



**STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES**

DBE CUF Monitoring Report

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 to be used by Construction Administration field staff to perform CUF reviews on DBE prime contractors, DBE subcontractors, and DBE joint ventures. Perform a minimum of one review for each DBE on a federally-assisted project each construction season. The review should be conducted when the DBE first begins work, and when the DBE first begins work on subsequent construction seasons. Monitor compliance through the course of the project.

Attach additional documentation supporting DBE's CUF. Additional documentation may include, but is not limited to, photos of DBE performing work; photos of DBE's equipment or trucks with DBE firm name and certification number; and copies of subcontracts.

Reviewer Name:

Project Name:

AKSAS No.:

Federal Project No.:

Reviewer Agency:

DBE Contractor Name::

DBE Start Date:

DBE Representative Interviewed:

Supervisor to DBE Representative Interviewed:

DBE Performing as:

Prime

Subcontractor

Joint Venture

Provide a brief description of the DBE's scope of work:

Supervision

YES NO

Does the DBE have a superintendent or foreman supervising the project?

Does the superintendent or foreman work exclusively for the DBE?

Employees

YES NO

Does the DBE have employees on the job?

Do they appear on DBE payrolls?

Do they appear on a review of the prime contractor's certified payroll?

Who assigns work to DBE employees?

Performance

YES NO

Has another contractor performed any of the DBE's scope of work?

If yes, who and which work items were performed?

Equipment

YES NO

Does DBE own or lease equipment?

Does DBE use prime contractor's equipment?

Supplies/Materials:

YES NO

Did the DBE purchase all materials and supplies for the DBE work? (provide copies of invoices if available)

PHOTOS *(Attach photos of DBE firms in action if available. If unavailable, state so)*

Please provide comments if any aspect of the DBE's work appears NOT to be consistent with a CUF. Consult the FHWA guidance on DBE "Red Flags"

REVIEWER SIGNATURE:

DATE:

DBE/ON-SITE REPRESENTATIVE SIGNATURE:

DATE:

Date submitted to RCCL:

Regional Contract Compliance Liaison Review/Accept:

Print Name

Signature

DATE:

Project Initiation CUF Evaluation

While DBEs are occasionally awarded prime contracts, DBEs primarily work as subcontractors or lower tier subcontractors. Subcontractors typically perform specific contract items and provide their own labor and materials. To determine whether a DBE subcontractor is performing a CUF, five (5) distinct operations must be considered: management, workforce, equipment, materials, and performance.

These areas must be evaluated to make a CUF determination, and that determination needs to be considered on a case-by-case basis.

Consider the following when completing the Monitoring Report:

- Is the amount and nature of work subcontracted consistent with normal industry practices;
- Is the subcontract amount commensurate with the work that is actually being performed to be credited towards the goal;
- When the DBE furnishes materials, the DBE must be responsible for negotiating the price, for determining the quality and quantity of the material, ordering the material, and paying for it;
- A DBE firm would typically be hired to both furnish the material and install it with its own labor force;
- Is the DBE's role 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? In essence, was the role merely a contrived arrangement for the purpose of meeting the DBE contract goal?

Normal Industry Practice:

Would the DBE be performing in the same manner if there was no DBE program? Would the DBE perform the same or similar work on non-federally assisted contracts? If the answer to either of these is no, then the amount or nature of the work may not be consistent with Normal Industry Practice.

Monitoring:

A DBE's repeated failure to perform a CUF may raise questions regarding the firm's control, as it relates to independence, and perhaps ownership. If there is evidence of a pattern of failing to perform a CUF that raises serious issues with the firm's ability to control the work and its independence from the non-DBE firm, project staff should refer the matter to the DOT&PF CRO to consider DBE eligibility under 49 CFR 26.87.