

District DBE Compliance and Monitoring Guide (for projects let Feb. 2017 and thereafter)



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From: Michael D. Bryant, Director, Civil Rights Division

Manual: *District DBE Compliance and Monitoring Guide (for projects let Feb. 2017 and thereafter)*

Effective Date: April 01, 2019

Purpose

The *District DBE Compliance and Monitoring Guide (for projects let Feb. 2017 and thereafter)* provides guidance for the District staff on the federal and state requirements of the DBE Program. This Guide contains the processes and procedures to be used by TxDOT to successfully accomplish all phases of DBE compliance from project initiation to project close-out. The procedures include District DBE Coordinator (DDC) responsibilities with respect to both federal requirements and state requirements.

The following sections have been modified to reflect changes in policies and procedures:

- Chapter 13, Section 4
 - “CUF Dashboard Report”: Added step-by-step instructions to run report.
- Chapter 14, Section 7
 - “Performing CUF/MPR Review Report”: Removed from this guide as these reports are for SMS projects only.

Supersedes

The version of this manual effective April 1, 2019 supersedes any previous versions of this manual.

Contact

Civil Rights Division, CivilRights@txdot.gov, (512) 416-4700.

Archives

Past manual notices are available in a [PDF archive](#).

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Chapter 1: Introduction

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Section 1: Purpose of the Guide

The District DBE Compliance and Monitoring Guide was developed by the Department's Civil Rights Division (CIV). The purpose of this Guide is to provide a tool that can be used by district construction staff that have oversight responsibilities specific to the DBE program as outlined in 49 CFR, Part 26. This Guide is intended to help district staff understand the processes, terminology, policies, and procedures.

This Guide contains procedures related to monitoring and enforcement to verify that the work committed to DBEs is actually performed by DBEs, and that their payments are consistent with their approved contracts.

An essential role of government is the stewardship and oversight of public expenditures. The Department provides the stewardship and oversight of federal-aid programs and State funded transportation projects. A significant component of the Department's DBE Program is compliance and enforcement. The Department monitors compliance with the DBE requirements through district construction staff. This Guide provides guidance to district construction staff to actively administer and monitor contracts qualified for the DBE program.

Section 2: Overview of the DBE Program

The DBE Program is a legislatively mandated United States Department of Transportation (USDOT) program that applies to federal-aid highway dollars expended on federally- assisted contracts issued by USDOT recipients such as the Texas Department of Transportation (TxDOT).

The program is administered by the USDOT's three modal administrations: Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and Federal Aviation Administration (FAA). Implementation of the DBE Program is guided by USDOT regulations found at 49 Code of Federal Regulations (CFR), Part 26.

TxDOT has established a DBE Program in accordance with regulations of the USDOT.

TxDOT's primary DBE Program objectives are:

- To ensure non-discrimination in the award and administration of USDOT-assisted contracts in TxDOT's highway, transit, and airport financial assistance programs.
- To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.
- To ensure that TxDOT's DBE Program is narrowly tailored in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in USDOT-assisted contracts.
- To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
- To assist the development of firms so they can compete successfully in the marketplace outside of the DBE Program.
- To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

Section 3: Acronyms, Terms and Definitions

Acronyms

Acronyms

Acronym	Description
AE	Area Engineer
AO	Area Engineer Office
B2Gnow™	Business to Government Now
CFR	Code of Federal Regulations
CIV	Civil Rights Division
CSJ	Control Section Job
CUF	Commercially Useful Function
DBE	Disadvantaged Business Enterprise
DDC	District DBE Coordinator
DE	District Engineer
DMS	Diversity Management System
DOC	Director of Construction
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
GFE	Good Faith Effort
LG	Local Government
NAICS	North American Industry Classification System
TAC	Texas Administrative Code
TUCP	Texas Unified Certification Program
TxDOT	Texas Department of Transportation
USDOT	United States Department of Transportation

Terms and Definitions

Commercially Useful Function (CUF) - A DBE performs a CUF when it is responsible for execution of a distinct element of work of a contract or subcontract and carries out its responsibilities by actually performing, managing, and supervising the work involved.

Disadvantaged Business Enterprise (DBE) - A for-profit, small business concern where socially and economically disadvantaged individuals own at least a fifty-one percent interest and also control management and daily business operations.

Diversity Management System (DMS) - A web-based software program used to collect, verify and manage payment information for prime contractors and subcontractors working on federal-aid projects.

Federally-Assisted Contract - Any contract between TxDOT and a contractor which is paid for, in-whole or in-part, with USDOT financial assistance.

Goal Credit - The value of DBE participation on a project that qualifies towards the DBE goal.

Good Faith Effort - A contractor's efforts to achieve a DBE goal by its scope, intensity, and appropriateness to the objective can reasonably be expected to fulfill the program requirement.

Guide - District DBE Compliance and Monitoring Guide.

Joint Venture – A joint venture is an association of a DBE firm and one or more other firms to carry out single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Local Government - A project in which at least one phase of project development is managed by a local government agency for which it is being reimbursed with federal or state funding or a locally-funded project managed by a local government on the state highway system.

NAICS - The North American Industry Classification System is the primary industry classification system which best describes the primary business of a firm. The NAICS is used by federal statistical agencies for the purpose of collecting, analysing, and publishing statistical data related to the US economy. (<http://www.census.gov/eos/www/naics/>)

Race-Conscious - Measures taken to meet DBE Program objectives that focus specifically on assisting only DBEs.

Race-Neutral - Measures taken to meet DBE Program objectives that are tailored to assist all small businesses including DBEs and do not single out a specific minority group.

Shortfall - A contractor's failure to meet a project assigned DBE goal.

Sub recipient - Any entity, public or private, to which USDOT financial assistance is extended through a recipient, through programs of the FHWA, FAA, or FTA.

Special Provision - Additions or revisions to standard specifications or special specifications of the contract.

Texas Unified Certification Program (TUCP) - A certification program for the federal DBE Programs in Texas.

Utilization Plan - The Utilization Plan identifies which DBEs the prime contractor intends to use to satisfy the project DBE Goal.

Chapter 2: Resources

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Section 1: Resources

Overview of the DBE Program – Videos

Below are web resources from the USDOT and FHWA on the DBE Program:

- DBE Program: <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise>
- DBE Program Overview: <http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=73>

TxDOT DBE Guides

TxDOT has five guides for DBE program administration.

- DBE Contractors' Guide
- Prime Contractors' DBE Guide
- Local Government DBE Compliance and Monitoring Guide
- District DBE Compliance and Monitoring Guide
- CIV DBE Compliance and Monitoring Guide

These guides and accompanying training materials are available on TxDOT's website. TxDOT's Civil Rights Division can provide guidance and training.

Diversity Management System

The Diversity Management System (DMS) is a web-based software program used to collect, verify, and manage payment information for prime contractors and subcontractors working on federal-aid projects.

Below is a list of vendor resources that can be found in DMS: (<https://txdot.txdotcms.com/>)

- Vendor Guide
- Vendor Training Manual
- Utilization Plans (Found on page titled Utilization Plans)
- Video Tutorials

Below is a list of staff resources that can be found in DMS: (<https://txdot.txdotcms.com/>)

- B2Gnow Staff User Manual – Chapter 1 - System Overview
- B2Gnow Staff User Manual – Chapter 2 – Vendor Management
- B2Gnow Staff User Manual – Chapter 3 - Contracts

- B2Gnow Staff User Manual – Chapter 5 - Outreach
- B2Gnow Staff User Manual – Chapter 6 - Certifications
- B2Gnow Staff User Manual – Chapter 7 – Help Desk
- B2Gnow Staff User Manual – Chapter 8 – Goal Setting
- B2Gnow Staff User Manual – Chapter 9 – Ad Hoc Reporting
- B2Gnow Staff User Manual – Chapter 11 – Utilization Plans
- Video Tutorials

Section 2: Training

TxDOT DBE Guides

TxDOT can provide guidance and training for the following guides:

- DBE Contractors' Guide
- Prime Contractors' DBE Guide
- Local Government DBE Compliance and Monitoring Guide
- District DBE Compliance and Monitoring Guide

These guides and accompanying training materials are available on TxDOT's website.

Diversity Management System

B2Gnow provides training to staff on DMS. Below is a list of training courses:

- Introduction to the System – Staff Training
- The 'Vendor View' - What the Vendor Sees - Staff training
- Ad Hoc Reporting

B2Gnow provides DMS training to contractors. Below is a list of training courses:

- Online Certification Application – Vendor Training
- Vendor Registration & Questionnaire – Vendor Training
- Introduction to the System – Vendor Training
- Contract Compliance Reporting – Vendor Training

Chapter 3: DBE Program Authorities

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[Section 1: Regulations and Provisions](#)

Section 1: Regulations and Provisions

The following is a list of the DBE contract regulations and provisions that contractors must comply with:

- USDOT DBE regulations 49 CFR, Part 26
- Special Provision 000-007 – (Disadvantaged Business Enterprise in Federal-Aid Contracts) for projects let prior to February 2017
- Special Provision 000-394 - (Disadvantaged Business Enterprise in Federal-Aid Contracts) for projects let after February 2017
- Special Provision 009-009 Measurement and Payment - (Payment Provisions for Subcontractors)

Chapter 4: DBE Program Responsibilities

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Section 1: Overview

Condition of Federal Funding

TxDOT receives federal financial assistance from USDOT through programs of the FHWA, FAA, and FTA. As such, TxDOT becomes a recipient of federal funds and is responsible for administering its DBE Program and is legally accountable for expenditures of USDOT financial assistance in accordance with federal requirements.

As a condition of receiving this assistance, TxDOT has signed an assurance that it will comply with 49 CFR, Part 26 in the establishment and administration of a DBE Program.

Prime contractors, subcontractors, suppliers, manufacturers, and consultants all become sub recipients of USDOT federal funds when they enter into federally assisted contracts, subcontracts, and agreements with TxDOT.

As sub recipients of federal funds, TxDOT requires sub recipients comply with the requirements of 49 CFR, Part 26, TxDOT DBE Program, and DBE contract provisions.

As sub recipients of federal funds, and as a condition of contract award, prime contractors, subcontractors, suppliers, manufacturers, and consultants must affirm that they will carry out DBE obligations, and will work with TxDOT and the federal government in their review of its activities under the contract.

Section 2: Civil Rights Division

Overview

TxDOT's DBE Program is established under TxDOT's Civil Rights Division (CIV). CIV is responsible for implementing all aspects of the DBE Program and ensuring that TxDOT complies with all provisions of 49 CFR, Part 26. CIV accomplishes this responsibility through a tiered approach of contract oversight, program administration, and verification of contractor compliance at division and District levels.

CIV Staff

CIV's director and staff are responsible for:

- Implementation and oversight of TxDOT's DBE Program.
- Recommending and establishing policy and procedure in administration of the DBE Program.
- Coordination of DBE Program requirements with the Districts, FHWA, and all sub recipients.
- Setting overall DBE state participation goal.
- Setting specific DBE project or contract goals.
- Oversight and administration of the DMS contractor payment software and DBE utilization program.
- Annual reporting requirements to FHWA.
- Providing training on DBE Program requirements, processes, and procedures.
- Providing support and guidance to Districts, divisions and sub recipients.
- Conducting annual DBE Program compliance audits on Districts, local governments, and other entities that are recipients of federal funds.
- Oversight and administration of the Texas Unified Certification Program (TUCP).

CIV Organizational Chart

Civil Rights Division Organizational Chart

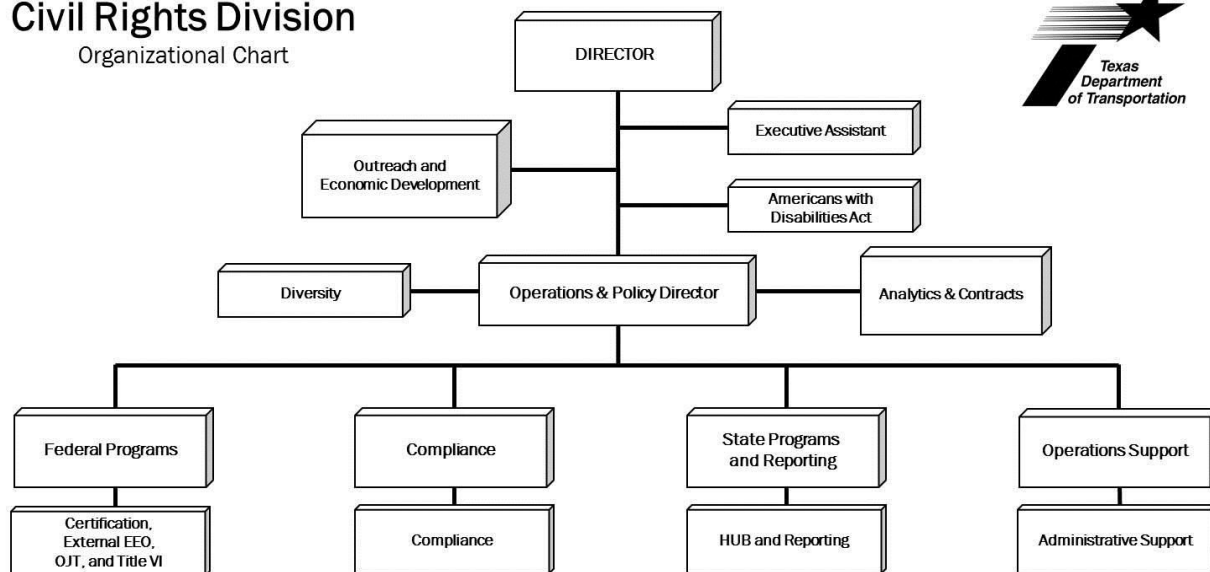


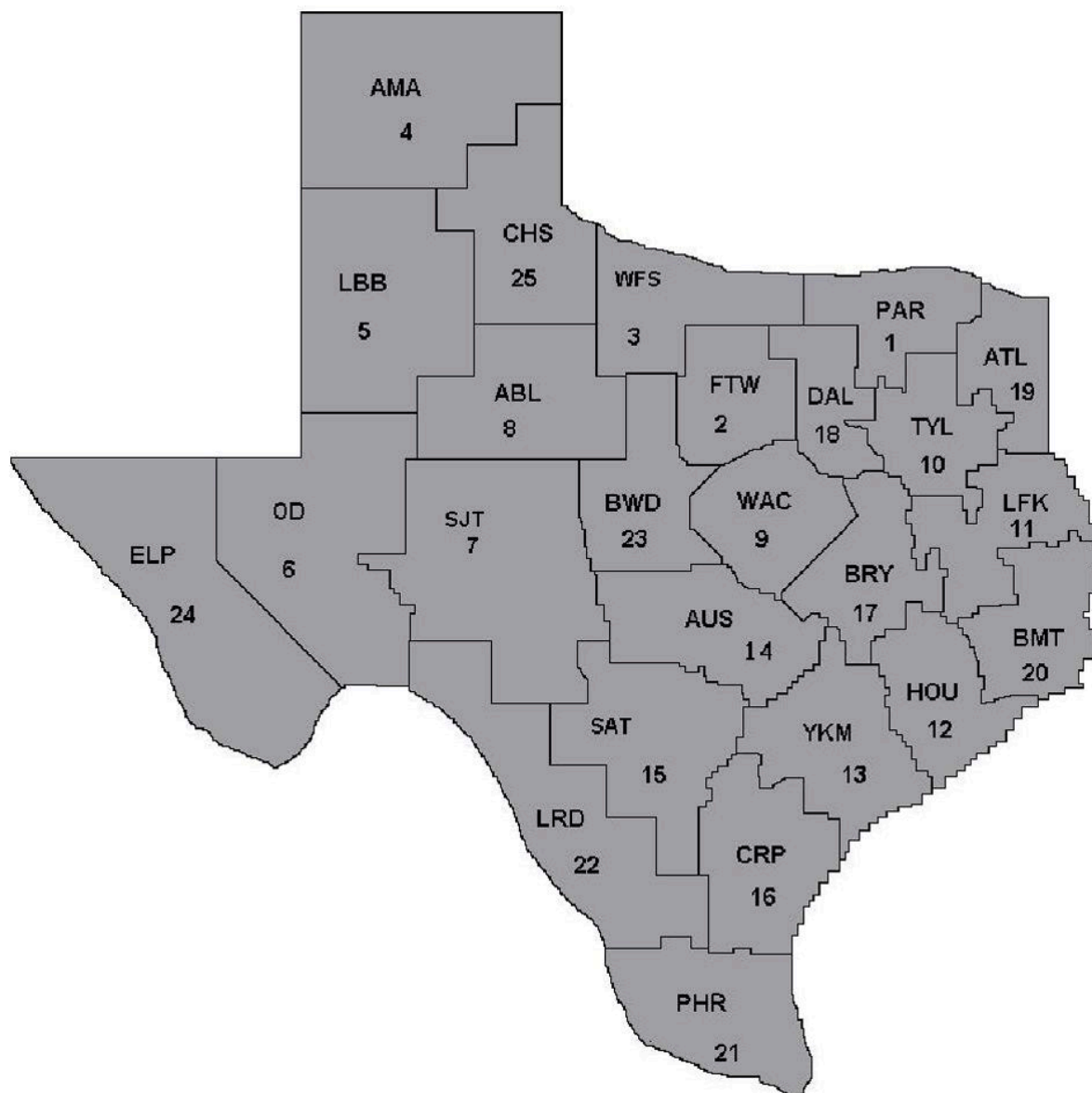
Figure 4-1. Civil Rights Division Organizational Chart

CIV Contact Information

For assistance, please contact the Civil Rights Division at (512) 416-4700.

Section 3: TxDOT Districts

The Districts oversee the construction of state highways. The oversight responsibility includes monitoring contractor compliance with the DBE Program requirements. District offices are the initial and primary contact for prime contractors and subcontractors and provide oversight for construction division projects. Area offices (under the District office) support the District office during different stages of the project. The oversight responsibility includes monitoring contractor compliance with the DBE Program requirements.



District Engineer Responsibilities

The District Engineer (DE) oversees the planning, designing, building, operation, and maintenance of the state transportation system for the District. The DE will assign the District DBE Coordinator (DDC) or other staff to monitor contract compliance with the DBE special provision. In addition, the DE will address DBE Program violations and initiate sanctions or penalties when applicable.

District Staff Responsibilities

District staff DBE Program responsibilities include:

- Know and understand federal-aid contract DBE provisions included in the contract.
- Ensure all federal-aid project contracts in DMS are reviewed and locked-in in DMS prior to start of work.
- Ensure all DBE subcontractors in DMS are transferred from the utilization plan to the contract compliance module prior to start of work.
- Discuss DBE provision requirements at the pre-construction conference.
- Review and approve termination and substitution requests.
- Verify DBE payments in DMS.
- Review joint check requests.
- Perform Commercially Useful Function reviews.
- Verify final DBE participation dollar amounts in DMS or determine adequate good faith efforts.
- Maintain records in accordance with FHWA records retention requirements.
- Coordinate with the DDC or Director of Construction (DOC) if a contractor does not perform a monthly audit of payments to DBE subcontractors, does not request appropriate substitution or does not send adequate good faith efforts during the project.
- Escalate the issue to the District Engineer for administrative actions and determine the best course of action when a DBE commitment cannot be met.
- Seek direction and guidance from CIV staff on DBE Program compliance issues.

District DBE Coordinator (DDC) Contact List

The [DDC contact list](#) should be used to contact your DDC should you have any questions regarding compliance with the DBE Program.

Section 4: Prime Contractor

Prime Contractor Staff

Having adequate staff that fully comprehends the DBE Program requirements is the most effective way to ensure compliance with all provisions of 49 CFR, Part 26.

Prime Contractor Responsibilities

- Sponsor or participate in outreach events with small, disadvantaged, minority or women-owned businesses.
- Vet subcontractors to identify if they are certified and capable DBE firms.
- Document good faith efforts to meet the DBE contract goal.
- Set up subcontracts in DMS in accordance with contract provision.
- Use DMS to report monthly payments to DBE subcontractors and suppliers.
- Ensure DBE subcontractors perform a commercially useful function on the project.
- Monitor change orders and impacts to DBE contract goal.
- Make prompt payment to DBE and non-DBE subcontractors as required by the TxDOT Prompt Payment Provision.
- Submit termination requests that comply with DBE Program requirements.
- Submit substitution requests that comply with DBE Program requirements.
- Submit DBE joint check approval request.
- Maintain records of DBE activities to comply with DBE Program requirements.
- Communicate with TxDOT personnel to seek guidance regarding DBE compliance.

Chapter 5: The Texas Unified Certification Program (TUCP)

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[Section 1: Background on the TUCP](#)

Section 1: Background on the TUCP

Background on the TUCP

49 CFR, Part 26.81(b)(2) states: “The UCP shall provide ‘one-stop shopping’ to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.”

In support of this requirement, the State of Texas established a TUCP Committee that certifies DBEs for participation in USDOT federal contracting projects across the State of Texas.

TUCP Certifying Agency Requirements

Six certifying agencies make all certification decisions in accordance with 49 CFR, Part 23, Part 26, and the TUCP Memorandum of Agreement. Agencies must keep complete files on applicants and provide information as required and annually require its DBE firms to submit an affidavit of no change form, due on their certification anniversary date.

A business' DBE certification received from any of the TUCP agencies is valid and can be relied upon by any Texas entity that receives USDOT funds.

The following agencies are members of the TUCP:

- City of Austin, Small Business Development
- City of Houston, Office of Business Opportunity
- Corpus Christi Regional Transportation Authority
- North Central Texas Certification Agency
- South Central Texas Certification Agency
- Texas Department of Transportation

TUCP Directory

The firms listed in the TUCP directory meet the DBE certification requirements to perform the specific work codes granted. All requests for additional work codes must be approved prior to the execution of any contract the DBE firm wishes to perform work on as a DBE. The TUCP DBE directory should be relied on as primary source for soliciting DBEs.

The [TUCP directory](#) of all certified DBE firms in Texas is available online. The TUCP directory includes a list of certified DBE firms; including the name, address, telephone, and NAICS codes.

Chapter 6: Commercially Useful Function

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Section 1: Overview

A DBE firm performs a Commercially Useful Function (CUF) when it is responsible for execution of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved. The regulations provide that with regard to materials and supplies, the DBE must be responsible for negotiating price, determining quality, quantity, ordering the material, installing (where applicable), and paying for the material itself.

In summary, the DBE should:

- Possess the required experience.
- Be financially independent.
- Employ its own laborers.
- Own or rent its own equipment.
- Handle its own payroll, invoicing, and negotiations.

To count toward the DBE goal, a DBE firm's work must serve a CUF. This means that the DBE firm has a necessary and useful role in the project. For example, the DBE firm supplies the material and performs, manages and supervises the work.

Prime contractors are responsible for determining that the subcontractors they are using to claim DBE credit meet this requirement. It is incumbent on prime contractors who work on projects with DBE participation requirements to hire independent, certified DBE firms to perform a CUF. Prime contractors should adopt a DBE compliance program to closely monitor its DBE subcontractor relationships.

A DBE firm's appearance on TUCP does not confirm that it is ready or capable of performing a CUF on a project. The prime contractor should ask potential DBE firms these questions to confirm that the DBE is ready and able to perform a CUF.

- How long has your company been in business?
- Will the DBE manage and supervise the work with its own managers and superintendents?
- Will the DBE perform the work with its own forces?
- Will the DBE be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, installing (where applicable) and paying for the material itself?
- What work, if any, does the DBE intend to subcontract and is that amount consistent with industry practice?

The regulations make clear that a DBE firm does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. If the DBE firm serves only to provide the appearance

of DBE participation, the work cannot count toward the DBE goal. CUF violations may indicate possible fraud and abuse of public funds.

“[FHWA Tips on Evaluating a Commercially Useful Function](#)” is an excellent resource for evaluating a CUF.

Section 2: Counting DBE Participation

Counting Overview

Once TxDOT determines that work on a project qualifies as a CUF, it then calculates the amount it can count toward its DBE goal. Only the value of the work performed by the DBE firm counts toward the goal. Depending on the nature of the work, different guidance applies.

The following is guidance for counting participation when a DBE firm is:

- DBE Subcontractor
- Manufacturer
- Regular Dealer
- Packager, Broker, Manufacturer's Representative
- Trucking Firm
- Joint Venture

DBE Subcontractor

When a DBE firm is a subcontractor it must perform at least thirty percent (30%) of its contract using its own employees, equipment, materials, and resources. When this condition is met, all DBE work performed counts toward the DBE goal. A DBE subcontractor typically furnishes and installs the work item. One hundred percent (100%) of the prime contractor's payment to the DBE firm will count toward the contract goal. This includes payment for labor and materials.

When a DBE subcontracts to another DBE firm, the value of the subcontracted work may be counted toward the DBE goal. However, work subcontracted to non-DBE firms does not count toward the goal.

Manufacturer

A prime contractor purchases materials or supplies from a DBE manufacturer. A DBE manufacturer produces, on its premises, materials or equipment used for a project. A DBE manufacturer can also take product and alter it to meet contract specifications. TxDOT counts one hundred percent (100%) of the value of manufactured materials and equipment toward the DBE goal.

Regular Dealer

A prime contractor purchases material or supplies from a DBE regular dealer. There are two ways a DBE firm can perform as a regular dealer.

- A DBE firm may have a store or warehouse out of which it sells or leases products to the public.
- For bulk items such as petroleum, steel, cement, gravel, stone, or asphalt, a DBE firm must own and operate distribution equipment for the product it is supplying. Any supplementing of regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an ad-hoc or contract-by-contract basis. The DBE must lease the equipment itself, as well as run the equipment with its own workforce.

If a DBE firm is acting as a regular dealer, sixty percent (60%) of the value of items sold to the project counts toward the DBE goal. TxDOT determines the amount of credit on a contract-by-contract basis.

For example, a dealer will provide pipes for \$100,000. Because the DBE firm regularly sells this product as a part of its business, TxDOT counts \$60,000 toward the DBE participation goal, or sixty percent (60%) of the value of the items provided.

Packager, Broker, Manufacturer's Representatives

A prime contractor purchases material or supplies from a DBE firm, which is neither a manufacturer nor a regular dealer. TxDOT will count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies. Goal credit will be granted if the fees or commissions are reasonable.

Differences between a Manufacturer, Regular Dealer, and Broker

The following example shows the difference under the requirements of the DBE Program between a manufacturer, a regular dealer, and a broker. The example is the furnishing of crushed aggregate meeting a state DOTs specification for such items as aggregate base course.

- **Manufacturer (100%)** - A DBE as its principal business and under its name produces on its premises crushed aggregate and meets state standard specifications would be considered a manufacturer and the cost of the crushed aggregate produced can be credited 100% towards meeting the goal.
- **Regular Dealer (60%)** - A DBE is considered a regular dealer of crushed aggregate if the material is purchased in its name, and it engages as its principal business the purchase and sale of crushed aggregate to the general public, or owns and operates the necessary distribution equipment (since aggregate is considered a bulk item) to deliver the crushed aggregate. Under these circumstances, the DBE can be considered a regular dealer and 60% of the cost of the crushed aggregate purchased is credited towards the goal.
- **Packager, Broker, or Manufacturer's Representative - (100% Fees or Commissions)** - If the DBE firm does not meet all or any of the functions presented in defining a manufacturer or regular dealer in crushed aggregate but arranges or expedites transactions consistent with industry practice in the delivery of such materials, then the services in the amounts of fees or

commissions charged in the procurement and/or delivery of such materials can be credited towards the goal.

Trucking Firm

There are several ways to count DBE credit for the services of DBE trucking firms. The DBE must have at least one truck and driver of its own, but it can lease the trucks of others, both DBEs and non-DBEs, including owner operators.

The following are ways to count DBE credit for the services of DBE trucking firms:

- For work done with its own trucks and drivers, and for work with DBE lessees, the primary DBE trucking firm receives 100% credit for all transportation services provided.
- If a non-DBE trucking firm hires second tier DBE trucking firms and DBE truck owner-operators, then 100% credit will be counted. Credit will not count for the amount of any fees that are deducted from the DBE trucking firm's payment, such as, fuel costs, other fees, etc.
- If the primary DBE trucking firm leases trucks from non-DBE firms, but uses its own employees as the drivers, then 100% credit will be counted. No credit will be allowed for 1099 employees. The primary DBE trucking firm must own and operate at least one truck used on the project.
- For work done with non-DBE lessees, the primary DBE trucking firm gets credit only for the fees or commissions it receives for arranging the transportation services.
- A primary DBE trucking firm may lease non-DBE trucks on a 1 for 1 basis for credit of the value of transportation services provided. If the hauling services performed by non-DBE trucks exceed the hauling services provided by the primary DBE trucking firm, the credit is limited to the fees and commissions only.

Primary DBE firm X has one (1) truck and leases one (1) truck from DBE firm Y.
 Primary DBE firm also leases three (3) trucks from non-DBE firm Z.

Primary DBE firm X hauling services	\$3,000
DBE Firm Y hauling services	\$3,000
Total DBE hauling services	\$6,000
Non-DBE firm Z hauling services (20% commission charged)	
Truck 1	\$3,000
Truck 2	\$4,000
Truck 3	\$4,000
Total non-DBE hauling services	\$11,000
<i>(The value of hauls by non-DBE trucks exceeds the value of hauls by DBE owned trucks.)</i>	
Credit allowed for DBE Trucks	\$6,000
Credit allowed for non-DBE Trucks 1 and 2	\$6,000
<i>(1 for 1 not to exceed value of the DBE hauls)</i>	
Commission for Truck 3	\$800
<i>(Derived by multiplying value of haul at \$4,000 times the 20% commission)</i>	
Total Hauling credit to count towards goal	\$12,800

Figure 6-1. Example of Trucking Firm

Joint Venture

A joint venture is defined as an association of a DBE firm and one or more other firms to carry out single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose shares in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

When a DBE firm performs as a participant in a joint venture, TxDOT 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.

TxDOT will assess each joint venture agreement proposed to meet all or a portion of a DBE participation goal by using the following criteria:

- Does the relationship, or any aspect of such, between the DBE and non-DBE conflict with the ownership and control requirements specified in contract provisions?
- Is the DBE an independent business concern separate and apart from the non-DBE partner in the proposed agreement?

- Is the DBE's share in the ownership, control, management responsibilities, risks, and profits of the joint venture commensurate with the DBE's ownership in a joint venture?
- Does the agreement clearly define the work to be performed by the DBE?
- Is the work to be performed by the DBE in conformance with the contractual and statutory provisions governing the DBE's performance of a Commercially Useful Function?

Section 3: CUF 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 regarding the firm's control, as it relates to independence, and perhaps ownership. If there is evidence of a pattern of failing to perform a CUF that raises serious issues with the firm's ability to control the work and its independence from the non-DBE firm, TxDOT must address this matter and may commence or initiate a proceeding under 49 CFR, Part 26.87 to determine the continued eligibility of the DBE firm.

If a DBE firm is a mere pass-through or middle man between two performing parties, the contractor seeking participation credits may be exposing itself to serious criminal and civil liability. In cases of deliberate attempts to circumvent the intent of the DBE Program, or fraud, these actions may lead to criminal prosecution of both the prime contractor and the DBE.

Section 4: DBE Fraud Indicators

DBE Fraud Indicators

TxDOT will report any false, fraudulent, or dishonest conduct in connection with the DBE program to the USDOT Office of the Inspector General (OIG) for appropriate action. The OIG looks at ten key indicators, or “red flags,” in determining whether to investigate a contractor for DBE fraud. These red flags include:

- DBE firm’s owner lacking background, expertise or equipment to perform subcontract work
- Employees shuttling back and forth between prime contractor and DBE-owned business payrolls
- Business names on equipment and vehicles covered with paint or magnetic signs
- Orders and payment for necessary supplies made by individuals not employed by DBE- owned business
- Prime contractor facilitated purchase of DBE-owned business
- DBE owner never present at job site
- Prime contractor always uses the same DBE
- Financial agreements between prime and DBE contractors
- Joint bank accounts (prime/DBE)
- Absence of written contracts

Under 49 CFR, Part 26.107, businesses working in the DBE program who engage in the conduct may be subject to suspension or debarment, enforcement actions under 49 CFR Part 31, Program Fraud and Civil Remedies, or criminal prosecution. USDOT OIG makes investigating and prosecuting DBE fraud a priority. The OIG, working with U.S. Attorney’s offices has helped to create successful criminal prosecution for fraudulent conduct in the DBE program. Anyone who becomes aware of fraud, waste, or abuse in these programs should inform the OIG as well as TxDOT staff.

