Washington State Department of Transportation

FSBE/DBE On-site Review (OSR) Documentation and Process - Contractors

To complete a Commercially Useful Function (CUF/Compliance Evaluation Form – Contractor (272-052F) 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	HQOEO@wsdot.wa.gov
North Central Region	NCRegionOEO@wsdot.wa.gov
Northwest Region	NWRegionOEO@wsdot.wa.gov
Olympic Region	ORegionOEO@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; OECR will return such submissions 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 firms performing on your subject project (COA or non-COA), all of the required supporting documents in the applicable checklist below must be reviewed and provided to OECR for EACH FSBE/DBE OSR submission.

ABBREVIATIONS

BIB Bid Item Breakdown form
FSBE Federal Small Business Enterprise
DBE Disadvantaged Business Enterprise
IDR Inspector Daily Report
OSR On-Site Review

CHECKLIST TABLE OF CONTENTS FOR WSDOT CONSTRUCTION

1. Furnish and Install
2. Labor Only
3. Trucker/Hauler (Owner/Operator)

CHECKLIST TABLE OF CONTENTS FOR LOCAL AGENCY CONSTRUCTION

4. Furnish and Install
5. Labor Only
6. Trucker/Hauler (Owner/Operator)

CHECKLISTS FOR WSDOT CONSTRUCTION:

1. Furnish and Install:

- ☐ Executed FSBE/DBE subcontract to be submitted in Unifier
- ☐ Authorized Request To Sublet to be submitted in Unifier
- ☐ FSBE/DBE Change orders (if not already provided)
- ☐ Inspector Daily Report (IDR) (date should match On-Site Review (OSR) date)
- ☐ Certified payroll for Prime and FSBE/DBE for the date of OSR (review only; do not provide)
- ☐ Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in the performance of work without permanent markings.
- ☐ Inspector needs to collect bill of lading for materials delivered on the date the OSR was conducted

2. Labor Only:

- ☐ Executed FSBE/DBE subcontract to be submitted in Unifier
- ☐ Authorized Request To Sublet to be submitted in Unifier
- ☐ FSBE/DBE Change orders (if not already provided)
- ☐ Inspector Daily Report (IDR) (date should match On-Site Review (OSR) date)
- ☐ Certified payroll for Prime and FSBE/DBE for the date of OSR (review only; do not provide)
- ☐ Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in the performance of work without permanent markings.

☐ If FSBE/DBE firm is performing Temporary Traffic Control, supply Daily Traffic Control Summaries - Includes full weeks' worth which coincide with submitted IDR and each individual FSBE/DBE OSR;

3. Trucker/Hauler (Owner/Operator):

- ☐ Executed FSBE/DBE subcontract to be submitted in Unifier
- ☐ Authorized Request To Sublet to be submitted in Unifier
- ☐ FSBE/DBE Change orders (if not already provided)
- ☐ Inspector Daily Report (IDR) (date should match On-Site Review (OSR) date)
- ☐ Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in the performance of work without permanent markings. Pictures of registrations must be taken on the day of review
- ☐ Daily Truck Unit Listing Log (WSDOT Form 350-077) for the date the OSR was conducted
- ☐ Haul/delivery tickets, trucking tickets and scale man tickets, vehicle logs, trucking worksheets
- ☐ Documentation if there are any non-countable items such as non- FSBE/DBE owner-operator trucks, lower-tier subcontractors to FSBE-firm that are not certified FSBEs, or prime-provided equipment

CHECKLISTS FOR LOCAL AGENCY CONSTRUCTION:

4. Furnish and Install:

- ☐ Bid Tabulation Document from bid opening for Design-Bid-Build projects, if not already supplied to WSDOT OECR;
- ☐ Prime's Bid Item Breakdown (BIB) from bid opening for Design-Bid-Build projects, if not already supplied to WSDOT OECR;
- ☐ Executed FSBE/DBE subcontract to be submitted to WSDOT OECR;
- ☐ Authorized Request To Sublet to be submitted to WSDOT OECR;
- ☐ FSBE/DBE Change orders (if not already provided)
- ☐ Written Documentation (i.e. *"Inspector's Work Report/Diary (date should match On-Site Review (OSR) date)"*)
- ☐ Certified payroll for Prime and FSBE/DBE for the date of OSR
- ☐ Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in the performance of work without permanent markings.
- ☐ The inspector needs to collect the bill of lading for materials delivered on the date the OSR was conducted
- ☐ Proof of payment made by the FSBE/DBE firm to the source of the materials delivered on the date the OSR was conducted.

