

## DBE Compliance Checklist FHWA Construction Contracts

| COMPLIANCE REQUIREMENTS                        |                                                                                                                                                                                                                                                                                                                                                                                            | ACTION                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                          |
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| PRE-ADVERTISEMENT REQUIREMENTS                 |                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                          |
| 1                                              | <p><b>Request for DBE Goal</b> – Contracts and Specifications (C&amp;S) department must submit a request for DBE goal assessment along with the Final Scope of Work to SBWD prior to advertising. The DBE Goal Assessment Email must be included in the advertisement.</p> <p><b>TRACS Number must be included in the request for DBE Goal.</b></p>                                        | <p>ADOT PM to complete the Construction DBE Goal Setting Worksheet in the <a href="#">DBE Goal Setting System</a>. 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&amp;S must resubmit for goal assessment if goal has expired.</p> | <p>SBWD makes a determination and provides a response within 10 days</p> |
| 2                                              | <p><b>Good Faith Effort (GFE)</b> is a continuous process that starts before a bid is submitted. <b>Bidders shall reference the “<a href="#">Good Faith Effort Guide</a>” and DBE Provisions.</b> Contractor shall contact SBWD prior to submission of bids to receive assistance locating DBE firms. Reference Part 49, CFR 26, Appendix A and/or <a href="#">EPRISE Section 15.0</a></p> | <p><b>SBWD Small Business Services provides support and assists the contractor to locate DBEs and documents contractor’s request for assistance.</b></p>                                                                                                                                                                                                                                                                          |                                                                          |
| BID ADVERTISEMENT AND BID PACKAGE REQUIREMENTS |                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                          |
| 3a                                             | <p>The <b>DBE Contract Goal</b> obtained from the DBE Goal Assessment Email and the <b>TRACS Number</b> must be included in the Bid Advertisement and other solicitations.</p>                                                                                                                                                                                                             | <p>C&amp;S includes the DBE Goal Percentage in the Bid Advertisement and incorporates the <b>TRACS Number</b> in federal-aid project solicitations.</p> <p>Goals expire 120 days after assessment. C&amp;S must resubmit for goal assessment if goal has expired.</p>                                                                                                                                                             | <p>Subject to SBWD review</p>                                            |
| 3b                                             | <p><b>DBE Special Provisions:</b></p>                                                                                                                                                                                                                                                                                                                                                      | <p>Projects with DBE Goal (race conscious “RC”) C&amp;S includes <a href="#">EPRISE WITH GOAL</a></p>                                                                                                                                                                                                                                                                                                                             |                                                                          |

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

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|   | <p>are opened. All bidders are encouraged to submit affidavits before the deadline listed above.</p> <p><b>DBE Intended Participation Affidavit - Summary Form 106C</b> 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><b>Note:</b> For assistance with completing the DBE Affidavits you can watch <a href="#">ADOT DBE Affidavit Training Video</a></i></p> <p>All bidders are encouraged to submit affidavits and must use the most current forms obtained from SBWD.</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 <a href="#">EPRISE Section 14.01</a></p> <p><i><b>Note:</b> 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>SBWD 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, SBWD 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, SBWD identifies the results of affidavit review and notifies C&amp;S of those results so C&amp;S can determine if the project will be awarded.</p> <p>After review, SBWD 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&amp;S.</p> |
| 7 | <p><b>c. Good Faith Effort Documentation (GFE)</b> (when applicable):</p> <p>If DBE Goal is not met, the bidders submit to SBWD by 4:00 pm on the 5th calendar day after bids are opened.</p> <p><b>EPRISE Section 15.0</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>SBWD receives GFE documentation and will review to make a determination and notify C&amp;S within 10 business days.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|                                              | Only bidders that demonstrate adequate GFE to meet the contract goal are eligible to be awarded federal contracts. Bidder can reference the <a href="#">ADOT GFE Guide</a> and <a href="#">CFR 49 Part 26, Appendix A: GFE Guidance</a>                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                           |                                                                               |
| <b>AT TIME OF AWARD – CONTRACT EXECUTION</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                           |                                                                               |
| 8                                            | <p>Executed contract between the contractor and the Department must include the following documents:</p> <ul style="list-style-type: none"> <li>• EPRISE Contract Language (with or without DBE Goal) to include DBE goal assessed</li> <li>• Prompt Pay and Payment Reporting Provisions (<a href="#">Section 109RET</a>)</li> <li>• EEO Compliance Report</li> </ul> <p>OJT Specifications (<i>when applicable</i>)</p>                                              | C&S verifies all documents are included in the contract.                                                                                                                                                                                                                  | Subject to SBWD review                                                        |
| 9                                            | <p><b>Reportable Contracts</b> - Contractor must enter all subcontract (DBE and non-DBE) information into <a href="#">ADOT DOORS</a> after the Department initiates the contract.</p> <ul style="list-style-type: none"> <li>• No later than 15 calendar days after preconstruction conference</li> <li>• Any additional reportable contracts approved over the course of the contract must be entered within 5 calendar days of approval by the Department</li> </ul> | <p>Following execution of the contract, SBWD initiates contract in the <a href="#">ADOT DBE System</a> and ensures contract data is accurate.</p> <p>SBWD monitors the <a href="#">ADOT DOORS</a> to ensure all subcontract information is entered in the ADOT DOORS.</p> |                                                                               |
| 10                                           | Awards and commitments must be reported to FHWA                                                                                                                                                                                                                                                                                                                                                                                                                        | SBWD completes the <a href="#">FHWA Monthly Report</a> and provides to SBWD Technology and Reporting group by the 10th of every month using provided template.                                                                                                            | SBWD Technology & Reporting Team reviews the FHWA Monthly Report for accuracy |
| <b>POST AWARD</b>                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                           |                                                                               |
| <b>PROMPT PAYMENT</b>                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                           |                                                                               |

