



# Office of Supplier Diversity

## Commercially Useful Function (CUF) Review Form

Performance of a CUF review is required for each DBE subcontractor on a Bi-State Development project (BSD). The review should be conducted when the DBE first begins work. Monitoring is to be performed throughout project duration. *49 CFR §26.55 states that 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 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 participation.* The purpose of this is form is to review DBEs for compliance with the CUF requirements for obtaining DBE credit on this BSD project.

Date of Review:

Reviewer's Name:

Contract Name/Number:

Prime Contractor Name:

DBE Firm's Name:

DBE's Start Date:

Type of Operation:     Contractor     Trucker     Regular Dealer     Manufacturer

### Management

1. Is there a fully executed contract to perform a distinct element of work?  Yes     No
2. DBE's site superintendent/foreman name:
3. Who does the site superintendent/foreman report to:
4. Is the DBE's superintendent/foreman shown on the DBE's payroll?     Yes     No
5. Is the DBE's representative shown on the prime contractor's payroll or any other contractor's payroll?  Yes     No  
If yes, name of contractor/subcontractor:
6. Does the DBE superintendent/foreman administer his/her work in an independent manner free of interference from the prime contractor?  Yes     No

7. Who would the DBE superintendent/foreman contact to put on additional personnel or modify the DBE contract due to changed conditions? (List name and title)
8. Indicate DBE work observed this date.
9. Has any other contractor performed any amount of work specified in the DBE's contract?  
Yes No If yes, explain:
10. Has the disadvantaged owner been present on the jobsite? Yes No  
If yes, percent:
11. Does the DBE subcontractor appear to have control over methods of work on its contract items?  
Yes No
12. Is the DBE maintaining its own payroll? Yes No
13. Who prepares the DBEs certified payroll?
14. Is the DBE actually scheduling work activities, material deliveries and other related actions required for execution of the work? Yes No
15. Did the DBE subcontract any items or portions of the work to another firm/contractor?  
Yes No If yes, name of firm and percent:

### **Workforce**

16. List names of DBE crew as observed during the operation described above (indicate craft).
17. Are any of the DBE's crew on the prime contractor's payroll or any other subcontractor's payroll?  
Yes No If yes, list the name and crafts:

18. Does the DBE's crew know who they work for? Yes No

### Equipment

19. List major self-propelled equipment used by DBE:

20. Does the equipment have the DBE marking or emblems? Yes No

If another firm's markings are shown, please indicate the name:

21. Is the DBE's equipment owned or leased? Owned Leased from:

If leased, is there a formal agreement identifying the terms and parties? Yes No

22. Is the equipment operator an employee of the DBE? Yes No

If no, explain:

23. If leased, are the rates appropriate (i.e. within Blue Book rates, etc.?) Yes No

If no, why not?

### Materials

24. Is the DBE contracted to furnish and install a contract item or contract items? Yes No

25. Is the quality and quantity of the materials controlled by the DBE? Yes No

26. Who ordered the materials?

27. Who delivered the materials to the job site?

28. Who received the materials on-site?

29. Who scheduled delivery of the materials?

30. Who were material invoices made out to?

31. How were the materials delivered to the job site?

32. Does the prime contractor direct whom the DBE is to obtain the material from and at what price?

Yes No

33. Did the DBE contractor actually pay for its material with their own funds? Yes No

If no, if two party checks were utilized who are the parties identified as payable to:

## Performance

34. Does the DBE appear to have control over methods of work on its contract items? Yes No
35. Has any other contractor performed any amount of work specified in the DBE contract?  
Yes No

## Other Work Categories

### TRUCKING FIRMS:

- (a) Are DBE trucks present on the job site? Yes No  
Are they Owned Leased from:  
If leased, is there a formal lease agreement identifying the terms and parties? Yes No
- (b) Are rates appropriate? Yes No
- (c) Is there a subcontract or written agreement? Yes No  
Who are the parties?
- (d) Are DBE employees shown on the certified payroll? Yes No

### REGULAR DEALERS:

- (a) Does the regular dealer have an established storage facility and inventory? Yes No
- (b) Does the regular dealer have a business that sells the product being supplied as a normal stock item? Yes No
- (c) Does the regular dealer have a business that sells the product being supplied to the public on a routine basis? Yes No
- (d) Is the quantity and quality of the materials controlled by the DBE? Yes No
- (e) Whose name are materials shipped (include name and job title)?
- (f) Who delivers and unloads material?

### MANUFACTURER

- (a) Is the primary function of the business manufacturing construction products/materials?  
Yes No
- (b) Does the business stock the product manufactured or altered for this project as a normal stock item? Yes No
- (c) Is the quality of the materials controlled by the DBE? Yes No

**Additional Notes**

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

Did the action taken, described above, correct the deficiency? Yes No

Explain.

Prepared by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

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### **What Constitutes a Commercially Useful Function (CUF)?**

In order for a prime contractor to receive DBE credit on a Bi-State Development project the DBE must perform a CUF. 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 with its own equipment and workforce.

### **Keys Areas to Monitor for CUF Compliance**

1. DBE Company Management
2. DBE Workforce
3. Equipment
4. Materials
5. Performance

### **CUF Violation Red Flags**

#### **Management:**

- DBE does not have a fully executed contract, purchase order or other contractual document
- DBE owner or superintendent provides little or no supervision of the work
- DBE superintendent is not a regular employee of the firm
- Key personnel not under the control of the DBE
- Supervision performed by the prime contractor or another business
- DBE owner unaware of the work being performed
- Prime contractor responds to questions associated with the DBE's work for the DBE

#### **Workforce:**

- Another contractor supervising DBE employees
- Employees on both the DBE and prime contractor or another contractor's payroll
- Employees paid by the prime
- Employees working for another company on the project
- Employees unfamiliar with DBE company owner/superintendent/key personnel
- Prime contractor employee or another contractor performing the work of the DBE contract

#### **Equipment:**

- The equipment is used by the DBE but payments for usage is deducted by the prime
- Equipment utilized by the DBE belongs to another contractor with no formal lease agreement executed between parties
- Magnetic signage and markings cover another company logo or other information

#### **Materials:**

- Materials ordered and/or paid for by another contractor
- Joint (2 party) checks sent directly to suppliers without knowledge or consent of the DBE
- Materials or supplies to be obtained by DBE are delivered to, billed to or paid for by another contractor
- Material quotes and shipping tickets in another contractor's name or the name of the prime
- Payment for materials is deducted from DBE payments by the prime
- Prime contractor arranges for the delivery of DBE materials

#### **Performance:**

- DBE and prime performing work jointly together on the project
- DBE has no experience to perform the work in its contract
- Prime performs a portion of the DBE's contract work
- DBE performs work without a subcontract, purchase order or other signed contractual document
- DBE subcontracts more of its work than is customary or normal industry practice (50%)
- DBE participation is less than prime contractors commitment
- DBE works for only one prime contractor or a large portion of the DBE's contracts are with one contractor

**(NOTE: A red flag does not automatically mean there is a CUF violation. Red flags should be documented.)**