

COMMERCIALLY USEFUL FUNCTION (CUF) REVIEW

NOTICE: Performance of a CUF review is required for each Disadvantaged Business Enterprise (DBE) subcontractor included on a Kentucky Transportation Cabinet (KYTC)-let, federally-assisted construction project. The review should be conducted when the DBE first begins work, with continuous monitoring throughout the course of the project. 49 CFR 26.55 states: "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 obtaining DBE credit on this project.

PART A: REVIEW INFORMATION

REVIEWER'S NAME	REVIEWER'S AGENCY	PHONE
PRIME CONTRACTOR	PROJECT NUMBER (ID)	
DBE FIRM BEING REVIEWED	FIELD REVIEW DATE	

PART B: DBE WORK INFORMATION

(See Page 3 of this form for specific monitoring areas for CUF compliance, as well as red flags that may indicate CUF violations.)

SECTION 1: SCOPE OF WORK

Describe the DBE's scope of work. (Review the DBE commitment form, subcontract, trucking worksheet and/or purchase order(s), truck ticket(s), and any additional information or documents that assist in determining CUF compliance.)

--

SECTION 2: FOREMAN/SUPERINTENDENT (To be completed by the Field Inspector/Resident Engineer)

FOREMAN/SUPT NAME	OFFICIAL JOB TITLE	EXCLUSIVELY EMPLOYED BY DBE
		☐ Yes ☐ No
DIRECT SUPERVISOR NAME	OFFICIAL JOB TITLE	

SECTION 3: EMPLOYEES (Include all DBE employees working today.)

FIRST & LAST NAME	GIVEN WORK ASSIGNMENTS BY FOREMAN/SUPT		FIRST & LAST NAME	GIVEN WORK ASSIGNMENTS BY FOREMAN/SUPT	
	YES	NO		YES	NO
	☐	☐		☐	☐
	☐	☐		☐	☐
	☐	☐		☐	☐
	☐	☐		☐	☐

COMMERCIALLY USEFUL FUNCTION (CUF) REVIEW

SECTION 4: EQUIPMENT *(To be completed by the Field Inspector/Resident Engineer. Include all major equipment on the worksite today.)*

EQUIPMENT DESCRIPTION	DBE NAME OR LOGO AFFIXED		FIRM NAME IF NON-DBE NAME OR LOGO AFFIXED	EQUIPMENT OWNED BY DBE	
	YES	NO		YES	NO
	☐	☐		☐	☐
	☐	☐		☐	☐
	☐	☐		☐	☐
	☐	☐		☐	☐
	☐	☐		☐	☐

SECTION 5: TRUCKING *(Check here ☐ if not applicable, and proceed to Section 6.)*

1. Does the DBE trucking firm own or lease their trucks? ☐ Yes ☐ No
(If "Yes," obtain verification of ownership or lease documents in the name of the DBE firm.)

2. Does the DBE employ drivers for trucks owned or leased by the company? ☐ Yes ☐ No

3. List all Federal and State Department of Transportation numbers on trucks owned by the DBE.

MAKE	MODEL	FEDERAL/STATE DEPARTMENT OF TRANSPORTATION NO.

SECTION 6: ADDITIONAL COMMENTS/EXPLANATIONS

PART C: CERTIFICATION

By signing below, I certify that I have observed the DBE performing its commercially useful function, and have documented, addressed, and reported any CUF problems to the Office for Civil Rights and Small Business Development (OCRSBD).

REVIEWER'S SIGNATURE	DATE SIGNED*

*Within 10 days of signature, a copy of this completed form must be emailed to KYTC.DBECUFMonitoring@ky.gov OR faxed to (502) 564-2114. Place original form in the project file.

Questions or concerns? Contact OCRSBD staff at (502) 564-3601.

COMMERCIALLY USEFUL FUNCTION (CUF) REVIEW

What Constitutes a Commercially Useful Function (CUF)?

In order for a contractor to receive DBE credit on Kentucky Transportation Cabinet projects the DBE must perform a CUF. To perform a CUF a DBE must carry out all contract responsibilities by performing, managing, and supervising its work while utilizing their own equipment. Also, the DBE must be paid in accordance with Kentucky Transportation Cabinet guidelines.

Five Key Areas to Monitor for CUF Compliance

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

CUF Violation Red Flags *(Noting a red flag does not automatically mean there is a CUF violation. However, notice of red flag(s) should be documented and reported to the Office of Civil Rights and Small Business Development (OCRSD).*

Management

- Supervision of DBE employees done by another contractor.
- The DBE provides little or no supervision of contracted work.
- The DBE's superintendent is not a regular, full-time, exclusive employee of the DBE.
- Supervision is performed by personnel associated with another company.
- The DBE hasn't been issued a subcontract, purchase order or other contractual document.
- DBE firm's owner is not aware of the status of the work, the employees and/or the performance of the business.
- DBE company owners are rarely or never seen.

Equipment

- The equipment is used by the DBE firm but the payments are deducted by the prime contractor.
- The equipment is used by the DBE firm belongs to another contractor with no formal long term lease agreement (large, highly specialized equipment, such as a crane, is an exception).
- Magnetic equipment signs and markings cover another company logo or other information.

Workforce

- Movement of the DBE employees to/from other contractors.
- Employee(s) paid by the prime.
- Employee(s) working for another company on the project.
- Employee(s) not familiar with DBE Company owners/supervisors/key personnel.

Materials

- Materials for the DBE are ordered and/or paid for by another contractor.
- Joint (2-party) checks are sent directly to the suppliers of the DBE firm without the knowledge or consent of the DBE.
- The DBE does not deliver the agreed to joint (2-party) check to its supplier(s).
- Materials or supplies to be obtained by the DBE are delivered to, billed to, or paid for by another contractor.
- The prime places requirements on the DBE regarding where to purchase project materials.

Performance

- Some of the DBE work is being done jointly with another contractor.
- The work to be performed is outside of the DBE's known experience or capability (DBE certifications/prequalification categories).
- The DBE performs work without a subcontract, purchase order or other signed contractual document.
- A DBE subcontracts more of its work than is customary or standard industry practice (50%).
- DBE participation on a project is less than the prime's commitment on approved DBE Plan.
- Lack of evidence of ownership, control and/or independence of the DBE.
- The DBE works for only one prime contractor or a large portion of the DBE's contracts are the one contractor.