

DBE PERFORMANCE - COMMERCIALLY USEFUL FUNCTION CERTIFICATION - SUBCONTRACTOR

North Dakota Department of Transportation, Civil Rights
SFN 62612 (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 DBEs for compliance with the CUF requirements for overall credit.

A minimum of one CUF review must be performed for each DBE on each project with or without a DBE goal. The review should be conducted when the DBE first begins work, and compliance should be monitored throughout the course of the project.

This form is to be filled out by NDDOT personnel or consulting engineers. DBE's must not fill out any portion of the form. All sections must be answered.

This form is to be uploaded via CARS when completed. Civil Rights is notified when the form is uploaded and will review the form for completeness. If any edits are required, the individual that filled out the form will be contacted with the required revisions and instructed to re-upload it. Once forms are considered approved, Civil Rights will sign and re-upload, which is the final step in the process.

PCN	Project Number(s)		
DBE Firm			
Date Contract/Subcontract Signed	DBE Start Work Date	DBE End Work Date	Date of Review
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
b. Has a copy of the subcontract and SFN 5682 Contractor's Request to Sublet been completed and uploaded to the project files? <input type="checkbox"/> Yes <input type="checkbox"/> No
c. Name of the on-site representative working for DBE firm
d. If DBE firm owner is not on-site at the time of CUF, who does on-site representative report to?
e. Has the on-site representative been identified as an employee of the DBE? <input type="checkbox"/> Yes <input type="checkbox"/> No
f. Does the DBE on-site representative effectively manage the job without interference from any other non-DBE contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, list other non-DBE contractor(s) DBE firm is getting assistance from and why
g. If on-site representative is not DBE owner, who do they contact for hiring, firing or to modify the contract? <input type="checkbox"/> N/A
h. Was the DBE invited to the pre-job conference? <input type="checkbox"/> Yes <input type="checkbox"/> No
i. Did DBE attend pre-job conference? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, why?

j. Was the DBE provided a copy of the project schedule and/or given appropriate communication from the Prime/1st tier subcontract as to when they were to be on the project site?

Yes No

If no, why?

k. Is the DBE maintaining its own payroll?

Yes No

l. Who prepares the DBE's certified payroll?

If the DBE's employees on site are not able to answer this question, you may have to call or email the DBE owner for the answer.

m. Is the DBE scheduling work activities, material deliveries, and other related actions required for prosecution of the work?

Yes No

If no, explain

n. 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).

Yes 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).

Yes No

If no, why not?

Additional Comments for Management Section

2. Equipment

a. List the major self-propelled (engine) equipment used on the project by the DBE

b. Does the equipment have the DBE's markings or emblems?

Yes No

If another firm's markings are present, identify the name of the firm(s)

c. Is the DBE's equipment

Owned Leased Rented

If leased or rented, from who

If leased or rented, please have DBE provide documentation for each applicable piece of equipment.

d. Is the equipment under the direct supervision of the DBE?

Yes No

If no, explain

e. Are the operators of the equipment employees of the DBE?

Yes No

If no, what company do the employees work for

Additional Comments for Equipment Section

3. Workforce

a. List the name of the DBE's employees on the project site (first & last names)

b. Do employees on the project site state they work for the DBE firm when asked? Ask 1 to 2 employees while on site.

Yes No

c. Are the DBE's employees working on a distinct element of work, independently without assistance of other participating contractors?

Yes No

If no, explain

Additional Comments for Workforce Section

4. Materials

a. Is the DBE contracted to furnish and install a contract item?

Yes No

If no, you may skip questions b & c of this section.

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

Yes No

If yes, explain

c. Were material shipping documents addressed to the DBE?

Yes No

You may need to request copies of documents to verify, please attach any documents.

Additional Comments for Materials Section

5. 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

General Notes

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.

If the Commercially Useful Function was not completed at the time the DBE was on-site, please fill out as much of the form as possible and provide the reasons below why it was not completed at the appropriate time

Project Engineer/Manager Signature	
NDDOT District or Consulting Company	Date
Project Engineer/Manager Name	Project Engineer/Manager Email
Civil Rights Division Signature	Date

CUF Red Flags

These are items to be aware of when the DBE is on-site completing work that is counted towards the Department's overall DBE Goal. If any of these items are identified, please make note of it during the review and give as much detail as possible.

- DBE is performing work outside of its known experience or capability.
- DBE workforce is not under DBE's control/direction.
- DBE working without a subcontract agreement approved by the department.
- Materials for the DBE are ordered, or paid for, by the prime contractor
- Invoices do not indicate the DBE is the customer.
- Materials come from the prime's stockpile or an affiliate of the prime.
- DBE is using equipment owned by Prime or subs.
- DBE is using employees of Prime or other subs.