Reporting Fraud

TxDOT has established a hotline for employees, contractors, and others to report suspected fraud or abuse. The TxDOT Watch reporting system allows individuals to anonymously report suspected unethical and illegal activities within the agency in one of two ways:

- Report incidents by visiting TxDOT Watch
- Call toll-free (877) 769-8936

District Responsibilities

Report allegations of fraud or abuse in the following ways:

- Visit [TxDOT Watch](#)
- Call toll-free (877) 769-8936

Report the allegations to the Civil Rights Division (CIV). CIV also addresses allegations of fraud involving DBEs. Moreover, TxDOT will bring to the attention of the Federal Highway Administration any false, fraudulent, or dishonest conduct in connection with the DBE program.

Chapter 7: Contract Letting

Contents:

[Section 1: Overview](#)

Section 1: Overview

Overview

Prior to letting a construction project, a DBE project goal will be set by TxDOT. For projects with a specified percentage DBE goal, prime contractors make a commitment to meet the goal by signing the proposal and submitting a bid.

Pre-Estimate Actions

It is recommended the prime contractor take the following pre-estimate actions prior to beginning an estimate for a specific project:

- Review the contract documents for the DBE goal on the project.
- Determine items which may be subcontracted and quantify based on estimated dollar amounts.
- When practical, divide large (scope or quantity) items into potential smaller subcontracting opportunities and quantify.
- Look for second tier subcontracting opportunities and quantify.
- Quantify potential material supply contracting opportunities. Determine the allowable DBE participation for material supply.
 - 100% for materials or supplies purchased from a DBE manufacturer.
 - 60% for materials or supplies purchased from a DBE regular dealer.
 - 100% for fees or commissions purchased from a DBE packager, broker or manufacturers' representative.
- Determine the likely total DBE participation from all of the above items and compare to TxDOT's DBE contract goal.
- Review the TUCP directory for the list of certified DBEs.

Chapter 8: Good Faith Effort Process

Contents:

[Section 1: Overview](#)

[Section 2: Submitting a Utilization Plan in DMS](#)

Section 1: Overview

Utilization Plan

Prime contractors are required to submit DBE Utilization Plans (UP) through DMS no later than five calendar days following the official notification that they are the apparent low bidder. If the fifth day falls on a weekend or state or federal holiday, the deadline moves to the next business day.

Prime contractors complete and submit utilization plans online via DMS.

TxDOT creates the UP record in DMS by project CSJ and assigns it to a prime contractor. Once TxDOT releases the UP, the prime contractor's main contact in DMS will receive an e-mail notification.

The prime contractor can then enter all subcontractors or suppliers. The subcontractors and suppliers must confirm their participation. The prime contractor will sign the UP and submit it.

Submitted plans are reviewed by TxDOT CIV staff. CIV staff will either: a) return the plan, b) conditionally approve the plan, c) approve the plan, or d) deny the plan. For returned and conditionally approved plans, the system will automatically send notices to the prime contractor to update and resubmit the plan.

Instructions for submitting a UP in DMS are included in Section 2. In addition, B2Gnow has published a user manual titled Utilization Plans that shows prime contractors how to complete and submit utilization plans. The manual can be located in DMS.

A DBE prime contractor is not required to submit a UP. DBE prime contractors must report subcontractor activity for all subcontractors to include DBEs and non-DBEs in DMS after contract execution. Refer to Chapter 9 titled DMS Subcontractors for more information on adding subcontractors to DMS.

Good Faith Efforts

Prime contractors must make Good Faith Efforts (GFE) to meet the DBE contract goal, either by meeting the goal or by documenting GFE to meet the goal. Prime contractors should make sincere and aggressive efforts to meet the DBE goal. Attempting to obtain a contract on the basis of documented GFE should be a contractor's last resort.

Contractors should document steps it has taken to satisfy GFE requirements and meet the contract DBE goal. Prime contractors should understand the list of the types of GFE found in 49 CFR, Part 26, Appendix A.

TxDOT will not penalize prime contractors if they fail to meet contract DBE goals as long as they follow GFE guidelines in 49 CFR, Part 26, Appendix A and submit their GFE to CIV for review and approval.

If the goal cannot be met in whole or in part, prime contractor will attach Contractors Certification of Good Faith Efforts [Form 2603](#) and supporting documentation in DMS.

Administrative Reconsideration

If TxDOT determines that the apparent successful bidder has failed to meet the requirements of 49 CFR Part 26.53(a), TxDOT, before awarding the contract, will provide the bidder an opportunity for administrative reconsideration. As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

TxDOT's decision on reconsideration will be made by an official who did not take part in the original determination that the bidder failed to meet the goal or make adequate good faith efforts to do so.

The bidder will have the opportunity to meet in person with TxDOT's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

TxDOT will send the bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the DOT.

Section 2: Submitting a Utilization Plan in DMS

Overview

There are four steps for processing a Utilization Plan in DMS:

Step 1: TxDOT CIV - Releases UP to Prime Contractor

Step 2: Prime Contractor – Adds Subcontractor(s) to the UP

Step 3: DBE Subcontractor - Confirms Participation

Step 4: TxDOT CIV Compliance – Reviews the UP

NOTE: See the Prime Contractor DBE Guide for more information on Steps 2-3. See the CIV DBE Compliance and Monitoring Guide for detailed information on Step 1 and Step 4.

Chapter 9: DMS Subcontractors

Contents:

[Section 1: Overview](#)

[Section 2: Locking in Contract Records in DMS](#)

[Section 3: When the Prime Contractor is a DBE](#)

[Section 4: Transferring Subcontractors from an Approved Utilization Plan \(UP\) to a Contract](#)

[Section 5: Reviewing and Approving the DBE Trucking Utilization Form](#)

Section 1: Overview

During the course of a project, a prime contractor may want to add additional DBE subcontractors. This includes DBE subcontractors that were not part of the utilization plan. The prime contractor can add subcontractors in DMS after a contract record has been created by the district staff.

Prior to any DBE subcontractor working on a federal-aid project, the prime contractor must request approval by adding the subcontractor in DMS. This includes race-neutral participation on projects with or without DBE goals.

Requests must include the subcontracting firm name and contact information, a description of the work to be performed, bid items, and the total dollar amount of the subcontract.

Any work done by a race-neutral DBE, regardless of NAICS codes should be counted as race-neutral participation provided they are performing a CUF.

DMS Contract Set Up and Use Procedures

The following sections summarize general DMS contract set up responsibilities and procedures performed by the district staff.

TxDOT Responsibility

- Each TxDOT District is responsible for its assigned federal-aid projects in DMS.
- This responsibility will generally be delegated to the DDC.
- The contract record will be set up after contract award and prior to start of work.
- The District will notify the prime contractor in DMS when the contract record has been created.

Prime Contractor Responsibility

- At time of District notification, the prime contractor is responsible for setting up DBE race-neutral participation in DMS.
- The prime contractor will need to notify all its DBE and non-DBE tiered firms of subcontract set up, monthly reporting, and payment approval responsibilities that they must perform in DMS.
- DBE prime contractors must report subcontractor activity for all subcontractors to include DBEs and non-DBEs.

Section 2: Locking in Contract Records in DMS

Overview

Each contract will be imported into the DMS system via an automated process. It is the responsibility of the District to review that the contract details have been entered correctly. The contract settings should not be changed unless CIV staff is consulted.

To View All New Records

Step 1: From the View Menu, click Contracts.

Step 2: From the Actions list, select New Contract.

Transactions: Contracts [Help & Tools](#)

Contracts Contract Audits Sub Requests 1391 Reports Proposals Util Plans Outreach Cert Apps Certs Cert Change Requests Support

Messages

Displays all contracts. Click the transaction number to view.

☐ Show ONLY contracts assigned to you

Previous Page < Page 1 > Next Page Records per page 100

To reset, click on column title. Refresh Table

Actions	Alert	Status	Secondary Status	Contract Number	Description	Prime	End Date	Amount
New Contract		Open	All		All	All	All	
All		Open		1111111110	TxDOT Test Prime Vendor 8 Test for Echo Sub 4.27.2017		8/1/16 - 3/31/17	\$2,250,000
Amended		Open		0009-11-999	TxDOT Test Prime Vendor 8 Turn Lanes, Rehab Shoulders and Overlay		9/1/16 - 3/31/17	\$2,250,000
New Value		Open		0009-11-777	TxDOT Test Prime Vendor 8 REHAB BRIDGE AND APPROACHES		9/1/16 - 3/31/17	\$1,125,000
New End Date		Open		20171234	TxDOT Test Prime Vendor 10 JB TEST		1/1/17 - 12/31/17	\$1,000,000
New Contract		Open		2017-1234	Best Prime Vendor, CDC LLC Bridge Repair		1/2/17 - 1/2/19	\$1,000,000
Locked In		Open		12345678	TxDOT Test Prime Vendor 10 Dan Test Contract		4/20/17 - 9/30/17	\$1,000,000
End within 3 mo.		Open		04282017	TxDOT Test Sub Vendor 1 Dan Joint Venture Test Contract		4/26/17 - 4/30/17	\$100,000
End within 6 mo.		Open		123	Prime Contracting, Inc. ABC		10/1/16 - 10/1/17	\$100
End within 12 mo.		Open						

Locking In New Contract Records

Step 1: Click **View** to view the associated contract record.

Transactions: Contracts [Help & Tools](#)

Contracts Contract Audits Sub Requests 1391 Reports Proposals **Util Plans** Outreach Cert Apps Certs Cert Change Requests Support

Messages

Displays all contracts. Click the transaction number to view.

☐ Show ONLY contracts assigned to you

Previous Page < Page 1 > Next Page Records per page 20

To resort, click on column title. [Refresh Table](#)

Actions	Alert	Status	Secondary Status	Contract Number	Description	Prime	End Date	Amount
New Contract		Open	All		All	All	All	
View	New Contract	Open		111111110	TxDOT Test Prime Vendor 8		8/1/16 - 3/31/17	\$2,250,000
View	New Contract	Open		0009-11-999	TxDOT Test Prime Vendor 8 Turn Lanes, Rehab Shoulders and Overlay		9/1/16 - 3/31/17	\$2,250,000
View	New Contract	Open		0009-11-777	TxDOT Test Prime Vendor 8 REHAB BRIDGE AND APPROACHES		9/1/16 - 3/31/17	\$1,125,000
View	New Contract	Open		20171234	TxDOT Test Prime Vendor 10 JB TEST		1/1/17 - 12/31/17	\$1,000,000
View	New Contract	Open		2017-1234	Best Prime Vendor, CDC LLC Bridge Repair		1/2/17 - 1/2/19	\$1,000,000
View	New Contract	Open		12345678	TxDOT Test Prime Vendor 10 Dan Test Contract		4/20/17 - 9/30/17	\$1,000,000
View	New Contract	Open		04202017	TxDOT Test Sub Vendor 1 Dan Joint Venture Test Contract		4/26/17 - 4/30/17	\$100,000
View	New Contract	Open		123	Prime Contracting, Inc. ABC		10/1/16 - 10/1/17	\$100

Step 2: Click Review Contract. (An alert displays to provide instructional information.)

Note: All contract alerts are displayed in red. If the contract is a new record, the alert “Contract record is new and must be reviewed for accuracy” will be listed.

Contract Alerts

Alert 1	Contract record is new and must be reviewed for accuracy. review contract .
Alert 2	No SUBCONTRACTORS assigned to contract. assign , deactivate alert .
Alert 3	No EMAIL ADDRESS for prime contractor found. edit .

Step 3: Click OK (The contract edit page displays with the contract header data from the import auto-filled into the fields. Many fields will be blank or zero.)

test.mwdbe.com says:

On the following page, review all contract data.
Update any information, as necessary, then continue through to save the record.

Once complete, add subcontractors to the contract.

☐ Prevent this page from creating additional dialogs.

OK **Cancel**

Step 4: Review the entire record and update as needed. When finished, click Review at the bottom of the page. When reviewing the data, do the following:

- Verify Contract title/description
- Verify CSJ
- Verify Value of contract
- Verify (and change if necessary) (Projected) End Date
- Verify Prime Contractor Information
- Verify (and change if necessary) Buyer/Project Manager (in-system user)
- Verify DBE Goal
- Add funding sources and amount (important for DBE FHWA funded projects)

CIV will post the Federal Contract Update Report in SharePoint, which will include the project CSJ and corresponding percentage of federal funding. Use the information to complete the following:

1. Select **Percentage** from the Funding source based on dropdown menu.
2. Enter the percentage amount from the Federal Contract Update Report in the FHWA field.
3. Click the **Calculate** link.

The screenshot shows the 'Contract Settings' form. On the left, there are two sections: 'Diversity Goal(s)' with a 'Help with goals' link, and 'External Funding Sources' with a 'Help with funding sources' link. The main form area has a 'Goal Type' section with 'Waiver' and 'Actual Goal' columns. Below this is a 'Funding source based on' dropdown menu with a red arrow labeled '1' pointing to it. The dropdown menu is open, showing options: 'percent', '-- select one --', 'percent', and 'value'. To the right of the dropdown is a 'FHWA' field with a red arrow labeled '2' pointing to it. Below the dropdown is a 'Calculate' link with a red arrow labeled '3' pointing to it. At the bottom, there is a 'Contract Type' dropdown menu with 'None selected'.

- Verify subcontractor settings

NOTE: Do not adjust default settings.

- Select the appropriate **County**.

The screenshot shows a web form with several fields. The 'County' field is a dropdown menu currently showing 'Dallas'. Below it is the 'District' field, which is a dropdown menu showing '18'. This '18' is circled in red, and a red arrow points to it from the right. Below the 'District' field is a list of checkboxes for districts 1 through 8, with '[Select all]' at the top. To the right of the checkboxes is a dropdown menu labeled 'None selected' and an 'Attach File' button. The form also includes fields for 'Waiver', 'TxDOT Divisions', and 'State Object Code'.

- Select the **Congressional District of the State of Texas** number where the project resides. (Multiple selections are allowed if the project encompasses multiple Districts)
- Verify Waiver information
- Select the appropriate **TxDOT Division**.
- Select the appropriate **State Object Code**.
- Adjust audit settings (as necessary for DBE prime contractors)
- Verify Contract compliance officer is correctly assigned.
- Add notes (if necessary)
- Attach electronic documentation

Step 5: Click **Review** to review the contract. (Click **Edit** to make further changes, if needed)

Step 6: To save the record, click **Save**.

Step 7: Select the **Change Orders & Task Orders** tab. Click **Add More References**.

Main View Settings Sub Docs **Change Orders & Task Orders** Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY Surveys Site Visits Reports

07142017: Dan Test Contract 1
 Prime: TxDOT Test Prime Vendor 10
 3/1/2017 - 10/31/2017

Status: Open
 Current Award: \$100,000
 Total Paid: \$1,200
 Goal: 0.00%
 % Credit: 0.00% For Credit: \$0

Below are listed change order and task orders associated with this contract.

Change Orders
 No change orders present for this contract.

Change Contract Value Extend/Shorten Contract

Task Orders
 No task orders present for this contract.

New Task Order Link Existing Contract As Task Order

Contract references can be used to associate other contract numbers and purchase order numbers to this contract. During the import of contract payment data, payment records assigned to the associated reference numbers will be automatically matched to this contract. Click **Add Reference Record** to assign a new reference number. Click **Edit** or **Delete** to modify or delete an existing reference.

Referenced Records
 No reference records assigned to this contract.
[Add More References](#)

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Home | Help | Print This Page | Print To PDF | Save To PDF

Step 8: Enter the CSJ and select Contract Number. Click Save References.

Referenced Records
 No reference records assigned to this contract.
[Add More References](#)

Enter up to 10 additional reference numbers and click **Save References**. Indicate if each reference is a contract number or purchase order number.

	Reference	Contract Number	PO #
1	12345678	<input checked="" type="radio"/>	<input type="radio"/>
2		<input type="radio"/>	<input type="radio"/>
3		<input type="radio"/>	<input type="radio"/>
4		<input type="radio"/>	<input type="radio"/>
5		<input type="radio"/>	<input type="radio"/>
6		<input type="radio"/>	<input type="radio"/>
7		<input type="radio"/>	<input type="radio"/>
8		<input type="radio"/>	<input type="radio"/>
9		<input type="radio"/>	<input type="radio"/>
10		<input type="radio"/>	<input type="radio"/>

Save References

Section 3: When the Prime Contractor is a DBE

Overview

If a prime contractor is a DBE, the contract must be updated to reflect this status. The system tracks payments of DBE prime contractors using the following method.

Calculated Remaining Amount

Payments to the DBE prime contractors are calculated as the remaining amount after payments are made to all DBE and non-DBE subcontractors. This method requires that all subcontractors are tracked. For example:

TxDOT total payments to prime contractor	\$ 1,000,000.00
Prime payments to DBE certified subs	\$ (100,000.00)
Prime payments to non-DBE certified subs	\$ (150,000.00)
Goal credit of DBE prime contractor	\$ 750,000.00
Total DBE goal credit on the Project	\$ 850,000.00

Edit Prime Contractor to Count Towards DBE Goal

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click the **Subs** tab.

Step 4: In the Prime Contractor area, in Action box, click **Edit**.

Contract Management: Subcontractor List Help & Tools

[Main](#) | [View](#) | [Settings](#) | **[Subs](#)** | [Docs](#) | [Change Orders & Task Orders](#) | [Alerts](#) | [Comments](#) | [Messages](#) | [Closeout](#)
[Compliance Audit List](#) | [Compliance Audit Summary](#) | [Compliance Audit FY](#) | [Reviews](#) | [Site Visits](#) | [Reports](#)

0009-11-888: MILL/SEAL/INLAY
 Prime: TxDOT Test Prime Vendor 11
 1/1/2017 - 3/31/2017

Status: **Open**
 Current Award: **\$1,000,000**
 Goal: **11.00%** Total Paid: **\$0**
 % Credit: **0.00%** For Credit: **\$0**

[Add Subcontractor](#)

Prime Contractor					
Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
TxDOT Test Prime Vendor 11		No		No	View Edit More...

Subcontractor Award Totals					
	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$110,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Percentages	11.000%	0.000%	0.000%	0.000%	0.000%

Subcontractors	
No subcontractors assigned to this contract.	

Step 5: On the Contract Management: Edit Prime Contractor page, change the **Count Towards Certified Goal** to Yes.

Step 6: Select **Goal Type** as DBE.

Step 7: Select **Credit Type** as Race Conscious.

Step 8: Assign Work Codes.

Step 9: Click **Review**.

Contract Management: Edit Prime Contractor

Help & Tools

Main View Settings Subs Docs Change Orders & Task Orders Alerts Comments Messages Closeout
 Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-888: MILL/SEAL/INLAY
 Prime: TxDOT Test Prime Vendor 11
 1/1/2017 - 3/31/2017

Status: **Open**
 Current Award: **\$1,000,000**
 Goal: **11.00%** Total Paid: **\$0**
 % Credit: **0.00%** For Credit: **\$0**

Settings

Count Towards Certified Goal * This setting is used only to set the default status on future compliance audits and the starting/final amount fields below. To change the status of all or specific existing payments, access the payment history for the contractor.

☒ Yes - Payments to this contractor count towards the selected goal (field below).
☐ No

Goal Type None selected ▼ **Credit Type:** Race Conscious ▼

Final Payment Made? * None selected **Race Conscious**
 DBE
 HUB
 Race Neutral
 Not Selected

Work Description

Work Codes *

Currently assigned work codes:

- ✓ NAICS 237310 Airport runway construction ([Remove](#))
- ✓ NAICS 237310 Asphalt paving (i.e., highway, road, street, public sidewalk) ([Remove](#))
- ✓ NAICS 237310 Highway construction ([Remove](#))

All available work codes from recognized certifications have been assigned. [Click here](#) to refresh the list if the assigned vendor or for credit status has been changed.

Spell Check Review Cancel

Step 10: Review edits to Prime Contractor Settings and click **Save**.

Contract Management: Review Prime Contractor

Help & Tools 

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-888: MILL/SEAL/INLAY
 Prime: TxDOT Test Prime Vendor 11
 1/1/2017 - 3/31/2017

Status: **Open**
 Current Award: **\$1,000,000**
 Goal: **11.00%** Total Paid: **\$0**
 % Credit: **0.00%** For Credit: **\$0**

Vendor Information

Edit

Business Name	TxDOT Test Prime Vendor 11
System Vendor Number	20441150
Vendor Compliance Contact Person	TxDOTPrime Test11
Phone	602-325-9277
Fax	
Email	txdottestprime11@b2gnowuser.com
Address	1234 Main St. Somewhere, TX 78701

Applicable Vendor Certifications

Edit

Type	Effective	Renewal	Organization
DBE	1/1/2017	1/1/2018	Texas Department of Transportation

Contract Information


Edit

Vendor Type	Prime Contractor
Reference Identifier	
Include in Compliance Audits?	Yes (required due to prime contractor status)
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious)
Final Payment Made	No
Starting Paid To Date Amount	\$0.00
Final Amount Adjustment/Paid Retainage	\$0.00
Work Description	
Work Codes	<div> ✓ NAICS 237310 Airport runway construction (More) </div> <div> ✓ NAICS 237310 Asphalt paving (i.e., highway, road, street, public sidewalk) (More) </div> <div> ✓ NAICS 237310 Highway construction (More) </div>
Comments	

Additional Information

Edit

Work Category	
CUF Reviewed	
CUF Determination	
Area Engineer Date	
District Approval Date	


 Edit Save Save & Print Award Letter Cancel

Contract Management: Subcontractor List Help & Tools

[Main](#) [View](#) [Settings](#) [Subs](#) [Docs](#) [Change Orders & Task Orders](#) [Alerts](#) [Comments](#) [Messages](#) [Closeout](#)
[Compliance Audit List](#) [Compliance Audit Summary](#) [Compliance Audit FY](#) [Reviews](#) [Site Visits](#) [Reports](#)

0009-11-888: MILL/SEAL/INLAY
 Prime: TxDOT Test Prime Vendor 11
 1/1/2017 - 3/31/2017

Status: **Open**
 Current Award: \$1,000,000
 Goal: 11.00%
 % Credit: 0.00%
 Total Paid: \$0
 For Credit: \$0

[Add Subcontractor](#)

Prime Contractor						
Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions	
TxDOT Test Prime Vendor 11		DBE		No	View Edit More...	

Subcontractor Award Totals					
	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$110,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Percentages	11.000%	0.000%	0.000%	0.000%	0.000%

Subcontractors	
No subcontractors assigned to this contract.	

Figure 9-1. Note: The Prime Contractor box under the Subs tab will reflect that the prime is counted for credit.

Step 11: After “Locking In” the contract, the DBE prime contractor should be notified to add all DBE and non-DBE subcontractors.

Contract Management: Subcontractor List

Help & Tools

[Main](#)
[View](#)
[Settings](#)
[Subs](#)
[Docs](#)
[Change Orders & Task Orders](#)
[Alerts](#)
[Comments](#)
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[Compliance Audit List](#)
[Compliance Audit Summary](#)
[Compliance Audit FY](#)
[Reviews](#)
[Site Visits](#)
[Reports](#)

0009-11-888: MILL/SEAL/INLAY
 Prime: TxDOT Test Prime Vendor 11
 1/1/2017 - 3/31/2017

Status: **Open**
 Current Awards: **\$1,000,000**
 Goal: **11.00%** Total Paid: **\$0**
 % Credit: **0.00%** For Credit: **\$0**

Add Subcontractor

Prime Contractor

Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
 TxDOT Test Prime Vendor 11		 DBE		No	View Edit More...

Subcontractor Award Totals

	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$110,000.00	\$250,000.00	\$100,000.00	\$100,000.00	\$100,000.00
Percentages	11.000%	25.000%	10.000%	10.000%	10.000%

Subcontractors

Subcontractor Name	Work Category	CUF Reviewed	Certified	Original Current	Type	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
 TxDOT Test Sub Vendor 2				\$100,000 \$100,000	Truck/Haul 100%	 DBE		No	View Edit More...
 TxDOT Test Sub Vendor 9			No	\$150,000 \$150,000	Sub	No		No	View Edit More...

Print All Sub Letters

Print All Letters

Message All Subs

Message All

Outreach All

Validate Work Codes

Create Cert Tracking Log Records For All Contractors

Subcontractor Addition Requests





Vendor Name	Certified	Requested Percent/Amount	Type	Inc. in Goal	Compliance Audit	Date Requested	Status	Actions
TxDOT Test Sub Vendor 2		\$100,000	Truck/Haul 100%	 DBE		4/30/2017	Approved	View
TxDOT Test Sub Vendor 9	No	\$150,000	Sub	No		4/30/2017	Approved	View

Figure 9-2. The image above shows the Subs tab after the prime contractor has added subcontractors and district staff have approved the sub requests.

Section 4: Transferring Subcontractors from an Approved Utilization Plan (UP) to a Contract

Overview

When a UP has been approved, the Transfer Subcontractors to Contract button will appear below the Utilization Plan Summary section. Click this button to initiate the transfer subcontractor process. DMS allows the user to search for and select a contract, select one or more of the approved subcontractors to be included in the transfer, select attachments and/or work codes for each sub, and select if the transferred subcontract records are to be flagged on the contract sub list for further review and update. After the transfer process is complete, a link to the contract will appear in the UP summary section. Multiple UP sub lists can be transferred to the same contract.

Note: If the prime contractor is a DBE, a UP is not required. Proceed to lock in procedures in section 3 for DBE prime contractors.

Accessing a UP

Step 1: On the left hand menu click **View**

Step 2: Locate and click **Utilization Plans**.

Step 3: Click **View** for the corresponding UP for the desired contract.

The screenshot displays the 'Transactions: Utilization Plans' interface. The left-hand navigation menu includes 'Home', 'View', 'Alerts', 'Contracts', 'Contract Audits', 'Sub Requests', '1391 Reports', 'Outreach Campaigns', 'Events', 'Vendor Lists', 'Proposals', 'Utilization Plans', 'Certification Apps', 'Certification Processing Records', 'Certification Change Requests', 'Support', 'Messages', and 'Search'. The 'View' and 'Utilization Plans' items are highlighted with red circles and numbers 1 and 2 respectively. The main content area shows a table of utilization plans. The first record is highlighted with a red circle and number 3, indicating the 'View' button. The table columns are 'View', 'Status', 'Status Date', 'Vendor', 'Proposal', and 'Reference'. The first record shows 'Approved' status, 'Approved: 5/1/2017', 'TxDOT Test Prime Vendor B', and '0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Ref: Turn Lanes, Rehab Shoulders and Overlay'.

View	Status	Status Date	Vendor	Proposal	Reference
View	Approved	Approved: 5/1/2017	TxDOT Test Prime Vendor B	0009-11-999: Turn Lanes, Rehab Shoulders and Overlay	Ref: Turn Lanes, Rehab Shoulders and Overlay

Transferring Subcontractors from an Approved UP to a Contract

Step 1: Click the **Transfer Subcontractors to Contract** button.

Utilization Plan: View Plan Help & Tools

Proposal Main | View Proposal | Settings | Docs | Goal Setting | Bid List | Utilization Plans | Comments | Reviews | Linked Records | Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Status: Open
Estimated Cost: \$2,250,000

This Utilization Plan has been Approved. Scroll down to view the details of the plan. Click the button to transfer some or all of the subcontract records to an existing contract. Once a record is transferred it cannot be transferred again. However, if any subcontractors are not included in the transfer they will remain available for transfer. After the transfer process is complete a Linked Contract field will appear to provide quick access to the contract. Use the Linked Contract field to access the contract that subs were previously transferred to.

[Refresh](#) [Actions & Notices](#)

Utilization Plan Summary	
Proposal	0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Reference	Turn Lanes, Rehab Shoulders and Overlay
Phase	Original, version 0
Status	Approved
Notification Date	5/1/2017 by Tim Osbaldeston
Due Date	5/6/2017 5:00 pm US Central
Submission Date	5/1/2017 by TxDOTPrime Test8
Review Date	5/1/2017 by Tim Osbaldeston

Transfer Subcontractors to Contract

Utilization Plan Information	
Estimated Bid/Transaction Amount	\$2,250,000

Step 2: Click **Select a Contract to Link**.

Utilization Plan: Select Contract for Subcontractor Transfer Help & Tools

Proposal Main | View Proposal | Settings | Docs | Goal Setting | Bid List | Utilization Plans | Comments | Reviews | Linked Records | Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Status: Open
Estimated Cost: \$2,250,000

Click **Select a Contract to Link** below to select a contract to transfer subcontract records to. On the next page you will be able to search for any open contract. A contract must be locked-in for the transfer process to complete successfully. Click **Cancel/Return** to return to the Utilization Plan record.

Select a Contract to Link **Cancel/Return**

Step 3: Enter the contract number in the Contract/Reference Number field for the contract that you wish to transfer the subs to, then click **Search All Matches**.

Search: Contracts [Help & Tools](#)

Users Vendors **Contracts** Proposals Outreach

Search your organization's contract database. Enter information into any of the boxes below and click **Search**. Some parameters are required.

Search First 20 Matches Search All Matches Clear Form

Search Parameters

Contract/Reference Number 01171001
(Contract number, financial system reference, project number)

Contract Title

Containing Text
(Contract description, summary, notes, comments)

Contractor
☒ Prime ☐ Subcontractor ☐ Either

Buyer/Project Manager
(Organization name, contact name)

Compliance Officer
None selected ▼

Search First 20 Matches Search All Matches Clear Form

Step 4: In the search results, in the Actions column click to **Select Contract**.

Search: Contracts [Help & Tools](#)

Users Vendors **Contracts** Proposals Outreach

Here's a list of the contracts that matched your search criteria. Use the sort and filter functions of the table to reduce the size of the list. You can view more listings by using the navigation line at the bottom of the table.

Click the **Transaction Number** to view that Contract or the **Vendor Name** link to view that vendor's profile. To refine or expand your search use the search table at the bottom of the page.

To reset, click on column title.

<u>Contract Number</u>	<u>Contract Title</u>	<u>Prime Contractor</u>	<u>Contract Amount</u> & <u>End Date</u>	<u>Status</u>	<u>Actions</u>
	All ▼	All ▼	ALL ▼	All ▼	
01171001	Turn Lanes, Rehab Shoulders and Overlay	TxDOT Test Prime Vendor 8	\$2,250,000.00 3/31/2017	Open	Select Contract

1 - 1 of 1 record displayed: Page 1 ▼

Search Again

Step 5: Once selected you are provided with summary information about the contract as well as if there are already any subcontractors on the contract. Click to **Continue** or Select Another Contract to Link.


Utilization Plan: Select Contract for Subcontractor Transfer Help & Tools

[Proposal Main](#) [View Proposal](#) [Settings](#) [Docs](#) [Goal Setting](#) [Bid List](#) [Utilization Plans](#) [Comments](#) [Reviews](#) [Linked Records](#) [Reports](#)

0009-11-000: Turn Lanes, Rehab Shoulders and Overlay Status: **Open**
Estimated Cost: \$2,250,000

Information regarding the selected contract is listed below. To continue the transfer process, click **Continue**. You will have the option to choose which subcontract records to include in the transfer on the next page. You can also select a different contract or cancel the process and return to the approved Utilization Plan record.

Linked Record	
Contract Number	0009-11-999
Contract Title	Turn Lanes, Rehab Shoulders and Overlay
Current Contract Value	\$2,250,000.00
Contract Status	Open
Prime Contractor	TxDOT Test Prime Vendor 8
Number of Subcontractors on Contract	0
Transfer Status	4 subcontractor(s) available to transfer

 **Continue** [Select Another Contract to Link](#) [Cancel/Return](#)

Step 6: Select if any subcontractors should not be included in the transfer as well as if any attachments or work codes for any selected subs should transfer, and if the records should be flagged on the contract for ease of identification. In order to **not** include an item, you must uncheck that selection.

