

COMMERCIALLY USEFUL FUNCTION (CUF)

A Disadvantaged Business Enterprise (DBE) performs a commercially useful function when they perform and execute their subcontract with their own equipment, supervision and workforce.

A Commercially Useful Function (CUF), (NDOT Form 052-073) must be prepared by the Resident Engineer for each DBE working on federally funded construction contracts. This includes contractors, subcontractors, service providers, owner operators, truckers, suppliers and manufacturers. The CUF review should be conducted when the DBE first begins work, throughout the course of the contract while the DBE is on site, and a final CUF review at the completion of the DBE's portion of work. For multi-year contracts, the CUF review must be completed as stated above for each year the DBE performs work on the contract. If the DBE is only going to be on site for a short time, then a CUF review may only be required when the DBE first begins work. If the DBE is performing more than one operation of work (electrical, guardrail, pipe work, etc.), then a separate CUF review will be required for each type of work. For additional guidance, contact Contract Compliance.

The NDOT form is available at www.nevadadbe.com/website/files/06-15%20052-073%20CUF%20%206-9-15a.pdf.

NDOT employees can also access this form on Sharepoint at <http://sharepoint/052/Contract%20Compliance%20Forms%20Library/Commercially%20Useful%20Function%20Checklist,%20Rev.%2006-15.pdf>.

Forward the completed CUF form to Contract Compliance. If the DBE is not performing a commercially useful function, Contract Compliance will notify the prime contractor in writing, specifying those actions which violate the terms of the contract. Contract Compliance will upload the CUF form into B2GNow.

At the request of the Resident Engineer, Contract Compliance will investigate the non-performing DBE to determine if their job performance contains a pattern of relationships with non-minority businesses that brings the DBE's independence and control, and therefore its eligibility to participate, into question.

Additional information and guidance:

- NDOT Standard Specifications, Subsection 102.16
www.nevadadot.com/uploadedFiles/NDOT/About_NDOT/NDOT_Divisions/Engineering/Specifications/2014,%20Standard%20Specifications%20for%20Road%20and%20Bridg e%20Construction.pdf
- Disadvantaged Business Enterprise Program 2012
http://nevadadbe.com/website/files/DBE_Program_Plan_June_2012.pdf
- FHWA Tips on Evaluating a Commercially Useful Function
www.fhwa.dot.gov/federal-aidessentials/commusefunction.pdf
- 29 CFR 26.55
http://www.ecfr.gov/cgi-bin/text-idx?SID=fc6f491f4cd1dfba8525088f59ef469b&mc=true&node=se49.1.26_155&rqn=div8

COMMERCIALLY USEFUL FUNCTION (CUF) PROJECT SITE REVIEW

Rev. 01/17

Per 49 CFR 26.55, "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... A DBE does not perform a CUF 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..." This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.

Resident Engineer's will perform CUF reviews for every DBE working on federally funded construction projects. The review should be conducted when the DBE first begins work. Monitor compliance through the course of the project.

Contract No.: 4000 County(ies): Washoe Prime Contractor: Joe Construction DBE Superintendent / Foreman: Joe Foreman DBE Start Date: 1-1-17	Resident Engineer: Joe Resident NDOT Reviewer: Joe Resident Reviewer Title: Resident Engineer Review Date: 1-5-17 DBE Anticipated Completion Date: June, 2018
---	--

DBE Name: Joe Supplier

Provide a brief description of the DBE's scope of work: Haul liquid asphalt to the hotplant from the supplier.

	Yes	No
Supervision Does the DBE have a superintendent / foreman on project? Does the superintendent / foreman work exclusively for the DBE? SEE COMMENTS BELOW If not, who does he / she work for? Who does the superintendent / foreman report to?	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/>
Employees Does the DBE have employees on the job? Do they appear on DBE's payroll? SEE COMMENTS BELOW If not, why? Do they appear on prime contractor's payroll? Who assigns work to them?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Performance Has any other contractor performed any of the DBE's work? SEE COMMENTS BELOW If yes, who and what work items?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Equipment Whose name appears on the equipment? Does DBE own or lease equipment? SEE COMMENTS BELOW Does DBE use prime contractor's equipment?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>
CUF Does it appear the DBE is performing a CUF? If DBE is not performing a CUF, contact Contract Compliance	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMMENTS: Joe Supplier is not delivering to the project. Joe Supplier is not submitting certified payrolls.



