



DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Local Government Responsibilities



Purpose of Webinar

- Provide a basic understanding and working knowledge of DBE Program requirements with a special emphasis on effective monitoring and enforcement tools.
- Learning outcomes:
 - Identify the major components of the DBE program requirements in 49 CFR, Part 26
 - Define concepts of DBE goals, race-neutral/race-conscious, good faith efforts, counting, and commercially useful function (CUF)
 - Explain the responsibilities of Local Government (LG) recipients to monitor DBE program participants
 - Identify LG project level monitoring responsibilities to ensure DBE program objectives are achieved

Training Topics

1 Local Government DBE Compliance and Monitoring Guide

2 DBE Program Overview and Objectives

3 DBE Program Authorities

4 DBE Program Responsibilities

5 Texas Unified Certification Program

6 Counting DBE Participation

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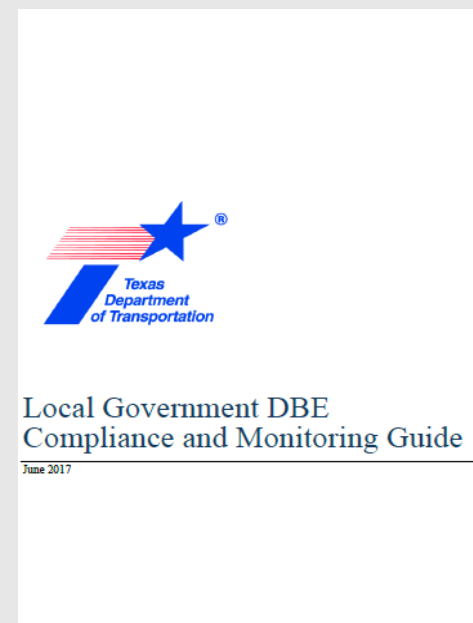
22 Resources



LOCAL GOVERNMENT DBE COMPLIANCE AND MONITORING GUIDE

Local Government DBE Compliance and Monitoring Guide

- Provides guidance for federal and state requirements of the DBE program
- Contains processes and procedures used by the LG to accomplish all phases of DBE compliance for a project
- Includes LG responsibilities and best practices to comply with federal and state requirements





DBE PROGRAM OVERVIEW AND OBJECTIVES

TxDOT's DBE Program Overview

- Legislatively mandated by the United States Department of Transportation (USDOT)
- Applies to federal-aid highway dollars expended on federally-assisted contracts issued by USDOT
- Administered by USDOT's three modal administrations:
 - Federal Highway Administration (FHWA)
 - Federal Transit Administration (FTA)
 - Federal Aviation Administration (FAA)
- Implementation guided by 49 CFR, Part 26

TxDOT's DBE Program Objectives

- Ensure nondiscrimination in the award and administration of USDOT-assisted contracts
- Create a level playing field where DBEs can compete for contracts
- Ensure that TxDOT's DBE Program is tailored in accordance with applicable law
- Ensure only eligible firms participate
- Remove barriers for DBEs to participate in USDOT-assisted contracts
- Promote the use of DBEs in all types of federally-assisted contracts
- Develop DBEs to compete outside the DBE Program
- Provide recipient flexibility in establishing and providing opportunities for DBEs



DBE PROGRAM AUTHORITIES

DBE Program Authorities

- Regulations and provisions prime contractors must comply with:
 - USDOT DBE Regulations 49 CFR, Part 26
 - Disadvantaged Business Enterprise in Federal-Aid Contracts Special Provision (000-007L)
 - Measurement and Payment Special Provision (Item 9L)

DBE Program Authorities

- The LG DBE specification and contract provisions include the following:
 - Advance Funding Agreement (AFA) / Memorandum of Understanding (MOU)
 - DBE contract goal
 - Good faith effort provisions
 - Records and reporting requirements
 - Commercially useful function evaluations
 - Sanctions on failure to comply with DBE requirements

Memorandum of Understanding and Advance Funding Agreement

- FHWA has determined that a LG must operate under TxDOT's DBE program even if it has its own program already approved by USDOT.
- Participation in TxDOT's approved DBE program requires the execution of a MOU between the LG and TxDOT.
- This can be accomplished through reference to the MOU in the AFA executed by both parties.



