Washington State Department of Transportation

FSBE/DBE On-Site Review (OSR) Documentation and Process - Service Provider

To complete a Commercially Useful Function (CUF/Compliance Evaluation Form – Service Provider (272-051) determination, the Project Engineering Office and Inspector MUST review and attach all the following applicable documents with the completed and signed form and send to the appropriate Regional OECR inbox at:

Eastern Region	ERRegionOEO@wsdot.wa.gov
Headquarters	CSOECR@wsdot.wa.gov
North Central Region	NCRegionOEO@wsdot.wa.gov
Northwest Region	CSOECR@wsdot.wa.gov
Olympic Region	CSOECR@wsdot.wa.gov
South Central Region	SCRegionOEO@wsdot.wa.gov
Southwest Region	SWRegionOEO@wsdot.wa.gov
Washington State Ferries	FerriesOEO@wsdot.wa.gov

Do not submit only some of the required documents; such submissions will be returned by OECR as incomplete and may result in an administrative CUF failure. PLEASE NOTE: Failed CUF means no FSBE/DBE credit for participation.

For any FSBE/DBE firm performing on your subject project, all of the required applicable supporting documents in the checklist below must be reviewed and provided to OECR for EACH FSBE/DBE OSR submission.

ABBREVIATIONS

COA Condition of Award
DBE Disadvantaged Business Enterprise
FSBE Federal Small Business Enterprise
OSR On-Site Review
LA Local Agency
PEO Project Engineer Office
ACL Area Consultant Liaison
PM Project Manager

SUBMITTAL CHECKLIST

- ☐ Executed FSBE/DBE subcontract/sub-agreement
- ☐ List from the Prime Consultant of all their staff working on this agreement and/or task order
- ☐ Invoices from the FSBE/DBE firm to the Prime for the period of the interview
- ☐ Copy of work produced by the FSBE/DBE for this agreement and/or task order
- ☐ Copies of Change Orders, Supplements or Amendments that affect the work the FSBE/DBE firm is contracted to complete
- ☐ Documentation of any COA FSBE/DBE BE work terminated by the Prime and performed by another FSBE/DBE, sub, or the prime without WSDOT's or the Local Agency's prior written consent, if applicable

Washington State
Department of Transportation

Commercially Useful Function (CUF)/Compliance Evaluation Form - Service Provider

INSPECTOR/PM FILLS OUT THIS PORTION:
Date of On-Site Review
Inspector/PM Name
Inspector/PM Signature

PEO/ACL FILLS OUT THIS PORTION:
PEO/ACL Representative Name
PEO/ACL Signature
Date Reviewed

- All Sections should be completed by the Inspector/PM and then sent to the Project Engineering Office (PEO)/ACL for review and validation. The Inspector/PM should include pictures to support the verification and final Office of Equity and Civil Rights (OECR) determination process.
- Within 28 days of the PEO/ACL review, the CUF form should be sent to the regional OECR officer, who will then reconcile and determine the final CUF determination. All applicable documents should be included in the submission.

Purpose: This form serves as written certification that the elements of work performed by a Disadvantaged Business Enterprise (DBE)/Federal Small Business Enterprise (FSBE) contractor were monitored and evaluated according to the Commercially Useful Function and counting requirements of 49 Code of Federal Regulation Part 26.55. This form also contains data and questions to supplement monitoring of payments, termination of work, or changes in contract scope that may require prompt action to ensure final compliance. This form is to be completed at the peak of work, anytime there is a significant change in the FSBE/DBE's work scopes, and yearly for multi-year projects. Once the PEO/PM has completed its portion of the review, this form shall be sent by email to the Region OECR Representative within 28 calendar days of completion. This form is to be completed based upon the reviewer's determination through observations and/or review of pertinent documents.

