

The Small Business Programs Office
Presents...

Socioeconomic Programs and Contract Compliance

Meshelle M.V. Howard, MCA
Director, SBPO

Bryan C. Gleason
Sr. Small Business Auditor, SBPO

Michael A. Bing
Small Business Analyst



Agenda

- Welcome & Introductions
- Safety Contact
- Socio-economic Programs Overview
- Certification Process
- Purpose of Contract Compliance
- Legal requirements/guidance of “Contract Compliance?”
- Prompt Payment
- Alphabet Soup - Acronyms
- Pre-Award Cycle
- Post-Award Cycle
- Q&A



Safety Contact



Safety Contact

Before starting a job, think of potential hazards and how to protect yourself.

Safety Hotline

- The Safety Hotline is Metro's primary internal safety reporting method. Examples of safety concerns include hazardous conditions, safety rule compliance or violations, and environmental concerns
- How to Report:
 - Call the Safety Hotline at **202-249-SAFE (7233)**
 - Make a report online at [Metroweb > Report a Safety Concern](#)

Socio-economic Programs Overview

DBE/SBE/MBE/SBP/MBP



Small Business Program Office (SBPO) Socioeconomic Programs

Five (5) Socioeconomic programs and Two Certification Programs

- Disadvantaged Business Enterprise Program (DBE) – *Federally Mandated by 49 CFR 26*
- Small Business Enterprise Program (SBE) – *Federally Mandated by 49 CFR 26.39*
- Minority Business Enterprise Program (MBE) – *New program non-federal*
- Small Business Program (SBP) – *New program non-federal*
- Micro-Business Program (MBP) – *New program non-federal*
- WMATA Certification Oversight Committee (WCOC) (MBE Program)
- District of Columbia Unified Certification Program (DCUCP)(DBE Program joint with D.DOT)

Socioeconomic Programs

A Disadvantage Business Enterprise (DBE) Firm is:

To be eligible as a DBE, a firm must be “an existing small business” that is 51% owned and controlled by a socially and economically disadvantaged individual. The owner’s personal net worth must be below \$1.32 million, and the firm (including its affiliates) average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.104), over the firm's previous three fiscal years, does not exceed \$26.29 million.

A Small Business Enterprise (SBE) is:

To be eligible as a SBE a firm must be a for-profit business, owned by a U.S. citizen or lawfully admitted permanent resident of the U.S. The firm must not exceed the Small Business Administration’s size standards for the work they desire to perform and average annual gross receipts for the three previous fiscal years does not exceed \$26.29 million.

Socioeconomic Programs

Minority Business Enterprise (MBE) Program

- The MBE Program is race-conscious and mirrors Metro's existing DBE Program
- A Disparity Study concluded in January 2022 and the results are assisting Metro in the analysis for a potential over-all goal for this program

Small Business Program (SBP)

- A race-neutral, small business-focused prime contracting set aside Program
- Any small business that is headquartered in MD, DC or VA, and that meets the Program's business size criteria, can be considered for small business certification
- A small business set aside is mandatory if the contract value is at least \$50,000, but no more than \$1,000,000 and if there is a minimum of three (3) certified small businesses identified in Metro's directory

Socioeconomic Programs

The background of the slide is a faded photograph of a city street. On the right side, a white Metrobus is visible, with the word "metrobus" in blue and red lowercase letters on its side. A person in a white uniform is visible through the bus's window. To the left of the bus, there are green trees and a sidewalk. In the background, there are modern buildings and a bridge structure.

Micro Business Program (MBP)

- Is a race-neutral set aside within the Small Business Program (SBP)
- A set-aside that is meant to target very small businesses for prime contracting opportunities
- Micro business set-aside is mandatory for contracts up to \$50,000 when there are at least three (3) certified micro businesses that have been identified in Metro's directory

Key Program Provisions

MBE

- Race/gender conscious
- Larger locally funded projects
- Project-specific subcontracting goals
- Certification not required to bid as prime
- Subcontractor prompt payment required
- MBE replacement/termination; strict criteria
- Good faith efforts required for waivers
- Commercially useful function
- Worksite and other protections
- 2-year certification period

SBP/MBP

- Race/gender neutral
- Prime contracting set aside
- All non-federal contracts/projects reviewed for potential set aside
- Credit card purchases included
- SBP mandatory for contracts \$50K – \$500K
- Up to \$1 mil mandatory SBP; CPRO discretion
- MBP set aside mandatory for up to \$50K
- 3 or more certified businesses required
- Mandatory set side on existing renewal contracts
- 2-year certification period