DBE PROGRAM RESPONSIBILITIES

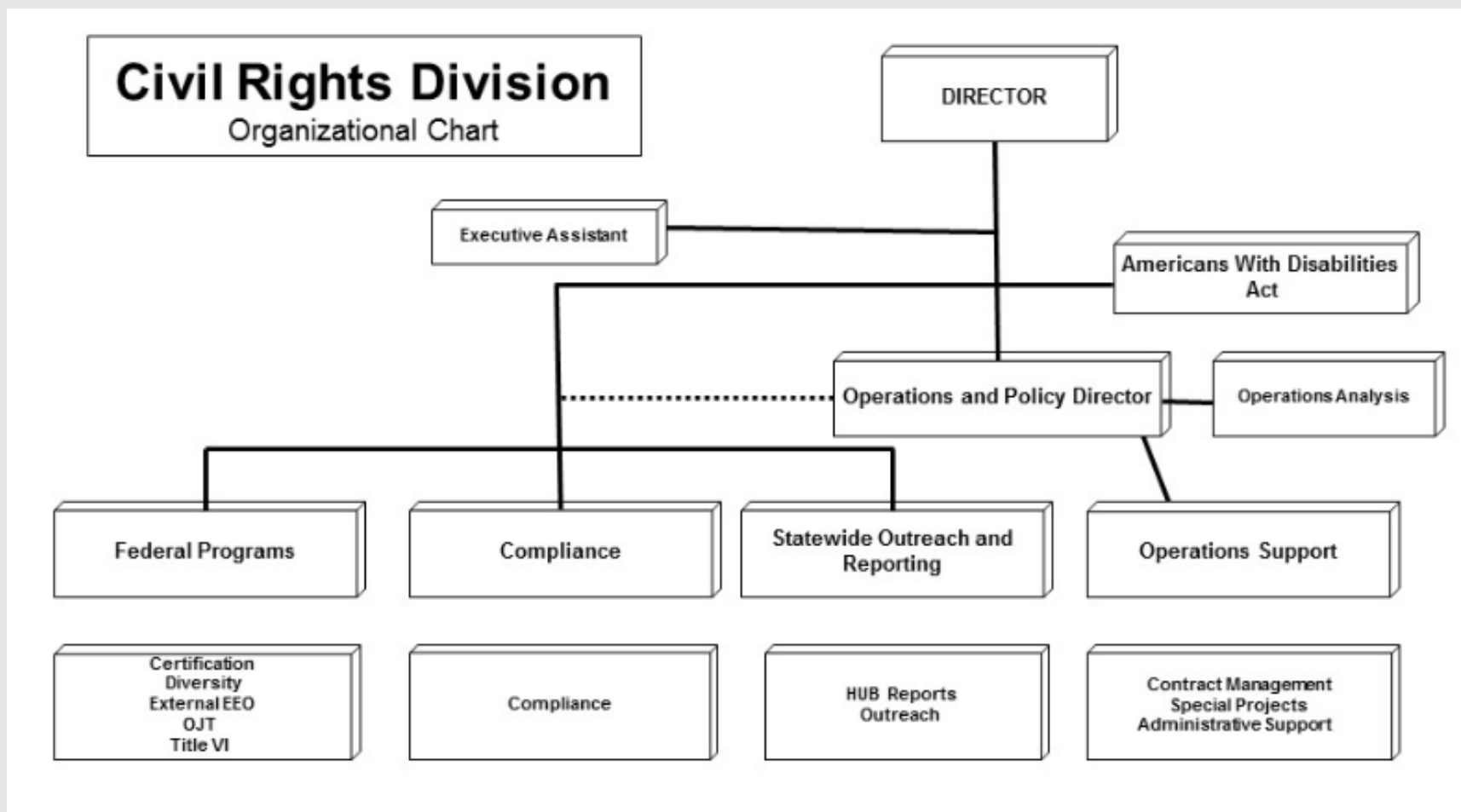
DBE Program Responsibilities

- TxDOT receives federal financial assistance from USDOT through FHWA, FAA, and FTA. TxDOT is responsible for administering its DBE Program and legally accountable for expenditures of USDOT financial assistance.
- LGs, prime contractors, subcontractors and consultants become sub recipients of USDOT federal funds when they enter into federally assisted contracts, subcontracts, and agreements with TxDOT.
- All sub recipients must affirm that they will carry out DBE obligations.

