



Commercially Useful Function Training



FDOT District 5, Daytona Construction Office
February 8, 2012

What governs us

- ▶ 49 CFR Part 26 Disadvantaged Business Enterprises
- ▶ Equal Opportunity Construction Contract Compliance Procedure (275-020-002-g) section 10.0 covers subcontractor monitoring.



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- ▶ A Commercially Useful Function is when a DBE is responsible for the execution of a distinct element of work and carries out its responsibilities by actually performing, managing, and supervising the work.

- ▶ Primary Areas in Assessing CUF

- ▶ Management
- ▶ Workforce
- ▶ Equipment
- ▶ Materials
- ▶ Performance



▶ **Management:**

- ▶ Is the DBE scheduling work operations?
- ▶ Is the DBE ordering equipment and supplies?
- ▶ Is the DBE preparing and submitting certified payrolls?
- ▶ Is the DBE responsible for hiring and firing employees?
- ▶ A no response require further inquiry to assess if a DBE is separate and independent from the prime contractor.



▶ **Workforce:**

- ▶ Are employees moving between the DBE and the Prime contractor?
- ▶ Are employees listed on the DBE and prime contractor's payroll?
- ▶ Does the DBE share office space with the prime contractor?
- ▶ Is there a discrepancy between the company identification badge and the information provided by the employee during labor interviews?
- ▶ A yes response requires further inquiry and follow-up to determine if a DBE is managing its own workforce.



▶ **Equipment:**

- ▶ Who is the owner of the equipment?
- ▶ Observe equipment and assess signage. Is there a sign over an original sign?
- ▶ Who is operating the equipment? Is the operator an employee of the DBE?
- ▶ What is reflected on the daily notes? Does the inspector identify the equipment used by the DBE?
- ▶ If it is unclear that DBE has control over equipment, further inquiry and follow-up is required.



▶ **Materials:**

- ▶ Did the DBE order its own materials?
- ▶ Are invoices for materials and supplies addressed to the DBE?
- ▶ Who paid for the materials? Is payment made by a joint checking bearing the DBE and prime contractor's signatures?
- ▶ If it is unclear that DBE is responsible for ordering materials and supplies, further inquiry and follow-up is required.



▶ **Performance:**

- ▶ Does the DBE have a contract with the prime contractor?
- ▶ Has the DBE performed 30% of the overall contract?
- ▶ Is a portion of the DBE's work performed by the prime contractor or any other companies?
- ▶ If it is unclear that the DBE is performing the work specified in its agreement with the prime contractor, further inquiry and follow-up is required.



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- ▶ To be able to count the DBE's participation towards our goal, the DBE must perform a Commercially Useful Function in the area of work certified.
 - ▶ If the DBE does not work for all three months (observations); a memo to file explaining reason why not working on project is to be placed in the file on top of the completed CUF packages.
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Commercially Useful Function (CUF) DBE Monitoring Report {form 275-021-18}

- ▶ When is a CUF report to be completed for DBE?
 - ▶ A commercially Useful Function report must be completed once a month for the first 3 months a DBE firm is active in the area of work certified, on a federally funded project.
 - ▶ If after 3 months, the DBE has not performed at least 30% of the total value of the contract/subcontract amount (listed on ADBEPS), a final CUF report must be conducted at the end of the DBE work time on the project to assess performance.



To complete form 275-021-18:

- ▶ **Section 1: Project Identification (RCS)**
 - ▶ This is the general project information. It can be filled in prior to giving to project staff.
 - ▶ Make sure all boxes are completely.

- ▶ **Section 2: DBE Identification (RCS)**
 - ▶ This is the general information about the DBE firm that is listed on the Anticipated DBE Participation Statement.
 - ▶ Make sure all boxes are completely filled in with the possible exception of #16 (DBE's Begin date).
 - ▶ If the start date is unknown at this time, make sure that the date is filled in on later CUF reports and prior to submittal to DCCM.

- ▶ At this point copies can be made and given to project staff to perform the observation.



