

DBE Participation Goals: Credit Only Given for DBEs Performing a Commercially Useful Function (CUF)

As a reminder: To receive credit toward the contract DBE participation goals, DBEs must perform a Commercially Useful Function (CUF).

By submitting a bid and executing a contract, VDOT Contractors agree to comply with the USDOT DBE Program requirements and regulations in 49 CFR Part 26, which is incorporated into VDOT contracts in the Special Provision for DBE Requirement, Section 107.15 ([SP107-150100-01](#), Aug. 18, 2017). Contractors are responsible for ensuring that all DBE firms selected for subcontract work on the Contract, for which he seeks to claim credit toward the Contract goal, perform a CUF.

To perform a CUF: The DBE is solely responsible for execution of a distinct element of the contract work, the material and supplies used on the contract, selecting a supplier or dealer from those available, negotiating price, determining quality and quantity, ordering the material and supplies, installing those materials with the DBE's own forces and equipment, and paying for those materials and supplies.

- **DBEs Must Perform a Useful and Necessary Role in Contract Completion:** A DBE does not perform a CUF if the DBE's 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. *DBEs who are merely acting as packagers, brokers, manufacturers' representatives, or who arrange or expedite transactions will not be deemed to be performing a CUF.*
- **DBEs Must Perform The Contract Work With Their Own Workforces:** If a DBE does not perform and exercise responsibility for at least thirty (30) percent of the total cost of the DBE's contract with the DBE's own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involve, VDOT will presume that the DBE is not performing a CUF and such participation will not be counted toward the Contract goal.

Additional Information:

VDOT's Civil Rights Division Commercially Useful Function Webpage:

http://www.virginiadot.org/business/civil_rights_commercially_useful_function.asp

VDOT's Civil Rights Contract Compliance Program, including information about CUF:

http://www.virginiadot.org/business/civil_rights_contract_compliance_program.asp#DBE

VDOT's Civil Rights Division webpage: <http://www.virginiadot.org/business/bu-civil-rights-home.asp>

FHWA information:

Video: <https://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?id=95>

Web:

- [Link to electronic version of Disadvantage Business Enterprise regulations for 49 CFR Part 26](#)
- [Official questions and answers covering Disadvantage Business Enterprise regulations for 49 CFR Part 26](#)
- [FHWA tips on evaluating a commercially useful function](#)