Civil Rights Division Responsibilities

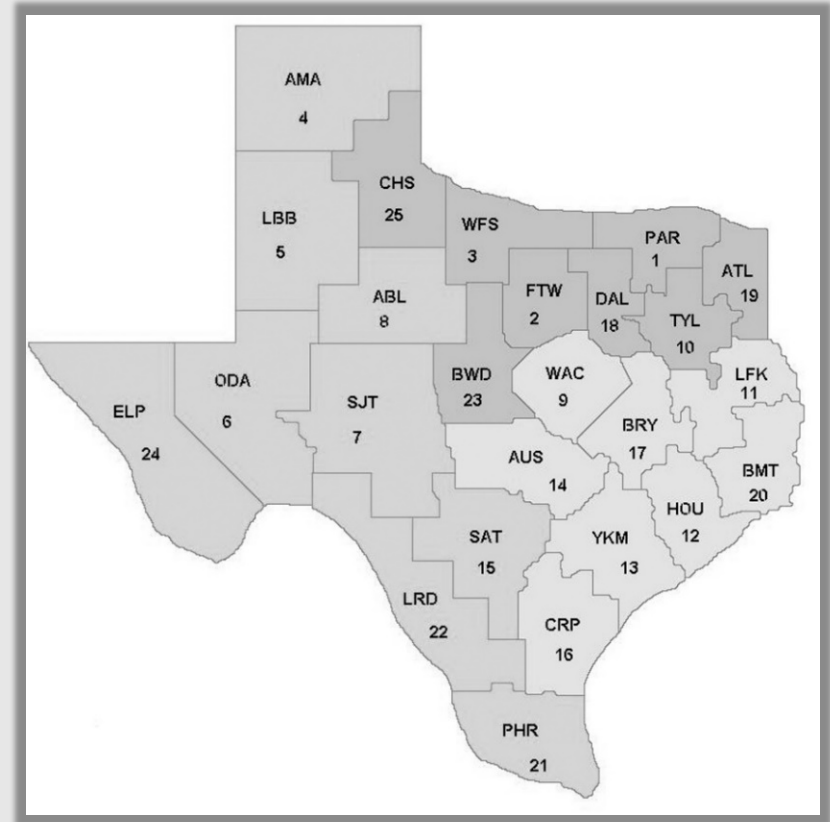
- TxDOT's Civil Rights Division (CIV) administers the DBE program.
- CIV responsibilities include:
 - Develop TxDOT's DBE Program Plan
 - Set specific contract goals
 - Provide training on DBE Program requirements, processes, and procedures
 - Provide support and guidance to districts, divisions, and sub recipients

Civil Rights Division Responsibilities



TxDOT Districts

- Oversee the construction of state highways
- Initial and primary contact for LGs
- Provide oversight and support for LG projects during different stages of the project
- Monitor LGs compliance with the DBE program requirements



District Staff Responsibilities

TxDOT districts actively maintain oversight responsibility during construction to ensure projects are administered in accordance with approved policies, procedures, plans and specifications.

District responsibilities include:

- Provide general oversight and DBE Program technical support
- Meet with the LG liaison to make sure he or she understands the LG's DBE contract administration responsibilities
- Instruct the LG to use the Local Government (LG) Project Disadvantaged Business Enterprise (DBE) Compliance Monitoring Checklist (Form 2658) to document compliance with the DBE program requirements during the course of the project
- Obtain DBE Monthly Progress Report (Form SMS.4903) from the LG (even if the DBE goal is zero)
- Conduct an audit of LG federally funded projects with an assigned DBE goal

LG Staff Responsibilities

LG must administer the contract and ensure the contractor and subcontractors abide by the DBE requirements.