5. Labor Only:

- ☐ Bid Tabulation Document from bid opening for Design-Bid-Build projects, if not already supplied to WSDOT OECR;
- ☐ Prime's Bid Item Breakdown (BIB) from bid opening for Design-Bid-Build projects, if not already supplied to WSDOT OECR;
- ☐ Executed FSBE/DBE subcontract to be submitted to WSDOT OECR;
- ☐ Authorized Request To Sublet to be submitted to WSDOT OECR;
- ☐ FSBE/DBE Change orders (if not already provided)
- ☐ Written Documentation (i.e. *"Inspector's Work Report/Diary (date should match On-Site Review (OSR) date)"*)
- ☐ Certified payroll for Prime and FSBE/DBE for the date of OSR
- ☐ Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in the performance of work without permanent markings.
- ☐ If FSBE/DBE firm is performing Temporary Traffic Control, supply Daily Traffic Control Summaries - Includes full weeks' worth which coincide with submitted written documentation, prime certified payrolls, and each individual FSBE/DBE OSR;

6. Trucker/Hauler (Owner/Operator):

- ☐ Bid Tabulation Document from bid opening for Design-Bid-Build projects, if not already supplied to WSDOT OECR;
- ☐ Prime's Bid Item Breakdown (BIB) from bid opening for Design-Bid-Build projects, if not already supplied to WSDOT OECR
- ☐ Executed FSBE/DBE subcontract to be submitted to WSDOT OECR;
- ☐ Authorized Request To Sublet to be submitted to WSDOT OECR;
- ☐ FSBE/DBE Change orders (if not already provided)
- ☐ Written Documentation (i.e. *"Inspector's Work Report/Diary (date should match On-Site Review (OSR) date)"*)
- ☐ Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in the performance of work without permanent markings.
- ☐ Daily Truck Unit Listing Log (WSDOT Form 350-077) for the date the OSR was conducted
- ☐ Haul/delivery tickets, trucking tickets and scale man tickets, vehicle logs, and trucking worksheets
- ☐ Documentation for any non-countable items such as non- FSBE/DBE owner-operator trucks, lower-tier subcontractors to FSBE/DBE firm that are not certified FSBE/DBEs, or prime-provided equipment.

Washington State Department of Transportation

FSBE/DBE Commercially Useful Function (CUF)/ Compliance Evaluation Form - Contractor

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

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

- Inspector should complete all Sections and then send them to the Project Engineering Office (PEO) for review. The inspector should include pictures to support the verification and determination process.
- Within 28 days of the PEO review, the CUF form should be sent to the regional Office of Equity and Civil Rights (OECR) Representative, who will reconcile and verify the CUF determination. All applicable documents should be included in the submission (listed above).

Purpose: This form serves as written certification that the work performed by a FSBE/DBE contractor was 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 the monitoring of payments, work termination, or contract scope changes 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 Project Engineer Office has completed its portion of the review, this form and all supporting documentation shall be emailed to the Region OECR Representative within 28 calendar days of completion. This form will be completed based on the reviewer's determination through observations and review of pertinent documents.

