

CHAPTER 2

DISADVANTAGED BUSINESS ENTERPRISES

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Section 2.1

OVERVIEW

2.1.1 Purpose

The Department's Disadvantaged Business Enterprise (DBE) Program is designed to assist small businesses owned and controlled by socially and economically disadvantaged individuals to participate on Department contracts. The objectives of the DBE Program are:

- (a) To ensure equal opportunity in the award and administration of DOT contracts in the Department's highway, transit, and airport construction programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet the eligibility standards are certified as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT contracts;
- (f) To assist in the development of firms that can compete successfully in the marketplace outside of the DBE program; and
- (g) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

2.1.2 Scope

The Department's Disadvantaged Business Enterprise (DBE) Program encompasses both our federal and state funded highway and bridge program and all projects and contracts associated with this program. The scope of this section includes all the requirements associated with how the Florida Department of Transportation implements these federal regulations. In general, the State's DBE program mirrors the requirements of the federal program, but is analyzed and reported separately.

Section 2.2

CERTIFICATION OF DBEs

2.2.1 General

The U.S. Department of Transportation (USDOT) requires all recipients of FAA, FTA, and FHWA federal funds to participate in a Unified Certification Program (UCP) within their respective states. The UCP provides “one stop shopping” for all firms seeking certification as a DBE in Florida. Therefore, the DBE certification of a firm will be accepted by all USDOT recipients in Florida. Certifying members certify DBEs in accordance with 49 CFR Parts 23 and 26.

Businesses are certified as a DBE for specific types of work for which they have the knowledge and resources to perform. Each DBE certification includes specific NAICS Codes as well as FDOT Specialty codes indicating the area(s) of their work which may be counted toward DBE utilization; these areas may change over time.

When a contractor uses a DBE on a federal aid project, only a single DBE certification letter or certificate from a certifying member is needed.

The Department can only report the participation of DBE's that are certified in the Department's DBE Directory. See Section 2.5 and 2.6 for additional information on reporting requirements. If there are questions about a firm's certification status, contact the certifying member. A list of certifying members is listed on the FDOT Equal Opportunity Office web site.

2.2.2 DBE Directory

A single DBE Directory allows for the identification and location of a certified firm authorized to participate in Florida's DBE program. The DBE Directory can be found on the FDOT Equal Opportunity Website.

Section 2.3

DBE AFFIRMATIVE ACTION PLAN

2.3.1 General

Contractors are required to submit a DBE Affirmative Action Plan to ensure that all their subcontractors doing business with the Department are not discriminating on the basis of race, color, religion, national origin, disability, sex, or age in the administration of contracts with the Department.

2.3.2 Disadvantaged Business Enterprise Affirmative Action Policy and Plan (DBE AA Plan)

A sample DBE AA Policy and Plan is available on the FDOT Equal Opportunity Office website. The contractor's DBE AA Plan must include, at a minimum, the information contained in this sample. Plans that do not meet these mandatory requirements may not be approved.

A DBE Policy statement is included in the DBE AA Plan and should express the contractor's commitment to use Disadvantaged Business Enterprises in all aspects of contracting, outlines various levels of responsibility, and states the objectives of the program. The contractor's DBE Plan is to be circulated throughout the contractor's organization and to minority, female, and non-minority community and business organizations.

2.3.3 DBE Liaison Officer

The DBE Affirmative Action Plan includes identification of an appointed DBE Liaison Officer who is responsible for maintaining and monitoring the implementation of the Plan. This person will be the main contact for the Department for all issues related to the DBE Program and must be available to obtain any documents requested by the Department. The duties of the DBE Liaison Officer are included in the DBE AA Plan.

2.3.4 Submission, Expiration and Renewal of DBE AA Plan

Contractors bidding on FDOT contracts are to have an approved DBE Affirmative Action Plan on file with the FDOT Equal Opportunity Office before execution of a contract. DBE AA plans must be received with the contractor's bid or received by the FDOT Equal Opportunity office prior to the award of a contract.

DBE AA Plans are approved for a three (3) year period and should be updated prior to expiration or when there is a change in the DBE Liaison Officer and/or the Company official who signs the Plan.

Completed and signed DBE AA plans should be emailed to: EEOfirms@dot.state.fl.us

The Department will review the plan, update department records, and issue a notification of approval or disapproval; a copy of the submitted plan will not be returned to the contractor.

2.3.5 Review and Compliance with DBE AA Plan

The DBE Special Provisions included in executed contracts states that the DBE Affirmative Action Plan and commitment to carry out the plan is incorporated into and becomes a part of the awarded contract. The contractor's failure to keep these commitments is deemed noncompliance with the specifications and a breach of the contract.

The Department will monitor contractor compliance with the DBE specifications of the contract and the implementation of the contractor's DBE Affirmative Action Plan through formal reviews including contract compliance reviews. The DBE Affirmative Action Plan is not a requirement for Local Agency projects. However Local Agencies must comply with 49 CFR Part 26. Additionally, contractors with low DBE participation will be subject to a Title VI assessment to ensure that discrimination is not the factor for the lack of DBE utilization on Department projects.

The contractor will make all records available to the Department upon request.

Section 2.4

BID OPPORTUNITY REPORTING

2.4.1 General Information

Federal regulations require the Department to create and maintain a bidders list. The purpose of the bidder's list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on federally-assisted contracts and for use in helping to establish an annual DBE goal each year that would reflect the level of DBE participation expected absent the effects of discrimination. The Department uses a Bid Opportunity List to determine the number of ready, willing and able DBE's relative to all ready, willing and able businesses as the method to help determine the Department's annual DBE goal.

