

DBE Compliance Checklist FHWA Construction Contracts

COMPLIANCE REQUIREMENTS		ACTION	
PRE-ADVERTISEMENT REQUIREMENTS			
1	<p>Request for DBE Goal – Contracts and Specifications (C&S) department must submit a request for DBE goal assessment along with the Final Scope of Work to BECO prior to advertising. The DBE Goal Assessment Email must be included in the advertisement.</p> <p>TRACS Number must be included in the request for DBE Goal.</p>	<p>ADOT PM to complete the Construction DBE Goal Setting Worksheet in the DBE Goal Setting System. A Final Scope of Work must be submitted with the request. The DBE Goal requester will receive a DBE Goal Assessment email with the established DBE goal within 10 days of submitted request.</p> <p>Goals expire 120 days after assessment. C&S must resubmit for goal assessment if goal has expired.</p>	<p>BECO makes a determination and provides a response within 10 days</p>
2	<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 shall contact BECO prior to submission of bids to receive assistance locating DBE firms. Reference Part 49, CFR 26, Appendix A and/or EPRISE Section 15.0</p>	<p>BECO DBE Supportive Services provides support and assists the contractor to locate DBEs and documents contractor’s request for assistance.</p>	
BID ADVERTISEMENT AND BID PACKAGE REQUIREMENTS			
3a	<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>	<p>C&S includes the DBE Goal Percentage in the Bid Advertisement and incorporates the TRACS Number in federal-aid project solicitations.</p> <p>Goals expire 120 days after assessment. C&S must resubmit for goal assessment if goal has expired.</p>	<p>Subject to BECO review</p>
3b	<p>DBE Special Provisions:</p>	<p>Projects with DBE Goal (race conscious “RC”) C&S includes EPRISE WITH GOAL</p>	

DBE Compliance Checklist FHWA Construction Contracts

	<ul style="list-style-type: none"> • EPRISE WITH GOAL or • EPRISE WITHOUT GOAL 	Projects with no DBE Goal (race neutral “RN”) C&S includes EPRISE WITHOUT GOAL	
3c	DBE Goal Assurance	All bids (electronic and paper) must include this information in all solicitations with a RC solicitation.	Subject to BECO review
3d	Prompt Pay and Payment Reporting Provisions (Section 109RET)	Must be included in all federal aid and non-federal aid RC and RN construction solicitations.	
3e	EEO Compliance Report package is included in bid	Must be included in all RC and RN construction solicitations.	
3g	OJT Specifications – to be determined	Must be included in contracts with OJT Goal.	
AT TIME OF BID SUBMITTAL			
REQUIRED DOCUMENTS SUBMITTED BY CONTRACTOR			
4	<p>DBE Goal Assurance – Submitted by all bidders identifying if they met the established DBE goal; or, are unable to meet the established DBE goal, and will provide Good Faith Effort (GFE) documentation.</p> <p>Bidders must respond with the bid submittal to be considered responsive. EPRISE Section 15.0</p>	C&S reviews the information submitted by bidders. After review and determination of responsiveness, C&S notifies BECO when bid opening results have been added to their website and if bidders all indicated they will meet the established goal or provide GFE.	BECO staff notified BECO management of upcoming GFE
PRE-AWARD			
5	<p>AZ UTRACS Registration - Contractors and all subcontractors, including DBEs, must be registered in the AZUTRACS Web Portal</p>	BECO provides assistance to contractors with AZUTRACS registration, as necessary.	
DBE DOCUMENTS SUBMITTALS			
6	<p>a. On-Line Bidders List - All bidders complete an On-Line Bidders List at AZUTRACS. AZUTRACS will generate a confirmation email to the bidder. The bidder shall submit a copy of confirmation email to BECO by 4:00 pm on the 5th calendar day after bids are opened. EPRISE Section 11.0</p> <p>b. DBE Intended Participation Affidavit - Individual Form 105C Apparent Low Bidder (ALB) submits one form for each DBE by 4:00 pm on the 5th calendar day after bids</p>	<p>a. BECO 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. BECO receives DBE Intended Participation Affidavit and DBE Intended Participation Summary by 4:00 pm on 5th calendar day. BECO reviews the forms for accuracy and completeness after the 5th calendar day</p> <p>c. See b. above</p>	

