



# DBE REGULAR DEALER VERIFICATION FORM

(To Be Completed by DBE Firm)

Project Number:	District:
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Prime Contractor:

DBE Firm:

Provide a brief description of the material(s) your firm will be supplying and the Prime is requesting be credited as a regular dealer (include item numbers and estimated quantities when possible).

**If either question is marked 'No', then the Prime cannot receive regular dealer credit for the services provided by the DBE firm. Instead, the maximum credit that could be received would be the fee or commission the DBE firm receives for its services. Before executing this form, read the attached 'Guide for Counting DBE Suppliers' which includes the official question and answer issued by the United States Department of Transportation.**

	YES	NO
1. Does your firm "regularly" engage in the purchase and sale or lease, to the general public in the usual course of its business, of product(s) of the general character which will be involved in this contract and for which DBE credit is being sought? .....	<input type="radio"/>	<input type="radio"/>
2. Is the role your firm will play on this specific contract consistent with the regular sale or lease of the product(s) in question, as distinct from a role better understood as that of a broker, packager, manufacturer's representative, or other person who arranges or expedites a transaction? .....	<input type="radio"/>	<input type="radio"/>

**Authorized Representative of DBE Firm**

The undersigned individual hereby verifies that he/she is authorized to make this verification on behalf of the DBE firm, that the DBE firm "regularly" engages in the purchase and sale or lease of the items listed herein and is not otherwise a packager, broker, manufacturers' representative, or other person who arranges or expedites transactions, that the answers and information provided herein are true and correct to the best of her/his knowledge, information and belief and that this verification is made subject to the penalties of 11 Del. C. §1233.

\_\_\_\_\_

Signature Date

\_\_\_\_\_

Printed Name Phone Number

**Authorized Representative of Prime Contractor**

The undersigned individual hereby verifies that he/she is authorized to make this verification on behalf of the prime contractor, that, to the best of his/her knowledge, information and belief the DBE firm "regularly" engages in the purchase and sale or lease of the items listed herein and is not otherwise a packager, broker, manufacturers' representative, or other person who arranges or expedites transactions and that this verification is made subject to the penalties of 11 Del. C. §1233.

\_\_\_\_\_

Signature Date

\_\_\_\_\_

Printed Name Phone Number

## GUIDANCE FOR COUNTING DBE SUPPLIERS

- The official question and answer (q and a) issued by the United States Department of Transportation on December 9, 2011 as institutional guidance relative to regular dealers poses two questions that must both be answered 'yes' in order for the DBE firm to receive regular dealer credit for materials supplied on federally-assisted transportation projects.
- Following is the official q and a in italics:

*First, does the firm "regularly" engage in the purchase and sale or lease, to the general public in the usual course of its business, of products of the general character involved in the contract and for which DBE credit is sought?*

- o *Answering this question involves attention to the activities of the business over time, both within and outside the context of the DBE program.*
- o *The distinction to be drawn is between the regular sale or lease of the products in question and merely occasional or ad hoc involvement with them.*
- o *In answering this question, the Delaware Department of Transportation will not insist that every single item the DBE firm supplies be physically present in the firm's store, warehouse, etc. before it is sold to a contractor. However, the establishment in which the firm keeps items it sells to the general public should be more than a token location.*
- o *For example, a mere showroom, the existence of a hard-copy or on-line catalog, or the presence of small amounts of material that make questionable the ability of the firm to effectively supply quantities typically needed on a contract, are generally not sufficient to demonstrate that a firm regularly deals in the items.*

*Second, is the role the firm plays on the specific contract in question consistent with the regular sale or lease of the products in question, as distinct from a role better understood as that of a broker, packager, manufacturer's representative, or other person who arranges or expedites a transaction?*

- o *For example, a firm that regularly stocks and sells Product X may, on a particular contract, simply communicate a prime contractor's order for Product Y to the manufacturer, acting in a transaction expediter capacity.*
- o *This means that a firm that acts as a regular dealer on one contract does not necessarily act as a regular dealer on other contracts. For example, a firm that acts as a regular dealer on Contract #1 may act simply as a "transaction expediter" or "broker" on Contract #2. It would receive DBE credit for 60 percent of the value of the goods supplied on Contract #1 while only receiving DBE credit for its fee or commission on Contract #2.*
- o *In some circumstances, items are "drop-shipped" directly from a manufacturer's facility to a job site, never being in the physical possession of or transported by a supplier. In many such cases, the supplier's role may involve nothing more than contacting the manufacturer and placing a job-specific order for an item that the manufacturer then causes to be transported to the job site.*
- o *In such a situation, the supplier's role may often be better described as that of a "broker" or "transaction expediter" (see 26.55(e)(2)(ii)(C)) than as a "regular dealer." In such a case, DBE credit is limited to the fee or commission the firm receives for its services. If the firm does not provide any commercially useful function (i.e., it is simply inserted as an extra participant in a transaction), then no DBE credit can be counted.*
- The Department proposes that primes submit the two questions to DBEs in writing. If the DBE firm answers 'yes' to both questions, then the written documentation would be taken into account in the Department's good faith effort determination in accordance with Section 26.53 of the federal DBE regulation set forth in Title 49 Code of Federal Regulations Part 26.
- If it were later determined that the DBE misrepresented itself or erroneously concluded that it was acting as a regular dealer, the Department would strongly consider this documentation in evaluating the actions of the prime and in determining whether the prime exercised reasonable due diligence by obtaining a written regular dealer confirmation from the DBE even though it later turned out to be false.
- Participation would still have to be revised, but the Department will fully consider the written documentation in its good faith effort review.
- The Department reserves the right to address any misrepresentation by the DBE firm or the prime consistent with the "Bidders Certification Statement" and other requirements and procedures for determinations of whether a contractor has acted responsibly.