



OHIO DEPARTMENT OF TRANSPORTATION

OFFICE OF SMALL & DISADVANTAGED BUSINESS ENTERPRISE

Notice to Industry

Materials and Supplies: Counting Expenditures with DBE Materials and Supplies
Vendors (MSVs) toward DBE Goals

March 9, 2018

Changes take effect September 1, 2018

- ODOT will refer to DBEs that are materials and supplies vendors as DBE MSVs.
- ODOT will be assigning descriptors to DBE MSVs that have been used on ODOT projects, and upon request. A DBE MSV must have the correct NAICS code **and descriptor** in order for an item vended by that DBE MSV to be counted toward DBE goals. An exception will be made to the descriptor requirement if a firm has not yet received descriptors from ODOT for its manufacturing/wholesale/retail NAICS codes.
- ODOT will make available a listing of all DBE MSVs, the items they vend, and the **potential** amount of credit available for each.
- In the past, 60% of the cost of materials and supplies purchased from a DBE MSV (100% from a DBE MSV manufacturer) would usually be counted toward DBE goals. Effective September 1:
 - Prime contractors must obtain information about the method of procurement for each item to be procured from a DBE MSV. The DBE Affirmation Form will be modified to accommodate this information.
 - To be eligible to receive **100% credit** toward DBE goals for a materials and supplies subcontract:
 - The DBE MSV must be certified with the correct (**manufacturer**) NAICS code for the item
 - The DBE MSV must be certified with the correct descriptor for the item
 - The role the DBE MSV will play on the specific procurement in question must be consistent with the **manufacture** of the item, as indicated by the information provided by the DBE MSV
 - To be eligible to receive **60% credit** toward DBE goals for a materials and supplies subcontract:
 - The DBE MSV must be certified with the correct (**wholesale or retail**) NAICS code for the item
 - The DBE MSV must be certified with the correct descriptor for the item
 - The role the DBE MSV will play on the specific procurement in question must be consistent with the **regular sale or lease** of the item, as indicated by the information provided by the DBE MSV
 - **The item must not be drop-shipped**

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- The above scenario applies to both bulk items (petroleum products, steel, cement, gravel, stone, asphalt, and others that ODOT may consider to be bulk items) and non-bulk items. For bulk items, there is an additional scenario whereby a contract with a DBE MSV could receive 60% credit. To be eligible to receive **60% credit** toward DBE goals for a bulk item materials and supplies subcontract:
 - The DBE MSV must be certified with the correct (**wholesale or retail and trucking**) NAICS codes for the item
 - The DBE MSV must be certified with the correct descriptor for the item
 - The role the DBE MSV will play on the specific procurement in question must be consistent with the **regular sale or lease** of the item, as indicated by the information provided by the DBE MSV
 - The DBE MSV must deliver the bulk item from a non-DBE vendor to the prime contractor using distribution equipment that it both owns (or for which it has a long-term (1 year or more) lease) and operates with its regular (not ad hoc) employees.
- If not eligible for 100% or 60% credit, an item may still be eligible for credit toward DBE goals, but only for the **fee or commission the DBE MSV receives for its services**, and only if the following additional criteria are met:
 - The DBE MSV must be certified with NAICS code 425120 Wholesale Trade Agents and Brokers
 - The DBE MSV must convincingly explain how the prime contractor benefits by transacting business with it rather than directly with the non-DBE vendor from which the DBE MSV is re-selling.
- The usual good faith efforts process applies.
- All credit toward DBE goals is conditional. Actual credit will be determined based upon invoices, receipts, and/or transportation documents/bills of lading, which must be submitted to ODOT as they are received throughout the course of the project.
- The above changes will require edits to ODOT's DBE Program Plan.

Industry-Specific Manufacturing Guidance

Aggregate/Asphalt/Concrete: In order for 100% of the value of a DBE's contract to count toward DBE goals, the DBE MSV must own or have a long-term lease for the exclusive operation and control of the production of a quarry, an asphalt mixing plant or a concrete mixing plant. The plants must be approved by ODOT's Office of Materials Management.

Miscellaneous Steel Fabrication/Reinforcing Steel Fabrication/Structural Steel Fabrication: In order for 100% of the value of a DBE's contract to count toward DBE goals, the DBE MSV must alter the reinforcement bars (such as cutting and bending and/or coating with epoxy) to the requirements of the construction project at a facility owned and/or operated under the exclusive control of the DBE firm.

Precast Concrete Pipe (Drainage & Sewer): In order for 100% of the value of a DBE's contract to count toward DBE goals, the DBE MSV must manufacture precast concrete products according to ODOT approved specifications.