrete Placement	541330 or 541380
12.1.6	Embankment/Subgrade/Backfill/Base Production	541330 or 541380
12.1.7	Embankment/Subgrade/Backfill/Base Placement	541330 or 541380
12.2.1	Plant Inspection And Testing	541330 or 541380
12.3.1	Coatings Inspection and Material Testing Project Manager	541330 or 541380
12.3.2	Coatings Inspection and Material Testing Task Leader	541330 or 541380
14.1.1	Soil Exploration	541330 or 541380
14.2.1	Geotechnical Testing	541330 or 541380
14.3.1	Transportation Foundation Studies	541330 or 541380
14.4.1	Building Foundation Studies	541330 or 541380
14.5.1	Evaluation & Design of Geotechnical Related Structures	541330 or 541380
15.1.1	Right of Way Surveys	541370
15.2.1	Design Survey	541330 or 541370
15.2.2	Construction Survey	541330 or 541370
15.3.1	Aerial Photogrammetry	541370
15.3.2	Terrestrial Photogrammetry	541370
15.3.3	Terrestrial LiDAR	541370
15.3.4	Mobile and Airborne LiDAR	541370
15.3.5	Horizontal and Vertical Control	541370
15.5.1	State Land Surveying	541370
16.1.1	Architecture	541310
16.2.1	Building and Facilities Architecture	541310
16.3.1	Landscape Architecture	541320
17.1.1	Structural Engineering	541330
17.2.1	Mechanical Engineering	541330
17.3.1	Plumbing Engineering	541330
17.4.1	Electrical Engineering	541330
17.5.1	Civil Engineering	541330
17.6.1	Hazardous Building Materials Assessment (Asbestos)	541330 or 541620
17.6.2	Hazardous Building Materials Assessment (Lead)	541330 or 541620
18.2.1	Subsurface Utility Engineering	541330
18.3.1	Utility Adjustment Coordination	541330 or 541618
18.4.1	Utility Engineering	541330
18.5.1	Utility Construction Management and Verification	541330
18.6.1	Utility Management & Coordination Oversight	541330

**DBE NAICS Codes
for Standard Work Categories**

Work Category No.	Category Name	Applicable Disadvantaged Business Enterprise (DBE) NAICS Work Codes
19.1.1	Value Engineering	541330
Services used to support work done under the precertification work categories		
Support	Drilling and Coring Services (for Engineering services)	541330
Support	Boring, Core Drilling, Foundation Drilling, and Soil Test Drilling	238910
Support	Materials Testing (for Engineering services)	541330
Support	Materials Testing (for testing laboratories)	541380
Support	Traffic Control - Flagging	561990
Support	Traffic Control - Sign erection, highway, road, street or bridge	237310
Support	Traffic Counting	541330 or 541990
Non-listed categories (NLC)		
NLCs	NLC - for Engineering	541330
NLCs	NLC - for Materials Testing	541330 or 541380
NLCs	NLC - for Non-engineering, Non-architecture, Non-surveying	To Be Determined
Standard Non-Listed Categories (NLC)		
Std. NLC	GIS and Data Analysis	541330 or 541360 or 541370
Std. NLC	Traffic Operational Analysis	541330
Std. NLC	Traffic Safety Analysis	541330
Std. NLC	Structural Engineering for Overhead Sign Supports	541330
Std. NLC	Non-Destructive Testing for Common & Specialized Structures	541330 or 541380
Std. NLC	Assessment and Preservation of Common Bridge Types	541330
Std. NLC	Assessment and Preservation of Specialized Structures	541330
Std. NLC	Active Transportation Planning	541330 or 541320
Std. NLC	Pedestrian Facility Design	541330 or 541320 or 541310
Std. NLC	Accessibility Design	541330 or 541320
Std. NLC	Bikeway Design	541330 or 541320 or 541310
Std. NLC	Railroad Coordination Management During Construction	541330
Std. NLC	Construction Record Keeper	541330
Std. NLC	Prefabricated Structural Materials Fabrication Plant Inspection & Testing	541330 or 541380
Std. NLC	Precast Concrete Fabrication Plant Inspection & Testing	541330 or 541380
Std. NLC	Structural Steel Fabrication Plant Inspection & Testing Technician	541330 or 541380
Std. NLC	Hot Mix Asphalt (HMA) Fabrication Plant Inspection & Testing	541330 or 541380
Std. NLC	Coatings Inspection Task Leader	541330 or 541380
Std. NLC	Materials Testing Task Leader	541330 or 541380
Std. NLC	Cathodic Protection Task Leader	541330 or 541380
Std. NLC	Pavement Design Services	541330
Std. NLC	Pavement Evaluation	541330
Std. NLC	Rail Route and Design Studies	541330
Std. NLC	Rail Infrastructure Analysis	541330
Std. NLC	Rail Infrastructure Project Development	541330
Std. NLC	Rail Traffic Management Systems	541330
Std. NLC	Rail Construction Management	541330
Std. NLC	Interior Design	541310 or 541410
Std. NLC	Electrical Engineering	541330
Std. NLC	Telecommunication and Data Network Design	541330
Std. NLC	Utility Relocation Design	541330
Std. NLC	Financial Plan Review & Development (Design-Bid-Build)	541330 or 523930
Std. NLC	Ferry Vessel Analysis, Design, and Inspection	541330
Std. NLC	Structural Engineering for Buildings, Facilities, and Infrastructure Supporting Marine Shore-Side Functions	541330
Std. NLC	Civil Engineering for Buildings, Facilities, and Infrastructure Supporting Marine Shore-Side Functions	541330
Std. NLC	Electrical Engineering for Buildings, Facilities, and Infrastructure Supporting Marine Shore-Side Functions	541330
Std. NLC	Plumbing Engineering for Buildings, Facilities, and Infrastructure Supporting Marine Shore-Side Functions	541330

**DBE NAICS Codes
for Standard Work Categories**

Work Category No.	Category Name	Applicable Disadvantaged Business Enterprise (DBE) NAICS Work Codes
Std. NLC	Hydrodynamic Modeling	541330
Std. NLC	Hydrographic Survey	541330 or 541370
Std. NLC	Right of Way (ROW) Acquisition Services	531210 or 531390
Std. NLC	Right of Way (ROW) Acquisition Services Project Management	531210 or 531390
Std. NLC	Right of Way (ROW) Appraisal Services	531320
Std. NLC	Right of Way (ROW) Negotiation Services	531210 or 531390
Std. NLC	Relocation Assistance Services	531210 or 531390
Std. NLC	Condemnation Support Services	531210 or 531390
Std. NLC	Disposal of Property Services	531210 or 531390
Std. NLC	Owner Verification Testing and Inspection-Project Manager	541330 or 541380
Std. NLC	Chief Inspector	541330
Std. NLC	Owner Verification – Laboratory Manager	541330 or 541380
Std. NLC	QA/QC Process Verification for OVTI	541330
Std. NLC	Alternate Delivery Procurement Manager	541330
Std. NLC	Alternative Delivery Design & Construction Support Engineer	541330
Std. NLC	Operations and Maintenance Support	541330
Std. NLC	Debt-based and Equity- based Traffic and Revenue Studies (Engineering)	541330 or 523930
Std. NLC	Debt-based and Equity- based Traffic and Revenue Studies (Planning)	541330 or 523930
Std. NLC	Debt-based and Equity-based Traffic and Revenue Studies (Modeling and Forecasting)	541330 or 523930
Std. NLC	Traffic Projections	541330
Std. NLC	Debt-based and Equity- based Traffic and Revenue Studies (Management)	541330 or 523930
Std. NLC	Alternative Delivery Cost Estimator	541330 or 541990
Std. NLC	Document Control Using the Electronic Content Management System (ECMS)	541330
Std. NLC	Project Finance Support	541330 or 523930
Std. NLC	Claims Analysis and Management	541330
Std. NLC	General Engineering Consultant (GEC) Project Services (Contract Project Manager)	541330
Std. NLC	Public Involvement for Alternative Delivery Projects	541820 or 541330
Std. NLC	Plan Review	541330
Std. NLC	QA/QC Process Verification	541330
Std. NLC	Project Office Operations	541330
Std. NLC	Operations and Maintenance (O&M) Project Manager (PM)	541330
Std. NLC	Financial Plan Review and Development	541330 or 523930
Std. NLC	Maintenance Cost Estimating	541330
Std. NLC	Operation and Maintenance (O&M) Assessment	541330
Std. NLC	Operation and Maintenance (O&M) Inspection	541330
Std. NLC	Operations and Maintenance Program Support	541330
Std. NLC	Structural Inspection and Assessment	541330
Std. NLC	Toll Elements Inspection and Assessment	541330
Std. NLC	Toll Facilities Inspection and Assessment	541330
Std. NLC	Toll Plaza Design	541330
Std. NLC	Toll Plaza Construction Management	541330
Std. NLC	Toll Plaza System Inspection	541330
Std. NLC	Toll Traffic Impacts-Engineering Analysis	541330
Std. NLC	Toll Traffic Impacts-Planning Analysis	541330
Std. NLC	Toll Operations Planning Analysis	541330
Std. NLC	Toll Operations Data Analysis	541330

ATTACHMENT H - Subcontracting

Professional Services Contracts with Federal-Aid Disadvantaged Business Enterprise (DBE) Provisions

1. **PURPOSE**

The purpose of this Attachment is to carry out the U.S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT assisted contracts.

2. **DEFINITIONS**

Commercially Useful Function (CUF). A CUF occurs when a DBE firm has the responsibility for the execution of the work and carrying out such responsibilities by actually performing, managing, and supervising the work.

Commitment. The commitment to utilize subproviders for services that have been identified in Exhibit H-1 of the contract.

Department. Refers to the Texas Department of Transportation (TxDOT).

Disadvantaged Business Enterprise (DBE). A for-profit small business certified through the Texas Unified Certification Program in accordance with 49 CFR Part 26, that is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of a publicly owned business, in which is at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the individuals who own it.

District/Division (DIST/DIV). The TxDOT DIST/DIV that utilizes services on a Work Authorization (WA) under a PEPS contract.

DOT. The U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Federal-Aid Contract. A contract between the Texas Department of Transportation and a provider which is paid for in whole or in part with U. S. Department of Transportation (DOT) financial assistance.

Good Faith Effort (GFE). All necessary and reasonable steps to achieve the contract goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation. The GFE is evaluated during the contract selection process, and throughout the performance of the contract. For guidance on GFEs, reference 49 CFR Part 26, Appendix A that can be found at: **Appendix A to Part 26 – Guidance Concerning Good Faith Efforts** can be found at:

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=89e2ad7ca1f866b3cd088e2c6a007f6d&mc=true&n=pt49.1.26&r=PART&ty=HTML#ap49.1.26.0000_0nbspnbspnbsp.a

Subpart C—Goals, Good Faith Efforts, and Counting

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=89e2ad7ca1f866b3cd088e2c6a007f6d&mc=true&n=sp49.1.26.c&=SUBPART&ty=HTML>

North American Industry Classification (NAICS): Work codes used to identify types of services that the provider or subprovider has been approved to perform. THE approved NAICS codes are listed in the TUCP directory. (See PEPS Precertified Work Categories below for a link to the PEPS Precertified Work Categories and corresponding NAICS codes.)

The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau website: <http://www.census.gov/eos/www/naics/>.

PEPS Precertified Work Categories. TxDOT's precertified work categories for Professional Services. For a complete list of precertified work categories, including the corresponding NAICS codes are published at: <http://ftp.dot.state.tx.us/pub/txdot/ppd/dbe-naics-codes.pdf>

Professional Engineering Procurement Services (PEPS) Division Service Center (SC). The PEPS SC that is responsible for the administration of the contract. A map and contact information for PEPS SCs can be found at: <http://ftp.dot.state.tx.us/pub/txdot/ppd/service-centers-map.pdf>

For additional resources and information on PEPS, go to the PEPS webpage at: <https://www.txdot.gov/business/consultants/architectural-engineering-surveying.html>

Professional Services – Contract Administration Management System (PS-CAMS). The electronic reporting system used for PEPS Professional Services contracts. The PS-CAMS webpage can be found at: <https://www.txdot.gov/business/consultants/architectural-providering-surveying/managed-contracts.html>

Provider. The prime provider (consultant) firm that has been selected for the contract, and who is responsible for carrying out the terms and conditions as shown in the Articles of the contract.

Provider (Consultant) Portal. The provider portal used for submitting monthly electronic reporting for subprovider services under a PEPS Professional Services contract. Reference the **Professional Services – Contract Management System (PS-CAM)** link shown above.

Race-Conscious DBE Participation. Participation by a DBE firm that performs services to meet the advertised contract goal, and the DBE firm is certified in the NAICS code associated with the particular services. A DBE firm must be shown to be performing a CUF to be counted toward the RNC goal.

Race-Neutral DBE Participation. Participation by a DBE firm that performs services in excess of the advertised contract goal, or that performs services where the DBE firm is not certified in the NAICS code associated with the particular services. A DBE firm must be shown to be performing a CUF to be counted toward the RN goal.