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- ▶ Section 3: Observation of DBE's Work, Workforce & Equipment (RCS or Inspector)
 - ▶ There are three parts to this section:
 - ▶ Work of the DBE firm
 - ▶ Workforce of the DBE firm
 - ▶ Equipment of the DBE firm
 - ▶ The questions for workforce and equipment are true and false.
 - ▶ If the DBE doesn't have uniforms, the "No uniforms" box needs to be checked.
 - ▶ All questions must be answered.



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- ▶ **Section 4: DBE Administrative Review (RCS)**
 - ▶ The questions for the review are true and false.
 - ▶ The payrolls can reflect more employees than what is listed on the CUF and/or Daily Work Report. Payrolls cannot have less employees.
 - ▶ All questions must be answered.



▶ **Box 34. Attachments:**

- ▶ Check what backup is part of the report package.
- ▶ When reviewing the backup documents, place check marks by them indicating you have reviewed it and agree.



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- ▶ The documents that must be submitted but not limited to:
 - ▶ Complete DWR (must include weather conditions, equipment, labor on site, etc.) – not just a summary of work that was performed
 - ▶ Certified Payrolls covering time of period of observation
 - ▶ ADBEPS with the DBE directory print out
 - ▶ DBE payments screen shot from EORS with % of contract amount listed on ADBEPS
 - ▶ Either Sublet w/Schedule A; Rental Agreement; Temporary Employment Agency; Trucker Agreement
 - ▶ Paid purchase order/invoice when DBE is using materials
 - ▶ Any other document that you deem necessary that was used to determine if a CUF was performed
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- ▶ **Section 5: Record of Report Review (PA & DCCM)**
 - ▶ The project administrator is to sign, date, and check the appropriate box after reviewing the form and backup.
 - ▶ At this point the CUF package is to be sent to the DCCM for review. After reviewing the package the DCCM will sign and check appropriate box if no issues were found.
 - ▶ If issues are found DCCM will send a email asking for clarification or further information from RCS.
 - ▶ District Office will scan the completed CUF package into Hummingbird and email the document number to the RCS to print for the DBE's EEO file (left side), record on tracking sheet.
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DBE Truckers

- ▶ To determine whether a DBE trucking company is performing a commercially useful function:
 - ▶ Must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular project, and there cannot be a contrive arrangement for the purpose of meeting DBE goals.
 - ▶ Must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
 - ▶ Receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
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- ▶ May lease trucks from another DBE firm, including owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - ▶ May also lease truck from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract.



Trucker Observation & Verification {form 700-010-61}

- ▶ This form has been revised to include the commercially useful function for DBE trucking firms.
- ▶ The other CUF report is not to be used for DBE Truckers.
- ▶ This form is to be completed for the first month the DBE trucker is active on a federally funded project.



- ▶ **Section 1: Project Identification (RCS)**

- ▶ This is the general project information. It can be filled in prior to giving to project staff.
- ▶ Make sure all boxes are completed.

- ▶ **Section 2: Trucking Firm Identification (RCS)**

- ▶ This is the general information about the Trucking company as shown on a subcontract, rental agreement or purchase order.



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- ▶ Section 3: Identification of Truck Driver & Truck Ownership (RCS or Inspector)
 - ▶ All of the boxes must be completed

 - ▶ Section 4: Administrative Review (RCS)
 - ▶ When completing this section, start at Sect. 4A answering the questions, follow the steps listed based upon your answer.
 - ▶ Back-up documentation to be sent with form:
 - ▶ Certified payrolls if applicable
 - ▶ Complete Daily Work Report showing trucking firm and trucks
 - ▶ ADBEPS with BizWeb DBE Directory
 - ▶ EORS DBE payment
 - ▶ Copy of email that prime submitted the DBE Ledger for that month.
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- ▶ After form is complete, forward the package to the DCCM for signature even though there is no spot. DCCM would like to review, sign, and track.
 - ▶ District Office will scan into Hummingbird and email the document number to the RCS to print and place in the DBE Trucker EEO file.
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- ▶ If a DBE firm or DBE Trucking firm **is not** performing a commercially useful function, the prime is to revise the ADBEPS removing that DBE for the area of work a CUF was not performed.



▶ Questions?????