LG responsibilities include:

- Execute AFA/MOU
- Accept DBE commitments for review and approval including GFEs
- Conduct pre-bid, project coordination and pre-construction meetings that include pertinent DBE compliance information
- Receive executed DBE subcontracts or purchase orders and retain them in project files
- Receive monthly progress reports (MPR) from prime contractor
- Monitor change orders and impacts to DBE contract goal
- Receive, review and approve requests for termination and substitution

LG Staff Responsibilities

- Conduct a minimum of one CUF review on all DBE firms and maintain CUF records
- Receive, review, and approve requests for use of joint checks
- Receive Prompt Payment Certifications from prime contractors to ensure compliance with prompt payment provisions
- Receive final reports from prime contractors and determine if the project DBE goal and race-conscious commitments were met
- Enforce administrative remedies if the prime contractor did not provide evidence of good faith efforts

Prime Contractor Responsibilities

- Report monthly payments to DBE subcontractors and suppliers
- Ensure DBE subcontractors perform a CUF on the project
- Monitor change orders and impacts to DBE goals
- Make prompt payments to DBE and non-DBE subcontractors
- Submit termination and substitution requests
- Submit DBE joint check approval requests
- Communicate with LG personnel to seek guidance regarding DBE compliance



TEXAS UNIFIED CERTIFICATION PROGRAM

Texas Unified Certification Program (TUCP)

- Six certifying agencies make all certification decisions:
 - City of Austin, Office of Business Opportunity
 - City of Houston, Small Business Development
 - Corpus Christi Regional Transportation Authority
 - North Central Texas Certification Agency
 - South Central Texas Certification Agency
 - Texas Department of Transportation
- Agencies require DBE firms to annually submit affidavit of no change form.

TUCP Directory

- Lists firms that meet the DBE certification requirements to perform specific work codes granted
- Is available online at:
<https://txdot.txdotcms.com/FrontEnd/VendorsearchPublic.asp>
- Provides primary source for DBE firm solicitation and commitment
- Requests for additional work codes must be approved prior to the execution of any contract the DBE wishes to perform



COUNTING DBE PARTICIPATION

Counting DBE Participation

Counting Overview

- Counting participation for goal credit depends on the work type:
 - Subcontractors – 100%
 - Manufacturers – 100%
 - Regular Dealers (i.e. suppliers) – 60%
 - Trucking Firms/Haulers – Varies
 - Brokers, Distributors, Manufacturer's Representatives – Reasonable fees and commissions
 - Joint Ventures – Varies

Counting DBE Participation

DBE Subcontractor

- Performs specific work items with own forces pursuant to a contract agreement with prime contractor
- Must perform at least 30% of the work
- Furnish and install
- Count 100% of prime contractor's payment to DBE toward contract goal (labor and materials)

Trucking Firm/Hauling

- DBEs must own and operate at least 1 truck (licensed, insured, operational on the contract).
- Must manage and supervise the entire portion of the work it is committed to perform and use at least one of its own trucks.
- Limited DBE credit for non-DBE trucks, but it cannot exceed the value of transportation services provided by DBE trucks.

Counting DBE Participation

Manufacturer

- Prime purchases materials from a DBE manufacturer
- DBE operates a factory that produces materials on the premises to meet contract specifications
- Or, takes product and alters it to meet contract specs
- Count 100%

Counting DBE Participation

DBE Regular Dealer

- Prime contracts with a regular dealer to supply and deliver products
- Regular dealer owns, operates a store or warehouse that contains products it sells to the public
- Regular dealer in bulk items such as petroleum product, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business
- For bulk items must own and operate distribution equipment
- Count 60% - if the DBE is performing as a regular dealer and doing so on a contract-by-contract basis

Counting DBE Participation

Broker, Distributor, Manufacturer's Representative

- Prime hires a DBE to facilitate the procurement of materials and supplies.
- Count reasonable fees and commissions

Joint Venture

- An association of a DBE firm and one or more other firms to carry out single, for-profit business enterprise.
- The LG will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward the DBE goal.



COMMERCIALLY USEFUL FUNCTION

Commercially Useful Function (CUF)

- A DBE performs a CUF when it is responsible for execution of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.
- The DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality, quantity, ordering the material and installing (where applicable) and paying for the material itself.

- DBE should:
 - Possess required equipment
 - Be financially independent
 - Employ its own laborers
 - Own or rent its own equipment
 - Handle its own payroll, invoicing, and negotiations

- The LG staff perform CUF reviews to ensure DBE is actually performing, managing, and supervising the work.
- Field staff review project related documents:
 - Executed subcontracts
 - Certified payrolls
 - Invoices
 - Purchase orders
 - Delivery tickets and equipment title of ownership or lease agreements
- Complete the DBE Program CUF review questionnaire

- If a DBE is presumed not to be providing a CUF:
 - DBE is allowed to provide rebuttal information.
 - If presumption prevails, no work performed is counted towards DBE goal.
 - If denial of goal credit results in a goal short fall, the prime contractor is required to provide DBE substitute or adequate good faith effort.
 - CUF determinations are not subject to administrative appeal to USDOT.

