**PN 007 – 07/19/2019 - DBE TRUCKING**

The Code of Federal Regulations Title 49, Section 26.55(d)(4)(5)(6) governs trucking operations.

The DBE trucking firm must be able to quote and negotiate its own prices. The DBE trucking firm must also provide a quote for each project that the firm is to be utilized toward the project DBE goal.

The DBE will be responsible for the management and supervision of their trucking operation on each contract. A DBE is not performing a CUF if the contract exists for the purpose of creating the appearance of DBE participation.

The DBE must own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE receives credit for the total value of the transportation services the DBE provides on the contract using trucks the DBE owns, insures, and operates using drivers it employs (not 1099/independent contractors).

The Disadvantaged Business Enterprise (DBE) may lease trucks on a long term basis (a year or more), and receive full DBE credit as long as employees of the DBE operate the truck.

A lease must indicate that the DBE has exclusive use of and control over the truck, including responsibility of maintenance and insurance. This does not preclude the leased truck from working for others during the term of the lease with the DBEs consent, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the DBEs name and identification number as well.

The DBE must carry a copy of the lease agreement in the leased truck when working onsite.

Credit for expenditures with DBEs for materials or supplies toward the DBE goal is described as follows:

1. A DBE firm may be a regular dealer in bulk items such as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing 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.
2. When the materials or supplies are obtained from a DBE MSV (Materials and Supplies Vendor) manufacturer the prime contractor may receive credit for 100 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a manufacturer is 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 specifications.
3. When the materials or supplies are purchased from a DBE MSV regular dealer or supplier the prime contractor may receive credit for up to 60 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a regular dealer or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

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, 2018:**

o Prime contractors must obtain information about the method of procurement for each

item to be procured from a DBE MSV. The DBE Affirmation Form has been modified to

accommodate this information.

o 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

o 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**

o 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 nonbulk

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.

o 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.

***DBE MSV DIRECTORY -*** [http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx](https://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/DBE-Directory.aspx) (select MSV only)

***DBE AFFIRMATION FORM -*** *The new DBE Affirmation Form is now available at*

[http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/Resources.aspx](https://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/Resources-1.aspx)*.*