



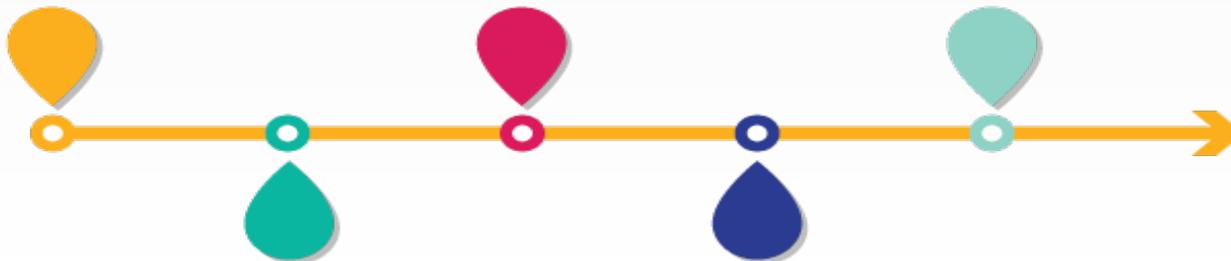
# DBE Commercially Useful Function Review

MoDOT External Civil Right Symposium  
Drury Inn Hotel - Chesterfield  
Wednesday, March 27, 2024

# Overview Topics



- DBE Program Requirements
- Commercially Useful Function
- DBE Substitutions/ Terminations



# DBE Program Regulations



- DBE Program is administered by MoDOT External Civil Rights Division.
- Provides opportunities to participate in economic benefits of US DOT funded transportation projects.
- Program is federally mandated (49 CFR Part 26).
- Program includes DBE participation goals.



# EPG Guidelines



## Category:146 Disadvantaged Business Enterprise (DBE)



Disadvantaged Business Enterprise (DBE) Program is a required federal program administered by MoDOT's [External Civil Rights Division](#). Projects with federal funding will normally contain a DBE goal that is set to assist in achieving a statewide goal. This article guides the [Resident Engineer's office](#) in administration of the DBE Program on the project level. For any questions or additional information regarding this article, contact MoDOT's External Civil Rights Division.

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146.3.3 DBE Trucking Companies



DBE trucking companies are commonly used for participation on projects

### 146.1 DBE Compliance

# Types of DBEs



DBE's performing work on the project

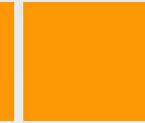
- Subcontractors - Furnish/Install
- Manufacturers
- Suppliers
- Brokers
- Truckers
- Engineering/Design/Consultants

# Commercially Useful Function (CUF)



- Commercially Useful Function reviews are done to verify the execution of the work contracted by a DBE.
- The DBE shall be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality, quantity, ordering the material, installation (where applicable) and paying for the material itself.
- Be sure to fully complete the CUF form and mark N/A to any sections that do not apply.
- Upload the completed CUF forms to e-Projects.

# Commercially Useful Function (CUF) Form



## CUF Field Review – Inspector to Complete

Contract ID: \_\_\_\_\_ Job No.: \_\_\_\_\_ Date: \_\_\_\_\_  
Prime Contractor: \_\_\_\_\_ DBE Contractor: \_\_\_\_\_  
DBE Representative: \_\_\_\_\_  
DBE Representative Reports to: \_\_\_\_\_

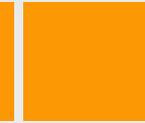
Manufacturers – a DBE fabricates an item, which may include installation.

1. Who arranged the delivery of materials? List employee name: \_\_\_\_\_
2. Who scheduled the delivery of materials? List employee name: \_\_\_\_\_
3. At what facility were the product(s) used today manufactured? \_\_\_\_\_
4. Who ensures product quality? List employee name: \_\_\_\_\_

\*Can be conducted via phone or email.

N/A

# Commercially Useful Function (CUF) Form



Furnish & Install (Traffic Control, Guardrail/cable, Striping, Landscaping, Electrical, rebar, curb/gutter, Sidewalks, etc.)

1. Has the firm owner been present on the jobsite?

Yes Owner Name: \_\_\_\_\_

No Owner Name: \_\_\_\_\_

2. Who is present on the job site today? Provide first and last names of everyone present on the site.

\_\_\_\_\_

3. Do you have equipment (trucks, heavy equipment, distribution) on the job site today?

Yes, if yes, are they  Leased or  Owned?