Commercially Useful Function and Certification

- Certification and CUF are separate and distinct issues.
- Certification decisions address the nature of a firm's ownership and structure while CUF primarily concerns the role a firm has played in a transaction.
- A DBE firm's repeated failure to perform a CUF may raise questions. If there is evidence of a pattern of failing to perform a CUF, the LG will forward this matter to TxDOT and TxDOT may initiate a proceeding under 49 CFR, Part 26.87 to determine the continued eligibility of the DBE firm.

DBE Fraud Indicators

The LG will report any false, fraudulent, or dishonest conduct in connection with the DBE program to the USDOT Office of the Inspector General for appropriate action. Some fraud indicators are:

- Employees are shuffling between prime contractor and DBE firm payrolls
- Business names on equipment covered with paint or magnetic signs
- Orders and payments made by individuals or not employed by the DBE firm
- Financial agreements between prime and DBE contractors
- Joint bank account with prime and DBE
- Absence of written contracts

Reporting Fraud

- TxDOT hotline established for employees, contractors, and others to report suspected fraud or abuse:
 - Report incidents by visiting www.txdotwatch.com
 - Call toll-free (877) 769-8936



CONTRACT LETTING

Contract Letting

- TxDOT determines the DBE project goal prior to letting a construction project.
- Prime contractors make a commitment to meet the goal by signing the proposal and submitting a bid.
- Prior planning will help to ensure the prime contractor is prepared to attain the DBE goal if awarded the contract. That planning can include:
 - Reviewing the contract documents for the DBE goal on the project
 - Reviewing the TUCP directory for the list of certified DBEs



GOOD FAITH EFFORTS PROCESS

Contractor Commitment Responsibilities

- After conditional award of the contract, the prime contractor shall submit, for each DBE he/she intends to use, a completed:
 - DBE Commitment Agreement (Form SMS.4901)
 - DBE Trucking Commitment Agreement (Form SMS 4901-T), or
 - DBE Material & Supplier Commitment Agreement (Form SMS.4901-MS).
- The prime contractor must provide these forms to the LG no later than 5:00 p.m. on the tenth business day, excluding national holidays, after the conditional award of the contract.

LG Commitment Review

The LG will review commitment(s) to ensure DBE requirements are satisfied in accordance with the DBE Special Provision. If the commitment(s) include a GFE, there will be an additional review process concerning the GFE documentation.

Some of the items that need to be reviewed include:

- DBE firm's signature of confirmation
- DBE is certified per the TUCP
- DBE is certified for the type of work they are performing per North American Industry Classification System (NAICS) codes
- The dollar amount listed for the work the DBE is to perform corresponds to appropriate goal credit and consistent with the actual value of that work

- Prime contractors must make GFE to meet the DBE contract goal, either by meeting the goal or by documenting GFE to meet the goal.
- Contractors should document steps it has taken to satisfy GFE requirements and meet the contract DBE goal.
- Contractors will not be penalized if they fail to meet contract DBE goals as long as they follow the good faith effort guidelines in 49 CFR, Part 26, Appendix A and submit GFE documentation.
- Contractors who fail to meet DBE goals and fail to make a good faith effort may be penalized.
- If the LG determines that the apparent successful bidder has failed to meet the requirements of 49 CFR Part 26.53(a), the LG before awarding the contract, will provide the bidder an opportunity for administrative reconsideration.



RACE-NEUTRAL PARTICIPATION

Race-Neutral Participation

The Federal DBE Program requires TxDOT to meet the maximum feasible portion of the overall DBE goal by using race-neutral measures.

- TxDOT uses a combination of race-neutral and race-conscious measures to meet its overall DBE goals.
- Prime contractors must report race-neutral participation on federal-aid contracts with and without a DBE goal.
- Any work done by a race-neutral DBE regardless of NAICS codes may be counted provided they are performing a CUF.
- Termination and Substitution policy and procedures do not apply to race-neutral participation.
- CUF reviews must be performed on all race-neutral participation on projects with and without goals.



