

# DBE Program Training



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# DBE Contract Administration



# DBE Contract Administration



- **Commercially Useful Function**
- **Joint Checks**
- **Prompt Payment**
- **Reporting Final Payment**

# Commercially Useful Function

- General rules
- Trucking
- Materials and Supplies



# Commercially Useful Function



- **Applies to all DBEs (not just UDBEs)**
  - Only UDBE participation counts toward the contract UDBE goal
  - Hispanic male and Subcontinent Asian male DBE participation count toward the state's overall goal (13.5%).

# Commercially Useful Function



- **DBE must perform, manage and supervise all committed work.**

49 C.F.R. 26.55(c)(1)

- Is the DBE performing all the committed work?\*
- Is the work supervisor exclusively employed by the DBE?
- Does the DBE control the operation?

# DBE Not Performing Committed Work



- If another firm is performing work that is supposed to be performed by a DBE (as indicated on the DBE information sheet – 15-G1 or 15-G2) notify the prime.
- Approval of DBE substitution only for specifically listed reasons. See contract clause: “Performance of Subcontractors.”
- Prime must replace fallen-away UDBE or make adequate GFE to do so to the extent needed to meet the contract UDBE goal.

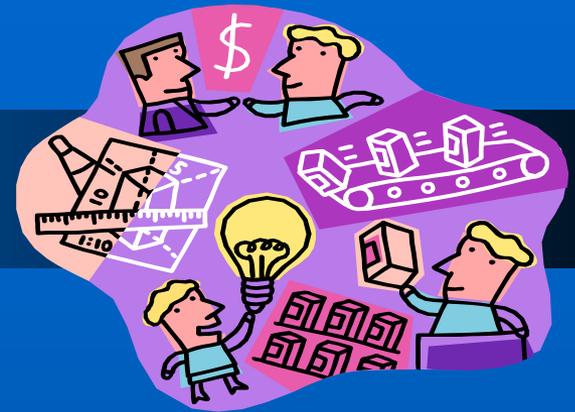
# DBE Not Performing Committed Work



- **If there was a non-authorized DBE substitution payment for this work will not be paid. See contract clause: “Performance of Subcontractors.”**

“The Agency does not pay for work or material unless it is performed or supplied by the listed UDBE, unless the UDBE is terminated in accordance with this section.”

# Commercially Useful Function



- **DBE can purchase materials or supplies and lease equipment from a non-DBE (except the prime or affiliates).** 49 C.F.R. 26.55(a)(1)
  - Does equipment have the DBE's marking or emblems? Is equipment leased from the prime?

# Commercially Useful Function



- **DBE cannot be merely an extra participant in a transaction – examine similar transactions involving non-DBEs.** 49 C.F.R. 26.55(c)(2)

# Joint Checks



- Prime may pay sub and the sub's material supplier with a joint check to ensure the supplier gets paid (and avoid a possible lien).
- Local Agency must monitor the use of joint checks to ensure that the DBE subcontractor is not merely a pass through.

# Trucking



- **DBE must be responsible for the management and supervision of the entire trucking operation.** 49 C.F.R. 26.55(d)(1)
- **DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.\***      49 C.F.R. 26.55(d)(2)

Footnote

# Trucking



- **If the DBE trucker faces circumstances beyond its control, for example its truck is disabled by an accident or mechanical problem part way through the contract, the RE need not conclude that the firm has ceased to perform a commercially useful function.** 64 Fed. Reg. 5116

[return](#)

# Trucking UDBE Credit



- **UDBE receives 100% UDBE credit for the value of the trucking it provides using trucks it owns, insures, and operates using drivers it employs.**

49 C.F.R. 26.55(d)(3)

- **UDBE receives 100% UDBE credit for the value of trucking done by other UDBE trucks.**