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| 11                       | <b>Prompt Payment Requirements</b><br>Contractor must pay its subcontractors, DBEs and non-DBEs, within 7 calendar days of receiving payment from ADOT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | ADOT makes payments to contractor on or before 14 days after the estimate of the work is approved. (Refer to <a href="#">Contractor Cycle Key Dates</a> when Contractor receives payment from ADOT.)                                                                                                                                                          | SBWD monitors for compliance                                                    |
| 12                       | <b>Sanctions for Prompt Payment Non-Compliance</b><br>If payments are not made promptly, sanctions will apply in accordance with Prompt Pay and Payment Reporting Provisions<br>Contractor makes reasonable efforts to resolve payment disputes and pay subcontractors timely and document efforts in the ADOT DOORS.                                                                                                                                                                                                                                                                                                                                            | SBWD monitors <a href="#">ADOT DOORS</a> 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).<br>CSE notifies contractor of sanctions imposed. | SBWD monitors for compliance                                                    |
| <b>PAYMENT REPORTING</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                               |                                                                                 |
| 13                       | DBE Program mandates ADOT to actively monitor payments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | ADOT reports payments to contractors in the ADOT DOORS within the first 5 days of each month for the previous month's payment activities.                                                                                                                                                                                                                     | SBWD monitors for accurate payment data transfer in the ADOT DOORS              |
| 14                       | <b>Payment Reporting Requirements</b><br>Payments must be reported by contractors and subcontractors with of all in the <a href="#">ADOT DOORS</a> : <ul style="list-style-type: none"> <li>Contractor enters subcontractor payment information into the system no later than the 15<sup>th</sup> day of the month for the prior month's payment activities</li> <li>If no payment was made, a zero-dollar value shall be entered as payment</li> <li>Contractor must use the comments section in the <a href="#">ADOT DOORS</a> to explain why subcontractor invoices weren't fully paid; or, to identify any other issues concerning prompt payment</li> </ul> | Field Office staff assigned to the project in the DOORS verifies each month between the 16 <sup>th</sup> and the 20 <sup>th</sup> of the month, that the contractor has reported all payments to its subcontractors in the ADOT DOORS by the 15th of the previous month (monthly audit).                                                                      | SBWD conducts oversight and monitoring of payments in ADOT DOORS for compliance |

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| 15                                                   | <b>Sanctions for Inadequate Reporting</b><br>If payments are not reported monthly, sanctions will apply in accordance with Prompt Pay and Payment Reporting Provisions 109.06(B)(5).                                                                                                                                                                                                                                                | 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. | SBWD monitors for compliance     |
| 16                                                   | <b>Subcontractor Payment Verification</b> <ul style="list-style-type: none"><li>Subcontractors shall verify payment by the last day of the month after receiving electronic notice of reported payment</li><li>Contractor shall actively monitors <a href="#">ADOT DOORS</a> for payment confirmations</li></ul>                                                                                                                    | If subcontractors do not verify payments within 45 days of contractor reporting payment, SBWD confirms payment in the ADOT DOORS and accepts it as promptly paid unless a dispute arises.                                     |                                  |
| DBE TERMINATION/SUBSTITUTION/REDUCTION OF WORK (TSR) |                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                               |                                  |
| 17                                                   | <b>DBE Termination/Substitution/Reduction of Work General Requirements</b> – 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.<br><b>EPRISE Section 24.0</b> | Contractor notifies SBWD or Field Office staff who will immediately notify SBWD when receiving notification from the contractor.                                                                                              | SBWD provides guidance as needed |
| 18                                                   | <b>Contractor’s Notice to DBE to terminate/substitute/reduce work:</b> <ul style="list-style-type: none"><li>Contractor gives written notice to the DBE of intent to terminate/substitute/reduce work with reason for the action</li><li>DBE a minimum of 5 calendars days to respond in writing to contractor</li><li>Contractor must submit copies of all correspondence to the ADOT</li></ul>                                    | All terminations, substitutions and reductions in scope of work for committed DBEs must be approved by SBWD.                                                                                                                  | SBWD monitors for compliance     |