DBE Compliance Checklist FHWA Construction Contracts

	<p>are opened. All bidders are encouraged to submit affidavits before the deadline listed above.</p> <p>DBE Intended Participation Affidavit - Summary Form 106C ALB submits to Agency by 4:00 pm on the 5th calendar day after bids are opened. All bidders are encouraged to submit affidavits before the deadline listed above.</p> <p><i>Note: For assistance with completing the DBE Affidavits you can watch ADOT DBE Affidavit Training Video</i></p> <p>All bidders are encouraged to submit affidavits and must use the most current forms obtained from BECO.</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 EPRISE Section 14.01</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 Goal or made good faith efforts must submit the required information no later than five calendar days after bid opening.</i></p>	<p>BECO reviews ALB’s Bidders List Notice and affidavits after 4:00 pm on the 5th calendar day after bid opening. If ALB is non-responsive, BECO 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, BECO identifies the results of affidavit review and notifies C&S of those results so C&S can determine if the project will be awarded.</p> <p>After review, BECO compiles the DBE Verification Form, DBE Verification Letter, and Bidders List Verification into one attachment, and emails within 10 business days of review to C&S.</p>
7	<p>c. Good Faith Effort Documentation (GFE) (when applicable):</p> <p>If DBE Goal is not met, the bidders submit to BECO by 4:00 pm on the 5th calendar day after bids are opened.</p> <p>EPRISE Section 15.0</p>	<p>BECO receives GFE documentation and will review to make a determination and notify C&S within 10 business days.</p>

DBE Compliance Checklist FHWA Construction Contracts

	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		
AT TIME OF AWARD – CONTRACT EXECUTION			
8	<p>Executed contract between the contractor and the Department must include the following documents:</p> <ul style="list-style-type: none"> ● EPRISE Contract Language (with or without DBE Goal) to include DBE goal assessed ● Prompt Pay and Payment Reporting Provisions (Section 109RET) ● EEO Compliance Report <p>OJT Specifications (<i>when applicable</i>)</p>	C&S verifies all documents are included in the contract.	Subject to BECO review
9	<p>Reportable Contracts - Contractor must enter all subcontract (DBE and non-DBE) information into ADOT DBE System after the Department initiates the contract.</p> <ul style="list-style-type: none"> ● No later than 15 calendar days after preconstruction conference ● Any additional reportable contracts approved over the course of the contract must be entered within 5 calendar days of approval by the Department 	<p>Following execution of the contract, BECO initiates contract in the ADOT DBE System and ensures contract data is accurate. BECO monitors the ADOT DBE System to ensure all subcontract information is entered in the ADOT DBE System.</p>	
10	Awards and commitments must be reported to FHWA	BECO completes the FHWA Monthly Report and provides to BECO Technology and Reporting group by the 10th of every month using provided template.	BECO Technology & Reporting Team reviews the FHWA Monthly Report for accuracy
POST AWARD			
PROMPT PAYMENT			