2.4.2 Bid Opportunity Data and Submission

All contractors bidding on construction and design build contracts are to maintain information regarding the subordinate contractors solicited for bids and the specific type of work for which the bid was requested. All contractors must enter their bid opportunity information in the Equal Opportunity Compliance (EOC) system within 3 business days of submission of the bid or proposal for all subcontractors or subconsultants who quoted bids for federal aid projects.

The web address to the Equal Opportunity Compliance system is:

<https://www3.dot.state.fl.us/EqualOpportunityCompliance/Account.aspx/LogIn?ReturnUrl=%2fEqualOpportunityCompliance%2f>

Section 2.5

DBE PARTICIPATION COMMITMENTS

2.5.1 Purpose

Prime contractors report to the Department the names of DBEs, type(s) of work or specialty code(s), and the dollars awarded to DBEs as a subcontractors on specific contracts.

This information is reported to the Federal Highway Administration and it is the primary tracking mechanism used to measure the progress in achieving the Department's annual DBE goal. This information is also used to determine a contractor's annual letter grade for DBE participation.

2.5.2 DBE Participation Commitments: Initial Submission and Revisions

Prime contractors on federally and nonfederal funded construction and design-build contracts are required to report and maintain information regarding planned and actual utilization of DBE's and the progress payments made to them. In October 2012, the reporting of this data transitioned from the submission of paper forms to the electronic entry of data into the department's Equal Opportunity Compliance (EOC) system and this electronic reporting was extended to include all existing/open contracts.

Prior to the October 2012, planned DBE utilization data was reported on an 'Anticipated DBE Participation Statement' or 'ADBEPS' and different FDOT forms were used for the reporting based on the type of project: (275-030-11A: Anticipated DBE Participation Statement, 275-021-23: Anticipated DBE Participation Statement for Design Build Contracts and 275-030-12: Anticipated DBE Participation Statement for Local Agency Program). The EOC system eliminates the submission of these paper forms.

The prime contractor is required to enter anticipated DBE utilization data in the EOC system within three (3) business days of the Preconstruction or Pre-Work Conference. Data recorded includes: DBE's company name, specialty code/NAICS code identifying work to be performed and the total contract amount.

Only the dollars that a DBE is anticipated to earn for work in areas for which they are certified and for which they will perform with their own workforce and equipment is to be reported. Only work performed in the specialty area/NAICS code that a DBE is certified in may be counted. Work performed in a specialty area/NAICS code a DBE is not certified in will not be counted for DBE utilization.

Primes are required to promptly report in the EOC System when DBE's are added or removed or contracted work or utilization dollars change. Changes and updates should not be held for end-of contract submittals. The system will automatically make some adjustments.

Prime contractors who are certified DBEs must report the portion of the contract which will be performed directly by them with their own workforces. Other DBE subcontractors that the prime DBE anticipates using are also reported.

2.5.3 Counting a DBE's Participation

DBE Certification does not guarantee that the firm's work on a project will be counted as utilization towards FDOT's DBE goal. For services performed by a DBE firm to count toward the goal, the firm must perform a 'commercially useful function' and their work must be in the specialty area(s) for which the DBE firm is certified.

Some of the considerations used in determining what portion of a DBE's work on a project may be counted toward the DBE goal are listed in Table 2.5.1. The Table is not an exhaustive list. FDOT may request additional information from the prime contractor and or DBE firm in order to determine which portions of work may be included as DBE participation.

Table 2.5.1 Determining What Portion of a DBE's Work May be Counted Toward the Goal	
1.	The DBE firm is performing a commercially useful function.
2.	The work is in the specialty area(s) for which the DBE is certified.
3.	The work is actually performed by the DBE's own workforces.
4.	Supplies and equipment purchased or leased by the DBE are not affiliated with the prime.
5.	The cost of supplies and materials obtained by the DBE for the work is counted including purchases and leased equipment
6.	Reasonable fees or commissions charged by a DBE firm for providing a bona fide service, or for providing bonds or insurance required for performance of a DOT contract may be counted. Examples of bona fide services includes professional, technical, consultant, or managerial services,
7.	The value of work the DBE subcontracts to others is counted only if the work is subcontracted to another DBE. Work subcontracted to non DBE's is not counted.

2.5.4 Newly Certified, Graduated and de-Certified DBE's

During the term of a contract, prime contractors may report the utilization of firms that become certified beginning with the date of their certification.

DBE firms that graduate from the DBE program during the term of contract may be reported as DBE utilization throughout the term of the contract. On subsequent projects, the graduated DBE does not count as utilization.

None of the work performed by a decertified DBE may be counted as utilization.

Section 2.6

REPORTING ACTUAL PAYMENTS

2.6.1 General

CFR 49 Part 26 requires the Department to track actual payments as well as commitments to DBEs. Additionally, the Department's Standard Specifications requires the reporting of actual payments to DBE and MBE subcontractors in the Equal Opportunity Compliance (EOC) system.

2.6.2 Payment Reporting

Prime contractors are required to report in the EOC system monies paid from each monthly estimate to each DBE for the work performed in their certified area(s). If no payment is made to a DBE, the prime reports in the EOC system a zero payment. Monthly, the prime must report each DBE's actual payment or the basis for a zero payment until such time that the DBE has been 'finalized or closed out' the project.

Resident Compliance Specialists and Local Agency staff monitor payment reporting activity. Payment reporting is an element in determining the prime contractors' Past Performance Rating on internal FDOT construction contracts.