Complete the process by clicking the **Transfer Subcontractors** button.

Utilization Plan: Transfer Subcontractors

Help & Tools

Proposal Main | View Proposal | Settings | Docs | Goal Setting | Bid List | Utilization Plans | Comments | Reviews | Linked Records | Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay

Status: Open
Estimated Cost: \$2,250,000

Select subcontractors below to transfer from the approved Utilization Plan to the target contract. Uncheck the box next to any subcontractors to exclude them from the transfer. Once a subcontractor has been transferred, it cannot be transferred again.

Use the settings check boxes to include attachments and/or work codes in the transfer. You can also flag the transferred records for additional update on the contract.

Click **Transfer Subcontractors** to complete the process.

Linked Record

Contract Number	0009-11-999
Contract Title	Turn Lanes, Rehab Shoulders and Overlay
Current Contract Value	\$2,250,000.00
Contract Status	Open
Prime Contractor	TxDOT Test Prime Vendor 8
Number of Subcontractors Currently on Contract	0
Transfer Status	4 subcontractor(s) available to transfer

Select All Unselect All

Subcontractors

Transfer	Subcontractor Name	Sub Tier	Cert	Inc in Goal	Type	\$ Commit	\$ Self Perf	\$ For Credit
<input checked="" type="checkbox"/>	1 TxDOT Test Sub Vendor 2	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Truck/Haul 100% DBE	\$67,500 3.00%	\$67,500 3.00%	\$67,500 3.00%
<input checked="" type="checkbox"/>	1 TxDOT Test Sub Vendor 3	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Reg. Dealer 60% DBE	\$75,000 3.33%	\$75,000 3.33%	\$45,000 2.00%
<input checked="" type="checkbox"/>	1 TxDOT Test Sub Vendor 5	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Sub 100% DBE	\$157,500 7.00%	\$155,925 6.93%	\$155,925 6.93%
<input checked="" type="checkbox"/>	2 TxDOT Test Sub Vendor 1	2	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Sub 100% DBE	\$1,575 0.07%	\$1,575 0.07%	\$1,575 0.07%

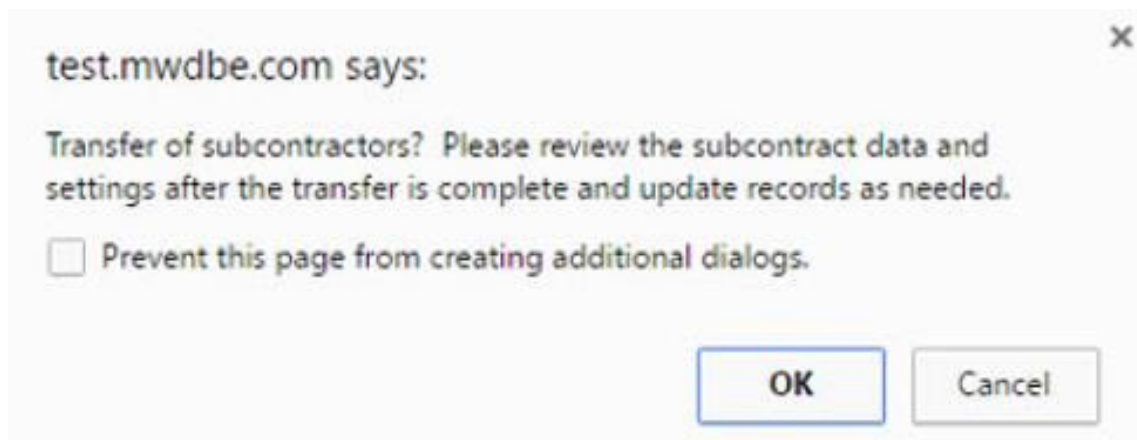
- ☒ Include file attachments in transfer
☒ Include work codes in transfer
☐ Flag subcontractor records for review and update after transfer

Transfer Subcontractors

Return to Contract Selection

Return to Utilization Plan

Step 7: Click Ok.



Step 8: Once subcontractors have been transferred, links to the contract appear in the **Utilization Plan Summary** section of the utilization plan.

Utilization Plan: View Plan

Help & Tools

[Proposal Main](#) [View Proposal](#) [Settings](#) [Docs](#) [Goal Setting](#) [Bid List](#) [Utilization Plans](#) [Comments](#) [Reviews](#) [Linked Records](#) [Reports](#)

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay

Status: **Open**
Estimated Cost: **\$2,250,000**

This Utilization Plan has been Approved. Scroll down to view the details of the plan. Click the button to transfer some or all of the subcontract records to an existing contract. Once a record is transferred it cannot be transferred again. However, if any subcontractors are not included in the transfer they will remain available for transfer. After the transfer process is complete a Linked Contract field will appear to provide quick access to the contract. Use the Linked Contract field to access the contract that subs were previously transferred to.

[Refresh](#) [Actions & Notices](#)

Utilization Plan Summary

Proposal	0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Reference	Turn Lanes, Rehab Shoulders and Overlay
Phase	Original, version 0
Status	Approved
Notification Date	5/1/2017 by Tim Osbaldeston
Due Date	5/6/2017 5:00 pm US/Central
Submission Date	5/1/2017 by TxDOTPrime Test8
Review Date	5/1/2017 by Tim Osbaldeston
Subcontractors Transferred	5/1/2017 by Tim Osbaldeston
Linked Contract	0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
	View Contract
	View Subs

Transfer Subcontractors to Contract

Utilization Plan Information

Estimated Bid/Transaction Amount **\$2,250,000**

Primary Bidder/Prime Contractor

Vendor Name	Cert	Inc in Goal	\$ Total	\$ Self Perf	\$ For Credit	Actions
TxDOT Test Prime Vendor 8	No	No	\$2,250,000	\$1,950,000 86.67%	-	View

Subcontractors

Subcontractor Name	Sub Tier	Cert	Inc in Goal	Type	\$ Commit	\$ Self Perf	\$ For Credit	Confirmed	Actions
TxDOT Test Sub Vendor 2	1		DBE	Truck/Haul 100%	\$67,500 3.00%	\$67,500 3.00%	\$67,500 3.00%		View
TxDOT Test Sub Vendor 3	1		DBE	Reg. Dealer 60%	\$75,000 3.33%	\$75,000 3.33%	\$45,000 2.00%		View
TxDOT Test Sub Vendor 5	1		DBE	Sub 100%	\$157,500 7.00%	\$155,925 6.93%	\$155,925 6.93%		View
TxDOT Test Sub Vendor 1	2		DBE	Sub 100%	\$1,575 0.07%	\$1,575 0.07%	\$1,575 0.07%		View

Section 5: Reviewing and Approving the DBE Trucking Utilization Form

If trucking firms are included in the UP, the prime contractors will provide to the District a completed DBE Trucking Utilization Form 2660. District staff are required to review and approve the form prior to any hauling services being performed for DBE credit.

The following steps describe the DBE Trucking Utilization review process.

Step 1: Review the boxes at the top of the form to make sure they have been properly filled in.

THIS SECTION TO BE COMPLETED BY THE PRIME CONTRACTOR

Project #:	County:	Contract-CSJ:
Name of DBE Trucking Company	Total Committed Dollar Amount of the Utilization Plan	Number of Dump Trucks, Tractors/ Trailers (specify)
	\$	

If the prime has submitted a subcontract for approval, verify that the work description matches information in DMS. If a request for subcontract approval is not needed, Form 2660 must still be submitted.

Step 2: Review the responses to the following questions.

- These questions should always be completed.
- If not completed, return the form to the prime so the questions can be completed

THIS SECTION TO BE COMPLETED BY THE DBE TRUCKING FIRM

1. Number of hours contracted or quantities to be hauled? _____
2. Number of fully operational trucks owned by DBE? _____ Dump trucks: _____ Tractors/trailers: _____
3. Number of leased trucks to be used? _____ Provide copies of lease agreement(s).

Step 3: A minimum of three of the trucks listed in the DBE Truck Unit Listing will need to be verified for ownership by the DBE owner or DBE firm using the TxDMV - MVINET. This will require a login. Verifications need to be added to the UP in DMS.

[illegible]

Step 4: Navigate to the following link:

<https://ssoextprd.txdmv.gov/sso/UI/Login?goto=http%3A%2F%2Fmvinet.txdmv.gov%2F%20mvd%2Fmvd.html>

To request access to the Texas Department of Motor Vehicles (TxDMV), Vehicle Titles and Registration site, contact the CIV Compliance Section at CIV_Compliance@txdot.gov.

You will be taken to the following log in screen.

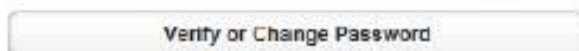


Step 5: Once you are logged in, you will see the Vehicle Titles and Registration Motor Vehicle Inquiry (MVI) landing page.

Vehicle Titles and Registration Motor Vehicle Inquiry (MVI)



Notice: Personal information (Name and Address) contained in motor vehicle records is restricted and cannot be disclosed.



Step 6: Vehicle verification can be done one of two ways; (1) Inquiry by Registration (Single Plate Number) or (2) Inquiry by Vehicle Identification Number (VIN).

VTR Inquiry by Registration (Single Plate Number)

Enter Expiration Year: Enter Plate Number: *

```

LIC                                OLD #                EWT 18300 GWT 80000
APPORTIONED TRK SINGLE FLT, STRR    REG CLASS 06      $ 0.00
CITY
TITLE                               ISSUED              ODOMETER N/A REG DT
YR:1997 MAK:PTRB MODL:             BDY STYL:TR VEH CLS:TRK>1  SALE PRC:         $0.00
VIN:                               BODY VIN: N/A COLOR: BLACK
PREV OWN
OWNER                                000000000000000000-;

PLATE AGE:      LAST ACTIVITY      IRRNW OFC:
REMARKS DIESEL,DATE OF ASSIGNMENT:  PAPER TITLE.
  
```



```

LIC                                EWT 18300 GWT 80000
APPORTIONED TRUCK FLT, REG CLASS 006
PTRB                                TRACTOR
ISSUED TO:
REMARKS
  
```

Figure 9-3. EXAMPLE: VTR Inquiry by Registration (Single Plate Number)

VTR Inquiry by Vehicle Identification Number (VIN)

Enter Vehicle Identification Number: *

```

LIC
APPORTIONED TRK SINGLE FLT, STRR    REG CLASS 06      $ 0.00 DALLAS CN
TY
TITLE                               ISSUED              ODOMETER N/A REG DT
YR:1993 MAK:PTRB MODL:             BDY STYL:TR VEH CLS:TRK>1  SALE PRC:         $0.00
VIN:                               BODY VIN: N/A COLOR: UNKNOWNN
PREV OWN
OWNER
LIEN
PLATE AGE: 1  LAST ACTIVITY
REMARKS DIESEL,PAPER TITLE.
  
```

Figure 9-4. EXAMPLE: VTR Inquiry by Vehicle Identification Number (VIN)

Step 7: Review contact information for completeness.

- Name and title should be printed, and each party on the form should sign and date the form.

Prime's Representative Name: _____	Title: _____
Signature: _____	Date: _____
DBE's Representative Name: _____	Title: _____
Signature: _____	Date: _____
Subcontractor's Name: _____	Title: _____
(If the DBE will be a second tier hauler)	
Signature: _____	Date: _____

Chapter 10: Race-Neutral Participation

Contents:

[Section 1: Overview](#)

[Section 2: Adding a Race-Neutral DBE Subcontractor in DMS](#)

Section 1: Overview

The Federal DBE Program requires state transportation agencies to meet the maximum feasible portion of their overall DBE goals using race-neutral measures. Race-neutral measures are initiatives that encourage the participation of all businesses, or all small businesses, and are not specifically limited to DBEs.

As part of doing so, agencies must project the portion of their overall DBE goals that they expect to meet through race-neutral and race-conscious programs.

- TxDOT uses a combination of race-neutral and race-conscious measures to meet its overall DBE goals. TxDOT projects that some percent of its overall DBE goal would be met through neutral means and that the remainder would be met through race-conscious means.
- TxDOT uses DMS to track race-conscious and race-neutral participation on federal-aid projects.
- Prime contractors must report race-neutral participation, in DMS, on federal-aid contracts on which the assigned goal is 0% or on projects with goals greater than 0%.
- District staff will verify the prime has included all race-neutral DBEs in DMS and reported payments to them.
- 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.

Section 2: Adding a Race-Neutral DBE Subcontractor in DMS

Overview

It is the responsibility of the prime contractor to add all race-neutral DBE subcontractors to their contract.

The District will inform the prime contractor to add their RN DBEs once the contract has been “Locked In” and the race-conscious DBEs from the UP have been transferred to the contract.

If the prime contractor is a DBE, then after the District “Locks In” the contract, the prime should be notified so that they can enter all certified and non-certified subcontractors. While the Prime Contractors’ DBE Guide, Chapter 10, provides details on adding RN DBE subcontractors to the contract, it is the same process for adding any type of subcontractor. The only variation will be in Step 4 where the prime will need to accurately select if and how the subcontractor will count toward the goal. See screenshot below from the prime contractor view and provide assistance, as necessary, to the DBE prime contractor.

Count Towards Certified Goal *

Yes - Payments to this subcontractor count towards the DBE Goal (Credit Type: Race Neutral)

Type of Participation *

Race Neutral

Race Conscious

Not Selected

Supplier - Manufacturer

Chapter 11: Contract Award and Subcontract Execution

Contents:

[Section 1: Subcontracts](#)

[Section 2: Reviewing DBE Subcontracts for Compliance](#)

[Section 3: Save Subcontract in DMS](#)

Section 1: Subcontracts

In accordance with TxDOT Standard Specifications, the prime contractor must submit a copy of the executed subcontract agreement or purchase order for all DBE subcontracts including all tiered DBE subcontracts on federal-aid projects.

Subcontract Agreement

The prime contractor must incorporate the following TxDOT provisions in all subcontract agreements or material purchase agreements:

- Disadvantaged Business Enterprise in Federal-Aid Contracts (000-394)
- Special Provision Measurement and Payment (009-009)
- Contract Assurance (49 CFR, Part 26.13)

The prime contractor should review these provisions with the DBE.

It is considered a best practice to include language into the subcontract regarding the ability of a DBE to perform a CUF. Advise the DBE that it is expected to manage, supervise, and perform its work, with its own organization and resources. A DBE's failure to perform a CUF is considered by TxDOT as a valid cause for termination. For more information regarding the CUF requirements, please refer to Chapter 6 of this Guide and 49 CFR, Part 26.55.

Multiple-Tier Subcontracts

The prime contractor is ultimately responsible for the actions of its subcontractors and any second tiered DBE subcontractors. The prime contractor should, therefore, ensure that any subcontract between a first tier subcontractor and a DBE subcontractor contains language that the DBE goals are to be met and that the DBE performs a CUF. Additionally, the prime contractor should be certain that the first tier subcontractors understand the process of terminating a DBE subcontractor.

Section 2: Reviewing DBE Subcontracts for Compliance

Submitted Contracts

The District will check the following is present in all DBE subcontracts:

- DBE certification is valid at the time of subcontract execution
- Signature of prime contractor and DBE subcontractor

The dollar amount of DBE subcontract is equal or greater than the commitment and the scope of work does not differ from the commitment

District Responsibilities

Use the following checklist to ensure the Contractor's Assurance and DBE Program requirements have been satisfied:

- Are the following provisions incorporated in contracts, regardless of tier?
 - Disadvantaged Business Enterprise in Federal Aid Contracts (000-394)
 - Special Provision Measurement and Payment (009-009)
- Is 49 CFR Part 26.13(b) assurance language present in contracts, regardless of tier?
- Is the DBE's certification valid at the time of subcontract execution?
- Is the DBE certified in the NAICS code applicable to the kind of work the firm will perform on the contract?
- Is the DBE's scope of work different from the commitment?
- Is the DBE's subcontract amount the same as the commitment amount?
- Is the subcontract default or termination clause consistent with 49 CFR Part 26.53(f), and does it include prior written consent from TxDOT that termination and replacements are for good cause?

If deficiencies are found, contact the prime contractor in writing and request a copy of the modified subcontract.

Section 3: Save Subcontract in DMS

Purpose

The prime contractor can attach subcontracts and purchase orders in DMS or submit by other means. District staff must save all DBE subcontracts or purchase orders to the contract record in DMS.

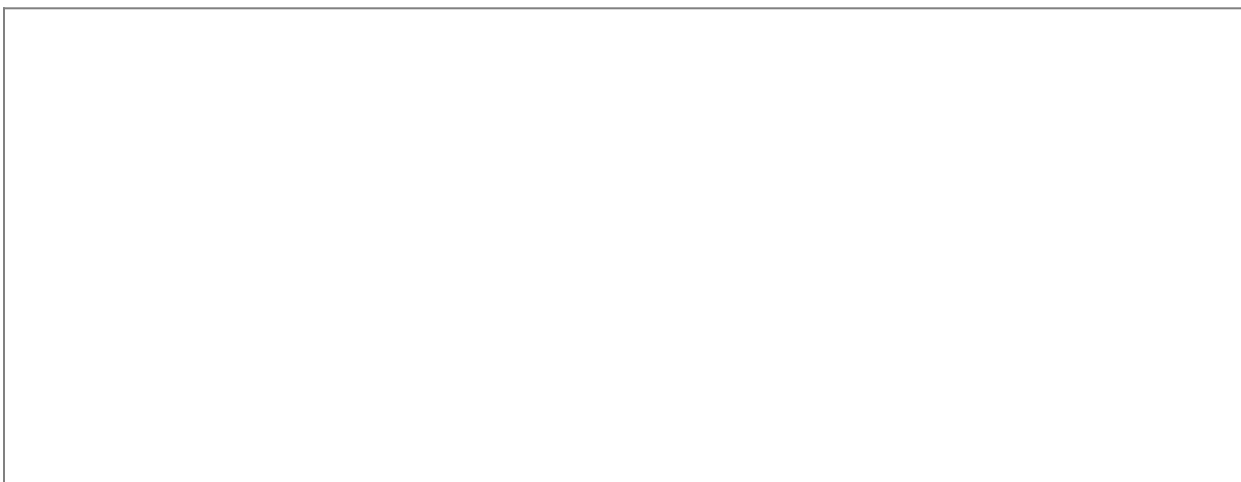
Save Approved Subcontract in DMS

Step 1: Log in to DMS.

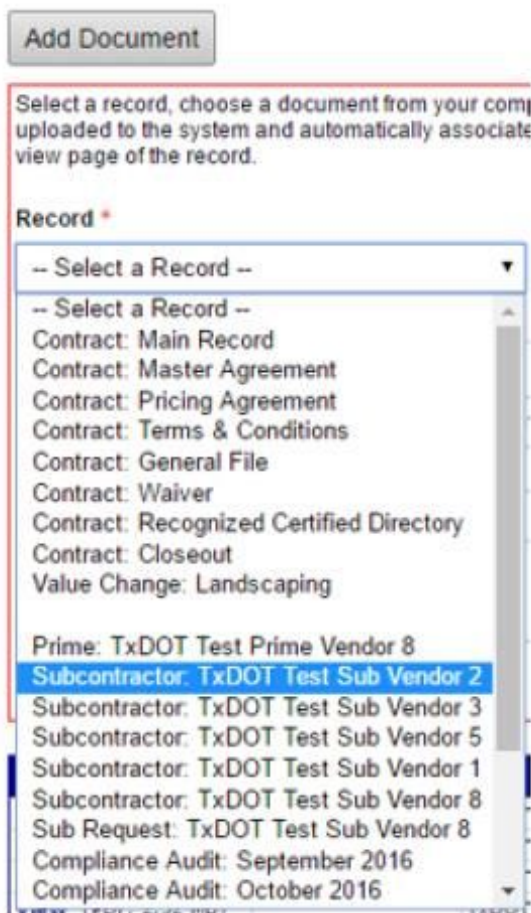
Step 2: Locate desired contract and navigate to **Contract Management** page

Step 3: Click on the **Docs** tab.

Step 4: Click **Add Document**.



Step 5: Click the **Record** drop down box to select a record. Choose the desired Subcontractor.



Step 6: Click the **Choose File** button and select the proper file.

Step 7: Click **Attach** and select subcontract to be attached:

File names should have the following details for future reference:

- [csj#]+[sub_name]
- 0009-11-999_txdottestsub5

Step 8: Leave document title blank so that the file name will be the default document title.

Step 9: Enter comments as necessary.

Step 10: Click **Add Document**.

Select a record, choose a document from your computer to attach, enter required information (*), and click **Add Document**. The document will be uploaded to the system and automatically associated with the selected record. You can view the attached document from the list below or the view page of the record.

Record *

Subcontractor: TxDOT Test Sub Vendor 2 ▾

Select Document to Attach *

Choose File 0009-11-999_txdottestsub2_contract.pdf

Document Title (if left blank, Document Title will default to the Document Name)

Document Description

Add Document

Step 11: Repeat Step 4 to Step 10 for each approved subcontractor agreement.

Select a record, choose a document from your computer to attach, enter required information (*), and click **Add Document**. The document will be uploaded to the system and automatically associated with the selected record. You can view the attached document from the list below or the view page of the record.

Record *

Subcontractor: TxDOT Test Sub Vendor 2 ▾

Select Document to Attach *

Choose File 0009-11-999_txdottestsub2_contract.pdf

Document Title (if left blank, Document Title will default to the Document Name)

Document Description

Add Document

Chapter 12: Pre-Construction Conference

Contents:

[Section 1: Overview](#)

Section 1: Overview

District staff will discuss the DBE requirements of the contract at the pre-construction conference to ensure that the prime contractor is aware of its DBE obligations and is informed of the administrative and reporting procedures that will be utilized by TxDOT.

The district staff will discuss, at a minimum, the following:

- The assigned DBE goal for the project
- The DBE subcontractors that will be participating in the project
- The prime contractor requirement to make a good faith effort to meet the assigned goal
- District responsibility to monitor and ensure a commercially useful function (CUF) is performed
- The prime contractor complies with prompt payment requirements
- The DMS reporting process to include:
 - Reporting payments within 15 days after the end of a calendar month.
 - Adding subcontractors to include race-neutral DBEs.
- The Termination/Substitution process
- The approval process and use of joint checks

Chapter 13: Performing a CUF Review

Contents:

[Section 1: CUF Review](#)

[Section 2: Completing a CUF Review in DMS](#)

[Section 3: District CUF Verification](#)

[Section 4: District CUF Dashboard Review](#)

[Section 5: Daily Monitoring](#)

Section 1: CUF Review

In order for a prime contractor to receive DBE goal credit on a project, the DBE must be performing a Commercially Useful Function (CUF). To ensure each DBE firm is performing a CUF, TxDOT 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 of the DBE must be considered: management, workforce, equipment, materials, and performance. These areas must be evaluated to make a CUF determination.

A CUF review is required for all DBE firms, including DBE prime contractors, on all federally funded projects (including projects with a DBE 0% goal). This also includes DBE truckers, suppliers, and other vendors where a subcontract is not required.

The CUF review should be completed by the Area Office within 60 days of the DBE's start date of work on a project. The Area Office will submit the completed CUF form with supporting documentation to the DDC, who must review and finalize it within 30 days of receipt.

TxDOT field personnel such as project inspectors and area engineers may conduct CUF reviews and inspect the jobsites to ensure that the DBE firm is performing and managing the work. The reviewer's activities include making observations, interviewing DBE personnel, and documenting all information on the appropriate CUF form.

CUF reviews are accomplished through the use of three different types of CUF review forms, depending on the function of the DBE:

- CUF Review Form 2183 (professional and scientific services)
- CUF Review Form 2669 (material suppliers)
- CUF Review Form 2182 (all other subcontractors)

CUF Review Forms 2182 and 2183 are to be conducted by TxDOT personnel. However, CUF Review Form 2669 is to be completed by the material supplier and submitted to the district, along with appropriate supporting documentation. The information received will be used to determine if the material supplier is performing a CUF. District staff will enter the information into DMS.

CUF Review Supporting Documentation

Supporting documentation for any type of CUF review can include any of the following:

- purchase orders
- invoice(s)
- cancelled checks
- inventory lists
- certified payrolls

- haul tickets
- trucking logs
- titles of equipment ownership
- pictures
- daily diary entries

The documents referenced above can identify and support who is paying and supervising the DBE's employees, ordering and paying for materials and supplies, as well as whose equipment is being used on the project. These documents, particularly those that pertain to the prime contractor's commitments or the approved DBE subcontract, should be attached to each CUF review as supporting evidence of the findings.

The DDC should verify that a CUF review has been completed for every DBE on every federally funded project and supporting documentation has been entered into DMS or another agreed upon location if the system does not have upload functionality.

Non-compliance with CUF Requirements

District staff needs to take actions on DBE firms that are presumed not to be performing a CUF. (See Appendix A, Section 3 for sample letter). 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 DBE firm has ten days from the date it receives the letter to respond to the District. The district staff will review the rebuttal response, make a determination, and then notify the DBE and prime contractor in writing of the determination. If the CUF determination results in a DBE goal shortfall, the District will need to notify the prime contractor in writing that it will need to find a substitute DBE or provide good faith efforts to meet the project DBE goal.

Section 2: Completing a CUF Review in DMS

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click on the **Reviews** tab.

Step 4: Click **New Review**.

Contract Management: Reviews Help & Tools

Main View Settings Subs Docs Change Orders & Task Orders Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit Fy **Reviews** Site Visits Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 3/31/2017

Status: Open
Current Award: \$2,250,000
Total Paid: \$1,725,000
Goal: 12.00%
% Credit: 9.71%
For Credit: \$167,500

New Review Filters: Any Review Type Any Contractor Go

Reviews					
Actions	Status	Review Type	Contractor	Date Created/Submitted	Reviewer/Creator
View Edit	Complete	Commercially Useful Function (CUF) Project Site Review	TxDOT Test Sub Vendor 3	5/1/2017	TxDOT Admin 4
View Edit	Complete	Commercially Useful Function (CUF) Project Site Review	TxDOT Test Sub Vendor 2	5/1/2017	TxDOT Admin 4

Step 5: Click on **Commercially Useful Function (CUF) Project Site Review**

Contract Review: Start Help & Tools

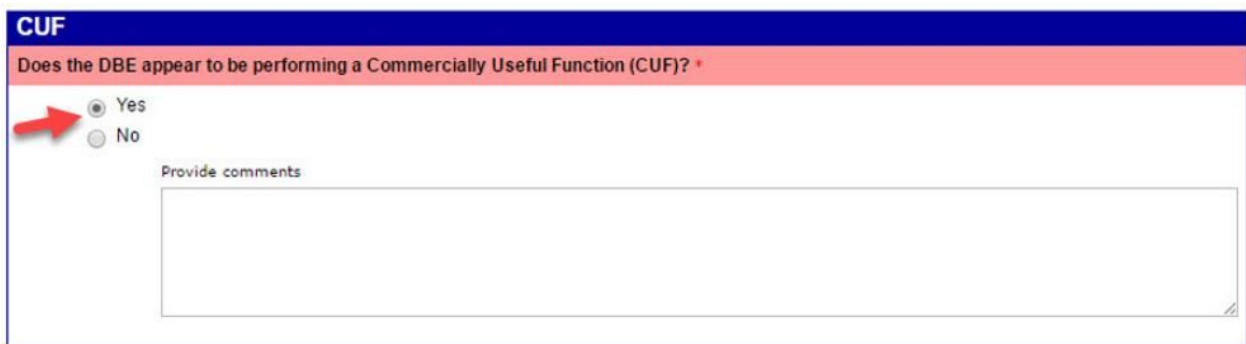
Available Contract Reviews	
Review Type	Description
Commercially Useful Function (CUF) Project Site Review	CUF form for construction projects

Return

Step 6: Read all instructions on the Contract Review: New Review page.

Step 7: Select answers after having completed the CUF review.

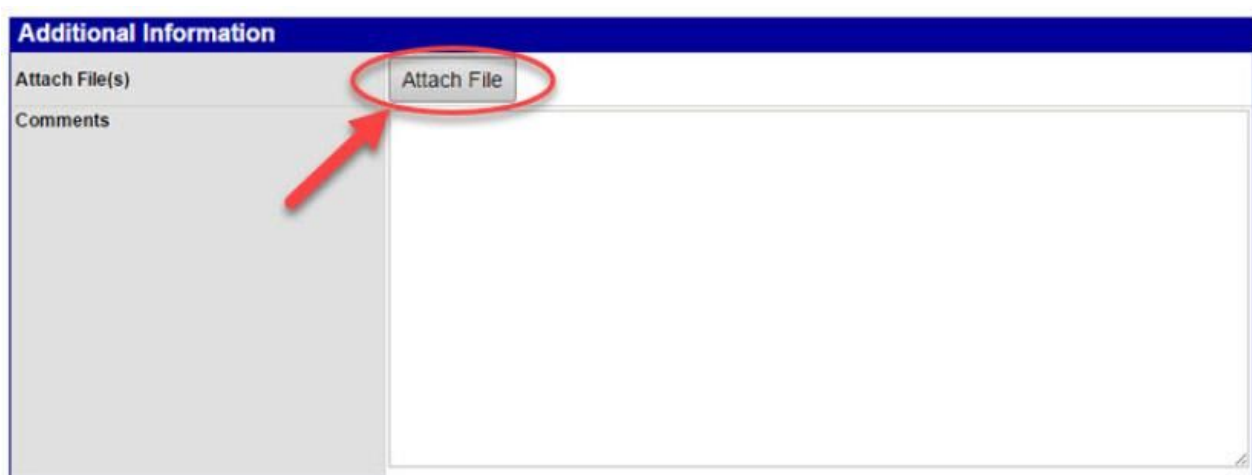
Step 8: Select **Yes** or **No** to enter CUF compliance determination. Provide comments as necessary.



Step 9: Click **Attach File** to attach documentation as directed on the **Contract Review: New Review** Page.

Attachments should include but not be limited to the following:

- Executed Subcontracts
- Certified Payrolls
- Invoices
- Purchase Orders
- Delivery Tickets and Equipment Title of Ownership or Lease Agreements



Step 10: Click **Choose File** and then select file to be uploaded to the DMS contract record.

Step 11: Click **Attach File**.

Attach Files
CLOSE WINDOW

HELP

File Attachments

The following file(s) are attached. When finished uploading files, close this window.

1	File Title	0009-11-999_joint_check_form_sub5.pdf
	Filename	0009-11-999_joint_check_form_sub5.pdf
	File Size	40.96 KB
	File Description	N/A
	<div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid #ccc; padding: 2px 10px;">View File</div> <div style="border: 1px solid #ccc; padding: 2px 10px;">Edit Profile</div> <div style="border: 1px solid #ccc; padding: 2px 10px;">Delete</div> </div>	
2	File Title	0009-11-999_CUF_Supporting_Documents_Sub5.pdf
	Filename	0009-11-999_CUF_Supporting_Documents_Sub5.pdf
	File Size	56.57 KB
	File Description	N/A
	<div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid #ccc; padding: 2px 10px;">View File</div> <div style="border: 1px solid #ccc; padding: 2px 10px;">Edit Profile</div> <div style="border: 1px solid #ccc; padding: 2px 10px;">Delete</div> </div>	

Refresh Table

Attach Files

Click the **Browse** button, choose a file from your computer, then click **Attach File** to upload. You may only attach files one at a time and the **maximum permissable size is 150.0 MB (megabytes)**

Select File *

Choose File

No file chosen

File Title

File Description

Spell Check

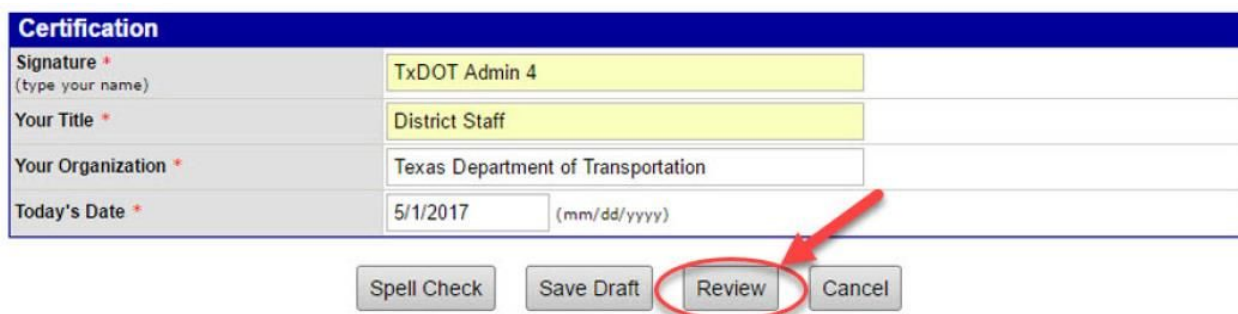
Attach File

Step 12: Sign the CUF review.

