OOC39 02/18/15
CD 07220.100.19

MARYLAND STATE HIGHWAY ADMINISTRATION
OFFICE OF CONSTRUCTION
D/MBE COMMERCIALLY USEFUL FUNCTION (CUF)

The CUF form must be completed at least once for each D/MBE listed on the Schedule of Participation during the life of the contract.

Project No: PE/Inspector: District: Review Date:	**Reserved for SHA Office of Equal Opportunity Approval** Signature: _____ Print Name: _____ Title: _____ Date: _____
Project Name:	
Prime Contractor:	
D/MBE Firm Name:	
Subcontractor ☐ Service ☐ Supplier ☐ Manufacturer ☐	
Is there a copy of the approved Request for Subcontractor Approval (OOC42) between the Prime and D/MBE on file at the project site?	☐Yes ☐No
Name of D/MBE Foreman/Superintendent:	
D/MBE Start Date: Estimated D/MBE Completion Date:	

I. REGARDING D/MBE'S FOREMAN/SUPERINTENDENT

Exclusively employed by D/MBE?	☐Yes	☐No
Shown on the D/MBE payroll?	☐Yes	☐No
Shown on any other firm's payroll?	☐Yes	☐No

If yes, whose? _____

Directly reports to: _____

II. REGARDING D/MBE'S EMPLOYEES

Are D/MBE's employees shown on any other contractor's payrolls?	☐Yes	☐No
If yes, whose?		
Do the D/MBE's employees receive work assignments from D/MBE Foreman/Supt?	☐Yes	☐No

III. REGARDING DBE'S EQUIPMENT

Is the equipment owned by the D/MBE? ☐Yes ☐No

If leased or rented, is there a copy of the lease or rental agreement in project file? ☐Yes ☐No

Does the equipment have the D/MBE's name or logo? ☐Yes ☐No

If another firm's name or logo is shown, identify: _____

IV. REGARDING D/MBE'S WORK PERFORMANCE

Does the D/MBE supervise & manage their work and employees? ☐Yes ☐No

Has any other contractor performed work that was to be performed by the D/MBE? ☐Yes ☐No

If yes, identify the contractor who performed the work:

What work items did the contractor identified above perform? (If more than two, write on back of form)

_____

_____

V. REGARDING D/MBE AS SUPPLIER OR MANUFACTURER

Do invoices or delivery tickets show D/MBE ownership of materials delivered? ☐Yes ☐No

Does D/MBE own and operate the delivery equipment, or have a long term lease? ☐Yes ☐No

Comments: (any comments pertaining to the performance or conduct of the D?MBE company)

VI. NOTIFICATION

Problem(s) in this report that have been brought to the attention of SHA's Office of Equal Opportunity. Explain:

_____
_____
_____

Certification of record review and work performed by D/MBE:

I_____ (Project Engineer/Inspector), certify that the above D/MBE was monitored performing the committed work items on _____ (Date)

Distribution:

Original – Contract Field Office File
Copy – District Officer of Equal Opportunity

CUF Form Instructions:

The CUF Form must be completed at least once for each DBE working on a federally assisted MSHA Construction Contract, during the life of the contract.

MANAGE:

- **Manage the work themselves.**
  - Schedule work operations, order equipment and materials, hire and fire employees, including supervisory employees.

SUPERVISE:

- **Supervise daily operations**
  - Can use a skilled Superintendent employed by the DBE.

PERFORM:

- **Perform the work stated in the contract with their own equipment**.

  Regular Equipment is owned or leased and operated on a long term agreement and not on an *ad hoc* or contract by contract agreement.

  a. The equipment would be used by the DBE firm on any other subcontract with any other contractor.
  b. The equipment would be owned by the DBE firm. Or
     The equipment would be leased/rented from traditional equipment lease/rental sources.
  c. The DBE firm would have a rental/lease agreement for any rented or leased equipment.
  d. The equipment cannot belong to:
     (1.) Prime Contractor
     (2.) Another subcontractor on the present project.
     (3.) Supplier of materials being installed by the DBE firm.
  e. The equipment cannot come from another contractor fully operated.

- **Perform the work with their own employees**.

  Regular Employee is a person who:

  a. Would be working for the DBE firm on any other subcontract with any other contractor.
  b. Is a permanent employee of the DBE firm, Or
     Has been recruited through the traditional recruitment and/or employment centers.
  c. Has not recently been employed by the prime contractor on the present project, another subcontractor on the present project, or the renter-lesser of equipment being used on the present project.
  d. Is not a member of a construction crew, which regularly works for a non-DBE.
  e. Is not a licensed contractor who is at the time “unemployed” or “between jobs.”

- **Subcontracting part of the work of the contract**.
  - When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward the DBE goal **only if**

the DBE subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

- **Trucks/Equipment must display name of DBE firm**
  - Printed name or logo
  - Leased or rented equipment: A copy of the lease/rental must be submitted to the project office and put in the project file.
- **Supplier - Regular Dealer**

  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. 60% of the cost of materials, supplies and delivery counts toward the DBE goal.
- **Supplier – Service Provider**
  - Only the fees or commissions charged by the DBE Service Provider count toward DBE goals. The Cost of the materials or supplies are not counted toward the DBE goal.

TRUCKING CLARIFICATION (S)

The MSHA shall use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

a. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
b. The DBE must be responsible for the management and supervision of the entire trucking arrangement for the purpose of meeting DBE goals.
c. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks its owns, insures, and operates using drivers it employs.
d. 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. *See below for payroll reporting.
e. The DBE who leases trucks from a non-DBE is **entitled to credit *for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract***. *Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.*

   Example: **DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm**

Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

For purposes of this paragraph (d), 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.

NOTE: Pursuant to 49 CFR 26.37 the State DOT must provide written certification that it has reviewed records and monitored work sites to ensure that work committed to DBE's is actually performed by the DBE's that the work was committed to. This applies to every DBE on every contract.