Only that portion of the payment associated with the performance of a commercially useful function by DBE's performing work in the area(s) for which they are certified are to be reported. Payments for the following should not be reported:

- Work performed by the DBE in areas for which they are not certified.
- Work subcontracted to non DBE's.

Payments submitted in the EOC System, will be negatively offset if a commercially useful function cannot be determined or if the DBE (excluding DBE Truckers) does not self perform a minimum of 30% of their contract. The prime will enter a negative payment amount equal to the amount reported which is not counted for DBE credit.

2.6.3 EOC System Access

Refer to Workbook Section 1.3.4, How to Access the System; Addressing System Problems for problems with access or entering payments.

Section 2.7

MONITORING

2.7.1 General

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted as DBE participation.

A DBE firm performs a commercially useful function (CUF) when it is responsible for execution of a distinct element of the work with its own workforce and it carries out its responsibilities by actually performing, managing and supervising the work involved.

Checks will be done, at a minimum, during each of the DBE's first three active months to determine if DBE's on federally funded contracts are performing a CUF.

Additional CUF Monitoring Reports or other special reviews may be initiated and/or required. FDOT Form 275-021-18 "Commercially Useful Function DBE Monitoring Report" is used to record each observation and review. CUF's are performed on DBE primes and DBE subcontractors.

2.7.2 Counting the Value of Work

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted as DBE participation.

Count the entire amount of that portion of a construction contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

Count toward the DBE goal, the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided they are reasonable and not excessive when compared with fees customarily allowed for similar services.

2.7.3 Considerations in Determining Commercially Useful Function

Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. Considerations in determining commercially useful function include the following;

1. 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. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Department must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

2. A DBE does not perform a commercially useful function 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. In determining whether a DBE is such an extra participant, the Department must examine similar transactions, particularly those in which DBE's do not participate.

3. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Department must presume that it is not performing a commercially useful function. The 30% requirement does not apply to DBE Trucking.

4. When a DBE is presumed not to be performing a commercially useful function as provided in paragraphs 2 and 3, the DBE may present evidence to rebut this presumption. The Department may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

2.7.4 DBE's Subcontracting work to others & Joint Ventures

When a DBE subcontracts part of its work to another firm, the value of the subcontracted work is counted only if the work is subcontracted to another DBE. Work that a DBE subcontracts to a non DBE firm does not count toward DBE goals.

When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE participation.

2.7.5 Commercially Useful Function of DBE Trucking Companies

Considerations in determining whether a DBE trucking company is performing a commercially useful function include the following:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of reporting DBE participation.
2. The DBE must own and operate at least one fully licensed, insured, and operational truck used on the contract.
3. The DBE 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.
4. If a DBE leases trucks from another DBE firm, including an 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.
5. A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE

2.7.6 Calculating DBE Utilization for Truckers

The DBE may also lease trucks from a non-DBE or other business enterprise (OBE), including owner operators. The value of services from OBE trucking may be equal to or less than the value of services provided by all DBE trucks; the value of Non-DBE trucking cannot exceed the total value of DBE trucking.

Utilization credit is given only for the fee or commission associated with excess services provided by non-DBE trucking. These fees or commissions are stated in the trucking agreements.

The Department has received authorization from FHWA to count DBE trucking utilization credit using the percentage (%) of fees or commission associated with excess services provided by non-DBE trucking companies that are not counted in the match. The DBE Trucking Ledger has been updated and renamed the DBE Trucking Certification (Form 275-030-14) to capture this data with automated calculation capabilities.

An example of this approved methodology (percentage of fees or commissions versus the counting of trucks) is noted below:

Total Invoice Amount for DBE Trucking Firm ABC is \$12,060.

Total DBE Dollars	\$1920
Total OBE Dollars	\$9130

OBE Commissions	\$1010
Total DBE Dollars	\$1920 (All DBE dollars)
Total OBE Dollars	\$1920 (OBE dollars permitted for matching)
Note: \$1920 represents 21% of the OBE dollars, match cannot exceed DBE dollars (\$1920/9130=.21 or 21%)	
Total OBE Commissions	\$798 (Included for DBE credit)
Note: \$1010 X .79 or 79% = \$798	

Since 21% of the OBE transportation service was included in the match, 79% of the total fees and commission is counted for DBE credit- replacing the need to count the number of trucks not used in the match.

DBE Credit Total	\$4,638
DBE Trucking credit- this amount is the total which appears in the EOC system.	

2.7.6.1 DBE Trucking Recordkeeping

DBE Utilization that includes off-site hauling requires the submission to the RCS of a contractual document (sublet, subcontract, rental agreement etc.) describing the scope of trucking operations and the commissions/fee rate in order to verify DBE utilization calculations. Project staff may utilize the Trucker's Observation & Verification (Form 700-010-610) to verify both the owner operator and/or the DBE status of individual trucks.

Prime contractors reporting commitments for DBE trucking are required to submit each month a DBE Trucking Certification (FDOT Form 275-030-14) reflecting actual trucking operations. The report is due beginning with the first month and ending with the last; inactive months are reported as such.

The DBE Trucking Certification, along with other records will enable confirmation of a commercially useful function and the accurate calculation of DBE Utilization as described in Section 2.7.5.

2.7.6 DBE Manufacturers and Suppliers

Considerations in determining if expenditures with DBE's for materials or supplies may be counted for DBE utilization include the following:

1. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE participation. For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(a) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(c) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.

2. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE participation.

3. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE participation, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE participation.