Step 13: Click **Review**.

Certification	
Signature * (type your name)	TxDOT Admin 4
Your Title *	District Staff
Your Organization *	Texas Department of Transportation
Today's Date *	5/1/2017 (mm/dd/yyyy)

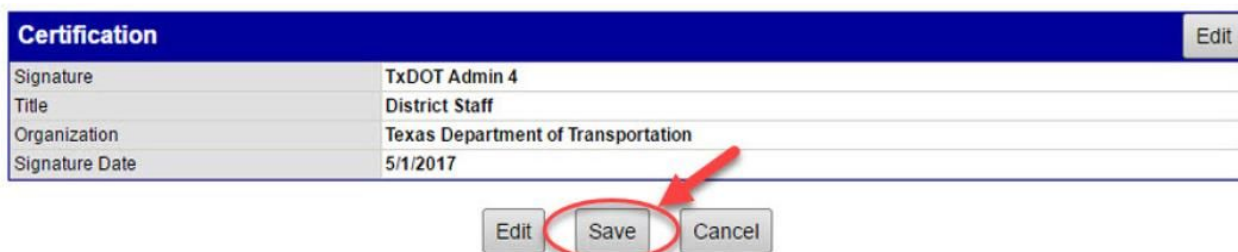
Spell Check Save Draft **Review** Cancel



Step 14: Review the information for accuracy and click **Save**.

Certification		Edit
Signature	TxDOT Admin 4	
Title	District Staff	
Organization	Texas Department of Transportation	
Signature Date	5/1/2017	

Edit **Save** Cancel



Section 3: District CUF Verification

Overview

The DDC will review CUF reports completed in DMS.

CUF Sign-off in the DMS Subcontractor Table

Step 1: Log in to DMS

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click on the **Subs** tab.

Step 4: For each subcontractor click **Edit**.

Contract Management: Subcontractor List

Help & Tools

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay

Prime: TxDOT Test Prime Vendor 8

9/1/2016 - 3/31/2017

Status: Open

Current Award: \$2,250,000

Goal: 12.00%

Total Paid: \$1,725,000

% Credit: 9.71%

For Credit: \$167,500

Add Subcontractor

Prime Contractor

Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
TxDOT Test Prime Vendor 8	No	No		No	View Edit More...

Subcontractor Award Totals

	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$270,000.00	\$300,000.00	\$270,000.00	\$270,000.00	\$300,000.00
Percentages	12.000%	13.333%	12.000%	12.000%	13.333%

Multiple tiers of subcontractors are assigned to this contract. The totals above reflect the retained amounts counted at each tier. The subcontractor list below details full subcontract amounts.

Subcontractors

Subcontractor Name	Work Category	CUF Reviewed	Certified	Original Current	Type	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
TxDOT Test Sub Vendor 2		Yes		\$67,500 \$67,500	Truck/Haul 100%	 DBE			View Edit More...
TxDOT Test Sub Vendor 3		Yes		\$75,000 \$75,000	Reg. Dealer 60%	 DBE		No	View Edit More...
TxDOT Test Sub Vendor 5				\$157,500 \$157,500	Sub 100%	 DBE		No	View Edit More...
TxDOT Test Sub Vendor 1				\$1,575 \$1,575	Sub 100%	 DBE		No	View Edit More...

Print All Sub Letters

Print All Letters

Message All Subs

Message All

Outreach All

Step 5: Select **Yes** from the drop down menu on the **CUF Reviewed** line.

Step 6: Select **Performing** from the drop down menu on the CUF Determination line.

Step 7: Enter **Area Engineer Date** and **District Approval Date**.

Step 8: Click **Review**.

Additional Information

Attach File(s)	Attach File
Comments	
Work Category	None selected
CUF Reviewed	Yes
CUF Determination	Performing
Area Engineer Date	None selected (mm/dd/yyyy)
District Approval Date	Non Performing (mm/dd/yyyy)

Buttons: Spell Check, **Review**, Cancel

Step 9: Click Save.

Additional Information Edit

Work Category	
CUF Reviewed	Yes
CUF Determination	Performing
Area Engineer Date	
District Approval Date	

Buttons: Edit, **Save**, Save & Print Award Letter, Cancel

Subcontractors										
	Subcontractor Name	Work Category	CUF Reviewed	Certified	Original Current	Type	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
1	TxDOT Test Sub Vendor 2		Yes	✓	\$67,500 \$67,500	Truck/Haul 100%	✓ DBE	✓	✓	View Edit More...
1	TxDOT Test Sub Vendor 3		Yes	✓	\$75,000 \$75,000	Reg. Dealer 60%	✓ DBE	✓	No	View Edit More...
1	TxDOT Test Sub Vendor 5		Yes	✓	\$157,500 \$157,500	Sub 100%	✓ DBE	✓	No	View Edit More...
2	TxDOT Test Sub Vendor 1			✓	\$1,575 \$1,575	Sub 100%	✓ DBE	✓	No	View Edit More...

Figure 13-1. Note: “Yes” will now display in the CUF Reviewed Column of the Subcontractors table.

Section 4: District CUF Dashboard Review

Overview

The District can generate a report showing a status of CUF reviews for contracts in DMS. This is accomplished by utilizing the CUF Dashboard Report. The CUF Dashboard Report is able to review a single contract, or all contracts within a District.

CUF Dashboard Report for a Single Contract

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click on the **Reports** tab.

Contract Management: Subcontractor List

Help & Tools

Main View Settings **Subs** Docs Change Orders & Task Orders Alerts Comments **Messages** Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY **Reviews** Site Visits **Reports**

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 3/31/2017

Status: Open
Current Award: \$2,305,000
Total Paid: \$1,725,000
For Credits: \$167,500
Goal: 12.00%
% Credits: 9.71%

Add Subcontractor

Prime Contractor					
Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
TxDOT Test Prime Vendor 8	No	No		No	View Edit More...

Step 4: Locate and then click on the **CUF Reviews Project Dashboard**. The report will be generated by DMS.

TxDOT

[CUF Reviews Project Dashboard \[New\]](#) A summary of all CUF reviews performed by contract, district or statewide.

Customer Support
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[Home](#) | [Print This Page](#) | [Print To PDF](#)

CUF Dashboard Report for a District

Step 1: Log in to DMS.

Step 2: On the left-hand menu, click **Reporting**.

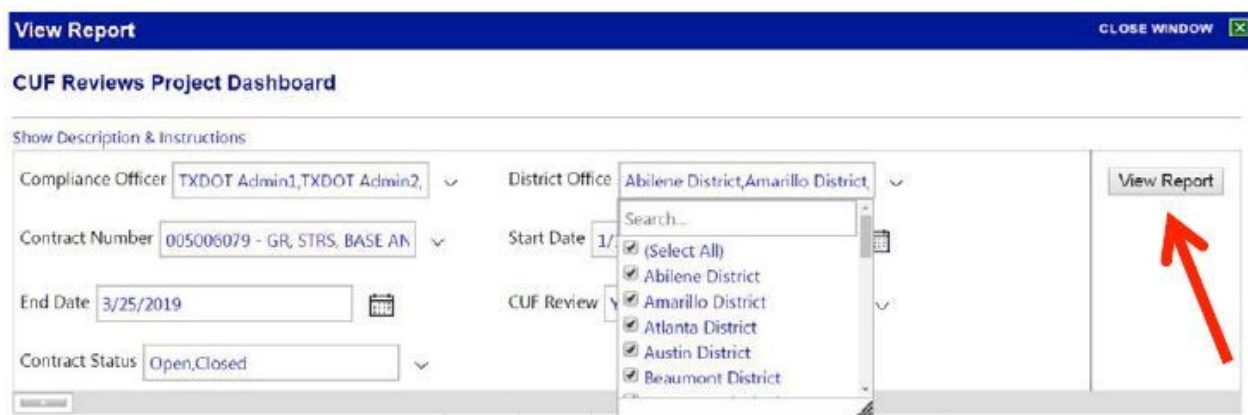
Step 3: Locate and click **Full Menu**

Step 4: Locate and click CUF Reviews Project Dashboard



Step 5: Make the desired selections from the dropdown menus in the Show Descriptions & Instructions section.

Step 6: Click **View Report**.



Section 5: Daily Monitoring

District staff should note on their daily work reports work performed by DBEs. The following observations should be noted in the daily work reports specific to their operations:

- The names of the DBEs working on the project.
- Does the DBE have a foreman supervising the work or is the prime contractor or another subcontractor supervising the DBE's work?
 - Note the name of the foreman and who he works for.
- Is the DBE using its own equipment or that of the prime contractor?
 - Note the company name on the equipment being used by the DBE.
- Is the DBE performing the work it was subcontracted to do or is the prime contractor or another subcontractor performing the work?
 - Note the general description of the work the DBE subcontractor is performing or note if the prime contractor or another subcontractor is performing work that the DBE should be performing.
- Are the DBE's employees performing the DBE's work?
 - Note if the DBE and prime contractor or other subcontractors are sharing employees.

If the project site inspector has reason to believe the DBE subcontractor is not performing a CUF, document the observations and bring them to the attention of the DDC and DOC for further investigation and action.

Chapter 14: Payments

Contents:

[Section 1: Payments](#)

[Section 2: Payment Reporting in DMS](#)

[Section 3: Payment Reporting when a DBE is a Prime Contractor](#)

[Section 4: Managing Payment Audits](#)

[Section 5: Resolving a Discrepancy in DMS](#)

[Section 6: Adjustments to DBE Expenditures](#)

Section 1: Payments

Prompt Payment

49 CFR, Part 26.29 requires DBE and non-DBE subcontractors to be paid promptly. TxDOT interprets prompt payment to mean the prime contractor will pay each subcontractor for satisfactory performance of its contract no later than ten days from receipt of each payment the prime contractor receives from TxDOT. The prime contractor will pay any retainage on a subcontractor's work within ten days after satisfactory completion of all the subcontractor's work.

The prompt payment clause is referenced in TxDOT's Special Provision 009-009 Measurement and Payment. The prime contractor should include in its subcontracts the same prompt payment provision.

Satisfactory completion is accomplished when:

- The subcontractor has fulfilled the contract requirements of both TxDOT and the sub- contract for the subcontracted work, including the submittal of all information required by the contract and TxDOT.
- TxDOT has inspected and approved the subcontractor's work, and paid by TxDOT.

TxDOT may pursue actions against the prime contractor for failure to execute prompt payment requirements. The penalties imposed by TxDOT may include, but are not limited to: withholding all or a portion of an estimate, suspending work, withholding project acceptance, placing prime contractor in default for breach of contract, or other actions deemed appropriate.

Final Reimbursement to Prime Contractor

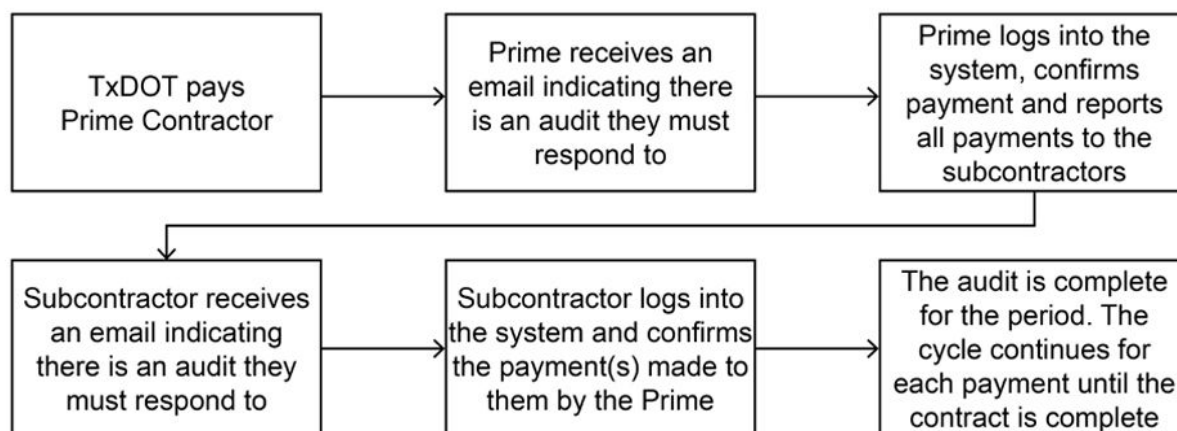
TxDOT cannot make the final reimbursement to the prime contractor until it approves the completion of the project construction and has received and reviewed all necessary documentation, including the DBE Program requirements.

Section 2: Payment Reporting in DMS

Understanding the Audit Process

After a contract record has been created in DMS and TxDOT begins making payments to the prime contractor, the contract is ready for auditing. Auditing is generated on a monthly basis.

The following image represents the audit process:



A prime contractor working on federal-aid projects is responsible for the reporting of all payments to its DBE subcontractors in DMS. DBE subcontractors are responsible for verification and confirmation of payment data received from the prime contractor in DMS. The prime contractor will include payment entries to non-DBE subcontractors whenever there is a DBE associated with a second or multi-tiered subcontract. A DBE prime contractor is responsible for reporting payments to all subcontractors in DMS.

The prime contractor will report payments, after work begins, to meet the DBE goal and for DBE race-neutral participation on projects with and without DBE goals. These reports will be due within fifteen days after the end of a calendar month. These reports will be required until all DBE subcontracting or material supply activity is completed.

See the reporting timeline example below:

Reporting Timeline

Date	Action
March 10th	TxDOT pays prime contractor.
March 20th	Prime contractor pays DBE subcontractor.
April 5th	DMS alerts prime contractor to report March subcontractor payments.
April 15th	Prime contractor completes entering payments.

Reporting Timeline

Date	Action
April 22nd	DBE subcontractor confirms payment received.
April 23rd – 30th	District staff completes reporting audit.

Prime Contractor Reports Payments

By the 5th of each month, DMS will notify the prime contractor by a system generated e-mail to report payments to subcontractors.

By the 15th of each month, the prime contractor is required to enter details regarding payments made to all subcontractors tracked in DMS.

For information on the step by step process in DMS that the prime contractor is required to complete, see Prime Contractors' DBE Guide, Chapter 13, Section 2.

Subcontractor Verification of Payments

DMS will notify a subcontractor when payment is reported by the prime contractor. Once notified, the subcontractor will have seven days to log into DMS and agree or disagree with payment reported by the prime contractor.

For information on the step by step process in DMS that the DBE subcontractor is required to complete, see DBE Contractors' Guide, Chapter 13, Section 2.

Payment Discrepancy

If a prime contractor and subcontractor disagree on an amount paid, the system creates a discrepancy. The system sends an e-mail message to the contractors to notify them of the issue and request they resolve the discrepancy. If they are unable to resolve the discrepancy, the district staff may be required to take action.

When a subcontractor selects **Incorrect**, a discrepancy is created and the following process is required:

- The monthly payment record will be sent back to the prime contractor by DMS to review the payment difference and comments that the subcontractor has made.
- The prime contractor may correct an error on the record and re-submit to the subcontractor for review again.
- The subcontractor and the prime contractor should work together to resolve any payment discrepancies. After two attempts to resolve the discrepancy, DMS will turn over the audit record to the district staff.

For the Process of Resolving a Discrepancy in DMS, go to Section 5 of this chapter.

Processing Complete

Follow prompt payment complaint procedures in the Construction Contract Administration Manual.

Investigate the complaint and provide a timely response to the complainant. According to the DOT, “a timely response should be no more than the time required to promptly pay the subcontractor for completed work.”

If the prime contractor makes payment or provides documentation that substantiates the dispute, forward the response to the subcontractor and advise that payment was made or a dispute exists. Send a copy of the subcontractor notice to the payment bond surety. In instances of a dispute, advise the parties it is the responsibility of the parties involved to resolve the issue.

If the prime contractor has not made payment and does not provide notification of a dispute within the timeframe specified, initiate the appropriate administrative action. Possible administrative actions include suspending work, withholding all or a portion of an estimate, withholding project acceptance, placing prime contractor in default for breach of contract, or other actions deemed appropriate.

Section 3: Payment Reporting when a DBE is a Prime Contractor

Overview

Before payment audits, the District needs to ensure that the processes described in Chapter 9, Section 3 of this manual have been completed.

DMS tracks payments to DBE prime contractors as the remaining amount after payments are made to **all certified and non-certified subcontractors**. This method requires that all subcontractors are tracked. For example:

TxDOT total payments to prime contractor	\$1,000000.00
Prime payments to DBE certified subs	\$(100,000.00)
Prime payments to non-DBE certified subs	\$(150,000.00)
Goal credit of DBE prime contractor	\$750,000.00
Total DBE goal credit on Project	\$850,000.00
TxDOT total payments to prime contractor	\$1,000,000.00

DMS Process for a DBE Prime Contractor

The DBE prime contractor will be required to report payments to all of their subcontractors, including all DBE and non-DBE subcontractors.

All subcontractors will be required to respond to requests for verification of payment.

Compliance Audit: Audit Summary for Total Contract

Help & Tools 

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-888: MILL/SEAL/INLAY
 Prime: TxDOT Test Prime Vendor 11
 1/1/2017 - 3/31/2017

Status: **Open**
 Current Award: **\$1,000,000**
 Total Paid: **\$1,000,000**
 For Credit: **\$850,000**
 Goal: **11.00%**
 % Credit: **85.00%**

Audit Summary - Total Contract

	Current Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$1,000,000.00		\$1,000,000.00		
For Credit - Prime + Subs (1 sub)	\$110,000.00	11.000%	\$850,000.00	85.000%	74.000% above goal
For Credit - Prime	\$750,000.00	75.000%	\$750,000.00	75.000%	Goal matched
For Credit - Subs	\$250,000.00	25.000%	\$100,000.00	10.000%	15.000% below goal
For Credit to DBE Goal (1 sub)	\$110,000.00	11.000%	\$850,000.00	85.000%	74.000% above goal
For Credit to HUB Goal	\$0.00	0.000%	\$0.00	0.000%	Goal matched
Contract Progress	<div><div>100%</div></div>				
For Credit Prime + Sub Progress	<div><div>773%</div></div>				
For Credit Subcontractor Progress	<div><div>40%</div></div>				

Award values may not match due to differences between overall contract goal and subcontractor assignments.

Not Meeting Goal Letter

Prime Contractor - Total Contract

Prime Contractor		Cert	Inc in Goal	Contracted % Paid %	Paid TO Prime Prime's Share
TxDOT Test Prime Vendor 11 TxDOTPrime Test11 txdottestprime11@b2gnowuser.com P 602-325-9277	Info Payments Profile Email		 DBE	75.00% 75.00%	\$1,000,000 \$750,000

Subcontractors - Total Contract (2 subcontractors)

Subcontractor		Cert	Type	Inc in Goal	Contracted % Paid %	Contracted \$ Paid \$	For Credit \$
1 TxDOT Test Sub Vendor 2 TxDOTSub Test1 txdottestsub2@b2gnowuser.com	Info Payments Profile Email		Truck/Haul 100%	 DBE	10.00% 10.00%	\$100,000 \$100,000	\$100,000
1 TxDOT Test Sub Vendor 9 TxDOTSub Test9 txdottestsub9@b2gnowuser.com	Info Payments Profile Email	No	Sub	No	15.00% 15.00%	\$150,000 \$150,000	\$0

Section 4: Managing Payment Audits

Overview

DMS requires the District verify all contract payment audits, assist in resolving any discrepancies, and track if the DBE goal will be fulfilled.

District Responsibilities

Performing a monthly audit in DMS

- On the **Contract Audit: Audit Summary for Total Contract** page, view the total payments TxDOT paid to the prime contractor and the reported payments the prime contractor paid to the subcontractors.
- Verify the total payments paid to the prime contractor are accurate.
- Verify the prime contractor reported payments to the subcontractors (or zero payment entries if no work is performed).
- Verify the DBEs' confirmed payment data received from the prime contractor.
- Follow-up with prime contractor on any discrepancies.
- Complete audit by the end of the month.

If prime contractor fails to perform monthly audit:

- Contact the prime contractor with a reminder of its contractual obligation.
- When required, escalate the issue. Escalated actions may include suspending work, withholding all or a portion of an estimate, withholding project acceptance, placing contractor in default for breach of contract, or other actions deemed appropriate.

DMS Dashboard Set-up for Payment Audits

The DMS dashboard can be configured to show Contract Audits as seen below.

Please see B2Gnow Staff User Manual Chapter 1 (pages 4-5) for information on the DMS dashboard.

<u>Contract Audits</u>	Total	< 90 days	> 90 days
Total Audits	<u>46</u>	<u>9</u>	<u>37</u>
Incomplete Audits	<u>4</u>	<u>3</u>	<u>1</u>
Past Due Audits	<u>1</u>	<u>1</u>	<u>0</u>
Sub Requests - New	<u>1</u>	<u>1</u>	<u>0</u>

Displaying Organization Data - [Config](#)

Required Monthly Reporting Audit by the DDC

Each month's total payments to the prime contractor will be combined and an audit will be created by DMS. The district staff will need to complete the audit by the end of the month. The District will utilize the following steps for the monthly audits.

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click on the **Compliance Audit List** tab.

The screenshot below shows the March 2017 audit has not yet begun. Audits will be added automatically.

Contract Management: Compliance Audit List

Help & Tools

[Main](#) | [View](#) | [Settings](#) | [Subs](#) | [Docs](#) | [Change Orders & Task Orders](#) | [Alerts](#) | [Comments](#) | [Messages](#) | [Closeout](#)
[Compliance Audit List](#) | [Compliance Audit Summary](#) | [Compliance Audit FY](#) | [Reviews](#) | [Site Visits](#) | [Reports](#)

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 4/30/2017

Status: Open
 Current Award: \$2,306,000
 Goal: 12.00% Total Paid: \$1,725,000
 % Credit: 9.71% For Credit: \$167,500

Amounts listed for subcontractors are the aggregate total payments made at all subcontract tiers. Payments that flow down through multiple tiers are counted at each level.

Compliance Audit List														
Audit Period	Date Posted	Paid To Prime	Total Lines	Reported By Prime		Not Reported By Prime	Confirmed By Sub		Not Confirmed By Sub		Disputed By Sub		Actions	
				Lines	Amount	Lines	Lines	Amount	Lines	Amount	Lines	Amount		
TOTALS		\$1,725,000	19	19	\$167,500	0	19	\$167,500	0	\$0	0	\$0		
Apr 2017	Audit not posted for this period - Add Audit												Add Audit	
Mar 2017	Audit not posted for this period - Add Audit												Add Audit	
Feb 2017	5/1/2017	\$675,000	3	3	\$100,000	0	3	\$100,000	0	\$0	0	\$0	View Audit	
Jan 2017	5/1/2017	\$215,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Dec 2016	5/1/2017	\$190,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Nov 2016	5/1/2017	\$168,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Oct 2016	5/1/2017	\$154,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Sep 2016	5/1/2017	\$323,000	4	4	\$67,500	0	4	\$67,500	0	\$0	0	\$0	View Audit	

Mark ALL Remaining Prime Entries as Zero

Mark ALL Unconfirmed Sub Entries as Confirmed

Extend Reporting Deadline By Two Weeks From Today

Step 4: Click on **View Audit** under the Actions column.

Screenshot showing March 2017 audit has begun and awaiting response from prime.

Compliance Audit List														
Audit Period	Date Posted	Paid To Prime	Total Lines	Reported By Prime		Not Reported By Prime	Confirmed By Sub		Not Confirmed By Sub		Disputed By Sub		Actions	
				Lines	Amount	Lines	Lines	Amount	Lines	Amount	Lines	Amount		
TOTALS		\$1,725,000	23	19	\$167,500	4	19	\$167,500	0	\$0	0	\$0		
Apr 2017	Audit not posted for this period - Add Audit													Add Audit
Mar 2017	5/2/2017	Not reported	4	0	\$0	4	0	\$0	0	\$0	0	\$0	View Audit	
Feb 2017	5/1/2017	\$675,000	3	3	\$100,000	0	3	\$100,000	0	\$0	0	\$0	View Audit	
Jan 2017	5/1/2017	\$215,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Dec 2016	5/1/2017	\$190,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Nov 2016	5/1/2017	\$168,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Oct 2016	5/1/2017	\$154,000	3	3	\$0	0	3	\$0	0	\$0	0	\$0	View Audit	
Sep 2016	5/1/2017	\$323,000	4	4	\$67,500	0	4	\$67,500	0	\$0	0	\$0	View Audit	

Step 5: Verify payment from TxDOT to prime contractor is accurate.

Step 6: If the audit is incomplete, send reminder to the prime contractor.

Compliance Audit: Audit Summary for March 2017

Help & Tools

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay

Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 4/30/2017

Status: Open

Current Award: \$2,306,000

Goal: 12.00%

Total Paid: \$2,150,000

% Credit: 7.79%

For Credit: \$167,500

Flag This Compliance Audit

Compliance Audit Information

Compliance Audit Time Period	March 2017
Compliance Audit Reference	Add Reference
System Audit Number	01987327.011
Date Posted	Local: 5/2/2017 10:08:50 AM CDT System: 5/2/2017 10:08:50 AM CDT
Final Audit?	No (mark audit as final)
Payment Reporting Status	4 payments to subcontractors remaining to be reported by prime Reporting deadline is 5/17/2017 Audit will be locked 6/1/2017
Payment to Prime	\$425,000.00 (Edit)

[Add Comment](#)

<< View February 2017 Audit <<

Subcontractors - March 2017

Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to March 2017	Contracted Percent	Actual Percent
1 TxDOT Test Sub Vendor 2 [Info] TxDOTSub Test1 txdottestsub2@b2qnovuser.com		Truck/Haul 100%	DBE	Not included in audit Final payment made Add to audit	--	\$67,500.00	2.927%	3.140%
1 TxDOT Test Sub Vendor 3 [Info] TxDOTSub Test2 txdottestsub3@b2qnovuser.com		Reg. Dealer 60%	DBE	Not Reported Edit	--	\$0.00	3.252%	0.000%
1 TxDOT Test Sub Vendor 5 [Info] TxDOTSub Test3 txdottestsub5@b2qnovuser.com		Sub 100%	DBE	Not Reported Edit Resend Subprime Notice	--	\$100,000.00	6.762%	4.651%
2 TxDOT Test Sub Vendor 1 [Info] TxDOTSub Test4 txdottestsub1@b2qnovuser.com P 602-325-9277		Sub 100%	DBE	Not Reported Edit	--	\$0.00	0.068%	0.000%
1 TxDOT Test Sub Vendor 8 [Info] TxDOTSub Test8 txdottestsub8@b2qnovuser.com		Broker/Dist. 14%	DBE	Not Reported Edit	--	\$0.00	2.082%	0.000%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

[Resend Reporting Notices to Prime & SubPrime\(s\)](#)[Reset Zero Responses](#)

If a prime contractor fails to report payments to subcontractors:

- Contact the prime contractor with a reminder of its contractual obligation.
- DBE prime contractors must report subcontractor activity for all subcontractors to include DBEs and non-DBEs.

Step 7: Verify the prime contractor reported payments to the subcontractors (or zero payment entries if no work is performed).

Step 8: Verify the DBEs confirmed payment data received from the prime contractor.

Scenario 1: Prime contractor has not entered payment details.

Subcontractors - March 2017									
	Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to March 2017	Contracted Percent	Actual Percent
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnowuser.com		Truck/Haul 100%	 DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	3.140%
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnowuser.com		Reg. Dealer 60%	 DBE	Not Reported Edit	--	\$0.00	3.252%	0.000%
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnowuser.com		Sub 100%	 DBE	Not Reported Edit Resend Subprime Notice	--	\$100,000.00	6.762%	4.651%
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnowuser.com P 602-325-9277		Sub 100%	 DBE	Not Reported Edit	--	\$0.00	0.068%	0.000%
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnowuser.com		Broker/Dist. 14%	 DBE	Not Reported Edit	--	\$0.00	2.082%	0.000%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Resend Reporting Notices to Prime & SubPrime(s)

Reset Zero Responses

Scenario 2: Prime contractor has entered payments and one subcontractor has confirmed payment. Confirmation of payment by three subcontractors are still pending.

Subcontractors - March 2017									
	Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to March 2017	Contracted Percent	Actual Percent
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnovuser.com	✓	Truck/Haul 100%	✓ DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	3.140%
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnovuser.com	✓	Reg. Dealer 60%	✓ DBE	\$75,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$75,000.00	3.252%	3.488%
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnovuser.com	✓	Sub 100%	✓ DBE	\$27,500.00 View Edit Prompt: Yes	Not Yet View Edit Resend Notice	\$125,925.00	6.762%	5.857%
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnovuser.com P 602-325-9277	✓	Sub 100%	✓ DBE	\$1,575.00 Resolve Prompt: Yes	Discrepancy Resolve Prompt: N/A	\$1,575.00	0.068%	0.073%
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnovuser.com	✓	Broker/Dist. 14%	✓ DBE	\$48,000.00 View Edit Prompt: Yes	Not Yet View Edit Resend Notice	\$48,000.00	2.082%	2.233%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Resend Reporting Notices to All Unresponsive Subs

Reset Zero Responses

Scenario 3: One of the subcontractors has indicated a discrepancy.

Subcontractors - March 2017									
	Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to March 2017	Contracted Percent	Actual Percent
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnovuser.com	✓	Truck/Haul 100%	✓ DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	3.140%
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnovuser.com	✓	Reg. Dealer 60%	✓ DBE	\$75,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$75,000.00	3.252%	3.488%
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnovuser.com	✓	Sub 100%	✓ DBE	\$27,500.00 View Edit Prompt: Yes	Confirmed View Edit Prompt: Yes	\$125,925.00	6.762%	5.857%
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnovuser.com P 602-325-9277	✓	Sub 100%	✓ DBE	\$1,575.00 Resolve Prompt: Yes	Discrepancy Resolve Prompt: N/A	\$1,575.00	0.068%	0.073%
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnovuser.com	✓	Broker/Dist. 14%	✓ DBE	\$48,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$48,000.00	2.082%	2.233%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Reset Zero Responses

Scenario 4: Subcontractors have confirmed payment including final payment as selected by subcontractor.

Subcontractors - March 2017									
	Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to March 2017	Contracted Percent	Actual Percent
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnowuser.com		Truck/Haul 100%	DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	3.140%
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnowuser.com		Reg. Dealer 60%	DBE	\$75,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$75,000.00	3.252%	3.468%
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnowuser.com		Sub 100%	DBE	\$27,500.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$125,925.00	6.762%	5.857%
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnowuser.com P 602-325-9277		Sub 100%	DBE	\$1,575.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: N/A	\$1,575.00	0.068%	0.073%
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnowuser.com		Broker/Dist. 14%	DBE	\$48,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$48,000.00	2.082%	2.233%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Reset Zero Responses

Step 9: If audit is to be the final audit, the District will select the mark as **Final Audit** option on the Compliance Audit: [Month] [Year].

