



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Janet T. Mills
GOVERNOR

Bruce A. Van Note
COMMISSIONER

March 18, 2021
Subject: Light Capital Paving
State WINS: 025643.00
Location: **Milford Area**
Amendment No. 1

Dear Sir/Ms.:

Please make the following changes to the Bid Documents:

In the Bid Book:

ADD the attached NOTICE for Federal Projects to include DBE Utilization form, 1 page.

ADD the attached MaineDOT CONTRACTOR'S DBE/SUBCONTRACTOR PROPOSED UTILIZATION FORM, 1 page.

ADD the attached SPECIAL PROVISION 105 - GENERAL SCOPE OF WORK - Equal Opportunity and Civil Rights - (Disadvantaged Business Enterprises Program), 4 pages, dated May 9, 2011.

ADD the attached MaineDOT DBE Project Attainment Target (PAT), 1 page, dated March 3, 2021.

ADD the attached SPECIAL PROVISION - SECTION 105 - GENERAL SCOPE OF WORK - (Buy America Certification), 1 page, dated December 5, 2011.

REMOVE page 27, State of Maine 2021 - Fair Minimum Wage Rates – Highway & Earth Penobscot County, and **REPLACE** with the attached State of Maine 2021 - Fair Minimum Wage Rates – Highway & Earth Penobscot County, Revised 2-25-2021.

Consider these changes and information prior to submitting your bid on **March 24, 2021**.

Sincerely,

A handwritten signature in blue ink that reads 'George Macdougall'.

George M. A. Macdougall P.E.
Contracts & Specifications Engineer

NOTICE

All bids for Federal Projects **shall** be accompanied by the DBE Proposed Utilization form. If you are submitting an electronic bid, the DBE Utilization Form may be faxed to 207-624-3431. Failure to submit the form with the bid will be considered a curable defect.

**MaineDOT CONTRACTOR'S DBE/SUBCONTRACTOR
PROPOSED UTILIZATION FORM**

All Bidders must furnish this form with their bid on Bid Opening day

Contractor: _____ Telephone: _____ Ext _____

Contact Person: _____ Fax: _____

E-mail: _____

BID DATE: _____

FEDERAL PROJECT PIN # _____ PROJECT LOCATION: _____

TOTAL ANTICIPATED DBE _____% PARTICIPATION FOR THIS CONTRACT

W B E	D B E	Non DBE	Firm Name	Item Number & Description of Work	Quantity	Cost Per Unit/Item	Anticipated \$ Value
Subcontractor Total >							
DBE Total >							

NOTE: THIS INFORMATION IS USED TO TRACK AND REPORT ANTICIPATED DBE PARTICIPATION IN ALL FEDERALLY FUNDED MAINE DOT CONTRACTS. THE ANTICIPATED DBE AMOUNT IS VOLUNTARY AND WILL NOT BECOME A PART OF THE CONTRACTUAL TERMS.

Equal Opportunity Use:

Form received: ___/___/___ Verified by: _____

FHWA FTA FAA

For a complete list of certified firms and company designation (WBE/DBE) go to <http://www.maine.gov/mdot/civilrights/>

SPECIAL PROVISION 105
GENERAL SCOPE OF WORK
Equal Opportunity and Civil Rights
(Disadvantaged Business Enterprises Program)

105.10.1.1 Disadvantaged Business Enterprises Program The Maine Department of Transportation (MaineDOT) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the United States Department of Transportation (USDOT), 49 CFR Part 26. The MaineDOT receives federal financial assistance from USDOT, and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26. The MaineDOT is responsible for determining the eligibility of and certifying DBE firms in Maine.

A DBE is defined as a for-profit business that is owned and controlled by one or more socially and economically disadvantaged person(s). For the purpose of this definition:

1. "Socially and economically disadvantaged person" means an individual who is a citizen or lawful permanent resident of the United States and who is Black, Hispanic, Native American, Asian, Female; or a member of another group or an individual found to be disadvantaged by the Small Business Administration pursuant to Section 3 of the Small Business Act.
2. "Owned and controlled" means a business which is:
 - a. A sole proprietorship legitimately owned and controlled by an individual who is a disadvantaged person.
 - b. A partnership or limited liability company in which at least 51% of the beneficial ownership interests legitimately are held by a disadvantaged person(s).
 - c. A corporation or other entity in which at least 51% of the voting interest and 51% of the beneficial ownership interests legitimately are held by a disadvantaged person(s).

The disadvantaged group owner(s) or stockholder(s) must possess control over management, interest in capital, and interest in earnings commensurate with the percentage of ownership. If the disadvantaged group ownership interests are real, substantial and continuing and not created solely to meet the requirements of this program, a firm is considered a bona fide DBE.