Individuals Presumed Disadvantaged

- African-American
- Asian-American
- Hispanic
- Native American
- Subcontinent Asian-American
- Women



Certification, Recertification, & Three- Year Audit Process



Certification Overview

- A. One application for three non-federal options (MBE/SBP/MBP)
- B. Separate DBE/SBE application
- C. Must register/apply through Metro's Supplier Portal
- D. Document checklist, and Job Aids are available on the Supplier Portal Webpage
- E. SBPOHotline@wmata.com

DBE Certification Application Steps

- Download and complete the [Uniform Certification Application \(UCA\)](#)
- Collect all supporting documents (page 15 of the UCA)
 1. Résumés for all owners, officers, and key personnel
 2. Personal Net Worth Statement(s)
 3. Three Years of Personal Tax Returns
 4. Documented proof of contributions used to acquire ownership
 5. Signed loan, security agreements, and bonding forms
 6. A list including title(s), registration certificate(s), and U.S. DOT numbers for all equipment and/or vehicles owned and leased
 7. List of any other Socio-economic Certs
 8. Licenses, license renewal forms, permits, and haul authority forms
 9. Descriptions and documented proof of ownership of all real estate
 10. Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
 11. Bank authorization and signatory cards
Schedule of salaries
 12. List of all employees (incl. titles)
 13. Proof of warehouse/storage facility ownership

DBE Certification Application Steps (cont.)

- Download and complete the required [Personal Net Worth \(PNW\) Form](#)
- Register as a supplier using [Metro's Supplier Portal](#). A temporary password will be sent to the email provided during registration
- Apply for Certification; Sign-In using your User ID and Password
- Click on **Main Menu** then on **DBE/SBE/MBE Certification > Add a New Value**

Annual Recertification

Applicant Must Upload the following to Metro's Supplier Portal

- Most Recent Corporate Tax Return
- Most Recent Personal Tax Return
- DBE Home State Certification Letter
- DBE No Change Affidavit

*****The documents required apply to the socially and disadvantaged owners having a majority ownership in the firm*****

Three Year Audit

Applicant Must Upload the following to Metro's Supplier Portal

- Corporate Tax Returns for Three Most Recent Years
- Personal Tax Returns for Three Most Recent Years
- DBE Home State Certification Letter
- DBE No Change Affidavit
- Personal Net Worth Statement
- Three Year Audit Review Form

*****The documents required apply to the socially and disadvantaged owners having a majority ownership in the firm*****

Purpose of Contract Compliance



Purpose of Contract Compliance

- The purpose of “Contract Compliance” is used as a verification tool that is necessary in monitoring not only *Contract* performance but investigating whether the DBE/SBE/MBE/SBP/MBP subcontractor actually performed Commercially Useful Function (CUF) on any given project

Legal requirements/guidance of “Contract Compliance?”



“What legal assurances must recipients and contractors make?”

- ☐ **According to 49 CFR 26.13 Assurances both recipient and contractors must make:**
 - ☐ **(a) Each financial assistance agreement an agency sign with a DOT operating administration or primary recipient, must include the following assurance**
 - ☐ **The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract.**
 - ☐ **The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration.**

“What legal assurances must recipients and contractors make?” Cont.

(b) Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurances.

- ❑ The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract**
- ❑ The contractor shall carry out applicable requirements as per Procurement Manual Chapter 7 Socioeconomic Programs in the award and administration of a contract**
- ❑ Failure by the contractor to carryout these requirement is a material breach of contract, which may result in the termination of the contract or such other remedy as the recipient deems appropriate, which may include, but not limited to:**
 - Withholding monthly progress payments;**
 - Assessing sanctions;**
 - Liquidated damages; and/or**
 - Disqualifying the contractor from future bidding as non-responsible**

“Contract Compliance” is it required? If so, why?

- **According to 49 CFR Subpart F – Compliance and Enforcement**
 - **(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement actions under 26.103 or 26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied**
 - **(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional**

Prompt Payment



“Prompt Payment – Post Award Component”

What prompt payment mechanisms must recipients have?

