



Compliance STAT

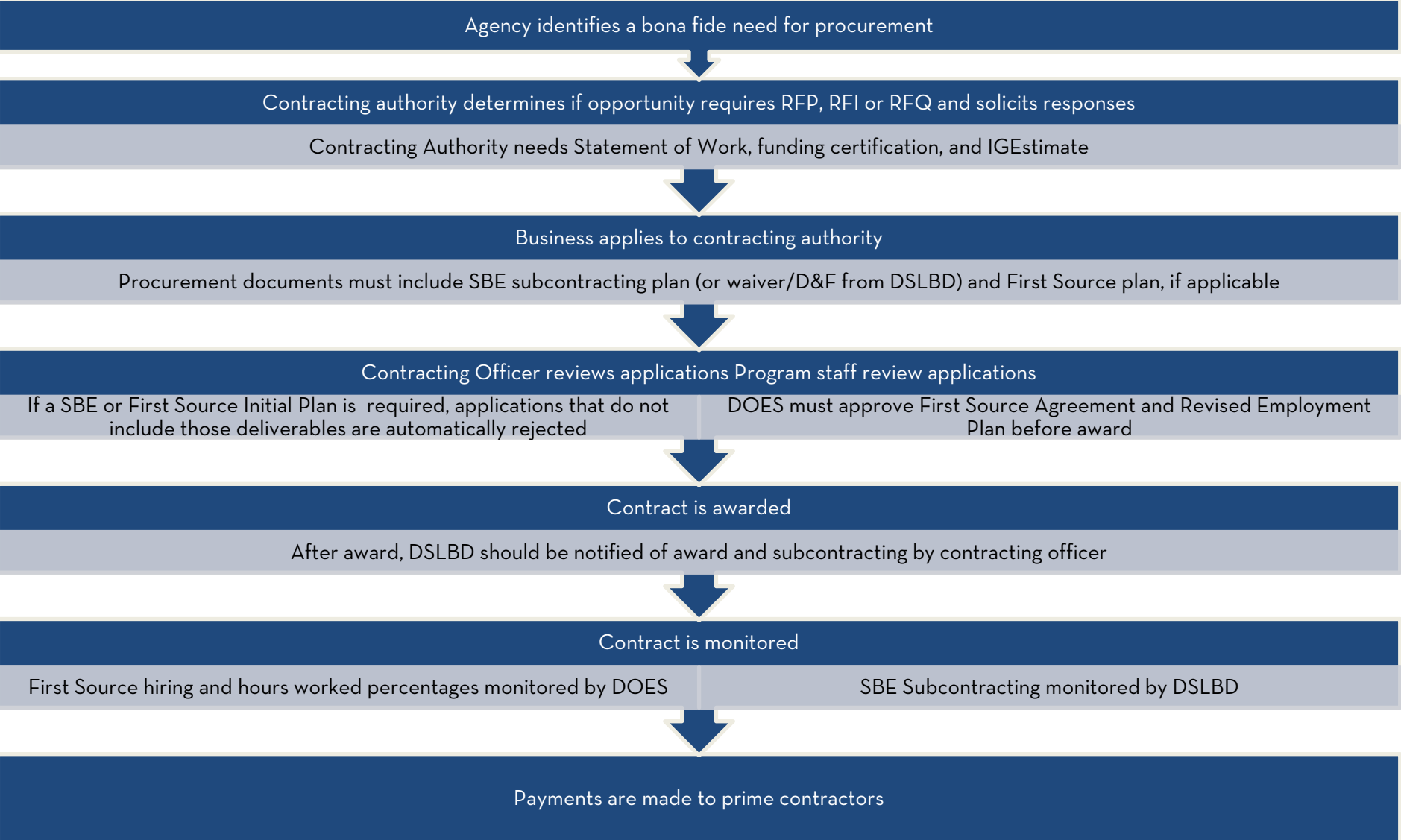
Participating Agencies

- | | |
|-------|---------|
| DOES | DMGEO |
| DSLBD | DMPED |
| OCFO | Gov Ops |
| OCP | |
| OCTO | |
| DGS | |

Agenda

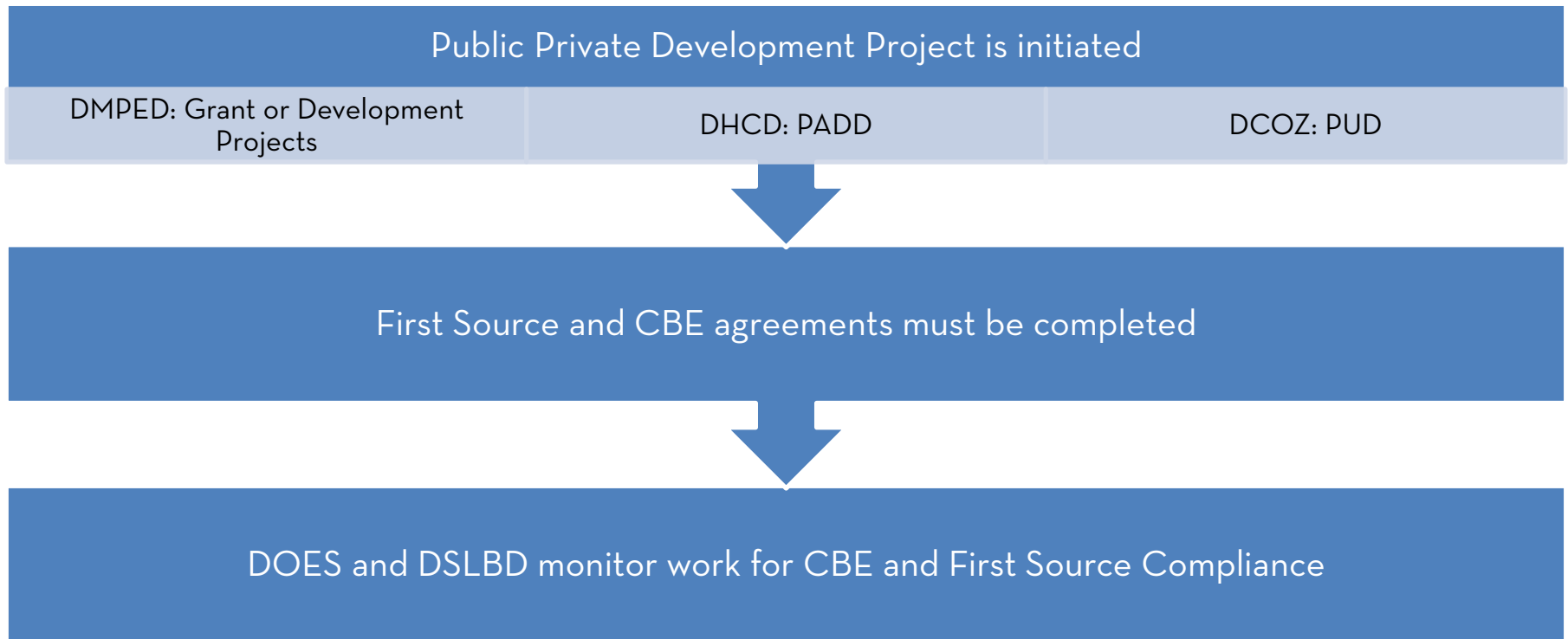
- ◆ Overview of Contracting Process and Public Private Developments
- ◆ Technology
- ◆ District's Business Compliance Rules
 - SBE spend
 - First Source
 - Payments to subcontractors
- ◆ Recommendations and Next Steps

Contracting Process: An Overview



Other contracting and funding opportunities are not through OCP

- ◆ Agencies with independent contracting authority (including DGS) do not work with OCP on contracts, and may not keep record in PASS. Some additional agencies (including DDOT) are in process of being integrated to PASS.
- ◆ Public Private Developments are also subject to SBE and First Source requirements; prior to executing a PPD project, SBE agreements / acknowledgements and First Source plans must be submitted



Technology and Systems: Current (dark blue) and In Development (light blue)

OCFO

SOAR

- OCFO
- Provides data on expenditures
- Manual pull and upload into current DSLBD system

Vendor Portal

- OCFO
- Publishes payment data to subcontractors know when primes are paid

E-Invoicing*

- OCFO
- Project build out will be used for additional agencies to utilize this payment technology across the District government
- Goal is more rapid vendor payments and better payment reporting.
- This project will be fully rolled out in fiscal year 2018, with additional support staff planned in 2019.

OCP

PASS

- OCP
- Provides data on contracts and procurements
- Manual pull and upload into current DSLBD system

PASS Refresh**

- OCP
- Includes integration across the procurement lifecycle, new features, functionality and usability enhancements and security updates
- Primary goal is to improve the security, usability and reporting

Contracts Transparency Portal*

- OCP
- Primary goal is public reporting for planned procurements, solicitations, awarded contracts, purchases, and payments

SBE Spend Tracking

Quickbase

- DSLBD
- Manual upload from SOAR of procurement data and from OCP of contracting data

B2G***

- DMGEO
- Collects data from prime and sub contractors on payments
- Requires manual entry of contractors, subcontractors (District) and entry from contractors of payments (Contractors)

DES***

- DSLBD
- Currently certifying CBE eligibility
- Will provide a centralized location for supporting documentation/files on projects and enable analysis of subcontracting compliance
- Plans to connect to SOAR, PASS, etc via the cloud

First Source Tracking

FORSS

- DOES
- Contractors submit information on hiring information from contractors
- DOES ensures compliance on hiring DC residents

