

Disadvantaged Business Enterprise (DBE) Program Commercially Useful Function (CUF) for DBE and SBE **Project Site Review**

A DBE/SBE is performing a CUF, according to 49 CFR, §26.55, subparagraph (c)(1) and (2), 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. To perform a commercially useful function, the DBE/SBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself...A DBE/SBE does not perform a commercially useful function 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/SBE participation."

Project Site CUF reviews will be performed for every DBE/SBE working on an NDOT construction project. The CUF review should be conducted when the DBE/SBE first begins work and then CUF is monitored throughout the life of the contract.

Contract #: _____ RE/PM: _____ Reviewer:

DBE/SBE: _____ Prime Contractor: _____

DBE/SBE Start Date: _____ DBE/SBE Anticipated End Date: _____

SCOPE OF WORK

Provide a brief description of the work observed:

Does this match the work described in the SSPR (Subcontractor/Service Provider Request form)? If no, please explain:

SUPERVISION

Does the DBE/SBE have a superintendent/foreman on the project?

If yes, name:

Does the superintendent/foreman work exclusively for the DBE/SBE? If no, who else do they work for?

Name of the person to whom the superintendent/foreman reports:

EMPLOYEES

Does the DBE/SBE have employees working on the project?

Do the employees appear on the DBE's/SBE's certified payroll reports? If not, why not?

Do the employees (also) appear on another company's certified payroll reports on this project?

Who assigns work to the employees?

PERFORMANCE

Has any other contractor performed any of the work assigned to the DBE/SBE? If yes, please list the company name and the work performed:

EQUIPMENT Yes No Does the DBE/SBE own/lease/subcontract for all the equipment used by the DBE/SBE on the project? Does the DBE/SBE use equipment from the prime or any other contractor (not subcontracted to the DBE/SBE)? If yes, who:

Does it appear this DBE/SBE is performing a commercially useful function (see Determinants on page 2)? Yes No

Yes

Yes

Yes

Yes

No

No

No

No

CUF DETERMINANTS

If any Red Flag Conditions are identified, or you do not believe the DBE/SBE is performing a CUF, please contact the Contract Compliance Office.

SUPERVISION/EMPLOYEES

- DBE/SBE supervisor is a full-time employee of the DBE/SBE
- Employees are being supervised by DBE/SBE supervisor
- Employees are paid by the DBE/SBE
- DBE/SBE is scheduling work operations

RED FLAGS

- DBE's employees are being supervised by Prime Contractor or another contractor
 - DBE/SBE provides little or no supervision of work
- DBE/SBE supervisor is not a full-time employee of the DBE/SBE

RECORDS/DOCUMENTS

- Certified Payrolls
- Document communication with DBE/SBE owner or Superintendent

PERFORMING

- DBE/SBE must be responsible for performing its own work on the project
- The work of the subcontract must be performed by the DBE/SBE with its own workforce
- The DBE/SBE keeps a regular workforce and has its own employees
- The DBE/SBE is utilizing its own equipment
- Operation of the equipment must be subject to the full control of the DBE/SBE

RED FLAGS

- A portion of the DBE's work being done by the Prime Contractor or jointly with another contractor
- Employee working for both the Prime and the DBE/SBE
- Equipment used by DBE/SBE belongs to the Prime Contractor or another contractor with no formal lease agreement
- Equipment signs and markings cover another contractor's identity
- Equipment has another contractor's name on it

RECORDS/DOCUMENTS

- Subcontract Agreement or Purchase Order
- Equipment ownership, rental, or lease documents
- Certified payrolls

MATERIALS (For material credit)

- DBE/SBE is responsible for the delivery of the materials
- DBE/SBE is ordering the material and invoices indicate that DBE/SBE is the customer
- Material invoices indicate that DBE/SBE owner or Superintendent is the contact person

RED FLAGS

- Materials for DBE/SBE credited work are delivered by the Prime Contractor
- Materials are ordered, billed to, and/or paid by the Prime Contractor
- Invoices do not indicate that DBE/SBE is the customer
- Prime's employee is listed as the contact person on invoices
- Materials come from Prime's stockpiles

RECORDS/DOCUMENTS

- Invoices
- Haul tickets or Bills of Lading
- Material on Hand documentation
- Joint check agreement
- Cancelled checks