Compliance Audit: Audit Summary for April 2017

Help & Tools

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 4/30/2017

Status: **Open**
 Current Award: **\$2,306,000**
 Total Paid: **\$2,306,000**
 Goal: **12.00%**
 % Credit: **12.00%**
 For Credit: **\$276,720**

Final Audit

Flag This Compliance Audit

Compliance Audit Information

Compliance Audit Time Period	April 2017
Compliance Audit Reference	Add Reference
System Audit Number	01987327-012
Date Posted	Local: 5/2/2017 10:50:54 AM CDT System: 5/2/2017 10:50:54 AM CDT
Final Audit?	Yes (mark audit as NOT final)
Payment to Prime	\$156,000.00 (Edit)

Add Comment

<< View March 2017 Audit <<

Prime Contractor - April 2017

Prime Contractor	Cert	Inc. in Goal for Period	This Period	Prime's Share This Period	Total to April 2017	Prime's Share Total to April 2017	Contracted Percent	Actual Percent
TxDOT Test Prime Vendor 8 [Info] Test Prime Owner P 512-555-1234 F 512-555-1234 TxDOTtestprime8@b2gnowuser.com	No	No	\$156,000.00 (Edit)	\$126,000.00	\$2,306,000.00	\$1,958,000.00	69.818%	84.909%

Click prime name to view payment history for this contract. Click contact person's name to send them a message.

Subcontractors - April 2017

Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to April 2017	Contracted Percent	Actual Percent
1 TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2gnowuser.com		Truck/Haul 100%	 DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	2.927%
1 TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2gnowuser.com		Reg. Dealer 60%	 DBE	Not included in audit Final payment made Add to audit		\$75,000.00	3.252%	3.252%
1 TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2gnowuser.com		Sub 100%	 DBE	\$30,000.00 Confirmed View Edit View Edit Prompt: Yes Prompt: Yes Final Payment Confirmed		\$155,925.00	6.762%	6.762%
2 TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2gnowuser.com P 602-325-9277		Sub 100%	 DBE	Not included in audit Final payment made Add to audit		\$1,575.00	0.068%	0.068%
1 TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2gnowuser.com		Broker/Dist. 14%	 DBE	Not included in audit Final payment made Add to audit		\$48,000.00	2.082%	2.082%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Reset Zero Responses

DMS Process for a Zero-Dollar Estimate Month

Each month's total payments to the prime contractor will be combined and an audit will be created by DMS. This process will not occur for months with a zero-dollar estimate. In this instance, the District will utilize the following steps.

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click on the **Compliance Audit List** tab.

The screenshot below shows the March 2017 audit has begun, but no payment is entered.

Contract Management: Compliance Audit List [Help & Tools](#)

[Main](#) [View](#) [Settings](#) [Subs](#) [Docs](#) [Change Orders & Task Orders](#) [Alerts](#) [Comments](#) [Messages](#) [Closeout](#)
[Compliance Audit List](#) [Compliance Audit Summary](#) [Compliance Audit FY](#) [Reviews](#) [Site Visits](#) [Reports](#)

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor B
 9/1/2016 - 4/30/2017

Status: **Open**
 Current Award: \$2,306,000
 Total Paid: \$1,725,000
 Goal: 12.00%
 % Credit: 9.71%
 For Credit: \$167,500

Amounts listed for subcontractors are the aggregate total payments made at all subcontract tiers. Payments that flow down through multiple tiers are counted at each level.

Compliance Audit List														
Audit Period	Date Posted	Paid To Prime	Total Lines	Reported By Prime		Not Reported By Prime		Confirmed By Sub		Not Confirmed By Sub		Disputed By Sub		Actions
				Lines	Amount	Lines	Amount	Lines	Amount	Lines	Amount	Lines	Amount	
TOTALS		\$1,725,000	23	19	\$167,500	4		19	\$167,500	0	\$0	0	\$0	
Apr 2017				Audit not posted for this period - Add Audit										Add Audit
Mar 2017	5/2/2017	Not reported	4	0	\$0	4		0	\$0	0	\$0	0	\$0	View Audit
Feb 2017	5/1/2017	\$675,000	3	3	\$100,000	0		3	\$100,000	0	\$0	0	\$0	View Audit
Jan 2017	5/1/2017	\$215,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Dec 2016	5/1/2017	\$190,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Nov 2016	5/1/2017	\$168,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Oct 2016	5/1/2017	\$154,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Sep 2016	5/1/2017	\$323,000	4	4	\$67,500	0		4	\$67,500	0	\$0	0	\$0	View Audit

[Mark ALL Remaining Prime Entries as Zero](#)
[Mark ALL Unconfirmed Sub Entries as Confirmed](#)

[Extend Reporting Deadline By Two Weeks From Today](#)

Step 4: Click on **View Audit** under the Actions column.

Compliance Audit List														
Audit Period	Date Posted	Paid To Prime	Total Lines	Reported By Prime		Not Reported By Prime	Confirmed By Sub		Not Confirmed By Sub		Disputed By Sub		Actions	
				Lines	Amount	Lines	Lines	Amount	Lines	Amount	Lines	Amount		
TOTALS		\$1,725,000	23	19	\$167,500	4		19	\$167,500	0	\$0	0	\$0	
Apr 2017	Audit not posted for this period - Add Audit													Add Audit
Mar 2017	5/2/2017	Not reported	4	0	\$0	4		0	\$0	0	\$0	0	\$0	View Audit
Feb 2017	5/1/2017	\$675,000	3	3	\$100,000	0		3	\$100,000	0	\$0	0	\$0	View Audit
Jan 2017	5/1/2017	\$215,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Dec 2016	5/1/2017	\$190,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Nov 2016	5/1/2017	\$168,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Oct 2016	5/1/2017	\$154,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Sep 2016	5/1/2017	\$323,000	4	4	\$67,500	0		4	\$67,500	0	\$0	0	\$0	View Audit

Step 5: Click on **Submit** in the Payment to Prime section.

[Flag This Compliance Audit](#)
[Refresh](#)

Compliance Audit Information	
Compliance Audit Time Period	March 2017
Compliance Audit Status	None selected Update
Compliance Audit Reference	Add Reference
System Audit Number	02001113-002
Date Posted	Local: 5/25/2017 2:06:03 PM CDT System: 5/25/2017 2:06:03 PM CDT
Final Audit?	No (mark audit as final)
Payment to Prime	Not Reported - Submit

[Add Comment](#)


Step 6: Enter \$0.00 for the payment, enter a date and comments.

Payment Information	
COMPLIANCE AUDIT TIME PERIOD	March 2017
PAYMENT TO PRIME	Not Reported
PAYMENT DATE	
COMMENTS	

Update Payment Data	
You can add the amount paid to the prime. Any changes will permanently replace information from your financial system.	
AMOUNT FOR MARCH 2017 *	\$ 0.00
PAYMENT DATE	3/6/2017 (mm/dd/yyyy)
COMMENTS *	\$0.00 Estimate for March, 2017
<div>Save Spell Check Clear Payment Info</div>	

Step 7: Click Save.

Payment Information	
COMPLIANCE AUDIT TIME PERIOD	March 2017
PAYMENT TO PRIME	Not Reported
PAYMENT DATE	
COMMENTS	

Update Payment Data	
You can add the amount paid to the prime. Any changes will permanently replace information from your financial system.	
AMOUNT FOR MARCH 2017 *	\$ 0.00
PAYMENT DATE	3/6/2017 (mm/dd/yyyy)
COMMENTS *	\$0.00 Estimate for March, 2017
<div> Save Spell Check Clear Payment Info</div>	

Step 8: Inform the Prime Contractor that the \$0.00 has been entered into DMS. Prime Contractor should enter any payments to subcontractors, if applicable.

Step 9: Verify the prime contractor reported payments to the subcontractors (or zero payment entries if no work is performed).

Step 10: Verify the DBEs confirmed payment data received from the prime contractor.

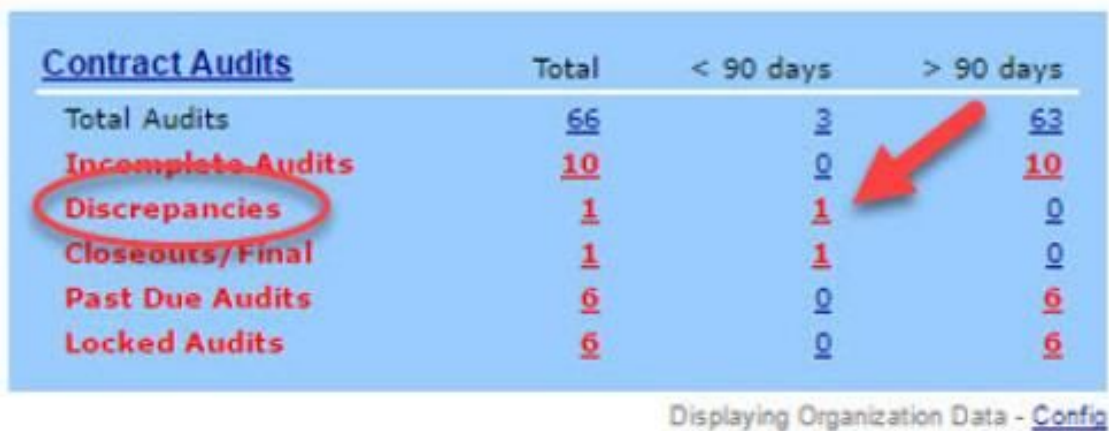
Section 5: Resolving a Discrepancy in DMS

To view the discrepancy, access the Discrepancy Resolution screen. The Discrepancy Resolution screen will display information for the DDC, the prime contractor and the subcontractor. The comments from the prime contractor and the subcontractor are visible on this page.

When both parties agree to a resolution, they can complete the process themselves, or the District can finish the discrepancy resolution by clicking Resolve Discrepancy and then completing the form.

If your dashboard is configured to show the Contract Audits box, then any Discrepancies will be displayed.

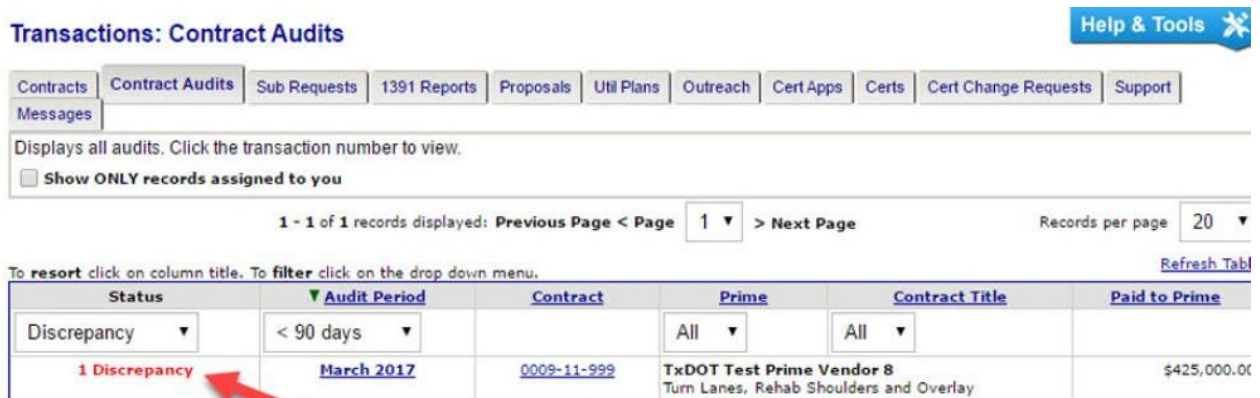
Step 1: Click any number to view a list of discrepancies.



<u>Contract Audits</u>	Total	< 90 days	> 90 days
Total Audits	66	3	63
Incomplete Audits	10	0	10
Discrepancies	1	1	0
Closeouts/Final	1	1	0
Past Due Audits	6	0	6
Locked Audits	6	0	6

Displaying Organization Data - [Config](#)

Step 2: Click **Discrepancy** in the Status box.



Transactions: Contract Audits Help & Tools

Contracts Contract Audits Sub Requests 1391 Reports Proposals Util Plans Outreach Cert Apps Certs Cert Change Requests Support

Messages

Displays all audits. Click the transaction number to view.

☐ Show ONLY records assigned to you

1 - 1 of 1 records displayed: Previous Page < Page 1 > Next Page Records per page 20

To resort click on column title. To filter click on the drop down menu. [Refresh Table](#)

Status	Audit Period	Contract	Prime	Contract Title	Paid to Prime
Discrepancy	< 90 days		All	All	
1 Discrepancy	March 2017	0009-11-999	TxDOT Test Prime Vendor 8	Turn Lanes, Rehab Shoulders and Overlay	\$425,000.00

If accessing a discrepancy from the dashboard as shown above, proceed directly to Step 6, otherwise use Step 1-5 to navigate to the discrepancy resolution page.

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click on the **Compliance Audit List** tab.

Step 4: Click on **View Audit** under the Actions column for the specified time period.

Contract Management: Compliance Audit List Help & Tools

Main View Settings Subs Docs Change Orders & Task Orders Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 4/30/2017

Status: Open
Current Award: \$2,306,000
Total Paid: \$2,150,000
Goal: 12.00%
% Credit: 11.48%
For Credit: \$246,720

Amounts listed for subcontractors are the aggregate total payments made at all subcontract tiers. Payments that flow down through multiple tiers are counted at each level.

Compliance Audit List

Audit Period	Date Posted	Paid To Prime	Total Lines	Reported By Prime		Not Reported By Prime		Confirmed By Sub		Not Confirmed By Sub		Disputed By Sub		Actions
				Lines	Amount	Lines	Amount	Lines	Amount	Lines	Amount	Lines	Amount	
TOTALS		\$2,150,000	23	23	\$319,575	0		22	\$318,000	0	\$0	1	\$1,575	
Apr 2017				Audit not posted for this period - Add Audit										
Mar 2017	5/2/2017	\$425,000	4	4	\$152,075	0		3	\$150,500	0	\$0	1	\$1,575	View Audit
Feb 2017	5/1/2017	\$675,000	3	3	\$100,000	0		3	\$100,000	0	\$0	0	\$0	View Audit
Jan 2017	5/1/2017	\$215,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Dec 2016	5/1/2017	\$190,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Nov 2016	5/1/2017	\$168,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Oct 2016	5/1/2017	\$154,000	3	3	\$0	0		3	\$0	0	\$0	0	\$0	View Audit
Sep 2016	5/1/2017	\$323,000	4	4	\$67,500	0		4	\$67,500	0	\$0	0	\$0	View Audit

Mark ALL Remaining Prime Entries as Zero

Mark ALL Unconfirmed Sub Entries as Confirmed

Extend Reporting Deadline By Two Weeks From Today

Step 5: Locate the **Subcontractors** box, and click either **Resolve** link

Compliance Audit: Audit Summary for March 2017

Help & Tools

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 4/30/2017

Status: **Open**
 Current Award: **\$2,306,000**
 Total Paid: **\$2,150,000**
 For Credit: **\$246,720**
 Goal: **12.00%**
 % Credit: **11.48%**

Flag This Compliance Audit

Compliance Audit Information

Compliance Audit Time Period	March 2017
Compliance Audit Reference	Add Reference
System Audit Number	01987327-011
Date Posted	Local: 5/2/2017 10:08:50 AM CDT System: 5/2/2017 10:08:50 AM CDT
Final Audit?	No (mark audit as final)
Payment to Prime	\$425,000.00 (Edit)

Add Comment

Subcontractors - March 2017

	Subcontractor	Cort	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to March 2017	Contracted Percent	Actual Percent
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnewuser.com	✓	Truck/Haul 100%	✓ DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	3.140%
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnewuser.com	✓	Reg. Dealer 00%	✓ DBE	\$75,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$75,000.00	3.252%	3.468%
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnewuser.com	✓	Sub 100%	✓ DBE	\$27,500.00 View Edit Prompt: Yes	Confirmed View Edit Prompt: Yes	\$125,925.00	6.762%	5.857%
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnewuser.com P 502-325-9277	✓	Sub 100%	✓ DBE	\$1,575.00 Resolve Prompt: Yes	Discrepancy Resolve Prompt: N/A	\$1,575.00	0.068%	0.073%
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnewuser.com	✓	Broker/Dist. 14%	✓ DBE	\$48,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$48,000.00	2.082%	2.233%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Reset Zero Responses

Step 6: Review the information and work with the parties to resolve the discrepancy. When the discrepancy is resolved, click **Resolve Discrepancy**.

Compliance Audit: Discrepancy Resolution

Help & Tools

[Main](#) | [View](#) | [Settings](#) | [Subs](#) | [Docs](#) | [Change Orders & Task Orders](#) | [Alerts](#) | [Comments](#) | [Messages](#) | [Closeout](#)
[Compliance Audit List](#) | [Compliance Audit Summary](#) | [Compliance Audit FY](#) | [Reviews](#) | [Site Visits](#) | [Reports](#)

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Primes: TxDOT Test Prime Vendor 8
 9/1/2016 - 4/30/2017

Status: **Open**
 Goal: **12.00%** Current Award: **\$2,306,000**
 % Credit: **11.48%** Total Paid: **\$2,150,000**
 For Credit: **\$246,720**

A discrepancy has been reported for this audit for the listed time period. If the audit is pending a response, click the **Resolve Discrepancy** button to submit information.

Resolve Discrepancy

March 2017 Audit

Subcontractor Payment History

Discrepancy Resolution

Status: **Prime and subcontractor have responded to discrepancy. Awaiting CCO action.**

Audit Information

Audit Time Period: **March 2017**
 Audit Number: **01987327-011**

Original Audit Data Reported

Amount Reported by Prime: **\$1,575.00**
 Amount Reported by Subcontractor: **\$0.00**
 Payment Date (Prime Reported): **4/14/2017**
 Paid in Full: **Yes**
 Retainage Withheld?: **No**
 Prompt Payment? (Prime Reported): **Yes - paid within 10 days**
 Prompt Payment? (Sub Reported): **N/A**
 Payment Detail: **Paid Check #11237**
 Prime Contractor Private Comments: **Final Payment**
 Subcontractor Private Comments: **No Check Received**

Discrepancy Resolution Data Reported

New Amount Reported by Prime: **\$1,575.00** **NOT included in Goal (change)**
 New Amount Reported by Subcontractor: **\$0.00**
 New Subcontractor Private Comments: **I have still not received a check.**

Compliance Officer Information

Compliance Officer: **Daniel Williams**
 Organization: **Texas Department of Transportation**
 User Number: **30000082-051**
 Email: **Daniel.Williams@txdot.gov**
 Phone: **512-416-4749**
 Fax: **512-416-4700**

Prime Information

Business Name: **TxDOT Test Sub Vendor 5**
 Vendor Number: **20440871**
 Contact: **TxDOT Sub Test5**
 Email: **txdottestsub5@b2gnowuser.com**
 Phone:
 Fax:

Subcontractor Information

Business Name: **TxDOT Test Sub Vendor 1**
 Vendor Number: **20440853**
 Contact: **TxDOT Sub Test1**
 Email: **txdottestsub1@b2gnowuser.com**
 Phone: **602-325-9277**
 Fax:

Prime Audit

Responder:
 Name: **TxDOT Prime Test8**
 Response Date: **Local: 5/2/2017 10:18:22 AM CDT**
System: 5/2/2017 10:18:22 AM CDT

Subcontractor Audit

Responder:
 Name: **Same as assigned subcontractor contact.**
 Response Date: **Local: 5/2/2017 10:21:10 AM CDT**
System: 5/2/2017 10:21:10 AM CDT

Prime Discrepancy Response

Responder:
 Name: **Same as Prime audit responder.**
 Response Date: **Local: 5/2/2017 10:40:17 AM CDT**
System: 5/2/2017 10:40:17 AM CDT

Subcontractor Discrepancy Response

Responder:
 Name: **Same as assigned subcontractor contact.**
 Response Date: **Local: 5/2/2017 10:42:51 AM CDT**
System: 5/2/2017 10:42:51 AM CDT

Resolve Discrepancy

March 2017 Audit

Subcontractor Payment History

Step 7: In the **Discrepancy Resolved** area, select an option, and if necessary, enter the final amount.

Step 8: To include comments or files, enter or attach them as necessary

Step 9: Click **Save Response**.

Select a resolution option, enter comments if needed, and click **Save Response**.

Discrepancy Resolved? *

- ☒ The **\$1,575.00** originally reported by the prime is correct.
- ☐ The **\$0.00** originally reported by the subcontractor is correct.
- ☐ None of the amounts are correct. The amount should be \$

Public Comments

These comments are visible to all parties connected to this record.

2nd tier subcontractor, was paid, by TxDOT Test Sub Vendor 5, see attached copy of the check.

Private Comments

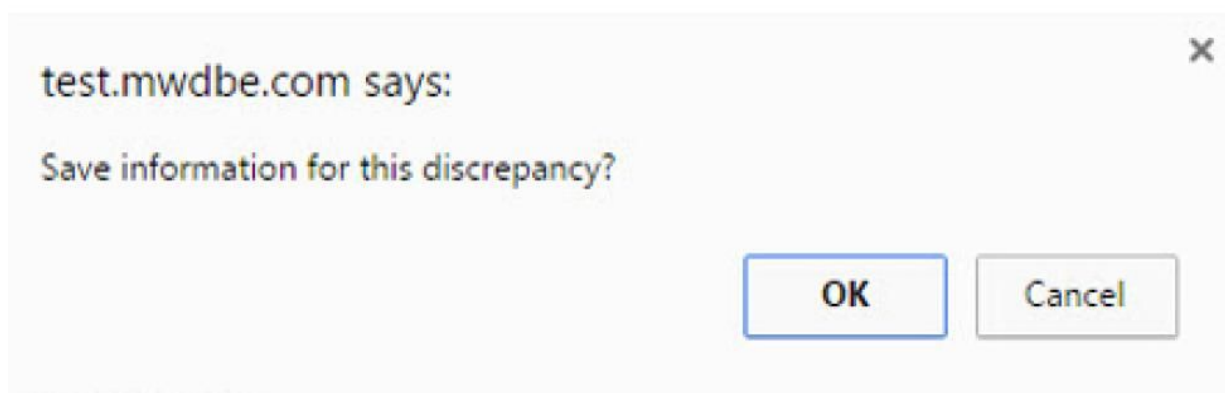
These comments are visible ONLY to the compliance officer.

Attach File(s)

Confirmation

☒ Send me confirmation of my response.

Step 10: Click **OK** to confirm you want to save the resolution information.



Section 6: Adjustments to DBE Expenditures

Adjustments to DBE expenditures (e.g. corrections or disallowance of DBE goal credit) must be completed when identified in DMS or SMS. Any required adjustments must be made within 30 calendar days in order to ensure that accurate expenditure information is reported to FHWA. Any discrepancies beyond the reporting period must be reported to CIV_Reporting@txdot.gov. The reporting periods to DOT include:

- October 1 to March 31 due on June 1
- April 1 to September 30 due on December 1

Chapter 15: Joint Checks

Contents:

[Section 1: Joint Check Process](#)

[Section 2: Use of Joint Checks to Guarantee Payment for Materials and Supplies](#)

Section 1: Joint Check Process

A joint check is a two-party check between a DBE subcontractor and a prime contractor to submit to a materials supplier of the DBE. The prime contractor issues a check as payer to the DBE subcontractor and the materials supplier jointly to guarantee payment to the supplier for the materials or supplies used by the DBE subcontractor.

Any joint check arrangement must be pre-approved by TxDOT before the arrangement or transaction takes place. The prime contractor should submit the Joint Check Approval [Form 2178](#) to the District.

Prime contractors need to attach:

- Form 2178
- Correspondence showing the rejection of a line of credit from the material supplier to the DBE subcontractor
- A joint check agreement

The use of joint checks for payment of materials or supplies is acceptable when the following conditions are met:

- The prime contractor issuing the check acts solely as guarantor.
- The DBE subcontractor must release the check to the supplier.
- The DBE subcontractor (not the prime contractor) negotiates the quantities, price and delivery of 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 the DBE subcontractor's establishment or increase of a credit line with the material supplier.

The DBE subcontractor and the prime contractor must keep records of paid invoices and canceled checks as TxDOT will regularly be requesting them to ensure compliance.

Section 2: Use of Joint Checks to Guarantee Payment for Materials and Supplies

District Responsibilities

Step 1: Review DBE Joint Check Approval Form 2178 and supporting documentation:

- DBE's written request to the prime contractor for the use of a joint check agreement.
- Documentation of DBE subcontractor applying for credit with the material supplier.
- Material supplier's response to DBE subcontractor denying credit.

Step 2: Verify or ensure the following:

- The prime contractor has not required the subcontractor to use a specific supplier or the prime contractor's negotiated unit price.
- The DBE subcontractor is more than an extra participant in releasing the check to the material supplier.
- The DBE subcontractor (not the prime contractor) negotiates the quantities, price and delivery of materials.
- The prime contractor issuing the check acts solely as guarantor.
- The DBE subcontractor releases the check to the supplier.
- The arrangement is short-term with the purpose being the DBE subcontractor's establishment or increase of a credit line with the material supplier.
- The DBE subcontractor is responsible for both furnishing and installing the material/work item.
- The DBE subcontractor and the prime contractor must keep records of paid invoices and canceled checks as TxDOT will regularly be requesting them to ensure compliance.

Step 3: Complete Form 2178 approving or denying joint check arrangement.

Step 4: Respond in writing to prime contractor, with a copy to the DBE subcontractor, approving or denying joint check arrangement. (See Appendix A, Section 3 for sample letters)

Step 5: Periodically monitor the use of joint checks.

Step 6: Request a copy of cancelled checks for the months the contractor issued a joint check to each DBE with an approved DBE Joint Check Approval.

Step 7: Ensure allowable goal credit begins the date the joint check request is approved.

Chapter 16: Assistance to DBE Firms

Contents:

[Section 1: Overview](#)

Section 1: Overview

According to 49 CFR, Part 26, Appendix A, it is appropriate for prime contractors to provide assistance to DBEs in a variety of areas, such as bonding, credit, insurance, equipment, materials, and supplies.

In providing such assistance, a prime contractor should be careful not to provide so much assistance to a particular DBE in so many areas that TxDOT would conclude that the DBE is not viable without the relationship to the prime contractor. This assistance should be transparent and arms-length. As part of its contract performance oversight functions, TxDOT will continue to scrutinize the independence of DBEs as they work on projects.

Prime contractors with questions about the appropriateness of their assistance relationships with DBEs should consult TxDOT staff.

Chapter 17: Change Orders

Contents:

[Section 1: Overview](#)

[Section 2: District Responsibilities](#)

[Section 3: Managing Change Orders in DMS](#)

Section 1: Overview

Circumstances may arise during construction requiring changes to the scope of the work contained in the contract; these are referred to as change orders. The prime contractor should closely monitor change orders to verify if adjusted items or work will impact DBE subcontracted items. The DBE goal applies to the final value of a contract to include all change orders.

Increases of Scope of Work

If TxDOT issues a change order which increases or adds new work items, 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.

If the prime contractor determines that additional DBE participation cannot be obtained, the prime contractor shall request a waiver of the participation after submitting documentation of good faith efforts to meet the DBE goal.

Reduction of 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.

Section 2: District Responsibilities

- Manage change orders, which includes changes in the value and/or end date of the contract.
- Enter changes in DMS.
- Verify the prime contractor obtained sufficient DBE participation to meet the contract goal on the final contract value or made good faith efforts to do so.
- If the prime contractor could not obtain additional DBE participation, verify the prime contractor submitted a waiver request and evaluate good faith efforts to meet the goal on the final contract value.

If change orders eliminated work designated in a DBE commitment, verify the prime contractor followed the termination procedures.

Section 3: Managing Change Orders in DMS

Creating Change Orders

You can use the **Change Orders & Task Orders** tab to change a contract's value or end date. When you change the value, you create an amendment to the existing contract that allows you to change the total value of the original contract and specify new values for meeting goals.

When you change the contract's end date, you can end the contract on an earlier or later date than the current date on the contract.

Changing the Value of a Contract

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click the **Change Orders & Task Orders** tab.

Step 4: Click **Change Contract Value**.



Contract Management: Associated Records List Help & Tools

Main View Settings Subs Docs **Change Orders & Task Orders** Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Status: **Open**
 Prime: **TxDOT Test Prime Vendor 8** Current Award: **\$2,250,000**
 9/1/2016 - 3/31/2017 Goal: **12.00%** Total Paid: **\$1,725,000**
 % Credit: **9.71%** For Credit: **\$167,500**

Below are listed change order and task orders associated with this contract.

Change Orders

No change orders present for this contract.

[Change Contract Value](#) [Extend/Shorten Contract](#)

Task Orders

No task orders present for this contract.

[New Task Order](#) [Link Existing Contract As Task Order](#)

Contract references can be used to associate other contract numbers and purchase order numbers to this contract. During the import of contract payment data, payment records assigned to the associated reference numbers will be automatically matched to this contract. Click **Add Reference Record** to assign a new reference number. Click **Edit** or **Delete** to modify or delete an existing reference.

Referenced Records

No reference records assigned to this contract.

[» Add More References](#)

Step 5: In the **Change Order Information** field, enter the **Change Order Title**.

Step 6: From the **Change Order Date** calendar selector, select a date for the amendment.

Step 7: In the **Change Order Note** field, enter additional information about the change order.

Contract Management: Contract Change Order Help & Tools 

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Status: **Open**
 Prime: **TxDOT Test Prime Vendor 8**
 9/1/2016 - 3/31/2017

Goal: 12.00%	Current Award: \$2,250,000
% Credit: 9.71%	Total Paid: \$1,725,000
	For Credit: \$167,500

Use this form to post an amendment or change order to the contract.

* required entry

Change Order Information

Enter a title, date, and note for the amendment. Attach file(s) by clicking **Attach File**.

Change Order Title *	Landscaping
Change Order Date *	3/3/2017 (mm/dd/yyyy)
Change Order Note *	Additional palm trees requested for median.

Attach File(s)
Attach File

Extend/Shorten Contract

You can extend/shorten this contract at the same time as adjusting the amount » [Click here to change the end date.](#)

Step 8: In the **Contract Information** area, specify you are creating an amendment for **the ADDITIONAL amount for the contract**, and enter the amount.

Step 9: In the **New Goal(s)** area, specify you are creating an amendment for **the percent of the ADDITIONAL contract amount is**, and then enter the **Waiver**, and **Actual Goal** percentages for each category.

Contract Information

Enter EITHER the values for the amendment OR the final contract values (after the amendment). Enter the same for the diversity goal.

Current Contract Amount: \$2,250,000.00

Contract Change Order *

☐ The new TOTAL contract amount is: \$

☒ The ADDITIONAL amount for the contract is: \$ 56000

New Goal(s) *

☐ The percent of the TOTAL new contract amount is:

Goal Type	Waiver	Actual Goal
DBE:	0 %	12 %
HUB:	0 %	0 %

☒ The percent of the ADDITIONAL contract amount is:

Goal Type	Waiver	Actual Goal
DBE:	0 %	12 %
HUB:	0 %	0 %

Step 10: In the **Subcontractors** box, click **Update Blanks with \$0**.

Step 11: Click **Review**

Subcontractors

For each subcontractor, enter EITHER the percent assigned to them of the amendment value, or enter the final percent (including the original value and the amendment value). At least one, but only one, value should be entered.

Subcontractor	Goal Type	Current Award Amount/Percent	Percent/Amount of the ADDITIONAL contract amount	Percent/Amount of the TOTAL new contract amount	Comments
1 TxDOT Test Sub Vendor 2	DBE	\$67,500	\$ 0	\$	
1 TxDOT Test Sub Vendor 3	DBE	\$75,000	\$ 0	\$	
1 TxDOT Test Sub Vendor 5	DBE	\$157,500	\$ 0	\$	
2 TxDOT Test Sub Vendor 1	DBE	\$1.575	\$ 0	\$	

Update Blanks with \$0

Spell Check Review Cancel

Step 12: Review Change Order Information and click **Save**.

Contract Management: Review Change Order

Help & Tools 

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[Compliance Audit List](#) | [Compliance Audit Summary](#) | [Compliance Audit FY](#) | [Reviews](#) | [Site Visits](#) | [Reports](#)

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: **TxDOT Test Prime Vendor 8**
 9/1/2016 - 3/31/2017

Status: **Open**
 Current Award: **\$2,250,000**
 Total Paid: **\$1,725,000**
 For Credit: **\$167,500**
 Goal: **12.00%**
 % Credit: **9.71%**

Review the contents of your amendment below. To edit any data, click the Edit button in the corresponding table header. If the amendment is correct, click **Submit** to post. Click **Cancel** if you do not wish to post this amendment.