Request for Proposal. Official response proposal submitted to the Department in response to an advertised contract.

State. Refers to TxDOT or the Department.

Statement of Qualifications (SOQ): Official response package submitted to the Department in response to an advertised contract.

Texas Unified Certification Program (TUCP) Directory. An online directory listing all DBEs currently certified by the TUCP. The Directory identifies DBE firms whose participation on a Contract may be counted toward achievement of the assigned DBE Contract goal. The **TUCP Directory** can be found at:

<https://txdot.txdotcms.com/?TN=txdot>

TxDOT Contract Administrator. The TxDOT administrator for the particular contract.

3. POLICY

It is the policy of the DOT and the Texas Department of Transportation (TxDOT), henceforth the "Department" that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, Subpart A and the Department's DBE Program, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. The DBE requirements of 49 CFR Part 26, and the Department's DBE program, apply to this contract as follows:

- a. The provider shall offer certified DBE firms, as defined in 49 CFR Part 26, Subpart A and the Department's DBE program, the opportunity to compete fairly for contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the provider shall make a Good Faith Effort (GFE) to meet the DBE goal for this contract.
- b. The provider and any subprovider(s) that perform and provide services on this contract shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The provider shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. The requirements of this Special Provision shall be physically included in any subcontract.
- c. The provider shall include a completed **Exhibit H-1 Subprovider Commitment Plan**, which lists the commitment plan for all subproviders, including DBE Subprovider(s) that are utilized for services to meet the DBE goal for the contract. This exhibit shall be included and made part of the fully executed contract.
- d. The provider shall include a completed and signed **Exhibit H-2 DBE Subprovider Commitment Agreement** form for each DBE Subprovider performing services on the WA. The Exhibit H-2 shall be signed by the provider and the DBE subprovider. This exhibit shall be included and made part of the fully executed WA.

- (1) The DBE subproviders that will perform services on the WA must be part of Exhibit H-1 of the contract prior to executing a WA.

(2) Any DBE firm termination, substitution, or change in scope or dollar amount of the services to be performed by the DBE firm will require prior written approval by the Department, and a revised and signed **Exhibit H-2 DBE Subprovider Commitment Agreement** form. Any Department approved changes shall include a fully executed supplemental (SA) to the contract and a Supplemental Work Authorization (SWA) to the WA, where applicable.

- e. All subprovider terminations and substitutions shall be submitted according to the instructions in section **11. DBE Terminations and Substitutions** of this attachment.
- f. Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract, or such other remedy as the Department deems appropriate as indicated in the articles of the contract under **Civil Rights Compliance**.

For additional information, reference 49 CFR Part 26 Subpart A §26.13 (b) that can be found at: [DBE Participation Assurances](#)

4. DBE GOAL

The DBE goal is the advertised contract goal for DBE participation for services to be provided on the contract.

5. DETERMINATION OF DBE PARTICIPATION

- 1) A firm must be an eligible DBE and perform a professional or technical function relating to the project. Once a firm is determined to be an eligible DBE, the total amount paid to the DBE for work performed with his/her own forces is counted toward the DBE goal. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subprovider is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- 2) The Department publishes a Directory of Disadvantaged Business Enterprises containing the names of firms that have been certified to be eligible to participate as DBEs on DOT financially assisted contracts. The Texas Unified Certification Program DBE Directory can be found on the at: <https://txdot.txdotcms.com/FrontEnd/VendorSearchPublic.asp>
 - a. Only DBE firms certified at the time the contract is signed will receive DBE goal credit toward the advertised contract goal. Goal credit for DBE firms will only be credited for work performed by a DBE that is certified in the applicable NAICS code for the type of services that they are certified in, and for DBE firms that are shown to be performing a Commercially Useful Function (CUF). Reference section **10. Commercially Useful Function (CUF)** of this attachment for additional information.
 - b. A DBE Subprovider may subcontract no more than 70% of a federal aid contract. The DBE Subprovider shall perform not less than 30% of the value of the contract work with assistance of employees employed and paid directly by the DBE; and equipment owned or rented directly by the DBE.

For more information on DBE compliance, reference the electronic Code of Federal Regulations (CFR) 49 CFR 26.55(c) (4) & (5) that can be found at:

[§26.55 How is DBE participation counted toward goals?](#)

Appendix A:

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3cdf6024d6e55807ad5c8dcca8c2b80&mc=true&n=pt49.1.26&r=PART&ty=HTML#ap49.1.26_1109.a

Title 49 Subtitle A Part 26:

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=89e2ad7ca1f866b3cd088e2c6a007f6d&mc=true&n=pt49.1.26&r=PART&ty=HTML>

6. PROVIDER'S RESPONSIBILITIES

A DBE prime provider may receive credit toward the DBE goal for work performed by their own forces and for work subcontracted to certified DBE subprovider firms who are shown to be performing a CUF.

The Provider shall report all subprovider activities that are performed on the contract (DBE and Non-DBE firms), using the **PEPS Provider Portal**, or an alternative format prescribed by the Department. Reference section **7. Records and Reports** of this attachment for additional information.

- 1) The Provider shall make a GFE to meet the DBE goals, and to meet the commitments made to **ALL** subproviders as indicated in the **Exhibit H-1 Subprovider Commitment Plan** of the contract.
- 2) If the Provider cannot meet the contract goal, in whole or in part, they shall document the GFE taken to obtain DBE participation. Reference section **9. Good Faith Effort** of this attachment for additional information.
- 3) The provider is responsible for appointing a DBE Liaison Officer to administer the provider's DBE program and who will be responsible for the maintenance of all DBE records. The provider shall ensure that the:
 - a. PEPS SC (Contract Administrator) receives the provider's DBE Liaison Officer contact information including name, title, address, phone number and email address are submitted to the PEPS SC (or Division for Division Administered contract) Contract Administrator upon contract execution.
 - b. DBE records, including a list of all Subproviders contacted for this contract; both non-certified and certified DBE Subproviders, as indicated on the **Subprovider Contact Information** form of the SOQ are maintained in the contract files.

- c. Subproviders listed as part of the team as indicated on the **Project Team Coordination (PTC)** form is in alignment with **Exhibit H-1 Subprovider Commitment Plan** of the contract.
- d. Firms identified for contract goal credit are certified DBE firms and that the DBE firms perform a Commercially Useful Function (CUF). (The PEPS SC will perform a CUF review for each DBE firm to ensure compliance. Reference section **10. CUF** of this attachment for additional information.)
- e. Ensure DBE compliance by submitting an electronic monthly **Exhibit H-3 Monthly Progress Assessment Report (PAR)**. The electronic monthly reporting shall be submitted using the provider (consultant) portal. The department may require that contract compliance monthly PARs be submitted by providers in an alternative format prescribed by the Department's representative. A monthly PAR shall be entered into the Department's provider (consultant) portal, even when no work has been performed by subproviders for the month.

Ensure that the information is accurate, and that tracking of data has been verified and available for audit when requested by the Department representative.

Access the provider (consultant) portal at the link shown below.

Manage Active Contracts with PS-CAMS for Professional Services – Contract Administration Management System (PS-CAMS) that can be found at: <https://www.txdot.gov/business/consultants/architectural-providering-surveying/managed-contracts.html>

§26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

https://www.ecfr.gov/cgi-bin/text-idx?SID=b7bd92803703aca89a0b87de529d9ef6&mc=true&node=se49.1.26_125&rqn=div8

For more information on DBE compliance, reference the electronic Code of Federal Regulations (CFR) general reference of all of 49 CFR Subtitle A Part 26 Subpart C at: [Code of Federal Regulations - Title 49- Subtitle A - Part 26](#)

7. RECORDS AND REPORTS

After work begins, the provider shall submit **Exhibit H-3 Monthly PAR** using TxDOT's designated provider (consultant) portal.

- 1) A monthly **Exhibit H-3 Progress Assessment Report (PAR)** is required, even when no subprovider activity has occurred. The monthly PAR shall be submitted electronically each month from contract execution to contract expiration.
- 2) Only actual payments made to subproviders are to be reported. It is the provider's responsibility to notify the designated Department contact if payment to any DBE or non-DBE subprovider is withheld or reduced, along with a written explanation to support the reason for withholding or reducing the payment.
- 3) An **Exhibit H-4 Subprovider Final Report** is required prior to final payment on the contract.
- 4) Proof of payment, such as copies of canceled checks, properly identifying the Department's contract number or project number may be required to substantiate the payment, as deemed necessary by the Department.
- 5) Before receiving final payment from the Department, the provider shall reconcile all data entry into the electronic reporting system. If the DBE goal requirement is not met, documentation of the GFE made to meet the goal must be submitted to the PEPS SC prior to final payment on the contract. Reference section **9. GFE** of this attachment for additional information.
- 6) All records must be retained for a period of seven (7) years following final payment or until any investigation, audit, examination, or other review undertaken during the seven (7) years is completed, and shall be available at reasonable times and places for inspection by authorized representatives of the Department or the DOT.

8. COMPLIANCE

To ensure that DBE requirements of this DOT assisted contract are complied with, the Department will monitor the provider's efforts to involve DBEs during the performance of this contract.

- 1) This will be accomplished by a review of monthly PAR reports entered by the provider using the electronic portal as identified in section **7. Records and Reports** of this attachment for additional information. It will also be accomplished by compliance reviews conducted by the Department.
- 2) The provider shall receive credit toward the DBE goal based on actual payments to the DBE Subproviders with the following exceptions and only if the arrangement is consistent with standard industry practice.
 - a. The provider shall contact the Department if he/she withholds or reduces payment to any DBE Subprovider. The following reasons may be evaluated by TxDOT, along with supporting documentation from the provider:
 - b. A DBE firm is paid but does not assume contractual responsibility for performing the service;
 - c. A DBE firm does not perform a CUF;

- d. Payment is made to a DBE that cannot be linked by an invoice or canceled check to the contract under which credit is claimed;
- e. Partial credit is allowed, in the amount of the fee or commission provided the fee or commission does not exceed that customarily allowed for similar services, for a bona fide service, such as professional, technical, consultant, or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract.

9. GOOD FAITH EFFORT

The provider shall make all reasonable efforts to honor commitments as indicated, in **Exhibit H-1 Subprovider Commitment Plan** for ALL subproviders, including DBE subproviders for services to be provided under the contract.

- 1) The provider shall not terminate or substitute a DBE Subprovider named in **Exhibit H-1 Subprovider Commitment Plan** of the contract, or **Exhibit H-2 Subprovider Commitment Agreement** of the Work Authorization without prior written approval from the TX DOT Contract Administrator.
- 2) The provider shall submit a written request to the TxDOT Contract Administrator for review and approval. The written request shall include written notification to the DBE subprovider that the provider proposes to terminate or substitute, along with detail documentation for the reasons to support the termination or substitution.
 - a) The provider shall allow the DBE subprovider five (5) days to respond to the written to the written notification to terminate or substitute the DBE subprovider.
 - b) All documentation shall be submitted as attachments to the written request for a DBE termination or substitution for evaluation by the TxDOT Contract Administrator.
- 3) If the Provider cannot meet the contract goal, in whole or in part, they shall document the "Good Faith Effort" procedures taken to obtain DBE participation as stated and defined in 49 CFR Part 26, Appendix A. Reference Appendix A at the following link for a list of acceptable actions for a GFE: [Appendix A to Part 26 - Guidance Concerning Good Faith Efforts](#)
- 4) The provider must not cause or allow subproviders to bid their services.
- 5) The provider shall coordinate with the TxDOT Contract Administrator on all contract compliance. The provider shall:
 - a) Make all reasonable efforts to honor commitments to DBE Subproviders named in the commitment submitted on the PTC form of the SOQ, and as indicated in **Exhibit H-1 Subprovider Commitment Plan** of the contract.
 - b) Where the provider terminates or substitutes a certified DBE Subprovider named in the initial commitment, the provider must demonstrate on a case-by-case basis to the satisfaction of the department that the originally designated DBE was not able or willing to perform.
 - c) Make a GFE to substitute a DBE subprovider that is unable or unwilling to perform the services successfully with another certified DBE that is qualified and approved by the

TxDOT Contract Administrator, to perform the services to the extent needed to meet the contract goal.

- d) Submit written documentation to support the reasons for the termination or substitution, along with a written documentation to support the termination or substitution. A written notification to the DBE firm that is proposed for termination or substitution must be submitted, and the DBE firm shall be given a five (5) day rebuttal period prior to a termination or substitution. All written document shall be submitted to the TxDOT Contract Administrator for review and approval prior to a DBE replacement or substitution.