- **Establish a contract clause to require prime contractor to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment made to the prime contractor**
- **Ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed**
- **Provide appropriate means to enforce the requirements by including appropriate penalties for failure to comply, the terms and conditions of which are set**
- **Establish, as part of the DBE program, any additional mechanisms to ensure prompt payment:**
 - ☐ **A contract clause that requires prime contractors to include in their subcontract's language providing that prime contractor and subcontractors will use appropriate dispute resolutions to resolve payment disputes; and**
 - ☐ **A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime ensures that the subcontractors are promptly paid for work performed**

Alphabet Soup - Acronyms

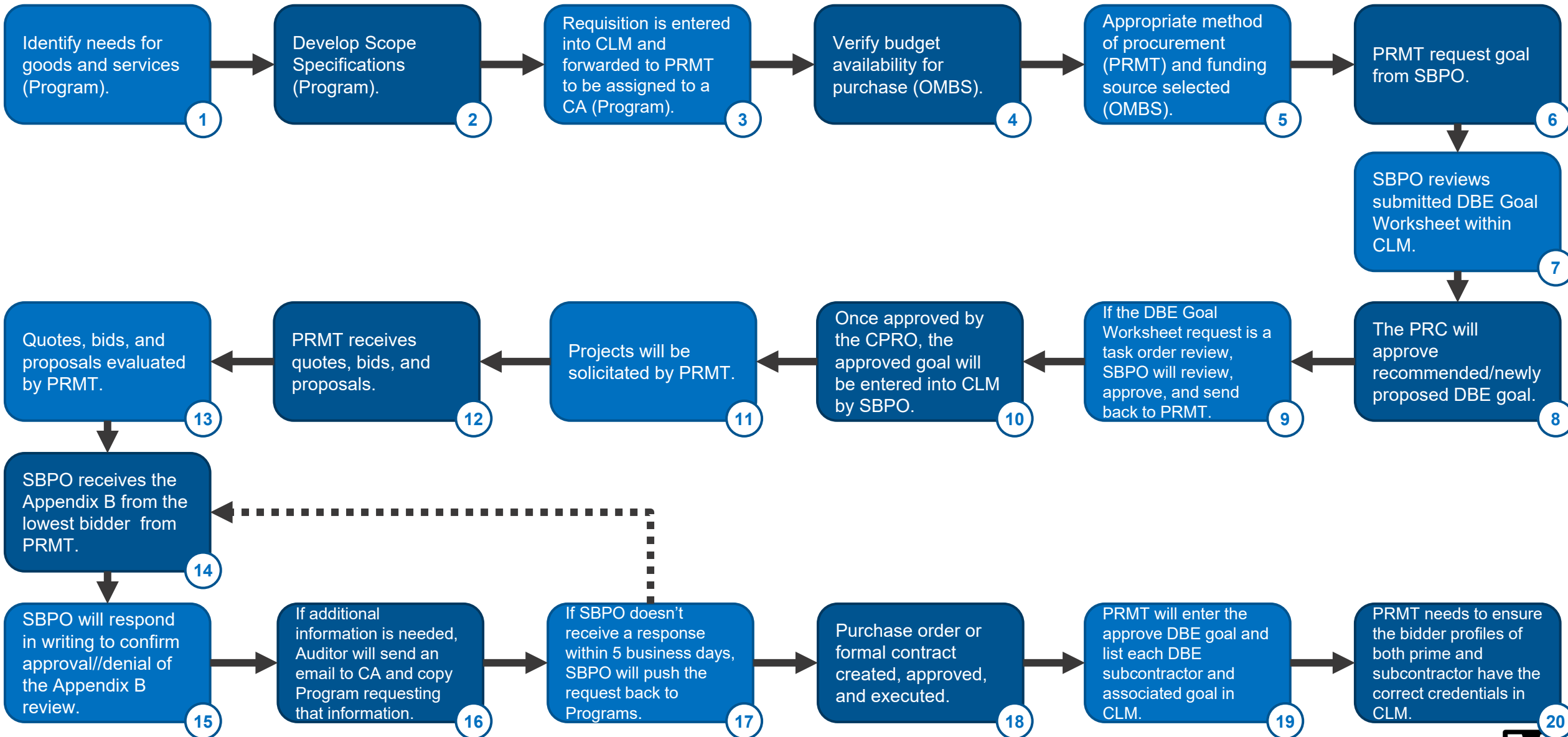


Metro Acronyms

- CA – Contract Administrator
- PRMT – Office of Procurement & Materials
- OMBS – Office of Management & Budget Services
- DBE – Disadvantage Business Enterprise
- SBE – Small Business Enterprise
- MBE – Minority Business Enterprise
- MBP – Micro Business Programs
- SBP – Small Business Programs Office
- SBPO – Small Business Program Office
- NTP – Notice to Proceed
- CPRO – Chief Procurement Officer
- TSR – Termination, Substitution, Reduction

