

EXHIBIT 73

From: "[REDACTED]" <[REDACTED]@rcid.org>
To: [REDACTED]@rcid.org
Cc: "[REDACTED]" <[REDACTED]@rcid.org>, "[REDACTED]" <[REDACTED]@rcid.org>

Subject: RE: MWBE award & payment tracking

Date: Mon, 9 May 2022 14:40:48 +0000

Importance: Normal

Inline-Images: image001.png; image002.png

Excellent.

From: [REDACTED] <[REDACTED]@rcid.org>
Sent: Monday, May 9, 2022 9:36 AM
To: [REDACTED] <[REDACTED]@rcid.org>
Cc: [REDACTED] <[REDACTED]@rcid.org>; [REDACTED] <[REDACTED]@rcid.org>
Subject: RE: MWBE award & payment tracking

Hi all,

For what it's worth, there is already language in the general conditions that allows us to withhold payment for non-performance of contract duties, which would include not participating in MWBE...see excerpt below.

9.3. PAYMENTS WITHHELD; OWNER'S RIGHT TO MAKE DIRECT PAYMENTS FOR WORK.

9.3.1. The Owner may withhold its approval of an Application for Payment, in whole or in part, or nullify the whole or any part of an approval previously given, if it determines that the Application for Payment covers portions of the Work which have not, in fact, been completed, or that it includes amounts for claims allegedly made but not actually made (or subsequently withdrawn), and/or for which payment is not then due or if, and to the extent that, it deems it necessary or desirable to protect itself against loss or damage due to: (a) defective Work not remedied; (b) Contractor, Subcontractor, Sub-subcontractor or third party claims, disputes or liens or reasonable evidence indicating such claims, disputes or liens; (c) failure or alleged failure of the Contractor to make payments to Subcontractors (or of Subcontractors to make payments to Sub-subcontractors) as required by the Contract Documents, or failure to provide lien waivers for previous payments; (d) inability, or reasonable doubt as to the ability, of the Contractor to complete the Work within the Contract Time, for the unpaid balance of the Contract Sum or within the estimates prepared by the Contractor and submitted to and approved by the Owner; (e) damage to the Owner or a Separate Contractor; (f) unsatisfactory prosecution of the Work by the Contractor, its Subcontractors or Sub-subcontractors; (g) failure of the Contractor to maintain the Job Site in a clean and safe condition; (h) failure of the Contractor to meet any other monetary obligation imposed upon it pursuant to the Contract Documents; or (i) failure of the Contractor to comply with any other provision of the Contract Documents.

From the Project Finance perspective, there's absolutely no intention to withhold payment for lack of MWBE reporting...simply pointing out that the language permitting us to do so already exists in the standard construction agreement.

Thanks,

[REDACTED]

#120013.1



From: [REDACTED]@rcid.org>
Sent: Friday, May 6, 2022 16:44
To: [REDACTED] <[REDACTED]@rcid.org>
Cc: [REDACTED] <[REDACTED]@rcid.org>; [REDACTED] <[REDACTED]@rcid.org>
Subject: RE: MWBE award & payment tracking

[REDACTED]
Thank you.

I've discussed with the construction team, the upcoming expectations. I have been working with them to assemble the "to-date" tally as requested. We should be able to report this information to the team early next week. JD is lagging in response, but I will make another call to get it moving. Consor made the initial request and for them to add DBE participation.

[REDACTED] and [REDACTED] agree that we should collect MWBE and DBE certified amounts, as they are both recognized and have similar categories we are inclined to capture (Black, Hispanic, Asian, etc.). "DBE" will be added in future language to ensure that we capture that, as we see it as a benefit to the cause. Roadway contractors are much more familiar with it, since it is highway construction on the more common state projects. MWBE, as you know covers a much broader spectrum of business types. Both can benefit RCID project types.

We have informed all that monthly submittal will be starting.

My suggestion to [REDACTED] was that we collect monthly cumulative amounts relative to procurement initial amounts in a soft format. The end of the project would be a hard record achieved with a final, single page report (simple format) affidavit. It should have a notary block to make it official and accompany the rest of the closeout paperwork.

This way, you can track on your end as we get/submit the monthly form. The intent is to not hold up payment with this added detail, but maintain enforcement by inserting a clear statement into the contract outlining the requirement for monthly reporting(it's already there). **Adding simple language stating that without compliance, payment may be withheld will support the intent.** This is how state contracts and local agency programs do it and maintain control. They used to utilize a monthly cert, but that has been abandoned in lieu of online tracking software. We can achieve everything we need in a streamlined version of that older process.

Also, regarding the goal %...we may have to modify per contract, for types of work do affect the ability of a contractor to produce results. Expectations may vary. The examples are abundant.

I think the language in the contract you sent is very close to where we want to end up, ultimately.

Thanks. I'll let you know as soon as we get the JD info and send you both.
Have a nice weekend.

From: [REDACTED]@rcid.org>
Sent: Friday, May 6, 2022 4:02 PM
To: [REDACTED]@rcid.org>
Cc: [REDACTED]@rcid.org>
Subject: RE: MWBE award & payment tracking

Hi [REDACTED]

As an FYI, it looks like the contract language regarding MWBE differs based on the type of contract issued. The attached excerpt is from a design/build form of agreement.

It's my understanding that the current reporting request is for a monthly update as part of our CIP package—given that, it would be my recommendation that all forms of agreement with a section for MWBE participation be updated to include a statement similar to 20.5 highlighted in the attached to define the reporting requirement.

Thanks,



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From: [REDACTED]
Sent: Friday, April 29, 2022 14:45
To: [REDACTED] <[REDACTED]@rcid.org>
Subject: FW: MWBE award & payment tracking

Hi [REDACTED]

Per discussion, here are the excerpts from the two contracts where MWBE participation is required. Based on the language of the contract (MWBE), we interpret this to mean participation in/certification by the state program run through the Department of Management Services Office of Supplier Diversity. Also attached are the logs prepared last week indicating which vendors were MWBE-certified. A "Y" indicates confirmed as certification in the vendor marketplace and a "N" indicates confirmed as NOT certified in the vendor marketplace. Blanks indicate that no vendor record in the marketplace was found...and it could be assumed that no record = not certified.

Certification homepage -

https://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd/get_certified

Vendor marketplace search portal - <https://vendor.myfloridamarketplace.com/search/vendor>

Also not that the state's MWBE program is a separate and distinct certification from FDOT's Unified Certification Program DBE directory. The FDOT program is a subset of the federal DBE program and does not have distinction between minority-, woman- or veteran-owned BEs that the state MWBE program does (and contract language implies is needed).

Thanks,



#120013.3

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From: [REDACTED]
Sent: Wednesday, April 27, 2022 16:14
To: [REDACTED] <[REDACTED]@rcid.org>
Cc: [REDACTED] <[REDACTED]@rcid.org>; [REDACTED] <[REDACTED]@rcid.org> <[REDACTED]@rcid.org>
Subject: MWBE award & payment tracking

Hi [REDACTED]

John has requested that MWBE updates be included with the monthly financial reports that I produce. Could you please reach out to the following contractors and request a complete list of MWBE awards and amounts paid to date on the associated projects through April 2022?

C005942 SEMA Construction – ECD bridges project
C005608 Jr Davis Construction – World Drive Phase II

This is a one-time request for SEMA as the project is in close-out, but we will want monthly updates from Jr Davis on WDN Phase 2 going forward. We are still developing the reporting needs, but it is likely that we'll want monthly MWBE updates for all new projects in the future. We may want to consider making it a part of the pay app package submission in the future.

Thanks in advance,

[REDACTED]

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