105.10.1.2 Commercially Useful Function MaineDOT will count expenditures of a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. A DBE performs a commercially useful function 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. Credit will only be given when the DBE meets all conditions for a CUF. Credit for labor will be in accordance with the responsibilities outlined in the contract. To perform a commercially useful function, 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 materials, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, MaineDOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing and DBE credit claimed for its performance of the work, and other relevant factors.

Rented equipment used by the DBE must not be rented from the Prime Contractor on a job that the DBE is subcontracted with that Prime Contractor for regular course of business.

A current listing of certified DBEs that may wish to participate in the highway construction program and the scope of work for which they are certified can be found at <http://www.maine.gov/mdot/disadvantaged-business-enterprises/pdf/directory.pdf>. Credit will be given for the value described by a DBE performing as:

- A. A prime contractor; 100% of actual value of work performed by own workforces.
- B. An approved subcontractor; 100% of work performed by own workforces.
- C. An owner-operator of construction equipment; 100% of expenditures committed.
- D. A manufacturer; 100% of expenditures committed. The manufacturer must be a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor. Brokers and packagers shall not be regarded as manufacturers.
- E. A regular dealer; 60% of expenditures committed. A regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public. For purposes of this provision a "Broker" is a DBE that has entered into a legally binding relationship to provide goods or services delivered or performed by a third party. Brokers and packagers shall not be regarded as regular dealers.
- F. A bona fide service provider; 100% of reasonable fees or commissions. Eligible services include professional, technical, consultant, or managerial, services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of the contract. Eligible services also include agencies providing bonding and insurance specifically required for the performance of the contract.
- G. A trucking, hauling or delivery operation. 100% of expenditures committed when trucks are owned, operated, licensed and insured by the DBE and used on the contract and, if applicable, includes the cost of the self supplied materials and supplies. 100% of expenditures committed when the DBE leases trucks from another DBE firm including an owner-operator. 100% of reasonable fees or commissions the DBE receives as a result of a lease arrangement for trucks from a non-DBE, including an owner-operator.
- H. Any combination of the above.

105.10.1.3 Race-neutral Goals The Maine DOT is required to set an annual goal (approved on a three year basis) for DBE participation in Federal-aid projects. In order to fulfill that goal, bidders are encouraged to utilize DBE businesses certified by the MaineDOT. MaineDOT seeks to meet the established DBE goal solely through race-neutral means. *Race-neutral* DBE participation occurs when a DBE is awarded a prime contract through customary competitive procurement procedures, is awarded a subcontract on a contract that does not carry a DBE contract goal, or wins a subcontract from a prime contractor that did not consider its DBE status in making the award. A DBE/subcontractor Utilization Proposed Form is required to be included in bid documents.

MaineDOT will analyze each project and create a Project Availability Target (PAT), based on a number of factors including project scope, available DBE firms, firms certified in particular project work, etc. Each bid will request that the contractor attempt to meet the PAT. This PAT is developed to assist contractors to better understand what the MaineDOT expectations are for a

specific project. The PAT is NOT a mandate but an assessment of what this particular project can bear for DBE participation. The Department anticipates that each contractor will make the best effort to reach or exceed this PAT for the project.

105.10.1.4 Race-conscious Project Goals If it is determined by the Department that the annual DBE goal will not be met through *race-neutral* means, the Department may implement *race-conscious contract goals* on some projects. Race-conscious contract goals are goals that are enforceable by the Department and require that the prime contractor use good faith effort to achieve the goal set by the Department for that particular project. If race conscious means are implemented on a project, the Prime must comply with the requirements of 49 CFR.

At the time of the bid opening, all Bidders shall submit with their bid a Disadvantaged Business Enterprise (DBE) Commitment Form provided by the Department. This form will list the DBE and non-DBE firms that are proposed to be used during the execution of the Work. The list shall show the name of the firm, the item/material/type of work involved and the dollar amount of work to be performed. The dollar total of each commitment shall be totaled and a percentage determined.

If the project goal is not met, acceptable documentation showing all good faith efforts made to obtain participation may be required in order to award the project. Failure to provide the required listing with the dollar participation total or acceptable documentation of good faith efforts to obtain DBE participation within 3 days after the bid opening date will be considered a lack of responsiveness on the part of the low bidder. Rejection of the low bid under these circumstances will require the low bidder to surrender the Proposal Guaranty to the Department. The submission and approval of the above forms does not constitute a formal subcontract.

