

# DBE PERFORMANCE - COMMERCIALLY USEFUL FUNCTION CERTIFICATION SUPPLIER / DISTRIBUTOR / MANUFACTURER

North Dakota Department of Transportation, Civil Rights  
SFN 62611 (3-2025)

Per 49 CFR 26.55, "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 DBE's for compliance with the CUF requirements for credit.

This form is to be filled out by NDDOT Civil Rights Office.

PCN	Project Number(s)		
DBE Firm			DBE Commitment %
Date Contract/Subcontract Signed	DBE Start Work Date	DBE End Work Date	Date of Review
Type of Operation <input type="checkbox"/> Supplier <input type="checkbox"/> Distributor <input type="checkbox"/> Manufacturer <input type="checkbox"/> Broker* <span style="float: right;">*If Broker, only complete questions under 1. Management</span>			
Describe the type of work the DBE performed			

## 1. Management

a. Is there a legal contract executed by the DBE to perform a distinct element of work? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b. Name of the on-site representative working for DBE firm
c. If DBE firm owner is not answering CUF questions, who is and why
d. Is the DBE scheduling work activities, material deliveries and other related actions required for the prosecution of work? <input type="checkbox"/> Yes <input type="checkbox"/> No
e. Was the DBE invited to the pre-job conference? <input type="checkbox"/> Yes <input type="checkbox"/> No
f. Was the DBE provided a copy of the project schedule and/or given appropriate communication from the Prime/1 <sup>st</sup> tier subcontract as to when they were to provide materials to the job site? <input type="checkbox"/> Yes <input type="checkbox"/> No  If no, why?
g. Did the DBE subcontract any items or portions of the work to any other firm? DBE must perform at least 30% of total contract themselves. Any work completed by non-DBE's does not count towards DBE participation and should be reflected as such in the payments reported on the contract in B2Gnow (CCS). <input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, what % was subcontracted?  Name of the firm:  If yes, was Civil Rights office contacted? Civil Rights must ensure any non-DBE's working for or completing a portion of the DBE's work is identified and reported correctly in the contract in B2Gnow (CCS). <input type="checkbox"/> Yes <input type="checkbox"/> No  If no, why not?

Additional Comments for Management Section

## 2. Equipment

a. For this project, which type of equipment is being used for delivery?

Owned Equipment  Rented Equipment\*  Manufacturer\*  Delivery Service\*  Leased Equipment\*

Picked up by Contractor/Subcontractor  Other

Other Explanation

\*Please provide copies of the delivery tickets and copies of the rental, lease, or delivery agreements.

b. Did the Prime contractor, or another subcontractor, assist the DBE with obtaining delivery equipment or with the financing of equipment?

Yes  No

If yes, explain

c. If delivered with DBE's equipment, does the equipment have the DBE's markings or emblems?

Yes  No

If another firm's markings are discernible, note the name

d. If leased, is it a long-term lease and not a lease specifically for the project?

Yes  No

Additional Comments for Equipment Section

## 3. Materials

a. Is the quality and quantity of the materials controlled by the DBE?

Yes  No

If no, explain

b. Who makes the arrangements for delivery of materials

c. Material invoices made out to?

DBE must provide copies of invoices

d. Does the invoice name the DBE as the purchaser/contractor?

Yes  No

If no, what company is listed and why

e. In whose name are materials shipped

DBE must provide copies of invoices/shipping documents

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

Yes  No

If yes, explain

Additional Comments for Materials Section

**4. Performance**

a. Does the DBE appear to have control over methods of work on its contract items?

Yes  No

If no, explain

b. Has any other contractor performed any amount of work specified in the DBE contract?

Yes  No

If yes, explain

c. Was there a change order or other modification in work that decreased the DBE's original commitment amount (as listed on Form C in the DBE Participation Review Packet)?

Yes  No

If yes, explain

d. Was there a Replacement Approval Request (SFN 60595) submitted and approved by Civil Rights for any portion of the DBE's work?

