Disadvantage Business Enterprise (DBE) Toolbox

July 1, 2019

Office of Civil Rights
Idaho Department of Transportation
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So you’re DBE-certified by the Idaho Transportation Department (ITD). Now what? Read on to find out!

**Continuing Certification**

**Annual No Change Affidavits**

Each year, on January 1, you will receive an automated message through our online Diversity Tracking System (which manages our DBE certifications) that it is time for you to submit a notarized “No Change” Affidavit along with the business tax return you filed the previous year. For instance, if we are requesting No Change Affidavits for calendar year 2025, you are required to provide your 2023 business tax return. This is so we can calculate your most recent three-year gross receipt average for the purpose of determining continuing program eligibility under business size.

Every year, the deadline for submission is February 15. If you cannot meet this deadline, you may request an extension. However, ignoring this requirement will result in your decertification, which means that prime contractors and consultants cannot contract with you for DBE credit. After all the effort you took getting your DBE certification, don’t you want to hang on to it?
Naturally, if you wish to voluntarily withdraw from ITD’s DBE Program, just let us know, and we will quickly and painlessly process your removal.

Here are the instructions on how to submit your No Change Affidavit:

- The log-in page is at: http://itd.dbesystem.com. Your user name is your email address. If you can’t remember your password, you can always send yourself a one-time password change email that you can use to get in and change your password to anything you like.

- Once you log in, you’ll be on a “landing page” – click “continue”, and then you’ll get a “dashboard” with various categories. You want the **Key Actions** category.

- You want “Renew/Apply for Certification”. Then, since you are already certified, choose “Submit a DBE No Change Affidavit.”

- On the next screen, you’ll download the NCA form, fill it in, get your signature notarized, then upload the completed form along with the business tax return you filed last year. Answer some questions – most of the answers should be a simple “No”, since these are asking you about any change in ownership in management -- fill in the signature line, and hit “submit”.

- When uploading the documents, remember there are only 2 “mandatory” (tax return and affidavit). Choose “non-applicable” under “Required Documents”.

*TIP: Our Diversity Tracking System is provided by B2GNow, which is used by many other states besides Idaho. Be sure that when you access your vendor account, you don’t confuse your Idaho certification with certifications in other states.*

**Three-Year On-Site Reviews (for in-state DBEs only)**

In order to keep up-to-date with the growth and changes happening to your business over time, ITD will schedule a new on-site review at your place of business every three years.

ITD may also conduct a certification review of your firm, including a new on-site review, if appropriate in light of changed circumstances like ownership or management. If information comes to ITD’s attention that leads it to question your firm’s eligibility, ITD may conduct an on-site review on an unannounced basis, at your offices and job sites.
Expanding Certified Work Areas

We highly encourage our DBEs to expand their scope of work. It’s a win-win situation: DBEs increase their capacity, and ITD can claim DBE participation in new areas!

To become certified in additional types of work (in order for this work to be DBE-credited), you must make a formal request to ITD’s Office of Civil Rights. In your request, you must demonstrate that you are able to control the firm with respect to that type of work. This does not require a new certification or recertification process, but ITD must verify your control of the firm in the additional type of work, with an additional on-site review if necessary.

Here are some of the areas we look at in making our determination:

- Does your Idaho Public Works License cover these work areas? (For more on the Idaho Public Works License, see that section in “Working for ITD”.)
- Do you own or have a long-term lease for the type of equipment (if any) needed to perform in these work areas?
- What contracts have you performed or are performing for this line of work?
- (If out-of-state): has your home state certified you for these work areas?

Keeping Your DBE Directory Listing Up-to-Date

On a regular basis, look up your ITD DBE Directory listing at https://itd.dbesystem.com/. Is everything correct and current? If not, let us know! The last thing you want to do is become unreachable to ITD and to prime contractors trying to contact you.

Please remember that you are required, by regulation, to immediately inform ITD of any changes to the location, ownership or management or your firm. Also make sure that you are correctly listed for the Idaho districts in which you are willing to bid or propose.
Interstate Certification

In order to be counted for DBE credit in other states, you must become DBE-certified in that state. The states vary in their interstate certification procedures: some will accept proof of your home state certification, and others will require a copy of the original application and documentation provided to your home state, along with all subsequent affidavits, tax returns and other information. In most cases, these states will also request a copy of your most recent on-site review from ITD, which we send along as quickly as possible.
To find the websites for other states’ DBE Programs, visit https://www.transportation.gov/DBE%20State%20Websites. Sometimes some of the information is outdated, but this will at least take you to main state department of transportation pages!

**Marketing Yourself**

If you are eligible to participate in ITD’s DBE Supportive Services (we have a section on this later in this toolbox), work with the [Idaho Small Business Development Center (SDBC)](https://www.sdbc.org) in developing a marketing plan.

**Capability Statement**

If you don’t have one already, you should create a capability statement. This is like a one-page, one-sided résumé for your firm, which shows prime contractors and contracting officers at a glance what your firm can do. Things to include on your capability statement:

- Business capabilities and equipment inventories
- NAICS and CAGE codes
- Business Certifications (such as DBE)
- Past performance and testimonials
- Project pictures
- Contact Information

_TIP: Google “capability statements” within your industry and look at the results on the “Images” tab in your browser for examples._
**DBE Looking for Prime Contractors**

Send us your capability statements so we can post them on our “DBEs Seeking Subcontracting Opportunities” webpage at: [https://apps.itd.idaho.gov/apps/ocr/DBE-Seeks.aspx](https://apps.itd.idaho.gov/apps/ocr/DBE-Seeks.aspx).