LCP Tracker

- DOES
- Contractors submit information on hours worked by employees
- DOES ensures compliance with hours worked

Other

Internal Systems

- DGS
- Developed in house

Quickbase

- DMPED
- Monitoring DMPED real estate projects

Black outline indicates external facing component

*E-Invoicing and Business Opportunities Portal are under development

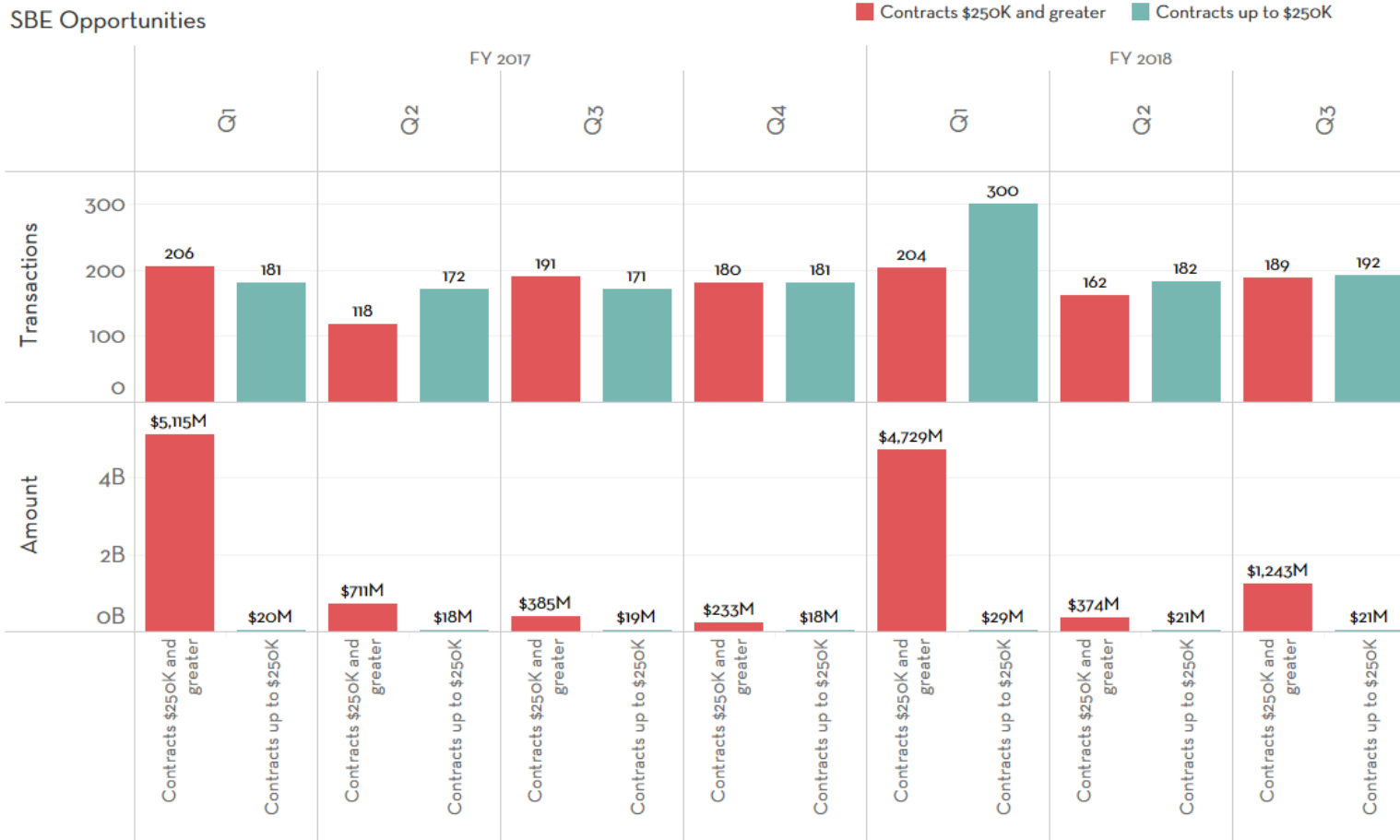
**PASS is undergoing a refresh, to be complete by the end of 2020

***DES and B2G are new technologies. DSLBD and DMGEO have submitted a decision point memo on the future of these two technologies.

