



NORTH CAROLINA
Department of Transportation

Technical Training - Commercially Useful Function by Field Staff

Michelle Gaddy

Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina

Commercially Useful Function (CUF)

MEMORANDUM

DATE: September 1, 2021

TO: Division Engineers
Division Construction Engineers
District Engineers
Resident Engineers

FROM: E. Boyd Tharrington, PE
State Construction Engineer

SUBJECT: DBE Commercially Useful Function (CUF) Requirements

DocuSigned by:
E. Boyd Tharrington, PE
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The purpose of this memo is to provide guidance with regards to the Department's oversight and monitoring responsibilities of Disadvantage Business Enterprises (DBE) Participation. Specifically, under Title 49 Code of Federal Regulations Part 26 (49 CFR 26), the Department must comply with the requirement that we monitor work performed by all DBEs on every contract on which DBE participation is claimed – both race conscious (for contract goals) and race neutral (for the Department's overall goal).

REQUIREMENTS

The new DBE Program Guidance regarding Commercially Useful Function (CUF) went into effect on August 22, 2018. The Department is required to implement the following measures: 1) develop a *monitoring process* to ensure that program participants follow 49 CFR 26; 2) confirm that the monitoring process ensures that the work subcontracted to a DBE is *performed by the DBE*; and 3) confirm that the monitoring process includes a *written certification* that the Department has reviewed contracting records and monitored work sites for this purpose.

This written certification is separate from the Department's standard Daily Inspectors' Reports and Daily Trucking Reports completed for each firm working on the project.

IMPLEMENTATION

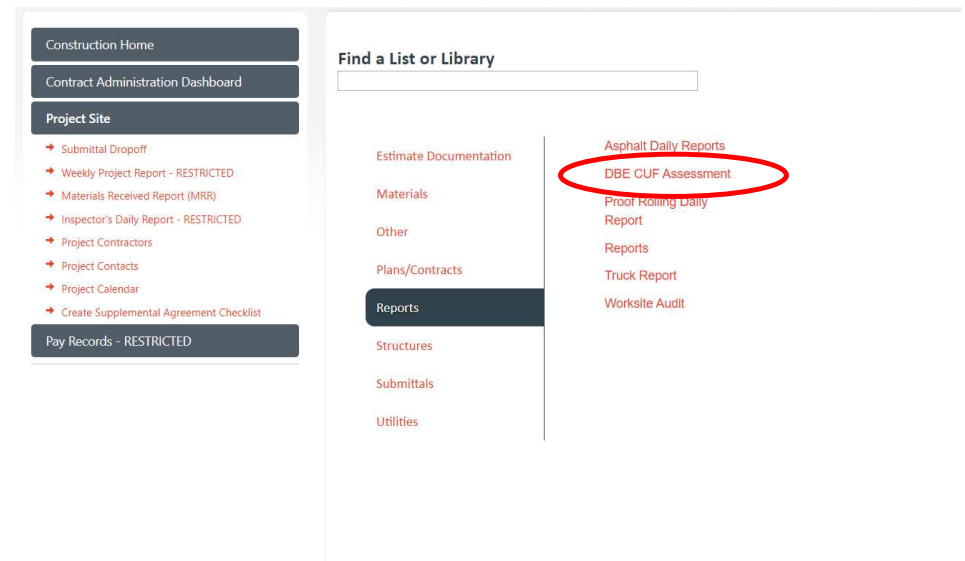
The following requirements will apply to all DBE firms (committed and non-committed) on federal and state contracts advertised on or after October 1, 2021. For active contracts, the requirements will apply to all DBE firms that still have remaining work on the projects.

- ◆ North Carolina Department of Information Technology (NCDIT) has updated the online DBE CUF (Commercially Useful Function) Assessment Form that is located in each construction team site on SharePoint.