Change Order Information

Edit

Change Order Title	Landscaping
Change Order Date	3/3/2017
Change Order Note	Additional palm trees requested for median.

Contract Information

Edit

Current Contract Amount	\$2,250,000.00		
Change in Contract Amount	\$56,000.00		
New Contract Amount	\$2,306,000.00		
New Goal(s) on Total Amount	Goal Type	Waiver	Actual Goal
	DBE:	0.000%	12.000%
	HUB:	0.000%	0.000%
	Total Goal: 0.000% 12.000%		
Goal(s) on Additional Amount	Goal Type	Waiver	Actual Goal
	DBE:	0.000%	12.000%
	HUB:	0.000%	0.000%

Subcontractors

Edit

	Subcontractor	Goal Type	Current Award Amount/Percent	Percent/Amount of the ADDITIONAL contract amount	Percent/Amount of the TOTAL new contract amount	Comments
1	TxDOT Test Sub Vendor 2	DBE	\$67,500	\$0	\$67,500	
1	TxDOT Test Sub Vendor 3	DBE	\$75,000	\$0	\$75,000	
1	TxDOT Test Sub Vendor 5	DBE	\$157,500	\$0	\$157,500	
2	TxDOT Test Sub Vendor 1	DBE	\$1,575	\$0	\$1,575	

Edit

Save

Cancel

Changing the End Date of a Contract

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to **Contract Management** page.

Step 3: Click the **Change Orders & Task Orders** tab.

Step 4: Click **Extend/Shorten Contract**.

Contract Management: Associated Records List Help & Tools

Main View Settings Sub Docs **Change Orders & Task Orders** Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Status: **Open**
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Goal: **12.000%** Current Award: **\$2,306,000**
 % Credit: **0.71%** Total Paid: **\$1,725,000**
 For Credit: **\$167,500**

Below are listed change order and task orders associated with this contract.

Change Orders						
Type	Date	Date Processed	Previous Value/Date	Change	New Value/Date	Actions
Value Change	3/3/2017	5/2/2017	\$2,250,000.00	\$56,000.00	\$2,306,000.00	View

Change Contract Value Extend/Shorten Contract

Step 5: From the **Extend/shorten contract** to calendar selector, select the new date on which the contract ends.

Step 6: Click **Review**.

Contract Management: Extend/Shorten Contract

Help & Tools

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0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: **Open**
 Current Award: \$2,306,000
 Total Paid: \$1,725,000
 Goal: 12.00%
 % Credit: 9.71% For Credit: \$167,500

Use this form to extend the contract. Select a new ending date that is later than the current ending date and click **Submit**. To cancel without saving any changes, click **Cancel**.

* required entry

Contract Information

Current Ending Date	3/31/2017
Extend/shorten contract to *	04/30/2017 (mm/dd/yyyy)
Note	
Attach File(s)	Attach File

Spell Check

Review

Cancel

Step 7: Review and then click Save.

Contract Management: Extend/Shorten Contract Review

Help & Tools

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0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: **Open**
 Current Award: \$2,306,000
 Total Paid: \$1,725,000
 Goal: 12.00%
 % Credit: 9.71% For Credit: \$167,500

Review the new ending date and associated note. If correct, click the **Submit** button to make the change, or click the **Edit** button in the table header to edit.

Contract Extension Information

Current End Date (Projected)	3/31/2017
New End Date (Projected)	04/30/2017
Note	

Edit

Save

Cancel

Chapter 18: Termination and Substitution Requests

Contents:

[Section 1: Termination and Substitution of a DBE](#)

[Section 2: District Responsibilities](#)

[Section 3: Steps to Approve a Substitution Request in DMS](#)

[Section 4: Steps to Approve a Removal Request in DMS](#)

[Section 5: Steps to Approve an Additional Subcontractor in DMS](#)

Section 1: Termination and Substitution of a DBE

Overview

The prime contractor shall not terminate for convenience, in whole or part, a DBE subcontractor listed on the UP without the written concurrence of TxDOT. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Unless consent is provided, the prime contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE subcontractor.

Good cause for termination of the DBE includes, but is not limited to, the following circumstances:

- The listed DBE subcontractor fails or refuses to execute a written contract.
- The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
- The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
- The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
- The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR, Parts 180 and 1200 or applicable state law.
- The prime contractor has determined that the listed DBE subcontractor is not a responsible contractor.
- The listed DBE subcontractor voluntarily withdraws from the project and provides written notice of its withdrawal.
- The listed DBE firm is ineligible to receive DBE credit for the type of work required.
- A DBE firm owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
- Other documented good cause that the prime contractor determines may compel the termination of the DBE subcontractor.

Good cause does not exist if the prime contractor seeks to terminate a DBE subcontractor it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE subcontractor was engaged or so that the prime contractor can substitute another DBE or non-DBE subcontractor after contract award.

Commitment Reduction

A prime contractor cannot reduce the amount of work committed to a DBE at contract award without good cause. A reduction is considered a partial termination of the DBE's contract with the prime contractor.

Termination Procedures

Step 1: The prime contractor shall submit a request and justification for DBE termination to TxDOT.

- The prime contractor shall first give notice in writing to the DBE firm of its intent to terminate and the reason for the termination.
- The prime contractor will copy TxDOT on the Notice of Intent to Terminate correspondence.
- The DBE has five calendar days to respond to the prime contractor's notice and will advise the prime contractor and TxDOT of the reasons, if any, why it objects to the proposed termination of its subcontract and why TxDOT should not approve the prime contractor's request for termination.

Step 2: TxDOT will review the termination request and related information and if necessary seek additional information to formulate its response.

Step 3: TxDOT will provide written consent to the termination request within seven days only if TxDOT agrees, for reasons stated in its concurrence document, that the prime contractor has good cause to terminate the DBE firm. TxDOT may provide a shorter response time if required in a particular case as a matter of public necessity.

Step 4: If TxDOT does not approve the request, the prime contractor shall continue to use the committed DBE in accordance with the contract.

If Termination Does Not Result in 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.

If Termination Results in a DBE Shortfall

When a termination of a DBE firm results in a shortfall, the prime contractor must 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 established contract goal. The prime contractor will document its good faith efforts to find and secure a substitute DBE within seven days, which may be extended for an additional seven days if necessary at the request of the contractor. The prime contractor will request, in writing, approval from TxDOT to utilize the substitute DBE.

TxDOT will respond in writing to the prime contractor's request to use the substitute DBE and may seek additional information as necessary to formulate its response.

If the substitution request is approved, the prime contractor will process the DBE substitution in DMS.

The substitute DBE cannot work on the contract until its work eligibility has been confirmed and required subcontracts, supply, trucking commitments, or other services have been approved by TxDOT.

Process When a Contractor Fails 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 effort documenting the steps taken.

Such documentation shall include, but not be limited to, the following:

- Copies of written notification soliciting DBEs.
- Efforts to negotiate with DBEs to include at a minimum:
 - The names, addresses, and telephone numbers of DBEs who were contacted.
 - A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed.
- A list of reasons why DBE firm quotes were not accepted.

TxDOT 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, TxDOT shall assess whether administrative remedies are appropriate.

Section 2: District Responsibilities

Step 1: Review termination request letter from prime contractor along with supporting documentation:

- DBE statement of concurrence or rebuttal of the termination request;
- A signed DBE letter of voluntary removal, if applicable;
- Statement of DBE non-responsive, if applicable.

Step 2: Make a determination to approve or deny termination request.

- When to approve termination requests:
 - The prime has submitted the supporting documentation and documentation to support the DBE is unwilling and unable to perform the work and therefore good cause exists to terminate the original DBE. (Refer to the list of reasons for good cause.)
 - The DBE has submitted concurrence for termination or has submitted a signed voluntary removal request that has been confirmed by the District DBE Coordinator.
- When to deny termination requests:
 - The prime contractor fails to submit the proper documentation to justify the termination request;
 - The prime contractor is attempting to negotiate a more advantageous contract with another subcontractor.
 - The prime contractor is attempting to perform the work with its own resources or those of an affiliate, a non-DBE firm, or with another DBE firm offering a lower contract price.
 - The DBE requested to be terminated has objected to the termination and is willing and able to perform the work.

Step 3: Provide the determination in writing to the prime contractor and DBE within seven business days. See sample letters in Appendix A, Section 3.

Step 4: If the DBE termination is approved and results in a DBE goal shortfall, review the prime contractor's good faith efforts to find a substitute DBE to meet the goal.

- Review and approve the prime contractor's substitution request.
- If the prime cannot find a replacement, review the prime contractor's good faith

Write the prime contractor accepting or rejecting its good faith efforts.

Section 3: Steps to Approve a Substitution Request in DMS

Prime contractors can submit a substitution request via DMS. The District can either accept or deny the request.

If your dashboard is configured to display the **Contract Audits**, there will be a number in red that appears any time there is a **Sub Requests - Substitution**. If you are selecting the Sub Requests - Substitution from this shortcut on your dashboard, proceed to **Step 3** below:

<u>Contract Audits</u>	Total	< 90 days	> 90 days
Total Audits	<u>55</u>	<u>9</u>	<u>46</u>
Incomplete Audits	<u>11</u>	<u>6</u>	<u>5</u>
Past Due Audits	<u>6</u>	<u>2</u>	<u>4</u>
Locked Audits	<u>6</u>	<u>2</u>	<u>4</u>
Sub Requests - Substitution	<u>1</u>	<u>1</u>	<u>0</u>

Displaying Organization Data - [Config](#)

If you do not see the **Sub Requests** on the dashboard, begin at **Step 1** below:

Step 1: Log in to DMS.

Step 2: To access subcontractor requests from the navigation menu, open the **View** menu and then click **Sub Requests**.

Step 3: Click **View**.

Transactions: Contract Subcontractor Requests Help & Tools

Contracts Contract Audits **Sub Requests** 1391 Reports Proposals Util Plans Outreach Cert Apps Certs Cert Change Requests Support

Messages

☐ Show ONLY records assigned to you

1 - 1 of 1 records displayed: Previous Page < Page 1 > Next Page Records per page 20

To resort click on column title. To filter click on the drop down menu. [Refresh Table](#)

Actions	Status	Type	Date Requested	Contract Number	Prime Contractor	Subcontractor	Contract Title
View	Pending	Sustitution	All		All	All	All
	Pending	Substitution	4/21/2017	0009-11-777	Prime: TxDOT Test Prime Vendor 8	Sub: TxDOT Test Sub Vendor 2	REHAB BRIDGE AND APPROACHES

Step 4: Review the request to verify good cause. See additional guidance in Section 1 of this chapter. View Attachments as necessary.

Substitution Information

This request is a subcontractor substitution.

Subcontractor to be Substituted	TxDOT Test Sub Vendor 8 (view subcontractor record)
Requested By	TxDOTPrime Test8 on 4/21/2017
Reason for Substitution	Voluntary withdraws from the project
Substitution Detail	Vendor unable to obtain the specified materials, and voluntary withdraws from the project.

Subcontractor Information

Subcontractor Name	TxDOT Test Sub Vendor 2
System Vendor Number	20440864
Subcontractor Compliance Contact Person	TxDOTSub Test1
Phone	
Fax	
Email	txdottestsub2@b2gnowuser.com
Address	1234 Main St. Somewhere, TX 78701

Applicable Vendor Certifications

Type	Effective	Renewal	Organization
DBE	8/2/2016	8/2/2017	Texas Department of Transportation

Subcontract Information

Subcontractor Tier	Tier 2 subcontractor to TxDOT Test Prime Vendor 8 [Prime Contractor]
Current Contract Amount	\$1,125,000.00
Subcontract Percent	0.711%
Subcontract Amount	\$8,000.00
Type of Participation	Trucking & Hauling at 100.0% Participation - Utilization of trucks owned by firm or trucks leased from other credited firms.
Include in Compliance Audits?	Yes - subcontractor is active and should be included in the periodic audits of the contract.
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious)
Subcontract Award Date	2/22/2017
Estimated Work Start Date	2/27/2017
Estimated Work End Date	2/28/2017
Add vendor to existing compliance audits for this contract	Yes - add this subcontractor to all audits going back to the period of February 2017
Reference Identifier	
Attached File(s)	View Attachments
Work Description	Hauling of materials
Work Codes	<div> ✓ NAICS 484110 General freight trucking, local (More) </div> <div> ✓ NAICS 484110 Trucking, general freight, local (More) </div>
Comments	

Requesting Vendor and Contact Person

Prime Name	TxDOT Test Prime Vendor 8
System Vendor Number	20440902
Prime Contact Person	TxDOTPrime Test8
Phone	602-325-9277
Fax	
Email	txdottestprime8@b2gnowuser.com
Address	3225 N. Central Ave, Suite 120 Phoenix, AZ 85012

[Approve Request](#)
[Deny Request](#)

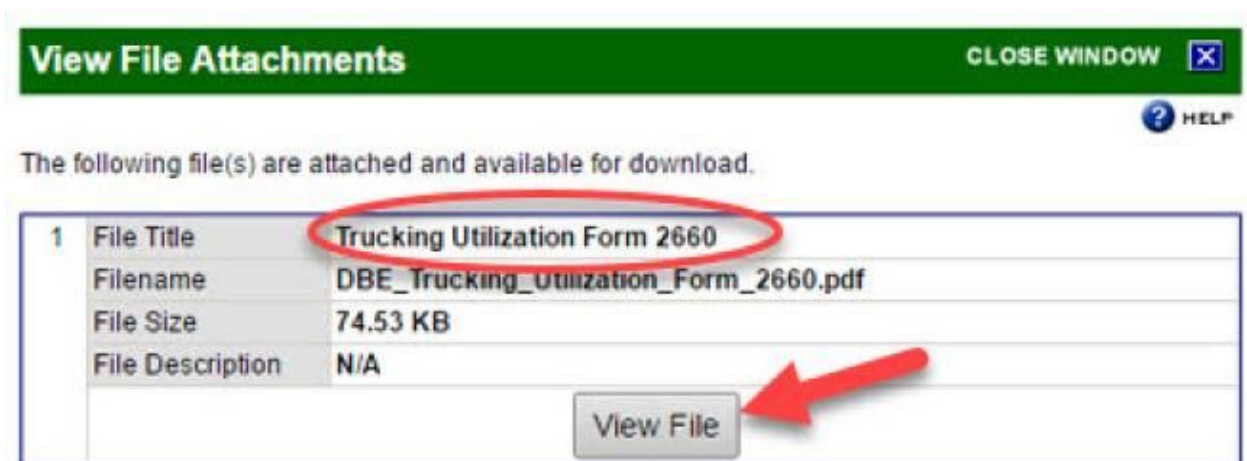


Figure 18-1. Sample Attachment

Note: If **Deny Request** is selected, the district staff will need to provide comments. Click **Review** and then **Save**.

Contract Management: Deny Subcontractor Request Help & Tools

* required entry

Response

Comments *

Spell Check **Review** Cancel

Step 5: If **Approve Request** is selected continue to Step 6.

Contract Management: View Subcontractor Addition Request

Help & Tools

Main View Settings Subs Docs Change Orders & Task Orders Alerts Comments Messages Closeout
Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-777: REHAB BRIDGE AND APPROACHES

Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 3/31/2017

Status: Open

Goal: 12.00% Current Award: \$1,125,000
% Credit: 17.08% Total Paid: \$725,000
For Credit: \$123,852

Approve Request

Deny Request

Summary

Request Status	Pending
Subcontractor	TxDOT Test Sub Vendor 2
Prime	TxDOT Test Prime Vendor 8
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious)
Contract Title	REHAB BRIDGE AND APPROACHES
Date Requested	4/21/2017

Step 6: Click **OK** to confirm you want to navigate to the next page to review and confirm the request.

Step 7: Verify Information is correct on the **Add Subcontractor** page, then click **Review**.

Contract Management: Add Subcontractor

Help & Tools

Main View Settings Subs Docs Change Orders & Task Orders Alerts Comments Messages Closeout
 Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-777: REHAB BRIDGE AND APPROACHES
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: Open
 Current Award: \$1,125,000
 Total Paid: \$725,000
 For Credit: \$123,852
 Goal: 12.00%
 % Credit: 17.08%

Review all information and settings in this record carefully; it was submitted as a subcontractor request.

* required entry

Settings	
Include in Compliance Audits? *	<input checked="" type="radio"/> Yes - subcontractor is active and should be included in the periodic compliance audits of the contract. <input type="radio"/> No - subcontractor is inactive.
Count Towards Certified Goal *	<p>This setting is used only to set the default status on future compliance audits and the starting/final amount fields below. To change the status of all or specific existing payments, access the payment history for the contractor.</p> <input checked="" type="radio"/> Yes - Payments to this contractor count towards the selected goal (field below). <input type="radio"/> No
Goal Type	DBE ▼ Credit Type: Race Conscious ▼
Add vendor to existing compliance audits for this contract? *	<input checked="" type="radio"/> Yes - add this subcontractor to all audits going back to the period of February ▼ 2017 ▼ <input type="radio"/> No. subcontractor's first compliance audit will be the next one.

Spell Check **Review** Cancel

Step 8: Review information and click **Save**.

Contract Management: Review Subcontractor

Help & Tools 

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[Compliance Audit List](#) [Compliance Audit Summary](#) [Compliance Audit FY](#) [Reviews](#) [Site Visits](#) [Reports](#)

0009-11-777: REHAB BRIDGE AND APPROACHES
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: **Open**
 Current Award: **\$1,125,000**
 Total Paid: **\$725,000**
 Goal: **12.00%**
 % Credit: **17.08%**
 For Credit: **\$123,852**

Vendor Information

Edit

Business Name	TxDOT Test Sub Vendor 2
System Vendor Number	20440864
Vendor Compliance Contact Person	TxDOTSub Test1
Phone	
Fax	
Email	txdottestsub2@b2gnowuser.com
Address	1234 Main St. Somewhere, TX 78701



Applicable Vendor Certifications

Edit

Type	Effective	Renewal	Organization
DBE	8/2/2016	8/2/2017	Texas Department of Transportation

Contract Information		Edit
Vendor Type	Subcontractor	
Subcontractor Tier	Tier 1 subcontractor to TxDOT Test Prime Vendor 8	
Reference Identifier		
Contracted Percent & Amount	Amount: 8,000.00 Percent:	
Type of Participation	Trucking & Hauling at 100.0% Participation - Utilization of trucks owned by firm or trucks leased from other credited firms.	
Include in Compliance Audits?	Yes - subcontractor is active and should be included in the periodic compliance audits of the contract.	
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious)	
Add vendor to existing audits for this contract	Yes - add to January 2017	
Final Payment Made	No	
Starting Paid To Date Amount	\$0.00	
Final Amount Adjustment/Paid Retainage	\$0.00	
Subcontract Award Date	1/1/2017	
Work Start Date	2/8/2017	
Work End Date	4/26/2017	
Work Description	Hauling of planed materials 354-6045	
Work Codes	<div>✓ NAICS 484110 General freight trucking, local (More)</div> <div>✓ NAICS 484110 Motor freight carrier, general, local (More)</div> <div>✓ NAICS 484110 Trucking, general freight, local (More)</div>	
Comments		

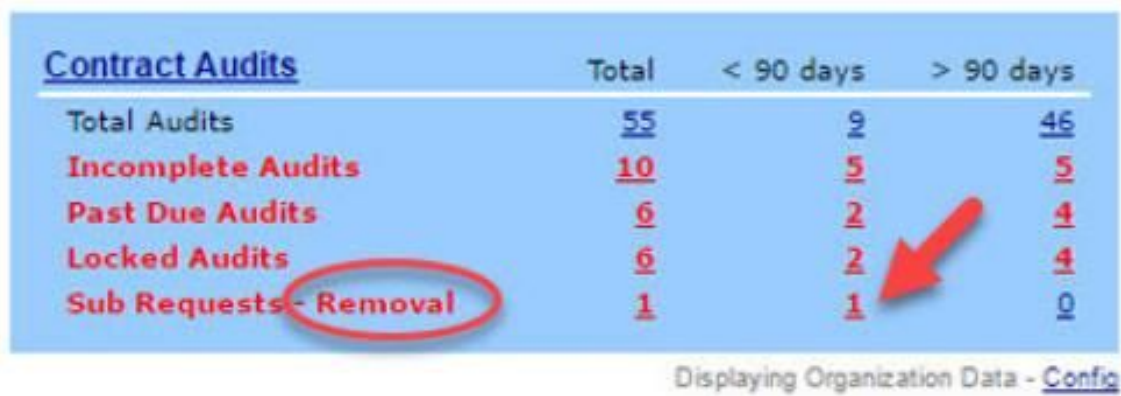
Additional Information		Edit
Work Category		
CUF Reviewed		
CUF Determination		
Area Engineer Date		
District Approval Date		

  Edit Save Save & Print Award Letter Cancel

Section 4: Steps to Approve a Removal Request in DMS

Prime contractors can submit a request to remove DBE subcontractors in DMS. The District can either accept or deny the request. The request to remove a DBE subcontractor without a substitution would occur when the removal would not result in a DBE goal shortfall.

If your dashboard is configured to display the **Contract Audits**, there will be a number in red that appears any time there is a **Sub Request - Removal**. If you are selecting the Sub Request - Removal from this shortcut on your dashboard, proceed to **Step 3** below:



<u>Contract Audits</u>	Total	< 90 days	> 90 days
Total Audits	55	9	46
Incomplete Audits	10	5	5
Past Due Audits	6	2	4
Locked Audits	6	2	4
Sub Requests - Removal	1	1	0

Displaying Organization Data - [Config](#)

If you do not see the **Sub Requests** on the dashboard, begin at Step 1 below:

Step 1: Log in to DMS.

Step 2: To access subcontractor requests from the navigation menu, open the **View** menu and then click **Sub Requests**.

Step 3: Click **View**.

Transactions: Contract Subcontractor Requests [Help & Tools](#)

Contracts Contract Audits **Sub Requests** 1391 Reports Proposals Util Plans Outreach Cert Apps Certs Cert Change Requests Support

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☐ Show ONLY records assigned to you

1 - 1 of 1 records displayed: [Previous Page](#) < Page 1 > [Next Page](#) Records per page 20

To resort click on column title. To filter click on the drop down menu. [Refresh Table](#)

Actions	Status	Type	Date Requested	Contract Number	Prime Contractor	Subcontractor	Contract Title
View	Pending	Removal	4/21/2017	0009-11-777	Prime: TxDOT Test Prime Vendor 8	Sub: TxDOT Test Sub Vendor 7	REHAB BRIDGE AND APPROACHES

Step 4: Review the request to verify good cause. See additional guidance in Section 1 of this chapter. View attachments as necessary.

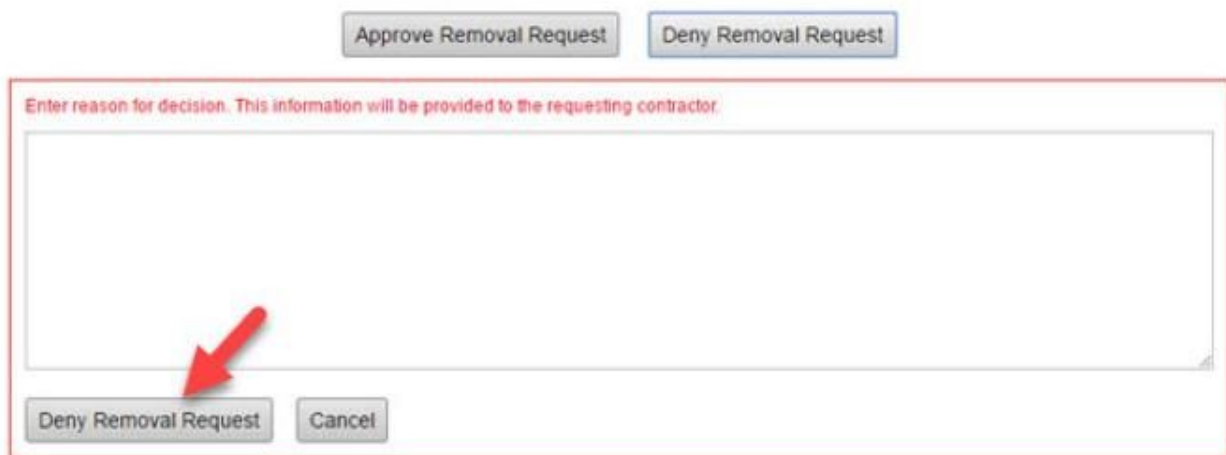
Removal Information	
A removal request has been submitted for this record and is pending decision.	
Requested By	TxDOTPrime Test8 on 4/21/2017
Reason for Removal	Voluntary withdraws from the project
Removal Detail	Vendor not able to obtain specified items listed in the contract, voluntarily withdrawals from the project.
<div> <div>Approve Removal Request</div> <div>Deny Removal Request</div> </div>	

Vendor Information	
Business Name	TxDOT Test Sub Vendor 7
System Vendor Number	20440885
Vendor Compliance Contact Person	TxDOTSub Test7
Phone	
Fax	
Email	txdottestsub7@b2gnowuser.com
Address	1234 Main St. Somewhere, TX 78701

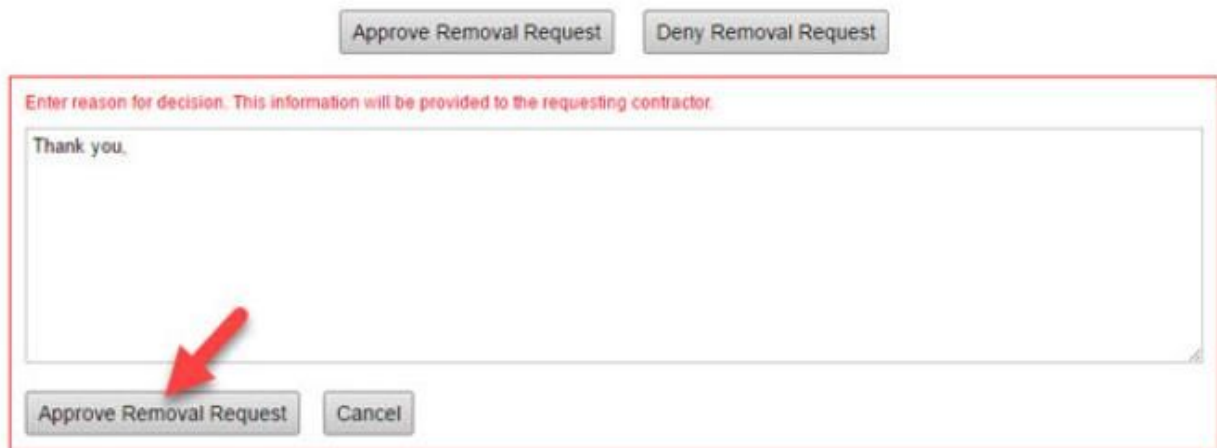
Applicable Vendor Certifications			
Type	Effective	Renewal	Organization
DBE	6/16/2016	6/16/2017	Texas Department of Transportation

Contract Information													
Vendor Type	Subcontractor												
Subcontractor Tier	Tier 1 subcontractor to TxDOT Test Prime Vendor 8												
Reference Identifier													
Contracted Percent & Amount	<table> <thead> <tr> <th></th> <th>Current</th> <th>Original Award</th> <th>Change/Adjustment</th> </tr> </thead> <tbody> <tr> <td>Amount:</td> <td>\$24,000.00</td> <td>\$24,000.00</td> <td>\$0.00</td> </tr> <tr> <td>Percent:</td> <td>2.133%</td> <td>2.133%</td> <td>0.000%</td> </tr> </tbody> </table>		Current	Original Award	Change/Adjustment	Amount:	\$24,000.00	\$24,000.00	\$0.00	Percent:	2.133%	2.133%	0.000%
	Current	Original Award	Change/Adjustment										
Amount:	\$24,000.00	\$24,000.00	\$0.00										
Percent:	2.133%	2.133%	0.000%										
Type of Participation	Supplier - Packager, Broker, Distributor, Wholesaler, Manufacturers' Representative at 5.0% Brokerage/Fee - A business enterprise that does not manufacture the goods or materials it sells, or does not perform the essential work of the contract. - Original verification amount: \$1,200.00												
Include in Compliance Audits?	Yes - subcontractor is active and should be included in the periodic compliance audits of the contract.												
Count Towards Certified Goal	Yes - assigned to DBE goal												
Final Payment Made	No												
Starting Paid To Date Amount	\$0.00 as of 8/31/2016												
Final Amount Adjustment	\$0.00												
Subcontract Award Date													
Work Start Date	2/21/2017												
Work End Date	2/24/2017												
Attached File(s)	View Attachments												
Work Description	INS TRF SIF PL AM 686-2031												
Work Codes	<input checked="" type="checkbox"/> NAICS 425120 Wholesale Trade Agents and Brokers (More)												
Comments	Vendor comments:												

Note: If **Deny Removal Request** is selected, the district staff will need to provide comments. Otherwise continue to **Step 5**.



Step 5: Click **Approve Removal Request**.




Step 6: A Summary of the approved removal request will display next.

Removal Information	
A removal request for this record was APPROVED.	
Requested By	TxDOTPrime Test8 on 4/21/2017
Reason for Removal	Voluntary withdraws from the project
Removal Detail	Vendor not able to obtain specified items listed in the contract, voluntarily withdrawals from the project.
Reviewed By	Tim Osbaldeston on 4/21/2017
Review Comments	Thank you,

Step 7: View the **Subs** tab to verify the removal is accurate in the Subcontractors table.

Contract Management: Subcontractor List

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0009-11-777: REHAB BRIDGE AND APPROACHES



Prime: TxDOT Test Prime Vendor 8

9/1/2016 - 3/31/2017

Status: **Open**Current Award: **\$1,125,000**Goal: **12.00%**Total Paid: **\$862,500**% Credit: **15.29%**For Credit: **\$131,852**

Add Subcontractor

Prime Contractor

Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
 TxDOT Test Prime Vendor 8	No	No		No	View Edit More...

Subcontractor Award Totals

	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$135,000.00	\$257,905.00	\$135,000.00	\$143,000.00	\$257,905.00
Percentages	12.000%	22.925%	12.000%	12.711%	22.925%

Subcontractors

Subcontractor Name	Work Category	CUF Reviewed	Certified	Original Current	Type	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
 TxDOT Test Sub Vendor 10				\$55,750 \$55,750	Broker/Dist. 14%	 DBE			View Edit More...
 TxDOT Test Sub Vendor 2				\$8,000 \$8,000	Truck/Haul 100%	 DBE			View Edit More...
 TxDOT Test Sub Vendor 6				\$122,155 \$122,155	Manufacturer 100%	 DBE		No	View Edit More...
 TxDOT Test Sub Vendor 7 [Removal request approved on 4/21/2017]				\$24,000 \$24,000	Broker/Dist. 5%	 DBE	No	No	View Edit More...
 TxDOT Test Sub Vendor 8 [Substitution request approved on 4/21/2017]				\$48,000 \$48,000	Broker/Dist. 8%	 DBE	No	No	View Edit More...

Section 5: Steps to Approve an Additional Subcontractor in DMS

Prime contractors can submit a request to add subcontractors via DMS. The District can either accept or deny the request.

If your dashboard is configured to display the **Contract Audits**, there will be a number in red that appears any time there is a **Sub Requests -New**. If you are selecting the Sub Requests - New from this shortcut on your dashboard, proceed to **Step 3** below:

<u>Contract Audits</u>	Total	< 90 days	> 90 days
Total Audits	<u>65</u>	<u>2</u>	<u>63</u>
Incomplete Audits	<u>10</u>	<u>0</u>	<u>10</u>
Closeouts/Final	<u>1</u>	<u>1</u>	<u>0</u>
Past Due Audits	<u>6</u>	<u>0</u>	<u>6</u>
Locked Audits	<u>6</u>	<u>0</u>	<u>6</u>
Sub Requests - New	<u>1</u>	<u>1</u>	<u>0</u>

Displaying Organization Data - [Config](#)

If you do not see the **Sub Requests** on the dashboard, begin at **Step 1** below:

Step 1: Log in to DMS.

Step 2: To access subcontractor requests from the navigation menu, open the **View** menu and then click **Sub Requests**.


Step 3: Click **View**.

