

Good Faith Efforts Training

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Today's Agenda

Good Faith Efforts (GFE) overview

GFE process – bid submittal

**U.S. Department of Transportation
(USDOT) GFE video**

Questions and answers

Good Faith Efforts (GFE) Overview

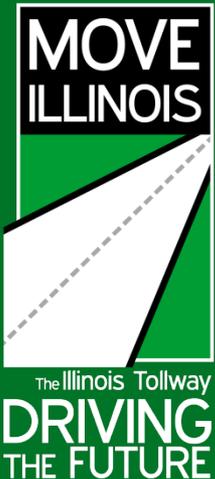
Background

Federal Highway Administration (FHWA) DBE Program

- Established in 1982
- 49CFR Part 26
- Carried out by state and local transportation agencies

Illinois Tollway

- Based on FHWA DBE Program
- No state or federal tax dollars used for maintenance and operations



Company culture of GFE

Bid preparation, contract performance, networking, outreach

Contract-specific GFE

Pre-bid

Goal review, DBE Utilization Plan preparation and commitment, waiver (front end)

Contract performance

EWOs, COs, overall contract performance, DBE Utilization Plan modification

Definitions

DBE goal

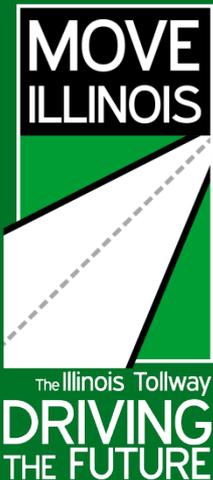
- Reflects the estimated availability of DBEs to perform the scope of work of this contract

DBE Utilization Plan

- List of currently certified DBEs that the bidder commits will be utilized on this contract, including its own participation as a DBE, if applicable, in the scopes of the work and the dollar values or the percentages of the work to be performed pursuant to this solicitation and in conformance with this special provision

DBE commitment

- Total of the commitments to each individual DBE firm as summarized on the DBE Utilization Plan



Definitions

Good faith efforts

- Actions undertaken by a contractor to achieve an advertised DBE goal at time of bid or DBE commitment during contract performance, which, by their scope, intensity and appropriateness to the objective, can reasonably be expected to obtain sufficient DBE participation, even if they were not successful in meeting the goal or commitment, as applicable

DBE waiver request

- Submission of DBE participation with a bid less than the advertised DBE goal percentage, submitted with GFE supporting the request

DBE Utilization Plan changes

- A request to change the DBE Utilization Plan during contract performance, either to substitute a DBE firm or reduce DBE participation, which is submitted with GFE and documentation supporting the request



GFE Process - Bid Submittal

GFE Process – Bid Submittal

Overview

Waiver request by prime

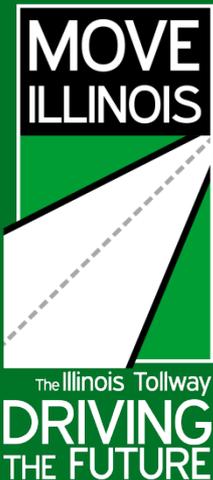
DBE Utilization Plan review and approval

GFE review

Pre-final determination by Tollway

Request for reconsideration by prime

Final determination



GFE Process – Bid Submittal

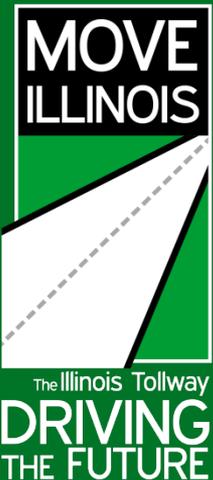
DBE Utilization Plan Review

Review of DBE Utilization Plan for apparent low bidder

- DBE Form 2026 DBE Utilization Plan
- DBE Form 2025 DBE Participation Statement for each proposed DBE

Did the apparent low bidder request a waiver or are there any technical issues?

- No
 - Proceed through contract services
- Yes
 - DBE extended documentation period
 - GFE review, if commitment remains below advertised goal



GFE Process - Bid Submittal

Waiver Request

DBE extended documentation period

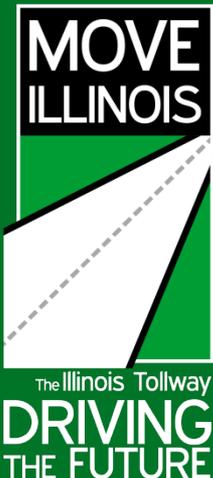
Allows, as applicable, apparent low bidders who submitted a DBE commitment below the advertised DBE goal

- Submission of additional DBE participation via an amended DBE Form 2026 DBE Utilization Plan and new DBE Form(s) 2025 for added DBE firm(s)
- Submission of additional good faith efforts documentation
- Correction of technical issues