If you are interested in subcontracting on a specific ITD project, fill out this solicitation form at [https://apps.itd.idaho.gov/apps/ocr/documents/DBEs-Seeking.pdf](https://apps.itd.idaho.gov/apps/ocr/documents/DBEs-Seeking.pdf), email the completed form to us, and we’ll post it for you!

**Find Out Who the Prime Contractors Are:**

ITD has a relatively small pool of prime contractors. To get the best idea of who these primes are, visit our “Bid Opening Results and Bid Abstracts” page at [https://apps.itd.idaho.gov/Apps/contractors/br.htm](https://apps.itd.idaho.gov/Apps/contractors/br.htm) for construction contractors, and [https://apps.itd.idaho.gov/Apps/cau/solicitations/cs_Closed-Project.pdf](https://apps.itd.idaho.gov/Apps/cau/solicitations/cs_Closed-Project.pdf) for consulting firms.

These pages give you a good indication of who the prime are who commonly bid or propose on our projects, and what type of projects they bid or propose (and where).

Contact information for the firms working on ITD projects can be found on **ITD Bidder’s List** at [https://itd.dbesystem.com/](https://itd.dbesystem.com/). Just search for the company names in which you are interested.

**Working for ITD**

All of ITD’s procurement opportunities are listed at [https://itd.idaho.gov/business](https://itd.idaho.gov/business). Be sure to save this to your browser’s “favorites”!

**Bidder’s Registration**

All ITD contractors, consultants, suppliers and services providers are required to register online as ITD Vendor: [https://itd.dbesystem.com](https://itd.dbesystem.com).

Obviously, you’re already in the system since you’re a DBE. Log into your vendor account and choose the “registrations” tab. Answer the questions and submit.
Prompt Payment

When working as a subcontractor on an ITD construction project, the prime contractor must pay you for satisfactory performance on your work items no later than 20 calendar days from the time ITD pays the prime for the work. Prime must also return retainage to you within 20 calendar days after your work is satisfactorily completed.

ITD prime construction contractors are paid at least once a month, although most choose to be paid every two weeks. Payments to consultants depend on the consultants invoicing ITD on a timely basis.

Our Diversity Tracking System, in addition to handling our DBE certifications, also serves as an online verification system of prime-to-sub payments. This is how we track prompt payment and retainage release. In order for this to work, it is a contractual obligation for all contractors and consultants (and subcontractors and subconsultants and suppliers) to participate in entering information.

For more information on this process of confirming payment, go to the “Responding to Diversity Tracking System Audits” section.

TIP: ITD makes partial payments to construction prime contractors at least once a month, or semi-monthly upon the prime’s request. Payments to prime consultants are dependent on the prime invoicing ITD.

Construction Contractors and Suppliers

Idaho Public Works License

The first thing any construction contractor needs to do on ITD projects is have an Idaho Public Works License. (This is not the same thing as an Idaho Contractor Registration.)

- Federally-funded projects: bidders must be licensed prior to contract award
- State-funded projects: bidders must be licensed prior to bidding

Either way, if you’re a construction contractor, the sooner you get licensed, the better! To obtain Idaho Public Works License, visit the Idaho Division of Building Safety at http://dbs.idaho.gov/programs/publicworks/index.html or call (208) 334-4057 / toll-free (800) 955-3044.

If you are a trucker, you may or may not need the license, depending on the type of hauling being performed. If your trucks are merely depositing materials at the job site
and then leaving again, then probably not. However, if your trucks are mainly working on the job site, then a license is required. Check with the Idaho Division of Building Safety to make sure either way.

**ITD Standard Specifications for Highway Construction**

Every contractor working on ITD highway construction projects must have on hand the *Standard Specifications for Highway Construction Guide*, which gives explicit specifications and standards for every construction phase. This is available online only at: [https://itd.idaho.gov/business/?target=construction-resources#standard-specifications-for-highway-construction](https://itd.idaho.gov/business/?target=construction-resources#standard-specifications-for-highway-construction). Become especially familiar with the sections dealing with your line of work!

**Identifying ITD Highway Construction Projects to Bid**

The best way to monitor ITD’s highway construction projects is by regularly visiting ITD’s **Contractor Bidding** tab at [http://itd.idaho.gov/business](http://itd.idaho.gov/business). Aside from the occasional Design-Build Project, construction projects are awarded to the lowest responsive bid.
Bid Openings are on Tuesdays at 2:00pm, Mountain Time. The Bid Schedule corresponds to the construction categories listed in ITD’s **Standard Specifications for Highway Construction Guide**, available online at [https://itd.idaho.gov/business/?target=construction-resources#standard-specifications-for-highway-construction](https://itd.idaho.gov/business/?target=construction-resources#standard-specifications-for-highway-construction).