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| 19                                        | <b>Contractor's TSR Request</b><br>Contractor submits as a formal request to the ADOT: <ul style="list-style-type: none"> <li>• TSR Request Form <a href="#">108C</a></li> <li>• DBE's written response (if DBE responded)</li> <li>• Additional documentation, as necessary</li> </ul>                                                                                                                                                                                               | SBWD reviews formal request and provides determination in writing to the contractor. SBWD considers: <ul style="list-style-type: none"> <li>• Contractor's request and DBE's response</li> <li>• Additional documentation</li> <li>• Field Office staff documentation of the issue</li> <li>• Good cause (as outlined in the EPRISE 24.04)</li> </ul> | SBWD reviews, provides guidance and makes determination in writing |
| 20                                        | <b>TSR Good Faith Effort (GFE)</b> - required even when ADOT eliminates a work item<br>When TSR Request is approved: <ul style="list-style-type: none"> <li>• Contractor submits DBE Affidavits (individual and summary) to SBWD for approval identifying DBE replacement; or</li> <li>• Contractor provides documentation of GFE within 7 days from TSR Request approval, identifying efforts made to find a DBE replacement</li> </ul> If TSR is not approved, see section 21 below | Before the new DBE starts work, SBWD must approve DBE Affidavits (individual and summary).<br><br>SBWD reviews and evaluates GFE, makes determinations and notifies the Contractor and Field Office.                                                                                                                                                  | SBWD reviews, provides guidance and makes determination in writing |
| 21                                        | <b>DBE TSR Sanctions</b><br>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 SBWD                                                                                                                                                                                                                                      | SBWD considers and recommends sanctions when the contractor fails to follow the TSR process for a DBE listed on the affidavits.                                                                                                                                                                                                                       | SBWD reviews, provides guidance and makes determination in writing |
| <b>COMMERCIALLY USEFUL FUNCTION (CUF)</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                       |                                                                    |
| 22                                        | <b>Commercially Useful Function (CUF)</b><br>Contractor ensures DBEs on the project are performing CUF in accordance with <b>EPRISE Section 18.06</b> .<br><br>Contractor receives credit only when a DBE performs                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• ADOT conducts project site visits to confirm all DBEs on the project are performing CUF</li> <li>• ADOT conducts CUF reviews using the CUF checklist and certifies with signature a CUF is performed</li> <li>• ADOT notifies contractor, in writing, within seven</li> </ul>                                | SBWD reviews, provides guidance and                                |

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



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|                | <b>Section 26.0</b>                                                                                                                                                                                                                                   | <ul style="list-style-type: none"><li>● SBWD reviews and recommends sanctions when the contractor fails to meet the DBE goal or provide adequate GFE in accordance with <b>EPRISE Section 26.0</b></li><li>● SBWD provides DBE/OJT Completion Cover Letter to Field Office and Field Reports</li></ul> | in writing                                                                                    |
| 26             | <b>Contract Closeout in <a href="#">ADOT DOORS</a></b>                                                                                                                                                                                                | SBWD closes contract in the <a href="#">ADOT DOORS</a> within 30 days of Final Contract Closeout - System Contracts Closeout Instruction                                                                                                                                                               |                                                                                               |
| <b>REPORTS</b> |                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                        |                                                                                               |
| 27             | Awards and commitments must be reported to FHWA                                                                                                                                                                                                       | <b>Activities in Support of the FHWA Semi-Annual Report</b> SBWD reviews semi-annually in April and October ADOT DOORS contract data for accuracy in support of preparation and submittal of the FHWA DBE Utilization Semi-Annual Report.                                                              | SBWD Technology & Reporting Team reviews ADOT DOORS Data, prepares and submits report to FHWA |
| 28             | <b>FHWA Construction Contractors EEO Compliance Report <a href="#">Form 1391</a></b> Contractors and subcontractors submit their report for contracts or subcontracts over \$10,000 to the Agency no later than August 15 <sup>th</sup> of each year. | SBWD monitors form submittal from contractors and subcontractors and submits one compiled report to SBWD annually by September 1st to <a href="mailto:ContractManagement@azdot.gov">ContractManagement@azdot.gov</a>                                                                                   | SBWD Technology & Reporting Team collects data and submits report to FHWA                     |