CONTRACT AWARD AND SUBCONTRACT EXECUTION

Contract Award and Subcontract Execution

The prime contractor must submit a copy of the executed subcontract agreements or purchase orders for all DBE subcontracts, including all tiered DBE subcontractors.

Subcontract Agreement

- Must incorporate the following TxDOT provisions in all subcontract agreements or material purchase agreements:
 - Disadvantaged Business Enterprise in Federal-Aid Contracts (000-007L)
 - Measurement and Payment (Item 9L)
 - Contract Assurances (49 CFR, Part 26.13)
- The LG will verify the above has been satisfied



**PROJECT
COORDINATION/
PRE-CONSTRUCTION
MEETINGS**

Project Coordination/Pre-Construction Meetings

LG staff will discuss the DBE requirements of the contract at the Project Coordination and Pre-Construction meetings to ensure key personal, prime contractor and subcontractors are aware of project DBE obligations and informed of the administrative and reporting procedures that will be utilized by TxDOT.

Topics covered include:

- The prime contractor requirement to make a good faith effort to meet the assigned goal
- Reporting payments within fifteen days after the end of a calendar month
- The LG's responsibility to monitor and ensure a commercially useful function (CUF) is performed
- The Termination/Substitution process
- The approval process and use of joint checks



PERFORMING A COMMERCIALY USEFUL FUNCTION REVIEW

- To ensure each DBE firm is performing a CUF, the LG must monitor contract activity and certify in writing that DBE firms are performing a CUF.
- To determine whether a DBE firm is performing a CUF, five elements must be considered:
 - Management
 - Workforce
 - Equipment
 - Materials
 - Performance
- These areas must be evaluated to make a CUF determination.

- LG field personnel, such as project inspectors, conduct CUF reviews and inspect the jobsites to check that the DBE firm is performing and managing the work.
- The reviewer's activities include making observations and interviewing DBE personnel.
- CUF reviews are accomplished through the use of the DBE Program Commercially Useful Function (CUF) (Form 2228) and Commercially Useful Function Review –Material Supplier (Form 2669).
- CUF reviews must be performed for all DBEs, including race-neutral DBEs and DBE prime contractors on federally-funded projects with and without DBE goals.
- DBE material suppliers are required to complete Form 2669 and furnish copies of certain items such as purchase orders, invoices, cancelled checks, and inventory lists.

- Conduct CUF reviews when the DBE is scheduled to perform the major portion of its work.
- Review project-related documents such as:
 - Executed subcontracts
 - Certified payrolls
 - Invoices/Purchase orders
 - Cancelled checks for material payments
 - Material tickets/delivery slips
 - Trucking logs/delivery tickets and equipment title of ownership and/or lease agreements

Non-Compliance with CUF Requirements:

- The LG staff needs to notify DBE firms that are presumed not to be performing a CUF. The prime contractor should be copied on the letter.
- The DBE firm will be given an opportunity to present evidence and rebut the presumption it is not performing a CUF.
- The LG staff will review the rebuttal response, make a determination, and then notify the DBE and prime contractor in writing of the determination.

Non-Compliance Determination Possible Outcomes:

- No violation of federal regulations found
- Violations of federal regulations found
- The prime contractor will be determined to have a deficiency in DBE participation corresponding to the dollar value of the DBE's work that did not meet federal regulations
 - The prime contractor will need to submit good faith efforts to meet the project DBE goal
 - The LG may recommend and/or conduct a full certification review of a firm's DBE status



PAYMENTS

Prompt Payment

- Special Provision Item 9L - Measurement and Payment requires prime contractors to pay all subcontractors, material suppliers, and truckers within ten days from when a prime contractor receives a payment from the LG.
- Prime contractors must also pay any retainage on subcontractor's work within ten days after satisfactory completion.
- Satisfactory completion is accomplished when:
 - The subcontractor fulfills the contract requirements of the LG and subcontracted work, including submittal of all information required by the contract and the LG
 - The LG has inspected and approved the subcontractor's work
- The prime contractor should incorporate the Special Provision Item 9L into all subcontractor or material purchase agreements.