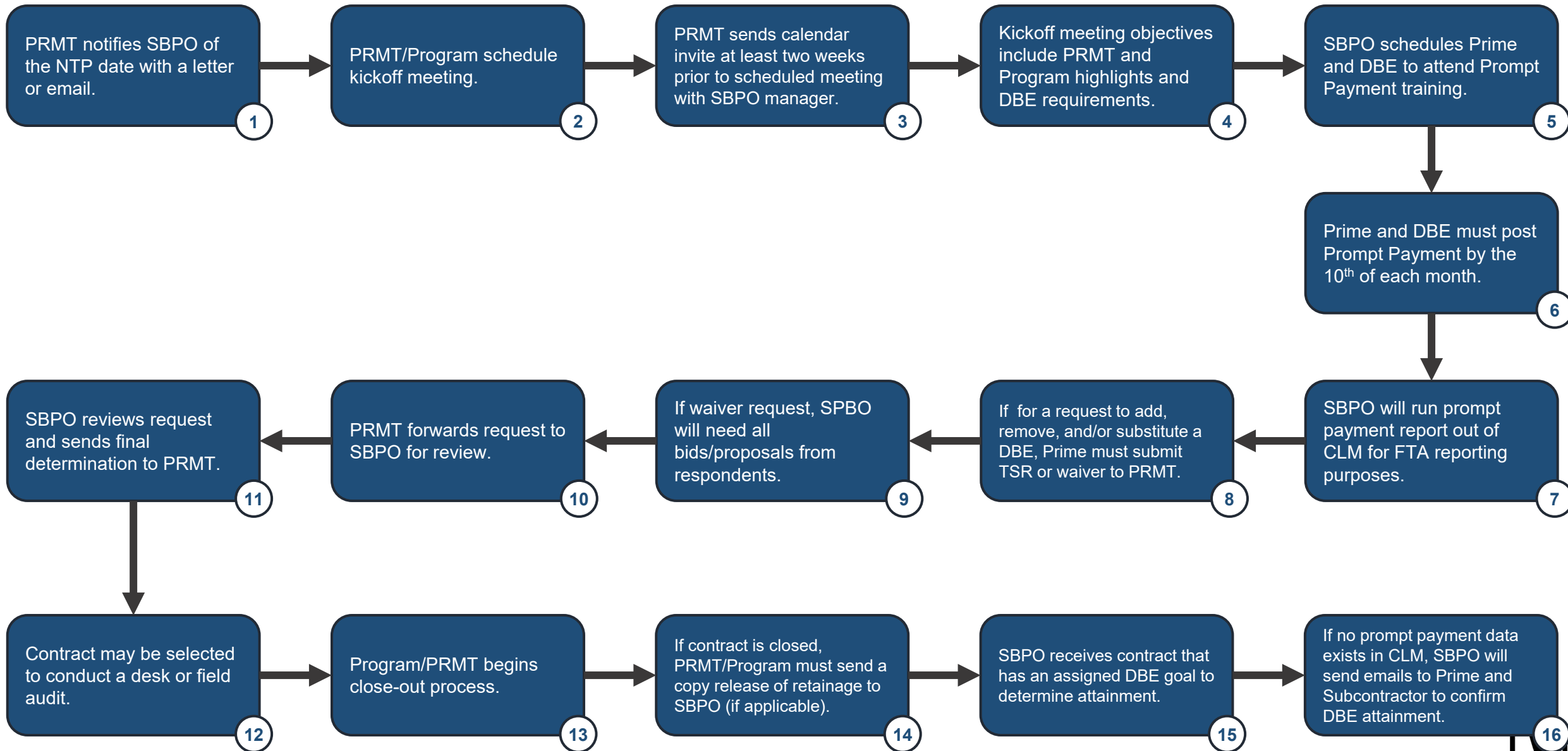
Pre-Award Cycle

Contract Compliance Pre-Award Procurement Cycle



Post-Award Cycle

Contract Compliance Post-Award Procurement Cycle



Small Business Program Office (SBPO)

Contact Information

Meshelle Howard, Director
MMHoward@wmata.com

Marlo Johnson, Manager
MEJohnson1@wmata.com

Rashida Reid, Sr. Small Business Auditor
RAReid1@wmata.com

Carl Farmer, DBE Sr Small Business Auditor
CLFarmer@wmata.com

Joseph Badu, DBE Sr Small Business Auditor
JKBadu@wmata.com

Bryan Gleason, MBE Sr Small Business Auditor
BCGleason@wmata.com

Mohammed Abiola, MBE Sr Small Business Auditor
MHAbiola@wmata.com

Anthony Spain, Small Business Prompt Payment Analyst
aspain@wmata.com

Lilliette Rivera, Small Business Certification Analyst
LRivera@wmata.com

Michael Bing, Small Business Certification Analyst
mbing@wmata.com

QUESTIONS

