

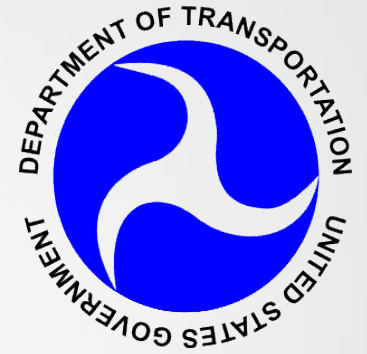
# DBE Trucking

NDOT Matching & Counting Guidelines



# Background

- DBE trucking companies have special provisions in the federal Department of Transportation (DOT) regulations, because of the unique features of that industry and some history of past abuse. The concerns are primarily control, independence, management, profits and whether the disadvantaged person truly owns, controls and manages the DBE business.
- Historically, common violations have involved false or illegitimate DBE truckers set up or controlled by non-DBE truckers. Sometimes, the trucks used by the DBE are owned by the non-DBE truckers and “leased” to the DBE. Sometimes, the employees doing dispatch, supervising and performing work are former or current employees of the non-DBE trucker.



- 49 CFR 26.55 (d) of the DOT regulations state:

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

## Regulations

- 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 meeting DBE goals.





- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

## NDOT Guidance...

- Note that the DBE must have at least one truck that meets the guideline on each contract that the DBE is awarded.
  - If a DBE only has one truck meeting the guideline it would indicate to NDOT that, in most cases, the DBE is unable to work on more than one contract at a time.
  - DBE equipment lists are required annually on January 1<sup>st</sup>, with updates from the DBE as needed throughout the year.
    - Equipment not listed = **No DBE Credit**.

- 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.

A 3D rendering of the text "100%" in a bold, red, sans-serif font. The characters are thick and have a slight shadow beneath them, giving them a three-dimensional appearance. The background is white, and the text is centered horizontally within its bounding box.

- The DBE may lease 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.

## DBE Partnering



- NDOT encourages DBE trucking firms to create partnerships to leverage resources in order to be more competitive.





- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks, using the 1:1 match, equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. **Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the broker fee or commission it receives as a result of the lease arrangement.**

DBE



Non-DBE



➤ **Matched equipment must be like equipment types...**

- Tractor : Tractor
- 10 Wheeler : 10 Wheeler
- Water truck : Water truck

❖ **Any deviation of this matching outline must be approved in writing by the NDOT External Civil Rights Division in advance of any work being performed.**

**1:1 Match**

\*Review of alternate matching requests must be submitted to the External Civil Rights Division (with the Project RE copied), may take up to two weeks.





- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases\* trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

## Commercial Source



\* Long term lease – At least the term of the contract

\*\*Exceptions on a case-by-case basis, to be approved in advance by the External Civil Rights Division.



- 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, so 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.
- Accordingly the DBE must be responsible for the management and supervision of the entire trucking operation and must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

## Exclusive use & control



- The DBE cannot lease trucks from the prime contractor or its affiliate in any event. Otherwise, these trucks cannot count towards DBE participation goals.



# Report Fraud



- To report DBE fraud in the State of Nevada call (702) 730-3301 or email [sbraih@dot.nv.gov](mailto:sbraih@dot.nv.gov) .



- If you have any questions or comments regarding DBE counting, please call the NDOT Contract Compliance Office at (775) 888-7497.

NDOT



FHWA