4. FDOT monthly and final estimates are referenced in verifying supplier quantities.

2.7.7 Contractor Records for Commercially Useful Function Verification

Contractors are to maintain and make available to the Department when so requested, records substantiating the performance of commercially useful functions by DBE contractors and suppliers as part of their compliance with FDOT Specification 3-8, "Audit of Contractor's Records". Contractor records which may be reviewed to substantiate commercially useful function include, but are not limited to:

- Contracts, subcontracts, rental agreements
- Delivery Tickets
- Invoices
- Lease Agreements
- Hauling Tickets
- Contractor's Daily Trucking Record
- FDOT DBE Trucking Certification
- DBE Trucking Ledger
- Canceled checks
- Bank Records
- Equipment Titles of Ownership
- Material/Supply Agreements

Payroll Records

Department records which will be reviewed to confirm commercially useful function include but are not limited to:

- EOC Commitments
- Daily Reports and project photos
- EOO Subcontractor Payments
- Commercially Useful Function Monitoring Reports
- Trucker Observation and Verification
- FDOT DBE Trucking Certification
- DBE Trucking Ledger
- EEO/Labor Interviews
- Payroll records
- DBE Directory

In the assessment of CUFs, districts should request copies of invoices based on the following factors:

1. The DBE is a material supplier, manufacturer, or regular dealer on a project.
2. There is a concern that the DBE is not performing a CUF and invoices are needed for further verification.

Section 2.8

PRIME CONTRACTOR GRADING SYSTEM

2.8.1 General

The Department's annual DBE goal is posted on the EOO Website. The Department tracks DBE participation monthly to monitor achievement. A Prime Contractor Grading System was implemented to reflect and highlight a contractor's commitment to using DBEs on Department projects. The grading scale is applied to all prime contractors with contract awards totaling \$1 million or more. Prime contractors awarded \$1 million or more are graded based on their DBE participation during the federal fiscal year (October 1 to September 30).

Additionally, routine Title VI Assessments on prime contractors are conducted where the Department determines that an unacceptable level (less than 2%) of DBE participation is noted on contracts. The purpose is to ensure that discrimination is not the factor for the lack of DBE utilization on Department projects.

2.8.2 Grading Scale

Based on the DBE Commitments reported to the Equal Opportunity Office, prime contractors receive a letter grade, A+ thru F. The letter grade is based on the prime contractor's total contracts awarded, total anticipated DBE commitments, and DBE percentage during the reporting period. The grading scale is applied to all prime contractors with contract awards totaling \$1 million or more. Prime contractors with total contract awards below the \$1 million threshold do not receive a letter grade.

A+	8.51% and Above
A	8.5% to 6.76%
B	6.75% to 5.01%
C	5.0% to 3.51%
D	3.5% to 1.51%
F	1.5% and Below

The Department and the Districts issue various written and verbal communications to prime contractors regarding their companies' DBE achievements.

Section 2.9

SUPPORTIVE SERVICES

2.9.1 General

The Supportive Services Program is structured to promote the Department's efforts to provide customized training in the form of managerial and technical assistance to DBEs and small businesses in order to increase prime and subcontracting opportunities. The Department is committed to its efforts to promote meaningful participation by disadvantaged and small business contractors and consultants in highway construction projects throughout the State of Florida.

The primary goal of the Supportive Services Program is to increase the number of DBEs and small businesses participating in Department contracts and the percentage of dollars awarded to DBEs and small businesses by:

- Matching prime contractors/consultants with certified DBEs and small businesses as a subcontractor/sub-consultant/supplier;
- Assisting certified DBEs and small businesses in becoming prime contractors/consultants; and
- Assisting certified DBEs and small businesses in obtaining contracts as prime contractors/consultants on Department projects.

2.9.2 DBE Supportive Services

The Department provides supportive services to DBEs conducting business with or seeking to conduct business with the Department. Supportive services are those activities and services that are designed to contribute to the growth and eventual self-sufficiency of DBEs so that they may achieve proficiency in competing for contracts and subcontracts. The purpose of the DBE Supportive Services Program is to increase the number of certified DBEs participating in the highway program and to contribute to the growth and eventual self-sufficiency of DBE firms. The Department's statewide DBE Supportive Services provider provides managerial and technical assistance to certified DBEs participating in the highway program at no cost. Participation in the DBE Supportive Services Program is open to firms certified as a DBE by the Florida Unified Certification Program.

The DBE Supportive Services provider is available to assist prime contractors with locating DBEs on the Department's online business directory and matching primes with DBEs for subcontracting/sub consulting/supplier opportunities. Another opportunity for prime contractors to identify DBEs for subcontracting and consulting/supplier opportunities is to participate in DBE Matchmaker Conferences. The Department's DBE

Supportive Services provider is charged with planning, coordinating, and hosting a minimum of four (4) DBE Matchmaker Conferences statewide designed to assist DBEs in meeting with prime contractors to discuss future working relationships and to educate DBEs and non certified minority and women-owned firms about doing business with FDOT. Contact information for the Department's DBE Supportive Services provider(s) is available on the Equal Opportunity Website.

2.9.3 Prime Contractor DBE Utilization Assistance

The primary goal of the Department's DBE Specialized Development Program is to increase the number of DBEs participating on FDOT's largest contracts and the dollars awarded to them by assisting prime contractors and facilitating the development of DBEs in obtaining contracts.

Contact information for the Department's DBE Specialized Development Program Supportive Services provider(s) is available on the Equal Opportunity Website.