 Reviewer (signature)



 Resident Engineer (signature)

COMMERCIALLY USEFUL FUNCTION (CUF) PROJECT SITE REVIEW

Rev. 01/17

Per 49 CFR 26.55, "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... A DBE does not perform a CUF 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..." This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.

Resident Engineer's will perform CUF reviews for every DBE working on federally funded construction projects. The review should be conducted when the DBE first begins work. Monitor compliance through the course of the project.


Contract No.: 4001 County(ies): Nye Prime Contractor: Jim Contractor DBE Superintendent / Foreman: Jim Superintendent DBE Start Date: 2-1-17	Resident Engineer: Joe Resident NDOT Reviewer: Joe Resident Reviewer Title: Resident Engineer Review Date: 2-10-17 DBE Anticipated Completion Date: December, 2017
---	---

DBE Name: Contractor Supply

Provide a brief description of the DBE's scope of work: Contractor Supply is a construction supply company that will be supplying epoxy coated dowels and the associated materials for the dowel bar retrofit and concrete slab replacement on Contract 4001.

	Yes	No
Supervision Does the DBE have a superintendent / foreman on project? Does the superintendent / foreman work exclusively for the DBE? This is a supplier If not, who does he / she work for? Who does the superintendent / foreman report to?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Employees Does the DBE have employees on the job? Do they appear on DBE's payroll? If not, why? Do they appear on prime contractor's payroll? Who assigns work to them?	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Performance Has any other contractor performed any of the DBE's work? If yes, who and what work items?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Equipment Whose name appears on the equipment? This is a supplier Does DBE own or lease equipment? Does DBE use prime contractor's equipment?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>
CUF Does it appear the DBE is performing a CUF? If DBE is not performing a CUF, contact Contract Compliance	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMMENTS: Contractor Supply is a supply company that supplies a wide variety of materials for construction related activities. They are supplying epoxy coated dowels and associated hardware items for the dowel bar retrofit and slab replacement portions of this contract. As a supplier we can only track their DBE status through performance. We have received material certifications on company letterhead and verified the deliveries of those materials in the field.



 Reviewer (signature)



 Resident Engineer (signature)

COMMERCIALLY USEFUL FUNCTION (CUF) PROJECT SITE REVIEW

Rev. 01/17

Per 49 CFR 26.55, "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... A DBE does not perform a CUF 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..." This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.

Resident Engineer's will perform CUF reviews for every DBE working on federally funded construction projects. The review should be conducted when the DBE first begins work. Monitor compliance through the course of the project.

Contract No.: 4002 County(ies): Elko Prime Contractor: John Contractor DBE Superintendent / Foreman: John Superintendent DBE Start Date: 2-11-18	Resident Engineer: Joe Resident NDOT Reviewer: Joe Resident Reviewer Title: Resident Engineer Review Date: 3-15-18 DBE Anticipated Completion Date: October, 2018
---	--

DBE Name: John Trucking

Provide a brief description of the DBE's scope of work: John Trucking will be providing trucking service for this contract. They will be hauling materials required for a variety of construction activities.

	Yes	No
Supervision Does the DBE have a superintendent / foreman on project? Joan Owner Does the superintendent / foreman work exclusively for the DBE? She is the owner If not, who does he / she work for? Who does the superintendent / foreman report to? She is the Owner	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Employees Does the DBE have employees on the job? Do they appear on DBE's payroll? John Trucking is in LCP as a formality only. We are not tracking certified payrolls for this company. (DBE status ver.) If not, why? Do they appear on prime contractor's payroll? Who assigns work to them? Joan Owner	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
Performance Has any other contractor performed any of the DBE's work? One Paving, One Trucking, etc. If yes, who and what work items? Hauling of various construction materials	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Equipment Whose name appears on the equipment? Various contractors / trucking companies Does DBE own or lease equipment? Does DBE use prime contractor's equipment?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/>
CUF Does it appear the DBE is performing a CUF? If DBE is not performing a CUF, contact Contract Compliance	<input type="checkbox"/>	<input checked="" type="checkbox"/>

COMMENTS: John Trucking has both long term lease agreements as well as owner / operator agreements on this contract. We have reviewed those documents and they are on file for contract compliance review. The trucks we have seen recently do not fall under the umbrella of the documentation on file. It appears that John Trucking cannot perform the required tasks and is not on site performing a commercially useful function.