PEO FILLS OUT THIS SECTION

Section I - Project and Payment Data

WSDOT Contract No./Federal Aid Number	Project Name	
Prime Contractor	FSBE/DBE Goal %	LA/Region
FSBE/DBE Subcontract Amount	FSBE/DBE Commitment Amount	% of FSBE/DBE Work Completed
FSBE/DBE Start Date	FSBE/DBE Payments to Date	
FSBE/DBE Company Name	FSBE/DBE Employee Interviewed	
FSBE/DBE Company Owner	FSBE/DBE Employee Interviewed Title	

FSBE/DBE Role:
☐ Prime Contractor ☐ Subcontractor ☐ Subcontractor Tier _____ ☐ Trucker/Hauler

Type of Arrangement:
☐ Furnish and Install ☐ Labor Only

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

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

Filled out by PEO

Are the work descriptions in the RTS and the Bid Item Breakdown (if DBE) commitments consistent?
☐ YES ☐ NO (If "NO," describe changes in scope, impacts, and actions to resolve) ☐ N/A

Have there been any changes in project scope that would affect the FSBE/DBE's commitment?
☐ YES (If "YES," describe changes in scope, impacts, and actions to resolve) ☐ NO ☐ N/A

Section II - Evaluation

Management	YES	NO	N/A
Filled out by Inspector			
1. Does the FSBE/DBE's Supervisor/Foreman direct and schedule all work activities, including material deliveries, without assistance from the prime or upper-tier subcontractor?	☐	☐	☐

Filled out by PEO			
	YES	NO	N/A
2. Is the person interviewed only an employee of the FSBE/DBE firm and not the prime or upper-tiered subcontractor?	☐	☐	☐
Comments Required for all "NO" Responses:			

Performance	YES	NO	N/A
Filled out by Inspector			
3. Did the FSBE/DBE perform at least 30% of its subcontract with its own workforce?	☐	☐	☐
Filled out by PEO			
4. Provide the value of any FSBE/DBE work (under commitment) that was terminated by the prime and performed by another firm without the WSDOT's prior written consent:	$		
4a. Where written consent was not obtained, did/will WSDOT or LA deny payment to the prime for work it self-performed or was performed by another firm?	☐	☐	☐
5. Did WSDOT or LA make adjustments in counting where the FSBE/DBE subcontracted any portion of its work to a non-FSBE/DBE?	☐	☐	☐
6. 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 Owner-initiated changes in scope)?	☐	☐	☐
Comments Required for all "NO" Responses:			

Workforce	YES	NO	N/A
Filled out by Inspector			
7. Are the FSBE/DBE's employees working on a distinct element of work independently without the assistance of other participating contractors?	☐	☐	☐
Filled out by PEO			
8. Do FSBE/DBE employee names only appear on the FSBE/DBE's payrolls and not the payrolls of the prime or other contractors employed on the project?	☐	☐	☐
9. Based on reviewing at least one certified payroll, is the number of FSBE/DBE personnel documented in the project work report/diary consistent with the number of personnel on the FSBE/DBE's payroll(s)?	☐	☐	☐
10. Based on employee interviews, is the FSBE/DBE the only contractor providing pay and other compensation (i.e. benefit plans) to its personnel?	☐	☐	☐
Comments Required for all "NO" Responses:			

Equipment	YES	NO	N/A
Filled out by Inspector			
11. Provide ownership documents (i.e., registration, leases, or rental agreements) for equipment used in work performance without permanent markings. The inspector must take photos of the Documentation on the day of the interview.	☐	☐	☐
12. Was all equipment used by the FSBE/DBE owned by the FSBE/DBE, or leased/rented from a company other than the prime or upper-tier subcontractor?	☐	☐	☐
13. If 12. above is "NO," provide the value of equipment borrowed or leased from the prime or an upper-tier subcontractor:	$		

	YES	NO	N/A
14. Provide information about equipment leased or borrowed by the FSBE/DBE from the Prime or an upper-tier subcontractor:	☐	☐	☐
15. Is all equipment being operated by FSBE/DBE employees and under the direct supervision of the FSBE/DBE?	☐	☐	☐
Comments Required for all "NO" Responses:			

Materials (This section applies to "Furnish and Install" work only)	YES	NO	N/A
Filled out by Inspector			
16. Was the FSBE/DBE on-site to receive delivery of its materials?	☐	☐	☐
Comments Required for all "NO" Responses:			