Contracting Process

Process	Notes on Contracts	Notes on PPDs/ Independent Contracting Authority	Process Concerns Green: Contracts; Orange: Public Private Developments; Blue: Both		
1. Business applies to contracting / funding authority	SBE plan or a previously requested waiver must be included	Business must acknowledge that an SBE plan must be completed	DSLBD isn't involved in this part of the process		
2. Contracting / funding authority and program staff review applications	Aside from a yes/no, the SBE plan isn't considered in the award	Selected applicant is connected with DSLBD to complete SBE process	DLSBD isn't notified during review process; unless a waiver is requested	Businesses sometimes complete SBE plan, sometimes acknowledgement	DSLBD doesn't have access to projects in development
3. Contract / funding is awarded	DSLBD notified by contracting authority of award and subcontracting plan	SBE plan or acknowledgment must be submitted before council submission	Notification isn't automated, but is sent by email		
4. Contract / funding is monitored	SBE Subcontracting monitored by DSLBD	SBE Subcontracting monitored by DSLBD	Contracting authority isn't involved in issues of compliance	If SBE loses designation, the contract is no longer in compliance	
			Project officers do not have insight into SBE spend on projects	DSLBD doesn't know when work begins	

Contract Opportunities for District SBEs



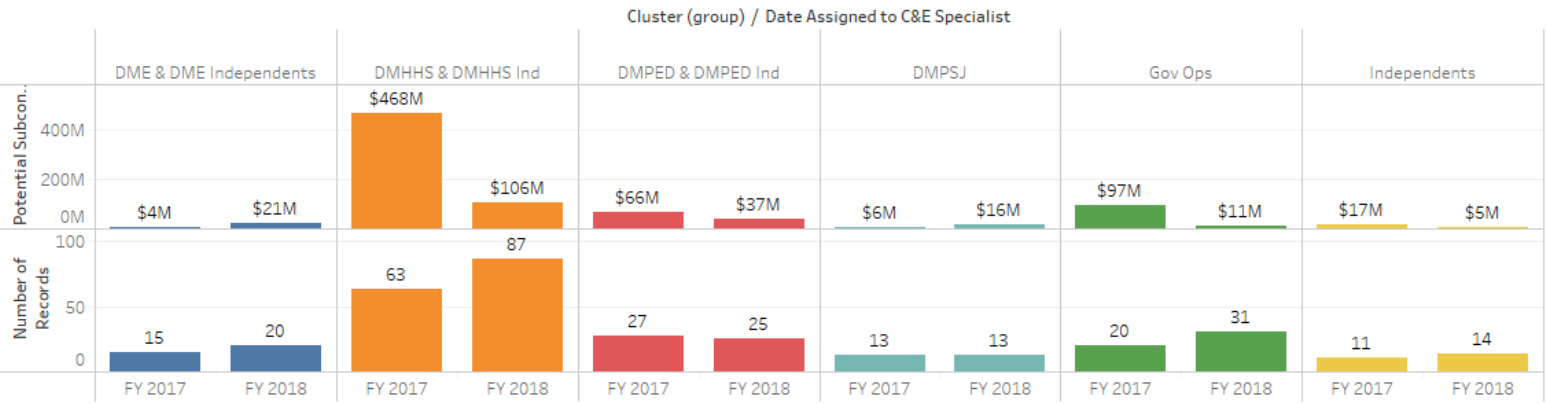
- We do not know how many of these contracts are fulfilling the SBE requirement

- While there are many more contracts for DSLBD to track in the <\$250K range, the dollar value is minimal compared with the >\$250K contracts

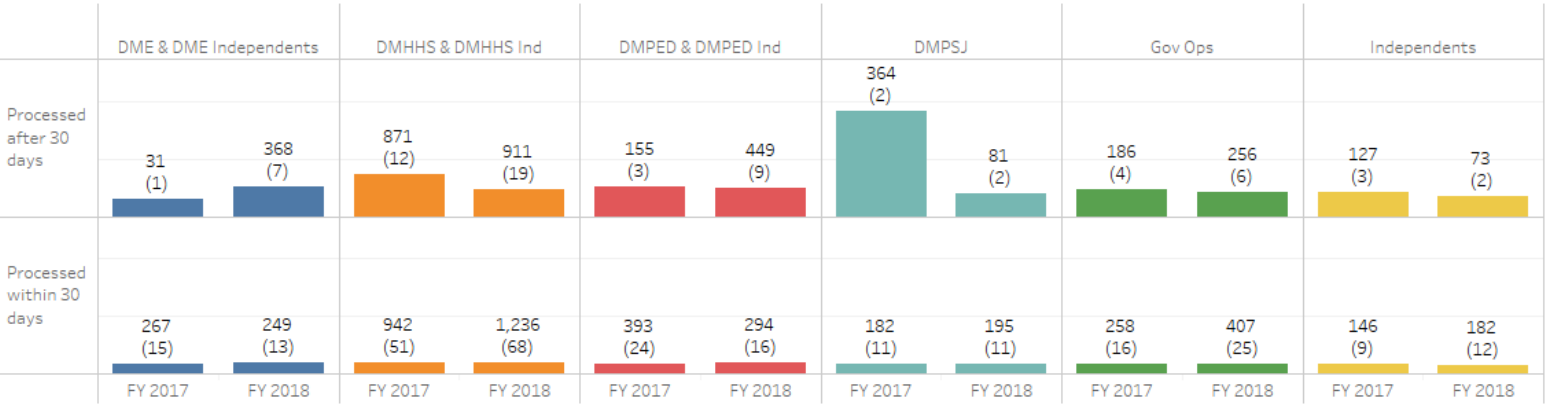
Data is from PASS, and only includes those contracts recorded in PASS.
Data as of 9/4/2018

Waiver Application Process and Timeline

Waivers Requested by Cluster



Processing times for Waivers



- Waiver applications can increase the timeline to execute a contract and delay the start of work.
- Certain contracts, particularly in Health and Human Services where there aren't qualified CBEs, require waivers year over year, and agencies are required to apply each year.