Yes  No

If yes, explain

Additional Comments for Performance Section

**5.1 Regular Dealers/Suppliers**

a. Were the actual products provided by the DBE the same (type and quantity) as those described in the prime's commitment, purchase order, or the DBE's subcontract?

Yes  No

If no, what was different?

b. Does the firm stock/inventory the materials required under contract as a normal part of the business? 51% of supplied items must come from the DBE's inventory to be considered a regular dealer/supplier.

Yes  No

If no, why?

DBE must provide a list of current inventory

<p>c. Does the firm have an operational establishment? An operational establishment is defined as a place of business that customers can visit and purchase during operational business hours.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please provide photos of business sign and posted operational hours.</p>
<p>d. Are the products considered bulk or specialty items not typically stocked? Bulk items are defined as petroleum products, steel, concrete or concrete products, gravel, stone, or asphalt. Specialty items are those with limited shelf life or items ordered to specification. If yes, continue to question e.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>e. Did the DBE own (or have a long-term lease) and operate the distribution equipment used to deliver the products?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please provide delivery/shipping documents that indicate vehicle ownership and operator's name/employer.</p>
<p>f. List the equipment the DBE used for distributing the materials and/or supplies.</p>
<p>Additional Comments for Regular Dealers/Suppliers</p>

**5.2 Distributor**

<p>a. Did the DBE take ownership of the materials being provided?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, explain</p>
<p>b. How were the materials delivered to the job site?</p>
<p>c. Did the DBE assume liability of items while they were in transport?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, explain</p> <p>Documentation showing ownership and liability is required to be submitted.</p>
<p>Additional Comments for Distributor Section</p>

**5.3 Manufacturer**

<p>a. Were the actual products manufactured by the DBE the same (type and quantity) as those described in the prime's commitment, purchase order, or the DBE's subcontract?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, explain</p>
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<p>b. Do documents (shipping), material certifications or other information indicate that the final products were manufactured (blended, modified, fabricated, etc.) at a facility maintained or operated by the DBE?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, explain</p> <p style="margin-top: 10px;">Current pictures of manufacturing equipment/facility are required to be provided.</p>	
<p>Additional Comments for Manufacturer Section</p>	
<p>General Notes</p>	
<p>If the DBE is not performing independently or providing work/services they are certified to complete as listed in the DBE Participation Review Packet, please describe.</p>	
<p>Civil Rights Division Signature</p>	<p>Date</p>

**CUF Red Flags**

- DBE is performing work outside of its known experience or capability.
- DBE workforce is not under DBE's control/direction or work is performed by personnel employed by another business.
- DBE working without a subcontract agreement approved by the department.
- DBE obtained delivery equipment or financing of equipment from Prime or other subcontractor.

**Materials Red Flags**

- Materials for the DBE are ordered, or paid for, by the prime contractor
- Invoices do not indicate the DBE is the customer
- The prime's employee and phone number is listed as the contact
- Materials come from the prime's stockpile or an affiliate of the prime

**DBE Regular Dealers/Suppliers**

- The DBE supplies a product on an ad hoc basis in relation to a particular contract or contractor
- The DBE acts as the middleman in the transaction
- The DBE supplements the distribution equipment without having a long-term lease
- The DBE does not regularly sell the materials or supplies required under the contract
- Materials are drop-shipped from the commercial manufacturer
- The DBE's employees are not operating the leased distribution equipment
- All materials are special ordered
- The DBE does not inventory the material

**DBE Distributors**

- Materials are drop-shipped from the commercial manufacturer
- The firms written terms of the purchase order or bill of lading from a third party do not transfer responsibility to the DBE (DBE does not assume risk for loss or damage)

**DBE Manufacturers**

- Materials come from the prime's stockpile
- The DBE only orders the materials or supplies but does not alter the product
- The DBE does not have a factory, warehouse, or establishment to produce or alter the products