Section I - Project and Payment Data - To be completed by PEO/PM

Contract No./ID	Project Name	
Prime Consultant	FSBE/DBE Goal %	LA/Region
FSBE/DBE Agreement Amount	FSBE/DBE Commitment Amount	% of FSBE/DBE Work Completed
FSBE/DBE Start Date	FSBE/DBE Payments to Date	
FSBE/DBE Firm Name	FSBE/DBE Employee	
FSBE/DBE Firm Owner	FSBE/DBE Employee Title	
FSBE/DBE Role: ☐ Prime Consultant ☐ Sub Consultant ☐ Lower-tier Consultant	Service Category: ☐ Other	

Provide a brief description of the FSBE/DBE's scope of work/services from the approved subcontract/sub-agreement:

The following two questions pertain to FSBE/DBE participation submitted (under commitment) to meet a contract goal:

Are the descriptions of work in the FSBE/DBE's subcontract/sub-agreement and the Prime's FSBE/DBE commitment consistent?

☐ YES ☐ NO (if "NO", how was this resolved?) ☐ N/A

Have there been any changes in project scope that would affect the FSBE/DBE commitment?

☐ YES (If "YES", describe changes in scope, impacts, and actions to resolve) ☐ NO ☐ N/A

Section II - Evaluation - To be completed by PEO/PM

Supervision & Management (Questions 1 -3 do not apply to temporary labor services)	YES	NO	N/A
1. Was all work performed directed by the FSBE/DBE's supervisory personnel? (e.g. FSBE/DBE directs its own employees and controls all elements of work; approving signatures/initials on work products, title blocks and other relevant documents were those of FSBE/DBE supervisory personnel)	☐	☐	☐
2. Do workflows indicate that the designated FSBE/DBE Project Manager/Supervisor is directing all work?	☐	☐	☐
3. If the FSBE/DBE project team or its representative is co-located in the prime's office, is it evident that the FSBE/DBE has sufficient on-site expertise and control that allows it to manage its work independently?	☐	☐	☐

Comments Required for all "NO" Responses:

Performance	YES	NO	N/A
4. Did WSDOT or LA make adjustments in counting where the FSBE/DBE itself sublet or outsourced any portion of its work to a non-FSBE/DBE?	☐	☐	☐
5. Did the FSBE/DBE perform at least 30% of the work under its contract/agreement?	☐	☐	☐
6. Provide the value of any FSBE/DBE work (under commitment) that was terminated by the prime and performed by another firm without WSDOT's prior written consent:	$		
6a. Where written consent was not obtained, did/will WSDOT/LA deny payment to the prime for FSBE/DBE work it self-performed or FSBE/DBE work performed by another firm?	☐	☐	☐
7. Did the prime make every good faith effort to replace the value of work under commitment not performed by the FSBE/DBE for any reason (other than State-initiated changes in scope)?	☐	☐	☐

Comments Required for all "NO" Responses:

Workforce	YES	NO	N/A
8. Based on the site visit or interview, were the personnel observed/performing work consistent with the FSBE/DBE's affirmed listing of project personnel, payrolls, or other valid document?	☐	☐	☐
9. With respect to professional services, are document authors and signers of certifications, stamps, seals, title blocks, etc. consistent with the FSBE/DBE's affirmed listing of qualified project personnel?	☐	☐	☐
10. Based on employee interviews, is the FSBE/DBE the only service provider that compensates the personnel performing the work? - Provide the names of FSBE/DBE personnel observed or interviewed in the Comments box	☐	☐	☐

Comments Required for all "NO" Responses:

Equipment	YES	NO	N/A
11. Did the FSBE/DBE use its own equipment to perform the work specified in its contract/agreement? (Total stations, computer hardware, plotters, computer automated design software, personal protective equipment, tools, and other equipment required to perform or produce the work.)	☐	☐	☐
12. For equipment not owned by the FSBE/DBE, did the FSBE/DBE lease it from a company other than the prime or an upper-tier service provider?	☐	☐	☐
13. If 12. above is "NO," provide the value of equipment borrowed or leased from the prime or an upper-tier service provider:	$		
14. Provide information about equipment leased or borrowed by the FSBE/DBE:	☐	☐	☐

	YES	NO	N/A
15. Did the prime increase FSBE/DBE participation to replace the value of equipment borrowed or leased from the prime or upper-tier service provider, as indicated in "13." above?	☐	☐	☐
16. Is all equipment being operated by FSBE/DBE employees and under the direct supervision of the FSBE/DBE?	☐	☐	☐
Comments Required for all "NO" Responses:			