Data from DSLBD's Quickbase, CBE Subcontracting Module. Data is for the first 3 quarters of FY2017 and FY2018. DMGEO agencies did not request any waivers in FY2017 or FY2018.

Since 2016, there have only been 5 infractions/fines recorded

Violation	Fine Amount
Late Reporting	Warning of possible fine
Failing to Report: 1st Offense	up to \$5,000
Failing to Report: 2nd Offense	up to \$15,000
Failing to Report: 3rd Offense	Referred to the OAG; if no action taken, DSLBD will assess fine and consider debarment/non-consideration for not more than five (5) years
Failed to use commercially reasonable best effort to meet subcontracting requirement	Civil penalty equal to 10% of the dollar volume of the contract that the beneficiary was required but failed to subcontract, eg: Contract: \$250,000, SBE required: 87,500; Penalty: \$8,750 Contract: 1,000,000; SBE required: 350,000; Penalty: 35,000
Making a false statement on submission of bid or proposals; improper use of CBE's name without proper authorization and/or notification after award; and paying solely for use of a CBE's name	Not more than \$15,000 or imprisonment not to exceed five (5) years, or both

Note:
SBEs do not always know which firm was selected by the prime to submit in their subcontracting plan of the application. This can lead to mistaken understanding of their role in the upcoming project, and assumptions that the prime isn't fulfilling the subcontracting plan.

Recorded Infractions and Fines					
Fiscal Year	Company/Beneficiary	Type of Contract	Reason for Fine	Amount Fined	Status
2016	Conduent State HealthCare	Agency Subcontracting	CBE/SBE Shortfall and Non-Reporting	\$484,018.09	After negotiation, paid fine of \$247,009.05
2017	Conduent State HealthCare	Agency Subcontracting	CBE/SBE Shortfall and Non-Reporting	\$244,115.83	Fine is being appealed. In Negotiations.
2018	Jemal's Up Against the Wall	PPD Project	CBE/SBE Shortfall	\$220,758.45	Paid 7/30/2018
2018	Muni Services	Agency Subcontracting	CBE/SBE Shortfall	\$44,500.00	Awaiting Payment
2018	Amerigroup DC	Agency Subcontracting	CBE/SBE Shortfall	\$467,800.00	In Negotiations