2.9.4 Construction Management Development Program & Bond Guarantee Program

The **Construction Management Development Program (CMDP)** is a voluntary program designed to improve and develop the skills of small business owners and managers enabling them to perform successfully on FDOT construction projects. Courses offered are *Business Management, Construction Accounting, Construction Math and Estimating, Contracts, Specification and Law, Scheduling for FDOT* and *Plan Reading for FDOT*. Participation in the CMDP is open to firms certified as a DBE by the Florida Unified Certification Program or a small business firm whose annual gross receipts do not exceed \$2 million dollars average over the last three year period.

The **Bond Guarantee Program (BGP)** is a financial support program which the State of Florida acts as a second surety, guaranteeing the construction bonds for DBEs working on FDOT projects. Participation in the BGP is limited to those DBEs who have been awarded a *Certificate of Proficiency* and have documented knowledge of the principals of construction bonding. Services under the BGP include: *Packaging Bond Applications, Construction Bond Principals Seminars and Overhead Audits*, a one time free service for DBEs seeking pre-qualification as a consultant.

For more information or assistance regarding the CMDP-BGP contact:

Florida A&M University Small Business Development Center
2035 East Paul Dirac Drive, Suite 130, Morgan Building
Tallahassee, Florida 32310

Telephone: (850) 561-2393

Toll Free: (800) 226-3881

Fax: (850) 561-2395

www.sbdcatfamu.org

Section 2.10

DBE FORMS & DOCUMENTS

This is a list of forms and documents referenced in this chapter. Following this page, in numerical order are the forms.

NUMERICAL SEQUENCE

FDOT Form No.	Document Title	Work Book Section
275-021-18	Commercially Useful Function DBE Monitoring Report	2.7
275-030-11	DBE Bid Package Information	2.0
275-030-11B	DBE/AA Plan	2.3
275-030-14	DBE Trucking Certification	2.7
700-010-61	Trucker Observation and Verification	2.7

ALPHABETICAL SEQUENCE

Document Title	FDOT Form No.	Work Book Section
Commercially Useful Function DBE Monitoring Report	275-021-18	2.7
DBE/AA Plan	275-030-11B	2.3
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DBE Trucking Certification	275-030-14	2.7
Trucker Observation and Verification	700-010-61	2.7

COMMERCIALLY USEFUL FUNCTION (CUF) DBE MONITORING REPORT										
SECTION 1: PROJECT IDENTIFICATION										
1. Financial Project No.		2. F.A.P. No.		3. Contract No.		4. County		5. District		
6. Prime Contractor		7. FEID No.		8. Contract Begin Date		9. Est. Completion Date		10. Is Prime a DBE? <input type="checkbox"/> No <input type="checkbox"/> Yes		
SECTION 2: DBE IDENTIFICATION										
11. DBE's FEID No.				12. DBE Co. Name						
13. Mailing address & phone number used for project communication				Phone ()						
14. NAICS & Specialty Codes (from DBE'S Profile in FDOT DBE Directory)				NAICS / Specialty Code						
15. DBE's function on this Contract		<input type="checkbox"/> Subcontractor <input type="checkbox"/> Rental Agreement without operator <input type="checkbox"/> Rental Agreement with operator				16. DBE's Begin date				
17. If DBE is a Subcontractor, Identify tier.				<input type="checkbox"/> 1 st Tier <input type="checkbox"/> 2 nd Tier <input type="checkbox"/> 3 rd Tier <input type="checkbox"/> Prime						
18. Name of company DBE is subordinate to (or 'Prime' if 1 st tier)										
SECTION 3: OBSERVATION OF DBE'S, WORK, WORKFORCE & EQUIPMENT										
19. Date Observed				20. Observer's Name (first & last)						
21. Description of work being performed										
22. Foreman's name (first/last) & employer				NAME		EMPLOYER				
23. Number & type of workers (exclude foreman)										
24. Number and type of equipment & tools used				<input type="checkbox"/> None						
TRUE	FALSE	25. WORKFORCE OF THE DBE:				TRUE	FALSE	26. EQUIPMENT OF THE DBE:		
		A. Uniforms have DBE's Co. name <input type="checkbox"/> No uniforms						A. Name is painted or a permanent decal <input type="checkbox"/> No name on any <input type="checkbox"/> No name on some		
		B. Only Workers/Foremen from the DBE company are performing the work						B. Name on equipment is DBE Co. name (box 12)		
		C. DBE appears to control/supervise their own work						C. DBE appears to be using their own equipment		
27. OBSERVER'S COMMENTS: <input type="checkbox"/> None										
SECTION 4: DBE ADMINISTRATIVE REVIEW										
28. Date Reviewed				29. Reviewer's Name:				30. ADBEPS amount		
TRUE	FALSE	31. Observ. VS Payrolls, Daily Work Report, Bizweb				TRUE	FALSE	32. DBE Sublet & ADBEPS Data		
		A. DBE's Payroll reflects no. & type or workers in #23						A. Observed work is included in DBE's certified areas (Box 14)		
		B. Daily Diary reflects foreman (#22) and workers (#23)						B. Observed work is listed on the ADBEPS		
		C. Payrolls from other contractors do not include the names of the DBE's employees or the DBE's foreman						C. DBE has not subcontracted to other companies.. If False (DBE has subcontracted work to others) list the companies DBE-Y or N		
		D. Payments to DBE are in EOR System <input type="checkbox"/> Too close to DBE's begin date (see Box 16)								
33. REVIEWER'S COMMENTS <input type="checkbox"/> None										
34. Attachments: Mark 'Y' or 'NA'		Daily Work Report				DBE's Certified payroll				
		Certification of Sublet Work w/ Schedule A				Notice of Rental Agreements				
		Notification for Use of Temporary Employment Agency				DBE Directory- print out of DBE's				
		EOR payment screens				Photos of DBE's work				
SECTION 5: RECORD OF REPORT REVIEW										
35. Title		36. First &- last name-print/type		37. Signature		38. Date		39. Recorded data reflects CUF		
Proj Adm.								<input type="checkbox"/> more investigation <input type="checkbox"/> Yes		
DCCM								<input type="checkbox"/> more investigation <input type="checkbox"/> Yes		

