

VIRGINIA DEPARTMENT OF TRANSPORTATION
CONSTRUCTION DIVISION (CD)
INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM (IIM)

GENERAL SUBJECT:	
DISADVANTAGED BUSINESS ENTERPRISE (DBE)	NUMBER: IIM-CD-2013-14.01
SPECIFIC SUBJECT: ALLOWABLE DBE CREDIT	DATE: August 1, 2013
	SUPERCEDES: CD-2011-01
APPROVED:	
Signature On File ----- Mark E. Cacamis, P.E., CCM State Construction Engineer	
DATE: <u>August 1, 2013</u>	

DIRECTED TO - DISTRICT ADMINISTRATORS

Effective March 8th advertisement, the Department will require Contractors to list the general work category of DBE firms used for contract goal credit on form C-111, Minimum DBE Requirements. For purposes of this directive, the general work categories for DBE firms will be: Subcontractor, Manufacturer, Supplier and Hauler in accordance with the definitions listed in Section 107.15 of the Specifications which is based on 49 CFR (Code of Federal Regulations) Part 26.55.

A Contractor may count one hundred (100) percent of its expenditures to a DBE subcontractor toward the DBE contract goal only if the DBE performs a Commercially Useful Function (CUF) on that contract. To perform a CUF the DBE alone shall be responsible and bear the risk for 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.

A Contractor may count one hundred (100) percent of its expenditures actually paid for materials and supplies obtained from a DBE certified as a DBE manufacturer. A manufacturer is defined as a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the project specifications. A manufacturer shall include firms that produce finished goods or products from raw or unfinished material, or that purchase and substantially alter goods and materials to make them suitable for construction use before reselling them.

A Contractor may count sixty (60) percent of its expenditures actually paid for materials and supplies obtained from a DBE certified as a regular dealer or supplier. A regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required and used under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the DBE firm shall be an established business that regularly engages, as its principal business and under its own name, in the purchase and sale or lease of the products or equipment in question. Packers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions will not be considered regular dealers. A DBE firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business where it keeps such items in stock if the DBE both owns and operates distribution equipment for

the products it sells and provides for the contract work. Any supplementation of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis to be eligible for credit to meet the DBE contract goal. If a DBE regular dealer is used for DBE contract goal credit, no additional credit will be given for hauling or delivery to the project site goods or materials sold by that DBE regular dealer. Those delivery costs shall be deemed included in the price charged for the goods or materials by the DBE regular dealer, who shall be responsible for their distribution.

A Contractor may count toward the DBE contract goal one hundred (100) percent of the fees paid to a DBE trucker or hauler for the delivery of material and supplies required on the project job site, but not for the cost of those materials or supplies themselves, provided that the trucking or hauling fee is determined by VDOT to be reasonable, as compared with fees customarily charged by non-DBE firms for similar services. A Contractor shall not count costs for the removal or relocation of excess material from or on the job site when the DBE trucking company is the manufacturer of or a regular dealer in those materials and supplies. The DBE trucking firm must also perform a Commercially Useful Function (CUF) on the project and not operate merely as a pass through for the purposes of gaining credit toward the DBE contract goal.

Attached is a copy of form C-111 which has been revised accordingly.

Form C-1

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
MINIMUM DBE REQUIREMENTS

PROJECT NO. _____

FHWA NO. _____

***** INSTRUCTIONS *****

THIS FORM CAN BE USED BY THE CONTRACTOR TO SUBMIT THE NAMES OF DBE FIRMS TO BE UTILIZED ON THE PROJECT. THE CONTRACTOR SHALL INDICATE THE DESCRIPTION OF THE CATEGORY (S, M, SP or H) AND THE TYPE OF WORK THAT EACH DBE WILL PERFORM AND THE ALLOWABLE CREDIT PER ITEM(S). ADDITIONAL SHEETS TO SHOW THE ALLOWABLE CREDIT PER ITEM MAY BE ATTACHED IF NECESSARY. **PLEASE NOTE:** THE AMOUNT OF ALLOWABLE CREDIT FOR A DBE SUPPLIER IS 60% OF THE TOTAL COST OF THE MATERIALS OR SUPPLIES OBTAINED AND 100% FOR A DBE MANUFACTURER OF THE MATERIALS AND SUPPLIES OBTAINED. A CONTRACTOR MAY COUNT 100% OF THE FEES PAID TO A DBE HAULER FOR THE DELIVERY OF MATERIALS AND SUPPLIES TO THE PROJECT SITE, BUT NOT FOR THE COST OF THE MATERIALS AND SUPPLIES THEMSELVES.

DBE REQUIREMENT _____ %
PERCENT ATTAINED BY BIDDER _____ %

NAMES(S) AND CERTIFICATION NO. OF DBE(S) TO BE USED	USED AS SUBCONTR.	TYPE OF WORK AND ITEM NO(S)	\$ AMOUNT OF ALLOWABLE CREDIT PER ITEM
	(S) MFG. (M) SUPPLIER (SP) HAULER (H)		
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL \$

TOTAL CONTRACT VALUE \$ _____ x REQUIRED DBE _____ % = \$ _____

I/WE CERTIFY THAT THE PROPOSED DBE(S) SUBMITTED WILL BE USED ON THIS CONTRACT AS STATED HEREON AND ASSURE THAT DURING THE LIFE OF THE CONTRACT. I/WE WILL MEET OR EXCEED THE PARTICIPATION ESTABLISHED HEREON BY THE

BIDDER

BY _____
SIGNATURE

TITLE

BY _____
DATE
TOTAL _____