- September 1, 2021 memo regarding field staff performing commercially useful function reviews (CUF)
- Sharepoint form was developed for field staff
- To be completed for all DBE/MBE/WBEs who perform work on the project (committed and noncommitted)
- Should be completed early stages of the subs work
- Commercially Useful Function – the sub is responsible for execution of the work of the contract by performing, managing, and supervising work involved

Commercially Useful Function (CUF)

- Commercially Useful Function Assessment form can be found on Sharepoint team site under **Reports: DBE CUF Assessment**
- Inspectors should complete form the first time a DBE mobilizes to the project
- Make sure inspection staff understands what they looking for when they perform review
- A lot of the questions are yes/no/N/A questions with a couple that require additional information
- If at any point after the initial review, it appears that the DBE is not managing their own work, another review should be performed.
- Any questions, have the inspector reach out to Asst Resident Engineer. If ARE or RE is unable to answer the question, reach out to the Area Construction Engineer



Commercially Useful Function (CUF)

Items on this list require content approval. Your submission will not appear in public views until approved by someone with proper rights. [More information on content approval.](#)

Content Type: DBE CUF SUB (Non-Hauling and Non-Trucking) ▼

Prime_Contractor: Contractor A Test ▼

DBE_Subcontractor: ▼

DBE Owner/Supervisor:

DBE Start Date:

NCDOT Reviewer:

NCDOT Reviewer Title:

Review Date:

Is the DBE firm subcontracted to perform 100% of the line items on the Subcontractor Approval Form? CHECK ALL THAT APPLY: (SEE SUBCONTRACT APPROVAL FORM (SAF))

PARTIAL
 PORTION
 INSTALLATION ONLY (NO MATERIALS)
 FURNISH MATERIALS and INSTALLATION

Is the DBE firm subcontracted to perform 100% of the line items on the Subcontractor Approval Form? CHECK ALL THAT APPLY: (SEE SUBCONTRACT APPROVAL FORM (SAF))

FIRM IS PERFORMING AS A:

DBE Scope of Work Description:

[Click for help about adding basic HTML formatting.](#)

Is the DBE Supervisor on the Project?
 Yes
 No
 N/A

If Not, Who Assigns DBE's Work?

Does the supervisor work exclusively for the DBE?
 Yes
 No
 N/A

Does the supervisor work exclusively for the DBE?

- Content Type: 4 different content types:
 - DBE CUF Sub (non hauling and non-trucking)
 - DBE CUF Hauler-Trucking Sub
 - DBE CUF Supplier-Dealer
 - DBE CUF Manufacturer
- Prime Contractor – choose prime on the project
- DBE Subcontractor – choose which sub you are performing CUF for
- DBE Owner/Supervisor – Who is supervising work on the project
- DBE Start Date: When did they begin work on the project
- NCDOT Reviewer: Who is performing review and their title
- Review Date: Date of review

Commercially Useful Function (CUF)

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DBE Owner/Supervisor:

DBE Start Date:

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Review Date:

Is the DBE firm subcontracted to perform 100% of the line items on the Subcontractor Approval Form? CHECK ALL THAT APPLY: (SEE SUBCONTRACT APPROVAL FORM (SAF))

PARTIAL
 PORTION
 INSTALLATION ONLY (NO MATERIALS)
 FURNISH MATERIALS and INSTALLATION

Is the DBE firm subcontracted to perform 100% of the line items on the Subcontractor Approval Form? CHECK ALL THAT APPLY: (SEE SUBCONTRACT APPROVAL FORM (SAF))

FIRM IS PERFORMING AS A:

DBE Scope of Work Description:

[Click for help about adding basic HTML formatting.](#)

Is the DBE Supervisor on the Project?
 Yes
 No
 N/A

If Not, Who Assigns DBE's Work?

Does the supervisor work exclusively for the DBE?
 Yes
 No
 N/A

Does the supervisor work exclusively for the DBE?

- Is the DBE subcontracted to perform 100% of work (can check all that apply)
 - is this a partial (scope based) of work
 - Is this a portion (quantity based) of work
 - Installation only would be checked if the sub is not procuring materials.
 - Furnish materials and installation if the sub is procuring materials and performing the installation
- Firm is performing work – DBE Sub, DBE Hauler, DBE Supplier, DBE Manufacturer – this should reflect same option as content type chosen
- DBE Scope of Work – what work is the sub performing
- Is the DBE Supervisor on the project – who is managing the work performed by the DBE
- If not, who assigns DBE Work – if no supervisor, then who is overseeing operation

Commercially Useful Function (CUF)

If Not, Who Assigns DBE's Work?