Transactions: Contract Subcontractor Requests

[Help & Tools](#)

Contracts	Contract Audits	Sub Requests	1391 Reports	Proposals	Util Plans	Outreach	Cert Apps	Certs	Cert Change Requests	Support
Messages										
<input type="checkbox"/> Show ONLY records assigned to you										
1 - 1 of 1 records displayed: Previous Page < Page 1 > Next Page Records per page 20										
To resort click on column title. To filter click on the drop down menu. Refresh Table										
Actions	Status	Type	Date Requested	Contract Number	Prime Contractor	Subcontractor	Contract Title			
View	Pending	New	All		All	All	All			
	Pending	New	5/2/2017	0009-11-999	Prime: TxDOT Test Prime Vendor 8	Sub: TxDOT Test Sub Vendor 8	Turn Lanes, Rehab Shoulders and Overlay			


Step 4: Review the request. View attachments as necessary.


Summary	
Request Status	Pending
Subcontractor	TxDOT Test Sub Vendor 8
Prime	TxDOT Test Prime Vendor 8
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious) 
Contract Title	Turn Lanes, Rehab Shoulders and Overlay
Date Requested	5/2/2017

Recommendations	
No recommendations made.	

Subcontractor Information	
Subcontractor Name	TxDOT Test Sub Vendor 8
System Vendor Number	20440886
Subcontractor Compliance Contact Person	TxDOTSub Test8
Phone	
Fax	
Email	txdottestsub8@b2gnowuser.com
Address	1234 Main St. Somewhere, TX 78701

Applicable Vendor Certifications			
Type	Effective	Renewal	Organization
DBE	6/10/2016	6/10/2017	Texas Department of Transportation

Subcontract Information	
Subcontractor Tier	Tier 1 subcontractor to TxDOT Test Prime Vendor 8 [Prime Contractor]
Current Contract Amount	\$2,306,000.00
Subcontract Percent	2.082%
Subcontract Amount	\$48,000.00
Type of Participation	Supplier - Packager, Broker, Distributor, Wholesaler, Manufacturers' Representative at 14.0% Brokerage/Fee - A business enterprise that does not manufacture the goods or materials it sells, or does not perform the essential work of the contract.
Include in Compliance Audits?	Yes - subcontractor is active and should be included in the periodic audits of the contract.
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious)
Subcontract Award Date	3/15/2017
Estimated Work Start Date	3/20/2017
Estimated Work End Date	3/31/2017
Add vendor to existing compliance audits for this contract	Yes - add this subcontractor to all audits going back to the period of March 2017
Reference Identifier	
Work Description	Plant Material (min 4" trunk ht) (palm) 192-6049
Work Codes	 NAICS 424930 Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers (More)
Comments	Additional DBE participation required, due to change order on March 3, 2017.

Requesting Vendor and Contact Person	
Prime Name	TxDOT Test Prime Vendor 8
System Vendor Number	20440902
Prime Contact Person	TxDOTPrime Test8
Phone	602-325-9277
Fax	
Email	txdottestprime8@b2gnowuser.com
Address	3225 N. Central Ave, Suite 120 Phoenix, AZ 85012 

Step 5: If **Approve Request** is selected continue to Step 6.

Note: If **Deny Request** is selected, the district staff will need to provide comments. Click **Review** and then **Save**.

Contract Management: Deny Subcontractor Request Help & Tools

* required entry

Response

Comments *

Spell Check **Review** Cancel

Step 6: Click **OK** to confirm you want to navigate to the next page to review and confirm the request.

Step 7: Verify Information is correct on the **Add Subcontractor** page, then click **Review**.

Contract Management: Add Subcontractor Help & Tools

Main View Settings Subs Docs Change Orders & Task Orders Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 3/31/2017

Status: Open
Current Award: \$2,306,000
Goal: 12.00% Total Paid: \$1,725,000
% Credit: 9.71% For Credit: \$167,500

Review all information and settings in this record carefully; it was submitted as a subcontractor request.

* required entry

Settings

Include in Compliance Audits? *

☒ Yes - subcontractor is active and should be included in the periodic compliance audits of the contract.
☐ No - subcontractor is inactive.

Count Towards Certified Goal *

This setting is used only to set the default status on future compliance audits and the starting/final amount fields below. To change the status of all or specific existing payments, access the payment history for the contractor.

☒ Yes - Payments to this contractor count towards the selected goal (field below).
☐ No

Goal Type DBE Credit Type: Race Conscious

Add vendor to existing compliance audits for this contract? *

☒ Yes - add this subcontractor to all audits going back to the period of March 2017
☐ No. subcontractor's first compliance audit will be the next one.

Spell Check **Review** Cancel

Step 8: Review information and click **Save**.

Contract Management: Review Subcontractor [Help & Tools](#)

[Main](#) [View](#) [Settings](#) [Subs](#) [Docs](#) [Change Orders & Task Orders](#) [Alerts](#) [Comments](#) [Messages](#) [Closeout](#)
[Compliance Audit List](#) [Compliance Audit Summary](#) [Compliance Audit FY](#) [Reviews](#) [Site Visits](#) [Reports](#)

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: **Open**
 Goal: **12.00%** Current Award: **\$2,306,000**
 % Credit: **0.71%** Total Paid: **\$1,725,000**
 For Credit: **\$167,500**

Vendor Information [Edit](#)

Business Name	TxDOT Test Sub Vendor 8
System Vendor Number	20440886
Vendor Compliance Contact Person	TxDOTSub Test8
Phone	
Fax	
Email	txdottestsub8@b2gnowuser.com
Address	1234 Main St. Somewhere, TX 78701

Applicable Vendor Certifications [Edit](#)

Type	Effective	Renewal	Organization
DBE	6/10/2016	6/10/2017	Texas Department of Transportation

Contract Information [Edit](#)

Vendor Type	Subcontractor
Subcontractor Tier	Subcontractor to TxDOT Test Prime Vendor 8 [Prime Contractor]
Reference Identifier	
Contracted Percent & Amount	Amount: \$48,000.00 Percent: 2.082%
Type of Participation	Supplier - Packager, Broker, Distributor, Wholesaler, Manufacturers' Representative at 14.0% Brokerage/Fee - A business enterprise that does not manufacture the goods or materials it sells, or does not perform the essential work of the contract.
Include in Compliance Audits?	Yes - subcontractor is active and should be included in the periodic compliance audits of the contract.
Count Towards Certified Goal	Yes - assigned to DBE goal (race conscious)
Add vendor to existing audits for this contract	Yes - add to March 2017
Final Payment Made	No
Starting Paid To Date Amount	\$0.00 as of 8/31/2016
Final Amount Adjustment/Paid Retainage	\$0.00
Subcontract Award Date	3/15/2017
Work Start Date	3/20/2017
Work End Date	3/31/2017
Work Description	Plant Material (min 4" trnk ht) (palm) 192-6049
Work Codes	NAICS 424930 Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers (More)
Comments	

Additional Information [Edit](#)

Work Category	
CUF Reviewed	
CUF Determination	
Area Engineer Date	
District Approval Date	

[Edit](#) [Save](#) [Save & Print Award Letter](#) [Cancel](#)

Step 9: View the **Subs** tab to verify the additional subcontractor is approved and accurately displayed in the Subcontractors table

Contract Management: Subcontractor List

[Help & Tools](#)

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: **Open**
 Current Award: **\$2,306,000**
 Goal: **12.00%** Total Paid: **\$1,725,000**
 % Credit: **0.71%** For Credit: **\$167,500**

[Add Subcontractor](#)

Prime Contractor

Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
P TxDOT Test Prime Vendor 8	No	No		No	View Edit More...

Subcontractor Award Totals

	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$276,720.00	\$348,000.00	\$270,000.00	\$276,720.00	\$348,000.00
Percentages	12.000%	15.091%	12.000%	12.000%	15.091%

Multiple tiers of subcontractors are assigned to this contract. The totals above reflect the retained amounts counted at each tier. The subcontractor list below details full subcontract amounts.

Subcontractors

Subcontractor Name	Work Category	CUF Reviewed	Certified	Original Current	Type	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
1 TxDOT Test Sub Vendor 2		Yes		\$67,500 \$67,500	Truck/Haul 100%	 DBE			View Edit More...
1 TxDOT Test Sub Vendor 3		Yes		\$75,000 \$75,000	Reg. Dealer 60%	 DBE		No	View Edit More...
1 TxDOT Test Sub Vendor 5		Yes		\$157,500 \$157,500	Sub 100%	 DBE		No	View Edit More...
2 TxDOT Test Sub Vendor 1		Yes		\$1,575 \$1,575	Sub 100%	 DBE		No	View Edit More...
1 TxDOT Test Sub Vendor 8				\$48,000 \$48,000	Broker/Dist. 14%	 DBE		No	View Edit More...

[Print All Sub Letters](#)
[Print All Letters](#)
[Message All Subs](#)
[Message All](#)
[Outreach All](#)
[Validate Work Codes](#)
[Create Cert Tracking Log Records For All Contractors](#)

Subcontractor Addition Requests

Vendor Name	Certified	Requested Percent/Amount	Type	Inc. in Goal	Compliance Audit	Date Requested	Status	Actions
TxDOT Test Sub Vendor 8		\$48,000	Broker/Dist. 14%	 DBE		5/2/2017	Approved	View

Chapter 19: Monitoring DBE Activity

Contents:

[Section 1: Monitoring DBE Goal Attainment](#)

[Section 2: District Responsibilities](#)

Section 1: Monitoring DBE Goal Attainment

It is the prime contractor's responsibility to monitor its progress towards meeting the goal. Progress towards meeting the established DBE goal should be monitored on a monthly basis during the course of the project.

DMS includes information to monitor DBE goal attainment to include:

- DBE commitment amounts
- Payments to DBE subcontractors
- Modifications to the original contract amount by change order

The prime contractor should contact TxDOT should a concern arise that it will not meet the contract DBE goal and seek options available to meet the goal.

TxDOT will also be monitoring the DBE project goal. If a prime contractor is not meeting the project's DBE goal, TxDOT will send a "Not Meeting the Goal Letter" in DMS. The letter will notify the prime contractor to review its DBE goal attainment progress, and provide a corrective action plan to meet the goal or provide good faith efforts.

Section 2: District Responsibilities

Each District must verify current status of DBE payments in DMS. DMS records all payments to DBE subcontractors, provides payments to date, DBE committed amounts and modifications to original contract amount by change order.

1. Go to the “**Subs**” tab in DMS. Verify the percentage shown in the **Subs Towards Goal** column of the **Subcontractor Award Totals** section is equal to or greater than the contract DBE goal.

Contract Management: Subcontractor List Help & Tools



Main View Settings **Subs** Docs Change Orders & Task Orders Alerts Comments Messages Closeout

Compliance Audit List Compliance Audit Summary Compliance Audit FY Reviews Site Visits Reports

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8
9/1/2016 - 3/31/2017

Status: **Open**
Current Award: \$2,250,000
Total Paid: \$1,725,000
For Credit: \$167,500
Goal: **12.00%**
% Credit: 9.71%

Add Subcontractor

Prime Contractor					
Vendor Name	Certified	Inc. in Goal	Compliance Audit	Final Pmnt	Actions
 TxDOT Test Prime Vendor 8	No	No		No	View Edit More...

Subcontractor Award Totals					
	Current Contract Goal	All Subs	Original Subs Towards Goal With Deductions	Current Subs Towards Goal With Deductions	Subs Towards Goal
Amounts	\$270,000.00	\$300,000.00	\$270,000.00	\$270,000.00	\$300,000.00
Percentages	12.000%	13.333%	12.000%	12.000%	13.333%

Multiple tiers of subcontractors are assigned to this contract. The totals above reflect the retained amounts counted at each tier. The subcontractor list below details full subcontract amounts.

2. Go to the “**Compliance Audit Summary**” tab in DMS. This will provide a visual bar graph of DBE goal attainment to date labeled **For Credit Progress**. (See image in next subsection.) The bar graph will be red if current DBE goal attainment is less than the contract DBE goal. The bar will turn green if the current DBE goal attainment has met or exceeded the contract DBE goal.

Compliance Audit: Audit Summary for Total Contract

Help & Tools

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: Open
 Current Award: \$2,250,000
 Total Paid: \$1,725,000
 Goals: 12.00%
 % Credit: 9.71%
 For Credit: \$167,500

Audit Summary - Total Contract

	Current Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$2,250,000.00		\$1,725,000.00		
For Credit (4 subs)	\$270,000.00	12.000%	\$167,500.00	9.710%	2.290% below goal
For Credit to DBE Goal (4 subs)	\$270,000.00	12.000%	\$167,500.00	9.710%	2.290% below goal
For Credit to HUB Goal	\$0.00	0.000%	\$0.00	0.000%	Goal matched
Contract Progress	77%				
For Credit Progress	62%				

Amounts listed in the summary table above are payments retained by each subcontractor after payment of successive lower tier subcontractors. Award values may not match due to differences between overall contract goal and subcontractor assignments.

Not Meeting Goal Letter

Prime Contractor - Total Contract

Prime Contractor	Cert	Inc in Goal	Contracted % Paid %	Paid TO Prime Prime's Share
TxDOT Test Prime Vendor 8 Test Prime Owner TxDOTtestprime8@b2gnowuser.com P 512-555-1234, F 512-555-1234	Info Payments Profile Email	No	No	86.87% 90.29% \$1,725,000 \$1,557,500

* Amounts listed below are payments retained by each subcontractor after payment of successive lower tier subcontractors.

Subcontractors - Total Contract (4 subcontractors)

Subcontractor	Cert	Type	Inc in Goal	*Contracted % *Paid %	*Contracted \$ *Paid \$	For Credit \$
1 TxDOT Test Sub Vendor 2 TxDOTSub Test1 txdottestsub2@b2gnowuser.com	Info Payments Profile Email	Truck/Haul 100%	DBE	3.00% 3.91%	\$67,500 \$67,500	\$67,500
1 TxDOT Test Sub Vendor 3 TxDOTSub Test3 txdottestsub3@b2gnowuser.com	Info Payments Profile Email	Reg. Dealer 60%	DBE	3.33% 0.00%	\$75,000 \$0	\$0
1 TxDOT Test Sub Vendor 5 TxDOTSub Test5 txdottestsub5@b2gnowuser.com	Info Payments Profile Email	Sub 100%	DBE	6.93% 5.80%	\$155,925 \$100,000	\$100,000
2 TxDOT Test Sub Vendor 1 TxDOTSub Test2 txdottestsub1@b2gnowuser.com P 602-325-9277	Info Payments Profile Email	Sub 100%	DBE	0.07% 0.00%	\$1,575 \$0	\$0

- Closely monitor change orders to verify if adjusted items or work will positively or negatively impact DBE subcontracted items.
- Notify the contractor utilizing the “**Not Meeting the Goal Letter**” should a concern arise that the contractor will not meet the contract DBE goal.
- Inform the prime contractor of the concern that the DBE goal will not be made based on your monitoring of payments, projected payments, and change order impacts. Direct the prime contractor to review its DBE goal attainment progress, provide a corrective action plan to meet the goal or provide justification (good faith efforts) why it cannot meet the goal. Discuss options available to the contractor to meet the goal and provide guidance.
- Evaluate and approve the contractor’s corrective action plan.
- Monitor the contractor’s corrective action plan and good faith efforts.

Chapter 20: Enforcement

Contents:

[Section 1: Enforcement](#)

Section 1: Enforcement

If the District 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, TxDOT will initiate administrative action against the prime contractor in accordance with applicable regulations. Administrative actions may include the following:

- Withholding all or a percentage of monthly partial payments
- Liquidated damages
- Initiation of appropriate suspension or debarment or decertification proceedings
- Termination of the contract
- Referral of any unlawful actions to the appropriate enforcement agencies
- Other actions as appropriate

The District will notify the prime contractor in writing of the determination. The notice will include the reasons for the determination and specify the administrative action.

Chapter 21: Project Close Out

Contents:

[Section 1: Prime Contractor Actions](#)

[Section 2: District Responsibilities](#)

[Section 3: Records Retention](#)

Section 1: Prime Contractor Actions

When a project is complete, prime contractors should perform the following actions

In the most recent monthly contract audit indicate **Yes** to the question, **Marked as Final Audit**.

Compliance Audit: April 2017

[Help & Tools](#)

Contract Main	View Contract	Subcontractors	Compliance Audit List	Compliance Audit Summary	Messages	Comments	Reports
Texas Department of Transportation 0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Prime: TxDOT Test Prime Vendor 8							Status: Open 9/1/2016 - 4/30/2017 Current Value: \$2,306,000

Listed are subcontractors assigned to this contract. Click the links to the right of the vendor's name to submit or edit a response. You must submit data on each subcontractor to complete the audit.

Final Audit

Audit Information	
Audit Response Status	Complete
Audit Period	April 2017
Payment to Prime	\$156,000.00
Marked As Final Audit?	No (mark audit as final)

Compliance Audit: April 2017

[Help & Tools](#)

Contract Main	View Contract	Subcontractors	Compliance Audit List	Compliance Audit Summary	Messages	Comments	Reports
Texas Department of Transportation 0009-11-999: Turn Lanes, Rehab Shoulders and Overlay Prime: TxDOT Test Prime Vendor 8							Status: Open 9/1/2016 - 4/30/2017 Current Value: \$2,306,000

Listed are subcontractors assigned to this contract. Click the links to the right of the vendor's name to submit or edit a response. You must submit data on each subcontractor to complete the audit.

Final Audit

Audit Information	
Audit Response Status	Complete
Audit Period	April 2017
Payment to Prime	\$156,000.00
Marked As Final Audit?	Yes

In the **Compliance Audit List** tab in DMS to ensure that all audit information has been submitted for the project:

- Ensure that there are no incomplete audits for the project.
- Ensure that all subcontractors have confirmed all payments.

Contract Management: Compliance Audit List

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Texas Department of Transportation
0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8

Status: **Open**
9/1/2016 - 4/30/2017
Current Value: \$2,306,000

Compliance Audit List						
Audit Period	Status	Paid to Prime	Audit Reference	Date Posted	Actions	
April 2017	Completed	\$156,000.00		5/2/2017	View Audit	
March 2017	Completed	\$425,000.00		5/2/2017	View Audit	
February 2017	Completed	\$675,000.00		5/1/2017	View Audit	
January 2017	Completed	\$215,000.00		5/1/2017	View Audit	
December 2016	Completed	\$190,000.00		5/1/2017	View Audit	
November 2016	Completed	\$168,000.00		5/1/2017	View Audit	
October 2016	Completed	\$154,000.00		5/1/2017	View Audit	
September 2016	Completed	\$323,000.00		5/1/2017	View Audit	

Logged on as:
TxDOTPrime Test8
TxDOT Test Prime
Vendor 8



After confirming that there are no incomplete audits for the project and that all subcontractors have confirmed payments, the prime contractor will assess goal attainment by selecting the final monthly compliance audit. DMS allows the contractor to assess its goal attainment in terms of subcontracting dollars and participation percentage.

If the prime contractor has met the DBE project goal and each individual DBE race-conscious commitment, no further action from the prime contractor is required.

If a project falls short of the contract DBE goal, the prime contractor should submit a letter to TxDOT explaining the shortfall to TxDOT. Prime contractors should include documentation of any good faith efforts to justify the shortfall. TxDOT will review this documentation and make a determination.

There should be no surprises at the end of the project.

Compliance Audit: April 2017

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Texas Department of Transportation
0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
Prime: TxDOT Test Prime Vendor 8

Status: **Open**
9/1/2016 - 4/30/2017
Current Value: **\$2,306,000**


Listed are subcontractors assigned to this contract. Click the links to the right of the vendor's name to submit or edit a response. You must submit data on each subcontractor to complete the audit.

Final Audit


Audit Information

Audit Response Status	Complete
Audit Period	April 2017
Payment to Prime	\$156,000.00
Marked As Final Audit?	Yes 

Audit Summary - Total Contract Through TODAY (5/2/2017)

	Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$2,306,000.00		\$2,306,000.00		
For Credit	\$276,720.00	12.000%	\$276,720.00	12.000%	Goal matched
For Credit to DBE Goal	\$276,720.00	12.000%	\$276,720.00	12.000%	Goal matched
For Credit to HUB Goal	\$0.00	0.000%	\$0.00	0.000%	Goal matched
Contract Progress	100% 				
For Credit Progress	100%				

Award values may not match due to differences between overall contract goal and subcontractor assignments.

Logged on as:
TxDOTPrime Test8 
TxDOT Test Prime
Vendor 8

Section 2: District Responsibilities

Final Payment

Check in DMS to make sure all DBEs have verified final payment from the prime contractor. (See Chapter 14, Section 4 for the steps on where to find this list as part of the Final Audit.)

Subcontractors - April 2017									
	Subcontractor	Cert	Type	Inc. in Goal for Period	This Period	Confirmed By Sub	Total Retained Payments to April 2017	Contracted Percent	Actual Percent
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnowuser.com	✓	Truck/Haul 100%	✓ DBE	Not included in audit Final payment made Add to audit		\$67,500.00	2.927%	2.927%
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnowuser.com	✓	Reg. Dealer 60%	✓ DBE	Not included in audit Final payment made Add to audit		\$75,000.00	3.252%	3.252%
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnowuser.com	✓	Sub 100%	✓ DBE	\$30,000.00 View Edit Prompt: Yes Final Payment Confirmed	Confirmed View Edit Prompt: Yes	\$155,925.00	6.762%	6.762%
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnowuser.com P 602-325-9277	✓	Sub 100%	✓ DBE	Not included in audit Final payment made Add to audit		\$1,575.00	0.068%	0.068%
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnowuser.com	✓	Brokerer/Dist. 14%	✓ DBE	Not included in audit Final payment made Add to audit		\$48,000.00	2.082%	2.082%

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Contract Management: Closeout Tab

Step 1: Log in to DMS.

Step 2: Locate desired contract and navigate to Contract Management page.

Step 3: Click the Closeout tab.

Step 4: Check if there is a goal shortfall indicated by the For Credit Progress bar.

Contract Management: Close Contract

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0009-11-999: Turn Lanes, Rehab Shoulders and Overlay
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 4/30/2017

Status: **Open**
 Current Award: **\$2,306,000**
 Goal: **12.00%** Total Paid: **\$2,306,000**
 % Credit: **12.00%** For Credit: **\$276,720**

Close Contract

Contract Status	Open
Close Date *	<input type="text"/> (mm/dd/yyyy)
Contract Secondary Status	None selected ▼
Prime Contractor Rating	Not Rated ▼
Closeout Comments	<div></div>

Close Out Contract

Audit Summary - Total Contract

	Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$2,306,000.00		\$2,306,000.00		
For Credit	\$276,720.00	12.000%	\$276,720.00	12.000%	Goal matched
For Credit to DBE Goal	\$276,720.00	12.000%	\$276,720.00	12.000%	Goal matched
For Credit to HUB Goal	\$0.00	0.000%	\$0.00	0.000%	Goal matched
Contract Progress	100%				
For Credit Progress	100%				
Total Unpaid Retainage	\$0.00				
Unpaid Retainage Percentage	0.000%				

Amounts listed in the summary table above are payments retained by each subcontractor after payment of successive lower tier subcontractors. Award values may not match due to differences between overall contract goal and subcontractor assignments.

Prime Contractor

Prime Contractor	Cert	Inc. in Goal	Contracted Percent	Actual Percent	Prime's Share of Payments	Actual Payments TO Prime	Actions
TxDOT Test Prime Vendor 8 [Info] Test Prime Owner P 512-555-1234, F 512-555-1234 TxDOTtestprime81@b2gnowusec.com	No	No	84.909%	84.909%	\$1,956,000.00	\$2,306,000.00	Print Letter

Click prime name to view payment history for this contract. Click contact person's name to send them a message.

Step 5: Check if each commitment was met. See **Contracted Percent** vs **Actual Percent** below. See next subsection if there is Unpaid Retainage.

Subcontractors									
	Subcontractor	Certified	Type	Inc. in Goal	Contracted Percent	Actual Percent	Actual Retained Amount	Unpaid Retainage	Actions
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub_Test1 txdottestsub2@b2qnowuser.com		Truck/Haul 100%	 DBE	2.927%	2.927%	\$67,500.00	\$0.00	Print Letter
1	TxDOT Test Sub Vendor 3 [Info] TxDOTSub_Test3 txdottestsub3@b2qnowuser.com		Reg. Dealer 60%	 DBE	3.252%	3.252%	\$75,000.00	\$0.00	Print Letter
1	TxDOT Test Sub Vendor 5 [Info] TxDOTSub_Test5 txdottestsub5@b2qnowuser.com		Sub 100%	 DBE	6.762%	6.762%	\$155,925.00	\$0.00	Print Letter
2	TxDOT Test Sub Vendor 1 [Info] TxDOTSub_Test1 txdottestsub1@b2qnowuser.com P 602-325-9277		Sub 100%	 DBE	0.066%	0.066%	\$1,575.00	\$0.00	Print Letter
1	TxDOT Test Sub Vendor 8 [Info] TxDOTSub_Test8 txdottestsub8@b2qnowuser.com		Broker/Dist. 14%	 DBE	2.082%	2.082%	\$48,000.00	\$0.00	Print Letter

Click subcontractor name to view payment history for this contract. Click contact person's name to send them a message.

Print ALL Subcontractor Close Out Letters

Step 6: If race-conscious commitments were not met, obtain explanation from the prime contractor. Verify the explanation and determine if it is justifiable.

Some of the justifiable reasons for the shortfall may include:

- Change orders during the course of the project.
- Terminations / substitutions during the course of the project.
- The contractor was unable to meet the DBE goal prior to contract execution and provided sufficient good faith effort documentation to the Civil Rights Division.

Step 7: Document reasons for goal shortfall in the project file.

Step 8: Close the Contract. Enter the close date and any comments about a possible goal shortfall. Click the **Close Out Contract** button

Close Contract	
Contract Status	Open
Close Date *	<input type="text"/> (mm/dd/yyyy) 
Contract Secondary Status	None selected ▼
Prime Contractor Rating	Not Rated ▼
Closeout Comments	<div><div></div></div>
 <div>Close Out Contract</div>	

Unpaid Retainage

The retainage is usually indicated by the subcontractor during the monthly audits. If the subcontractor did not indicate retainage for the monthly audits and it is necessary, the district staff can edit the subcontractor from the **Subs** tab of the contract and enter the retainage amount in the field: **Final Amount Adjustment/Paid Retainage**.

Follow the below process if there is unpaid retainage on a project.

Step 1: Note the Goal Shortfall and Unpaid Retainage amounts remaining for each subcontractor. Click **Pay Off**.

Audit Summary - Total Contract					
	Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$1,125,000.00		\$1,125,000.00		
For Credit	\$135,000.00	12.000%	\$131,852.25	11.720%	0.280% below goal
For Credit to DBE Goal	\$135,000.00	12.000%	\$131,852.25	11.720%	0.280% below goal
For Credit to HUB Goal	\$0.00	0.000%	\$0.00	0.000%	Goal matched
Contract Progress	100%				
For Credit Progress	98%				
Total Unpaid Retainage	\$6,107.75				
Unpaid Retainage Percentage	0.543%				

Award values may not match due to differences between overall contract goal and subcontractor assignments.

Prime Contractor							
Prime Contractor	Cert	Inc. in Goal	Contracted Percent	Actual Percent	Prime's Share of Payments	Actual Payments TO Prime	Actions
TxDOT Test Prime Vendor 8 [Info] Test Prime Owner P 512-555-1234, F 512-555-1234 TxDOTtestprime8@b2qnowuser.com	No	No	77.075%	84.018%	\$945,202.75	\$1,125,000.00	Print Letter

Click prime name to view payment history for this contract. Click contact person's name to send them a message.

Subcontractors								
Subcontractor	Certified	Type	Inc. in Goal	Contracted Percent	Actual Percent	Actual Amount	Unpaid Retainage	Actions
1 TxDOT Test Sub Vendor 10 [Info] TxDOTSub Test10 txdottestsub10@b2qnowuser.com	✓	Broker/Diist. 14%	✓ DBE	4.956%	4.956%	\$55,750.00	\$0.00	Print Letter
1 TxDOT Test Sub Vendor 2 [Info] TxDOTSub Test1 txdottestsub2@b2qnowuser.com	✓	Truck/Haul 100%	✓ DBE	0.711%	0.711%	\$8,000.00	\$0.00	Print Letter
1 TxDOT Test Sub Vendor 6 [Info] TxDOTSub Test6 txdottestsub6@b2qnowuser.com	✓	Manufacturer 100%	✓ DBE	10.858%	10.315%	\$116,047.75	\$6,107.75	Print Letter
1 TxDOT Test Sub Vendor 7 [Removal request approved on 4/11/2017] [Info] TxDOTSub Test7 txdottestsub7@b2qnowuser.com	✓	Broker/Diist. 5%	✓ DBE	2.133%	0.000%	\$0.00	\$0.00	Print Letter
1 TxDOT Test Sub Vendor 8 [Substitution request approved on 4/21/2017] [Info] TxDOTSub Test8 txdottestsub8@b2qnowuser.com	✓	Broker/Diist. 8%	✓ DBE	4.267%	0.000%	\$0.00	\$0.00	Print Letter

Step 2: Click OK.

Step 3: On the Edit Subcontractor Page, under the Subcontract Information Box, enter unpaid retainage amount into the Final Amount Adjustment/Paid Retainage Box.

Note: Enter Retainage only.

Step 4: Click Review.

Contract Management: Edit Subcontractor

Help & Tools

Main	View	Settings	Subs	Docs	Change Orders & Task Orders	Alerts	Comments	Messages	Closeout
Compliance Audit List	Compliance Audit Summary	Compliance Audit FY	Reviews	Site Visits	Reports				

0009-11-777: REHAB BRIDGE AND APPROACHES
 Prime: TxDOT Test Prime Vendor 8
 9/1/2016 - 3/31/2017

Status: **Open**
 Current Award: **\$1,125,000**
 Total Paid: **\$1,125,000**
 For Credit: **\$131,852**

Goal: **12.00%**
 % Credit: **11.72%**

Subcontract Information							
Subcontractor Tier *	Subcontracts to [Prime] TxDOT Test Prime Vendor 8 ▼						
Reference Identifier							
Contracted Percent & Amount *	<table border="1"> <thead> <tr> <th>Current</th> <th>Original Award</th> </tr> </thead> <tbody> <tr> <td>By Amount: \$ 122,155.00</td> <td>\$ 122,155.00</td> </tr> <tr> <td>By Percent: 10.85822222 %</td> <td>10.85822222 %</td> </tr> </tbody> </table> <p>Enter the <u>full</u> amount/percent of the subcontract or the percent relative to the total contract value (\$1,125,000). Do not deduct amount/percent of subcontracts awarded <u>by</u> this subcontractor.</p>	Current	Original Award	By Amount: \$ 122,155.00	\$ 122,155.00	By Percent: 10.85822222 %	10.85822222 %
Current	Original Award						
By Amount: \$ 122,155.00	\$ 122,155.00						
By Percent: 10.85822222 %	10.85822222 %						
Type of Participation *	Supplier - Manufacturer ▼ Percent of payments to be counted: 100.00 % Amount not to be included in award verification: \$ 0.00						
Starting Paid To Date Amount	\$ 0 as of 8/31/2016 Enter the <u>full</u> starting amount paid to this subcontractor. Do not deduct starting amounts paid to lower tier subcontractors.						
Final Amount Adjustment/Paid Retainage	\$ 6107.75 Note: paid check #27182 Date Paid: 5/2/2017 (mm/dd/yyyy) Enter the <u>full</u> final amount paid to this subcontractor. Do not deduct final amounts paid to lower tier subcontractors.						

Spell Check **Review** Cancel

Step 5: Review and Save.

