DBE
Termination / Substitution

Be Confident, know when to act and what to do

Tucson DBE Conference
November 2017
Termination/Substitution

Training Objective

- Know what to do and when to act
  - Contractor
  - DBE
  - ADOT
Termination/Substitution

Outline

- Requirements
- Reasons for Request
- Good Faith Effort
- Sanctions
Termination/Substitution Requirements

- **Notification**
  - Contractor notifies RE/BECO within 24 hours
  - Contractor gives written notice to DBE
  - DBE has minimum of 5 days to respond to Contractor

EPRISE Section 24.02 Contractor Notice Termination/Substitution
Termination/Substitution Requirements

- Formal Request
  - Form
  - Notice to DBE
  - Supporting documentation

EPRISE Section 24.03 Contractor Request for Termination/Substitution
Termination/Substitution Requirements

- Types of Requests
  - Termination
  - Substitution
  - Reduction of work

EPRISSE Section 24.03 Contractor Request for Termination/Substitution
Termination/Substitution Request Form

1. Change Order/Scope of work
   - [ ] Yes
   - [ ] No
Termination/Substitution Request Form

1. Change Order/Scope of work
   ❑ Yes – Explain impact on DBE Participation

What would be some supporting Documents?
Termination/Substitution Request Form

1. Change Order/Scope of work
   - Yes
   - No – Indicate possible reason(s):
Termination/Substitution Request Form

1. Change Order/Scope of work
   - Yes
   - No – Possible reasons:
     - Fails to execute written contract
     - Refuses to perform work
     - Bankrupt/Insolvent/Credit unworthiness
     - Irresponsible contractor
     - Ineligible to perform type of work
     - Owner disabled/dies
Termination/Substitution Request Form

2. Date Prime Determined DBE to be
   ☐ Unwilling
   ☐ Unable
   ☐ Ineligible
Termination/Substitution Request Form

3. Date of Written Notice to DBE, attach
   - Notice
   - DBE response

*All reasonable efforts need to be made to avoid terminating or substituting a DBE listed on the affidavit*
Termination/Substitution Request Form

4. DBE affidavit amount
5. Amount DBE work completed
6. DBE amount to be substituted

4. Original DBE affidavit amount: $___20,000______
5. Amount of DBE work completed to date: $___15,000______
   6. DBE $ amount to be substituted: ___ $5,000___
Termination/Substitution Request Form

7. Proposed Sub Name
8. Replacement Sub Start Work Date
9. Is replacement an AZ Certified DBE?

- Yes
- No
Termination/Substitution Request Form

9. Is replacement an AZ Certified DBE?
   ☐ Yes – Provide affidavit
9. Is replacement an AZ Certified DBE?

- Yes – Provide affidavits for new DBE(s)
  - Same $ or more – No GFE documentation
  - $ Less than – Yes GFE documentation

**NEED:**
- Individual DBE affidavit
- Revised summary affidavit
9. Is replacement an AZ Certified DBE?

- Yes
- No – GFE & supporting docs needed
10. Will Assessed DBE Goal be Met?

- Yes
- No
10. Will Assessed DBE Goal be Met?

- Yes – Provide DBE Affidavits and Summary
- No
10. Will Assessed DBE Goal be Met?

☐ Yes

☐ No – Provide GFE documentation
Note:

approval of termination/substitution request(s) will not relieve the contractor of its obligation to meet the assessed contracted DBE goal.

EPRISE Section 24.05 DBE Termination/Substitution Good Faith Effort
Termination/Substitution
Good Faith Effort (GFE)

GFE is
- For the life of the project
- Ongoing
- NOT just a form

EPRISE Section 24.05 DBE Termination/Substitution Good Faith Effort
Termination/Substitution
Good Faith Effort (GFE)

- Documented evidence contractor attempted to:
  - Identify activities and work with DBE
  - Find another DBE
  - Contact ADOT Supportive Services
- Submit within 7 calendar days from approved request date

EPRISE Section 24.05 DBE Termination/Substitution Good Faith Effort
Termination/Substitution

DBE Supportive Services

- Support and assistance for
  - Contractor
  - DBE
- Events
- Resource Center
Termination/Substitution
Sanctions

☐ Considerations
  ☐ Submit on time
  ☐ Notify the DBE
  ☐ GFE documentation
  ☐ Self performing

*Dollar amount of the wrongfully substituted/replaced DBE subcontract plus 25% of the amount remaining to be paid to the DBE*

*Everyone in compliance; no sanctions*

EPRISE Section 24.06 Sanctions
Termination/Substitution

Wrap Up

- Educate
- Support
- Monitor/Enforce

Everyone in compliance; no sanctions
Termination/Substitution

Contact Info

- https://www.azdot.gov/bec
- contractorcompliance@azdot.gov
- 602-712-7761

Everyone in compliance; no sanctions
Questions and Answers
The End