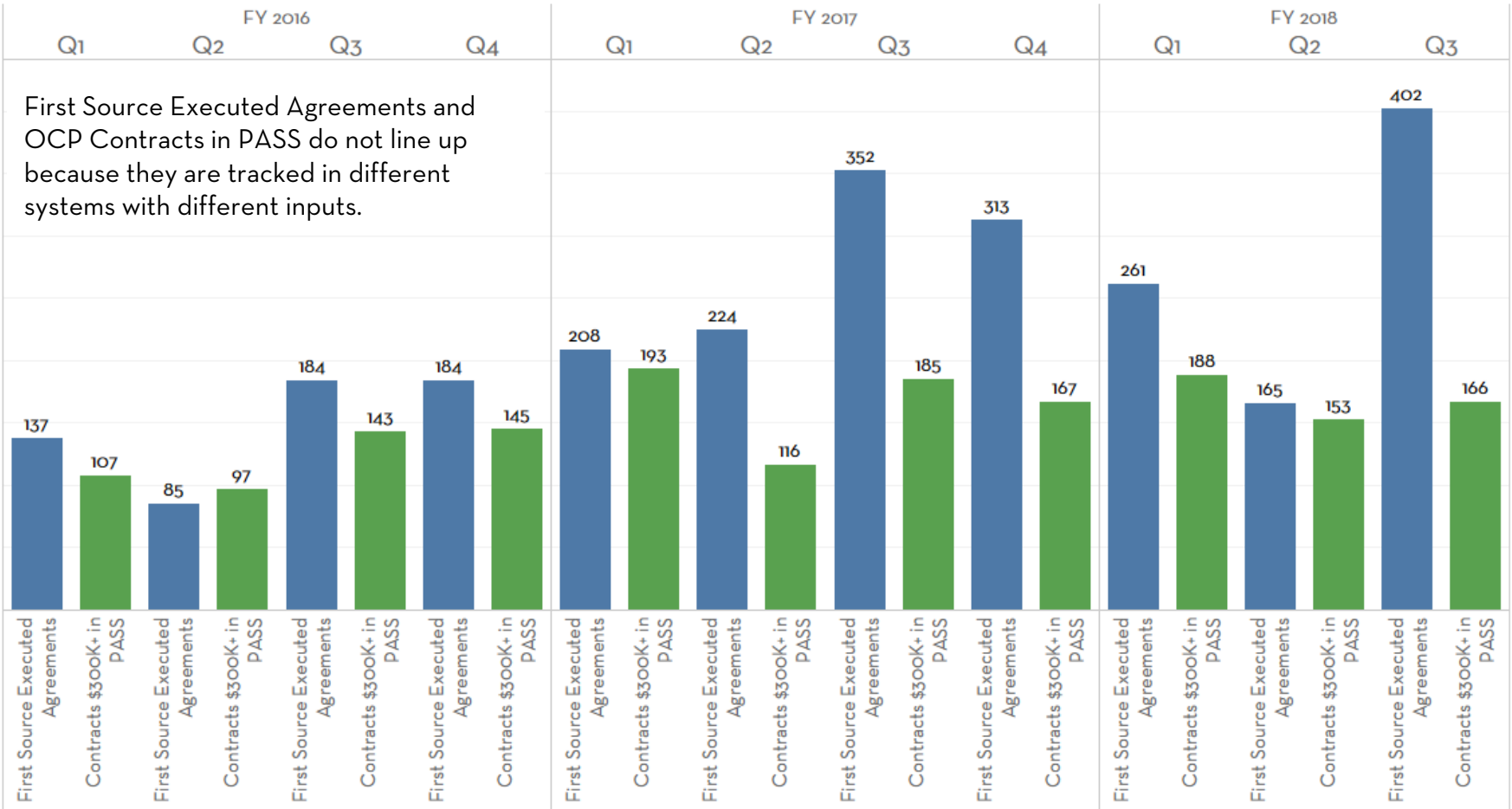
Contracting Process

Process	Contracts	PPDs/ Independent Contracting Authority	Process Concerns	
1. Business applies to contracting authority	First Source Initial Plan must be included	Business must acknowledge that an First Source plan must be completed		
2. Contracting authority reviews applications; Program staff review applications	Aside from a yes/no, the First Source plan should add ten points to the evaluation	Selected applicant is connected with DOES to complete First Source process	Unclear if those 10 points are awarded; no tracking mechanism	
3. Contract is awarded	DOES notified by Contracting Authority of award agreement and revised First Source Plan	First Source plan must be submitted before council submission	For IDIQ and MOBIS contracts, DOES unsure of when work actually begins on a contract	
4. Contract is monitored	First Source monitored by DOES: contractors upload payroll records into FORRS and LCP Tracker		First Source reporting does not involve contracting or project management agency	While DOES sends warnings, the District cannot penalize a contractor for noncompliance until the end

Oversight is challenging because the entire universe of contracts is unknown

First Source Executed Agreements (blue) and OCP Contracts in PASS (green)

■ First Source Executed Agreements
■ Contracts \$300K+ in PASS



FY2018 Q4 was unavailable

DOES has made progress in enforcement since FY17

Violation	Fine Amount
<ul style="list-style-type: none"> Willful breach of the employment agreement Failure to submit the required hiring or hours worked percentages compliance report or Deliberate submission of falsified data, in addition to other penalties provided by law. 	5% of the total amount of the direct and indirect labor costs of the project or contract
<ul style="list-style-type: none"> Failure to meet the required hiring or hours worked percentages requirements or Failure to receive a good faith effort waiver 	1/8 of 1% of the total amount of the direct and indirect labor costs of the project or contract for each percentage by which the beneficiary fails to meet the hiring requirements
A second violation within a 10 year time frame of the required hiring or reporting requirements or failure to receive good faith waiver	DOES shall debar a person or entity from consideration for government-assisted projects with the District of Columbia for a period of not more than 5 years.