If approved, the following steps shall be taken prior to the commencement of any services provided by the DBE firm:

- (1) If the replacement or substitution affects the overall contract, the prime provider shall coordinate with the TxDOT Contract Administrator to develop a Supplemental Agreement (SA) to the contract. The SA may include revisions to any or all of the following:
- (a) Attachment C (If applicable, Services to Be Provided by the Engineer).
 - (b) Attachment E – Fee Schedules
 - (i) For Specific Deliverable Contracts, if applicable:
 - 1. Attachment E - Level of Effort and Work Schedule
 - (c) Revised Exhibit H-1
- (2) If the replacement or substitution is specific to the Work Authorization (WA), the prime provider shall coordinate with the TxDOT Contract Administrator, and the TxDOT Project Manager to develop and submit a supplemental WA that shall include revisions to any or all of the following:
- (a) Exhibit C (if the services to be provided by the engineer have changed).
 - (b) Exhibit E – Level of Effort and Work Schedule
 - (c) Deletion of Exhibit H-2 for the DBE subprovider that will not be performing the services
 - (d) Addition of Exhibit H-2 for the new subprovider.
- e) Submit documentation for any proposed DBE termination or substitutions for review and approval to include written documentation of concurrence from the DBE subprovider. Reference section **11. DBE Termination and Substitutions** of this attachment for additional information.
- f) Any and all omissions, deletions, and/or errors that may affect the end result of meeting the assigned DBE goal for the contract is the sole liability of the Provider.
- g) Any certified DBE commitments in excess of the assigned DBE goal are considered race-neutral.

10. COMMERCIALLY USEFUL FUNCTION (CUF)

- 1) Under the terms established in 49 CFR 26.55, a DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

- 2) It is the provider's obligation to ensure that each DBE used on federal assisted contracts performs a CUF on the Contract.
- 3) The Department will monitor performance during the Contract to ensure each DBE is performing a CUF.
 - a. DBE Subproviders must perform a CUF in order for payments to be credited toward meeting the contract goal. A DBE performs a CUF when it is responsible for executing the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.
 - b. A DBE does not perform a CUF when its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. The Department will evaluate similar transactions involving non-DBEs in order to determine whether a DBE is an extra participant.
 - c. If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved, the Department will presume that the DBE is not performing a CUF. When a DBE is presumed not to be performing a CUF, the DBE may present evidence to rebut this presumption.
 - d. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- 4) If the Department determines that a DBE is not performing a CUF, no work performed by such DBE will count as eligible participation. The denial period of time may occur before or after a determination has been made by the Department.
- 5) In case of the denial of credit for non-performance of a CUF, the provider will be required to provide a substitute DBE to meet the contract goal or provide a GFE, when applicable.
- 6) Rebuttal of a Finding of No Commercially Useful Function.
 - a. Consistent with the provisions of 49 CFR 26.55(c)(4)&(5), before the Department makes a final finding that DBE is not performing a CUF, the Department will notify the DBE and provide the DBE the opportunity to provide rebuttal information.
 - b. CUF determinations are not subject to administrative appeal to DOT.

For more information, reference the Texas Administrative Code (TAC) on CUF that can be found at:

[RULE §9.232 Commercially Useful Function](#)

A PEPS DBE CUF Compliance Overview PowerPoint can be found at:
<http://ftp.dot.state.tx.us/pub/txdot/ppd/dbe-cuf-compliance.pdf>

11. DBE TERMINATIONS AND SUBSTITUTIONS

A DBE identified in **Exhibit H-1 Subprovider Commitment Plan** of the contract will not be terminated in whole, or in part, without the Department's approval.

This includes, but is not limited to, instances in which a provider seeks to perform work originally designated for a DBE Subprovider with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Changes to **Exhibit H-1 Subprovider Commitment Plan** will require a Supplemental Agreement to the contract.

- 1) A provider shall submit a written notification to a DBE Subprovider of termination in whole, or in part. The provider must submit a written substitution request to the department's contact person within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the provider. The DBE Subprovider has five (5) calendar days to respond to the provider's written notification of termination, and shall include an explanation to support any objections to the proposed termination, including any information to be reviewed by the department that will support their reasons that they should not be terminated.
- 2) The Department will consider both the providers written request and the DBE Subproviders written response prior to approving the request. The Department may provide a written approval only if it agrees, for reasons stated in its concurrence document, that the provider has good cause to terminate the DBE. If the Department does not approve the request, the provider must continue to use the DBE Subprovider in accordance with the contract.
- 3) When a DBE Subprovider is terminated, the provider is responsible for making a GFE to find, as a substitute for the original DBE, another DBE to perform, at least to the extent needed to meet the established contract goal, the work that the original DBE Subprovider was to have performed under the contract.
- 4) The Department will provide a written determination to the provider stating whether or not good faith efforts have been demonstrated. If the Department determines that good faith efforts were not demonstrated, the provider will have the opportunity to appeal the determination.

For additional information, reference 49 CFR 26.53 that can be found at: [Title 49 Part 26 Subtitle A Subpart C §26.53](#)

12. FALSIFICATIONS AND MISREPRESENTATION

If the Department determines that a provider or Subprovider was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by the Department to be unallowable, or if the provider engages in repeated violations, falsification, or misrepresentation, the Department may:

- a) refuse to count any fraudulent or misrepresented DBE participation;
- b) withhold progress payments to the provider commensurate with the violation;
- c) Reduce the provider's prequalification status;
- d) refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
- e) seek any other available contractual remedy. (includes DBE/HUB compliance documentation)

13. REVIEWS- AUDITS

The Department may conduct reviews or audits of participants as necessary. All participants, including, but not limited to, DBEs and complainants using DBE Subproviders to meet the Contract goal, are required to:

- 1) Cooperate fully and promptly with compliance reviews, investigations and other requests for information.
- 2) A provider's failure to comply with the requirements of the DBE Provisions of the contract, and this Attachment, shall constitute a material breach of this contract. In such a case, the Department reserves the right to:
 - a. terminate the contract;
 - b. deduct the amount of DBE goal not accomplished by DBEs from the money due or to become due the provider, or
 - c. other remedy or remedies as the Department deems appropriate.

Attachment H Exhibits

The following Exhibits are required and part of the federally funded contract:

- **Exhibit H-1 Subprovider Commitment Plan:** Completed when the contract is developed and then becomes part of the executed contract.
- **Exhibit H-2 DBE Subprovider Commitment Agreement**
 - **Specific Deliverable Contracts with/without Work Authorizations (WAs):** Completed when a contract is developed and then becomes part of the executed contract.
 - **Indefinite Deliverable Contracts:** Completed when a Work Authorization (WA) is developed and then becomes part of the executed WA. If no DBE Subproviders are used, insert N/A (not applicable) on the line provided on the H-2 form, and include it as part of the executed WA.
- **Exhibit H-2 (2nd Tier):** This is a continuation of Exhibit H-2 when there is a 2nd Tier subprovider to a subprovider. The entire Exhibit H-2 must be completed when using Exhibit H-2 (2nd Tier).
- **Exhibit H-3 Subprovider Monthly Progress Assessment Report:** Submitted electronically using TxDOT's electronic reporting system through provider (consultant) portal. The electronic report must be submitted monthly, even if there is no invoice being submitted or subcontracting to report. A sample copy of the Exhibit H-3 that will be generated electronically is attached for reference.
- **Exhibit H-4 Subprovider Final Report:** Generated from TxDOT's electronic reporting system. This report shows the accumulative total of all data entered into TxDOT's electronic reporting system through the provider (consultant) portal for the contract. This report shall be verified to ensure that all monthly reports have been submitted electronically under the contract. This report shall also be used for a final assessment of DBE activities for the contract. A sample copy of the electronically generated form is attached for reference.

For information on obtaining a User ID, and Instructions for using TxDOT's electronic reporting system, go to the **TxDOT Professional Services – Contract Administration Management System (PS-CAMS)** webpage [Manage Active Contracts with PS-CAMS](#)

**EXHIBIT H-2
(Federally Funded - DBE Goal)
Texas Department of Transportation
Subprovider Commitment Agreement**

This Exhibit must be completed and attached to each WA or Specific Deliverable (SD) contract for all Disadvantaged Business Enterprise (DBE) subproviders. If a Supplemental Agreement (SA) to the WA or SD contract is issued, then this form must be deleted and replaced for all subprovider services that are affected by the SA. **ONLY complete this form for DBE subproviders that are providing services for the WA or SD contract.**

Provider Name:		WA No.		SWA No.	
Contract Goal %:		WA Amount:			
WA DBE Total %:		SWA Amount:			
Revised WA DBE Total %:		Revised WA Amount:			

Description of Work <small>(List by category of work or task description. Attach additional pages, if necessary.)</small>	Dollar Amount <small>(For each category of work or task description listed.)</small>
Total Commitment Amount for Subprovider <small>(Including all additional pages.)</small>	\$ -

IMPORTANT: The signatures of the, the DBE and Second Tier Subprovider (if applicable), and the total commitment amount must always be on the same page. *(Certified Electronic Signature Accepted)*

Provider Name:		Name: _____ <i>(Please Print)</i>
Vendor ID No:		
Address:		
Phone No:		
Email:		
Subprovider Certification Status:	DBE: <input type="checkbox"/> HUB: <input type="checkbox"/> expire date: _____	Signature _____ Date _____
Subprovider Name:		Name: _____ <i>(Please Print)</i>
Vendor ID No:		
Address:		
Phone No:		
Email:		
		Signature _____ Date _____

The Vendor ID number must match the number shown on Exhibit H-1 of the contract. If a subprovider is not part of the contract, an SA to the contract will be necessary prior to utilizing the services from the subprovider.

The following section applies to a Second Tier Subprovider only, otherwise delete (in the WA).	
Exhibit H-2 for Second Tier Subprovider:	
If a Second Tier subprovider is used by a DBE subprovider, then only a DBE or DBE Second Tier subprovider services will count toward the DBE goal. If a Second tier subprovider does not have a VID Number, they will use either the owner's Social Security or their Federal Employee Identification Number (if incorporated).	
Description of Work <small>(For each category of work or task description listed.)</small>	Dollar Amount <small>(For each category of work or task description listed.)</small>
Total Commitment Amount for Subprovider <small>(Including all additional pages.)</small>	\$ -

IMPORTANT: The signatures of the Second Tier Subprovider, if any (both DBE and Non-DBE) and the total commitment for their services must always be on the same page. *(Certified Electronic Signature Accepted)*

Second Tier Subprovider Certification Status:	DBE: <input type="checkbox"/>	HUB: <input type="checkbox"/>		Name: _____ <i>(Please Print)</i> Title: _____ <div style="display: flex; justify-content: space-between; border-top: 1px solid black; border-bottom: 1px solid black; height: 40px;"> </div>
Subprovider Name:				
Vendor ID No:				
Address:				
Phone No:				
Email:				

EXHIBIT H-3
 (Federally Funded - DBE Goal)
 TxDOT Progress Assessment Report

Prime provider enters data using TxDOT's electronic reporting system through provider (consultant) portal of PS-CAMS.
 The electronic report must be entered monthly, even if there is no invoice being submitted or subcontracting to report.
A printed copy of this report is no longer required.

WAs Used _____

Contract No. _____

EXHIBIT H-3
Texas Department of Transportation Subprovider Monitoring System for Federally Funded Contracts
Progress Assessment Report for month of (Mo./Yr.) _____

Contract #: _____

Original Contract Amount: _____

Date of Execution: _____

Approved Supplemental Agreements: _____

Prime Provider: _____

Total Contract Amount: _____

Work Authorization No. _____

Work Authorization Amount: _____

If no subproviders are used on this contract, please indicate by placing "N/A" on the 1st line under Subproviders.

DBE	All Subproviders	Category of Work	Total Subprovider Amount	% Total Contract Amount	Amount Paid This Period	Amount Paid To Date	Subcontract Balance Remaining

Fill out Progress Assessment Report with each estimate/invoice submitted, *for all subcontracts*, and forward as follows:

- 1 Copy with Invoice - Contract Manager/Managing Office
- 1 Copy – TxDOT, BOP Office, 125 E. 11th, Austin, TX 78701, 512-486-5500, toll free 866-480-2518, or Fax to 512-486-5519

I hereby certify that the above is a true and correct statement of the amounts paid to the firms listed above.

_____	_____	_____	_____
Print Name - Company Official /DBE Liaison Officer	Signature	Phone	Date
_____	_____	_____	_____
Email		Fax	

EXHIBIT H-4
(Federally Funded -DBE Goal)
TxDOT Subprovider Monitoring System
Final Report

The Final Report Form is generated from the Monthly Progress Assessment Reports (PARs) that were entered into the provider (consultant) portal of PS-CAMS.

The report should reflect all subprovider activity on the contract and the information must be verified by the prime provider. If the HUB or DBE goal requirements were not met, documentation supporting good faith efforts must be submitted prior to release of final payment.

A printed and notarized copy of this form is no longer required.

WAs Used _____ Contract No. _____

EXHIBIT H-4
Texas Department of Transportation
Subprovider Monitoring System
Final Report

The Final Report Form should be filled out by the Prime Provider and submitted to the Contract Manager and the Business Opportunity Programs Office for review upon completion of the contract. The report should reflect **all subcontract activity** on the project. The report will aid in expediting the final estimate for payment. If the HUB or DBE goal requirements were not met, documentation supporting good faith efforts must be submitted.

