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SAN DIEGO



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DBE Program & Labor Compliance: Aligning Resources for Contract Compliance

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Labor Compliance



Labor Compliance is uniformity of compliance for the protection of workers and the administration of standards, regulations, and procedures to govern enforcement activities on contracts assisted by State and Federal funding.

Applicability:

- Fair Labor Standards Act (FLSA)
- Davis Bacon & Related Acts (DBRA)
- State Laws
- Contract provisions

Labor compliance sets the tone on a project for all compliance

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Labor Compliance Proactive



- Enforces DBE Utilization and strengthens small businesses
 - Aware of project-related activities of every DBE firm
 - Monitors for prompt payment
- Empowers Workers
 - Ensures worker is receiving prevailing wage through payroll monitoring, wage interviews, fielding wage complaints

Encourages the use of the best firms = best end product

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Onsite Presence



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Labor Compliance Process



Payrolls

- Underpayment of Prevailing Wage
- Worker Status / Apprenticeship
- Missing CPRs
- Not Paying Weekly
- Independent Consultant
- Owner Operator
- Classification of Worker

Payments

- Pay Estimates
- Prompt Payment
- Contractor Utilization

Onsite Observation

- Wage Interviews
- Wage Board Compliance
- Complaints
- Daily Diary
- Equipment Used
- Contractors missing from approved sublets

DBE

- Utilization & Pass Through
- Accomplishments
- Commercially Useful Function
- Reporting Payments & Prompt Payment

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Labor Compliance Deficiencies



- DBE pass through situations
- DBE's not being used in accordance to approved NAICS
- DBE's change-ordered out of work without replacement effort to fulfill DBE commitment
- Workers receiving less than prevailing wage

Which leads to: Unfair bidding advantage
Lack of work quality
Smaller tax base for municipalities
Risk of penalties and sanctions

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Labor Compliance

Red Flags



Onsite Monitoring

- Unapproved firms working on the project
- Few contractors at Pre-construction meetings
- Employees of a firm showing up as employees of another firm
- Misclassification of workers
- Wage board violations

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Red Flags



Reports & Review

- Weekly payment violations to workers
- Prompt payment to contractors violations
- Overtime violations
- Lack of payroll records

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Investigations

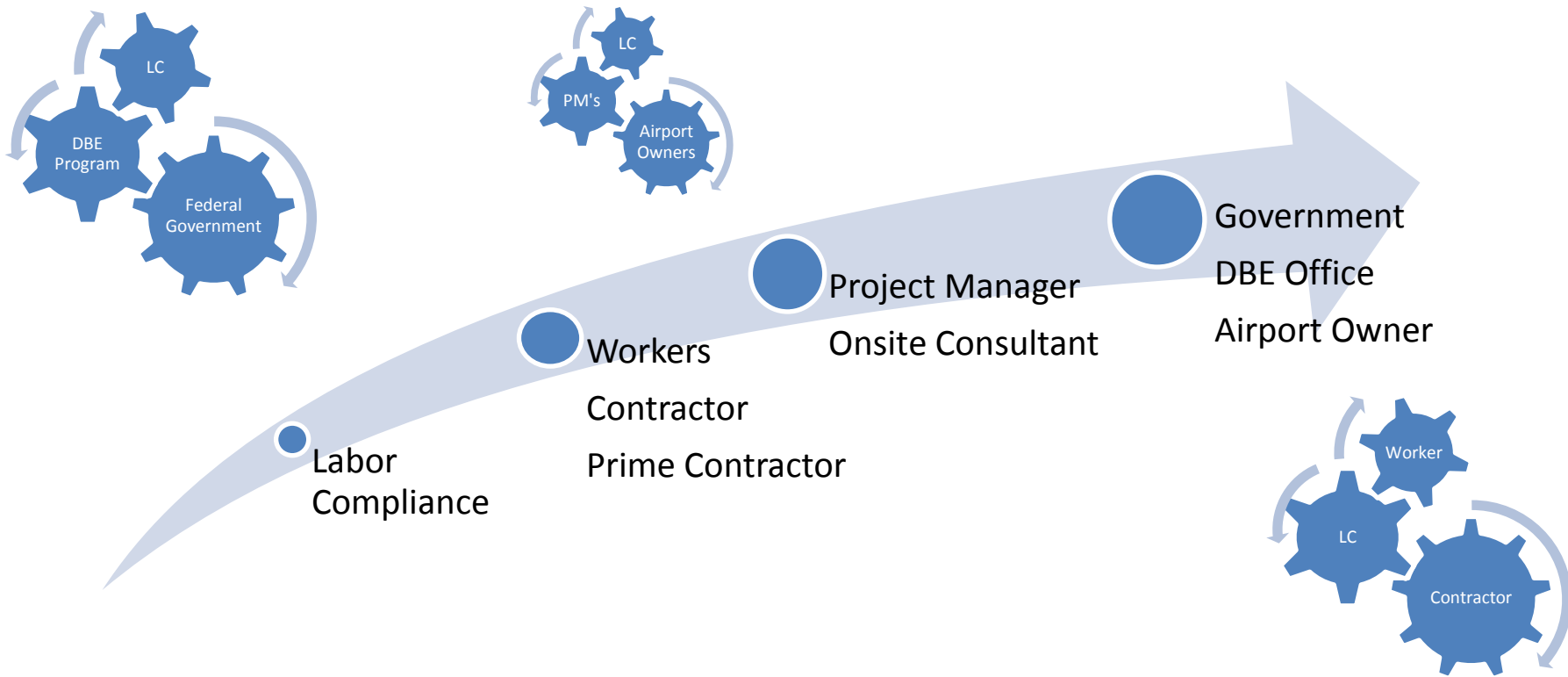


- Wage investigation
- Debarment
- U.S. Dept. of Labor (USDOL) investigation
- DOT Office of Inspector General (OIG) investigation

An ounce of prevention...

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Aligning Resources



Combining resources and using a team approach

Aligning Resources



- **State & Local Government**
 - Labor Compliance Coordinators
 - DBELO's
- **Outside Firms**
 - Consultants & Engineering Firms
 - Outside Firms
- **Partnership with Federal Government**

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Federal Audit



Office of Inspector General Audit Report

Weaknesses in the Department's
Disadvantaged Business Enterprise Program
Limit Achievement of Its Objectives

April 23, 2013

<http://www.oig.dot.gov/library-item/6101>

Currently DBE cases represent 29% of OIG active procurement and grant fraud investigations.”

- Page 1 of Report

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Questions to Consider



- Do I see labor compliance as **proactive** or **deficient**?
- How can a strong labor compliance element strengthen my DBE program?
- Am I currently collecting evidence of compliance?:

payroll rejections

back wages collected

wage interviews checked against payrolls

prompt pay violations

onsite progress reports

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Labor Compliance Resources



**U.S. Department of Labor – Wage & Hour Division
FAA Office of General Counsel
USDOT Wage & Hour**

**State Government – Wage & Hour
State Government – DOT**

**Municipal Government
Airport Owner**

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