- **200** Earthwork
- **300** Bases
- **400** Surface Courses and Pavement
- **500** Structures
- **600** Incidental Construction
  - Curb & Gutter; Fencing; Culverts; Traffic Control
- **700** Materials
If a Notice to Contractors bid schedule interests you, there's a way to get a closer look at the project without paying $15 for the plan set.
<table>
<thead>
<tr>
<th>Post Date/Time</th>
<th>Category</th>
<th>Name</th>
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<td>Landscaping</td>
<td>FY20 D5 Revegetation</td>
<td>10/16/2018 02:00 PM MDT</td>
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<td>Pavement Resurface and Rehabilitation</td>
<td>MP 167 to Montana SL</td>
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<td>Pedestrian Improvements</td>
<td>Main St Pedestrian Improvements, Lewiston</td>
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<td>US-95, Little Rainbow Bridge</td>
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<td>Pavement Resurface and Rehabilitation</td>
<td>Goff Bridge to MP 210 Slide</td>
<td>12/04/2018 02:00 PM MDT</td>
</tr>
</tbody>
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**View Plan Holders**  **Download Bid Documents**  **Download Addenda**  **View Bid Documents**

**I-84, Mountain Home to Cold Springs IC (Quest Project #5965330)**

**View Add**

**County/City/State:** Elmore - N/A, ID

**Location / Site:**

**Directions:**

- Bids Close: 10/23/2018 02:00 PM MDT
- Bids Received By: Idaho Transportation Department
- Estimated Value: $15,000,000 to $25,000,000

**Project Description:** For the work of adding a 3rd lane on WB I-84 from MP 109.5 to MP 105, Hammett Hill Passing Lane, known as Project No. A020(106), Elmore County, Key No. 2016, and for the work of removing and replacing the concrete pavement in the WB travel lanes of I-84 from MP 95.7 to MP 103.8, Mountain Home to Cold Springs, known as Project No. A020(148), Elmore County, Key No. 20148.

**Additional Description:** Please contact the Resident Engineer ***BRYON BREEN*** AT (208) 334-8937 for any design related questions.

**Owner:** Idaho Transportation Department

**Soliciting Agent:** Idaho Transportation Department PO Box 7129 Boise, ID 83707 ph: 208-334-8052 fax: 208-332-2090 contact: Nate Steiner e-mail: ITDPlanroom@itd.idaho.gov

**Project Documents:** Digital copies of the Plans, Proposals, and Specifications can be downloaded for a fee of $15.00. Please contact QuestCDN.com at 952-233-1632 or info@questcdninfo.com for assistance in downloading and working with this digital project information.

**Quest eBidDocs™:** Download delivery fee is $15.00, file size is 21.3 Mb.
If you're planning on bidding as a prime contractor, you must purchase and download plan sets through QuestCDN at $15 set (instructions are on the main Contractor tab under “Bid & Contract Information”). Here are just a few of the things you need to watch for on federally-funded projects:

- DBE Goal
- Davis-Bacon (Prevailing) Wages (the schedules will be posted in the bid documents)
- Tribal Employment Rights Ordinances (TERO) if on a reservation
- Other Special Provisions

On state-funded projects, there are no DBE goals or Davis-Bacon wage requirements. Projects. However, there is a requirement for an Idaho resident workforce.

- 50+ Employees: workforce must be 95% Idaho residents
- <50 Employees, 90% Idaho Residents

On reservations, contractors must comply with tribal regulations and obtain the necessary permits.
Always keep an eye on plan addenda: things can and do change frequently!

Bidding on most ITD highway construction projects can be done online through Bid Express (instructions are on the main Contractor tab under “Bid & Contract Information”). Although paper bids are accepted, there are many advantages to bidding online:

- Online program checks your math;
- You are alerted to unanswered questions (that would render your bid non-responsive); and
- You are alerted to missing attachments (that would render your bid non-responsive).

If you’re bidding as a subcontractor or supplier, it’s not necessary to buy plan sets. You can do take-offs on the bid items and quantities from “Notice to Contractors”, and then solicit prime contractors with your quote.

Be sure to mention your DBE status; prime contractors bidding on federally-funded ITD projects must make a Good Faith Effort (GFE) in meeting the project’s DBE goal. That means they must:

1. Meet the project goal (expressed as a percentage); or
2. Exceed the project goal; or
3. If unable to meet the goal, providing complete documentation of the bona fide efforts made to identify, solicit and follow up with DBEs in the attempt to do so.

Solicit Prime Contractors

To find out which primes are likely to be bidding on projects you’re interesting in quoting, visit “Browse Projects & View Planholders”. Look for “Prime Bidder” under Designations.
### Business

Click the topic boxes below to reveal more information for each topic. Click the tabs above for different categories of information.

- Notice to Contractors
- Bid Results & Abstracts
- Browse Projects & View Planholders
- Davis-Bacon Wage Decisions - US Dept. of Labor

### Contractor Licensing

- Bld & Contract Information
- 90-Day Bidding Forecast
- Average Unit Price Reports

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#### Click on Project Name to see detailed advertisement

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**Bids Close:** 10/23/2018 02:00 PM MDT  
**Bids Received By:** Idaho Transportation Department  
**Estimated Value:** $15,000,000 to $25,000,000  
**Project Description:** For the work of adding a 3rd lane on WB I-84 from MP 109.5 to MP 105, Hammett Hill Passing Lane, known as Project No. A020(106), Elmore County, Key No. 20106, and for the work of removing and replacing the concrete pavement in the WB travel lanes of I-84 from MP 95.7 to MP 103.8, Mountain Home to Cold Springs, known as Project No. A020(148), Elmore County, Key No. 20148.