Section III - CUF Determination - to be completed by OECR

Based on the observations reported in this document, including relevant attachments, I affirm the FSBE/DBE listed in Section 1 of this form has been counted in accordance with 49 CFR §26.55, and accurately reflected in our agency's reporting system. ☐ Yes ☐ No

OECR Name/Signature _____ Date _____

OECR Manager Signature (Required if CUF not met) _____

Determination Comments:

Form Instructions

Section 1 – Project and Payment Data (to be completed by PEO/PM)

Fill in the information in the corresponding boxes.

FSBE/DBE Goal %: indicates the goal amount that was originally set by OECR.

FSBE/DBE Subcontract Amount: indicate the dollar amount of the FSBE/DBE Subcontract and/or Estimated Agreement.

FSBE/DBE Commitment Amount: indicate the amount committed as the condition of award

FSBE/DBE Role: select the box corresponding to the type of contract being performed by the FSBE/DBE. Provide a brief description of the FSBE/DBE's scope of work in the free text section.

The following two questions pertain to FSBE/DBE participation submitted (under commitment) to meet a contract goal.

- Indicate a response to Question 1. Are the descriptions of work in the FSBE/DBE's subcontract and the Prime's FSBE/DBE commitment consistent? If 'NO', enter response in free text box
- Indicate a response to Question 2. Have there been any changes in project scope that would affect the FSBE/DBE's commitment? If 'YES', enter response describing changes in the free text box

Section 2 – Evaluation (Supervision and Management, Performance, Workforce, Equipment) - to be completed by PEO/PM

1. Indicate whether all work performed is directed by the FSBE/DBE's supervisory personnel
2. Indicate whether a designated FSBE/DBE Project Manager/Supervisor is directing all work
3. If the FSBE/DBE project team or its representative is co-located in the prime's office, indicate if it is evident that the FSBE/DBE has sufficient on-site expertise and control that allows it to manage its work independently
4. Indicate if WSDOT or LA made adjustments in counting
5. Indicate whether the FSBE/DBE performed at least 30% of the work under its contract/agreement
6. Provide the value of any FSBE/DBE work (in the box) that was terminated by the prime and performed by another firm without WSDOT's prior written consent 6a. Indicate whether WSDOT or the LA will deny payment when written consent was not obtained
7. Indicate if the prime made every good faith effort to replace the value of work under commitment not performed by the FSBE/DBE for any reason
8. Indicate whether the number of FSBE/DBE personnel is consistent to the IDR and/or Invoices were the personnel observed/performing work consistent with the DBE's affirmed listing of project personnel
9. Indicate whether, in respect to professional services, document authors and signers of certifications, stamps, seals, title blocks, etc. are consistent with the FSBE/DBE's affirmed listing of qualified project personnel
10. In regard to employee interviews, is the FSBE/DBE the only service provider that is compensating the personnel performing the work? Enter FSBE/DBE personnel names in free text box. Comments required for 'No' or N/A' responses
11. Indicate whether the FSBE/DBE used its own equipment to perform the work specified in its contract/agreement, and verify that it does not belong to, or is not being leased/rented from, the prime or upper tier subcontractor.
12. Indicate IF equipment is not owned by the FSBE/DBE, did the FSBE/DBE lease it from a company other than the prime or an upper-tier service provider
13. If the answer to 12 above is 'NO', enter the value of equipment; Or enter N/A
14. Enter comments about equipment as related to above questions
15. Indicate whether the prime increased FSBE/DBE participation to replace the value of equipment borrowed or leased from the prime or upper-tier service provider
16. Indicate whether all equipment being operated by the FSBE/DBE firm is under the direct supervision of the FSBE/DBE

Section 3 – Office of Equity and Civil Rights Review and Evaluation

Commercially Useful Function and Affirmation (Enter CUF Determination) Reviewer Name/Signature
Review / Affirmation Date
Manager Signature (If CUF not met)