

**OKLAHOMA DEPARTMENT OF TRANSPORTATION**  
**CONTRACT ADMINISTRATION GUIDE FOR CONTRACTORS**

December 6, 2019

This advisory has been prepared for distribution with the contractor's executed contract to assist in administration of contracts with the Oklahoma Department of Transportation. It is understood that when the word "you" is used, it refers to the contractor.

**NOTICE TO PROCEED/WORK ORDERS:**

The notice to proceed will not be issued by the Construction Engineer until the following requirements are met:

Out of State Tax Bond if the Prime Contractor is from another state and the contract amount is over \$100,000.00

General Liability and Worker's Compensation Insurance is up-to-date and on file with the Construction Division.

Railroad Liability Insurance (if required) is up-to-date and on file with the Construction Division.

**OUT-OF-STATE TAX BOND:**

A Tax bond and Notice of Contract Form BT-175 (found on the Oklahoma Tax Commission's website <https://www.ok.gov/tax/documents/bt-175.pdf>) must be on file with the Oklahoma Tax Commission if:

You are a non-resident Prime Contractor and the contract amount is over \$100,000.00.

You are a non-resident Subcontractor working for an Oklahoma Contractor and the subcontract amount is over \$100,000.00. If a non-resident Subcontractor is working for a non-resident Prime and the Prime has acquired the bond for the entire project the Subcontractor is not required to obtain a separate bond.

The Notice to Proceed will not be issued by the Construction Engineer until the Construction Division has been notified by the Oklahoma Tax Commission that the Out of State Tax Bond has been posted by the Contractor.

The out of state Contractor should contact the State of Oklahoma Tax Commission, Attn: Taxpayer Assistance Division located at 2501 Lincoln Blvd. OKC, OK 73194 for an out of state tax packet. The telephone number is 405-522-0377.

**INSURANCE:**

The Contractor shall furnish a current up-to-date Insurance Certificate for General Liability and Worker's Compensation Insurance, which is required for every contract. Insurance certificates, and the Railway Company Insurance policy if required, must be received by the Construction Engineer in the Construction Division at the Oklahoma Department of Transportation, 200 N.E. 21st. Street, Oklahoma City, OK 73105 prior to the notice to proceed being issued. See Section 107 of the Standard Specifications and also see the Special Provisions for additional information pertaining to the Railway Company Insurance policy that may be required.

## SUBCONTRACTING:

Subsection 108.01 of the Standard Specifications relates to “Subletting of Contract” and states that the Contractor shall not subcontract any portion of the contract without written consent of the Department. The Contractor shall perform with its own organization contract work amounting to not less than 50% (or a lesser percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. “Its own organization” shall be construed to include only workers employed and paid directly by the prime Contractor and equipment owned and rented by the Prime Contractor. Such does not include employees or equipment of a Subcontractor, assignee, or agent of the prime Contractor. Subcontracting of more than 50% of the contract will not be approved. (In some cases the contract may include a Special Provision modifying the ODOT Subsection 108.01 of the Standard Specifications allowing up to the Federal maximum of 70%).

To obtain approval of a subcontract, the following steps shall be followed:

**Federal Funded Projects only:** Subcontracts and/or sub-agreements must be emailed in pdf format for review and approval by the Civil Rights Division at [constructionsubcontracts@odot.org](mailto:constructionsubcontracts@odot.org) prior to submitting the subcontract to Construction Division for approval.

You will be required to load a program called: “SiteXchange”. A free copy of SiteXchange will be provided by ODOT the first time you are awarded a contract along with an easy to follow manual. These can be downloaded from the ODOT website or go to: <http://www.okladot.state.ok.us/contractadmin/sitexchange.htm> and select the SiteXchange Information tab.