DBE Compliance Checklist FHWA Construction Contracts

11	<p>Prompt Payment Requirements Contractor must pay its subcontractors, DBEs and non-DBEs, within 7 calendar days of receiving payment from ADOT</p>	ADOT makes payments to contractor on or before 14 days after the estimate of the work is approved. (Refer to Contractor Cycle Key Dates when Contractor receives payment from ADOT.)	BECO monitors for compliance
12	<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 ADOT DBE System.</p>	<p>BECO monitors ADOT DBE System each month and ensures contractor is complying with the prompt payment requirements and reviews contractor’s and subcontractor’s documentation in making compliance determinations and recommendations for sanctions to the ADOT Construction State Engineer (CSE). CSE notifies contractor of sanctions imposed.</p>	BECO monitors for compliance
PAYMENT REPORTING			
13	DBE Program mandates ADOT to actively monitor payments	ADOT reports payments to contractors in the ADOT DBE System within the first 5 days of each month for the previous month’s payment activities.	BECO monitors for accurate payment data transfer in the DBE System
14	<p>Payment Reporting Requirements Payments must be reported by contractors and subcontractors with of all in the ADOT DBE System:</p> <ul style="list-style-type: none"> ● Contractor enters subcontractor payment information into the system no later than the 15th day of the month for the prior month’s payment activities ● If no payment was made, a zero-dollar value shall be entered as payment ● Contractor must use the comments section in the ADOT DBE System to explain why subcontractor invoices weren’t fully paid; or, to identify any other issues concerning prompt payment 	Field Office staff assigned to the project in the DBE System verifies each month between the 16 th and the 20 th of the month, that the contractor has reported all payments to its subcontractors in the ADOT DBE System by the 15th of the previous month (monthly audit).	BECO conducts oversight and monitoring of payments in ADOT DBE System for compliance

DBE Compliance Checklist FHWA Construction Contracts

15	<p>Sanctions for Inadequate Reporting If payments are not reported monthly, sanctions will apply in accordance with Prompt Pay and Payment Reporting Provisions 109.06(B)(5).</p>	Field Offices will monitor monthly for contractor's compliance with payment reporting requirements and will impose sanctions as necessary in accordance with Section 109.06(B)(5) and notify contractor of imposed sanctions.	BECO monitors for compliance
16	<p>Subcontractor Payment Verification</p> <ul style="list-style-type: none"> ● Subcontractors shall verify payment by the last day of the month after receiving electronic notice of reported payment ● Contractor shall actively monitors ADOT DBE System for payment confirmations 	If subcontractors do not verify payments within 45 days of contractor reporting payment, BECO confirms payment in the ADOT DBE System and accepts it as promptly paid unless a dispute arises.	
DBE TERMINATION/SUBSTITUTION/REDUCTION OF WORK (TSR)			
17	<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 ADOT within 24 hours from the first sign of any reason for potential DBE termination/substitution/reduction of work. EPRISE Section 24.0</p>	Contractor notifies BECO or Field Office staff who will immediately notify BECO when receiving notification from the contractor.	BECO provides guidance as needed
18	<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 a minimum of 5 calendars days to respond in writing to contractor ● Contractor must submit copies of all correspondence to the ADOT 	All terminations, substitutions and reductions in scope of work for committed DBEs must be approved by BECO.	BECO monitors for compliance

DBE Compliance Checklist FHWA Construction Contracts

19	<p>Contractor’s TSR Request Contractor submits as a formal request to the ADOT:</p> <ul style="list-style-type: none"> ● TSR Request Form 108C ● DBE’s written response (if DBE responded) ● Additional documentation, as necessary 	<p>BECO reviews formal request and provides determination in writing to the contractor. BECO considers:</p> <ul style="list-style-type: none"> ● Contractor’s request and DBE’s response ● Additional documentation ● Field Office staff documentation of the issue ● Good cause (as outlined in the EPRISE 24.04) 	BECO reviews, provides guidance and makes determination in writing
20	<p>TSR Good Faith Effort (GFE) - required even when ADOT eliminates a work item When TSR Request is approved:</p> <ul style="list-style-type: none"> ● Contractor submits DBE Affidavits (individual and summary) to BECO for approval identifying DBE replacement; or ● Contractor provides documentation of GFE within 7 days from TSR Request approval, identifying efforts made to find a DBE replacement <p>If TSR is not approved, see section 21 below</p>	<p>Before the new DBE starts work, BECO must approve DBE Affidavits (individual and summary).</p> <p>BECO reviews and evaluates GFE, makes determinations and notifies the Contractor and Field Office.</p>	BECO reviews, provides guidance and makes determination in writing
21	<p>DBE TSR Sanctions If TSR Request is not approved, contractor cannot terminate/substitute/reduce work and is subject to sanctions. Contractor may not self-perform terminated/substituted/reduced work without prior approval from BECO</p>	<p>BECO considers and recommends sanctions when the contractor fails to follow the TSR process for a DBE listed on the affidavits.</p>	BECO reviews, provides guidance and makes determination in writing
COMMERCIALLY USEFUL FUNCTION (CUF)			
22	<p>Commercially Useful Function (CUF) Contractor ensures DBEs on the project are performing CUF in accordance with EPRISE Section 18.06.</p> <p>Contractor receives credit only when a DBE performs</p>	<ul style="list-style-type: none"> ● ADOT conducts project site visits to confirm all DBEs on the project are performing CUF ● ADOT conducts CUF reviews using the CUF checklist and certifies with signature a CUF is performed ● ADOT notifies contractor, in writing, within seven 	BECO reviews, provides guidance and