DBE Goal: _____% **OR** HUB Goal: _____%

Total Contract Amount: \$ _____ Total Contract Amount: \$ _____

Contract Number: _____

Vendor ID #	Subprovider	Total \$ Amt Paid to Date
TOTAL		

This is to certify that _____% of the work was completed by the HUB or DBE subproviders as stated above.

By: Prime Provider

Subscribed and sworn to before me, this _____ day of _____, **20**

Notary Public _____ County

My Commission expires: _____



Disadvantaged Business Enterprise (DBE) Program Termination Request

Form 4010
(Rev. 09/21)
Page 1 of 2

This form is to be utilized when a contractor seeks to terminate a DBE subcontractor that is being used for DBE goal credit on a federal-aid project, the contractor must notify the DBE subcontractor in writing of the intent to terminate and the reason(s) for such termination. The notice must give the DBE subcontractor five (5) calendar days to respond to the notice and provide reasons, if any, why the DBE subcontractor objects to the proposed termination and why the contractor's request to terminate should not be approved.

Contractor: _____ DBE Firm: _____
Project ID: _____ CSJ: _____ County: _____
DBE Contractor's Committed Amount: \$ _____ or _____%

The contractor may request to terminate an approved committed DBE **only** if the contractor has good cause. Select the good cause reason(s) below. *Check all that apply.*

- The listed DBE subcontractor fails or refuses to execute a written contract.
- The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards.
- The listed DBE subcontractor fails or refuses to meet the contractor's reasonable, nondiscriminatory bond requirements.
- The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
- The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.
- TxDOT or the Contractor have determined that the listed DBE subcontractor is not a responsible contractor.
- The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal.
- The listed DBE is ineligible to receive DBE credit for the type of work required.
- A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
- Other documented good cause: _____

If needed, provide additional comments related to cause(s) selected above:

Did contractor copy TxDOT on the notification sent to the DBE? *If so, provide documentation.* Yes No

Did the DBE provide a response? *If so, provide documentation.* Yes No

Will termination result in a goal shortfall? Yes No If yes, how much? \$ _____

If the termination results in a goal shortfall the contractor must submit evidence of good faith efforts or Substitution Request within 7 days of receiving approval.

Contractor Name: _____ Title: _____
Signature: _____ Date: _____

[Contact/Help](#)



Disadvantaged Business Enterprise (DBE) Program Termination Request

Form 4010
(Rev. 09/21)
Page 2 of 2

For TxDOT Use Only

Verified Notice of Intent to Terminate DBE and TxDOT copied on the notification? Yes No

DBE's response, if applicable:

DECISION:

Approve Reject Reason(s) for Rejection: _____

DDC or Designee Name: _____ Title: _____

Signature:  _____ Date: _____



Disadvantaged Business Enterprise (DBE) Program Substitution Request

Form 4011
(Rev. 09/21)
Page 1 of 2

This form is to be utilized when the contractor seeks to substitute an approved DBE firm with another DBE to be utilized for goal credit. If the contractor intends to terminate the DBE in whole or in part, the contractor must receive approval from TxDOT prior to submitting this form. The appropriate DBE Commitment Agreement form, if applicable, must also be completed in its entirety and submitted with the Substitution Request.

Project ID: _____ CSJ: _____ County: _____ DBE Project Goal: _____ %
 Request Date: _____ Prime Contractor: _____
 Name of Contractor (if DBE is performing as second tier): _____

The proposed DBE firm does not have to perform the same scope of work as the previously approved DBE but must be certified in the appropriate NAICS code to perform the proposed work.

Substitution Explanation

Is this a complete or partial substitution of a previously approved DBE? Complete Partial

If partial, summarize the work remaining under the commitment and the total dollar amount:

Total Dollar Amount Remaining: \$ _____

Summary of Work Remaining:

Shortfall amount due to approved termination: \$ _____

If the substitution results in a goal shortfall, the contractor must submit evidence of good faith efforts.

Has the contractor received payment for the work that was performed by the DBE? Yes No

Has final payment been made to the DBE for the work or services performed? Yes No

If yes: Payment Date: _____ Payment Amount: \$ _____

If no, please explain:

Previously Approved DBE

DBE Name: _____

Work Paid to Date: \$ _____

Bid Item	Work Description	Committed \$ Amount	Add Row
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total:		\$	\$

Proposed DBE

Proposed DBE is: Subcontractor/subconsultant Trucking/Hauling Firm Regular Dealer (60% credit) Manufacturer
 Service Provider or Broker (Fees or Commissions)

DBE Name: _____

Date DBE will begin work: _____

		Add Row
Bid Item	Work Description	Committed \$ Amount
		\$
		\$
		\$
		\$
		\$
Total:		\$

Prime Contractor

Contractor Name: _____ Title: _____

Signature:  _____ Date: _____

Contractor (if DBE is second tier)

Contractor Name: _____ Title: _____

Signature:  _____ Date: _____

[Contact/Help](#)

For TxDOT Use Only

Date Termination Request Approved: _____

Verified termination approval by TxDOT? Yes No

Verified DBE requested removal, if applicable, and documentation received? Yes No Not Applicable

Verified contractor submitted appropriate completed DBE commitment agreement form? Yes No Not Applicable

If the request resulted in a goal shortfall, did the contractor submit evidence of good faith efforts, e.g. Post-Award GFE form? Yes No Not Applicable

DECISION:

Approve Reject Reason(s) for Rejection: _____

DDC or Designee Name: _____ Title: _____

Signature:  _____ Date: _____

ATTACHMENT H - Subcontracting

Professional Services Contracts with State Funding Historically Underutilized Business (HUB) Provisions

A. PURPOSE

The purpose of this Attachment is to carry out the U.S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT assisted contracts.

B. DEFINITIONS

Aspirational Advertised HUB Goal. The statewide goal for solicitations with state funding for HUB goal for Professional Services Contracts as related to the State of Texas Disparity Study, and amendments made due to program updates.

Centralized Master Bidders List - HUB Directory. An online directory listing all HUBs currently certified. The Directory identifies HUB firms whose participation on a Contract may be counted toward achievement of the HUB Contract goal. The **CMBL Directory** can be found at:

<https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>

Commitment. The commitment to utilize subproviders for services that have been identified in Exhibit HSP of the contract.

Contract HUB Goal. The actual contract goal percentage for HUB Subcontracting for a Professional Services contract is determined by the approved Historically Underutilized Business (HUB) Subcontracting Plan (HSP) that was included in the response to the solicitation, and then becomes part of the executed contract.

Department. Refers to the Texas Department of Transportation (TxDOT).

Department's Contract Administrator. Refers to designated Department's Contract Administrator, that is the point of contact, and the representative for the contract.

District/Division (DIST/DIV). The TxDOT DIST/DIV that utilizes services on a Work Authorization (WA) under a PEPS contract.

DOT. The U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Good Faith Effort (GFE). All necessary and reasonable steps to achieve the aspirational goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient HUB participation. The GFE is evaluated during the contract selection process, and throughout the performance of the contract. For guidance on GFEs reference: 34 TAC §20.285(d)(1)(D)(iii)

Historically Underutilized Business (HUB). A business that is certified by the Texas Comptroller of Public Accounts) in accordance with 34TAC, §20.282

Historically Underutilized Business (HUB) Subcontracting Plan (HSP). The Texas Comptroller of Public Accounts form used to document subcontracting participation. (HUB & non-HUB) The

approved HSP becomes part of the executed contract and must be updated during the life of the contract when significant changes to the original subcontracting participation.

PEPS Precertified Work Categories. TxDOT's precertified work categories for Professional Services. A complete list of precertified work categories are published at: http://ftp.dot.state.tx.us/pub/txdot-info/library/pubs/bus/design/attachment_b_precertification.pdf

Professional Engineering Procurement Services (PEPS) Division Service Center (SC). The PEPS SC that is responsible for the administration of the contract. A map and contact information for PEPS SCs can be found at: <http://ftp.dot.state.tx.us/pub/txdot/ppd/service-centers-map.pdf>

For additional resources and information on PEPS, go to the PEPS webpage at: <https://www.txdot.gov/business/consultants/architectural-engineering-surveying.html>

Professional Services Contract Administration Management System (PS-CAMS). The electronic reporting system used for PEPS Professional Services contracts. The PS-CAMS webpage can be found at: <https://www.txdot.gov/business/consultants/architectural-providering-surveying/managed-contracts.html>

Provider. The prime provider (consultant) firm that has been selected for the contract, and who is responsible for carrying out the terms and conditions as shown in the Articles of the contract.

Provider (Consultant) Portal. The provider portal used for submitting monthly electronic reporting for subprovider services under a PEPS Professional Services contract. Reference the **Professional Services Contract Administration Management System (PS-CAM)** link shown above.

Request for Qualifications. Official advertised request for providers to submit their qualifications to be considered for a contract.

State. Refers to TxDOT or the Department.

Statement of Qualifications (SOQ). Official response package submitted to the Department in response to an advertised contract.

C. POLICY

It is the policy of the Department to ensure that HUB firms have an equal opportunity to participate in the performance of contracts; to create a level playing field on which HUBs can compete fairly for contracts and subcontracts; to ensure nondiscrimination on the basis of race, color, national origin, or gender in the award and administration of contracts; to help remove barriers to the participation of HUBs in department contracts; and, to assist in the development of firms that can compete successfully in the market place outside the HUB program.

Consequently, the HUB requirements of the Department's HUB Program apply to this contract as follows:

- (1) The Provider agrees to take all necessary and reasonable steps to meet the HUB goal for this contract.
- (2) The Provider and any subprovider(s) must not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts.
- (3) When submitting the contract for execution by the Department, the Provider must complete and furnish the completed and approved HUB Subcontracting Plan (HSP) which lists the

commitments made to all subproviders, including certified HUB subprovider(s) that are to meet the contract goal. This exhibit shall be included and made part of the fully executed contract.

- (4) Any substitutions or changes to the HSP, in addition to any changes to the original contract award, are subject to prior written approval by the Department. If there are any changes to the subproviders during the contract term, the Provider must furnish a [HSP Change Request Form 2580](#) and revised HSP showing the revised commitment of all subproviders.
- (5) The provider shall include the completed and signed **Exhibit H-2 Subprovider Commitment Agreement** form for each HUB Subprovider performing services on the WA. The Exhibit H-2 shall be signed by the provider and the HUB subprovider. This exhibit shall be included and made part of the fully executed WA.
 - a. The HUB subproviders that will perform services on the WA must be part of HSP of the contract prior to executing a WA.
 - b. Any HUB firm termination, substitution, or change in scope or dollar amount of the services to be performed by the HUB firm will require prior written approval by the Department, and a revised and signed **Exhibit H-2 DBE Subprovider Commitment Agreement** form. Any Department approved changes shall include a fully executed supplemental (SA) to the contract and a Supplemental Work Authorization (SWA) to the WA, where applicable.
- (6) Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract, or such other remedy as the Department deems appropriate as indicated in the articles of the contract under **Civil Rights Compliance**.

D. HUB GOAL

The actual contract goal percentage for HUB Subcontracting for a Professional Services contracts that is determined as shown in the approved HSP that was included in the response to the solicitation, and then becomes part of the executed contract.

E. DETERMINATION OF HUB PARTICIPATION

Texas Comptroller of Public Accounts (CPA) certifies the eligibility of HUBs firms. Once a firm is determined to be an eligible HUB firm, the total amount paid to the HUB subprovider firm for work performed with his/her own forces is counted toward the HUB contract goal.

The CPA maintains a directory of certified HUBs. The HUB Directory is available at the CPA's website (<https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>)

F. PROVIDERS RESPONSIBILITIES

A HUB prime provider firm may receive credit toward the HUB goal for work performed by their own forces if no subproviders will be utilized, and the prime provider has completed SECTION 3: SELF PERFORMING JUSTIFICATION of the HSP.

The Provider shall report all subprovider activities that are performed on the contract (HUB and Non-HUB firms), using the provider (consultant) portal, or an alternative format prescribed by the Department. Reference section **G. Records and Reports** of this attachment for additional information.

- (1) The Provider shall make a GFE to meet the HUB goals, and to meet the commitments made to **ALL** subproviders as indicated in the **Exhibit-HSP** of the contract.
- (2) If the Provider cannot meet the contract goal, in whole or in part, they shall document the GFE taken to obtain HUB participation. Reference section **I. Good Faith Effort** of this attachment for additional information.
- (3) The provider is responsible for appointing a HUB Liaison Officer to administer the provider's HUB program and who will be responsible for the maintenance of all HUB records. The provider shall ensure that the:

- a. PEPS SC (Contract Administrator) receives the provider's HUB Liaison Officer contact information including name, title, address, phone number and email address upon contract execution.
- b. HUB records, including a list of all subproviders contacted for this contract; both non-certified and certified HUB Subproviders, as indicated on the **Exhibit HSP** form of the SOQ are maintained in the contract files, and available to the Department representative upon request.
- c. Subproviders listed as part of the team as indicated on the **Project Team Coordination (PTC)** form is in alignment with **Exhibit-HSP** of the contract.
- d. Firms identified for contract goal credit are certified HUB firms.
- e. HUB compliance requirements are met by submitting an electronic monthly **Exhibit H-3 Monthly Progress Assessment Report (PAR)**. The electronic monthly reporting shall be submitted using the provider (consultant) portal. The department may require that contract compliance monthly PARs be submitted by providers in an alternative format prescribed by the Department's Representative. A monthly PAR shall be entered into the Department's provider (consultant) portal, even when no work has been performed by subproviders for the month.

