

# Monitoring & Enforcement



**Federal Aviation  
Administration**

*Office Of Civil Rights*

*ACHIEVING SAFETY  
THROUGH DIVERSITY*

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# Monitoring and Enforcement

## 1) Regulatory Requirements



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**2) Strategies for Implementation**



# Monitoring and Enforcement

- 1) **Regulatory Requirements**
- 2) **Strategies for Implementation**
- 3) **Self-Assessment**



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## 1) Regulatory Requirements



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**49 C.R.F. 26.37:**



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- (b) Ensure Work Committed to DBEs is **Performed** by **DBEs**



# Regulatory Requirements

## 49 C.R.F. 26.37:

- (a) Implement Appropriate Mechanisms to Ensure Compliance by **All** Program Participants
- (b) Ensure Work Committed to DBEs is **Performed** by **DBEs**
- (c) **Running Tally** of DBE Participation

# Regulatory Requirements: Appropriate Compliance Mechanisms

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- Prompt Payment Verification Process

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- Prompt Payment Verification Process
- **Terminating DBE Subcontract Process**

# Regulatory Requirements: Appropriate Compliance Mechanisms

## Identify Appropriate Enforcement Mechanisms

- Progressive discipline policy
  - Breach of Contract Remedies



# Regulatory Requirements: Appropriate Compliance Mechanisms

## Identify Appropriate Enforcement Mechanisms

- **Progressive discipline policy**
  - Breach of Contract Remedies
  - **Reporting DBE Fraud**

**BREACH OF  
CONTRACT**

**FRAUD**

# Enforcement Tools

- What does the contract say?



# Enforcement Tools

- **What does the contract say?**
- **Withhold progress payments**





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- **Terminate contract**



# Enforcement Tools

- **What does the contract say?**
- **Withhold progress payments**
- **Terminate contract**
- **Internal prequalification process remedies**



# Enforcement Tools

## Enforcement Actions – Contractors – 49 CFR §26.107

- Involve OIG
- **Suspension / Debarment**
  - ❑ False Representation as DBE
    - ❑ Creating a front
    - ❑ Using a DBE that does not work
  - ❑ Attempt to Use Ineligible firm
  - ❑ **Over-reporting**



# Regulatory Requirements: Ensure DBE's Performance of Contracts

## Written Certification of Contract Review

- Contract Review Process
  - DBE Subcontract Review



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## Written Certification of Contract Review

- Contract Review Process
  - DBE Subcontract Review

## Written Certification of Work-Site Monitoring

- Site Visit reports / forms
- Follow-up reports (If required)



# Regulatory Requirements: Ensure DBE's Performance of Contracts

## Project Oversight is a Team Effort!

- Involve Project Inspectors and Project Engineers
- Create DBE Oversight as essential job function of multiple parties



# Regulatory Requirements: Running Tally of DBE Participation

- Ensure Prime is Meeting DBE Commitment



# Regulatory Requirements: Running Tally of DBE Participation



- Ensure Prime is Meeting DBE Commitment
- Track DBE Awards and Commitments



# Regulatory Requirements: Running Tally of DBE Participation



- **Ensure Prime is Meeting DBE Commitment**
- **Track DBE Awards and Commitments**
- **Track Payments made to DBEs**

# Strategies for Implementation

## Complaint Investigations

- **Specific Allegations of Non-compliance**

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## Compliance Reviews

- **Overall Assessment of DBE Program Implementation**

# Strategies for Implementation

## Complaint Investigations

- **Specific Allegations** of Non-compliance

## Compliance Reviews

- Overall Assessment of **DBE Program Implementation**

## Enforcement Actions

- Conciliation Agreement
- Finding of Non-Compliance
- Restrict Drawdowns
- Inability to Start, Continue, or Complete DOT-assisted Projects

# Self-Assessment



# DBE/ACDBE Program Compliance Team (ACR-4)

- **Michael D. Freilich, Director, National External Operations Program**  
[michael.freilich@faa.gov](mailto:michael.freilich@faa.gov)
- **Gene E. Roth, Team Lead, DBE/ACDBE Program Compliance Team**  
[gene.e.roth@faa.gov](mailto:gene.e.roth@faa.gov)
- **Ricky Watson, Alaskan & Northwest Mountain Regions,**  
[ricky.watson@faa.gov](mailto:ricky.watson@faa.gov)
- **Ofelia Medina, Central Region**  
[ofelia.medina@faa.gov](mailto:ofelia.medina@faa.gov)
- **Elizabeth Unrath, Eastern Region**  
[elizabeth.unrath@faa.gov](mailto:elizabeth.unrath@faa.gov)
- **Nancy Cibic, Great Lakes Region**  
[nancy.cibic@faa.gov](mailto:nancy.cibic@faa.gov)
- **Thomas Knox, New England Region**  
[thomas.knox@faa.gov](mailto:thomas.knox@faa.gov)
- **Keturah Pristell, Southern Region**  
[keturah.pristell@faa.gov](mailto:keturah.pristell@faa.gov)
- **Dolores Leyva, Southwest Region**  
[dolores.leyva@faa.gov](mailto:dolores.leyva@faa.gov)
- **Patricia Wright, Western-Pacific Region**  
[patricia.wright@faa.gov](mailto:patricia.wright@faa.gov)



# Questions?



***RICKY WATSON***

***DBE/ACDBE Compliance Specialist***

***– Alaskan & Northwestern Mountain Regions –***

***FAA Office of Civil Rights (ACR-4)***

***(310) 725-3940***

***ricky.watson@faa.gov***

