



Disadvantaged Business Enterprise (DBE)

Commercially Useful Function

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Commercially Useful Function (CUF)

What is a CUF?

- A DBE performs a commercially useful function (CUF) when it is responsible for executing the contracted work, and is carrying out its responsibilities by actually performing, managing and supervising the work involved.
- The DBE must also be responsible for negotiating price, determining quantity, quality, ordering, installing (where applicable) and paying for materials and supplies used on the contract.



What is a CUF? (continued)

- A DBE does not perform a CUF if its role is limited to an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of DBE participation (on paper only).
- DBE participation is only counted on work DBE's perform themselves and receive payment for.



Prime Contractors/Consultants & Sanctions

Primes' Involvement in CUF Performance and Sanctions

- Prime Contractors and Consultants are responsible for ensuring that the DBEs working on federally-assisted contracts perform a CUF.
- Primes are required to notify MDOT if the DBE can't or won't do all of its contracted work.



Prime Contractors/Consultants & Sanctions

Primes' Involvement in CUF Performance and Sanctions

- Primes and DBEs both can be sanctioned if DBEs do not perform a CUF. Sanctions can include **reduced prequalification** ratings or **suspended bid privileges**. DBE's found to have failed to perform a CUF can also have **work classifications removed**.



How does MDOT make sure DBEs perform a CUF?

MDOT Monitors & Reports

- Prime Contractors and Consultants submit payment statements to verify payments made to DBEs.
- **OBD verifies those payments with the DBE's.**
- Project Engineers/Managers submit evaluation reports which can affect prequalification.



How does MDOT make sure DBEs perform a CUF?

MDOT Monitors & Reports

- The Office of Business Development can ask Project Managers to submit DBE "Project Performance Evaluations."
- The Office of Business Development also does its own CUF reviews at random or as the result of complaints.



As a DBE, how is my work counted? (49 CFR 26.55)

Subcontracting

- If a DBE subs any work to another contractor or consultant, the work can be counted toward DBE goals only if the other contractor is DBE-certified.
- This also applies to truckers - if leasing additional trucks, DBEs can count the full cost of the lease and driver only if the other trucker is DBE-certified.
- Truckers have a 1 for 1 lease option, for which they have to submit lease agreements to OBD.



As a DBE, how is my work counted?

Prompt payment - DBEs must be paid before work counts

- On **federally-funded** projects, prime contractors must pay all subcontractors, not just DBEs, within ten (10) calendar days of receipt of each payment from MDOT.
- All **federally-funded** contracts contain special provisions for prompt payment detailing the payment requirement.
- MDOT requires Primes to submit regular reports of payments made to DBEs working on federally-funded contracts.



As a DBE, how is my work counted?

- Prompt payment - Primes are required to report
- Construction Primes must submit the Prime Contractor Bi-Weekly Statement of Subcontractor/Supplier Payments (MDOT form 2124A). DBEs should sign form 2124A at project completion to confirm payments and deductions reported by the Prime.
 - Consultant Primes must submit the "Prime Consultant Statement of DBE Sub-Consultant Payments" (MDOT form 0165) with each billing and at the time of final payment. DBEs must also sign form 0165 at the time of final payment.



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Questions???