Required data and reporting is entered and information reported is accurate, and that tracking of data has been verified and available for audit when requested by the Department representative.

Electronic data is entered by accessing the provider (consultant) portal at the link shown below.

Manage Active Contracts with PS-CAMS for Professional Services – Contract Administration Management System (PS-CAMS) that can be found at: <https://www.txdot.gov/business/consultants/architectural-providering-surveying/managed-contracts.html>

- f. [TxDOT HUB HSP Progress Compliance Form 2579](#), Section 1, is completed monthly and submitted to the Department representative

G. RECORDS AND REPORTS

After work begins, the provider shall submit **Exhibit H-6 Monthly PAR** using TxDOT's designated electronic provider (consultant) portal.

- (1) A monthly **Exhibit H-6 Progress Assessment Report (PAR)** is required, even when no subprovider activity has occurred. The monthly PAR shall be submitted electronically each month from contract execution to contract expiration.
- (2) Only actual payments made to subproviders are to be reported. It is the provider's responsibility to notify the designated Department contact if payment to any HUB or non-HUB subprovider is withheld or reduced, along with a written explanation to support the reason for withholding or reducing the payment.
- (3) A monthly TxDOT [HUB HSP Progress Compliance Form 2579](#), Section 1, is required and shall be completed monthly and submitted to the Department representative.
- (4) An **Exhibit H-4 Subprovider Final Report** is required prior to final payment on the contract, and the provider is responsible for verifying that all data has been entered into the electronic reporting system.
- (5) Proof of payment, such as copies of canceled checks, properly identifying the Department's contract number or project number may be required to substantiate the payment, as deemed necessary by the Department.
- (6) Before receiving final payment from the Department, the provider shall reconcile all data entry

into the electronic reporting system. If the HUB goal requirement is not met, documentation of the GFE made to meet the goal must be submitted to the Department's Contract Administrator prior to final payment on the contract. Reference section **I. Good Faith Effort** of this attachment for additional information.

- (7) All records must be retained for a period of seven (7) years following final payment, or until any investigation, audit, examination, or other review undertaken during the seven (7) years is completed, and shall be available at reasonable times and places for inspection by authorized representatives of the Department or the DOT.

H. COMPLIANCE

To ensure that HUB requirements of this contract are complied with, the Department will monitor the Provider's efforts to involve HUBs during the performance of this contract.

- (1) The provider must submit a monthly PAR report using the designated electronic provider (consultant) portal indicating the progress in achieving the HUB contract goal, in addition to [TxDOT HUB HSP Progress Compliance Form 2579](#).
- (2) The Provider will receive credit toward the HUB goal based on actual payments to the HUB subproviders.
 - a. Payments to a HUB will not be credited if the firm does not provide the goods or perform the services paid utilizing their own work forces.
 - b. Payments made to a HUB that cannot be linked by an invoice or canceled check to the contract under which credit is claimed will not be credited.
 - c. Payment shall be made according to the Compensations Articles of the contract.

I. GOOD FAITH EFFORT

The provider shall make all reasonable efforts to honor commitments as indicated, in **Exhibit-HSP** for ALL subproviders, including HUB subproviders for services to be provided under the contract.

- (1) The provider shall not terminate or substitute a HUB Subprovider named in **Exhibit-HSP** of the contract, or **Exhibit H-2 Subprovider Commitment Agreement** of the Work Authorization without prior written approval from the Department's Contract Administrator
- (2) The provider shall submit a [HUB Subcontracting Plan Change Request form](#) and a revised **Exhibit-HSP** to the department representative for review and approval.
- (3) The provider must not cause or allow subproviders to bid their services.
- (4) The provider shall coordinate with the Department's Contract Administrator on all contract compliance. The provider shall:
 - a. Where the provider terminates or substitutes a certified HUB Subprovider named in **Exhibit-HSP**, the provider must demonstrate on a case-by-case basis to the satisfaction of the Department that the originally designated HUB was not able or willing to perform.
 - b. Make a GFE to substitute a HUB subprovider that is unable or unwilling to perform the services successfully with another certified HUB that is qualified and approved by the Department's Contract Administrator, to perform the services to the extent needed to meet the contract goal.
 - c. [HSP Change Request Form 2580](#), and an updated Exhibit HSP shall be submitted to the Department's Contract Administrator for review and approval prior to a HUB replacement or substitution.
 - i. If the replacement or substitution affects the overall contract, the prime provider shall coordinate with the Department's Contract Administrator to develop a Supplemental Agreement (SA) to the contract.
 - ii. If the replacement or substitution is specific to the Work Authorization (WA), the prime provider shall coordinate with the Department's Contract Administrator, and the TxDOT Project Manager to develop and submit a supplemental WA.
 - d. Any and all omissions, deletions, and/or errors that may affect the end result of meeting the

HUB contract goal for the contract is the sole liability of the Provider.

- e. If a determination is made that the prime contractor failed to implement the HUB subcontracting plan in good faith, the state agency, in addition to any other remedies, may report nonperformance to the comptroller in accordance with TAC §20.585 and §20.586. In addition, if the provider fails to implement the HUB subcontracting plan in good faith, the department may revoke the contract for breach of contract and make a claim against the prime contractor.

J. HUB TERMINATION AND SUBSTITUTIONS

A HUB identified in **Exhibit-HSP** of the contract will not be terminated in whole, or in part, without the Department's approval.

This includes, but is not limited to, instances in which a provider seeks to perform work originally designated for a HUB Subprovider with its own forces or those of an affiliate, a non-HUB firm, or with another HUB firm. Changes to **Exhibit-HSP** will require approval of [HSP Change Request Form 2580](#), a Supplemental Agreement to the contract.

- (1) The Contractor is required to report all changes to the Department's Contract Administrator and the Department's HUB Program Section. Through this process, the provider must still adhere to the good faith effort requirements of the HSP.
- (2) When a HUB Subprovider is terminated, the provider is responsible for making a GFE to find, as a substitute for the original HUB, another HUB to perform, at least to the extent needed to meet the established contract goal, the work that the original HUB Subprovider was to have performed under the contract.
- (3) The Department will provide a written determination to the provider stating whether or not a GFE has been demonstrated. If the Department determines that a GFE was not demonstrated, the provider will have the opportunity to work with the department to find a resolution.

K. FALSIFICATION AND MISREPRESENTATION

If the Department determines that a provider or Subprovider was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate HUB firm participation or any other business arrangement determined by the Department to be unallowable, or if the provider engages in repeated violations, falsification, or misrepresentation, the Department may:

- (1) Refuse to count any fraudulent or misrepresented HUB firm participation;
- (2) Withhold progress payments to the provider commensurate with the violation;
- (3) Reduce the provider's prequalification status;
- (4) refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
- (5) Seek any other available contractual remedy. (includes compliance documentation).

L. REVIEW AUDITS

The Department may conduct reviews or audits of participants as necessary. All participants, including, but not limited to, HUBs and complainants using HUB Subproviders to meet the Contract goal, are required to:

- (1) Cooperate fully and promptly with compliance reviews, investigations and other requests for information.
- (2) Comply with the requirements of the HUB Provisions of the contract, and this Attachment, shall constitute a material breach of this contract. In such a case, the Department reserves the right to:
 - a. Terminate the contract;

- b. Deduct the amount of HUB goal not accomplished by HUBs from the money due or to become due the provider, or
- c. Other remedy or remedies as the Department deems appropriate.

Attachment H Exhibits

The following Exhibits are required and part of the state funded contract:

- **Exhibit HSP ([HUB Subcontracting Plan](#))**, Prime provider completes form in response to the solicitation, and the form is inserted into the contract template and becomes part of the executed contract.
- **Exhibit H-2 HUB Subprovider Commitment Agreement:**
 - **Specific Deliverable Contracts without Work Authorizations (WAs):** PEPS SC completes form when the contract is developed and then becomes part of the executed contract.
 - **Specific Deliverable with WAs and Indefinite Deliverable Contracts:** PEPS SC completes form when a WA is developed and then becomes part of the executed WA. If no HUB Subproviders are used, insert N/A (not applicable) on the line provided on the H-2 form, and include it as part of the executed WA.
- **Exhibit H-2 (2nd Tier):** This is a continuation of Exhibit H-2 when there is a 2nd Tier subprovider to a subprovider. The entire Exhibit H-2 must be completed when using Exhibit H-2 (2nd Tier).
- **Exhibit H-6 Subprovider Monthly Progress Assessment Report (PAR)** Prime provider enters data using TxDOT's electronic reporting system through provider (consultant) portal. The electronic report must be submitted monthly, even if there is no invoice being submitted or subcontracting to report. A sample copy of the Exhibit H-6 that will be generated electronically is attached for reference.
- **[TxDOT HUB HSP Progress Compliance Form 2579](#)**. Section I completed by prime provider and submitted electronically by using the "submit by e-mail" tab on the form.
- **Exhibit H-4 Subprovider Final Report:** Prime provider generates report using TxDOT's electronic reporting system. This report shows the accumulative total of all data entered into TxDOT's electronic reporting system through the reporting provider (consultant) portal for the contract. This report must be verified by the prime provider to ensure that all monthly reports have been submitted electronically under the contract. This report must also be used for TxDOT's final assessment of HUB activities for the contract. A **sample copy** of the electronically generated form is attached for reference.

For information on obtaining a User ID, and Instructions for using TxDOT's electronic reporting system, go to the **TxDOT Professional Services – Contract Administration Management System (PS-CAMS)** webpage on how to **Manage Active Contracts With PS-CAMS** that can be found at: <https://www.txdot.gov/business/consultants/architectural-providering-surveying/managed-contracts.html>

EXHIBIT HSP
State Funded - HUB Goal
Historically Underutilized Business (HUB)
Subcontracting Plan (HSP)

The HSP submitted in response to this solicitation will be used for the contract Exhibit HSP. The HSP can be downloaded from the following location:

<https://comptroller.texas.gov/purchasing/docs/hub-forms/hsp-allfms.pdf>

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. The Prime Provider must complete a new HSP and Form 2580, HUB Subcontract Plan (HSP) Change Request Form. A Supplemental Agreement will be required to delete and replace Exhibit HSP. A copy of Form 2580 can be downloaded from the following location: (use Internet Explorer)

<http://www.txdot.gov/txdot/forms/GetForm?formName=/2580.pdf&applID=/CIV&status=/reportError.jsp&configFile=WFServletConfig.xml>

For assistance in completing the HSP, providers may access the HSP Completion Overview presentation found at the following location:

<http://ftp.dot.state.tx.us/pub/txdot-info/ocr/hub/hsp-completion.pdf>



HUB Subcontracting Plan (HSP) QUICK CHECKLIST

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 Requisition 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 Requisition 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 Requisition 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 Requisition 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

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

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.**

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? - Yes - No
- c. Requisition #: _____ Bid Open Date: _____
(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If **No**, continue to SECTION 3 and SECTION 4.)

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 do not 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		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing 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 <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
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		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

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)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method A (Attachment A)

Rev. 2/17

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded “Yes” to SECTION 2, Items c or d of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

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: _____

SECTION A-2: SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp>. HUB status code “A” signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small style="color: red;">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		\$	%
	<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		\$	%
	<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		\$	%
	<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		\$	%
	<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		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. 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.

HSP Good Faith Effort - Method B (Attachment B)

Rev. 2/17

Enter your company's name here: _____	Requisition #: _____
---------------------------------------	----------------------

IMPORTANT: If you responded “No” to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method B (Attachment B)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-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: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If **Yes**, continue to SECTION B-4.)
- No / Not Applicable (If **No** or **Not Applicable**, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be “day zero” and does not count as one of the seven (7) working days.

