

BECO LPA/SR Compliance Checklist FHWA Construction Contracts

COMPLIANCE REQUIREMENTS		ACTION	
		LPA/SUBRECIPIENT	ADOT
PRE-BID			
PRE-BID REQUIREMENTS			
1	<p>Request for DBE Goal - Agency must submit a request for DBE goal setting along with the Final Scope of Work to BECO prior to federal authorization. The DBE Goal Assessment Email must be included in the Federal Authorization Package to ADOT.</p> <p>TRACS Number must be included in the request for DBE Goal.</p>	Agency coordinates with Agency PM to complete the Construction DBE Goal Setting Worksheet in the DBE Goal Setting System . The Final Scope of Work must be submitted to DBEContractGoals@azdot.gov when requesting a DBE Goal to obtain the DBE Goal Assessment Email.	BECO makes a determination and provides a response within 10 days
2	<p>Contractor DBE Liaison is designated by contractor for administration of the contractor's DBE Program.</p>	In accordance with the ADOT DBE Program Plan, the Agency's selected DBE Liaison collaborates with contractor's DBE Liaison regarding DBE matters.	BECO monitors and provides guidance
3	<p>Good Faith Effort (GFE) is a continuous process that starts before a bid is submitted. Bidders shall reference the "Good Faith Effort Guide" and DBE Provisions. Contractor should contact the Agency and/or BECO prior to submission of bids to receive assistance locating DBE firms. Reference Part 49, CFR 26, Appendix A and/or LPA EPRISE Section 15.0</p>	Agency documents contractor's request for assistance and notifies BECO that assistance has been requested.	BECO provides support to the Agency and assists the contractor to locate DBEs
BID ADVERTISEMENT AND BID PACKAGE REQUIREMENTS			
4a	<p>The DBE Contract Goal obtained from the DBE Goal Assessment Email and the TRACS Number must be included in the Bid Advertisement and other solicitations.</p>	Agency must include the DBE Goal Percentage in the Bid Advertisement and incorporate the TRACS Number in federal-aid project solicitations. Goals expire after 120 days of assessment. Agency must resubmit for goal assessment if goal has expired.	<p>BECO provides Agency the most current DBE related provisions and forms</p> <p>Subject to ADOT review</p>
4b	<p>DBE Special Provisions:</p> <ul style="list-style-type: none"> • LPA EPRISE WITH GOAL or • LPA EPRISE WITHOUT GOAL 	Projects with DBE Goal (race conscious "RC"), Agency includes LPA EPRISE WITH GOAL . Projects with no DBE Goal (race neutral "RN"), Agency includes LPA EPRISE WITHOUT GOAL in applicable bid packages.	
4c	DBE Goal Assurance Form 3102C	Agency must include this form in all RC solicitations (not RN)	
4d	DBE Individual (Form 3105C) and Summary Affidavits (3106C)	Agency must include this form in all RC solicitations (not RN)	
4e	LPA Prompt Pay and Payment Reporting Provisions	Agency must include contract provisions in Bid Package	
4f	EEO Compliance Report is included in bid package	Agency must include in all RC and RN construction contracts	
4g	OJT Specifications – to be determined	Agency must include in contracts with OJT goals	

