

COMMERCIAL USEFUL FUNCTIONS RED FLAGS

The following situations are examples of firms that may not be legitimate DBE companies:

- a) the work to be performed by the DBE is outside of the DBE's known experience or capability;
- b) the DBE provides little or no supervision of the work, the DBE superintendent is not a regular employee of that firm or supervision is performed by personnel associated with the prime contractor, another business or personnel not under the control of the DBE firm;
- c) the DBE work force is not under the DBE firm's control and direction or work is performed by personnel normally employed by the prime contractor or another business;
- d) any portion of the work designated to be performed by a DBE subcontractor is performed by the prime contractor;
- e) a substantial portion of the equipment used by the DBE firm belongs to the prime contractor or another contractor with no formal lease agreement or the equipment signs and marking cover another owner's identity, usually through the use of magnetic signs. The External Civil Rights Section will determine "substantial portion" on a case by case basis;
- f) materials or supplies necessary for the DBE firm's performance are delivered to, billed to, or paid by another business;
- g) the DBE firm subcontracts or assigns any portion of work to another firm;
- h) the DBE firm is working without a subcontract agreement approved by the Department except in the case of trucking;
- i) a DBE trucking business utilizes trucks owned by the prime contractor;
- j) a DBE prime contractor subcontracts more than 30% of the contract value;
- k) a DBE prime contractor only purchases materials while performing little or no work;
- l) the agreement between the prime contractor and DBE firm artificially inflates the DBE participation or erodes the ownership, control or independence of the firm;
- m) a DBE firm works for only one prime contractor;
- n) employees work for both the DBE firm and the prime contractor or mentor;
- o) the volume of work is beyond the capacity of the DBE firm;
- p) inquiries by Department or FHWA representatives are answered by the prime contractor or mentor; and
- q) the DBE firm's owner is not aware of the status of the work or the performance of the business.