**Additional Description:** Please contact the Resident Engineer ***BRYON BREEN*** AT (208) 334-6937 for any design related questions.

**Owner:** Idaho Transportation Department  
**Soliciting Agent:** Soliciting agent  
**PO Box 7129**  
**Boise, ID 83707**  
**ph: 208-334-8052**  
**fax: 208-332-2090**  
**contact: Nate Steiner**  
**e-mail: ITDplanroom@itd.idaho.gov**

**Project Documents:** Digital copies of the Plans, Proposals, and Specifications can be downloaded for a fee of $15.00. Please contact QuestCDN.com at 952-233-1632 or info@questcdninfo.com for assistance in downloading and working with this digital project information.

**Quest eBidDocs™:** Download delivery fee is **$15.00**, file size is **21.3 Mb.**
One of the ways prime contractors perform GFEs is posting invitations to bid to DBEs for specific projects ITD’s Invitation to Bid page at https://apps.itd.idaho.gov/apps/ocr/Invitations.aspx. These are updated on a regular basis: be sure to mark it as another one your “favorites” in your browser and check regularly for opportunities!

Miscellaneous Highway Projects

Only paper bids are accepted for these type of projects, which tend to be an assortment of smaller construction and maintenance work. It’s not necessary to purchase these plans; they are available for download at the hyperlinked project name. These are rarely federally-funded, so there won’t be DBE goal for prime bidders to meet.
“Other Solicitations”

This is another area of opportunity for a miscellany of building construction, maintenance and repair projects, to include:

- Facility and Yard Improvements
- Highway Maintenance and Repair
- Site Clearing and Demolition

Here, too, the project plans can be downloaded for free.
Researching Historical Bid Amounts

To get an idea of what the prime contractors have been bidding per line item, there are two places to look on ITD’s “Contractor Bidding” Tab.

One is “Bid Opening Results and Bid Abstracts” at https://apps.itd.idaho.gov/Apps/contractors/br.htm. By opening each bid opening day,
you can see the bid results for every project bid on that day. Most of these will also include the bid abstracts.

Bid Opening Results and Bid Abstracts

The Idaho Transportation Department conducts weekly public bid openings for highway construction and maintenance projects. Sealed bid packages are received at the Department's Headquarters office at 3311 West State Street in Boise until 2:00 PM Mountain Time on bid day. Bids are opened at 2:00 PM Mountain Time and are normally scheduled on Tuesday of each week.

Bid results are normally posted to this web page by 5:00 PM Mountain time the day of the bid opening. Please do not call Contracting Services for bid results.

Bid abstracts will normally be posted to this web page when letters of Intent and contracts have been mailed out. Bid abstracts print best in landscape format. Bid abstracts not listed below are available from Contracting Services.

The information on the following pages includes the project number and description, a list of contractors that submitted bids for the project, the total amount bid by each contractor and a link to the bid abstract when it becomes available. The Idaho Transportation Board reviews the bids at their regularly scheduled monthly meetings and may accept or reject any and all bids. The bid results shown on this page are not certified.

- **Bid results for bids opened on:**
  - No Bids open October 9, 2018
  - October 2, 2018
  - September 25, 2018
  - No Bids open September 18, 2018
  - September 11, 2018
  - No Bids open September 4, 2018
  - August 28, 2018
  - August 21, 2018
  - August 14, 2018
  - No Bids open August 7, 2018
  - July 31, 2018
  - July 24, 2018
  - July 17, 2018
  - July 10, 2018
  - No Bids open July 3, 2018
  - June 26, 2018
  - No Bids open June 19, 2018

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Idaho Transportation Department
Bid Results for September 25, 2018

<table>
<thead>
<tr>
<th>Project No.</th>
<th>Location</th>
<th>District No.</th>
<th>Key No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>A020(064)</td>
<td>I-15, Wye O’Pass to Fort Hall Boundary</td>
<td>5</td>
<td>Bannock</td>
</tr>
<tr>
<td>20064</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bidder</th>
<th>City</th>
<th>State</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Construction Inc.</td>
<td>Boise</td>
<td>ID</td>
<td>$6,884,000.00</td>
</tr>
<tr>
<td>Staker &amp; Parson Companies DBA Idaho Materials Construction</td>
<td>Pocatello</td>
<td>ID</td>
<td>7,078,590.90</td>
</tr>
<tr>
<td>Knife River Corporation – Mountain West</td>
<td>Boise</td>
<td>ID</td>
<td>7,909,357.00</td>
</tr>
</tbody>
</table>
The bids for each line item, from each prime contractor bidding, will be shown.

There's also “Average Unit Price Price Reports” on the “Contractor Bidding” Tab.
If you’re experienced with spreadsheets, these can be downloaded, sorted and filtered to show prices for the work items you’re interested in for different parts of the year, different parts of the state, or however you’d like to arrange the data.

**Project Forecasts**

ITD publishes a **90-Day Bidding Forecast** at [https://apps.itd.idaho.gov/apps/contractors/Bidding-Forecast.pdf](https://apps.itd.idaho.gov/apps/contractors/Bidding-Forecast.pdf). This will give you a very general idea of the construction projects coming up in the next three months. This is only for general planning purposes. Actual advertisement dates may vary from those shown on the webpage and are subject to change without notice.