Does the supervisor work exclusively for the DBE? Yes
 No
 N/A
Does the supervisor work exclusively for the DBE?

If not, Who does he/she work for?

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Does the DBE have employees on the job to perform the work? Yes
 No
 N/A
Does the DBE have employees on the job to perform the work?

Do the DBE employees work ONLY for the DBE subcontractor? Yes
 No
 N/A

Is the DBE working without assistance from the PRIME or ANOTHER SUBCONTRACTOR? Yes
 No
 N/A
Is the DBE working without assistance from the PRIME or ANOTHER SUBCONTRACTOR?

Does the DBE name appear on all INVOICES, TICKETS, and/or BILLS OF LADING? Yes
 No
 N/A
Does the DBE name appear on all INVOICES, TICKETS, and/or BILLS OF LADING?

- Does supervisor work exclusively for the DBE – ask yourself does the supervisor appear to work for another agency or are they working solely for the DBE
- If not, who does he/she work for – if the above answer is No – who is the supervisor working for?
- Does the DBE have employees on the job to perform work – is the supervisor managing the employees operation?
- Do the DBE employees on the job work only for the DBE subcontractor – if the DBE employees appear to be working for another operation/firm, note this
- Is the DBE working without assistance from the prime or another subcontractor – can the DBE manage their own operations without assistance of others?

Commercially Useful Function (CUF)

Does the DBE name appear on all INVOICES, TICKETS, and/or BILLS OF LADING? Yes
 No
 N/A
Does the DBE name appear on all INVOICES, TICKETS, and/or BILLS OF LADING?

Does the DBE arrange for the delivery of materials? Yes
 No
 N/A
Does the DBE arrange for the delivery of materials?

Is there a JOINT CHECK AGREEMENT? Yes
 No
 N/A

If so, has the Division Office approved the use of the Joint Check Agreement? Yes
 No
 N/A
If so, has the Division Office approved the use of the Joint Check Agreement?

Does the DBE OWN and OPERATE the equipment used for the execution of the work? Yes
 No
 N/A
Does the DBE OWN and OPERATE the equipment used for the execution of the work?

Did the DBE lease any equipment? Yes
 No
 N/A

- Does the DBE name appear on all invoices, tickets, and/or bills of lading – review any invoices, tickets, etc received. Make sure it has the DBE subs name on them as procuring the materials. It should not have the prime contractor’s name if the DBE is procuring materials.
- Does the DBE arrange for delivery of materials – did the DBE receive the materials/bring the materials to the project site?
- Is there a Joint Check Agreement – an approved joint check agreement should be in place if the prime is assisting with the procurement in place. This would have been approved by the RE office prior to the sub purchasing materials.
- If so, had the RE office approved the joint check agreement? Has it been approved?
- Does the DBE own and operate the equipment used for execution of work – did the DBE mobilize their own equipment – are they using someone else’s

Commercially Useful Function (CUF)

Did the DBE lease any equipment? Yes
 No
 N/A

If so, is there a LEASE AGREEMENT on File? Yes
 No
 N/A

Does this review indicate that the work is being performed by the DBE? Yes
 No
 N/A

Does this review indicate that the work is being performed by the DBE?
Does it appear that the DBE is performing a Commercially Useful Function (CUF)? If not, please contact your Resident Engineer and Area Construction Engineer. Yes
 No
 N/A

Does it appear that the DBE is performing a Commercially Useful Function (CUF)? If not, please contact your Resident Engineer and Area Construction Engineer.

Comments

A summary of this resource

Title *

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Created at 6/12/2023 5:24 PM by James G. Hall
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- Did the DBE lease any equipment – ask the DBE to show proof of registration? You can ask the supervisor for this information
- If so, is there a Lease agreement on file?
- Does this review indicate that work is being performed by the DBE – is the work being performed by DBEs forces or do they need assistance from the prime/another sub.
- Does it appear the DBE is performing a CUF - look at the big picture, is the DBE managing the work, performing with their own work force, and buying their own materials
- Comments –add in comments regarding the review
- Title – the Inspector can change the name to the name of the sub being assessed.
- The inspector should save the report after answering any of the questions. If you don't save, no information will be stored.

Thank you!