Prompt Payment Certification

- During the course of the project, the prime contractor must submit to the LG the Prompt Payment Certification (Federal-Aid Projects) (Form 2177) monthly and in the month following final acceptance.
- The LG will initiate the following actions for receipt and review of the required certification form:
 - Verify the form is received and any payments withheld are in dispute
 - If payment is withheld without a stated dispute or the prime contractor fails to provide the monthly or final certifications:
 - Contact the prime contractor with a reminder of its contractual obligation
 - When required, take administrative action

Contractor Complaints

- Follow prompt payment complaint procedures in TxDOT's Construction Contract Administration Manual
- Ensure subcontractors submit all complaints in writing
- Verify the department has approved the work in question
- If the LG has paid for work or materials, determine if a dispute exists by referring to prompt payment certifications and other supporting information.
- Forward the subcontractor's letter of complaint to the prime contractor
- Request payment or justification for non-payment

Final Reimbursement to Prime Contractor

- The LG cannot make the final reimbursement to the prime contractor until the LG:
 - Approves the completion of the project construction
 - Receives and reviews all necessary documentation, including the DBE Program requirements

Monitoring Monthly Progress Report (MPR)

- The prime contractor is required to submit monthly reports to the LG.
- Reports are due within fifteen days after the end of a calendar month.
- Reports will be required until all DBE subcontracting or material supply activity is completed.
- DBE Progress Report (Form SMS.4903) is to be used for monthly reporting.
- DBE Final Report (Form.SMS.4904) is to be used as a final summary of DBE payments submitted upon completion of the project.

Monitoring DBE Prime Contractor Payments to Non-DBE Subcontractors

- The DBE Prime will submit DBE Prime Contractor Payments to Non-DBE Subcontractors (Form 4902) to LG personnel.



JOINT CHECKS

Joint Checks

- A joint check is a two-party check between a DBE subcontractor and a prime contractor to a materials supplier of the DBE.
- All joint check arrangements must be pre-approved by the LG before the arrangement or transaction takes place.
- The prime contractor must submit the following to the LG:
 - DBE Joint Check Approval (Form 2178)
 - Correspondence showing the rejections of a line of credit from the material supplier to the DBE subcontractor
 - A joint check agreement

Joint Checks

- Using a joint check for payment of materials or supplies is acceptable when the following conditions are met:
 - The prime contractor issuing the check acts solely as a guarantor
 - The DBE subcontractor must release the check to the supplier
 - The DBE subcontractor negotiates the quantity, price, and delivery of the materials
 - The DBE subcontractor is responsible for both furnishing and installing the materials or supplies
 - The prime contractor cannot require the subcontractor to use a specific supplier or the prime contractor's negotiated price
 - The arrangement is short-term with the purpose being to establish or increase the line of credit between the DBE subcontractor and the supplier



ASSISTANCE TO DBE FIRMS

Assistance to DBE Firms

- In accordance with 49 CFR, Part 26, Appendix A, it is appropriate for a prime contractor to provide assistance to DBEs in various areas such as:
 - Bonding
 - Credit
 - Insurance
 - Equipment
 - Materials
 - Supplies
- Prime contractor should be careful not to provide so much assistance to a DBE that the LG would conclude that the DBE is not viable without the relationship to the prime contractor.



CHANGE ORDERS

Change Orders

- Circumstances may arise during construction requiring changes to the scope of the work contained in the contract.

Increases to Scope of Work

- If the scope of work increases, the prime contractor must ensure that it has obtained sufficient DBE participation to meet the contract goal on the final contract value or has made good faith efforts to do so.

Reduction to Scope of Work

- If a change order eliminates work designated in a DBE commitment, the prime contractor must follow the termination procedures and must make a good faith effort to meet the DBE goal on the final contract value.



TERMINATION AND SUBSTITUTION REQUESTS

Termination and Substitution Requests

Policy

- The prime contractor cannot terminate a committed DBE (in whole or part) without the written approval of the LG.
- Written consent is given only for good cause.
- Some examples of good cause include:
 - DBE fails or refuses to execute contract
 - DBE becomes bankrupt
 - The prime contractor has determined the DBE is not a responsible contractor

Commitment Reduction

- A prime contractor cannot reduce the amount of work committed to a DBE at contract award without good cause.