All required DBE documentation must still be completed to the fullest extent possible and submitted with the bid, including DBE Forms 2026, 2025 and DBE Form 2023 GFE with supporting documentation, if applicable

Under no circumstances

- May a DBE firm listed in the initial DBE Utilization Plan be removed or replaced without prior written consent of the Illinois Tollway
- Is the bidder allowed to change the amount of the core bid submitted or any other documentation unrelated to the DBE Special Provision



GFE Process – Bid Submittal

Waiver Request

Waiver request by apparent low bidder

- Summarize DBE commitments of each bidder
 - Review commitments to DBE goal
 - Review spread of commitments to DBE goal
- Review of GFE by apparent low bidder
 - Standard review
 - Apparent low bidder waiver request is close to goal
 - Other bidders requested waiver
 - In-depth review
 - Apparent low bidder waiver request well below goal
 - No other bidders requested waiver

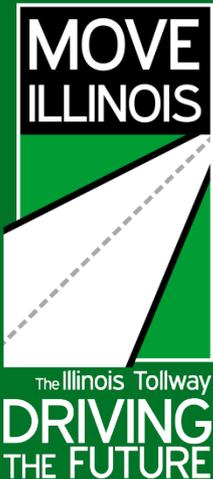


GFE Process – Bid Submittal

Review of GFE

For the apparent low bidder, review includes but is not limited to

- Bidder commitment as discussed on previous slides
- Types of work solicited
- Contacting firms
- Rejected DBE bids



DBE Form 2023



DBE FORM 2023

Demonstration of Good Faith Efforts to Achieve DBE Subcontracting Goal

If the DBE contract goal was not achieved, the Good Faith Efforts checklist and contacts log must be submitted with the bid. Failure to do so may render the bidder's solicitation response non-responsive and cause it to be rejected, or render the bidder ineligible for contract award, at ISHTA's sole discretion. The bidder must provide all evidence relied upon in support of its Good Faith Efforts with its bid.

Good Faith Efforts Checklist

Insert on each line below the initials of the authorized bidder representative who is certifying the bidder has completed the activities described below. If any of the items were not completed, attach a detailed written explanation. If any other efforts were made to obtain DBE participation in addition to the items listed below, attach a detailed written explanation.

_____ Identified portions of the contract work capable of performance by available DBEs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation even when the bidder could perform those scopes with its own forces.

_____ Solicited through reasonable and available means (e.g., pre-bid meetings, networking session, written notices, advertisements) DBEs to perform the types of work that could be subcontracted on this project, within sufficient time to allow them to respond.

- ILUCP DBE Directory:
<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>
- City of Chicago's M/WBE Directory:
<https://chicago.mwbe.com/FrontEnd/VendorSearchPublic.asp?TN=Chicago>
- County of Cook, IL's M/WBE Directory:
<http://www.cookcountyil.gov/mwbe/mwbe-directory/>
- Small Business Administration's SBA 8(a) Directory:
http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm

_____ Provided timely and adequate information about the plans, specifications and requirements of the contract. Followed up initial solicitations to answer questions and encourage DBEs to submit bids.

_____ Negotiated in good faith with interested DBEs that submitted bids and thoroughly investigated their capabilities.

_____ Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as may be required for performance of the contract (if applicable).

_____ Utilized resources available to identify available DBEs, including but not limited to DBE assistance groups; local, state and federal minority or women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

Affidavit of Truthfulness: Signature below affirms accuracy of Good Faith Efforts and authority to provide above information

Print Name: _____ Phone contact: _____

Position: _____ E-mail address: _____

Signature: _____ Date: _____



DBE FORM 2023

Good Faith Efforts Contacts Log for Soliciting - DBE Participation: Form 2023 continued

Project name: _____ Project number: _____

Bidder name: _____ Contact person: _____

Use this form to document all contacts and responses (telephone, e-mail, fax, etc.) regarding the solicitation of DBEs. Duplicate as needed.

Name of DBE	Date and method of contact	Scope of work solicited	Reason agreement was not reached

Affidavit of Truthfulness: Signature below affirms accuracy of Good Faith Efforts and authority to provide above information

Print Name: _____ Phone contact: _____

Position: _____ E-mail address: _____

Signature: _____ Date: _____

GFE Process – Bid Submittal

Review of GFE

Types of work solicited

Select and break down work to maximize DBE participation and achieve goals

- Work scope/code search
- No evaluation of outreach for non-applicable scopes
- Partial pay items considered and communicated

Prime's desire or ability to perform the work does not relieve the bidder of responsibility for GFE on work DBEs can perform

Review work solicited/committed by other bidders and on contracts of a similar nature