49 C.F.R. 26.55(d)(4)

# Trucking DBE Credit



- Monitor the trucks very closely to ensure that enough UDBE trucks are being used to meet the UDBE commitment.
- If it is a short contract the monthly trucking report is not a helpful monitoring tool.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**MONTHLY DBE TRUCKING VERIFICATION**  
CP-CBM-2004P (NEW 12/99)

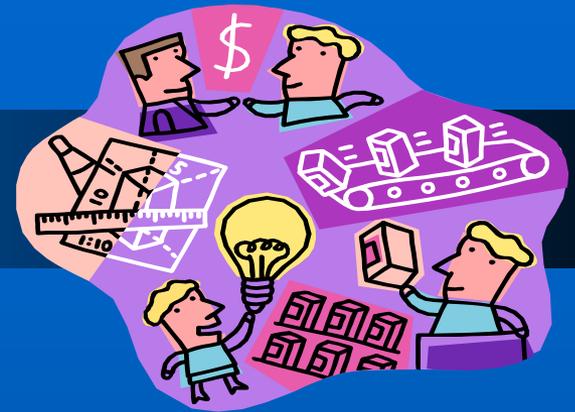
CONTRACT NO.			MONTH				YEAR
Truck Owner	DBE Cert. No.	Company Name and Address	Truck No.	California Hwy. Patrol CA No.	Commission Or Amount Paid*	Date Paid	Lease Arrangement (if applicable)
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
					\$		Lease Agreement with Non-DBE with DBE <input type="checkbox"/>
TOTAL AMOUNT PAID					\$		
PRIME CONTRACTOR			BUSINESS ADDRESS			BUSINESS PHONE NO.	
<p>* Upon request all Lease Agreements shall be made available, in accordance with the Special Provisions.</p> <p>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT</p>							
CONTRACTOR REPRESENTATIVE'S SIGNATURE			TITLE			DATE	

# Trucking



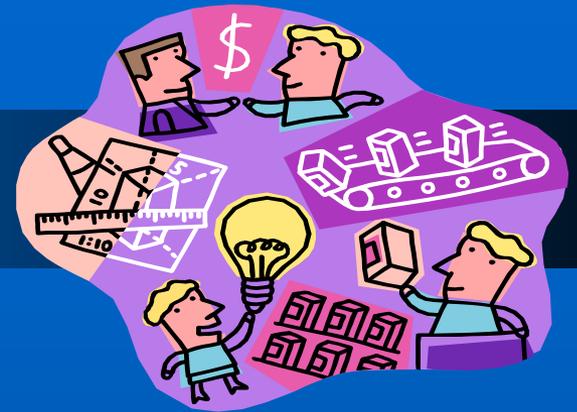
- **Cross check load tickets with monthly trucking report.**
- **Check CA numbers to determine if it is a UDBE trucker.**

# Materials & Supplies



- **Regular dealers keep in stock and regularly sell or lease to the public the materials, supplies or equipment they are providing.** 49 C.F.R. 26.55(e)(2)(ii) and 26.55(e)(2)(ii)(A)
- **DBE regular dealers get 60% credit.** 49 C.F.R. 26.55(e)(2)(i) **This amount should be reflected on the DBE Information sheet (15-G1 and 15-G2).**

# Materials & Supplies



- **Regular dealers must negotiate price, determine quality and quantity, order the material, and pay for the material.**

49 C.F.R. 26.55(c)(1)

–Is the material delivered by other companies?

–Did the DBE supplier order and pay for the material?

# Materials & Supplies



- **A DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt does not have a business with an inventory of these supplies, if they own and operate distribution equipment.** 49 CFR 26.55(e)(2)(ii)(B)
  - Is this material delivered by the DBE?

# Materials & Supplies



- **Can use other trucks if it is done by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.** 49 CFR 26.55(e)(2)(ii)(B)

– Are these materials delivered by trucks from another firm? If yes, is there a long-term lease agreement?