For really long-range planning, see ITD’s **Idaho Transportation Investment Program (ITIP)**, a 6-year Master Plan of transportation projects at [http://itd.idaho.gov/funding/?target=itip](http://itd.idaho.gov/funding/?target=itip).

**Consultants**

Consultants chosen by ITD through qualifications rather than price. There are three ways of working for ITD as a consultant:

- Minor Agreements
- Term Agreements
- Requests for Proposal
Agreements are administered by ITD’s Consultant Administration Unit (CAU). Once, again, visit ITD’s main procurement page at: http://itd.idaho.gov/business.

On this main page, you will find links to important consultant agreement policies and specifications, policies, overhead rates, and current Requests for Proposal (RFPs).
Minor Agreements

“Minor” in this context means no more than $50,000. These agreements are used for non-routine agreements for services in area of expertise where no Term Agreement exists. However, firms can (and are likely to be) chosen off the Term Agreement without further competition, particularly if the area of expertise needed for the agreement is covered on the Term Agreement List. But firms can be chosen informally from other sources, with reviews of qualifications.

After consultant selection, the agreement is negotiated.

Term Agreements

The Term Agreement List functions as a roster of consultants pre-qualified to provide professional services in specific service categories on an on-call basis. Consultants submit a Term Agreement application (rather like an open Request for Proposal); if accepted for the requested categories, the term lasts for two years, during which a consultant can perform individual task orders up to $500,000, or up to $1.5 million cumulatively.

For task orders less than $150,000, ITD and the other local highway agencies can choose consultants right off the Term Agreement List without further competition, as long as the consultant is approved for the correct service categories.

For task orders between $150,000 and $500,000, consultants pre-qualified for specific services are “short-listed” to receive a Request For Information (RFI).

Selection criteria include:

- Quality Control
- Personnel
- Resources
- Understanding of Category Requirements

ITD and the successful proposer then negotiate:

- Scope of work
- Man-Day estimates
- Fixed Fees
- Total budget
Work is not guaranteed; as with everything else, marketing efforts to agreement administrators and consistent quality pay off.

Request for Proposal (RFP)

RFPs are used for large, complex, long-duration highway projects that are too large for the Term Agreement List. They’re advertised on the “Open Project Solicitations” on the “Consultant Agreements” tab at https://itd.idaho.gov/business/.

The selection is qualification-based: a selection team evaluates and scores proposals. Finally, an agreement is negotiated with the highest ranking firm.

RFPs are the only type of consulting opportunities on which we set DBE project goals, based on work scope percentages.

Subconsulting

DBEs can obtain a subconsulting agreement by being part of a winning RFP team; or by being used as a subconsultant by a firm that has received a Term Agreement task order (all subconsultants must be on Term Agreement list as well as prime consultants on Term Agreement task orders).

DBE Goals on Consultant Agreements

RFPs are the only category of professional agreements in which ITD sets DBE goals. The DBE goal, if any, will be listed in the “DBE Participation” section of the RFP.

State Division of Purchasing

Many other non-highway ITD procurement opportunities can be found posted by the Idaho State Division of Purchasing (IDOP). These include supplies, equipment and professional services. (As these solicitations are state-funded, they won't have DBE goals assigned to them.)

Go to IDOP’s homepage at https://purchasing.idaho.gov and read the instructions for registering on their on-line purchasing system, which is called “iPRO”. Vendor registration is free; for awardees, fees are only charges on blanket purchase orders.
Statements of Confirmation

When prime contractors use your quote when bidding on a job, they are required to list you on a DBE Commitment Form, either for a construction project or for a professional agreement. For the DBE Commitment Form to be valid, it must include a statement of confirmation from you. This is pretty simple: it’s an acknowledgement from you that you understand that you are being committed on X project, performing Y work items for Z dollar amounts (or, if you’re a consultant, performing Y parts of the work scope). This confirmation can be on your letterhead, or even on an email (as long as it has a clear signature block clearly identifying you).

You are responsible for providing the DBE Statement of Confirmation to the prime just as soon as the prime informs you that your sub-quote will be used. The faster the turnaround on your part, the better, since the prime is on a tight deadline to submit this paperwork to ITD’s Office of Civil Rights. Don’t be the DBE that causes a prime to miss the submittal deadline!

“Counting” DBE Credit

Primes can only be credited for using DBEs in the areas in which DBEs are certified and licensed. For instance, if you are a certified DBE, but are certified for performing public involvement work, a prime cannot receive credit towards a project goal for using you for installing guardrail.

You also must be DBE-certified in the state in which the project is taking place for the prime to get credit towards the goal. For instance, if you’re solicited for quote on a Washington DOT project, the prime cannot receive credit for you unless you’re certified in Washington, too. (See Interstate Certification for getting certified other states.)

Joint Ventures

Sometimes a contracting opportunity comes along that just too good to pass up. However, what if a DBE doesn’t have the license or capacity to complete it alone, even with subcontractors? In situations like these, the DBE Program offers “joint ventures” as a solution.
This is when a DBE partners with another firm, with each firm performing a distinct, clearly defined portion of the work with its own forces and equipment. A special agreement is set up between the firms and approved by ITD. Only the work performed by a DBE can count towards DBE credit; if both firms are DBE-certified, both count towards DBE credit.

**Contractors and Consultants**

A DBE construction contractor receives 100% credit for construction work or services performed by its own work forces. A DBE consultant receives 100% of the fees and commissions charged for providing bona fide services.

