

Summit Questions/Answers

1. How could an actual disadvantaged company be considered such federally and by several other government agencies (8-A-Corp of Engineers, S&WB, NOIA, etc.) but not by LA DOTD?

Each certification has its own requirements. There are Fair/Share Programs and State/Local Programs, such as the mentioned Sewage and Water Board, City of NO etc. These programs are not mandated by the Federal Regulation 49CFR26 as DOTD’s DBE Program is. Even though the SBA 8(a) program is a federal program it is not under the US DOT’s federal regulations. The size standards for both business size and personal net worth are different. It’s possible a firm can meet 8(a)’s size standard and not the DBE programs.

2. What processes are in place to insure a DBE is being used to the percentage of what is in the contract during the life of that contract?

The CP-1A documents reflect the monthly payments actually made to the DBEs on the project. ESDM No. III.1.1.33 and the DBE Requirements of the Contract Provisions state it is a requirement that this information must be provided monthly. The prime contractor is required to send the Project Engineer the CP-1A for their verification and approval. Once the signature/approval is obtained from the PE, then the CP-1A must be emailed to Juanita “Nita” Linton Juanita.linton@la.gov in the Compliance Section or input into Content Manager. If the CP-1A is input into Content Manager, an email sent to Nita to advise of this would be helpful. It is imperative these forms are completed and submitted monthly. This will ensure payments are made, totals are correct and reflective with the final notarized CP-2A. If this information is not submitted monthly, the Compliance Director can request to withhold payments from the Prime Contractor until the forms are completed and submitted. Also, if these monthly forms are not submitted, a request for copies of all cancelled checks showing the payments made to each DBE on the job can be requested from the Prime. The Compliance Director can request approval from the Chief

Engineer to withhold the dollar amount of any discrepancy from the Prime.

DOTD relies on the CP-1A forms to be submitted with payment information to help verify that the Department is achieving the overall agency DBE goal.

3. What checks/balances are in place to assure that DBE companies are not getting the lowest paying jobs to satisfy the DBE requirements?

DOTD has two separate DBE Goal Committees which review Highway Construction Contracts and Professional Services Contracts for a possible DBE Goal. DOTD is committed to establishing contract goals only for those USDOT-assisted contracts that have subcontracting possibilities. A DBE Goal may not be set on every USDOT-assisted contract. However, DOTD will set contract goals so that they will cumulatively result in meeting its overall agency DBE goal.

On Highway Construction Contracts the Prime Contractor is required to submit various documents, such as the CS6AAA (DBE Commitment Form) and OMF1A (Request to Sublet) to the Compliance Section for review and approval in advance of the work beginning. Form 24-102 is submitted to Consultant Contract Services on Professional Services Contracts which have a DBE Goal.

4. Last year a question was raised regarding retainages being withheld from Subs. What is Compliance doing or has done to assist a DBE in getting retainage released and/or omitted from contracts?

We have various mechanisms by which we can assist DBEs in getting retainage released, but it is important that we prevent it from being withheld from the start. Simply relying on complaints or notifications about a contractor's failure to comply with prompt payment requirements is not a sufficient means to enforce federal regulations. By educating the primes, reviewing contracts and addressing improper retainage language, we are continuously working towards alleviating this issue. DBEs need to read contracts in their entirety and be aware of any retainage language prior to signing. The Compliance Programs Office should be informed immediately when prime contractors are not in compliance.

5. Please explain the UCP?

In 1999 the US DOT Federal Regulations mandated that each state develop a Unified Certification Program (UCP). The intent was to create “one-stop shopping” for firms seeking certification with transportation recipients. All parties in Louisiana came together and developed the LAUCP. There are 4 certifying agencies for the LAUCP. DOTD, LANOIA, NORTA, OLD. The 3 New Orleans agencies can only certify firms in the New Orleans and surrounding area. DOTD certifies statewide. Once certified by one of these agencies a firm is recognized and eligible to perform work as a DBE with all the agencies. There is one UCP DBE Directory that includes all firms certified by the LAUCP.