If for any reason during the progress of the Work the Contractor finds that DBEs included on the list are unable to perform the proposed work, the Contractor, with written release by the committed DBE or approval of the Department, may substitute other DBE firms for those named on the list. If the Contractor is able to clearly document their inability to find qualified substitute firms to meet the project goal, the Contractor may request in writing approval to substitute the DBE with a non-DBE firm. If at any time during the life of the Contract it is determined that the Contractor is not fulfilling the goal or commitment(s) and is not making a good faith effort to fulfill the DBE requirement, the Department may withhold progress payments. If good faith effort is determined by the Department, failure to meet the DBE contract goal will not be a detriment to the bid award. Fulfillment of the goal percentage shall be determined by dividing the dollars committed to the DBEs by the actual contract dollars. These requirements are in addition to all other Equal Employment Opportunity requirements on Federal-aid contracts.

105.10.1.5 Certification of DBE attainment on Contracts The MaineDOT must certify that it has conducted post-award monitoring of all contracts to ensure that DBEs had done the work for which credit was claimed. The certification is for the purpose of ensuring accountability for monitoring which the regulation already requires. The MaineDOT will certify these contracts through review of CUF forms, Elations sub-contract payment tracking as well as occasional on-site reviews of projects and through the project's final closeout documentation provided by our Contracts Section.

105.10.1.6 Bidders' List Survey Pursuant to 49 CFR 26.11 the MaineDOT is required to “create and maintain” a bidders list and gather bidder information on our construction/consultant projects, Contractors will maintain information on all subcontract bids submitted by DBE and Non-DBE firms and provide that information to the Department. The Following information is required:

Firm Name

Firm Address

Firm status (DBE or non-DBE)

Age of firm (years)

And the annual gross receipts amount as indicated by defined brackets, i.e. \$500,000 to \$800,000, rather than requesting exact figures.

Not only is this information critical in determining the availability of DBE businesses relative to other businesses that do similar work, but the Federal Highway Administration requires that we obtain this information.

MaineDOT DBE Project Attainment Target (PAT)
for this Project is 0.00%

The MaineDOT seeks to meet the specified annual Disadvantaged Business Enterprise (DBE) usage goal set out by 49 CFR 26.45 through the efforts of contractors seeking to employ qualified DBE subcontractors. We seek to meet this goal by race neutral means and do not, at this time, use contract specific requirements for each project. We do however, understand the capacity of Maine's DBE community and the unique characteristics a project may have that would differ from the broad annual goal.

Taking this into consideration, the MaineDOT will review each project and develop an anticipated attainment or Project Attainment Target (PAT) based on several factors that are project specific. Those factors include:

- Scope of Work
- DBE availability according to Specification Item
- Geographic location
- DBE capacity

This PAT is developed to assist contractors to better understand the DBE participation that the MaineDOT can reasonably expect for a specific project. The PAT is NOT a mandate but an assessment of the DBE opportunities that this project could meet or exceed. MaineDOT anticipates that each contractor will make the best effort to reach or exceed the PAT for this project.

SPECIAL PROVISION
SECTION 105
GENERAL SCOPE OF WORK
(Buy America Certification)

105.11 Federal Requirements Add the following as the third and subsequent paragraphs:

“Prior to payment by the Department, the Contractor shall provide a certification from the producer of steel or iron, or any product containing steel or iron as a component, stating that all steel or iron furnished or incorporated into the furnished product was manufactured in the United States in accordance with the requirements of the Buy America provisions of 23 CFR 635.410, as amended. Such certification shall also include (1) a statement that the iron or steel product or component was produced entirely within the United States, or (2) a statement that the iron or steel product or component was produced within the United States except for minimal quantities of foreign steel and iron valued at \$ (actual value).

All manufacturing processes must take place domestically. Manufacturing begins with the initial melting and mixing, and continues through the coating stage. Any process which modifies the chemical content, the physical size and shape, or the final finish is considered a manufacturing process. These processes include rolling, extruding, machining, bending, grinding, drilling, and coating. “Coating” includes epoxy coating, galvanizing, painting, or any other coating that protects or enhances the value of the material.

A Buy America Certification is required from each manufacturer, fabricator, supplier, subcontractor, etc. that meets the “manufacturing” definition above.

Buy America does not apply to raw materials (iron ore and alloys), scrap, pig iron, or processed, pelletized, and reduced iron ore.”

State of Maine
 Department of Labor
 Bureau of Labor Standards
 Augusta, Maine 04333-0045
 Telephone (207) 623-7906

Wage Determination - In accordance with 26 MRS §1301 et. seq., this is a determination by the Bureau of Labor Standards, of the fair minimum wage rate to be paid to laborers and workers employed on the below titled project.