- a.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas’ Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code “A” signifies that the company is a Texas certified HUB.
- b.** List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company’s Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program’s webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d.** List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

Rev. 2/17

Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

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.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

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		\$	%
	<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		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. 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 it (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.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in **Section C, Item 2**, reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

SECTION A: PRIME CONTRACTOR'S INFORMATION	
Company Name: _____	State of Texas VID #: _____
Point-of-Contact: _____	Phone #: _____
E-mail Address: _____	Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION	
Agency Name: _____	Phone #: _____
Point-of-Contact: _____	Bid Open Date: _____
Requisition #: _____	(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION	
1. Potential Subcontractor's Bid Response Due Date:	
If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,	
we must receive your bid response no later than _____ on _____.	
Central Time Date (mm/dd/yyyy)	
<p><i>In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).</i></p> <p><i>(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)</i></p>	

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:	<input type="checkbox"/> - Not Applicable
------------------------------------	---

4. Bonding/Insurance Requirements:	<input type="checkbox"/> - Not Applicable
---	---

5. Location to review plans/specifications:	<input type="checkbox"/> - Not Applicable
--	---

EXHIBIT H-2
(State Funded - HUB Goal)
Texas Department of Transportation
Subprovider Commitment Agreement

This Exhibit must be completed and attached to each WA or Specific Deliverable (SD) contract for all Historically Underutilized Business (HUB) subproviders. If a Supplemental Agreement (SA) to the WA or SD contract is issued, then this form must be deleted and replaced for all subprovider services that are affected by the SA. **ONLY complete this form for HUB subproviders that are providing services for the WA or SD contract.**

Provider Name:		WA No.	SWA No.
Contract Goal %:		WA Amount:	
WA HUB Total %:		SWA Amount:	
Revised WA HUB Total %:		Revised WA Amount:	

Description of Work <small>(List by category of work or task description. Attach additional pages, if necessary.)</small>	Dollar Amount <small>(For each category of work or task description listed.)</small>
Total Commitment Amount for Subprovider <small>(Including all additional pages.)</small>	\$ -

IMPORTANT: The signatures of the, the HUB and Second Tier Subprovider (if applicable), and the total commitment amount must always be on the same page. *(Certified Electronic Signature Accepted)*

Provider Name:		Name: _____ <i>(Please Print)</i>
Vendor ID No:		
Address:		
Phone No:		
Email:		
Subprovider Certification Status:	HUB: <input type="checkbox"/> expire date: _____ DBE: <input type="checkbox"/>	Signature _____ Date _____
Subprovider Name:		Name: _____ <i>(Please Print)</i>
Vendor ID No:		
Address:		
Phone No:		
Email:		
		Signature _____ Date _____

The Vendor ID number must match the number shown on Exhibit HSP of the contract. If a subprovider is not part of the contract, an SA to the contract will be necessary prior to utilizing the services from the subprovider.

The following section applies to a Second Tier Subprovider only, otherwise delete (in the WA).

Exhibit H-2 for Second Tier Subprovider:


If a Second Tier subprovider is used by a HUB subprovider, then only a HUB or HUB Second Tier subprovider services will count toward the HUB goal. If a Second tier subprovider does not have a VID Number, they will use either the owner's Social Security or their Federal Employee Identification Number (if incorporated).

Description of Work (List by category of work or task description. Attach additional pages, if necessary.)	Dollar Amount (For each category of work or task description listed.)
Total Commitment Amount for Subprovider (Including all additional pages.)	\$ -

IMPORTANT: The signatures of the Second Tier Subprovider, if any (both HUB and Non-HUB) and the total commitment for their services must always be on the same page. *(Certified Electronic Signature Accepted)*

Second Tier Subprovider Certification Status:	HUB: <input type="checkbox"/>	expire date:	DBE: <input type="checkbox"/>	Name: _____ <i>(Please Print)</i>
Subprovider Name:	_____			
Vendor ID No:	_____			Title: _____
Address:	_____			
Phone No:	_____			
Email:	_____			Signature
				Date

Prime provider enters data using TxDOT's electronic reporting system through provider (consultant) portal. The electronic report must be submitted monthly, even if there is no invoice being submitted or subcontracting to report. Due by the 10th day of each month, except for March and September, due by the 5th. A sample copy of the Exhibit H-6 that will be generated electronically is attached for reference. **A printed copy of this report is no longer required.**



HUB Subcontracting Plan (HSP)

Prime Contractor Progress Assessment Report

Rev. 10/16

This form must be completed and submitted to the contracting agency each month to document compliance with your HSP.

Contract/Requisition Number: _____ Date of Award: _____ Object Code: _____

Contracting Agency/University Name: _____

Contractor (Company) Name: _____ State of Texas VID #: _____

Point of Contact: _____ Phone #: _____

Reporting (Month) Period: _____ Total Amount Paid this Reporting Period to Contractor: \$ _____

Report HUB and Non-HUB subcontractor information

When verifying subcontractors' HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized (HUB) Directory Search located at: <http://mycpa.cpa.state.tx.us/passcmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Subcontractor's Name	Texas certified HUB (Yes or No)	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>	Total Contract \$ Amount from HSP with Subcontractor	Total \$ Amount Paid this Reporting Period to Subcontractor	Total Contract \$ Amount Paid to Date to Subcontractor	Object Code (Agency Use Only)
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
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			\$ -	\$ -	\$ -	



HUB Subcontracting Plan (HSP) Progress Compliance Form

Form 2579
(Rev. 09/20)
Page 1 of 1

Contractor Name: _____

Contract Number: _____

Section I (to be completed by prime contractor)

This form must be completed and submitted to TxDOT in addition to the prime contractor's HSP Progress Assessment Report (PAR) to verify that a good faith effort is being made to meet or exceed the HUB goal as stated in the HSP, and prompt payment is being met by the prime contractor to the subcontractor(s):

Are you self-performing as stated in the HSP? **If so, please continue with signature and submit form.** Yes No

HUB Good Faith Effort goal on the HSP: _____ % HUB Good Faith Effort goal to-date: _____ %

On schedule in meeting the HUB Good Faith Effort goal as stated in the HSP? Yes No

Is the monthly PAR data consistent with previous reports, the HSP, and inclusive of actual funds received/paid, not invoiced? Yes No

Were there any changes to the HSP during this reporting period? Yes No

Does/Do the HUB(s) being utilized on the contract still have an active HUB certification? Yes No

Explanation for any item marked "No".

Prime Contractor Representative Name

Signature

Date

Section II (to be completed by TxDOT)

The following validation, in coordination with the prime contractor, has been completed.

Has any area where the contractor checked "No" been addressed and resolved to ensure compliance with the HSP? (Based on what was addressed or resolved, provide comments if the contractor's HSP is in non-compliance. Maintain supporting documents.) Yes No

Comments

District/Division Representative

Signature

Date

CIV Representative

Signature

Date



HUB Subcontracting Plan (HSP) Change Request Form

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

Section II (to be completed by TxDOT)

I have reviewed and approved the prime contractor's explanation of changes and revised HSP based on the HSP requirements.

Comments

District/Division Representative

Signature

Date

CIV Representative

Signature

Date

The Final Report Form is generated from the Monthly Progress Assessment Reports (PARs) that were entered into the provider (consultant) portal of PS-CAMS.

The report should reflect all subprovider activity on the contract and the information must be verified by the prime provider. If the HUB or DBE goal requirements were not met, documentation supporting good faith efforts must be submitted prior to release of final payment.

A printed and notarized copy of this form is no longer required.

WAs Used _____

Contract No. _____

EXHIBIT H-4

**Texas Department of Transportation
Subprovider Monitoring System
Final Report**

The Final Report Form should be filled out by the Prime Provider and submitted to the Contract Manager and the Business Opportunity Programs Office for review upon completion of the contract. The report should reflect **all subcontract activity** on the project. The report will aid in expediting the final estimate for payment. If the HUB or DBE goal requirements were not met, documentation supporting good faith efforts must be submitted.

DBE Goal: _____% **OR** HUB Goal: _____%

Total Contract Amount: \$ _____ Total Contract Amount: \$ _____

Contract Number: _____

Vendor ID #	Subprovider	Total \$ Amt Paid to Date
TOTAL		

This is to certify that n/a % of the work was completed by the HUB or DBE subproviders as stated above.

By: Prime Provider

Per: Signature

Subscribed and sworn to before me, this _____ day of _____, 20__

Notary Public _____ County

My Commission expires: _____

Roles & Responsibilities for Reporting DBE Usage on Work Authorizations

It is a priority of the state of Texas and the Texas Department of Transportation to promote full and equal procurement opportunities for all types of businesses. TxDOT is responsible for ensuring that Disadvantaged Business Enterprise (DBE) subprovider usage data is collected and reported. The individual project managers are responsible for entering and verifying all subprovider usage data each month. Failure to enter data and provide documentation will result in rejection of invoices.

PS-CAMS Access	
Upon contract execution, access to PS-CAMS will be required for data entry purposes.	
<p>TxDOT Contract Administrator will:</p> <ul style="list-style-type: none"> • Inform provider PM that PS-CAMS data entry is required for tracking payments and HUB/DBE subprovider usage, regardless of whether a goal was assigned. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Obtain access to the PS-CAMS consultant portal. • Start entering zeroes for monthly subprovider usage data (if WA has not been issued yet).
WA development and negotiation	
TxDOT and the Provider will work together to develop and negotiate the WA for the specific project assignment to ensure use of DBE subproviders as required by the contract.	
<p>TxDOT PM will:</p> <ul style="list-style-type: none"> • Review contract requirements for DBE. • Review DBE commitments in the contract. • Develop WA to ensure maximum use of DBE subproviders. • Create BCM and include contract and WA DBE information before submitting to the proper signature authority. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Review contract requirements for DBE. • Review DBE commitments in the contract. • Develop WA to include the maximum use of DBE subproviders.
Monthly DBE Monitoring and PS-CAMS Data Entry	
Each month, regardless of whether there is an invoice or not, data for subprovider payments must be entered into PS-CAMS by the provider.	
<p>TxDOT PM will:</p> <ul style="list-style-type: none"> • Verify that provider has entered data for payments received and all subprovider payments into PS-CAMS. • Verify that subprovider usage data is in alignment with Exhibit H-2 and the billing for the WA. • Review invoices to verify that tasks are being performed by DBE subproviders. • Verify receipt of Prompt Payment form. 	<p>Provider PM will access the consultant portal to:</p> <ul style="list-style-type: none"> • Enter data for payments received and all subprovider payments each month. • Submit invoice and supporting documentation. • Complete a Prompt Payment form and submit it with the invoice package. • If requested by TxDOT, provide documentation showing proof of subprovider payment.
Data Entry Deficiencies	
<p>TxDOT PM will:</p> <ul style="list-style-type: none"> • Notify the provider of the deficiency. • Work with PEPS to withhold payment on the next invoice, if deficiency is not corrected in a timely manner. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Promptly correct all data entry deficiencies. • Be aware that the contract allows payment to be withheld if data entry is not completed.
DBE Compliance	
<p>PEPS Service Center will:</p> <ul style="list-style-type: none"> • Work with TxDOT PM and provider PM on Commercially Useful Function (CUF) review. • Evaluate request for DBE subprovider termination or replacement. • If the DBE termination or replacement is approved, create Supplemental Agreement (SA) to update Attachment E and Exhibit H-1 in the contract and, if applicable, a Supplemental Work Authorization (SWA) to update Exhibit H-2 in the WA. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Provide subprovider information, upon request, for Commercially Useful Function (CUF) review. • Notify the PEPS Service Center to request DBE subprovider termination or replacement. • If the DBE termination or replacement is approved, provide updated Exhibit H-1 to the TxDOT PM for inclusion in the Supplemental Agreement (SA) to the contract and, if applicable, a Supplemental Work Authorization (SWA) to update Exhibit H-2 in the WA.

Roles & Responsibilities for Reporting HUB Usage on Pool Contracts: Indefinite Deliverable Contracts Guidance & Instructions

It is a priority of the state of Texas and the Texas Department of Transportation to promote full and equal procurement opportunities for all types of businesses. TxDOT is responsible for ensuring that Historically Underutilized Business (HUB) subprovider usage data is collected and reported. The provider project managers are responsible for entering and verifying all subprovider usage each month. Failure to enter data and provide documentation will result in rejection of invoices.

PS-CAMS Access	
Upon contract execution, access to PS-CAMS will be required for data entry purposes.	
TxDOT Contract Administrator will: <ul style="list-style-type: none"> • Inform provider PM that PS-CAMS data entry is required for tracking payments and HUB/DBE subprovider usage, regardless of whether a goal was assigned. 	Provider PM will: <ul style="list-style-type: none"> • Obtain access to the PS-CAMS consultant portal. • Start entering zeroes for monthly subprovider usage data (if WA has not been issued yet).
WA development and negotiation	
TxDOT and the Provider will work together to develop and negotiate the WA for the specific project assignment to ensure use of HUB subproviders as required by the contract.	
TxDOT PM will: <ul style="list-style-type: none"> • Review the HSP and HUB contract requirements. • Develop WA to ensure maximum use of HUB subproviders. • Create BCM and include contract and WA HUB information before submitting to the proper signature authority. 	Provider PM will: <ul style="list-style-type: none"> • Review contract requirements for HUB. • Review HUB commitments in the contract. • Develop WA to include the maximum use of HUB subproviders.
Monthly HUB Monitoring and PS-CAMS Data Entry	
Each month, regardless of whether there is an invoice or not, data for subprovider payments must be entered into PS-CAMS by the provider.	
TxDOT PM will: <ul style="list-style-type: none"> • Review invoice to verify that tasks are being performed by HUB subproviders. 	Provider PM will: <ul style="list-style-type: none"> • Enter data into PS-CAMS for payments received and all subprovider payments each month. • Complete Section 1 of Form 2579-HSP Progress Compliance Form and submit to PEPS SC. • Submit invoice and supporting documentation. • Complete a Prompt Payment form and submit it with the invoice package. • If requested by TxDOT, provide documentation showing proof of subprovider payment.
PEPS Service Center will: <ul style="list-style-type: none"> • Verify receipt of Prompt Payment form. • Verify that provider has entered data for payments received and all subprovider payments into PS-CAMS. • Print to PDF the HSP Prime Contractor Progress Assessment Report (PAR) from PS-CAMS. • Review Form 2579 submitted by provider, complete Section 2, noting any discrepancies or deficiencies in the comment box. • Submit Form 2579 and PAR to CIV-HUB for review.* 	

Roles & Responsibilities for Reporting HUB Usage on Pool Contracts: Indefinite Deliverable Contracts Guidance & Instructions

Data Entry Deficiencies	
<p>TxDOT PM will:</p> <ul style="list-style-type: none"> • Notify the provider of the deficiency. • Work with PEPS to withhold payment on the next invoice, if deficiency is not corrected in a timely manner. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Promptly correct all data entry deficiencies. • Be aware that the contract allows payment to be withheld if data entry is not completed.
Significant Changes to the HSP	
<p>PEPS Service Center will work with TxDOT PM to:</p> <ul style="list-style-type: none"> • Review Form 2580 submitted by provider, complete Section 2, noting any discrepancies or deficiencies in the comment box, and submit form to CIV-HUB for approval. • If the HSP Change Request is approved, create Supplemental Agreement (SA) to update the HSP in the contract and, if applicable, a Supplemental Work Authorization (SWA) to update Exhibit H-2 in the WA. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Complete Section 1 of Form 2580-HSP Change Request Form and submit to the TxDOT PM. • If the HSP Change Request is approved, provide updated HSP to the TxDOT PM for inclusion in the Supplemental Agreement (SA) to the contract and, if applicable, a Supplemental Work Authorization (SWA) to update Exhibit H-2 in the WA.