However, if a DBE lower-tier subcontracts (or subconsults) any work to a non-DBE, then the value of the lower-tier subcontract will be deducted from the DBE’s credit.

For example: a DBE is selected as a prime contractor or prime consultant. If the DBE self-performs all the work with the DBE’s own workforces and equipment, then 100% of the dollar value of the work can be counted for DBE credit on that project. However, if the DBE uses any non-DBE subcontractors or subconsultants, the dollar amount of the subs’ work will not count towards the goal. (Of course, work performed by any DBE subcontractors or subconsultants can be counted towards the goal.)

Therefore, if a DBE gets a $500,000 contract, but spends $100,000 on non-DBE subcontractors, only $400,000 will count as DBE credit.

This also applies for lower-tier subcontracting. For example: a DBE is subcontracted for $100,000 for earthwork, and performs all of it independently. The prime gets $100,000 credit towards the project goal. However, if the DBE sub-subcontracts a non-DBE erosion control firm for $10,000, then the prime will only receive $90,000 towards the project goal.

**Truckers**

Counting DBE Trucking participation can get a little trickier. ITD has chosen to credit DBE truckers in the following way:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract;
2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract;
3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs;

4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract;

5. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers.

6. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

7. The lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

Let’s (literally) illustrate this:
DBE Suppliers

DBE “regular dealers” who actually operate or maintain a store or warehouse where supplies and materials are bought, kept in stock and sold to the general public on a regular basis -- get credit for 60% of the purchase price.

If a DBE “supplier” is actually doing nothing more than arranging a drop shipment from a wholesaler or manufacturer without actually taking physical possession of the items or transporting them, then this firm is a broker. In this case, only the fees or commission charges the prime pays to this broker can be counted towards the DBE goal.

ITD determines whether a DBE supplier is acting as a regular dealer or a broker during the review of the prime contractor’s DBE Commitment Form. ITD will send the DBE supplier claiming Regular Dealer status a Regular Dealer Verification Form for
completion. The DBE will complete and sign the form, obtain the prime’s signature on it, and return the form to the ITD. After approving the commitment form, ITD proceeds with the contract award process.

Situations where the DBE supplier is determined by ITD to be a broker rather than a regular dealer, impacting the prime contractor’s ability to meet the project goal, will be resolved on a case-by-case basis.

**Manufacturers**

100% of the cost of materials or supplies obtained from a DBE manufacturer counts towards DBE goals. Examples of this include companies that actually fabricate and deliver bridge railing, or companies that actually manufacture and deliver concrete barrier.

**Performing a Commercially Useful Function**

ITD requires that a Commercially Useful Function (CUF) Review be performed on every DBE on federally-funded projects.

If you’re a construction contractor DBE, expect your project supervisor to be approached by ITD personnel on the job site to answer questions about your workforce, payroll, equipment, and work items.

This helps ITD confirm that you, as a DBE, are independently performing the work for which you’ve been contracted.

Here are some of the things our project inspectors will be looking for when determining a CUF:

- The work the DBE is subcontracted to perform might reasonably be subcontracted to any firm;
- The DBE is not an inactive “pass-through”;
- The DBE must order and pay for own materials/supplies;
- The DBE must employ its own separate work force;
- The DBE must control and supervise its work with its own workforce;
- The DBE may lower-tier subcontract out some of their own work, but never back to prime! The DBE must self-perform at least 30% of the work.
- The DBE may lease or rent equipment, but again, never from the prime.
If the ITD project inspector determines that a DBE firm is not performing a CUF, the project’s resident engineer (RE) will notify the prime in writing, specifying those actions which violate the terms of the contract. The RE will give the prime five calendar days to correct the violation.

If the prime fails to remedy the violation, RE shall impose one or more sanctions such as withholding payments and other actions allowable for material breach of contract, and the payments made to that DBE will not be credited toward the contract goal. Depending on the time left in the contract, the RE may require the prime to make up any shortfall towards the DBE goal by subbing out another portion of work to a DBE.

At the request of the RE, the DBE Program Coordinator will investigate the non-performing DBE to determine if its job performance contains a pattern of relationships with non-minority businesses that brings the DBE’s independence and control, and therefore its eligibility to participate, into question.

Substitution/Termination

A DBE Commitment on a federal-aid project is exactly that – a commitment from the prime to ITD that the prime will use a DBE for specific work items in order to meet a project goal. The prime contractor is required to use DBEs for the work items, quantities and dollar amounts for which they are committed (unless, of course, work is eliminated or there is a change in scope or quantities).

A prime cannot terminate a committed DBE just for its own convenience – for instance, deciding to do the work itself. However, there are circumstances in which a prime can terminate a committed DBE. A DBE unexpectedly might be tied up on another job because of scheduling conflicts. Or (and we really hate to see this happen), a DBE continues to perform sub-standard work despite several warnings.

In these cases, the prime can request to terminate the DBE from the project’s ITD resident engineer (RE). Here are the steps involved:

1. The prime must notify the DBE, in writing, of the intent to terminate allowing for five calendar days of response time to dispute the termination.
2. After the five days have elapsed, the prime then notifies the RE of their intent to terminate the DBE, giving a justification for the action.
3. The RE forwards the request to Office of Civil Rights (OCR) with a recommendation for approval or denial.
4. OCR confers with the DBE, obtains from DBE a written acknowledgement if
possible that they agree with the termination, and then will notify the RE on whether the commitment is or is not terminated for good cause.

