

What is Commercially Useful Function (CUF)?

The execution of the work of the contract by a Disadvantaged Business Enterprise (DBE) carrying out its responsibilities by actually performing, managing, and supervising the work involved using its own employees and equipment. The DBE shall 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 Engineer will evaluate:

- ◆ the amount of work subcontracted,
- ◆ industry practices,
- ◆ 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.

Other relevant factors will be considered. The determination of CUF is made by the Engineer after evaluating the way in which the work was performed during the execution of the Contract.

In order to provide consistent interpretations, please contact Civil Rights Office for guidance and assistance related to DBE CUF issues.

What is considered ‘Creditable Work’?

Measurement of attainment of the DBE Utilization Goal will be based upon the actual amount of money received by the DBEs for creditable CUF work on a project as determined by the Engineer. CUF is limited to that of a:

- ◆ broker
- ◆ regular dealer
- ◆ manufacturer
- ◆ joint-venture
- ◆ subcontractor
- ◆ prime contractor

What are the differences between the three types of ‘suppliers’?

The CUF performed by a certified DBE supply will be evaluated by the Engineer to determine how much DBE credit will be given on the project.

Manufacturer (100% DBE credit)

Changes the shape, form or composition of original material in some way and provides that altered material to the project and general public or the construction industry at large on a regular basis.

Regular Dealer (60% DBE credit)

- ◆ Maintains a regular in-house inventory of the particular product provided to the project; and

- ◆ keeps an inventory appropriate for the type of work using that product; and
- ◆ offers that inventory for sale to the general public or construction industry at large (private and public sectors), not just supplied as needed on a project by project basis during the construction season except where the product requires special or heavy equipment for delivery (DBE must possess and operate this equipment regularly **OR** rent or lease the equipment on a repetitive, seasonal basis); and may additionally
- ◆ fabricate (assemble large components) for use on a construction project, consistent with standard industry practice, for delivery to the project.

Broker (5% DBE credit)

Arranges for delivery of creditable materials, supplies, equipment, transportation/hauling, insurance, bonding, etc., within its certified category, that is necessary for the completion of the project. Must be responsible for scheduling delivery of materials and fully responsible for ensuring materials meet specifications.

What happens if the DBE and Prime Contractor don’t agree regarding CUF?

CUFs are determined by the Engineer on a project. Any disputes between a DBE and prime are between the prime and sub contractors and the Civil Rights Office is not involved.

Can the DBE use the Prime's equipment to perform the work?

No. The DBE must perform their portion of work with equipment they either own or have leased from a source other than the prime contractor. The DBE may lease or rent equipment from any source except the Prime or other subcontractors working for the Prime.

Can the Prime supervise the work of the DBE's employees?

No. The DBE is responsible for performing, controlling, managing, and supervising their employees for the creditable work they perform on a project. The DBE is generally required to have an on-site representative (owner or key employee) to perform the work themselves or provide field supervision of the DBE's employees. The prime contractor can coordinate the requirements of the job with the DBE's representative.

Can the DBE and Prime Contractors' employees be on the same certified payroll?

No. The DBE must control all business administrative areas of their firm. This would include payroll as well as billing, ordering, accounting, etc.

CONTACT INFORMATION

ADOT&PF Civil Rights Office
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1-800-770-8255

Web site:
<http://www.dotcivilrights.alaska.gov>

The Civil Rights Office (CRO) certifies all Disadvantaged Business Enterprises (DBEs) for the Alaska Unified Certification Program. The CRO also ensures statewide compliance with the Alaska Department of Transportation and Public Facilities (ADOT&PF) federal non-discrimination and affirmative action obligations as a condition of continued federal funding for highway and airport construction. ADOT&PF promotes opportunities for socially and economically disadvantaged individuals to participate on federally funded highway and aviation projects through the DBE Program.

It is the policy of the ADOT&PF to ensure compliance with Title VI of the Civil Rights Act of 1964, related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation on the grounds of race, color, sex, age, disability, or national origin.

COMMERCIALLY USEFUL FUNCTION (CUF)

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES CIVIL RIGHTS OFFICE



DBE COMPLIANCE