*See HUB Subcontract Plan (HSP) Progress Compliance Form 2579 Guidance & Instructions

Roles & Responsibilities for Reporting HUB Usage on Specific Deliverable Contracts or District/Division Managed Indefinite Deliverable Contracts

It is a priority of the state of Texas and the Texas Department of Transportation to promote full and equal procurement opportunities for all types of businesses. TxDOT is responsible for ensuring that Historically Underutilized Business (HUB) subprovider usage data is collected and reported. The provider project managers are responsible for entering and verifying all subprovider usage each month. Failure to enter data and provide documentation will result in rejection of invoices.

PS-CAMS Access	
Upon contract execution, access to PS-CAMS will be required for data entry purposes.	
TxDOT Contract Administrator will: <ul style="list-style-type: none"> • Inform provider PM that PS-CAMS data entry is required for tracking payments and HUB/DBE subprovider usage, regardless of whether a goal was assigned. 	Provider PM will: <ul style="list-style-type: none"> • Obtain access to the PS-CAMS consultant portal. • Start entering zeroes for monthly subprovider usage data (if WA has not been issued yet).
WA development and negotiation	
TxDOT and the Provider will work together to develop and negotiate the WA for the specific project assignment to ensure use of HUB subproviders as required by the contract.	
TxDOT PM will: <ul style="list-style-type: none"> • Review the HSP and HUB contract requirements. • Develop WA to ensure maximum use of HUB subproviders. • Create BCM and include contract and WA HUB information before submitting to the proper signature authority. 	Provider PM will: <ul style="list-style-type: none"> • Review contract requirements for HUB. • Review HUB commitments in the contract. • Develop WA to include the maximum use of HUB subproviders.
Monthly HUB Monitoring and PS-CAMS Data Entry	
Each month, regardless of whether there is an invoice or not, data for subprovider payments must be entered into PS-CAMS by the provider.	
TxDOT PM will: <ul style="list-style-type: none"> • Verify receipt of Prompt Payment form. • Review invoice to verify that tasks are being performed by HUB subproviders. • Verify that provider has entered data for payments received and all subprovider payments into PS-CAMS. • Print to PDF the HSP Prime Contractor Progress Assessment Report (PAR) from PS-CAMS. • Review Form 2579 submitted by provider, complete Section 2, noting any discrepancy findings in comment box. • Submit Form 2579 and PAR to CIV-HUB for review.* 	Provider PM will: <ul style="list-style-type: none"> • Enter data into PS-CAMS for payments received and all subprovider payments each month. • Complete Section 1 of Form 2579-HSP Progress Compliance Form and submit to TxDOT. • Complete a Prompt Payment form and submit it with the invoice package. • Submit invoice and supporting documentation. • If requested by TxDOT, provide documentation showing proof of subprovider payment.
Data Entry Deficiencies	
TxDOT PM will: <ul style="list-style-type: none"> • Notify the provider of the deficiency. • Work with PEPS to withhold payment on the next invoice, if deficiency is not corrected in a timely manner. 	Provider PM will: <ul style="list-style-type: none"> • Promptly correct all data entry deficiencies. • Be aware that the contract allows payment to be withheld if data entry is not completed.

Roles & Responsibilities for Reporting HUB Usage on Specific Deliverable Contracts or District/Division Managed Indefinite Deliverable Contracts

Significant Changes to the HSP	
<p>PEPS Service Center will work with TxDOT PM to:</p> <ul style="list-style-type: none"> • Review Form 2580 submitted by provider, complete Section 2, noting any discrepancies or deficiencies in the comment box, and submit form to CIV-HUB for approval. • If the HSP Change Request is approved, create Supplemental Agreement (SA) to update the HSP in the contract and, if applicable, a Supplemental Work Authorization (SWA) to update Exhibit H-2 in the WA. 	<p>Provider PM will:</p> <ul style="list-style-type: none"> • Complete Section 1 of Form 2580-HSP Change Request Form and submit to the TxDOT PM. • If the HSP Change Request is approved, provide updated HSP to the TxDOT PM for inclusion in the Supplemental Agreement (SA) to the contract and, if applicable, a Supplemental Work Authorization (SWA) to update Exhibit H-2 in the WA.

*See HUB Subcontract Plan (HSP) Progress Compliance Form 2579 Guidance & Instructions

PEPS Request for Proposals

Federal Process and Non-Federal Process DBE

1. Disadvantaged Business Enterprise (DBE) Goal:

[Select one of the following options and delete the other.]

[Option 1: With DBE Goal.]

It is anticipated this contract will include federal funds. The assigned DBE goal for participation in the work to be performed under this contract is **XX%** of the contract amount.

The prime provider firm shall furnish evidence of compliance with the assigned DBE goal or evidence of a good faith effort acceptable to TxDOT to meet the assigned goal on the *Project Team Composition (PTC)* form. If selected for a contract, the subprovider firms listed in the PTC form as part of the team shall be the same subprovider firms that are shown on Exhibit H-1 of the contract. The prime provider is obligated to utilize those subproviders for services that are identified as part of a Work Authorization executed under the contract.

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Firms listed in the PTC as DBE must be certified by the Proposal deadline specified in this solicitation. TxDOT maintains the Texas Unified Certification Program Disadvantaged Business Enterprise (TUCP DBE) Directory, which lists businesses alphabetically and by work category.

The DBE goal can be achieved through a DBE prime provider or DBE subproviders.

Each subprovider listed to meet the assigned DBE subcontracting goal must be DBE-certified in the North American Industry Classification System (NAICS) Code applicable to the type of service being offered by that firm that corresponds to the services being advertised in this solicitation. A subprovider that is not DBE-certified in the NAICS Code applicable to the type of service being solicited will not be counted toward the assigned DBE subcontracting goal. A listing of Precertification Work Categories and Applicable DBE NAICS Work Codes may be found at:

<http://ftp.dot.state.tx.us/pub/txdot/ppd/dbe-naics-codes.pdf>.

Additional information on the NAICS Codes can be found at:

<https://www.naics.com/search/>.

A DBE subprovider offering services included in this solicitation must be certified in the NAICS Code for the particular service(s) as shown below: [Select the NAICS Codes that are applicable to the type of services being solicited and delete the other codes]

- Architecture: 541310
- Engineering: 541330
- Design or Construction Surveying: 541370 or 541330 for Surveying and Mapping (except Geophysical)
- Right of Way Surveys or State Land Surveying: 541370

- Drilling and Coring Services: 541330 for Engineering Services; 238910 for Boring, Core Drilling, Foundation Drilling, and Soil Test Drilling
- Environmental and Environmental Inspections: 541330 for Engineering Services, or 541620 for Environmental Consulting Services
- Geological Assessments: 541330 for Geological Engineering Services, or 541360 for Geophysical Surveying and Mapping Services, or 541620 for Environmental Consulting Services
- Landscape Architecture: 541320
- Materials Testing: 541330 for Engineering Services, or 541380 for Testing Laboratories
- Public Involvement: 541820 or 541330
- Subsurface Utility Engineering and Utility Management: 541330 for Engineering Services, and 541330 or 541618 for Utility Adjustment Coordination
- 3-D Design Visualization: 541330 for Engineering Services, or 541340 for Graphic Design Services
- Traffic Control: 561990 for Flagging, or 237310 for Sign erection, highway, road, street or bridge
- Traffic Counting: 541330 for Engineering Services, or 541990 for Other Professional Services
- Value Engineering: 541330
- **Non-Listed Work Categories (NLCs):**

[List the NLC title as indicated under **Section 8- Work Categories and the Percent of Work Per Category** of this RFP. List the NLC number, the title, and the applicable NAICS code as indicated in the example below. This should be in direct correlation with the referenced Work Category section.]

- **NLC 1: Enter Title: Enter Applicable NAICS Code**
- **NLC 2: Enter Title: Enter Applicable NAICS Code**

[Option 2: Without DBE Goal.]

It is anticipated this contract will include federal funds. No DBE goal has been assigned. The contract will include a race-neutral DBE (no assigned DBE goal) provision to provide for the reporting of DBE utilization, if used, to satisfy TxDOT DBE utilization reporting requirements.

Non-Federal Process HUB

2. Historically Underutilized Business (HUB) Program:

(I.3) Historically Underutilized Business Participation

Version 1: Use this version if a HUB Subcontracting Plan is not required because the estimated value of the contract is under \$100,000, which includes renewals. **Omit Version 2 and 3.**

The estimated value of the solicitation or resulting contract is less than \$100,000. Therefore, respondents are not required to complete and submit a [HUB Subcontracting Plan \(HSP\)](#) with their proposal at the time of submission. If subcontractors are used in the delivery of the goods and/or

services, TxDOT **requests** that the awarded contractor(s) make a good faith effort to consider HUBs and submit monthly, a [“Prime Contractor Progress Assessment Report”](#) to the point-of-contact of the contract and Civil Rights Division.

If the estimated value increases over \$100,000, the contractor will be required to complete and submit an [up-to-date HUB Subcontracting Plan \(HSP\)](#) to verify their intent to subcontract, and show their good faith effort to contract with HUBs. In addition, the contractor will be required to submit monthly, a [“Prime Contractor Progress Assessment Report”](#) and **“HUB Subcontracting Plan (HSP) Progress Compliance Form - 2579”**, to the point-of-contact of the contract and Civil Rights Division.

Version 2: Use this version if a HUB Subcontracting Plan is not required because there is no probability of subcontracting. **Omit Version 1 and 3.**

Subcontracting opportunities are not probable. Therefore, respondents are not required to submit an [up-to-date HUB Subcontracting Plan \(HSP\)](#) with their proposal at the time of submission.

If during the term of the contract subcontractors are used in the delivery of the goods and/or services, the contractor will be required to complete a HSP to verify their intent to subcontract and show their good faith effort to contract with HUBs. In addition, the contractor will be required to submit monthly, a [“Prime Contractor Progress Assessment Report”](#) and **“HUB Subcontracting Plan (HSP) Progress Compliance Form - 2579”**, to the point-of-contact of the contract and Civil Rights Division.

Version 3: Use this version if a HUB Subcontracting Plan is required. **Omit Version 1 and 2.**

In accordance with Texas Government Code [§2161.252](#), a proposal that **does not** contain an [up-to-date HUB Subcontracting Plan \(HSP\)](#) is non-responsive and will be rejected without further evaluation. In addition, if the Department determines that the HSP was not developed in good faith, it will reject the proposal for failing to comply with material specifications based on the RFQ.

a. (I.3.1) Introduction

The Department is committed to promoting full and equal business opportunities for businesses in state contracting in accordance with the goals specified in the State of Texas Disparity Study. The Department encourages the use of Historically Underutilized Businesses (HUBs) through race, ethnic and gender-neutral means.

Pursuant to [Texas Government Code §2161.181](#) and [§2161.182](#), and the Department’s HUB policy and rules, the Department is required to make a good faith effort to increase HUB participation in its contracts. The Department may accomplish the goal of increased HUB participation by contracting directly with HUBs or indirectly through subcontracting opportunities.

b. (I.3.2) Department’s Administrative Rules

The Department has adopted the CPA’s HUB rules as its own. The Department’s HUB rules are located in [Title 43, Part 1, Chapter 9, Subchapter L](#) of the Texas Administrative Code, and the CPA rules are located in [Title 34, Part 1, Chapter 20, Subchapter D, Division 1](#). If

there are any discrepancies between the Department's administrative rules and this RFQ, the rules shall take priority.

c. (I.3.3) HUB Participation Goal

The CPA has established statewide HUB participation goals for different categories of contracts in [34 T.A.C. §20.284](#). In order to meet or exceed the HUB participation goals, the Department encourages outreach to certified HUBs. Contractors shall make a good faith effort to include certified HUBs in the procurement process.

