

Attachment 4.1

Monitoring and Enforcement Mechanisms/Legal Remedies

NCTCOG has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Initiating Informal Dispute Resolution Techniques (e.g., advising contractor of non-compliance and seeking voluntary compliance, escalating issue to prime contractor's executive management);
2. Initiating a Formal Dispute Resolution Process;
3. Withholding of payment or retainage to enforce compliance;
4. Breach of contract action, pursuant to the terms of the contract; and
5. Any and all remedies available under law to enforce the terms of the contract.

The above list of remedies is not in priority order and is not intended in any way to limit remedies NCTCOG may choose to utilize. NCTCOG may initiate any of the above remedies or any others available to it under law, in its discretion, whether or not any of the other remedies has been attempted.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR part 26
2. Enforcement action pursuant to 49 CFR part 31
3. Prosecution pursuant to 18 USC 1001.