**2021 Fair Minimum Wage Rates
 Highway & Earth Penobscot County**

<u>Occupation Title</u>	<u>Minimum Wage</u>	<u>Minimum Benefit</u>	<u>Total</u>	<u>Occupation Title</u>	<u>Minimum Wage</u>	<u>Minimum Benefit</u>	<u>Total</u>
Asphalt Raker	\$ 19.06	\$ 4.68	\$ 23.74	Ironworker - Reinforcing	\$ 28.36	\$ 0.00	\$ 28.36
Backhoe Loader Operator	\$ 33.80	\$ 10.28	\$ 44.08	Laborer - Skilled	\$ 18.32	\$ 3.52	\$ 21.84
Boom Truck (Truck Crane) Operator	\$ 25.00	\$ 5.86	\$ 30.86	Laborers (Helpers & Tenders)	\$ 18.00	\$ 1.01	\$ 19.01
Bulldozer Operator	\$ 20.00	\$ 1.88	\$ 21.88	Loader Operator - Front-End	\$ 22.00	\$ 7.62	\$ 29.62
Carpenter - Rough	\$ 30.76	\$ 19.72	\$ 50.48	Mechanic- Maintenance	\$ 22.75	\$ 1.59	\$ 24.34
Cement Mason/Finisher	\$ 20.50	\$ 1.42	\$ 21.92	Millwright	\$ 25.75	\$ 5.41	\$ 31.16
Communication Equip Installer	\$ 22.00	\$ 0.00	\$ 22.00	Painter	\$ 20.90	\$ 2.07	\$ 22.97
Crane Operator =>15 Tons)	\$ 29.00	\$ 6.68	\$ 35.68	Paver Operator	\$ 23.91	\$ 13.25	\$ 37.16
Crusher Plant Operator	\$ 22.96	\$ 7.90	\$ 30.86	Pipelayer	\$ 25.00	\$ 3.36	\$ 28.36
Electrician - Licensed	\$ 31.98	\$ 17.24	\$ 49.22	Reclaimer Operator	\$ 26.83	\$ 13.25	\$ 40.08
Electrician Helper/Cable Puller	\$ 18.50	\$ 2.39	\$ 20.89	Roller Operator - Earth	\$ 23.91	\$ 2.97	\$ 26.88
Excavator Operator	\$ 23.74	\$ 2.26	\$ 26.00	Roller Operator - Pavement	\$ 23.91	\$ 9.21	\$ 33.12
Fence Setter	\$ 18.50	\$ 2.00	\$ 20.50	Screed/Wheelman	\$ 20.00	\$ 3.01	\$ 23.01
Flagger	\$ 13.75	\$ 0.00	\$ 13.75	Stone Mason	\$ 25.00	\$ 1.88	\$ 26.88
Grader/Scraper Operator	\$ 26.29	\$ 10.70	\$ 36.99	Truck Driver - Heavy	\$ 19.49	\$ 4.13	\$ 23.62
Highway Worker/Guardrail Installer	\$ 19.60	\$ 1.40	\$ 21.00	Truck Driver - Light	\$ 24.15	\$ 0.38	\$ 24.53
Hot Top Plant Operator	\$ 23.91	\$ 13.25	\$ 37.16	Truck Driver - Medium	\$ 19.25	\$ 1.09	\$ 20.34
Industrial Truck (Forklift) Operator	\$ 26.83	\$ 3.25	\$ 30.08	Truck Driver - Tractor Trailer	\$ 18.00	\$ 0.00	\$ 18.00

The Laborer classifications include a wide range of work duties. Therefore, if any specific occupation to be employed on this project is not listed in this determination, call the Bureau of Labor Standards at the above number for further clarification.

Welders are classified in the trade to which the welding is incidental.

Apprentices – The minimum wage rate for registered apprentices are those set forth in the standards and policies of the Maine State Apprenticeship and Training Council for approved apprenticeship programs.

Title 26 §1310 requires that a clearly legible statement of all fair minimum wage and benefits rates to be paid the several classes of laborers, workers and mechanics employed on the construction on the public work must be kept posted in a prominent and easily accessible place at the site by each contractor and subcontractor subject to sections 1304 to 1313.

Appeal – Any person affected by the determination of these rates may appeal to the Commissioner of Labor by filing a written notice with the Commissioner stating the specific grounds of the objection within ten (10) days from the filing of these rates.

A true copy

Attest: Scott R. Cotnoir
 Scott R. Cotnoir
 Wage & Hour Director
 Bureau of Labor Standards

Expiration Date: 12-31-2021
 Revised 2-25-2021