



ADOT's DBE Program

- Paraphrase ADOT DBE Program blurb
- This presentation is based on the construction checklist for LPAs, which can be found on ADOT's LPA website (checklist link <u>https://apps.azdot.gov/files/beco/LPA-CONTRACT-COMPLIANCE/2019-caa-construction-compliance-checklist.pdf</u>)
- On the agenda today: Read Icon descriptions.



The agency's DBE Liaison collaborates with the prime contractor's DBE Liaison regarding all DBE compliance matters

The prime contractor's DBE Liaison is responsible for the administration of the DBE Program



DBE Liaison (Pre-Bid)

ADOT

So let's start at the very beginning. The next few slides are PRE-BID Requirements

- In accordance with the ADOT DBE Program Plan...1. and 2. on slide
- BECO monitors and provides guidance



DBE Goal Assessment (Pre-Bid)

- 1. Agency submits a request to BECO prior to Federal Authorization for DBE Goal Assessment, including the Final Scope of Work and the TRACS Number
- 2. Agency coordinates with Agency PM to complete the Construction DBE Goal Setting Worksheet in the DBE Goal Setting Application
- 3. The DBE Goal Assessment Email must be included in the Federal Authorization Package to ADOT

BECO assesses a DBE Goal for the project and responds within 10 days

NOTE: Please ensure all Agency staff who require use of the DBE Goal Setting Application have been granted access.

If assistance is required, please see page 4 of the User Manual in the DBE Goal Setting Application, and allow 48 hours processing time.



Good Faith Efforts (Pre-Bid)

If contractor anticipates having difficulty meeting the DBE Goal:

- The 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
- 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

Please reference the "Good Faith Effort Guide" as well as the DBE Provisions



Bid Package Requirements (Pre-Bid)

The Agency must include the following for federal-aid project solicitations:

- TRACS Number
- Assessed DBE Contract Goal Percentage
- LPA EPRISE with DBE Goal (RC) or LPA EPRISE without DBE Goal (RN)
- DBE Goal Assurance Form 3102C (RC only)
- Blank DBE Affidavits: Individual 3105C and Summary 3106C Forms (RC only)
- LPA Prompt Pay & Payment Reporting Provisions
- EEO Compliance Report

NOTE: DBE Goals expire after 120 days of assessment. If the DBE Goal has expired, the Agency must re-submit for a new DBE Goal assessment



At the Time of Bid Submittal - Required Documents from Prime - DBE Goal Assurance Form 3102 (RC Only)

DBE Goal Assurance Form - At the time of bid submittal...

- 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
- Contractor must submit a fully completed form with the bid submittal to be considered responsive
- Agency ensures form is received and reviews it for accuracy and completeness
- After review and determination of responsiveness, Agency submits the form and decision to BECO for concurrence prior to awarding contract (with affidavits)



Home Register / Renew

O Sea

Contra

An



AZ UTRACS Registration

Start AZ UTRACS Registration

AZ UTRACS Registration is a business registration required for all firms who wish to work on federally funded transportation projects in Arizona, including Prime Contractors and Prime Consultants, Subcontractors, Subconsultants, Disadvantaged Business Enterprises (DBEs), and Small Business Concerns (SBCs).

This registration satisfies a federal requirement (49 CFR Part 26.11(c)) that instructs ADOT to maintain a bidder's list to help the agency calculate its overall triennial DBE for FHWA, FTA and FAA funded contracts, as well calculate individual contract goals for FHWA funded contracts.

A benefit associated with completing this registration is that your firm is added to the AZ UTRACS Transportation Business Directory and a comprehensive firm profile is created, at no cost to your firm. This is used to advertise your firm's capabilitie to the business community. This allows firms to find one another and partner to complete Arizona Transportation projects. T firm directory, where firm profiles are accessed, also helps firms find DBEs and SBCs needed to meet specific contract requirements. All contractors and all subcontractors, including DBEs, must be registered in the AZ UTRACS Web Portal

The Agency provides assistance to contractors with AZ UTRACS registration, as necessary

ADOT

AZ UTRACS Registration (Pre-Award)

Read bullets



DBE Document Submittal (Pre-Award) - CONTRACTOR

- Online Bidders List
- DBE Intended Participation Affidavit (Individual Form 3105C) (submit one form for each DBE)
- DBE Intended Participation Affidavit (Summary Form 3106C)

NOTE: All bidders are encouraged to submit affidavits.