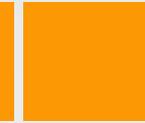
No  Don't Know

4. Are there any subcontractors working under this company?  No

Yes Name of Firm: \_\_\_\_\_

N/A

# Commercially Useful Function (CUF) Form



Truckers - typically hauling asphalt mix, dump trucking, and removals.

1. List Driver names: \_\_\_\_\_
2. List license plate #'s: \_\_\_\_\_
3. Are your trucks/trailers  Leased or  Owned?  Don't Know
4. Are there any truckers working under this company as a second tier subcontractor?  No  
 Yes Name of Firm: \_\_\_\_\_

N/A

Material Suppliers - aggregate, steel/rebar, pipe, liquid asphalt, electrical, lighting/signals – no installation.

1. Who delivered today's materials? Employee(s): \_\_\_\_\_
2. License Plate #'s: \_\_\_\_\_
3. What facility were the materials picked up from? \_\_\_\_\_
4. **\*LIQUID ASPHALT ONLY\*** Are your trucks/trailers  Leased or  Owned?

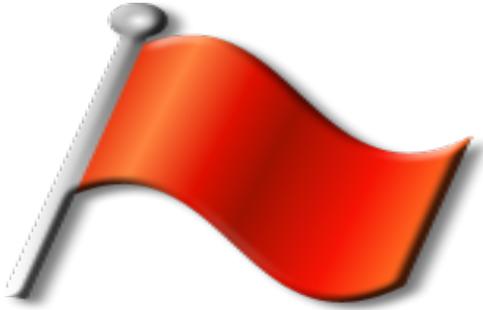
N/A

# Commercially Useful Function (CUF) Form



## Field Observation Review

1. Describe the recent type of work observed and/or take photos: \_\_\_\_\_  
\_\_\_\_\_
  2. Were there any employees that you observed and appeared to be part of the DBE crew that the DBE representative did not mention above?
    - Yes, if so, conduct a wage rate interview on these employee(s).
    - No
  3. List the types of major equipment (trucks, heavy equipment, distribution) used by the DBE:  
\_\_\_\_\_
  4. Does the equipment have the DBE's markings or emblems?
    - Yes
    - No, list other name, and take photo : \_\_\_\_\_
  5. Do you believe the DBE operators are controlling their own work?
    - Yes, if yes list the name of the employee(s) responsible for the equipment:  
\_\_\_\_\_
    - No, list the name of the individuals directing the work: \_\_\_\_\_  
\_\_\_\_\_
  6. Do you believe the DBE employees are directing their own work?
    - Yes
    - No, list observations here: \_\_\_\_\_
  7. Issue(s) reported to ECR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Reported by: \_\_\_\_\_ Reported to: \_\_\_\_\_ Date Reported: \_\_\_\_\_



# **RED FLAGS & EXAMPLES/GUIDANCE FOR COMPLETING CUF FORM**



# CUF Red Flags

- DBE performing work outside of its known experience or capability.
- DBE provides little or no supervision of the work, DBE superintendent is not a regular firm employee or supervision performed by personnel not under DBE firm's control.
- DBE workforce not under DBE's control or direction or work is performed by personnel employed by another business.
- Substantial portion of equipment used by the DBE firm belongs to the prime/another contractor with no formal lease agreement.
- Materials/supplies delivered, billed, or paid by another business.
- DBE firm subcontracts or assigns any portion of the work to another firm.



# CUF Red Flags

- DBE working without a subcontract agreement approved by the Department except in cases of trucking.
- DBE trucker utilizes prime's trucks.
- DBE prime subcontracts more than 50% of the contract value
- DBE prime only purchases materials while performing little/none of the work.
- Agreement between prime and DBE artificially inflates the DBE participation or erodes the ownership, control or independence of the firm
- DBE firm works for only one prime
- Employees work for both DBE & prime
- Inquiries by MoDOT or FHWA answered by prime
- DBE firm owner unaware of status of the work or firm's performance.

