



Your Safety • Your Mobility
Your Economic Opportunity

Disadvantaged Business Enterprise (DBE) Commercially Useful Function (CUF) Determination - Agreements

Per 49 CFR 26.55, "A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved... A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation..." This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.

ITD district staff will perform CUF reviews on DBEs. A minimum of one CUF review must be performed for each DBE on each project with or without a DBE goal. With the assistance of the DBE Program Coordinator, a CUF review should be completed for each DBE by the district. The CUF review should be submitted with all supporting documentation (invoices, payroll, pictures, equipment, DWR and list of employees). The district will upload the completed CUF form into B2Gnow and in ProjectWise. A CUF review must be conducted to assess performance and compliance should be monitored throughout the course of the project. The following questions on this form should be answered by the DBE Owner or DBE Superintendent but **only ITD personnel can fill out this form. DBE's must not fill out any portion of the form.**

A **minimum of one CUF review** must be performed **for each DBE** on each federal-aid project **with or without a DBE goal**. The review should be conducted when the **DBE first begins work**, and compliance should be monitored throughout the course of the project. All questions marked with a * next to the question can be done by the district office staff (RE, DCOM, DRI).

Key #:	District:	Project Name:	
Prime Contractor:		Prime Contractor Contact:	
DBE Firm:			
DBE Firm Owner:		DBE Firm Email:	
DBE Firm Address:			
Date Contract Signed:	Start Date of DBE's Work:	Date DBE to Complete Work:	Date of Review:

DBE Scope of Work

DBE Firm is Performing as:

- ☐ Feasibility/Planning
 ☐ Traffic Design
 ☐ Landscape
 ☐ Bridge Design
 ☐ Material/Geotechnical
 ☐ GIS Mapping
 ☐ ITS
☐ ROW
☐ Surveying
☐ Archeology
☐ Architectural Historian
☐ CE&I
☐ Environmental
☐ Public Involvement
☐ Historian
☐ Project Management
☐ Hydraulics
☐ Airport Planning
☐ Other:

Provide a brief description of the DBE's scope of work (obtain copy of subcontract agreement and/or purchase order if needed):

Performance

Does the DBE firm have the required expertise for the subcontracted work?

☐ Yes ☐ No ☐ N/A

Is the DBE firm working without assistance from the prime contractor or another subcontractor?

☐ Yes ☐ No ☐ N/A

Is the DBE performing at least 30% of the work?

☐ Yes ☐ No ☐ N/A

Managing

Is the DBE scheduling work activities and other related actions for performance of the work?

☐ Yes ☐ No ☐ N/A

Is the DBE managing the work it has been subcontracted to perform?

☐ Yes ☐ No ☐ N/A

*Is the DBE submitting invoices and payroll? (*Attach a sample of invoices and the certified payroll.*)

☐ Yes ☐ No ☐ N/A

Supervising

Does the DBE firm have an experienced Project Manager on the project?

☐ Yes ☐ No ☐ N/A

If yes, please provide the Project Managers' name?

Is the Project Manager a full-time employee?

☐ Yes ☐ No ☐ N/A

Is the DBE supervising its employees and their work?

☐ Yes ☐ No ☐ N/A

Equipment

Is the DBE only using equipment it owns, rents, or leases? (*Attach equipment list and any rental/lease agreements.*)

☐ Yes ☐ No ☐ N/A

Commensurate

*Is payment received by the DBE firm commensurate for the work being performed?

☐ Yes ☐ No

Comments

Commercially Useful Function Determination

Based on the above, is the DBE an independent business, executing a distinct element of work, and actually performing, managing, and supervising the work specified in the DBE's contract?

☐ Yes ☐ No

If no, proceed to the "Non-Commercially Useful Function Determination."

Date of Review:

Signatures and dates below must be included prior to submission.

Reviewer Signature:

Date:

Printed Name:

Job Title:

Resident Engineer or Second Reviewer Signature:

Date:

Printed Name:

Job Title:

Non-Commercially Useful Function Determination

If a CUF is not being performed by the DBE subcontractor, what action was taken to correct the deficiency?

Did the action taken correct the deficiency?

☐ Yes ☐ No

If needs be, include the DBE Program Coordinator in the discussion.

Date of Review:

Date of Correction:

Signatures and dates below must be included prior to submission.

Reviewer Signature:

Date:

Printed Name:

Job Title:

Resident Engineer or Second Reviewer Signature:

Date:

Printed Name:

Job Title:

DBE Program Coordinator Signature: (if needed)

Printed Name:

Date:

CUF Determinants

Management

- Scheduling work operations
- Preparing and submitting certified payrolls
- Full-time supervisor or superintendent

Red Flags

- The DBE owner or superintendent provides little or no supervision of the work
- The DBE's superintendent is not a regular employee of the firm
- The DBE owner is not aware of the status of the work

Records/Documents

- Subcontract Agreement or Purchase Order
- Daily inspection reports
- Certified payrolls

Equipment (Take photos where possible)

- The DBE owns, rents or leases equipment
- The DBE may lease specialized equipment with an operator
- The DBE provides the operator and is responsible for all labor and compliance for non-specialized equipment
- The DBE's sign or logo is on the equipment
- The DBE is utilizing its own equipment

Red Flags

- The DBE and prime share equipment
- Equipment signs and markings cover another contractor's identity
- DBE's name is not on the lease agreement

Records/Documents

- Invoices
- Haul tickets or Bills of Lading
- Lease agreement
- Ownership documents, e.g. title, registration, vehicle identification number (VIN)
- Cancelled checks

Performance/Workforce

- DBE must be responsible for performing its own work on the project
- At least 30% of the work must be performed by the DBE with its own workforce
- The DBE keeps a regular workforce and had its own employees

Red Flags

- A portion of the DBE's work being done by the Prime Contractor or jointly with another contractor
- Employees working for both the prime and the DBE
- Supervision of the DBE employees by another contractor
- The work is outside of the DBE's known experience or capability
- The DBE's work is self-performed by the prime or another contractor

Records/Documents

- Subcontract Agreement or Purchase Order
- DBE monthly progress reports
- Certified payrolls