This contract is classified as a Professional Services contract under the CPA rule, and therefore has a HUB Annual Procurement Utilization Goal of **23.7%** per fiscal year.

d. (I.3.4) Required HUB Subcontracting Plan

In accordance with Government Code, Chapter 2161, Subchapter F, each state agency that considers entering into a contract with an expected value of \$100,000 or more over the life of the contract (including any renewals) shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract.

In accordance with [34 T.A.C. §20.285\(a\),\(1\),\(C\)](#) of the HUB Rules. State agencies may determine that subcontracting is probable for only a subset of the work expected to be performed or the funds to be expended under the contract. If an agency determines that subcontracting is probable on only a portion of a contract, it shall document its reasons in writing for the procurement file.

The Department has determined that subcontracting opportunities are probable for this RFQ. As a result, the respondent must submit an HSP with its proposal. The HSP is required whether a respondent intends to subcontract or not.

In the HSP, a respondent must indicate whether it is a Texas certified HUB. Being a certified HUB does not exempt a respondent from completing the HSP requirement.

The Department shall review the documentation submitted by the respondent to determine if a good faith effort has been made, in accordance with solicitation and HSP requirements. During the good faith effort evaluation, The Department may, at its discretion, allow clarifications or enhancements to information submitted with the HSP.

If the Department determines that the respondent's HSP was not developed in good faith, the HSP will be considered non-responsive and will be rejected as a material failure to comply with the advertised specifications. The reasons for rejection shall be recorded in the procurement file.

e. (I.3.5) CPA Centralized Master Bidder's List

Respondents may search for HUB subcontractors in the CPA's [Centralized Master Bidders List \(CMBL\)/HUB Directory](#). For this procurement, the Department has identified the

following class and item codes for potential subcontracting opportunities:

NIGP Class/Item Code:

Engineering services: [Remove if the contract does not include engineering services. **If the contract includes engineering services, leave the code as is and do not replace "XX" with a specific number.**]

- 925-XX Engineer Services, Professional

Environmental services: [Remove if the contract does not include environmental services. **If the contract includes Environmental services listed below, leave the code as is and do not replace "XX" with a specific number.**]

- 918-XX Environmental Consulting
- 926-XX Environmental Services (Not otherwise classified)

Surveying services: [Remove if the contract does not include surveying services.]

- 925-86 Surveyor Services
- 905-04 Aerial Photogrammetry Services
- 905-10 Aerial Surveys and Mapping Services
- 962-52 Mapping Services (Including Cartography and Surveying Services, not Aerial)

Architectural services: [Remove if the contract does not include architectural services.]

- 906-07 Architectural Services, Professional
- 906-10 Building, Architectural Design

Engineering support services: [Remove if the contract does not include engineering support services.]

- 925-95 Utilities (Gas, Steam, Electric)/Engineering
- 962-91 Utility Locator Service (Underground), Engineer Services
- 968-85 Traffic Counting Services
- 989-14 Asphalt Sampling and Inspection Services
- 992-34 Concrete Testing Services

Respondents are not required to use, nor limited to using, the class and item codes identified above, and may identify other areas for subcontracting.

The Department does not endorse, recommend nor attest to the capabilities of any company or individual listed on the CPA's CMBL. The list of certified HUBs is subject to change, so respondents are encouraged to refer to the CMBL often to find the most current listing of HUBs.

Additional information on the **NIGP Commodity Book**, by **Numeric Index** can be found at: <https://mycpa.cpa.state.tx.us/commbook/>

f. (I.3.6) HUB Subcontracting Procedures – If a Respondent Intends to Subcontract

An HSP must demonstrate that the respondent made a good faith effort to comply with the Department's HUB policies and procedures. The following subparts outline the items that the Department will review in determining whether an HSP meets the good faith effort standard. A respondent that intends to subcontract must complete the HSP to document

its good faith efforts.

i. (I.3.6.1) Identify Subcontracting Areas and Divide Them into Reasonable Lots

A respondent should first identify each area of the contract work it intends to subcontract. Then, to maximize HUB participation, it should divide the contract work into reasonable lots or portions, to the extent consistent with prudent industry practices. The respondent will apportion the work using work categories and complete the HSP (HSP Section 2.b - Subcontracting Opportunity Description). The **Work Categories and the Percent of Work Per Category** section of the RFQ includes work categories for probable subcontracting opportunities on this solicitation.

Search the TxDOT precertification database for firms precertified in the standard work categories at the following link:

<http://www.txdot.gov/business/consultants/architectural-engineering-surveying/list-of-firms.html>

Search the State of Texas HUB Database for HUB vendors at the following link:

<https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>

Minority and women owned business association resources are available for your subcontracting solicitations to State of Texas HUB vendors at this link: [Minority and Women Organizations](#)

ii. (I.3.6.2) Notify Potential HUB Subcontractors

The HSP must demonstrate that the respondent made a good faith effort to subcontract with HUBs that have an active HUB certification. The respondent's good faith efforts shall be shown through utilization of all methods in conformance with the development and submission of the HSP and by complying with the following steps:

1. **(I.3.6.2.1)** Divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices. The respondent must determine which portions of work, including goods and services, will be subcontracted.
2. **(I.3.6.2.2)** Use the appropriate method(s) to demonstrate good faith effort. The respondent can use either method(s) 1, 2, or 3.

iii. (I.3.6.3) Method 1: Respondent Intends to Subcontract with only HUBs:

The respondent must identify in the HSP the HUBs, with an active HUB certification, that will be utilized and submit written documentation that confirms **100%** of all available subcontracting opportunities will be performed by one or more HUBs.

iv. (I.3.6.4) Method 2: Respondent Intends to Subcontract with HUBs and Non-HUBs (Meet or Exceed the Goal):

The respondent must identify in the HSP and submit written documentation that one or more HUBs, with an active HUB certification, will be utilized; and that the

aggregate expected percentage of subcontracts with HUBs will meet or exceed the goal specified in this solicitation. Only HUB subcontractors that have an existing contract with the respondent for less than five years may be used to comply with the good faith effort requirements under this method.

When the aggregate expected percentage of subcontracts with HUBs meets or exceeds the goal specified in this solicitation, respondents may also use non-HUB subcontractors; or,

v. (I.3.6.6) Method 3: Respondent Intends to Subcontract with HUBs and Non-HUBs (Does Not Meet or Exceed the Goal):

The respondent must identify in the HSP and submit documentation regarding both of the following requirements:

- Written notification to minority or women trade organizations or development centers to assist in identifying potential HUBs, with an active HUB certification, of the subcontracting opportunities the respondent intends to subcontract.

Respondents must give minority or women trade organizations or development centers at least seven (7) working days prior to submission of the respondent's response for dissemination of the subcontracting opportunities to their members. A list of minority and women trade organizations is located on the CPA's website under the [Minority and Women Organization link](#).

- Written notification to at least three (3) HUB businesses, with an active HUB certification, of the subcontracting opportunities that the respondent intends to subcontract. The written notice must be sent to potential HUB subcontractors prior to submitting proposals and must include:
 - a description of the scope of work to be subcontracted,
 - information regarding the location to review project plans or specifications,
 - information about bonding and insurance requirements,
 - required qualifications and other contract requirements, and
 - a description of how the subcontractor can contact the respondent.

Respondents must give potential HUB subcontractors a reasonable amount of time to respond to the notice, at least seven (7) working days prior to submission of the respondent's response unless circumstances require a different time period, which is determined by the agency and documented in the contract file;

Respondents must also use the CMBL, the HUB Directory, and Internet resources when searching for HUB subcontractors. Respondents may rely on the services of contractor groups; local, state and federal business assistance offices; and other organizations that provide assistance in identifying qualified applicants for the HUB program.

vi. (I.3.6.7) Written Justification of the Selection Process

The Department will make a determination if a good faith effort was made by the respondent in the development of the required HSP. One or more of the methods identified in the previous sections may be applicable to the respondent's good faith efforts in developing and submission of the HSP. The Department may require the respondent to submit additional documentation explaining how the respondent made a good faith effort in accordance with the solicitation.

A respondent must provide written justification of its selection process if it chooses a non-HUB subcontractor. The justification should demonstrate that the respondent negotiated in good faith with qualified HUB bidders, and did not reject qualified HUBs, with an active HUB certification, who were the best value responsive bidders.

g. (I.3.7) Method 4: Respondent Does Not Intend to Subcontract

When the respondent plans to complete all contract requirements with its own equipment, supplies, materials and/or employees, it is still required to complete an HSP.

The respondent must complete the "Self Performance Justification" portion of the HSP, and attest that it does not intend to subcontract for any goods or services, including the class and item codes identified in Section I.3.5. In addition, the respondent must identify the sections of the proposal that describe how it will complete the Scope of Work using its own resources or provide a statement explaining how it will complete the Scope of Work using its own resources. The respondent must agree to comply with the following if requested by the Department:

- Provide evidence of sufficient respondent staffing to meet the RFQ requirements,
- Provide monthly payroll records showing the respondent staff fully dedicated to the contract,
- Allow the Department to conduct an onsite review of company headquarters or work site where services are to be performed, and,
- Provide documentation proving employment of qualified personnel holding the necessary licenses and certificates required to perform the Scope of Work.

h. (I.3.8) Post-award HSP Requirements

The HUB Subcontracting Plan (HSP) shall be reviewed and evaluated prior to contract award and, if accepted, the finalized HSP will become part of the contract with the successful respondent(s) and will be reflected as Exhibit HSP in the contract.

After contract award, the Department will coordinate a post-award meeting with the successful respondent to discuss HSP reporting requirements. The contractor must maintain business records documenting compliance with the HSP, and must submit monthly subcontract reports to the Department by completing the HUB "Prime Contractor Progress Assessment Report" and "HUB Subcontracting Plan (HSP) Progress Compliance Form - 2579". This monthly report is required as a condition for payment to report to the agency the identity and the amount paid to all subcontractors.

As a condition of award the Contractor is required to send notification to all selected

subcontractors as identified in the accepted/approved HSP. In addition, a copy of the notification must be provided to the agency's Contract Manager and/or HUB Program Office within 10 days of the contract award.

During the term of the contract, if the parties in the contract amend the contract to include a change to the scope of work or add additional funding, the Department will evaluate to determine the probability of additional subcontracting opportunities. When applicable, the Contractor must submit an HSP change request for the Department's review. The requirements for an HSP change request will be covered in the post-award meeting.

When making a change to an HSP, the Contractor will obtain prior written approval from the Department before making any changes to the HSP. Proposed changes must comply with the HUB Program good faith effort requirements relating to the development and submission of a HSP.

If the contractor decides to subcontract any part of the contract after the award, it must follow the good faith effort procedures outlined in Section I.3.6 of this RFQ (e.g., divide work into reasonable lots, notify at least three (3) vendors per subcontracted area, provide written justification of the selection process, or participate in the Mentor Protégé Program).

For this reason, the Department encourages respondents to identify, as part of their HSP, multiple subcontractors who are able to perform the work in each area the respondent plans to subcontract. Selecting additional subcontractors may help the selected contractor make changes to its original HSP, when needed, and will allow the Department to approve any necessary changes expeditiously.

Failure to meet the HSP and post-award requirements will constitute a breach of contract, and will be subject to remedial actions. The Department may also report noncompliance to the CPA in accordance with the provisions of the Vendor Performance and Debarment Program ([see 34 T.A.C. §20.585 relating to Debarment](#)) and ([see 34 T.A.C. §20.586 relating to Procedures for Investigations and Debarment](#)).



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PEPS TxDOT.gov

<https://www.txdot.gov/business/consultants/architectural-engineering-surveying.html>

PEPS DRIVE Mentor-Mentee Program

<https://www.txdot.gov/business/consultants/architectural-engineering-surveying/drive-program.html>

TxDOT's DBE Program

<https://www.txdot.gov/business/partnerships/dbe.html>

TxDOT's HUB Program

<https://www.txdot.gov/business/resources/hub.html>

HSP Completion Overview

<http://ftp.dot.state.tx.us/pub/txdot-info/civ/hub/hub-hsp-completion.pdf>

DBE Regulations - 49 CFR Part 26

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl

HUB Regulations, TX Statutes Government Code Chapter 2161

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2161.htm#00>

PEPS Requirement - 43 TAC Part 1, Chapter 9

DBE – Subchapter J

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=43&pt=1&ch=9&sch=J&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=43&pt=1&ch=9&sch=J&rl=Y)

HUB Subchapter L

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=43&pt=1&ch=9&sch=L&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=43&pt=1&ch=9&sch=L&rl=Y)

DBE NAICS Codes for Standard Work Categories

<https://ftp.dot.state.tx.us/pub/txdot/ppd/dbe-naics-codes.pdf>