Once you have been awarded a contract with ODOT which allows SiteXchange to be used, you will be able to download SiteXchange from our ODOT Web Page or the address above. You will also be able to download your contract file which will contain your bid items. You will need to download “Vendor Bin” into your SiteXchange folder this will allow you to use the drop down menu and select Subcontractors, haulers, engineering and material suppliers previously used by ODOT Contractors. Once you have selected the Subcontractor you are using on a project and filled in what type of work they are performing and whether or not they are a DBE, (Disadvantaged Business Enterprise), click on the plus sign in front of the Subcontractor’s name. This will give you a drop down of all the contract items awarded. Check each item of work the Subcontractor is performing. At the bottom of the page there is a box marked “partial item”, only check this box if it is a true partial (such as mobilization) and if the price is a partial you will need to type in an explanation in the notes section. Only change the price if the work is a true partial and then change it on the left price and hit the tab key on your keyboard so the price will also change on the right side.

Once all the Subcontractors are loaded and items of work are selected. Click on the Miscellaneous Data folder read and select “yes” you understand the requirements and fill out the name and title of the person submitting the subcontracts for approval. If you do not understand the certification statement you may contact the Construction Division for assistance. No subcontracts will be approved until the certification statement is filled out and accepted.

After everything is filled out, attach and send the .CON file to [SubcontractRequest@ODOT.org](mailto:SubcontractRequest@ODOT.org) for approval. You will receive a Subcontract Consent Form by email once the subcontract has been reviewed and approved. Print the Subcontract Consent Form and attach it to your subcontract file for auditing purposes.

If you have any problems, please contact the Construction Division @ (405) 521-2561 and we will be happy to assist you.

## **SECOND TIER SUBCONTRACTING:**

Subcontracting of a subcontract IS NOT permitted!

## **FEDERAL REQUIREMENT FOR SUBCONTRACTS**

The Certification of Subcontractors acknowledgement that is included with each electronically submitted subcontract request using SiteXchange must be completed when submitting your subcontracts for approval.

The certification statement filled out by the Prime Contractor must attest that the FHWA 1273 form is attached to all subcontracts for federally funded contracts. The FHWA 1273 form can be found on the FHWA website at: [www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf](http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf).

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE) SUBCONTRACTS & SERVICE AGREEMENTS:**

On Federal Aid Projects there is a goal for the participation of DBE Firms (except in some very rare cases). These may be Subcontractors, suppliers or haulers (refer to the current DBE Program Manual for details). For a copy of the DBE Program Manual, contact the Civil Rights Division at the Oklahoma Department of Transportation, 200 N.E. 21 Street, Oklahoma City, OK. 73105, (Phone: 405-521-3186) or visit:

[https://ok.gov/odot/Doing\\_Business/Civil\\_Rights/index.html](https://ok.gov/odot/Doing_Business/Civil_Rights/index.html)

For the list of certified DBE's visit: <https://okdot.gob2g.com/Default.asp>. For a list of the required DBE Forms, visit: [https://ok.gov/odot/Doing\\_Business/ODOT\\_Forms/index.html](https://ok.gov/odot/Doing_Business/ODOT_Forms/index.html)

NOTE: You must submit to the Office Engineer Division a DBE Form 6, Confirmation of Intent to Subcontract Federal-Aid Projects, from the DBE that it is participating in the contract as provided in the Prime Contractor's commitment. This may be submitted with the bid or not later than the Department's close of business on the Wednesday following the bid opening. Otherwise the bid may be considered nonresponsive and may be rejected by the Department. None of the documentation you submit to Office Engineer Division will satisfy any part of Construction Division's requirement for subcontracting.

## **EXCEPTIONS TO THE NORMAL APPROVAL PROCEDURE:**

When listing the items to be performed by the DBE Subcontractor on the DBE Subcontractor Agreement, show only the money slated to be earned by the DBE Sub. Only the money actually paid to the DBE may be counted towards the DBE Goal.

## **CHANGE OF DBE SUBCONTRACTOR:**

If a DBE Subcontractor fails or refuses to execute a written contract in accordance with any of the items listed in 49 CFR26.53(f)(3), the Prime Contractor must provide a notice to the DBE and give five days for a response. The Prime Contractor will then submit the DBE Form 4, Notification Change of DBE Participant, to the Civil Rights Division for review and approval, explaining the reason for the change with documentation.