AT TIME OF BID SUBMITTAL			
REQUIRED DOCUMENTS SUBMITTED BY CONTRACTOR			
5	<p>DBE Goal Assurance Form 3102C – Submitted by all contractors. Contractors identify if they meet the goal; or, do not meet the goal, but will provide Good Faith Effort (GFE) documentation.</p> <p>LPA EPRISE Section 15.0</p> <p>Contractor must submit a fully completed form with the bid submittal to be considered responsive.</p>	<p>Agency ensures form is received and reviews it for accuracy and completeness.</p> <p>After review and determination of responsiveness, Agency submits the form and decision to BECO for concurrence prior to awarding contract.</p>	<p>Subject to ADOT review</p> <p>ADOT conducts oversight of Agency monitoring</p>
PRE-AWARD			
6	<p>AZ UTRACS Registration - Contractors and all subcontractors, including DBEs, must be registered in the AZ UTRACS Web Portal</p>	<p>Agency provides assistance to contractors with AZUTRACS registration, as necessary.</p>	<p>Conducts oversight of Agency monitoring</p>
DBE DOCUMENT SUBMITTALS			
7	<p>a. On-Line Bidders List - All bidders complete an On-Line Bidders List at AZ UTRACS and submit the corresponding Bidders List Email Confirmation Notice to the Agency by 4:00 pm on the 5th calendar day after bids are opened. LPA EPRISE Section 11.0</p> <p>b. DBE Intended Participation Affidavit - Individual Form 3105C</p> <p>Apparent Low Bidder (ALB) submits one form for each DBE by 4:00 pm on the 5th calendar day after bids are opened.</p> <p>c. DBE Intended Participation Affidavit - Summary Form 3106C</p> <p>ALB submits to Agency by 4:00 pm on the 5th calendar day after bids are opened.</p> <p>All bidders are encouraged to submit affidavits and must use the most current forms obtained from Agency.</p> <p>Bidders will identify all DBE firms at all tiers intended to be used on the project corresponding to the DBE Intended Participation Affidavits submitted for each DBE firm LPA EPRISE Section 12.0</p> <p><i>Note: To be considered responsible and eligible for award of a contract, a bidder who has indicated in its bid that it met the DBE</i></p>	<p>a. Agency collects the Bidders List Email Confirmation Notices from all bidders. Bidders who do not submit the Bidders List Email Confirmation are deemed non-responsive.</p> <p>b. Agency receives DBE Intended Participation Affidavit and DBE Intended Participation Summary by 4:00 pm on 5th calendar day. Agency reviews the forms for accuracy and completeness after the 5th calendar day (<i>use Bid Verification Tool – Attachment A</i>)</p> <p>c. See b. above</p> <p>Agency reviews ALB’s Bidders List Notice and affidavits (submittal) after 4:00 pm on the 5th calendar day after bid opening. If ALB is non-responsive, Agency reviews the subsequent low bidder’s submittal and continues down the list of bidders until a responsive bidder is identified. If no responsive bidder is identified, Agency will consider rejection of all bidders and re-advertising the project.</p> <p>After review, Agency compiles the DBE Assurance Form, Bidders List Notice and Affidavits into one attachment and emails within 7 business days of review to BECO at LPACContractorCompliance@azdot.gov.</p>	<p>BECO reviews and provides concurrence via Bid Verification Notice within 5 business days from receipt of Agency’s email with all relevant documents attached</p>

	<i>Goal or made good faith efforts must submit the required information no later than five calendar days after bid opening.</i>	Agency may not award contract to Contractor until BECO has concurred with the Agency and has provided a Bid Verification Notice to the Agency.	
8	<p>d. Good Faith Effort Documentation (GFE) (when applicable): If DBE Goal is not met, the bidders submit to Agency by 4:00 pm on the 5th calendar day after bids are opened.</p> <p>LPA EPRISE Section 15.0 Only bidders that demonstrate adequate GFE to meet the contract goal are eligible to be awarded federal contracts. Bidder can reference the ADOT GFE Guide and CFR 49 Part 26 Appendix A: GFE Guidance</p>	Agency receives GFE documentation and contacts BECO within 24 hours.	BECO will review the GFE documentation, make a determination and notify the Agency within 7 business days
AT TIME OF AWARD – CONTRACT EXECUTION			
9	<p>Executed contract between the contractor and the Agency must include the following documents:</p> <ul style="list-style-type: none"> • LPA EPRISE Contract Language (with or without DBE Goal) • DBE Assurance and DBE Affidavits (Individual and Summary) • TSR Request Form and COP Form • LPA Prompt Pay and Payment Reporting Provisions • EEO Compliance Report • OJT Specifications (when applicable) 	Agency verifies the documents are included in the contract.	Provides oversight and monitoring
10	<p>Reportable Contracts - Contractor must enter all contract (DBE and non-DBE) information into LPA DBE System after the Agency initiates the contract.</p> <ul style="list-style-type: none"> • No later than 15 calendar days after preconstruction conference • Any additional subcontract information is added within 5 days of Agency approval 	<p>Agency initiates contract in the LPA DBE System and ensures contract data is accurate no later than 15 calendar days after award.</p> <p>Agency monitors the LPA DBE System to ensure all subcontract information is entered in the LPA DBE System.</p>	Provides oversight and monitoring
11	Awards and commitments must be reported to FHWA	Agency submits FHWA Monthly Report to BECO at LPAContractorCompliance@azdot.gov by 10th of every month using provided template.	BECO Technology & Reporting Team reviews the FHWA Monthly Report for accuracy
12	<p>LPA DBE Subcontract Compliance Assurances - must be included in all DBE subcontracts (committed (RC) and RN DBEs)</p> <p>LPA Prompt Pay and Payment Reporting Provisions must be included in all subcontracts.</p>	<p>Agency collects and reviews the committed DBE subcontracts before or at the preconstruction conference.</p> <p>Agency includes the LPA DBE Subcontract Compliance Assurances and the LPA Prompt Pay and Payment Reporting in the subcontract approval process.</p>	Provides oversight and monitoring