DBE Compliance Checklist FHWA Construction Contracts

	a Commercially Useful Function.	calendar days of the review if it determines that the DBE is not performing a CUF	makes determination in writing
JOINT CHECKS			
23	<p><u>Joint Check Request Form 109C</u> Contractor follows EPRISE Section 23.0 for all Joint Checks Requests where a DBE is a party.</p> <p><u>Joint Check Agreement Form 114C</u> A written Joint Checks Agreement must be issued and signed by all parties before any joint checks are issued</p>	Contractor contacts BECO to obtains approval for any Joint Check requests involving a DBE subcontractor	BECO reviews, provides guidance and makes determination in writing
CERTIFICATION OF FINAL DBE PAYMENTS (COP)			
24	<p><u>Certification of Final DBE Payments (COP) Form 110C</u></p> <ul style="list-style-type: none"> ● Contractor submits COP to ADOT for all DBEs no later than 30 days after the DBE completes work ● Contractor is not released from the obligations of the contract until COPs are received and approved by BECO 	<p>Field Office reviews the COP(s) and verifies it against the Affidavit amounts and the payment information in ADOT DBE System. If dollar amounts match, BECO approves Certification of Final Payment form.</p> <p>If dollar amounts do not match, Field Office coordinates with contractor for reconciliation.</p> <p>Field Office sends a copy of COP(s) to BECO for final review and approval.</p>	BECO reviews, provides guidance and makes determination in writing
CONTRACT COMPLETION - CLOSEOUT			
25	<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 EPRISE 	<ul style="list-style-type: none"> ● BECO monitors contractor’s compliance with meeting the DBE Goal throughout the life of the contract ● At the time of substantial completion, BECO evaluates all provided GFE documentation when determining if the assessed DBE Goal was met, or not met and makes a determination of compliance 	Reviews, provides guidance and makes determination

DBE Compliance Checklist FHWA Construction Contracts

	Section 26.0	<ul style="list-style-type: none"> • BECO reviews and recommends sanctions when the contractor fails to meet the DBE goal or provide adequate GFE in accordance with EPRISE Section 26.0 • BECO provides DBE/OJT Completion Cover Letter to Field Office and Field Reports 	in writing
26	Contract Closeout in ADOT DBE System	BECO closes contract in the ADOT DBE System within 30 days of Final Contract Closeout - System Contracts Closeout Instruction	
REPORTS			
27	Awards and commitments must be reported to FHWA	Activities in Support of the FHWA Semi-Annual Report BECO reviews semi-annually in April and October ADOT DBE System contract data for accuracy in support of BECO's preparation and submittal of the FHWA DBE Utilization Semi-Annual Report.	BECO Technology & Reporting Team reviews ADOT DBE System Data, prepares and submits report to FHWA
28	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 15 th of each year.	BECO monitors form submittal from contractors and subcontractors and submits one compiled report to BECO annually by September 1st to ContractorCompliance@azdot.gov	BECO Technology & Reporting Team collects data and submits report to FHWA