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

All bidders complete an Online Bidders List at AZ UTRACS and submit the corresponding Bidders List Email Confirmation Notice **Bidders who do not submit the Bidders List Email Confirmation are deemed non-responsive.**

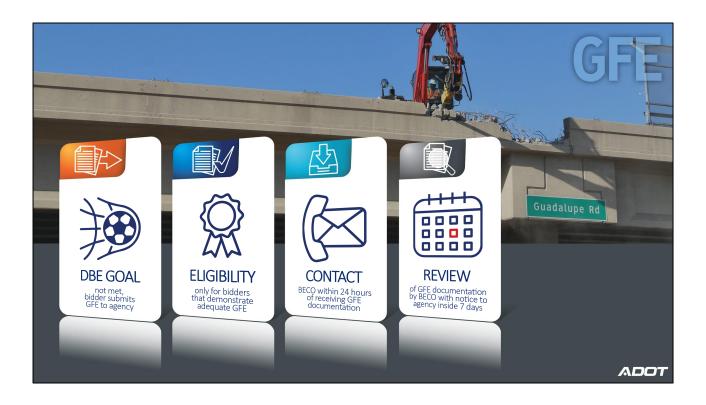
All bidders must use the most current forms obtained from Agency. Please check regularly if updated forms are available prior to adding them to your contracts.



DBE Document Submittal (Pre-Award) - AGENCY

NOTE: The agency makes the determination. BECO reviews and concurs, or not. BECO can provide assistance.

- 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
- Agency receives DBE Intended Participation Affidavit and DBE Intended Participation Summary Affidavit by 4:00 pm on the 5th calendar day.
- Agency reviews the forms for accuracy and completeness after the 5th calendar day
- Agency reviews apparent low bidder's (ALB) 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.
- After review, Agency compiles the ALBs's DBE Assurance Form, Bidders List Notice and Affidavits into one attachment and emails within 7 business days of review to BECO at <u>LPAContractorCompliance@azdot.gov</u>.



GFE (Pre-Award)

Bullets (Icons):

- If the DBE Goal is not met, the bidder submits to Agency by 4:00 pm on the 5th calendar day after bids are opened
- Only bidders that demonstrate adequate GFE to meet the contract goal are eligible to be awarded federal contracts
- 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



Executed Contract (At Time of Award)

The Agency ensures that the executed contract between the contractor and the Agency includes the following documents:

- LPA EPRISE Contract Language (with or without DBE Goal)
- DBE Assurance
- DBE Affidavits (Individual and Summary)
- TSR Request For
- COP Form
- LPA Prompt Pay and Payment Reporting Provisions
- EEO Compliance Report



Reportable Contracts (At Time of Award)

Reportable Contracts

- No later than 15 calendar days after award
- Agency initiates the contract in the LPA DBE System
- and ensures contract data is accurate
- Agency monitors the LPA DBE System to ensure all subcontract information is entered in the LPA DBE System
- Contractor must enter all contract (DBE and non-DBE) information into LPA DBE System after the Agency initiates the contract



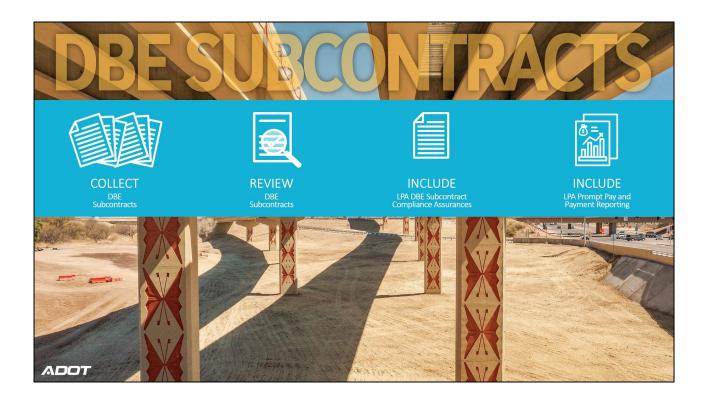
Agency submits FHWA Monthly Report to BECO at LPAContractorCompliance @azdot.gov by the 10th of every month, using the provided template