5. If the termination is approved, the prime must replace the terminated DBE with another DBE to the extent needed to meet the contract goal, or make and document Good Faith Efforts (GFEs) to do so.

6. The prime must obtain the written approval of substitute DBE(s) from the RE and OCR.

7. If the termination is not approved, the prime must continue with the DBE sub as previously committed.

8. A prime’s inability to find a replacement DBE at the original price is insufficient to support a finding that GFEs have been made to replace the original DBE. The fact that the prime has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make GFEs to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE’s reasonable quote.

   Note: The prime is ultimately responsible for following these same steps in obtaining written approval from ITD OCR for the termination/replacement of lower-tier DBE subs, too.

9. If the prime makes a termination/substitution of a DBE without following the steps listed above, the contractor will not be entitled to any payment for those contract work items or materials, nor will the RE approve those pay estimates until the correct procedures are followed and ITD approves the termination.

Please remember that while we always will enforce commitments to DBEs who are performing acceptable work on schedule, a DBE commitment does not mean that a prime contractor must be held hostage to a DBE whose work is unacceptable.

**Responding to Diversity Tracking System Audits**

Every two weeks, ITD will upload payments made to prime contracts and consultants during the previous audit period. Primes will be prompted by the system to submit information on all payments made to their subs and suppliers during that period. Subs and suppliers, in turn, are prompted to either verify these payments, or enter information prompting the prime to respond. If necessary, ITD will investigate/resolve payment discrepancies.

It will be the responsibility of the primes to ensure that all their subs and suppliers are entered as subcontractors for each contract they hold with ITD.
This is a contractual responsibility for both primes and subs, and it helps ITD do at least two things: accurately count the money actually being paid to DBEs, and ensuring that primes are abiding by the prompt payment provisions in our contracts.

For a quick overview on the audit process, visit https://apps.itd.idaho.gov/apps/ocr/documents/B2GNowVendorTrg.wmv (keep in mind that we’ve gone from monthly to bi-weekly audits). There are also free on-line training classes for vendors listed on an ongoing basis on the homepage at: https://itd.dbesystem.com.


Whoever you designate within your business to complete these audits, make sure they get training!

_TIP:_ It’s a good idea to use a consistent designated email address for your Diversity Tracking System vendor account. _This ensures that you always receive emails_
Contract Sanctions

In case you’re wondering if a prime contractor or consultant fails to comply with DBE Program requirements, the answer is written into the contract specifications. It’s considered a material breach of contract, and can lead to (if uncorrected):

- Withholding monthly progress payments;
- Assessing sanctions;
- Liquidated damages; and/or
- Disqualifying the contractor from future bidding

Please let us know immediately if a prime contractor or consultant is not abiding by its DBE commitment or other DBE Program requirements, and we’ll get it straightened out!

Fraud

In case you are ever tempted to perhaps misrepresent the current state of your personal net worth, ownership of your business, or other factors directly affecting your certification … DON’T. This is a federal program which comes with all the penalties you’d expect, including decertification, debarment, and even federal prosecution. You can find cases in every state (including Idaho) of DBEs and non-DBEs ending up being fined and imprisoned for cases of fraud.

The same pitfalls await any DBEs persuaded to act as a “pass-through” or “front” by prime contractors who hope to secure federal transportation projects with DBE goals without actually utilizing DBEs.

Check out the U.S. Department of Transportation (USDOT)’s Office of Inspector General webpage at www.oig.dot.gov/investigations for tales of outrageous behavior, hubris and just plain crookedness by all kinds of people involved with USDOT programs. Investigation and prosecution just doesn’t end with the USDOT: often, the FBI and the IRS get involved in the investigation, too. It all ends badly.
DBE Supportive Services

ITD receives an annual grant from the Federal Highway Administration (FHWA) to offer a **Business Development Program (BDP)** to DBEs. Currently, ITD subcontracts this grant to Boise State University’s Small Business Development Center (SBDC). The purpose of the BDP is to provide firm-specific training and counseling in business management.

ITD’s BDP has two components:

I. Goal One is to provide assistance for DBEs in the **Developmental Stage**.

II. Goal Two is to provide assistance for DBEs in the **Transitional Stage**.

To participate, DBEs must be:

1) Currently certified in the State of Idaho;

2) Primarily based in Idaho;

3) “Ready, willing and able”, and primarily engaged in highway design/construction activities;

4) A Small Emerging Business;
   a) Federal definition: any small business concern whose size is no greater than 50% of the numerical size standard applicable; and
   b) In business for less than 10 years;

5) Able to provide services in an underutilized area, or have a history of submitting quotes on federal-aid projects, but not being awarded contracts; and

6) (For Goal Two) Determined to become prime contractor or expand into new areas of expertise.

The SBDC helps DBEs who wish to take advantage of this program by helping the DBEs creating a formal Business Self-Assessment (BS), and using it to create a business development plan. Money is available for reimbursing specific goals in the business development plan, such as training, professional memberships, software, employee uniforms, etc.