Termination and Substitution Requests

Termination Process

The following steps must be followed to terminate a DBE:

- Step 1:** The prime contractor must give the DBE notice and give the DBE five days to respond. The prime contractor must copy the LG on the notice.
- Step 2:** The prime contractor shall submit a request and provide justification for the DBE termination to the LG.
- Step 3:** The LG will review the termination request and related information and if necessary seek additional information to formulate its response.
- Step 4:** The LG will provide written consent to the termination request only if the LG agrees there is good cause.
- Step 5:** If the LG does not approve the request, the prime contractor shall continue to use the committed DBE.

Termination and Substitution Requests

No DBE Shortfall

- If termination of a DBE firm does not result in a DBE contract goal shortfall, the prime contractor is not required to find a substitute DBE firm.

DBE Shortfall

- If a termination of a DBE firm results in a shortfall, the prime contractor has seven days to make good faith efforts to find, as a substitute for the original DBE, another DBE to perform, at least to the extent needed to meet the DBE contract goal. An additional seven days may be given if requested by the prime contractor.
- The LG will respond in writing to the prime contractor's request to use the substitute DBE.
- The substitute DBE cannot work on the contract until its work eligibility has been confirmed by the LG.

Termination and Substitution Requests

Failure to Secure a Substitute DBE

- If a substitute DBE firm is not found that can perform at least the same amount of work as the terminated DBE, the prime contractor shall submit good faith efforts.
- The LG will provide the prime contractor with a written response either accepting or rejecting the prime contractor's good faith efforts. If the prime contractor's good faith efforts are rejected, the LG shall assess whether administrative remedies are appropriate.



MONITORING DBE ACTIVITY

Monitoring DBE Goal Attainment

- The prime contractor is responsible for monitoring its progress towards meeting the DBE goal. This should be done on a monthly basis.
- This includes the following information to monitor DBE goal attainment:
 - DBE commitment amounts
 - Payments to DBE subcontractors
 - Modifications to the original contract amount by change order
- The prime contractor must contact the LG should a concern arise that it will not meet the contract DBE goal and seek options available to meet the goal.
- The LG will also be monitoring the DBE project goal.



ENFORCEMENT

Enforcement

- Failure by the prime contractor to carry out their requirements is a material breach of the contract.
- May result in termination of the contract or other remedies as the LG deems appropriate, which may include:
 - Withholding all or a percentage of monthly partial payments
 - Assessing sanctions
 - Liquidated damages
 - Disqualifying the contractor from future bidding

If the LG determines the prime contractor has failed to meet the established DBE goal, has not demonstrated good faith efforts, or failed to correct DBE Program deficiencies, the LG will initiate administrative actions against the prime contractor.



PROJECT CLOSE OUT

Project Close Out

Processing Final Reports & Close Outs

- The prime contractor will submit the DBE Final Report (Form 4904) to the LG.
- The LG will be responsible for submitting the final report to TxDOT DDC for each project and a completed Local Government (LG) Project Disadvantaged Business Enterprise (DBE) Compliance Monitoring Checklist (Form 2658).
- The LG will review and ensure:
 - Dollar amounts match the report, including race-neutral dollar amounts
 - The overall assigned DBE goal percentage was met as shown on the commitment
 - The DBE goal and individual commitments were met

Note: If the project has met the DBE subcontractor participation goal for the contract, no further action from the prime contractor is required.

Records Retention

Prime contractor must:

- Retain records for a minimum of three years after final payment
- Keep records securely filed and available for audit review
- Provide the records upon request for audit or review by the LG, TxDOT, FHWA, or other government officials



RESOURCES

DBE Program Websites

- USDOT - DBE Program Overview - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-program-overview>
- USDOT - Departmental Office of Civil Rights (Official Questions and Answers regarding 49 CFR, Part 26) - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/official-questions-and-answers-qas-disadvantaged>
- FHWA - DBE Code of Federal Regulations - http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl
- FHWA - DBE Program - <http://www.fhwa.dot.gov/civilrights/programs/dbess.cfm>
- TxDOT - DBE Program - <http://www.txdot.gov/inside-txdot/division/civil-rights/dbe.html>
- TxDOT - DBE Forms - <http://www.txdot.gov/inside-txdot/forms-publications/doing-business/dbe-forms.html>

Questions?

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