BECO Technology & Federal Reporting Team reviews the FHWA Monthly Report for accuracy



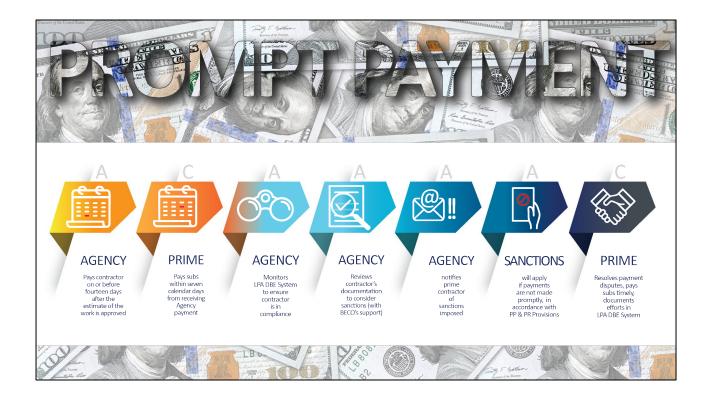
FHWA Monthly Reports (At Time of Award)

All awards and commitments must be reported to FHWA



LPA DBE Subcontract Compliance Assurances LPA Prompt Pay & Payment Reporting Provisions (At Time of Award)

- The Agency collects and reviews the committed DBE subcontracts before or at the preconstruction conference
- The Agency includes the LPA DBE Subcontract Compliance Assurances and the LPA Prompt Pay and Payment Reporting in the subcontract approval process



Prompt Payment Requirements (Post Award)

- Agency makes payments to contractor on or before 14 days after the estimate of the work is approved
- Contractor must pay its subcontractors, DBEs and non-DBEs, within 7 calendar days from receiving Agency payment
- 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, with BECO's support, considers sanctions
- Agency notifies contractor of sanctions imposed
- 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 documents efforts in the LPA DBE System



Payment Reporting Requirements (Post Award)

The DBE Program mandates that Agency actively monitors payments

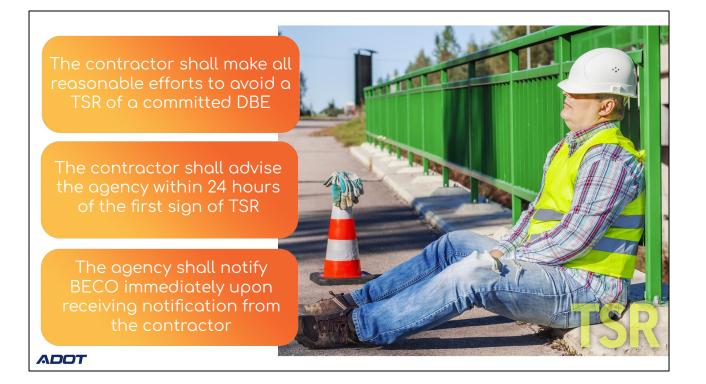
- DBE Program Mandates: Agency shall actively monitors payments
- Agency reports payments to contractors in the LPA DBE System by the 7th of each month for the previous month's payment activities
- The agency monitors contracts monthly to ensure compliance with payment reporting provisions
- The contractor enters subcontractor payments 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.
- Subcontractors verify payment within 15 days of electronic notice of reported payment
- The contractor actively monitors the LPA DBE System for subcontractor payment confirmations
- 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



Payment Reporting Requirements Sanctions (Post Award)

Sanctions for Inadequate Reporting in accordance with Prompt Pay and Payment Reporting Provisions

- Agency monitors contracts to ensure compliance with payment reporting requirements
- Agency contacts BECO for support when sanctions come into play
- Agency notifies contractor of possible sanctions
- Sanction shall apply if payments are not reported