There are SBDC offices located throughout Idaho in six locations. In addition to providing DBE Supportive Services, they also offer many other resources, including low-cost workshops. To find out more, visit [https://idahosbdc.org](https://idahosbdc.org).
Doing Business with the Government Workshops

ITD partners with the U.S. Small Business Administration (SBA), the Procurement Technical Assistance Center (PTAC), the Idaho SBDC and other agencies in order to present “Doing Business with the Government” workshops throughout the state. These are generally scheduled for the winter to take advantage of the construction shutdown, since we know how busy contractors get once the weather warms up.

We cover DBE certification and ITD procurement opportunities, of course, and the other agencies will give presentations on their programs, certifications and services. Each workshop also features a contracting officer (aka “Federal Mystery Guest”) from a federal agency to discuss their specific procurement opportunities and practices.
This workshop not only provides you with valuable information (some people come every year to keep up-to-date to the latest program changes): it also gives you the opportunity to meet us in person and ask any questions you have about your certification or the DBE Program. It’s also an excellent way to find out about other federal certifications such as HUBZone and 8(a), and weigh their pros and cons.

Watch your emails for workshop notifications! We also post other training opportunities on Davis-Bacon Prevailing Wages and other topics at: https://apps.itd.idaho.gov/Apps/ocr/training.aspx.

**Taking Advantage of your Local PTAC**

Speaking of the PTAC, they provide great services including bid-matching and help with federal procurement. Membership is free (they’re funded by the federal Defense Logistics Agency). To find out the PTAC for your area, visit http://www.aptac-us.org/. PTAC counselors can help you with acquiring a DUNS number, signing up for the federal (System for Award Management) SAM system, putting together capability statements, deciphering FAR regulations, and more.

The Idaho PTAC hosts an annual “Business Opportunity Conference” in various locations on a rotating basis. These serve as a reverse trade show where business owners can come in and market themselves to contracting officers from many federal, state and local agencies. In additional, the conferences feature many break-out sessions on important procurement topics. It goes without saying that you can find ITD among the agencies there.

*TIP: There are also regional PTACs specifically dedicated to assisting American Indian businesses. These are listed at the website shown above.*

**Other Business Support Services**

**USDOT Small Business Training Resource Center (SBTRC)**

Throughout the U.S. you will find SBTRCs providing technical assistance to DBEs in building their capacity. Services include:

- Business Analyses
- Market Research and Procurement Assistance
- General Management & Technical Assistance
• Business Counseling & Coaching
• Regional Planning Committees
• Liaison between Prime Contractors and Sub-Contractors
• Outreach/Conference Participation
• Capital Access and Surety Bond Assistance
• Women & Girls In Transportation Initiative (WITI)

To locate your nearest SBTRC, visit [www.transportation.gov/osdbu/SBTRCs](http://www.transportation.gov/osdbu/SBTRCs). Idaho SBTRC is located in Washington State.

Zions Bank Business Resource Center

Zion has a Business Resource Center located in Boise which offers one-on-one counseling on topics like financial projection, cash flow and profit explanation, free workshops and other services to all, regardless of where you bank. To learn more, visit [https://brc.zionsbank.com/](https://brc.zionsbank.com/).

**ITD Office of Civil Rights**

The main ITD Office of Civil Rights webpage: [https://apps.itd.idaho.gov/Apps/ocr/index.aspx](https://apps.itd.idaho.gov/Apps/ocr/index.aspx)
ITD’s Office of Civil Rights consists of three staff members: **Russ Rivera**, the **Civil Rights Manager**; the Contract Compliance Officer; and (most importantly, from your standpoint), **Ester Ceja**, the **DBE Program Coordinator**.

The DBE Program Coordinator processes all certification actions, sets annual DBE goals, sets goals on construction projects and consultant agreements, approves and tracks DBE contract and agreement commitments, oversees the Diversity Tracking System, updates the DBE Program and DBE Standard Operating Procedures as needed, oversees the DBE Supportive Services Program, and of course all other things DBE-related.

The ITD DBE Program webpage:

[https://apps.itd.idaho.gov/Apps/ocr/ocrDBEPROGRAM.aspx](https://apps.itd.idaho.gov/Apps/ocr/ocrDBEPROGRAM.aspx)

Here you can find out DBE Program Plan, current DBE participation statistics, our most recently completed Disparity Study, and more.
Other Important ITD Contact Information

ITD Headquarters
3311 W. State Street, Boise, ID 83703
(208) 334-8000

District Offices

ITD District One
600 West Prairie Avenue, Coeur d'Alene, ID 83815-8764
(208) 772-1200
https://itd.idaho.gov/d1/

ITD District Two
2600 Frontage Rd, Lewiston, ID 83501
(208) 799-5090
https://itd.idaho.gov/d2/

ITD District Three
8150 Chinden Boulevard, Boise, ID 83714-1367
(208) 334-8300
https://itd.idaho.gov/d3/

ITD District Four
216 South Date Street, Shoshone, ID 83352
(208) 886-7800
https://itd.idaho.gov/d4/
ITD District Five

5151 S. 5th Ave., Pocatello, ID 83204-2202
(208) 239-3300
https://itd.idaho.gov/d5/

ITD District Six

206 North Yellowstone, Rigby, ID 83442
(208) 745-7781
https://itd.idaho.gov/d6/

Local Highway Technical Assistance Council (LHTAC)

Although LHTAC is not a part of ITD, it works with local highway districts and is often considered ITD’s unofficial 7th District.

3330 W. Grace Street, Boise, ID 83703
(208) 344-0565
https://lhtac.org