Florida Department of Transportation **DBE BID PACKAGE INFORMATION**

DBE Utilization

The Department began its DBE race neutral program January 1, 2000. **Contract specific goals are not placed on Federal/State contracts;** however, the Department has an overall 8.60% DBE goal it must achieve. In order to assist contractors in determining their DBE commitment level, the Department has reviewed the estimates for this letting.

As you prepare your bid, please monitor potential or anticipated DBE utilization for contracts. When the low bidder executes the contract with the Department, information will be requested of the contractor's DBE participation for the project. While the utilization is not mandatory in order to be awarded the project, continuing utilization of DBE firms on contracts supports the success of Florida's DBE Program, and supports contractors' Equal Employment Opportunity and DBE Affirmative Action Programs.

Any project listed as 0% DBE availability does not mean that a DBE may not be used on that project. A 0% DBE availability may have been established due to any of the following reasons: limited identified subcontracting opportunities, minimal contract days, and/or small contract dollar amount. Contractors are encouraged to identify any opportunities to subcontract to DBE's.

Please contact the Equal Opportunity Office at (850) 414-4747 if you have any questions regarding this information.

Forms may be downloaded at: www.dot.state.fl.us/proceduraldocuments/ .

DBE Reporting

If you are the prime contractor on a project, complete the Anticipated DBE Participation Statement through the Equal Opportunity Compliance system within 3 business days after the pre-construction or pre-work conference for all federal and state funded projects. This **will not** become a mandatory part of the contract. It will assist the Department in tracking and reporting planned or estimated DBE utilization. During the contract, the prime contractor is required to report actual payments to DBE and MBE subcontractors through the web-based Equal Opportunity Compliance (EOC) system.

All DBE payments must be reported whether or not you initially planned to utilize the company. In order for our race neutral DBE Program to be successful, your cooperation is imperative. If you have any questions, please contact EOOHelp@dot.state.fl.us.

Bid Opportunity List

The Federal DBE Program requires States to maintain a database of all firms that are participating or attempting to participate on FDOT-assisted contracts. The list must include all firms that bid on prime contracts or bid or quote subcontracts on FDOT-assisted projects, including both **DBE's and non-DBEs**.

Please complete the Bidders Opportunity List through the Equal Opportunity Compliance system within 3 business days of submission of the bid or proposal for ALL subcontractors or sub-consultants who quoted to you for specific project for this letting. The web address to the Equal Opportunity Compliance system is

<https://www3.dot.state.fl.us/EqualOpportunityCompliance/Account.aspx/LogIn?ReturnUrl=%2fEqualOpportunityCompliance%2f> .

DBE/AA Plans

Contractors bidding on FDOT contracts are to have an approved DBE Affirmative Action Plan (FDOT Form 275-030-11B) on file with the FDOT Equal Opportunity Office before execution of a contract. DBE/AA Plans must be received with the contractors bid or received by the Equal Opportunity Office prior to the award of the contract.

Plans are approved by the Equal Opportunity Office in accordance with Ch. 14-78, Florida Administrative Code.

Plans that do not meet these mandatory requirements may not be approved. Approvals are for a (3) three year period and should be updated at anytime there is a change in the company's DBE Liaison Officer and/or President.

Contractors may evidence adoption of the DBE/AA Policy and Plan and/or a change in the designated DBE Liaison officer as follows:

- Print the first page of the document on company stationery ("letterhead") that indicates the company's name, mailing address, phone number, etc.
- Print the company's name in the "____" space; next to "Date" print the month/day/year the policy is being signed; record the signature of the company's Chief Executive Officer, President or Chairperson in the space next to "by" and print the full first and last name and position title of the official signing the policy.
- Print the DBE Liaison's full name, email address, business mailing address and phone number mail the completed and signed DBE AA Plan to :**eeofirms@dot.state.fl.us**.

The Department will review the policy, update department records and issue a notification of approval or disapproval; a copy of the submitted plan will not be returned to the contractor

_____ hereafter referred to as “the Company” or “this Company”	
has adopted this policy and plan.	
Date: _____	By: _____ Signature
Corporate FEID No.: _____	_____ Printed name & title

DISADVANTAGED BUSINESS ENTERPRISE (‘DBE’) AFFIRMATIVE ACTION PLAN

POLICY STATEMENT

It is the policy of this Company that disadvantaged businesses, as defined by 49 CFR Part 26, Subpart D and implemented under Rule Chapter 14-78, F.A.C., shall have the opportunity to participate as subcontractors and suppliers on all contracts awarded by the Florida Department of Transportation (FDOT).

The requirements of Rule Chapter 14-78, F.A.C., shall apply to all contracts entered into between FDOT and the Company. Subcontractors and/or suppliers to the Company will also be bound by the requirements of Rule Chapter 14-78 F.A.C. and its subcontractors shall take all necessary and reasonable steps in accordance with Chapter 14-78, F.A.C., to ensure that disadvantaged businesses have the opportunity to compete and perform work contracted with FDOT. The Company and its subcontractors shall not discriminate on the basis of race, color, religion, national origin, disability, sex, or age in the administration of contracts with FDOT. The Company has designated and appointed a Liaison Officer to develop, maintain, and monitor the DBE Affirmative Action Plan implementation. The Liaison Officer will be responsible for disseminating this policy statement throughout the Company and to disadvantaged controlled businesses. This statement is posted on notice boards of the Company.