POST AWARD			
PROMPT PAYMENT			
13	<p>Prompt Payment Requirements Contractor must pay its subcontractors, DBEs and non-DBEs, within 7 calendar days from receiving Agency payment</p>	Agency makes payments to contractor on or before 14 days after the estimate of the work is approved.	Provides oversight and monitoring
14	<p>Sanctions for Prompt Payment Non-Compliance If payments are not made promptly, sanctions will apply in accordance with Prompt Pay and Payment Reporting Provisions Contractor makes reasonable efforts to resolve payment disputes and pay subcontractors timely and document efforts in the LPA DBE System.</p>	<p>Agency monitors LPA DBE System each month and ensures contractor is complying with the prompt payment requirements. Agency reviews contractor's documentation in making compliance determinations and considers sanctions. Agency notifies contractor of sanctions imposed.</p>	Provides guidance in following the provisions for imposing sanctions
PAYMENT REPORTING			
15	DBE Program mandates Agency to actively monitor payments	Agency reports payments to contractors in the DBE System by the 7th of each month for the previous month's payment activities.	Provides oversight and monitoring
16	<p>Payment Reporting Requirements Payments must be reported by contractors and subcontractors with lower-tiers in the LPA DBE System:</p> <ul style="list-style-type: none"> • Contractor enters subcontractor payment information into the system no later than the last day of the month for the prior month's payment activities • If no payment was made, the contractor enters a zero-dollar value as payment • Contractor must use the comments section in the LPA DBE System to explain why subcontractor invoices weren't fully paid; or, to identify any other issues concerning prompt payment 	On the 1st day of each month, Agency verifies that the contractor has reported all payments to its subcontractors in the DBE System by the last day of the previous month (monthly audit).	Monitors contracts in the LPA DBE System for compliance
17	<p>Sanctions for Inadequate Reporting If payments are not reported monthly, sanctions will apply in accordance with Prompt Pay and Payment Reporting Provisions.</p>	<p>Agency monitors contracts monthly to ensure compliance with payment reporting. Agency notifies contractor of sanctions imposed.</p>	Provides oversight and monitoring

18	<p>Subcontractor Payment Verification</p> <ul style="list-style-type: none"> • Subcontractors verify payment within 15 days of electronic notice of reported payment • Contractor actively monitors LPA DBE System for payment confirmations 	<p>Agency monitors contracts monthly to ensure compliance with payment reporting provisions.</p> <p>If subcontractors do not verify payments within 45 days of contractor reporting payment, the Agency confirms payment in the LPA DBE System and accepts it as promptly paid unless a dispute arises.</p>	<p>Provides oversight and monitoring</p>
DBE TERMINATION/SUBSTITUTION/REDUCTION OF WORK (TSR)			
19	<p>DBE Termination/Substitution/Reduction of Work General Requirements – The contractor shall make all reasonable efforts to avoid termination/substitution/reduction of work of a DBE listed on the DBE Intended Affidavit Summary (committed DBE). Contractor shall advise the Agency within 24 hours from the first sign of any reason for potential DBE termination/substitution/reduction of work. LPA EPRISE Section 24.01</p>	<p>Agency notifies BECO immediately when receiving notification from the contractor.</p>	<p>Provides guidance as needed</p>
20	<p>Contractor’s Notice to DBE to terminate/substitute/reduce work:</p> <ul style="list-style-type: none"> • Contractor gives written notice to the DBE of intent to terminate/substitute/reduce work with reason for the action • DBE has at least 5 calendar days to respond in writing to contractor • Contractor provides copies of all correspondence to the Agency 	<p>All terminations, substitutions and reductions in scope of work by committed DBEs must be approved by the Agency, with BECO concurrence.</p>	<p>Provides oversight and monitoring</p>
21	<p>Contractor’s TSR Request Contractor submits as a formal request to the Agency:</p> <ul style="list-style-type: none"> • TSR Request Form 3108C • DBE’s written response (if DBE responded) • Additional documentation, as necessary 	<p>Agency reviews formal request and provides determination in writing to BECO for concurrence. Agency communicates decision to contractor and DBE. The Agency and BECO consider:</p> <ul style="list-style-type: none"> • Contractor’s request and DBE’s response • Additional documentation • Agency staff documentation of the issue • Good cause (as outlined in the LPA EPRISE) 	<p>Provides oversight and monitoring</p> <p>Reviews and provides guidance and concurrence, in writing</p>