## **GOOD FAITH EFFORTS**

Generally, as long as there is an opportunity for the DBE goal to be reached, Good Faith Efforts will not be approved. However, when a DBE does not report to perform the work as scheduled and the Contractor demonstrates that a "good faith" effort was made to find another DBE firm, that portion of the DBE requirement may be accepted. Submit the DBE Form 5, Prime Contractor – Good Faith Efforts, to your Resident Engineer who will then forward to the Civil Rights Division for review.

## **PRIME CONTRACTOR IS A DBE FIRM:**

When the Prime Contractor is a DBE all of the monies earned, less any monies paid to a Non DBE Subcontractor will go towards the DBE goal. NOTE: The Contractor is not obligated to subcontract. (Also see the following section.)

## **SUBCONTRACTING COMPLIANCE:**

Field Divisions and Construction Residencies are responsible for verification of on-site compliance with subcontracting procedures. Work done by subcontractors will not be permitted without an approved subcontract prior to the start of work. The subcontracting procedures are not intended to prevent the subcontractor from employing personnel or renting equipment to do the work.

All Prime Contractors are to complete and submit a DBE Form 2, Prime Contractor Monthly Payment Log, to the Resident Engineer to verify monthly payment to the DBE firms regardless if there is a DBE goal on the project. As part of the finalization process, a completed DBE Form 3A, Prime Contractor- Final Payment Report, is required.

Failure of the Contractor to comply with the requirements for subcontracting and DBE participation will be cause for default in accordance with Section 108.10 of the Standard Specifications for Highway Construction.

## **ODEQ CONSTRUCTION STORM WATER PERMIT:**

If your project has a soil disturbance of one acre or more, you will receive an ODEQ Storm Water Notice of Intent (NOI) in your contract packet. Complete Sections 1 and 3 of the NOI with the Prime Contractor's information and the signature of an authorized responsible party for your company. Return this document along with the required fee to: Oklahoma Department of Environmental Quality - ECLS Storm Water Unit, 707 North Robinson, P. O. Box 1677, OKC, OK 73101-1677. If the project has a disturbance of 40 acres or more or is located in a Sensitive Water as designated on the NOI, the site specific Storm Water Pollution Prevention Plan will need to be submitted with your application. Please note that it may take up to thirty days to receive the permit.

NOTE: A copy of the Authorization to Discharge Permit certificate must be posted in a publicly accessible location near the project site.

## **HANDLING OF HAZARDOUS WASTE:**

The Oklahoma Department of Environmental Quality (ODEQ) Website contains the rules and regulation on how to handle hazardous waste.

<http://www.deq.state.ok.us/lpdnew/hw/hazwaste.html>

The Contractor shall submit all required hazardous waste management paperwork on bridge painting projects. An EPA ID Number is obtained by completing the federal Notification of Hazardous Waste Activities Form (EPA Form 8700-12) also known as the **RCRA SUBTITLE C SITE ID FORM**. Instructions can be obtained online, through the above ODEQ Website address (question #11). Please return the completed form to the ODEQ, ATTN: Christina Coffel, Land Protection Division, PO Box 1677, Oklahoma City, OK, 73101-1677.

Large Quantity Generators (LQGs) must also complete the **ODEQ DISPOSAL PLAN APPLICATION FORM**, for all waste generated and submit associated fees. Use the above ODEQ website address (question #10) to obtain the form and other information.

Small Quantity Generators (SQGs) only need to submit **RCRA SUBTITLE C SITE ID FORM** and pay the associated Oklahoma SQG fee.

Conditionally Exempt Small Quantity Generators (CESQG) **do not** need to submit the **RCRA SUBTITLE C SITE ID FORM**. CESQG's that voluntarily obtain an EPA ID Number will enter the ODEQ's inspectable universe.

For all hazardous waste generators the Hazardous Waste Manifest and Certificate of Disposal/Destruction will need to be submitted to the Resident Engineer.