Trucking/Hauling (Complete only questions 17-20 of this section for trucking contracts/subcontracts)	YES	NO	N/A
Filled out by Inspector			
17. Briefly describe the on-site controls used to identify FSBE/DBE and non-FSBE/DBE haulers and track their participation value, i.e., number of trips, quantities, etc. (Attach supporting documents, such as haul tickets, vehicle logs, trucking worksheets, etc.)			☐
18. Was at least one FSBE/DBE-owned and operated truck used in the hauling operation?	☐	☐	☐
19. Does the State's approved FSBE/DBE Program allow hauling credit for non-FSBE/DBEs?	☐	☒	☐
20. Were all trucks operated by FSBE/DBE owner-operators, employees of the FSBE/DBE or lower-tier FSBE/DBE, or leased from a non-FSBE/DBE truck leasing company and operated by FSBE/DBE drivers, bearing the name and USDOT identification number of the FSBE/DBE?	☐	☐	☐
Filled out by PEO			
1:1 FSBE/DBE/Non-FSBE/DBE Counting			
21. Does the on-site monitoring of trucks provide a means to identify and count non-FSBE/DBE and FSBE/DBE haulers, ensuring non-FSBE/DBE hauling is limited to the value of FSBE/DBE hauling?	☐	☐	☒
22. Was credit for only fees and commissions given for additional non-FSBE/DBE hauling that exceeded the value of FSBE/DBE hauling?	☐	☐	☒
23. Considering the value/running tally of FSBE/DBE and non-FSBE/DBE hauling completed to date, compared to remaining hauling, does the FSBE/DBE commitment appear to be met?	☐	☐	☒
Comments Required for all "NO" Responses:			

Section III - CUF Determination - to be completed by OECR

Are the work descriptions in the FSBE/DBE's subcontract and the Primes FSBE/DBE commitment consistent?
☐ YES ☐ NO (if "NO", how was this resolved?) ☐ N/A

	YES	NO	N/A
24. For work under commitment, did the prime increase its FSBE/DBE participation to replace the value of equipment borrowed or leased from the prime or upper-tier subcontractor, as indicated in "13." above?	☐	☐	☐
25. According to the material invoice, did the FSBE/DBE purchase materials from a source other than the prime or one of its affiliates? (If "NO" FSBE/DBE credit is disallowed)	☐	☐	☐
26. According to the material invoice, were materials billed to the FSBE/DBE or FSBE/DBE Owner/representative? (Attach Invoice)	☐	☐	☐
27. Was proof of payment obtained? (Attach documents such as electronic funds transfer, copy of check, signed payment certification, etc.)	☐	☐	☐
28. Were material shipping documents addressed to the FSBE/DBE?	☐	☐	☐
	YES	**NO**	**N/A**
29. If a joint check was used, did it go through the proper approval process, and did the FSBE/DBE present it to the manufacturer/supplier?	☐	☐	☐
30. Was the value of any non-FSBE/DBE hauler's participation adjusted to allow only fees and commissions?	☐	☐	☒
31. Considering the value/running tally of FSBE/DBE hauling completed to date, compared to remaining hauling, does the FSBE/DBE commitment appear to be met?	☐	☐	☒

Based on the observations reported in this document, including relevant attachments, I affirm that the FSBE/DBE listed in Section 1 was performed independently and 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) _____

Comments:

Form Instructions

Section 1 – Project and Payment Data (to be completed by the Project Engineer Office).

Fill in the information in the corresponding boxes. Clarification below.

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

FSBE/DBE Subcontract Amount: indicate the dollar amount of the FSBE/DBE Subcontract.

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

FSBE/DBE Role: select the box corresponding to the type of contract being performed by the FSBE/DBE.

Type of Arrangement: select the box corresponding to the work type being performed by the FSBE/DBE according to the subcontract.

Provide a brief description of the FSBE/DBE's scope of work.

- Indicate a response to Question 1. Are the descriptions of work in the FSBE/DBE's subcontract and the Primes FSBE/DBE commitment consistent? If 'NO', enter response.
- 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 a response describing changes.