I. DESIGNATION OF LIAISON OFFICER

The Company will aggressively recruit disadvantaged businesses as subcontractors and suppliers for all contracts with FDOT. The Company has appointed a Liaison Officer to develop and maintain this Affirmative Action Plan in accordance with the requirements of Rule Chapter 14-78, F.A.C. The Liaison Officer will have primary responsibility for developing, maintaining, and monitoring the Company's utilization of disadvantaged subcontractors in addition to the following specific duties:

- (1) The Liaison Officer shall aggressively solicit bids from disadvantaged business subcontractors for all FDOT contracts;
- (2) The Liaison Officer will submit all records, reports, and documents required by FDOT, and shall maintain such records for a period of not less than three years, or as directed by any specific contractual requirements of FDOT.

The following individual has been designated Liaison Officer with responsibility for implementing the Company's affirmative action program in accordance with the requirements of FDOT.

DBE LIAISON OFFICER:
NAME:
TITLE:
EMAIL:
ADDRESS:

II. AFFIRMATIVE ACTION METHODS

In order to formulate a realistic Affirmative Action Plan, the Company has identified the following known barriers to participation by disadvantaged subcontractors, before describing its proposed affirmative action methods:

1. Lack of qualified disadvantaged subcontractors in our specific geographical areas of work;
2. Lack of certified disadvantaged subcontractors who seek to perform FDOT work;
3. Lack of interest in performing on FDOT contracts;
4. Lack of response when requested to bid;
5. Limited knowledge of FDOT plans and specifications to prepare a responsible bid.

In view of the barriers to disadvantaged businesses stated above, it shall be the policy of the Company to provide opportunity by utilizing the following affirmative action methods to ensure participation on the contracts with FDOT will:

1. Provide written notice to all certified DBE subcontractors in the geographical area where the work is to be subcontracted by the Company;
2. Advertise in minority focused media concerning subcontract opportunities with the Company;
3. Select portions of work to be performed by DBEs in order to increase the likelihood of meeting the state's goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
4. Provide adequate information about the plans, specifications, and requirements of the contract, not rejecting subcontractors without sound reasons based on a thorough investigation of their capabilities;
5. Waive requirements of performance bonds where it is practical to do so;
6. Attend pre-bid meetings held by FDOT to apprise disadvantaged subcontractors of opportunities with the Company;
7. Follow up on initial solicitations of interest to DBE subcontractors to determine with certainty whether the DBE company is interested in the subcontract opportunity.
8. Utilize FDOT's DBE Supportive Services providers for assistance in identifying and notifying DBE's of contracting opportunities.

The Company understands that this list of affirmative action methods is not exhaustive and will include additional approaches after having established familiarity with the disadvantaged subcontracting community and/or determined the stated approaches to be ineffective.

III. IMPLEMENTATION

The Company will make every effort to

1. Meet state goals by utilizing its affirmative action methods.
2. Express good faith by seeking to utilize DBE subcontractors where work is to be subcontracted.
3. Ensuring that contracted DBE's perform a commercially useful function as evidenced by their execution of a distinct element of work with its own workforce and the carrying out responsibilities by actually performing, managing and supervising the work involved.

IV. REPORTING

The Company shall keep and maintain such records as are necessary to determine the Company's compliance with its DBE Affirmative Action Plan. The Company will design its record keeping system to indicate:

1. The number of DBE subcontractors and suppliers used by the Company, identifying the items of work, materials and services provided;
2. The efforts and progress being made in obtaining DBE subcontractors through local and community sources;
3. Documentation of all contracts, to include correspondence, telephone calls, newspaper advertisements, etc., to obtain DBE participation on all FDOT projects;
4. The Company shall comply with FDOT's requirements regarding payments to subcontractors including DBEs for each month (estimate period) in which the companies have worked.

V. DBE DIRECTORY

The Company will utilize the DBE Directory published by the FDOT.

DBE TRUCKING CERTIFICATION				Equal Opportunity Office 12/12	
PRIME CONTRACTOR:		Invoice Period:			
DBE TRUCKING FIRM:		Invoice Amount:	\$0.00		
Financial No.:		START DATE:			
Contract #:		FINISH DATE:			
FAP #					
County:					
FAILURE TO PROVIDE THE REQUESTED INFORMATION SHALL DELAY PROCESSING OF INVOICE(S).					
<ul style="list-style-type: none"> • This form must be submitted to Prime Contractor for approved trucking invoices as applicable) to the reported period in accordance with the Contract Documents . • For each firm identified, all applicable sections must be accounted for – do not write “See Attached”. • Check “✓” all boxes that apply 					
Trucking Firm Utilization	Invoice Amount This Period	DBE Amount This Period*	* includes transportation services and commissions/fees		
	\$ -	\$ -	TO DATE		
		\$ -			
		\$ -	TOTAL INVOICES:	\$	-
		\$ -	DBE DOLLARS (Transportation Services and Commissions):	\$	-
		\$ -	OBE TRUCKING DOLLARS:	\$	-
		\$ -	OBE COMMISSIONS:	\$	-
		\$ -	MATCH		
		\$ -	(TO BE PERFORMED AT COMPLETION OF SERVICES RENDERED)		
OBE Trucking Dollars	\$ -		DBE DOLLARS (Services and Comm):	\$	-
OBE Commissions	\$ -	\$ -	OBE TRUCKING DOLLARS MATCHED	\$	-
Total:	\$ -	\$ -	OBE COMMISSIONS (if applicable)	\$	-

I CERTIFY, TO THE BEST OF MY KNOWLEDGE AND IN GOOD FAITH, THAT THE INFORMATION RECORDED ON THIS CERTIFICATION IS ACCURATE.