Reviewer (signature)


Resident Engineer (signature)

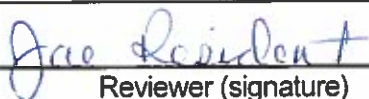
COMMERCIALLY USEFUL FUNCTION (CUF) PROJECT SITE REVIEW

Rev. 01/17

Per 49 CFR 26.55, "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... A DBE does not perform a CUF 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..." This form is for the purposes of reviewing DBEs for compliance with the CUF requirements for credit.

Resident Engineer's will perform CUF reviews for every DBE working on federally funded construction projects. The review should be conducted when the DBE first begins work. Monitor compliance through the course of the project.

Contract No.: 4003 County(ies): Lyon Prime Contractor: Jay Construction DBE Superintendent / Foreman: Jay Foreman DBE Start Date: 6-5-17	Resident Engineer: Joe Resident NDOT Reviewer: Joe Resident Reviewer Title: Resident Engineer Review Date: 6-22-17 DBE Anticipated Completion Date: October, 2017						
DBE Name: Jay Barricades and Signs							
Provide a brief description of the DBE's scope of work: Jay Barricades and Signs is providing temporary and permanent striping services.							
Supervision Does the DBE have a superintendent / foreman on project? Jay Foreman Does the superintendent / foreman work exclusively for the DBE? Yes If not, who does he / she work for? Who does the superintendent / foreman report to? Jay Barricades and Signs	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Yes</th> <th style="width: 50%;">No</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>	Yes	No	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Yes	No						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
Employees Does the DBE have employees on the job? Yes Do they appear on DBE's payroll? Yes If not, why? Do they appear on prime contractor's payroll? No Who assigns work to them? Superintendent / Foreman	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
Performance Has any other contractor performed any of the DBE's work? No If yes, who and what work items?	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table>	<input type="checkbox"/>	<input checked="" type="checkbox"/>				
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
Equipment Whose name appears on the equipment? Jay Barricades and Signs Does DBE own or lease equipment? Own Does DBE use prime contractor's equipment? No	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
CUF Does it appear the DBE is performing a CUF? If DBE is not performing a CUF, contact Contract Compliance	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
COMMENTS: <div style="border: 1px solid black; height: 40px; width: 100%;"></div>							



 Reviewer (signature)



 Resident Engineer (signature)

CUF DETERMINANTS

If any Red Flag Conditions are identified, contact Contract Compliance

Rev. 01/17

PERFORMING

- DBE must be responsible for performing its own work on the project
- The work listed in the subcontract must be performed by the DBE with its own workforce
- The DBE keeps a regular workforce and has its own employees
- The DBE is utilizing its own equipment
- Operation of the equipment must be subject to the full control of the DBE

RED FLAGS

- A portion of the DBE's work being done by the prime contractor or jointly with another contractor
- Employee working for both the DBE and the prime contractor
- Equipment used by DBE belongs to the prime contractor or another contractor with no formal lease agreement
- Equipment signs and markings cover another contractor's identity
- Equipment has another contractor's name on it

RECORDS / DOCUMENTS

- Subcontract agreement or purchase order
- Equipment ownership, rental or lease documents
- Certified payrolls

MATERIALS (for material credit)

- DBE is responsible for the delivery of the materials
- DBE is ordering the material and invoices indicate that DBE is the customer
- Material invoices indicate that DBE owner or superintendent is the contact person

RED FLAGS

- Materials for DBE credited work are delivered by the prime contractor
- Materials are ordered, billed to and / or paid by the prime contractor
- Invoices do not indicate that DBE is the customer
- Prime contractor's employee is listed as the contact person on invoices
- Materials come from prime contractor's stockpiles

RECORDS / DOCUMENTS

- Invoices
- Haul tickets or bill of lading
- Material on hand documentation
- Joint check agreement
- Cancelled checks

SUPERVISING

- DBE supervisor is a full-time employee of the DBE
- Employees are being supervised by DBE supervisor
- DBE is scheduling work operations

RED FLAGS

- DBE's employees are being supervised by prime contractor or another contractor
- DBE provides little or no supervision of work
- DBE supervisor is not a full-time employee of the DBE

RECORDS / DOCUMENTS

- Certified payrolls
- Documented communication with DBE owner or superintendent