GFE Process – Bid Submittal

Review of GFE

Outreach

- Attendance at pre-bid meetings, DBE networking and matchmaking sessions
- Identify contractors/suppliers
 - DBE directories and assistance groups
 - Local, state, federal minority/women business assistance offices
 - Other organizations providing assistance in recruitment and placement of DBEs
- Use at least two methods of solicitation such as email and fax

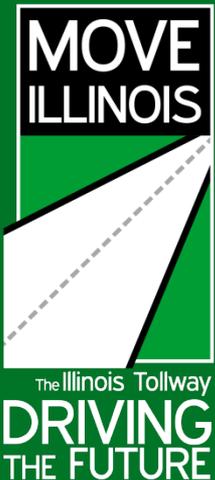


GFE Process – Bid Submittal

Review of GFE

Outreach

- Provide adequate notice (at least five calendar days) before quotes due
- Provide adequate time of advertisement
- Provide adequate information about the work, including
 - Project title and location
 - Classification of work items and whether partial pay items are allowed
 - Date, time and place quotes are due
- Follow up on initial solicitation
- Offers of assistance to DBEs



GFE Process – Bid Submittal

Review of GFE

Rejected DBE bids

Negotiate in good faith

- Select portions of work/material consistent with available DBE subcontractors/suppliers, so as to facilitate DBE participation
- Not imposing conditions on DBEs that are not similarly imposed on all other subcontractors
- Expand search beyond usual geographic boundaries, if feasible
- Provide evidence through explanation on DBE Form 2023 or via letter/memo
- Ability/desire of prime to perform work with its own organization does not relieve the bidder of responsibility to make GFE



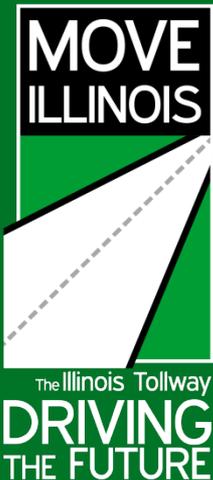
GFE Process – Bid Submittal

Review of GFE

Rejected DBE bids

Consider DBE firm's price/capabilities as well as contract goals

- Additional costs involved in finding or using DBEs not in itself sufficient reason for bidder's failure to meet contract DBE goal, as long as such costs are reasonable
- Primes are not required to accept higher quotes from DBEs if price difference is excessive or unreasonable
- Bidder rejecting DBE based on price must provide all quotes received for scope of work proposed by DBE from all firms, including non-DBEs



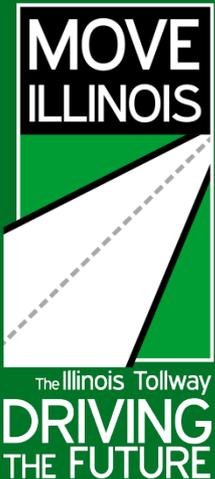
GFE Process – Bid Submittal

Pre-final determination, reconsideration

Pre-final determination made by the Tollway

Administrative reconsideration can be requested by the contractor

- Must be received by the Tollway within five working days (email is acceptable)
- May include additional written documentation and/or argument concerning whether adequate GFE was made
- Considered consent by the bidder to extend the time for award



GFE Process – Bid Submittal

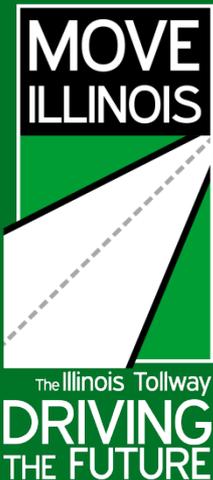
Reconsideration

A meeting between the contractor and the Tollway

- May also be part of the reconsideration
- Will extend the time for a decision

Administrative reconsideration is not intended to allow bidder additional opportunity to submit

- New DBE Utilization plan
- Evidence of additional good faith efforts performed after bid submission



GFE Process – Bid Submittal

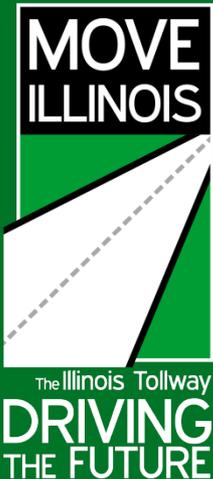
Final Determination

Written decision to contractor

- Within 10 business days after receipt of request for reconsideration
- Includes an explanation of the basis for the finding

Good faith efforts

- Approved
 - Contract cleared for award
- Denied
 - Render the bid non-responsive



USDOT Video

“Evaluating Good Faith Efforts”

Questions and Answers

Contact Us

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Illinois Tollway

www.illinoistollway.com

<http://www.illinoistollway.com/doing-business/diversity/technical-assistance-programs>