Contract Management: Review Subcontractor

Help & Tools

[Main](#) | [View](#) | [Settings](#) | [Subs](#) | [Docs](#) | [Change Orders & Task Orders](#) | [Alerts](#) | [Comments](#) | [Messages](#) | [Closeout](#)
[Compliance Audit List](#) | [Compliance Audit Summary](#) | [Compliance Audit FY](#) | [Reviews](#) | [Site Visits](#) | [Reports](#)

0000-11-777: REHAB BRIDGE AND APPROACHES

Prime: TxDOT Test Prime Vendor 8

9/1/2016 - 3/31/2017

Status: Open

Current Award: \$1,125,000

Total Paid: \$1,125,000

Goal: 12.00%

% Credit: 11.72%

For Credit: \$131,852

Vendor Information

Edit

Business Name: TxDOT Test Sub Vendor 6
 System Vendor Number: 20440882
 Vendor Compliance Contact Person: TxDOTSub Test6
 Phone:
 Fax:
 Email: txdottestsub6@b2gnowuser.com
 Address: 1234 Main St.
 Somewhere, TX 78701

Applicable Vendor Certifications

Edit

Type	Effective	Renewal	Organization
DBE	4/20/2016	4/20/2018	Texas Department of Transportation

Contract Information

Edit

Vendor Type: Subcontractor
 Subcontractor Tier: Subcontractor to TxDOT Test Prime Vendor 8 [Prime Contractor]
 Reference Identifier:
 Contracted Percent & Amount:

	Current	Original Award	Change/Adjustment
Amount:	\$122,155.00	\$122,155.00	\$0.00
Percent:	10.858%	10.858%	0.000%

Type of Participation: Supplier - Manufacturer at 100.0% Participation
 ~ A business enterprise that manufactures the goods or materials it sells.

Include in Compliance Audits? Yes - subcontractor is active and should be included in the periodic compliance audits of the contract.

Count Towards Certified Goal: Yes - assigned to DBE goal

Final Payment Made: No

Starting Paid To Date Amount: \$0.00 as of 8/31/2016

Final Amount Adjustment, Paid Retainage: \$6,107.75
 Note: paid check #27182
 Date Paid: 5/2/2017

Subcontract Award Date:
 Work Start Date: 10/10/2016
 Work End Date: 10/31/2016

Attached File(s): [View Attachments](#)

Work Description: Class C Concrete (abut) 420-2003

Work Codes: ☒ NAICS 332312 Fabricated structural metal manufacturing ([More](#))

Comments: Vendor comments:

Additional Information

Edit

Work Category:
 CUF Reviewed:
 CUF Determination:
 Area Engineer Date:
 District Approval Date:

[Edit](#) | [Save](#) | [Save & Print Award Letter](#) | [Cancel](#)

Step 6: Continue the Closeout process at **Step 5** of the previous subsection.

Note: In this example the goal shortfall is satisfied after unpaid retainage is entered.

Audit Summary - Total Contract					
	Award	Award Percent	Payments	Payments Percent	Difference (Payments - Award)
Prime Contract	\$1,125,000.00		\$1,125,000.00		
For Credit	\$135,000.00	12.000%	\$137,960.00	12.263%	0.263% above goal
For Credit to DBE Goal	\$135,000.00	12.000%	\$137,960.00	12.263%	0.263% above goal
For Credit to HUB Goal	\$0.00	0.000%	\$0.00	0.000%	Goal matched
Contract Progress	100%				
For Credit Progress	102%				
Total Unpaid Retainage	\$0.00				
Unpaid Retainage Percentage	0.000%				

Award values may not match due to differences between overall contract goal and subcontractor assignments.

Prime Contractor							
Prime Contractor	Cert	Inc. in Goal	Contracted Percent	Actual Percent	Prime's Share of Payments	Actual Payments TO Prime	Actions
TxDOT Test Prime Vendor 8 [Info] Test Prime Owner P 512-555-1234, F 512-555-1234 TxDOTtestprime8@b2gonovuser.com	No	No	77.075%	83.475%	\$939,095.00	\$1,125,000.00	Print Letter

Click prime name to view payment history for this contract. Click contact person's name to send them a message.

Subcontractors								
	Subcontractor	Certified	Type	Inc. in Goal	Contracted Percent	Actual Percent	Actual Amount	Unpaid Retainage
1	TxDOT Test Sub Vendor 10 [Info] TxDOTSub Test10 txdottestsub10@b2gonovuser.com	✓	Broker/ Dist. 14%	✓	4.956%	4.956%	\$55,750.00	\$0.00
1	TxDOT Test Sub Vendor 2 [Info] TxDOTSub Test1 txdottestsub2@b2gonovuser.com	✓	Truck/Haul 100%	✓	0.711%	0.711%	\$8,000.00	\$0.00
1	TxDOT Test Sub Vendor 6 [Info] TxDOTSub Test6 txdottestsub6@b2gonovuser.com	✓	Manufacturer 100%	✓	10.858%	10.858%	\$122,155.00	\$0.00
1	TxDOT Test Sub Vendor 7 [Removal request approved on 4/21/2017] [Info] TxDOTSub Test7 txdottestsub7@b2gonovuser.com	✓	Broker/ Dist. 5%	✓	2.133%	0.000%	\$0.00	\$0.00
1	TxDOT Test Sub Vendor 8 [Substitution request approved on 4/21/2017] [Info] TxDOTSub Test8 txdottestsub8@b2gonovuser.com	✓	Broker/ Dist. 8%	✓	4.267%	0.000%	\$0.00	\$0.00

Section 3: Records Retention

Records retention is the final step in the project closeout process. The project records the prime contractor has collected must be retained. Supporting documentation for the project must be securely filed and available upon request for audits or reviews by TxDOT, FHWA, or other government officials. Federal regulation requires the retention of all federal-aid project records for a minimum of three years after final payment.

According to the Texas State Retention Schedule (5.1.001 and Government Code, 441.1855) records for all contracts must be kept for seven years after close if executed, renewed or amended on or after September 1, 2015. For contracts executed, renewed, or amended on or before August 31, 2015, records must be retained for four years after close.

Chapter 22: Local Government Projects

Contents:

[Section 1: Overview](#)

[Section 2: LG Responsibilities](#)

[Section 3: District Responsibilities](#)

Section 1: Overview

The term local government (LG) includes municipalities, counties, county and regional toll authorities, metropolitan planning organizations (MPOs), regional mobility authorities (RMA) and some private entities. FHWA refers to this program as local public agency (LPA).

A LG is required to manage and monitor federal-aid projects to ensure that prime contractor and their subcontractors comply with DBE Program provisions.

Prior to letting a construction project a DBE goal will be set by TxDOT. Prior to contract execution, the LG will ensure the prime contractor's DBE commitments meet the goal and if not, reviews and evaluates the prime contractor's good faith efforts.

During construction, the LG is responsible for managing and monitoring the project to ensure DBE Program compliance. This includes conducting CUF reviews and ensuring the prime contractor does not terminate or substitute the DBE without its written approval. And finally, in the post award phase, payments made to DBE subcontractors should equal the DBE goal commitment.

TxDOT is responsible for ensuring such projects are completed in conformance with the DBE requirements in 49 CFR, Part 26.

Section 2: LG Responsibilities

CIV has developed resources to assist LGs with their DBE program contract administration responsibilities.

Local Government Project DBE Compliance Monitoring Checklist - [Form 2658](#)

These resources help the LGs monitor their compliance in the following areas:

- Commitments
- Good faith efforts
- Administrative reconsideration
- Subcontracts
- Pre-construction meetings
- Monthly progress reports
- Joint checks
- Terminations
- Substitutions
- Prompt payment and retainage
- Commercially useful function reviews
- Change orders
- Determination of noncompliance
- Final reports & close-outs

Section 3: District Responsibilities

TxDOT has responsibility for the construction of all federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency. TxDOT is responsible for insuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications such as the DBE requirements as outlined in 49 CFR, Part 26. District staff should:

- Become familiar with the District's role and responsibility in monitoring LGs for DBE program compliance. Refer to the Guidance for Local Governments document above.
- Become familiar with the LG's DBE contract administration responsibilities. Refer to the Guidance for Local Governments document above.
- Provide the LG liaison the above resources (guide and checklist).
- Meet with the LG liaison to make sure he or she understands the LG's DBE contract administration responsibilities. Provide technical assistance.
- Instruct the LG to use the checklist to document compliance with the DBE program requirements during the course of the project.
- Inform the LG to retain the checklist and to have it available for inspection by TxDOT district staff.
- Keep approved DBE commitments on file for each federal-aid project with a DBE goal.
- Obtain Form SMS.4903 "DBE Monthly Progress Report" from the LG (even if the DBE goal is zero).
- Update the "DBE Monthly Progress Report" spreadsheets and post on the LGPs' SharePoint site by the 20th of every month. (Access to the SharePoint site is granted by the LGP section of TPP).
- Compare monthly DBE payments on the DBE Monthly Progress Report form with the system of record to verify amounts agree. If a determination is made that adjustments are needed, add comments on the Monthly Progress Report form.
- Adjustments to the DBE expenditure amounts (e.g. corrections or disallowance of DBE goal credit) must be completed within 30 days of discovery. Any required adjustments must be made to ensure that accurate expenditure information is reported to FHWA. Any discrepancies beyond the reporting period must be reported to CIV_Reporting@txdot.gov. The reporting periods to DOT include: October 1 through March 31 due on June 1 and April 30 to September 30 due on December 1.
- On a monthly basis, monitor the attainment of the project DBE goal.
- Conduct an audit of LG federally funded projects with an assigned DBE goal.
 - Verify information on Form 2658.
 - Assess LG's contract administration of DBE program requirements.

- Make recommendations regarding corrective actions deemed necessary and appropriate.
- Provide technical assistance.
- Maintain compliance review report and supporting documentation.
- Follow-up on LG's corrective actions and document corrective actions in a final audit report.
- At project close out, the District will conduct an audit to verify the DBE project goal and race-conscious DBE commitments have been met. If the goal or race-conscious DBE commitments have not been met, the District will review the LG's and prime contractor's explanation for the shortfalls. The District will notify the District LG project manager when the DBE goal requirements has been satisfied

Chapter 23: Design-Build Projects

Contents:

[Section 1: Overview](#)

Section 1: Overview

Design-build (DB) is a construction project contract that combines engineering design services, construction services, and sometimes maintenance services into a single contract. The design-builder is usually the general construction contractor, but in some cases it is the engineering design firm.

Federal regulations recognize the difficulties associated with achievement of project goals before the design has been completed and permits use of an alternative DBE compliance approach for design-build projects. Each proposer for a TxDOT design-build contract will be required to submit a DBE Performance Plan as part of a responsive proposal.

Following award of a design-build contract, and during both the design and construction portions of the project, the DB contractor will be required to submit documentation, in the form of commitments and monthly progress reports to show that the DB contractor is meeting the contract goal. If the goal is not being met, the DB contractor must submit satisfactory good faith efforts.

Appendix A: References

Contents:

[Section 1: Website](#)

[Section 2: Reference Documents](#)

[Section 3: Reference Letters](#)

Section 1: Website

This section has a list of helpful resources from USDOT, FHWA, or TxDOT. Bookmark these useful 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>

Section 2: Reference Documents

Chapter-Section Index of Forms and Documents

The forms and documents referenced in this Guide can be found by clicking the links below:
(Internet Explorer required as web browser)

- 6-1 [FHWA Tips on Evaluating a CUF](#)
- 8-1 [TxDOT DBE Contractors Certification of Good Faith Efforts Form 2603](#)
- 13-1 [Commercially Useful Function Review – Material Supplier Form 2669](#)
- 13-1 DBE not performing a CUF sample non-compliance letter (Notification of Commercially Useful Function Non-Compliance) (See Appendix A, Section 3)
- 15-1 [DBE Joint Check Approval Form 2178](#)
- 15-2 Joint Check Approval Template Letter (See Appendix A, Section 3)
- 15-2 Joint Check Denial Template Letter (See Appendix A, Section 3)
- 22-2 [Local Government Project DBE Compliance Monitoring Checklist Form 2658](#)
- 22-3 [DBE Commitment Agreement Form SMS.4901](#)
- 22-3 [DBE Monthly Progress Report Form SMS.4903](#)
- 22-3 [DBE Final Report Form SMS.4904](#)

Additional Forms

- [DBE Program Commercially Useful Function \(CUF\) Form 2182](#)
- [Prompt Payment Certification \(Federal-Aid Projects\) Form 2177](#)
- [DBE Program Substitution/Termination Request Form 2228](#)

Section 3: Reference Letters

Notification of Commercially Useful Function Non-Compliance

Date

DBE Owner Business Name DBE Address City, State Zip Code

Subject: Notification of Commercially Useful Function Non-Compliance

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district conducted a Commercially Useful Function (CUF) review on your firm for the above mentioned project, on <Date>.

Based on the findings from the review, it has been determined that your firm is not performing a CUF, in accordance with 49 CFR Part 26.55 and DBE Special Provision 000--007 as contained within the contract.

The CUF review revealed the following findings of DBE non-compliance:

- Bullet list findings of non-compliance
- Bullet list findings of non-compliance

When a DBE is presumed to not be performing a CUF, the DBE may present evidence to rebut the presumption. Your firm has ten (10) days from the date you receive this letter to respond to these findings in writing.

If you have any questions concerning our determination or require further information concerning this matter, please feel free to contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC:

DBE Termination Approval

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip Code

Subject: DBE Termination Approval

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the request submitted <Date> to terminate <Terminated DBE Firm> as a Disadvantaged Business Enterprise (DBE) to the original DBE commitment on the above referenced project.

After a review of the documentation and the response from the DBE, it has been determined that your request to terminate has been approved.

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC: <Terminated DBE>

DBE Replacement Approval

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip Code

Subject: DBE Replacement Approval

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the request submitted <Date> to substitute <New DBE Firm> as a replacement for <Enter DBE being replaced> to the original Disadvantaged Business Enterprise (DBE) commitment on the above referenced project.

This request for replacement has been approved. <New DBE Name> will be added to the DBE commitment as a replacement for <Terminated DBE> and will perform <\$X.XX> of the overall DBE goal.

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC:

DBE Replacement Request Denial

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip Code

Subject: DBE Replacement Request Denial

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the request submitted <Date> to add Disadvantaged Business Enterprise (DBE) firm <Proposed DBE Firm> to the original DBE commitment on the above referenced project.

After a review of the documentation submitted to add <Proposed DBE Firm Name> as a substitute, it has been determined that this request is denied for the following reasons:

- Bullet list reasons
- Bullet list reasons

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC: <Proposed Terminated DBE Firm>

Good Faith Effort Approval after Terminating a DBE

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip Code

Subject: Good Faith Effort Approval after Terminating a DBE

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the documentation submitted <Date> regarding your attempt to make a good faith effort to meet the overall DBE goal on the above mentioned project. This documentation was necessary as result of the DBE goal shortfall of <\$X.XX> after (choose one then erase the other option)

Terminating DBE firm <Terminated DBE> to the commitment.

or

Substituting DBE firm <Added DBE Firm Name> to the commitment.

A review of the documentation of your firm's efforts to find another DBE replacement indicates that your firm made a good faith effort to meet the goal. Therefore, the <\$X.XX> goal shortage is waived.

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC:

Good Faith Effort Denial after Terminating or Substituting a DBE

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip Code

Subject: Good Faith Effort Denial after Terminating or Substituting a DBE

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the documentation submitted <Date> regarding your attempt to make a good faith effort to meet the overall DBE goal on the above mentioned project. This documentation was necessary as result of the DBE goal shortfall of <\$X.XX> after (choose one then erase the other option)

Terminating DBE firm <Terminated DBE Firm Name> to the commitment.

or

Substituting DBE firm <Added DBE Firm Name> to the commitment.

A review of the documentation of your firm's efforts to find another DBE replacement indicates that your firm did not make a good faith effort to meet the DBE goal. Therefore, the <\$X.XX> goal shortage will not be waived for the following reasons:

- Bullet list reasons
- Bullet list reasons

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC:

Joint Check Request Approval

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip
Code

Subject: Joint Check Request Approval

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the Joint Check Approval request submitted <Date>. Upon review of this request and supporting documentation, it has been determined that the request for use of joint check is approved.

DBE goal credit will be allowed as of, <Date>, which is the date the request was approved. Please note that any goal credit submitted prior to this approval date will not be counted.

The district will monitor the proper use of joint checks and determine allowable DBE goal credit.

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC:

Joint Check Request Denial

Date

Name of Prime Contractor Firm Prime Contractor Business Name DBE Address City, State Zip
Code

Subject: District Response - Request for Joint Check Use

Project/CSJ/County: <Project/CSJ/County>

Dear Mr./Ms. Last Name:

The <District Name> district has reviewed the Joint Check Approval request submitted <Date>. Upon review of this request and supporting documentation, it has been determined that the request for use of joint check is denied for the following reasons:

List Reason(s) for denial.

Should you have any questions or require further information concerning this matter, please contact <Contact Name> at <(XXX) Number>.

Sincerely,

District Representative Name

District, Title

CC:

Appendix B: FHWA Q&A

Contents:

[Section 1: Federal Highway Administration Q & A for the DBE Program](#)

Section 1: Federal Highway Administration Q & A for the DBE Program

Bidders List

Question: Does your DBE Program create and maintain a bidders list of all firms who bid and quote and captures the age and average gross receipts of the firms? (49 CFR 26.11(c))

Answer: You must create and maintain a bidders list that includes the following: Firm name; firm's address; firm's status as a DBE or non-DBE; Age of the firm; and annual gross receipts of the firm. The USDOT has given the flexibility to the State Department of Transportation to determine the most effective means in capturing this information. Most often the identity of bidders and quoters is captured through the handling of bidding documents and/or contract administration procedures. The other information, age and gross receipts may be captured through surveys and questionnaires at a later time from the firms once identified.

Assurance Statement

Question: Do all prime and subcontracts have required DBE program assurance statements incorporated? (49 CFR 26.13(b))

Answer: Each contract a State Transportation Agency (STA) signs with a contractor and sub-recipient must have physically incorporated in it the standardized assurance statement prescribed under 26.13(b) which states that: 1) these parties will not discriminate based on race, color, national origin, or sex in the performance of any DOT-assisted contract; 2) The contractor shall carry out the requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts; and 3) Failure by the contractor to carry out these requirements is a material breach of contract, which may result in contract termination or other remedy as deemed appropriate by the recipient.

Local Agencies

Question: Does the STA's DBE program apply to all sub-recipients? (49 CFR 26.21(a)(1))

Answer: The FHWA's approval of STA's program applies to all of STA's DOT-assisted programs including those federal funds transferred to other state and local agencies (i.e., MPOs, City and County governments) and are expended on federally assisted contracts.

Design-Build Projects

Question: If a goal has been established in a design-build project, does the recipient maintain oversight of the project goal and other requirements? (49 CFR 26.53(e))

Answer: Recipients must maintain oversight of the developer's activities to ensure they are conducted consistent with the requirements of this part. This monitoring is especially important in the case of a design-build project because the developer can only provide a plan of action (DBE performance plan) it intends to take throughout the project since the exact contracting opportunities and timing of any subsequent awards is unknown at the start of a design-build.

Contract Goals

Question: Does the STA establish contract goals based upon factors such as type of work, location, DBE and availability that cumulatively results in meeting only the portion of the overall goal that cannot be met through race-neutral means? (49 CFR 26.51(e)(2))

Answer: Contract goals can be based upon factors such as type of work, location, and DBE availability. The goal should essentially represent the percent of the dollar amount of contracting opportunities for DBEs that exist on that contract. Goals must be set so they will cumulatively result in meeting that portion of the overall goal not being met through race-neutral means.

Race-Neutral Participation

Question: Does the STA count as race-neutral contracts won by DBE primes, DBE subcontracts when there is no contract goal, and primes that do not consider DBE status? (49 CFR 26.51(a))

Answer: Contracts won by DBE primes, DBE subcontracts when there is no contract goal, and DBE subcontracts where a prime did not consider the DBE status in awarding the subcontract are all methods of race-neutral DBE participation. The measurement of when a prime did not consider the firm's DBE status in its selection, is to count all work going to a DBE above the contract goal figure as race-neutral.

Question: Does a DBE have to be certified with the proper NAICS code if it will be used by the prime contractor as race-neutral DBE participation?

Answer: DBEs must be certified in the work categories in which the Prime wants to count that participation towards the contract goal (race-conscious). However, any work done by a non-committed (race-neutral) DBE regardless of NAICS codes should be counted as race-neutral participation provided they are performing a CUF. Prime contractors may be allowing a DBE to expand its capabilities on projects, the

work is legitimate and the DBE could then build its resume to expand its NAICS codes in the future.

Commitments

Question: Are all bidders required to submit DBE information, i.e., name, description of work, and dollar amount before award of the contract? (49 CFR 26.53(b)(2) and (c))

Answer: Dependent on whether STA makes the receipt of the information as a matter of responsiveness or responsibility, you can receive information from all bidders or just the apparent low bidder. The receipt of this information in the form of a commitment, when in the presence of a contract goal, is a condition upon which the award of the contract is given by the STA. (As a matter of responsibility, TxDOT receives information from the apparent low bidder.)

Question: Does the STA require as a condition of award, the submission DBE information including the name, description of work, dollar amount, written documentation of commitment, and written confirmation from the DBE that it is participating in the contract (49 CFR 26.53(b)(2) (c))

Answer: The STA must make sure all DBE information is complete and adequately document the bidder's good faith efforts as a condition of awarding the contract.

Question: A prime submitted a subcontractor request document. The District found that three (3) of the items on the subcontract agreement were less than what was originally committed. This reduced amount is \$43,503.51. Even with this reduction, the prime contractor is still far over the DBE goal. Can TxDOT accept the prime contractor's reduced subcontract amount in this situation?

Answer: Regulations prohibit the reduction of a submitted DBE commitment without the request and written approval of the STA. The District should investigate the matter and contact the DBE to discuss why the subcontract is less than the commitment (and if they were aware). Depending on the findings, TxDOT should take appropriate action. At the very least, if the DBE knew and was ok with the reduction in commitment, TxDOT should request the Prime contractor to submit something in writing showing the reduced commitment with reasoning for TxDOT approval. This will cover both the Prime and TxDOT.

Good Faith Efforts – Prior to Contract Execution

Question: Does the evidence of good faith efforts provided by the bidder document those efforts to meet the goal, even though such efforts did not succeed in obtaining enough DBE participation to do so? (49 CFR 26.53(a)(2))

Answer: The STA must not deny award of the contract on the basis that the bidder simply failed to meet the goal if the bidder documents adequate good faith efforts.

The adequate good faith efforts are those the bidder undertook prior to submitting its bid on the contract.

Administrative Consideration

Question: Does the STA provide an opportunity for administrative consideration when it determines the apparent successful bidder failed to meet good faith efforts? (49 CFR 26.53(d))

Answer: The STA should have an administrative reconsideration process that affords a bidder the opportunity to seek a further ruling on the adequacy of its good faith efforts.

Question: Are reconsideration decisions made by an official who did not take part in the original good faith effort determinations? (49 CFR 26.53(d)(2))

Answer: An official who did not take part in the initial determinations by the STA of inadequate good faith efforts by the bidder must make reconsideration decisions.

Determining Credit When a DBE Firm is Ineligible – Prior to Subcontract Execution

Question: When the prime contractor executes a subcontract prior to your notification that the DBE firm is ineligible, do you count the subcontract amount toward the prime contractor's goal? (49 CFR 26.87(j)(2))

Answer: If a prime contractor has executed a subcontract with a DBE firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work.

Goal Credit – Materials and Supplies

Question: Does the STA count towards the contract goal the value of materials and supplies used on the contract work only if the DBE is responsible for paying for the material and supply? (Factor – joint checks) (49 CFR 26.55(c)(1))

Answer: The DBE must be responsible, with respect to materials and supplies used on the contract, for paying for the material. The use of joint checks has been allowed in the DBE program under certain conditions and/or circumstances. Even under this situation all payments need to be made by the DBE.

Reporting DBE Participation on Contracts With and Without Goals

Question: Does the STA in its running tally capture DBE participation on all contracts with or without contract goals? (49 CFR 26.51(g))

Answer: The STA must report DBE participation in all contracts with and without contract goals awarded during the fiscal year in order to effectively adjust due to both race-neutral and race-conscious achievements to use of contract goals only as necessary to just meet the annual goal. One important consideration in being prepared to make such adjustments is to know the dollar amount that needs to be achieved based on the overall goal before the contract year begins for comparison purposes against the actual RC/RN achievements for making the key decision of when and how much to make any adjustment.

Commercially Useful Function

Question: Does the STA count toward contract goals the value of work only if the DBE performs a Commercially Useful Function (CUF) when a DBE is responsible for a distinct element of the contract work and it carries out its responsibilities by actually performing, managing and supervising the work involved? (49 CFR 26.55(c)(1))

Answer: You count the total contract value of the work the DBE performs itself. The STA needs to have sufficient resources and procedures that effectively determine whether a DBE performs a CUF. In addition to this monitoring responsibility, the STA needs to have appropriate supporting documentation for counting this work as performed by a DBE.

Question: Does the STA count toward contract goals the value of work performed by the DBE's own forces and does not count the DBE's cost of equipment leased from the prime contractor and/or material purchased from the prime contractor? (49 CFR 26.55(a)(1))

Answer: DBE subcontractor's purchases of supplies and equipment and leases from the prime contractor cannot be counted.

Question: Does the STA DBE program require the DBE to perform at least 30% of its work and does not allow DBEs to serve as an extra participant in the contract? (49 CFR 26.55(c)(2)(3))

Answer: A DBE is not performing a CUF when it is not performing the work itself and if the DBE under this rule subs out more than 70% of the work. There are additional instances when a DBE could be considered as serving as an extra participant in the contract or project such as being a pass through in the payment of materials and supplies.

Question: When a STA presumes a DBE is not performing a CUF, do they allow the DBE to present evident to rebut this presumption? (49 CFR 26.55(c)(4))

Answer: The DBE may present evidence to rebut the presumption of not performing a CUF when a STA has initially determined that a DBE is not performing a CUF. The STA must have a CUF reconsideration process established as part of its normal contract administration procedures.

When a DBE Subcontracts its Work to a Non-DBE

Question: When a DBE subcontracts part of its work to a non-DBE, does the STA have a mechanism to deduct that amount from the overall contract goal? (49 CFR 26.55(a)(3))

Answer: Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. The STA's normal subcontracting approval procedure is an effective way to monitor such possible situations.

Joint Venture

Question: In a joint venture does the STA count only the defined portion of work a DBE performs with its own forces? (49 CFR 26.55(b))

Answer: Count the dollar value of the contract equal to the defined portion of the work that the DBE performs with its own forces toward the DBE goals.

Termination / Substitution

Question: Does the STA have a procedure that requires STA approval of the substitution and/or replacement of DBEs for good cause when replacing DBE subcontractors for any reason? (49 CFR 26.53(f)(1)&(2))

Answer: The STA must give written consent prior to a prime contractor terminating a DBE subcontractor (or an approved substitute DBE firm) when that DBE is either unable or unwilling to perform the work. There are procedures in some States that require the DBE to actually signoff on its termination. There are DBE program rules that effectively prohibit termination for convenience and then performing the work by the prime itself or use an affiliate.

Question: Does the STA require prime contractors to make good faith efforts when replacing DBE subcontractors for any reason? (49 CFR 26.53(f)(1)&(2)).

Answer: The STA must require the prime contractors to make good faith efforts to find another DBE subcontractor to substitute for the original DBE when the DBE is either unable or unwilling to perform.

Counting Credit for Manufacturers, Regular Dealers, Packagers and Brokers

Question: Does the STA DBE program allow for appropriate counting for manufacturers, regular dealers and packagers and brokers? (49 CFR 26.55(e)(1)&(2)(ii)(c))

Answer:

If materials and supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies.

If materials or supplies are purchased from a DBE regular dealer, count 60% of the cost of materials or supplies. To be a regular dealer, the firm must be an established, regular dealer that engages as its principal business and under its own name, in the purchase and sale or lease of the products in question.

Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers. Often times the definition of what constitutes a manufacturer from a regular dealer and a regular dealer from a broker becomes a matter of circumstances of the particular situation and to be determined on a case-by-case basis.

For example, if the material is crushed aggregate, then in order to be a manufacturer the firm needs to have the prerequisite equipment to crush and screen the aggregate for sell pursuant to the STA's gradation requirements. If no such process is being performed by the DBE, but has the necessary distribution equipment to pick up and drop off as a normal course of business the firm is considered to be a regular dealer.

Trucking – Counting Credit

Question: Does the STA DBE program allow DBE truckers to count leased trucks from DBEs and non-DBE truckers toward the goal appropriately? (49 CFR 26.55(4)(5))

Answer:

The DBE that leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

If the STA adopted the revised trucking counting rule in the June 16, 2003 DBE Program Final Rule, the DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract.

Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease agreement.

NOTE: The appropriate Department Operating Administration must approve this approach.

Goal Credit – Final Compliance (Payment to DBEs)

Question: Does the STA have a process to ensure a contractor's final compliance with DBE obligations based on payments to the DBEs? (49 CFR 26.55(h))

Answer: Until the amount being counted has been paid to the DBE, do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract.

Joint Checks

Question: Does the STA count towards the contract goal the value of materials and supplies used on the contract work only if the DBE is responsible for paying for the material and supply? (Factor – joint checks) (49 CFR 26.55(c)(1))

Answer: The DBE must be responsible, with respect to materials and supplies used on the contract, for paying for the material. The use of joint checks has been allowed in the DBE program under certain conditions and/or circumstances. Even under this situation all payments need to be made by the DBE.

Prompt Payment / Retainage

Question: Does your DBE program provide appropriate means to enforce prompt payment and return of retainage? (49 CFR 26.29(a)(1))

Answer: The STA must have the necessary mechanisms to monitor and enforce the prime contractor's prompt and full payment of retainage. Again, with the flexibility USDOT built into the program, it was the STA to determine its approach towards meeting this and other requirements of the program. The USDOT did not present one prescribed way of meeting it, so there may be various methods employed by a recipient to meet this requirement. The most common enforcement practice is for the prime contractor to provide a payment certification that would certify that all payments have been made and would normally be submitted with a progress estimate for payment. The enforcement of this method is through non-payment of the progress payment, until proper evidence that all previous payments due are paid.

Monitoring - Payments and CUF Reviews

Question: Does the STA conduct compliance reviews, audits and/or assessments of all program participants, (e.g., contractors, and other state and local governments/agencies? (49 CFR 26.37(a))

Answer: The STA must ensure that all program participants are in compliance with 49 CFR Part 26. TxDOT must have appropriate mechanisms for monitoring and enforcement set forth in its DBE program.

Question: Does the STA have a monitoring and enforcement mechanism that ensures work committed to DBE is actually performed? (49 CFR 26.37(b))

Answer: The STA must ensure DBEs do the work committed to them. To ensure this is happening, the STA must in its normal contract administration take the necessary steps to compare actual subcontract awards to commitments and payments to awards.

Unified Certification Program

Question: Does your UCP have a process to determine specific types of work a potential DBE has the ability to control and possess the equipment and key personnel to perform the work? (49 CFR 26.71(m)(n) & 26.83(c)(4))

Answer:

The UCP must have a provision that allows the STA or certifying agency to consider whether the firm owns equipment necessary to perform its work. However, the STA or certifying agency must recognize that leasing equipment is a normal industry practice and should not use this practice to determine that a DBE owner does not control his or her company. The STA or certifying agency must make sure that the leasing of equipment does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

You must grant certification only for specific types of work in which the socially and economically disadvantaged owner has been able to demonstrate his or her ability to control the firm. This specific type of work needs to be clearly defined in forms consistent with the type of work such firm will be competing to perform. Such designation as “general contractor” does not fit this definition.

Administrative Remedies

Question: Does the STA contract provisions include administrative remedies that will be invoked if prime contractors fail to comply with good faith efforts? (49 CFR 26.15(b))

Answer: If prime contractors fail to comply with good faith efforts, the STA contract provisions must include appropriate administrative remedies that will be invoked. The most common administrative remedy is to withhold payment to the prime equal to the short fall that occurred since the prime failed to comply with the good faith efforts provision. It is not intended that the STA exercise this oversight activity at the very end of the contract, but should be monitoring the actual

participation of DBE firms throughout the contract so any necessary adjustments can be made by the prime in a timely fashion towards meeting the goal.