

**CapMetro**

# **DBE Regular Dealer/Distributor Affirmation Form**

12.2024

# Code of Federal Regulations

## Code of Federal Regulations (CFR) Title 49, Subtitle A, Part 26

**Participation by Disadvantaged Business Enterprises in Department of  
Transportation Financial Assistance Programs**

**Funding Source – Federal Transit Administration**

**Triennial Goal – Attained through Good Faith Effort**

# Exhibit D

Exhibit D of a CapMetro Contracts/Procurements include the requirements of the forms that are addressed in this training, along with other DBE requirements.

**Please ensure to READ Exhibit D in its ENTIRETY.**

**If you are completing this form as a result of an active contract or procurement, ensure that the purchaser, contract administrator, and/or project manager are copied.**

# DBE Regular Dealer/Distributor Affirmation Form

The contractor must submit a completed **DBE Regular Dealer/Distributor Affirmation** form for each DBE Regular Dealer or Distributor utilized under the project with their bid submission. The form will determine the DBE percentage applied for credit towards the contract goal.

**The form will be completed by the DBE and signed by both the DBE and Contractor.**

**DBE Regular Dealer:** A business 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.

- The contractor may count towards the DBE goal **sixty percent (60%)** of the cost of the materials and supplies purchased from the DBE.

**DBE Distributor:** A business engaged in the regular sale or lease of the items specified by the contract that neither maintains sufficient inventory nor uses its own distribution equipment for the products in question.

- The contractor may count towards the DBE goal **forty percent (40%)** of the costs of materials or supplies purchased (including transportation costs) if the business **assumes liability** for any loss or damages once the items leave the point of origin (e.g., a manufacturer's facility) during transportation of items.
- The contractor may count towards the DBE goal **only fees and commissions** (including transportation costs) if the business **is not liable** for any loss or damages once the items leave the point of origin (e.g., a manufacturer's facility) during transportation of items.

**Disclaimer: If you are completing this as a result of an active contract or procurement, ensure that the purchaser, contract administrator, and/or project manager are copied.**

# DBE Regular Dealer/Distributor Affirmation Form

OMB Control #2105-0586 (Exp. 5/31/2027)



U.S. Department of  
Transportation

## DBE Regular Dealer/Distributor Affirmation Form

Bidder Name:

Contract Name/Number:

**Step 1:** Input the Bidder  
(Prime Contractor) name  
and contract  
name/number

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

I. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?

☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

☐ YES ☐ NO\* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

\*If I., I.a), and I. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

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DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

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☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

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**Step 2:** Input DBE Name, Total purchase amount (\$), Name of DBE Rep., and NAICS Codes related to item.

Use [TxDOT's Certified Director](#) to locate the NAICS Code. You may also reach out to [DBE@capmetro.org](mailto:DBE@capmetro.org) for guidance.



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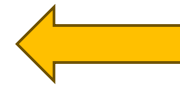
DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

I. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO



(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP** here. Read and sign the affirmation below. If "NO" Continue.)

a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?

☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

☐ YES ☐ NO\* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP** here. Read and sign the affirmation below.

\*If I., I.a), and I. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

**Step 3:** Check **Yes** or **No** if all items sold or leased are provided from your on-hand inventory at your establishment.

If **Yes**, you may count **60%**, Stop here and continue on to read & sign the affirmation.

If **No**, continue to answer part (a) and (b) under question 1.

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DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

I. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?

☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

☐ YES ☐ NO\* (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

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**Step 3.1:** If you checked **No** to question 1

Under part (a) check **Yes** or **No** if are selling bulk items not typically stocked due to their unique characteristics (aka specialty item).

If **Yes**, go to questions 2.

If **No**, continue to part (b).



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DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

I. Will all items sold or leased be provided from the on-hand inventory at your establishment? ☐ YES ☐ NO

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?

☐ YES ☐ NO (If "YES," Go to Question 2. If "NO" Continue.)

b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

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**Step 3.2:** If you checked **No** to part (a)

Under part (b) check **Yes** or **No** if at least 51% of the items are from your inventory maintained at your establishment. This includes quantities delivered by other sources be of the general character as those provided from your inventory.

If **Yes**, you may count **60%**, Stop here and continue on to read & sign the affirmation.

If **No**, go to question 3.

# DBE Regular Dealer/Distributor Affirmation Form

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP** here. Read and sign the affirmation below.)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacturer's facility)?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

<sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

<sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

**Step 4:** If you checked **Yes** to question 1(a)

Check **Yes** or **No** if you will be delivering items using distribution equipment you own or is under a long-term lease and operate.

If **Yes**, you may count **60%**, Stop here and continue on to read & sign the affirmation.

If **No**, go to question 3.

# DBE Regular Dealer/Distributor Affirmation Form

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

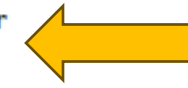
(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP** here. Read and sign the affirmation below.)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

**Step 5:** If you checked **No** to question 2

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>



a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

Under question 3, check **Yes** or **No** if your company will assume responsibility, including risk of loss or damage at the point of origin.

<sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

<sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

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Printed Name and Signature of Bidder's Authorized Representative:



# DBE Regular Dealer/Distributor Affirmation Form

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP** here. Read and sign the affirmation below.)

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☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

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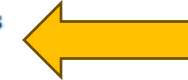
Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

**Step 5.1:** If you checked **No** to question 2

Under question 3(a), check **Yes** or **No** if you will be using sources other than the manufacturer (or other seller) to deliver the items.



# DBE Regular Dealer/Distributor Affirmation Form

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP** here. Read and sign the affirmation below.)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

<sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

<sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

If you checked **Yes** to both 3 & 3(a), you may count **40%**.

If you checked **No** to both 3 & 3(a), you may only count **fees and commissions (including transportation charges)**.



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2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP** here. **Read and sign the affirmation below.**)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (**Go to Question 3.**)

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☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

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Printed Name and Signature of DBE Owner/Authorized Representative:



**DBE Authorized  
Representative will sign**

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

# DBE Regular Dealer/Distributor Affirmation Form

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

☐ YES ☐ NO<sup>1</sup>

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP** here. **Read and sign the affirmation below.**)

<sup>1</sup> If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (**Go to Question 3.**)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

a) Will you be using sources other than the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased?

☐ YES<sup>2</sup> ☐ NO<sup>3</sup>

<sup>2</sup> If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased may be counted at 40%.

<sup>3</sup> If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:



Prime Contractor Authorized  
Representative will sign

# Contact & Website To Get Forms/Training

Send an email to [DBE@capmetro.org](mailto:DBE@capmetro.org) for assistance.

**DBE Forms, Trainings, &  
New User – Vendor Information Form  
(Vendor Reporting System –VRS)  
<https://www.capmetro.org/dbe>**

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Thank you!