

# Commercially Useful Function (CUF)/ Compliance Evaluation Form - Contractor

## SAMPLE FORM

This **optional** form may be used by recipients as a means to document their certification that the elements of work performed by a Disadvantaged Business Enterprise (DBE) contractor were monitored and evaluated according to the Commercially Useful Function (CUF) and counting requirements of 49 CFR §26.55. This form also contains data and questions related to the running tally of DBE payments, termination of work, and changes in contract scope that may require prompt action to ensure final compliance. Once completed, recipients should review, in totality, the answers to questions in this form and related documents to assist in making final CUF and counting determinations. Recipients may revise this form to account for differences in their DBE Programs.

This form does not include any statement of agency policy or interpretation concerning a statute, regulation, or technical matter within the jurisdiction of the agency that is intended to have general applicability and future effect. Use of this form is strictly voluntary. Nonconformity with or non-use of this form will not affect rights and obligations under existing statutes and regulations.

### Section I- Project and Payment Data

<b>Project No./ID:</b>	<b>Project Name:</b>		
<b>Prime Contractor:</b>	<b>DBE Goal:</b>	<b>District/Region:</b>	
<b>DBE Subcontract \$:</b>	<b>DBE Commitment \$:</b>	<b>% of DBE Work Completed:</b>	
<b>DBE Start Date:</b>	<b>DBE Payments to Date \$:</b>		
<b>DBE Company Name:</b>	<b>DBE Representative:</b>		
<b>DBE Company Owner:</b>	<b>DBE Representative Title:</b>		

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<b>DBE is Performing as:</b>	Prime Contractor	Subcontractor	Lower-tier Subcontractor	Trucker/Hauler
<b>Type of Arrangement:</b>	Furnish and Install	Labor Only		

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

**The following two questions pertain to DBE participation submitted (under commitment) to meet a contract goal:**

➤ Are the descriptions of work in the DBE's subcontract and the Prime's DBE commitment consistent?

YES      NO (If "NO," how was this resolved?)      N/A

➤ Have there been any changes in project scope that would affect the DBE's commitment?

YES (If "YES," describe changes in scope, impacts, and actions to resolve)      NO      N/A

**Section II- Evaluation**

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<b>Management</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
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1. Does the DBE's Supervisor/Foreman direct and schedule all work activities, including material deliveries, without assistance from the prime or upper-tier subcontractor?
2. Is the person who signs the DBE's certified payrolls an employee of the DBE and not the prime or upper-tier subcontractor ?

**Comments Required for all "NO" or "N/A" Responses:**

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<b>Performance</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
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3. Did the State DOT make adjustments in counting where the DBE itself subcontracted any portion of its work to a non-DBE?
4. Did the DBE perform at least 30% of its subcontract with its own workforce?
5. Provide the value of any DBE work (under commitment) that was terminated by the prime and performed by another firm without the State DOT's prior written consent:  
  
5a. Where written consent was not obtained, did/will the State DOT deny payment to the prime for work it self-performed or was performed by another firm?
6. Did the prime make every good faith effort to replace the value of work under commitment not performed by the DBE for any reason (other than State-initiated changes in scope)?

OR

**Comments Required for all "NO" or "N/A" Responses:**


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<b>Workforce</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
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7. Do DBE employee names only appear on the DBE's payrolls and not the payrolls of the prime or other contractor employed on the project?
8. Based on the review of at least one certified payroll, is the number of DBE personnel documented in the project work report/diary consistent with the number of personnel on the DBE's payroll(s)?
9. Based on employee interviews, is the DBE the only contractor providing pay and other compensation (i.e. benefit plans) to its personnel?
10. Are the DBE's employees working on a distinct element of work, independently without assistance of other participating contractors?

**Comments Required for all "NO" or "N/A" Responses:**

<b>Equipment</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
11. For equipment used in the performance of work <u>without permanent markings</u> , were ownership documents verified?( i.e. registrations, leases, or rental agreements)			
12. Was all equipment used by the DBE owned by the DBE, or leased/rented from a company other than the prime or upper-tier subcontractor?			
13. If 12. above is "NO," provide the value of equipment borrowed or leased from the prime or an upper-tier subcontractor: <span style="float: right;">OR </span>			
14. Provide information about equipment leased or borrowed by the DBE:			
15. For work under commitment, did the prime increase its DBE participation to replace the value of equipment borrowed or leased from the prime or upper-tier subcontractor, as indicated in "13." above?			
16. Is all equipment being operated by DBE employees and under the direct supervision of the DBE?			

**Comments Required for all "NO" or "N/A" Responses:**

<b>Materials</b> (This section applies to "Furnish and Install" work only)	<b>YES</b>	<b>NO</b>	<b>N/A</b>
17. Were material shipping documents addressed to the DBE?			
18. Was the DBE on-site to receive delivery of its materials?			
19. According to the material invoice, did the DBE purchase materials from a source other than the prime or one of its affiliates? (If "NO" DBE credit is disallowed)			
20. According to the material invoice, were materials billed to the DBE or DBE Owner/representative? (Attach Invoice)			
21. Was proof of payment obtained? (Attach document such as electronic funds transfer, copy of check, signed payment certification, etc.)			
22. If a joint check was used, did it go through the proper approval process, and did the DBE present it to the manufacturer/supplier?			

**Comments Required for all "NO" or "N/A" Responses:**

- 23. Briefly describe the on-site controls used to identify DBE and non-DBE haulers and to track the value of their participation, i.e. number of trips, quantities, etc. (Attach supporting documents, such as haul tickets, vehicle logs, trucking worksheets, etc.)
  
- 24. Was at least one DBE-owned and operated truck used in the hauling operation?
- 25. Does the State's approved DBE Program allow hauling credit for non-DBEs? If "NO" complete Questions 26-28. If "YES" complete Questions 29-31.
- 26. Were all trucks operated by DBE owner-operators, employees of the DBE or lower-tier DBE, or leased from a non-DBE truck leasing company and operated by DBE drivers, bearing the name and USDOT identification number of the DBE?
- 27. Was the value of any non-DBE hauler's participation adjusted to allow only fees and commissions?
- 28. Considering the value/running tally of DBE hauling completed to date, as compared to remaining hauling, does it appear that the DBE commitment will be met?

**1:1 DBE/Non-DBE Counting**

- 29. Does the on-site monitoring of trucks provide a means to identify and count non-DBE and DBE haulers, ensuring non-DBE hauling is limited to the value of DBE hauling?
- 30. Was credit for only fees and commissions given for additional non-DBE hauling that exceeded the value of DBE hauling?
- 31. Considering the value/running tally of DBE and non-DBE hauling completed to date, as compared to remaining hauling, does it appear that the DBE commitment will be met?

**Comments Required for all "NO" or "N/A" Responses:**

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**Section III - CUF Determination**

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Based on the observations reported in this document, including relevant attachments, I affirm that the participation of the DBE entered at the top of this form has been counted in accordance with 49 CFR §26.55, and accurately reflected in our agency's reporting system.

Reviewer Signature:

Date:

Printed Name and Title of Reviewer:

**Determination Comments:**