The Michigan Department of Transportation (MDOT) has updated the construction project subcontracting process for current specifications and references. The subcontracting process is effective on all state and federally funded construction projects. Contractor requirements for subcontracting are described in subsection 108.01 of the 2012 Standard Specifications for Construction. Subsection 108.01 refers to the department’s procedures for subcontracting, which is defined in the attachment to this BOHIM.
The Michigan Department of Transportation (MDOT) follows the following process for subcontracting on state funded and Federal Aid construction projects.

**Federal Highway Administration (FHWA) Requirements**

Subcontracting is governed by the Code of Federal Regulations (CFR) Title 23, Section 635.116. The CFR requires the department to have a subcontracting process which must be followed when subcontracting work is performed.

**Construction Subcontract Process**

MDOT requirements for contractor subcontracting are described in subsection 108.01 of the 2012 Standard Specifications for Construction. The contractor must use its own organization to perform work amounting to at least 40 percent of the original contract amount. This section of the specifications also refers to the department’s procedures for subcontracting, which are defined in this document. All contractors must adhere to the following process:

1. Contractors must submit a signed version of Form 1302A, Subcontract, pages 1 and 3 to the TSC construction/project engineer or the respective local agency project engineer if applicable.
2. Contractors on aeronautics projects must submit Form 1302A, Subcontract, pages 1 and 3 to the Office of Aeronautics, Project Management Section.
3. Form 1302A, pages 1 and 3, must be submitted to the engineer (or Aeronautics as applicable) prior to the start of any subcontract work for the respective subcontractor.
4. Contractors are responsible for following all the subcontract requirements, including providing the required subcontract attachments outlined in the Construction Contract Package document available at:
5. Form 1302A is also available on the MDOT forms page at: [http://mdotcf.state.mi.us/public/webforms/](http://mdotcf.state.mi.us/public/webforms/)
6. Contractors must retain the original signed subcontract, including all required subcontract attachments, in their office or project files (either in paper or electronic format).
7. Subcontracting requirements do not affect the required submittal of Disadvantaged Business Enterprises (DBE) Participation Sheets (Form 0178) to MDOT, Contract Services Division (CSD), for review and approval as part of the award process.

Subcontracts are not approved by MDOT. It is the engineer’s responsibility to ensure they have received pages 1 and 3 of the subcontract form prior to the start of work associated with the subcontract. The engineer must enter the date received in the space provided and labeled as “Date Received by Engineer” located on page 1 of form 1302A. The engineer must forward a copy of page 1 of form 1302A to CSD for data entry. For MDOT projects, this page must be electronically submitted to MDOT-Awards@michigan.gov. Local agency engineers may use the email address or fax a copy of page 1 to CSD at 517-241-4193.
Active projects are randomly selected by CSD for an interim and/or post construction review of subcontracts by the Construction Field Services (CFS) subcontract compliance analyst. The review is performed to ensure the subcontracting processes are followed and documented. The following criteria are reviewed:

1. Subcontractor is MDOT prequalified in the work categories identified in the subcontract.
2. Compliance with the 60 percent maximum subcontracting limit.
3. Compliance with the 50 percent maximum sub-subcontract limit.
4. DBE Participation sheets have been provided.
5. Submittal of subcontracts prior to the commencement of the subcontracted work.
6. Designated and/or specialty subcontractors are utilized if applicable.
7. Required attachment documentation is incorporated and/or included with the subcontracts (required attachments are outlined in form 1302A).
8. Compliance of subcontract language with MDOT and federal specifications, rules, policies, processes, procedures, etc.
9. Other documentation as needed to assure compliance with the above criteria (this may include: certified payroll, purchase agreements, form 1386, form 2124A, etc…)

The prime contractor must certify compliance with subcontracting requirements by completing and signing Form 1386, Post Certification of Subcontract Compliance, prior to the issuance of the final project pay estimate.

Contractors must provide access to all documentation necessary for subcontract compliance reviews. Contractors must allow MDOT access to their books, records, accounts, files, sources of information, and the contractor’s facilities as may be determined by MDOT to be necessary to perform a subcontract compliance review. Contractors are required to assist MDOT staff during the review process as necessary, and will not be entitled or due any additional compensation for assisting with the compliance review. MDOT will provide a 24 hour minimum advance notification to the contractor for any planned review. The date, time, and location of the review will be mutually agreed upon by MDOT and the contractor.

Failure to provide access to subcontracting documentation will be documented and submitted to the Contract Performance Evaluation Review (CPER) Team for evaluation and possible recommendations to the Pre-Qualification Committee up to and including the loss of bidding privileges and prequalification.