# CUF Observations/Concerns



HOME >> BUSINESS >> CONTRACTOR RESOURCES >> EXTERNAL CIVIL RIGHTS >> MRCC LIST

MRCC DBE Lookup

Missouri Department of Transportation (MoDOT)  
Missouri Regional Certification Committee (MRCC)  
Disadvantaged Business Enterprise (DBE)  
Small Business Enterprise (SBE)

Disadvantaged Business Enterprise Search

[Switch to Small Business Enterprise \(SBE\) Search](#)

DBE Name:	<input type="text"/>	Agency:	<input type="text" value="Select"/>	
CEO Name:	<input type="text"/>	County:	<input type="text" value="Select"/>	District: <input type="text" value="Select"/>
Address:	<input type="text"/>			
City:	<input type="text"/>			
State:	<input type="text"/>	Zip Code:	<input type="text"/>	
Phone:	<input type="text"/>	Fax:	<input type="text"/>	
Email:	<input type="text"/>			
		DBE Status:	<input type="text" value="Select"/>	ACDBE: <input type="text" value="Select"/>
		NAICS Code:	<input type="text"/>	
		Description (Keywords):	<input type="text"/>	



Click on search button for a complete listing - do not enter any criteria



# Trucking – Requirements

## **ALL Trucking Operations**

- Submit an equipment list on a quarterly basis as well as their Quarterly Wage Contribution Reports. “
- DBE must submit weekly trucker reports to project office
  - Trucker reports should include documentation indicating which employees worked that week via payroll.

## **Regular Dealers ONLY**

- DBE must own or long term lease all trucks utilized on project
- DBE must employ all personnel on project (no 1099)
- DBE should advise employees to sign BOL/hauling tickets legibly
- ECR will work on case-by-case basis for unsigned tickets

# Trucker Reports



Form 1 (rev. 10/2021)

## DBE Contractor/Subcontractor Project Trucker and Equipment List

DBE Firm \_\_\_\_\_

Reporting Period \_\_\_\_\_

Complete the form below to verify the specific trucks/tankers owned by your firm. This form will need to be submitted to MoDOT on a calendar year quarterly basis. Use Submit Form button at the top of the form to submit form data to [dbe@modot.mo.gov](mailto:dbe@modot.mo.gov).

### Trucks:

	Truck Year	Truck Make/Model	License Plate Number	Truck VIN # or ID	Owned or Leased Truck	If Leased, Who Do You Lease the Truck From?
1						
2						
3						
4						
5						
6						
7						
8						

# Trucker Reports



Form 1 (rev. 10/2021)

## DBE Contractor/Subcontractor Project Trucker and Equipment List

### Trucks/Tankers Sold

	Truck/Tanker Year	Truck/Tanker Make/Model	VIN # or ID
1			
2			
3			
4			
5			

# Regular Dealers/ Liquid Asphalt Supply



Factors Used to Determine if a DBE is Performing a “CUF”:

- Negotiating Price
- Determining quality and quantity
- Ordering the material
- Paying for the material
- Completing 100% of the work with DBE’s own employees and equipment

# How documentation shall be submitted for liquid asphalt supply



Documentation shall be in the following formats:

- Bills of lading
- Hauling tickets
- Shipper's manifest
- Paid invoices

Regardless of the format, the document(s) shall include: name of the carrier, full name of the driver, driver ID number(s), truck and tanker ID or VIN number, and reflect the contract number, job number, county and route.



# Factors regarding ineligibility of DBE credit for liquid asphalt

A DBE Regular Dealer of Liquid Asphalt is Not Eligible for DBE Credit if and/or when

- “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.”
- If a DBE acts in this capacity (brokering), only the fees and commissions may be counted towards the DBE goal.

# Factors regarding ineligibility of DBE credit for liquid asphalt



- If the type of transaction does not allow the DBE subcontractor to perform one of the required functions
- If work is performed with trucks that are not owned nor under a lease agreement
- Lack of documentation verifying that at least one DBE owned (not leased) tractor, tanker/trailer was used for hauling on the project

# DBE Terminations & Substitutions



*The prime contractor will submit a DBE substitution request when they desire to replace or remove a DBE (49 CFR 26.53) .*

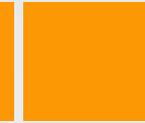
- Form completed for DBE:
  - Substitution
  - Termination
  - Addition
- Valid reasons for substitution/termination:
  - DBE out of business
  - DBE requested removal
  - DBE failed/refused to perform work
  - DBE performed unsatisfactory work
  - Project underruns

# DBE Substitutions



- Form MUST include:
  - Prime's termination letter & DBE agreement to terminate  
**OR**
  - DBE letter of voluntary removal request  
**AND**
  - Replacement DBE commitment along with quote
  
- For additional DBE participation, only new commitment & quote required.

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