DBE Trucking Firm Representative: _____
 Print Name

DBE Trucking Firm Signature: _____ Date: _____

A false statement or omission made in connection with this certification is sufficient cause for suspension, revocation, or denial of qualification to bid, and a determination of non-responsibility, and may subject the person and/or entity making the false statement to any and all civil and criminal penalties available pursuant to applicable Federal and State Law.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION TRUCKER OBSERVATION & VERIFICATION					
SECTION 1: PROJECT IDENTIFICATION					
1. Financial Project No.	2. F.A.P. No.	3. Contract No.	4. County	5. District	
6. Prime Contractor Name		7. FEID No.			
SECTION 2: TRUCKING FIRM IDENTIFICATION					
8. What is the name of the Trucking company as shown on a subcontract, rental agreement or purchase order?					
9. On this contract, what is the arrangement for this trucking firm?					
<input type="checkbox"/> Not known	<input type="checkbox"/> Subcontractor Subordinate to:		<input type="checkbox"/> Purchase order Initiated by:	<input type="checkbox"/> Rental Agreement Lessee:	
SECTION 3: IDENTIFICATION OF TRUCK DRIVER (TD) & TRUCK OWNERSHIP					
OBSERVER	10. Date Observed		11. Observer's Name (print first/last name)		
TRUCK	12. Vehicle Tag #	13. Tag's State <input type="checkbox"/> FL. <input type="checkbox"/> _____	14. Truck USDOT/ Permit #	15. Company Name displayed on the Truck	16. How is name displayed? <input type="checkbox"/> removable <input type="checkbox"/> permanent <input type="checkbox"/> other _____
	17. Name on driver's license (first/last)		18. Type of CDL License <input type="checkbox"/> Class A <input type="checkbox"/> Class C	9. State issuing License <input type="checkbox"/> FL. <input type="checkbox"/> _____	
OWNER	20. Owner's Name on Registration <input type="checkbox"/> same as #17		21. Vehicle description, make & year		
MATERIAL IN TRUCK	22. Describe the material being hauled				
23. ACTIVITY	<input type="checkbox"/>	(a) Working within the project limits	<input type="checkbox"/>	(d) From commercial plant/pit to project (skip to 4C)	
	<input type="checkbox"/>	(b) Hauling within the project limits	<input type="checkbox"/>	(e) Haul from Project to commercial plant/pit (skip to 4C)	
	<input type="checkbox"/>	(c) From/to Project from/to dedicated or adjacent facility	<input type="checkbox"/>	(f) Haul from project to some other place (skip to 4C)	
	<input type="checkbox"/>		<input type="checkbox"/>	(g) Supplier- drop off & go (skip to 4C)	
SECTION 4: ADMINISTRATIVE REVIEW			24. Date Reviewed	25. Reviewer's Name	
P P R A O Y P E O R L L	SECT. 4A VALID OWNER OPERATOR (O-O)	26. Does the TD qualify as an Owner-Operator (box 17 = box 20)? <input type="checkbox"/> No -Go to Sect 4B <input type="checkbox"/> Yes -Go to # 27			
		27. If #26 Yes, is the TD's name (box 17) on a payroll for the observed date (box 10) with first/last name and 'Owner Operator' noted-(no other pay details required) <input type="checkbox"/> No -issue Notice of Noncompliance <input type="checkbox"/> Yes -Go to Sect.4C			
	If 23 (d),(e), (f) or (g) is checked Skip Sect. 4B & Go to Sect 4C	SECT. 4B NOT AN OWNER OPERATOR; EMPLOYEE OF A COMPANY	28. Did Company in box 8 submit a payroll for a week that includes the date observed (box 10)? <input type="checkbox"/> No-a payroll including date observed was not received. Issue Notice for Nonreceipt of Payroll. Go to Sect 4C <input type="checkbox"/> Yes-Go to #29		
			29. If #28 Yes, is the TD named in box 17 included on the payroll for the day observed (box 10)? <input type="checkbox"/> No- not listed for date observed. Issue Payroll Violation code 7. Go to Sect. 4C <input type="checkbox"/> Yes-Go to #30		
		30. Is the correct TD classification shown (box 21) and is their payroll record complete and accurate? <input type="checkbox"/> No: improper classification and/or other errors. Issue Payroll Viol. Go to Sect .4C <input type="checkbox"/> Yes-Go to Sect 4C.			
D C B R E D I T	SECT. 4C IS SUBCONTRACTOR OR OWNER OPERATOR A DBE?	31. Is the Co. (box 8) or owner (box 20) reported as a DBE in the FDOT DBE Directory? <input type="checkbox"/> No <input type="checkbox"/> Yes-Go to #32			
		32. Is the Co. (box 8) or owner (box 20) on the ADBEPS? <input type="checkbox"/> No- contact prime to update ADBEPS <input type="checkbox"/> Yes-Go to #33			
		33. Is a payment recorded for this company (box 8) or owner (box 20) in the EOR System? <input type="checkbox"/> No- contact prime <input type="checkbox"/> Yes (end)			