22	<p>TSR Good Faith Effort (GFE) - required even when the Agency eliminates a work item</p> <p>When TSR Request is approved:</p> <ul style="list-style-type: none"> • Contractor submits DBE Affidavits (individual and summary) for the replacement DBE to the Agency for approval; or • Contractor provides documentation of GFE within 7 days from submitting TSR Request, identifying efforts made to find a replacement DBE <p>If TSR is not approved, see section 21 below</p>	<p>Before the new DBE starts work, Agency must approve DBE Affidavits (individual and summary) and BECO must concur.</p> <p>Agency reviews and evaluates GFE, makes determinations and notifies BECO for concurrence.</p>	<p>Reviews and provides guidance and concurrence, in writing</p>
23	<p>DBE TSR Sanctions</p> <p>If TSR Request is not approved, contractor cannot terminate/substitute/reduce work and is subject sanctions. Contractor may not self-perform terminated/substituted/reduced work without prior approval from Agency/BECO</p>	<p>Agency considers sanctions when the contractor fails to follow the TSR process for a DBE listed on the affidavits.</p>	<p>Provides guidance as necessary along with oversight and monitoring</p>
COMMERCIALLY USEFUL FUNCTION (CUF)			
24	<p>Commercially Useful Function (CUF)</p> <p>Contractor ensures DBEs on the project are performing CUF in accordance with LPA EPRISE Section 18.06.</p> <p>Contractor receives credit only when a DBE performs a Commercially Useful Function.</p>	<ul style="list-style-type: none"> • Agency conducts project site visits to confirm all DBEs on the project are performing CUF • Agency conducts CUF reviews using the CUF checklist and certifies with signature a CUF is performed • Agency notifies contractor, in writing, within seven calendar days of the review if it determines that the DBE is not performing a CUF • CUF decisions may be appealed by contractor or DBE to ADOT BECO 	<p>Provides guidance as necessary along with oversight and monitoring</p>
JOINT CHECKS			
25	<p>Joint Check Request Form 3109C</p> <p>Contractor follows the LPA EPRISE Section 23.0 for all Joint Checks Requests where a DBE is a party.</p> <p>A written Joint Checks Agreement must be issued and signed by all parties before any joint checks are issued</p>	<p>Agency contacts BECO to obtains approval from BECO for any Joint Check requests</p>	<p>Provides guidance as necessary along with oversight and monitoring</p>

CERTIFICATION OF FINAL DBE PAYMENTS (COP)

26	<p>Certification of Final DBE Payments (COP)</p> <ul style="list-style-type: none"> Contractor submits Form 3110C to Agency for all DBEs no later than 30 days after the DBE completes work Contractor is not released from the obligations of the contract 	<p>Agency reviews the COP form and verifies it against the Affidavit amounts and the payment information in LPA DBE System. If dollar amounts match, Agency approves Certification of Final Payment form and send to BECO for concurrence.</p> <p>If dollar amounts do not match, Agency coordinates with contractor for reconciliation.</p> <p>Agency sends a copy of COP(s) to BECO for concurrence.</p>	<p>Monitors and reviews for compliance</p>
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CONTRACT COMPLETION - CLOSEOUT

27	<p>Meeting DBE Goal</p> <ul style="list-style-type: none"> Contractor must meet the assessed DBE Goal on the contract, or provide GFE Contractor is subject to sanctions if the assessed DBE Goal is not met at the end of the project and GFE not demonstrated in accordance with LPA EPRISE Section 26.0 Contractor can appeal the decision to the ADOT State Engineer 	<ul style="list-style-type: none"> Agency monitors contractor's compliance in meeting the DBE Goal throughout the life of the contract At the time of substantial completion, Agency determines if assessed DBE Goal was met. If DBE Goal was not met, Agency evaluates all provided GFE documentation. Agency makes determination and notifies BECO for concurrence and forwards the Substantial Completion Letter to BECO Agency may impose sanctions in accordance with LPA EPRISE Section 26.0 Agency provides Completion Cover Letter to BECO 	<p>Reviews for concurrence</p>
28	<p>Contract Closeout in LPA DBE System</p>	<p>Agency closes contract in the LPA DBE System within 30 days of Final Contract Closeout - System Contracts Closeout Instruction</p>	<p>Monitors and reviews for compliance</p>

REPORTS

29	<p>Awards and commitments must be reported to FHWA</p>	<p>Activities in Support of the FHWA Semi-Annual Report Agency reviews semi-annually in April and October LPA DBE System contract data for accuracy in support of BECO's preparation and submittal of the FHWA DBE Utilization Semi-Annual Report.</p>	<p>BECO Technology & Reporting Team reviews LPA DBE System Data, prepares and submits report to FHWA</p>
30	<p>FHWA Construction Contractors EEO Compliance Report Form 1391 Contractors and subcontractors submit their report for contracts or subcontracts over \$10,000 to the Agency no later than August 15th of each year.</p>	<p>Agency monitors form submittal from contractors and subcontractors and submits one compiled report to BECO annually by September 1st to LPAContractorCompliance@azdot.gov</p>	<p>BECO Technology & Reporting Team collects data and submits report to FHWA</p>