

# Purpose:

Performance of a Commercially Useful Function (CUF) by Disadvantaged Business Enterprises (DBEs) is a legal and contractual requirement. Prime Contractors/Consultants are responsible for ensuring DBEs perform a CUF on their contracts. This brochure is intended to provide guidance in meeting regulatory requirements. For further information, contact the Michigan Department of Transportation, Office of Business Development.

Questions or Comments can be addressed to-

**Mail:**

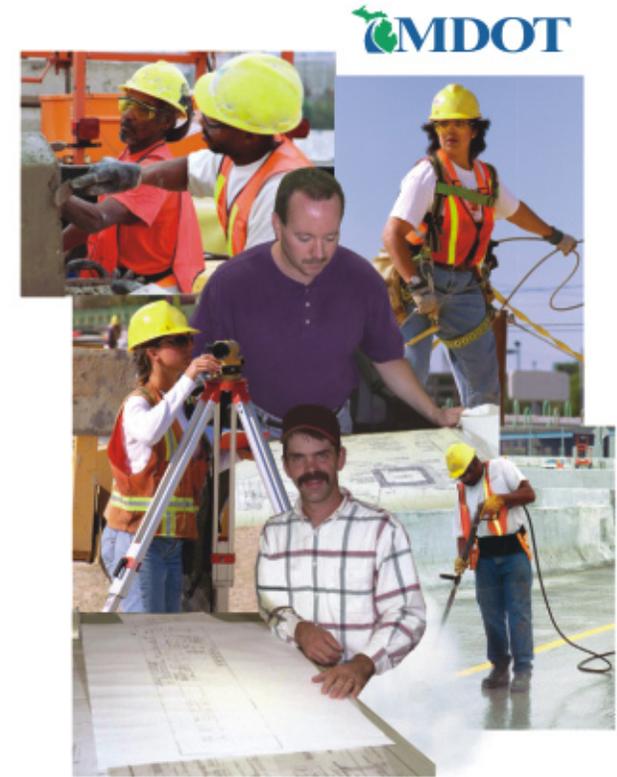
Michigan Department of Transportation  
Office of Business Development  
P.O. Box 30050  
Lansing, MI 48909

**Telephone:**

1-866-DBE-1264

**Fax:**

(517) 335-0945



## Commercially Useful Function (CUF)

*Pat Collins, DBE Program Administrator*  
866-323-1264 / 517-373-2377



Providing the highest quality integrated transportation services for economic benefit and improved quality of life.

000 copies printed at .00 cent each for a total cost of \$00.00

Design - MDOT Graphics

OEO/DBE/DBEbrochure/CUFbrochure.indd 9/06

# CUF

**Q.** I have a project with DBE participation goals, and the DBEs have to do a “commercially useful function” (CUF).

What does CUF mean?

**A.** In brief, CUF means:

- A DBE firm must be responsible for execution of a contract or a distinct element of the work by actually performing, managing, and supervising the work involved.
- The DBE must pay all costs associated with personnel, materials and equipment. No payments can be made through deductions by the Prime.
- A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation.
- The DBE firm works in accordance with normal industry practice, except where normal industry practices are in violation of DBE regulations outlined in 49 Code of Federal Regulations, Part 26.

**Q.** Who is responsible for ensuring DBEs perform a CUF?

**A.** The Prime Contractor, even when the DBE is working as a lowered-tier subcontractor.

**Q.** What happens if a DBE firm does not perform a CUF?

**A.** NO CUF, NO CREDIT. In addition, there may be other penalties that may be applied progressively, up to debarment from contracting to both the DBE and the Prime MDOT is held accountable by the U.S.D.O.T to ensure compliance.

**Q.** What rules apply to the Management, Workforce, Equipment, Materials, and Truckers to be recognized as performing a CUF?

**A.** The DBE must be responsible for the performance and management of its work; for its workforce; and for equipment and materials used. DBEs must do all work which has been committed and/or subcontracted to them.

## Management:

- Daily operations must be supervised either personally by the DBE owner, or by a full-time, skilled, and knowledgeable employee of the DBE firm who is under the DBE owner’s direct supervision.
- Mere performance of administrative duties is not supervision of daily operations.

## Workforce:

- Work must be done by workers employed, supervised, and paid directly by the DBE. The DBE is responsible for all payroll and labor compliance requirements.
- DBE firms cannot share employees with non-DBE contractors, particularly the prime contractor or an affiliate of the prime.

## Equipment:

- A DBE must own or lease equipment used to do its work.
- Operation of equipment must be subject to the full control of the DBE.
- A DBE must have a lease agreement for any leased equipment, a long-term lease is preferred.
- A DBE may lease on an ad hoc basis from another contractor, excluding the prime or an affiliate of the prime, with MDOT approval.
- Equipment leased and used by the DBE firm with payment deducted from the prime contractor’s payment(s) to the DBE is not allowed.

## Materials:

- The DBE must be responsible for negotiating-price, determining quality and quantity, and paying for and ordering its materials.
- Material payment through deduction from the prime contractor’s payment(s) to the DBE is not allowed.

## Truckers:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.”
- Trucks owned or leased by DBE truckers must, when applicable, have Michigan Public Service Commission (MPSC) Authority and meet MPSC vehicle identification requirements.

## Related Information:

- DBE participation toward project goals can not be counted until the DBE has been paid for its work.
- Prime Contractors must notify MDOT as soon as they learn a DBE is unable or unwilling to perform its work. For further information about post award waivers of DBE participation, refer to the "2003 Standard Specifications for Construction", subsection 102.18.
- For detailed information about counting the value of work performed by DBEs toward project goals, please refer to "Requirements for DBE" in your contract, or refer to 49 CFR §26.55.

A link to the regulation is available on the Web at <http://osdbuweb.dot.gov/business/dbe/index.html> Those without Web access may request a copy by calling our toll-free number, 866-DBE-1264 or 866-323-1264.