Section 2 – Evaluation (Management, Performance, Workforce, Equipment, Materials, and Trucking/Hauling if applicable)
Questions to be completed by the Inspector and Project Engineer Office as indicated:

1. Indicate whether the person supervising the FSBE/DBE and directing all work activities is the FSBE/DBE Site Supervisor or Foreman
2. For this question, indicate if an employee of the FSBE/DBE, and not the PRIME or upper-tier subcontractor, signs the FSBE/DBE's certified payroll
3. Indicate if the FSBE/DBE performed at least 30% of the work with its own workforce
4. Enter the value of FSBE/DBE work (under commitment) that was terminated and then performed by another

firm 4a. Indicate if the owner will deny any payment

5. Indicate if the owner made any adjustments to counting where the FSBE/DBE subcontracted any portion of its work,
6. Indicate whether Good Faith Effort(s) for replacing the value of work was sufficient
7. Indicate whether the FSBE/DBE employees are working independently without assistance from other contractors
8. Indicate whether FSBE/DBE employees only appear on FSBE/DBE payrolls or PRIME/other contractor payrolls
9. Indicate whether the number of FSBE/DBE personnel is consistent with the IDR/Written Documentation
10. Indicate whether the FSBE/DBE firm is the only contractor providing pay/other compensation to its personnel
11. For FSBE/DBE vehicles or equipment without permanent markings that were used on the date of the OSR, indicate whether registrations for vehicles and/or lease/rental agreements for equipment were reviewed during OSR to ensure the equipment does not belong to, or is being leased/rented from, the prime or upper-tier subcontractor. Pictures of registrations/lease/rental agreements must be taken on the day of review.
12. Indicate whether all large equipment used by the FSBE/DBE is owned, leased, or rented
13. If the answer to 12 above is 'NO', enter the value of the lease agreement for the equipment
14. Enter comments about equipment as related to the above questions
15. Indicate whether all equipment being operated by the FSBE/DBE firm is under the direct supervision of the FSBE/DBE
16. Indicate whether the FSBE/DBE firm is listed as the receiver of those items and was on-site
17. Enter comments on the on-site controls used to identify the FSBE/DBE, non FSBE/DBE haulers and how value of participation is tracked (# of trips, quantities, etc). Attach supporting documents such as vehicle logs, worksheets etc.
18. Indicate whether at least one FSBE/DBE owned and operated truck was used in hauling
19. Indicate whether the program allows for hauling credit. This question defaults to "No" at this time.
20. Indicate whether all trucks used by the FSBE/DBE used bear the name and USDOT ID # of the FSBE/DBE (non-FSBE/DBE truck leasing company)
21. Indicate whether monitoring trucks provides a means to identify and count non-FSBE/DBE and FSBE/DBE haulers. This question defaults to "N/A" at this time.
22. Indicate whether credit for fees/commissions was given. This question defaults to "N/A" at this time.
23. Indicate after review of the total value whether commitment will be met. This question defaults to "N/A" at this time.

Section 3 – Office of Equity and Civil Rights Review and Evaluation
Indicate a response to the question: Are the descriptions of work in the FSBE/DBE's subcontract and the Primes FSBE/DBE commitment consistent? If 'NO', enter response

24. Indicate whether the prime or upper-tier contractor added work to the FSBE/DBE firm to make up for the loss of countable participation for the leased equipment value
25. Indicate whether the FSBE/DBE purchased materials from a source other than from the prime or upper-tier subcontractor.
26. Indicate whether the materials invoice was billed to the FSBE/DBE or FSBE/DBE owner (ensure the invoice is attached)
27. Indicate if materials delivered to the project site were addressed to the FSBE/DBE
28. Indicate whether proof of payment was obtained (attach supporting Documentation such as copy of check, EFT, Accounting reconciliation, etc.)
29. Indicate whether a Joint Check was used and, if so, did it go through the required approval process and did the FSBE/DBE 'present' the check to the manufacturer/supplier
30. Indicate whether the value of the non-FSBE/DBE hauler participation was adjusted. This question defaults to "N/A" at this time.
31. Indicate whether FSBE/DBE commitment will be met. This question defaults to "N/A" at this time.

Commercially Useful Function and Affirmation

Reviewer Signature

_____

Review / Affirmation Date

_____

Reviewer Name and Title

_____

OECR Manager Signature (required if CUF not met)

_____