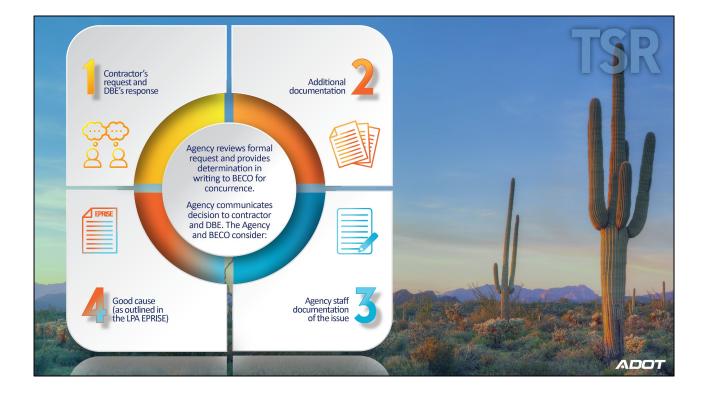
Termination/Substitution/Reduction of Work comes into play ONLY for COMMITTED DBEs = DBEs on the Affidavits

- 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)
- The contractor shall advise the Agency within 24 hours of the first sign of any reason for potential DBE termination/substitution/reduction of work
- Agency notifies BECO immediately upon receiving notification from the contractor



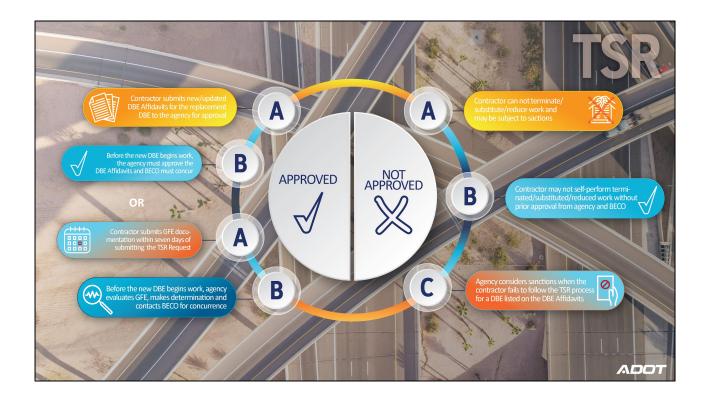
Contractor Responsibilities

- All terminations, substitutions and reductions in scope of work for a committed DBEs must be approved by the Agency, with BECO's concurrence
- Contractor gives written notice to the DBE of intent to terminate/substitute/reduce work with reason for the action
- DBE has at least 5 calendars days to respond in writing to contractor
- Contractor submits as a formal request to the Agency and includes: TSR Request Form 3108C, DBE's written response (if DBE responded), Additional documentation, as necessary



Agency Responsibilities

- 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:
 - Contractor's request and DBE's response
 - Additional documentation
 - Agency staff documentation of the issue
 - Good cause (as outlined in the LPA EPRISE)



TSR APPROVED

- Contractor submits DBE Affidavits (individual and summary) for the replacement DBE to the Agency for approval
- Before the new DBE starts work, Agency must approve DBE Affidavits and BECO must concur
 OR
- Contractor provides documentation of GFE within 7 days from submitting TSR Request, identifying efforts made to find a placement DBE, including contacting BECO for assistance
- Agency reviews and evaluates GFE, makes determination and contacts BECO for concurrence (prior to the new DBE beginning work)

TSR NOT APPROVED

- If the 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
- Agency considers sanctions when the contractor fails to follow the TSR process for a DBE listed on the affidavits



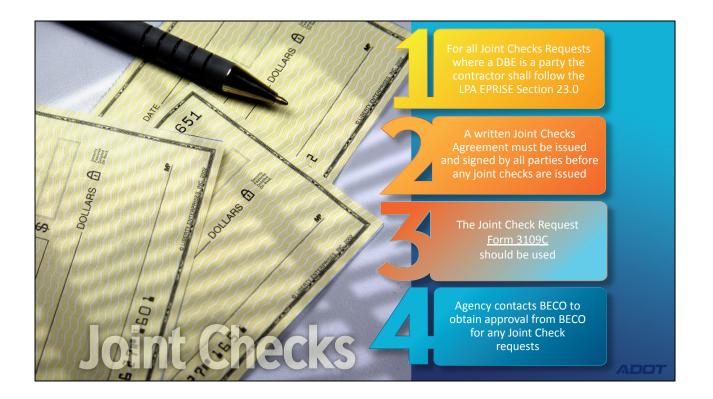
Commercially Useful Function - CUF (Post Award)