ODOT's Hazardous waste specifications can be found through this link to the ODOT Standard Specification Book, [http://intranet.okladot.state.ok.us/c\\_manuals/specbook/oe\\_ss\\_2009.pdf](http://intranet.okladot.state.ok.us/c_manuals/specbook/oe_ss_2009.pdf)

The following specifications have been listed for your convenience;

Section 104.13, Environmental Protection

Section 107.15, Hazardous Material

Section 512- Painting

Section 619, Removal of buildings, structures, and obstructions

Section 620, Removal of underground storage tanks

#### **PRECONSTRUCTION CONFERENCE:**

The Notice to Proceed normally becomes effective two weeks from the issue date unless specified otherwise in the contract. This is to allow time for a Preconstruction Conference. You are to contact the Resident Engineer for scheduling of the conference. If you wish to begin work before the effective date of the Notice to Proceed, notify your Resident Engineer/Manager in order to set-up a prework conference prior to starting work. **Beginning work prior to the issuance of the Notice to Proceed is not allowed** (this is for your own protection).

#### **PROGRESS SCHEDULE:**

Section 108.03 of the Standard Specifications requires that you submit a Progress Schedule to the Resident Engineer. This is to be submitted at the Preconstruction Conference. Some contracts require a Critical Path Method Schedule. Refer to your contract documents to determine the type of Progress Schedule you are to submit.

#### **MATERIALS AND TESTING:**

Prepare and submit your list of material sources to the Resident Engineer at the Preconstruction Conference or as soon as possible. This will allow time for the Materials Division to prepare for inspection of fabricated items. Some items originate outside the State of Oklahoma and require time to negotiate agreements for inspection. Out of State travel for inspection of some items may be at your expense when the fabrication plants exceed the mileage limits in Section 106.05 of the Standard Specifications.

It is your responsibility to provide necessary certifications and perform the required testing for some material types. Generally, the Engineer will not pay for materials for which the quality has not been verified by testing or certifications. A number of items have been pre-approved by the Materials Division and those items can be found on the 'Approved Products List' located on the Materials Division's website, this can be found at:

[https://ok.gov/odot/Doing\\_Business/Materials/index.html](https://ok.gov/odot/Doing_Business/Materials/index.html)

## **BUY AMERICA**

Prepare and submit Buy America letters for your company and all Subcontractors to the Resident Engineer at the Pre-work meeting. All steel or iron products permanently used on the project must comply with the Buy America requirements of the contract.

The Prime Contractor and ALL Subcontractors must submit a project specific certification letter stating that all manufacturing process involved with the production of steel or iron products will occur in the United States. This is a requirement whether or not the Prime Contractor's or Subcontractor's work includes steel or iron projects.

The Contractor will not be paid for any work which incorporates steel or iron products into the project or for any related work incorporated thereafter, until its compliance has been determined.

An example letter may be found at: [http://www.odot.org/c\\_manuals/ccdirectives/index.php](http://www.odot.org/c_manuals/ccdirectives/index.php)

## **PAYROLL RECORDS:**

If your project is Federal funded, you and your Subcontractors must submit payroll records and certifications for each week during the course of the project. If the project is not Federal funded, you must keep your payroll records in your files for three years. (Payroll records are not required for Material Suppliers and Haulers.)

## **PAYMENTS:**

Payment for work performed on the project is made in accordance with Section 109.06 of the Standard Specifications and the Supplement when applicable.

## **ADDITIONAL PAPERWORK REQUIRED DURING FINALIZATION PROCESS:**

If your project required Railroad Flagging, you must furnish a notarized certificate that states you have wholly reimbursed the Railway Company for flagging services.

Non-DBE Prime Contractors must submit a signed, notarized, DBE Final Form 3A for each DBE Subcontractor, supplier and trucker.

The mileposts of the Final Estimate are approximately as follows:

COMPLETION DATE - (Contractor's release from the physical project)

RESIDENCY AUDIT

DIVISION AUDIT

MATERIALS CERTIFICATION

BUY AMERICA LETTER – (Prime Contractor and all subcontractors)

FINAL ACCEPTANCE

ISSUANCE OF THE FINAL ESTIMATE - Return all but one copy of the signed & notarized Final

Estimates to the Resident Engineer. Don't forget the corporate seal, if applicable, and don't forget to verify quantities with your subcontractors, before you return the Final Estimate.