Recorded Infractions and Fines

Fiscal Year	Company / Beneficiary	Project Name	Penalty Amount	Status
2017	NRI Inc.	Temporary Personnel Support Services	\$22,196.12	Paid
2017	Kalos	Metro Village	\$3,000.00	Paid
2017	Hayward Baker	Metro Village	\$4,542.98	OAG recommended penalty withdrawn due to lack of jurisdiction.
2017	Anchor Construction	Metro Village	\$30,540.46	Paid
2017	Catholic Charities	PSHP Case Management Services	\$1,000.00	Paid
2017	Woodley House	Crossing Place	\$19,238.69	OAG recommended penalty withdrawn due to lack of jurisdiction.
2017	Hardesty Concrete Construction	Metro Village Apartments	\$36,909.83	OAG recommended penalty withdrawn due to lack of jurisdiction.
2017	Simpson of Maryland	Metro Village Apartments	\$19,823.53	OAG recommended penalty withdrawn due to lack of jurisdiction.
2017	Agility Construction, LLC	Metro Village Apartments	\$103,161.51	OAG recommended penalty withdrawn due to lack of jurisdiction.
2017	Miscellaneous Metals, Inc.	Metro Village Apartments	\$3,089.55	OAG recommended penalty withdrawn due to lack of jurisdiction.
2017	Advanced Fire Protection Services	Metro Village Apartments	\$6,856.20	No payment from Employer or appeal, District is pursuing enforcement and collection
2017	Ben Lewis Plumbing	Metro Village Apartments	\$15,920.60	No payment from Employer or appeal, District is pursuing enforcement and collection
2017	Centennial Builders	Metro Village Apartments	\$6,067.00	No payment from Employer or appeal, District is pursuing enforcement and collection
2017	Colonial Electric	Metro Village Apartments	\$76,726.85	OAG recommended penalty withdrawn due to lack of jurisdiction.

*Prior to FY2017, there are no fines recorded.

Prime / Subcontractor Payment Process

Process	Concerns in the Process	
1. Business is awarded a contract with a subcontracting requirement		
2. Business subcontracts, either to fill the SBE requirement, or because of lack of capacity to complete the work alone	The District doesn't have privity of contracts with the subcontractor	The District does not know of any issues until it is informed and is only then able to enforce payment timelines
3. District pays the 'prime' contractor	Subcontractors complain they aren't always paid on time, and the District doesn't have a way to monitor payments	If the prime disputes the work of a sub, payments are legally delayed
4. Prime contractor is required to pay the subcontractor within 7 days for undisputed work	There is no financial penalty for late payment from primes to subs	Penalty for late payments can be considered on the record of past performance for the contractor

Current Work to Provide Visibility into Sub Payments

OCFO Vendor Portal

- Provides receipt of prime contractor payments so that sub contractors can know when the District has paid the prime
- Subcontractors must have purchase order number in order to determine payment dates

DSLBD DES Compliance Release 2.1*

- Anticipated release by December 31, 2018
- Will receive prime payment information through the DC Govt Data Transparency Project
- Will also receive subcontractor (vendor) payment verification.
- DSLBD compliance team will take action immediately if subcontractor indicates through the system that they have not received payment from the Prime.
- Focused on SBEs, not all subcontractors

DMGEO's B2G System*

- Requires prime contractors to regularly submit payment information to sub contractors
- Subs are asked to confirm payments and dates; if payment is not made in full, subs are alerted to go back to primes
- Ensures that the subs remain on the contract according to the subcontracting plan
- DDOT currently uses B2G; System is currently in pilot phase with DGS vendors already implementing new system

*DSLBD has submitted a decision point memo on DES and B2G providing a recommendation on the future of both systems

Getting to a future state where ...

Goals	Next Steps:
District has an integrated system for contract review and monitoring	Build stakeholder data needs into the contract templates being developed as part of the PASS refresh to allow the automated flow of data.
	Develop decision point memo to consider halting the development of non SOAR/PASS systems (DES, B2G, Quickbase) systems and incorporating those requirements into either the SOAR replacement or PASS system refresh
All contracts are shared automatically with DOES and DSLBD for follow up on CBE and First Source Tracking; contracting and compliance technologies are integrated to automatically share information	Ensure OCP is 'pinging' DSLBD when new contracts are let
	PASS refresh will enable application program interfaces that will allow transfer of information among systems
	Convene agencies to understand the universe of independent contracting systems, and develop plan to incorporate into PASS refresh or DSLBD and DOES tracking systems
Project Management agencies have insight into the compliance of their projects, including SBE spend dollars and SBE numbers	Develop plan to ensure agencies have visibility into SBE and First Source compliance for projects, possibly through PASS refresh or DES
Waivers are provided for multiple years of the same contract, including option years, so that agencies do not need to apply each year for a waiver	Develop policy proposal for consideration by CA
Systems complement each other, and speak to each other, but do not perform the same functions	Finalize decision on which systems and modules to maintain, and ensure complementary and compatible systems are developed
Contracts are public, in a searchable index, so that subcontractors can search for work that was submitted in their name	Develop replacement system that includes public component, and incorporates subcontracting
Subs are notified when a contract with their SBE number is awarded; if the prime doesn't actually contract work with them, remediation opportunities are provided	Incorporate into DES or PASS refresh
Subs are automatically notified when a prime is paid, to begin the countdown of the 7 days to pay the Sub. Remediation opportunities are available	Incorporate into DES or PASS refresh
Clear and reasonable penalties for non compliance with SBE, First Source, and 7 day payment requirements are understood by all prime contactors	Develop policy proposal for penalty for non payment of subs
	Review penalties for non compliance with SBEs and First Source to ensure balance between meaningful penalties and ensuring Districts competitiveness