# Materials & Supplies



- **DBE Manufacturers get 100% credit.**

49 C.F.R. 26.55(e)(1)(i)

–Does the material have a label of another manufacturer?

- **DBE supply brokers** (neither a manufacturer nor regular dealer) **get credit only for the procurement fee.** 49 C.F.R. 26.55(e)(3)

# Prompt Payment (Progress Payment)



- **All subcontractors (not just DBEs) must be paid within 10 days**

# Prompt Payment (Retainage)

## LPP 04-05 LAPM Update



- **Select one of three retainage options**
- **Amend DBE Program Plan adopting this option**
- **Use the corresponding new contract provision in all Federal-aid contracts**

# Prompt Payment (Retainage)

## LPP 04-05 LAPM Update



- **If you select Option 3 (hold retainage and make incremental releases) and you hold retainage until the project is completed your project may be ineligible for reimbursement.**

# Reporting Final Payment



- **Prime contractor reports DBE payments at the end of the contract on Exhibit 17-F “Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors.”**

Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES  
 (DBE), FIRST-TIER SUBCONTRACTORS**

**ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 664-6410 or TDD (916) 664-6880 or write Records and Forms Management, 1120 N Street, MS 60, Sacramento, CA 95814

DDM-002P (REV 02/98)

CONTRACT NUMBER		COUNTY	ROUTE	POST MILES	FEDERAL AID PROJECT NO.	ADMINISTERING AGENCY				CONTRACT COMPLETION DATE		
PRIME CONTRACTOR				BUSINESS ADDRESS						ESTIMATED CONTRACT AMOUNT \$		
ITEM NO.	DESCRIPTION OF WORK PERFORMED AND MATERIAL PROVIDED	COMPANY NAME AND BUSINESS ADDRESS	DBE CERT. NUMBER	CONTRACT PAYMENTS						DATE WORK COMPLETE	DATE OF FINAL PAYMENT	
				NON-DBE	DBE	BA LOBE	APA LOBE	NA LOBE	W LOBE			
				\$	\$	\$	\$	\$	\$			
				\$	\$	\$	\$	\$	\$			
				\$	\$	\$	\$	\$	\$			
				\$	\$	\$	\$	\$	\$			
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				\$	\$	\$	\$	\$	\$			
				\$	\$	\$	\$	\$	\$			
ORIGINAL COMMITMENT \$ _____ LOBE			TOTAL	\$	\$	\$	\$	\$	\$	BA- Black American APA- Asian-Pacific Islander NA- Native American W- Woman		

*List all First-Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) and underserved DBEs (UDBEs) regardless of size, whether or not the firm were originally listed for your work.  
 If actual DBE utilization (or line of work) was different than that approved at time of award, provide comments on back of form. List actual amount paid to each entity.*

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONTRACTOR REPRESENTATIVE'S SIGNATURE		BUSINESS PHONE NUMBER	DATE
TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
RESIDENT ENGINEER'S SIGNATURE		BUSINESS PHONE NUMBER	DATE

Copy Distribution Caltrans contracts      Original - District Construction      Copy- Business Enterprise Program      Copy- Contractor      Copy- Resident Engineer  
 Copy- Distribution Local Agency contracts      Original - District Local Assistance Engineer      Copy- District Local Assistance Engineer      Copy- Local Agency File

# Verifying & Reporting Final Payment



- **Is reported payment consistent with DBE commitment?**
  - Consider changes in quantities and change orders
- **Original plus one copy to DLAE included in the Report of Expenditures**

# DBE Contract Administration



- Is the DBE performing all the committed work?
- Does the DBE control the operation?
- Does the DBE use its own equipment or lease it (not from the prime)?
- Is proper DBE credit being given for trucking?

# DBE Contract Administration



- Are the materials and or supplies delivered by the DBE supplier?
- Are all subcontractors being paid within 10 days?
- Is reported payment consistent with DBE commitment (adjusted for any changes)?

**The End**

***Questions?***