

CONTRACTOR FREQUENTLY ASKED QUESTIONS

Q: What information is required on the Pre-Award Commitment Form?

A:

- 1.) All pre-award commitment forms need to be signed by both Prime Contractor and the DBE firm and submitted to Office of Contracts within five (5) days after bid opening.
- 2.) Name and Address of DBE Firm
- 3.) Listing of all items firm will be performing – include the quantity and unit price Prime bid, and the quantity and unit price assigned to DBE subcontractor.
There are also separate columns for subcontracted amount and credited amount. With the exception of supply items that receive 60% credit, the subcontracted amount and credited amount should be same.
- 4.) Firm Type Code – S – Subcontractor; P – Supplier; T – Trucking; M – Manufacturing; V - Service
- 5.) For Partial items (ex. DBE is performing labor only, multiple components to the item with DBE performing some and another firm performing others, DBE performing some of the quantity and another firm performing remaining), an explanation is required, either on the form or in separate attachment. The explanation should include detailed description of work DBE is performing, who the other firm(s) performing the work will be, and what that work is.
- 6.) For the NAICS Codes (DBE commitments only), only the NAICS codes that apply to the work being performed should be listed. Do NOT list all NAICS codes in the directory. A firm's eligible NAICS codes are found in their directory entry: https://biznet.ct.gov/DOT_DBE/dbesearch.aspx. NAICS code descriptions can be found here (can search by either code or item description): <https://www.census.gov/eos/www/naics/>.

Q: How does a Prime document a pre-award Good Faith Effort DBE/SBE Waiver?

A: If a firm is not able to meet the DBE goal (federally funded) or SBE set-aside (100% State) percentages assigned, it can document its good faith efforts to meet the goal/set-aside, and submit all documentation with its pre-award commitment forms (within five days of bid opening). Appendix A of 49 CFR 26 provides description of the Federal Regulatory Requirements for performing a pre-award GFE on federal projects. The documentation should include:

1. A complete item list identifying whether the work will be self-performed by the Prime, performed by a S/DBE, or performed by a non-S/DBE subcontractor, and who those firms are.
2. A copy of all outreach efforts to S/DBE firms. The outreach should be targeted and specific to the type of work a firm is capable of performing. An e-mail blast with the complete item list attached is not considered sufficient efforts. These efforts should be performed throughout the bid process, not solely within the five days after bid is announced.
3. For items not being performed by the Prime or S/DBE firms, a copy of all bid documents received, both from the S/DBE firms and from all non-S/DBE firms, identifying whose bid was accepted.
4. For items not being performed by the Prime or S/DBE firms, explanation why a S/DBE firm is being used. This can include no S/DBE firms certified to perform the work, no S/DBE firms available to perform the work, specific explanation for not using a particular S/DBE firm.
5. If there were no S/DBE firms available or there is a specific explanation for not using a particular S/DBE firm, should provide documentation of all outreach efforts. This can include letters, e-mails, phone logs. With phone calls, should provide summary of the call including the contact person for the S/DBE firm, when the call was made, and a description of what was discussed – including the explanation provided for not performing the work.
6. For bids received by S/DBE firms, but not accepted, there should be documentation of good faith efforts to negotiate with the firm, including dividing up the items, efforts to find compromise on price, or detailed description of past experiences that would justify not using S/DBE firm.
*Price alone is not sufficient justification for not using a S/DBE firm, unless it can be shown to be “excessive or unreasonable”.

7. For the DBE program, if a pre-award good faith effort is granted, continued efforts throughout the project to meet the DBE goal should be performed and documented. For the SBE program, up to 50% of the SBE set-aside percentage can be waived (requiring the other 50+% to be met with SBE participation). No additional efforts are required, as the set-aside is waived, though additional efforts are always encouraged to increase SBE participation.

Q: What is the process for changing the pre-award commitment amount, or removing a pre-award DBE/SBE firm?

A: All requests must be submitted to the Division of Construction Operations in accordance with the current CRD15-1 and guidance document found on the [CTDOT Subletting webpage](#).

Q: How is credit counted on the DBE Program?

A: DBEs must perform a Commercially Useful Function (CUF) in order to be eligible for payments to count for DBE Credit. In order for a DBE subcontractor to meet CUF it must:

- 1.) Perform the work with its own workforce.
- 2.) Furnish all materials – including negotiating price, determining quality/quantity, ordering the material, and paying for the material itself
- 3.) Utilize its own equipment – or if project requires and industry practices allow specialized equipment, have a project specific lease for the equipment. If equipment is leased from Prime Contractor, cost of equipment is not eligible for DBE credit.
- 4.) Supervising the work with its own workforce.
- 5.) Managing the project on its own.

All DBE firms must also be certified as DBEs in Connecticut and be certified for the work they are to perform. Both the work description and the proper NAICS code must be included in the firm's directory entry.

If a DBE subcontracts a portion of their work to a second tier subcontractor, credit can only be given if the second tier is also a certified DBE.

For more information on CUF, review the CUF Process with the [CUF E-Learning Tool](#).

Q: Is there a CUF requirement under the SBE program?

A: No. If a firm is a certified DBE they will receive credit for all payments made to the firm for the project. Regarding second tier subcontracting, as long as the SBE firm committed performs 30% of the work, and a total of 50% (or at minimum an additional 20%) is performed by a SBE of some kind, then the full amount can count for credit. Neither the Prime, nor an affiliate of the Prime, can perform any of the work.

Q: How can I confirm that a DBE is certified with CTDOT?

A: All certified DBEs can be found in the CTDOT directory at:
https://biznet.ct.gov/DOT_DBE/dbesearch.aspx.

Q: When must a DBE firm be certified in order to be eligible for credit?

A: A DBE firm must be certified in the DBE program with the State of Connecticut, at the time the Prime Contractor signs the contract with the DBE. If a firm is certified after the contract is signed, no credit will be given on that project. If a DBE loses certification after the contract is signed, only work included in the contract, or approved change orders executed, prior to the decertification date can count for credit.