Appendix

Glossary of Acronyms

Acronym	Definition	Acronym	Definition
DOES	Department of Employment Services	SLA	Service Level Agreement
DSLBD	Department of Small and Local Business Development	PASS	Procurement Automated Support System
OCFO	Office of the Chief Financial Officer	SOAR	System of Accounting and Reporting
OCP	Office of Contracts and Procurement	IDIQ	Indefinite delivery/indefinite quantity
DHCD	Department of Housing and Community Development	RFQ	Request for Quotations
OCTO	Office of the Chief Technology Officer	DCOZ	Department of Zoning
DGS	Department of General Services	FORSS	First Source Online Registration and Reporting System
DMGEO	Deputy Mayor for Greater Economic Opportunity	PPD	Public Private Developments
DMPED	Deputy Mayor for Planning and Economic Development	DES	DSLBD Enterprise System
Gov Ops	Government Operations	B2G	Business to Government
OAG	Office of the Attorney General	PUD	Planned Unit Development
D & F	Determination and Findings	PDA	Property Disposition Agreement
SBE	Certified Business Enterprise:	PADD	Property Acquisition and Disposition Division
CBE	Small Business Enterprise. SBEs are a CBE subcategory. District agencies monitored by DSLBD are subject to an annual SBE spending goal requirement, and SBEs receive preference over all other CBEs for procurement.	MOBIS	Management, Organizational and Business Improvement Services
RFP	Request for Proposals	RFI	Request for Information

DC Business Compliance: Small Business Enterprise (SBE) Spend and First Source Requirements, Payments from Primes/Subs

Under \$5,000	Under \$250,000	\$250,000 +	\$300,000 +
Included in Agency SBE goal: 50% of expendable budget	100% of contracted amount on SBEs	35% of contracted amount on SBEs	51% of new hires must be DC residents

Small Business Enterprises: Agencies must spend a portion of budgets and contracts on bona fide District-based business that are certified through DSLBD as SBEs:

- 50% of agency expendable budgets on SBEs
- 35% of every contract over \$250K on SBEs, unless a waiver has been approved
- 100% of every contract under \$250K on SBEs, unless a D&F has been posted

First Source hiring rules for District government assisted projects or contracts:

- 51% of all new hires on any government-assisted project or contract between \$300K and \$5M must be District residents
- For construction projects or contracts over \$5M, must have the following percentage of District of Columbia residents on those projects:
 - 20% of journey worker hours; 60% of apprentice hours; 51% of skilled laborer hours; 70% of common laborer hours
- Monitor all Great Streets projects and zoning

Prime contractor payments to subs: Payments are required to be sent within 7 days of the prime receiving payment from the District

Challenges

Technology:

- No one repository of all contracts, developments & procurements – there is a lack of visualization into the entirety of the Districts procurements
- Technology solutions are complex aren't integrated; many of the current systems (including DES, SOAR and PASS) are under construction or are undergoing modernizations
- For PPD projects, DSLBD doesn't have insight into when these projects begin; DMPED and others don't have access to SBE spend information for awareness

Process:

- Contracts are not automatically (and not consistently) shared with DSLBD to confirm adherence with SBE requirements
- Lack of communication between DSLBD and OCP on 'bad actors' with regard to SBE spend
- Agencies who need waivers are required to apply for one annually, utilizing resources at both the agency and DSLBD for contracts where a waiver is needed regularly

Policy:

- Unclear consequences for non adherence to SBE goals
- Concern about District's competitiveness if contracts are more regularly monitored and/or fined; need to be able to complete the work and are reliant on the contractors
- Current fine structure might not be enough of a deterrent to encourage people to use SBE

Challenges

Technology

- DOES does not have a view into all relevant contracts or projects

Process

- DOES does not always know when the work begins for IDIQ and MOBIS contracts
- Process for notification to DOES of public private development projects isn't clearly defined
- Project managers don't know who has / hasn't submitted information to FORRS

Policy

- DOES cannot issue fines until after contract is completed (when it's too late to remediate)
- Lack of enforcement prior to FY2017, need to reeducate contractors about policies and ensure compliance

Challenges

Technology

- District doesn't have window into payments made / not made to subcontractors; unable to track adherence to 7 day payment policy from primes to subs

Process

- District doesn't have oversight of timely payments made by prime contractors to subs
- Disputes may arise between prime and sub contractors, that may need remediation before payments are made; cannot require that subs be paid if the work is being disputed

Policy

- District doesn't have direct relationship with subcontractors, and doesn't oversee work
- Subcontractors complain of not getting paid on time, for work done in a District government contract, and in violation of District law
- There is no monetary penalty for non compliance with 7 day requirement