- A CUF review confirms if a Prime can receive DBE credit for work performed by a DBE
- A DBE must perform at least 30% of the cost of its contract with its own workforce
- Only work performed by a DBE can be counted for DBE credit



Commercially Useful Function - CUF (Post Award)

- Contractor ensures DBEs on the project are performing CUF in **accordance** with LPA EPRISE Section 18.06
- Contractor receives credit only when a DBE performs a Commercially Useful Function
- Agency conducts CUF Project Site Visits and CUF Desk Reviews to confirm all DBEs on the project are performing a CUF
- Agency notifies contractor, **in writing**, within seven calendar days of the review if it determines that the DBE is not performing a CUF



Joint Checks (Post Award)

Joint Checks are not very common, but we'll discuss briefly on this slide

- Contractor follows the LPA EPRISE Section 23.0 for all Joint Checks Requests where a DBE is a party
- A written Joint Checks Agreement must be issued and signed by all parties before any joint checks are issued
- Use Joint Check Request Form 3109C
- Agency contacts BECO to obtain approval from BECO for any Joint Check requests



Certification of Final Payment - COP (Contract Close-Out)

- Contractor submits Form 3110C to Agency for all DBEs no later than 30 days after the DBE completes work
- Agency reviews the COP form and verifies it against the Affidavit amounts and the payment information in LPA DBE System
- If dollar amounts (on COP and in the LPA DBE System) match, Agency approves Certification of Final Payment form and sends it to BECO for concurrence
- If dollar amounts do not match, Agency coordinates with contractor for reconciliation
- Once reconciled, the agency sends a copy of COP(s) to BECO for concurrence and loads them into the LPA DBE System under the "Docs" tab



Meeting the DBE Goal (Contract Close-Out)

- Contractor monitors compliance in meeting the DBE Goal throughout the life of the contract
- 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



Meeting the DBE Goal (Contract Close-Out)

- 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
- Agency may impose sanctions in accordance with LPA EPRISE Section 26.0
- Agency provides Completion Cover Letter to BECO



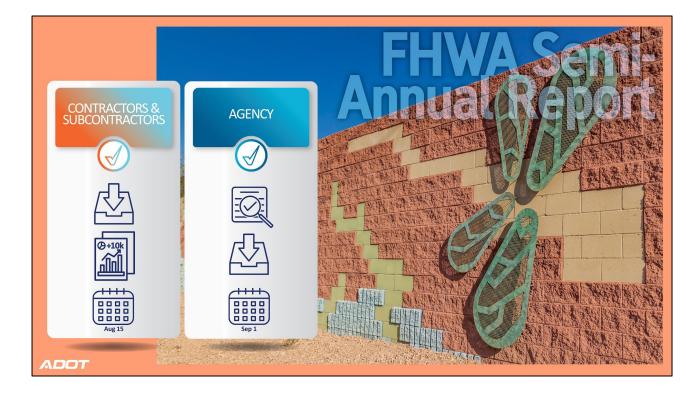
Contract Close-Out (Contract Close-Out)

• Agency closes contract in the LPA DBE System within 30 days of Final Contract Closeout



FHWA Semi-Annual Report (Reports)

• 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



FHWA Semi-Annual Report (Reports)

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
- Agency monitors form submittal from contractors and subcontractors and submits one compiled report to BECO annually by September 1st



Stay Connected with BECO Connects

BECO wants to connect with you! Fill out the form with your contact information and identify topics you are interested in learning more or questions related to DBE Supportive Services. DBE Compliance, OJT Supportive Services, OJT Compliance, or BECO Technology Team will connect with you within two business days from receiving the request.

mpeterson2@a	zdot.gov	Switch	account

* Required

Email * Your email

rour email

Company Name

Your answer

Project No./TRACS# (if applicable)

Your answer



ADOT



LPA Website:

https://azdot.gov/business/businessengagement-and-compliance/lpa-su brecipients

Email for Bid Verifications, COPs and other time-sensitive items: lpacontractorcompliance@azdot.gov

Direct Contact for LPA Program Manager: Melanie Peterson at <u>mpeterson2@azdot.gov</u>



ADOT



Title VI / ADA Accomodations

Persons who require a reasonable accommodation based on language or disability should contact:Contractorcompliance@azdot.gov