



**MINUTES
OF
IOWA DOT SPECIFICATION COMMITTEE MEETING**

September 12, 2024

Members Present:	Mark Dunn Eric Johnsen, Chair Wes Musgrove Dillon Feldmann Scott Nixon Mike Nop Willy Sorenson	Contracts & Specifications Bureau Contracts & Specifications Bureau Construction & Materials Bureau Local Systems Bureau District 1 – DCE Bridges & Structures Bureau Traffic & Safety Bureau
Members Not Present:	Darwin Bishop Daniel Harness Charlie Purcell Bob Welper	District 3 – DCE Design Bureau Project Delivery Division District 2 – Materials
Advisory Members Present:	Kevin Merryman Nikita Rainey Micah Loesch Josh Stott Andy Case Rafe Koopman Ryan Weidemann Bryan Horesowsky David Carney	Construction & Materials Bureau Civil Rights Bureau FHWA FHWA Dallas County Delaware County Hamilton County Muscatine County SUDAS

The Specification Committee met on Thursday, September 12, 2024, at 9:00 a.m. Eric Johnsen, Specifications Engineer, opened the meeting. The items were discussed in accordance with the agenda dated September 3, 2024.

1. Article 1102.17, D, 2, g, Transportation or Hauling of Materials.

The Civil Rights and Construction and Materials Bureaus requested to update the DBE trucking specifications to an alternative method of counting DBE trucking participation.

Form 510130 (08-15)



SPECIFICATION REVISION SUBMITTAL FORM

Submitted by: Niki Rainey / Wes Musgrove		Office: Civil Rights / Construction & Materials	Item 1
Submittal Date: August 16, 2024		Proposed Effective Date: April 2025	
Article No.: 1102.17, D, 2, g Title: Transportation or Hauling of Materials		Other:	
Specification Committee Action: The revisions were deferred to the October Specification Committee Meeting.			
Deferred: X	Not Approved:	Approved Date:	Effective Date:
Specification Committee Approved Text:			
<p>Comments: The Construction and Materials Bureau pointed out that these revisions are not required, as there are two FHWA methods for calculating DBE trucking and this would just be a change from one method to the other. We are not required to implement this change to meet FHWA rules, but are proposing to at the request of the AGC.</p> <p>The FHWA outlined that the administration of the new rules will require new procedures that are not developed yet and could be quite burdensome to inspectors. FHWA has approved the revisions based on the development of these new procedures. FHWA also pointed out that there will be more focus on tracking DBE trucking usage daily that is not currently being done whether the specification is revised or not.</p> <p>The county advisory members expressed apprehension on administering federal aid projects with DBE goals involving trucking when they don't have these contracts very often. They requested that the revisions not be applied to local contracts or not be approved. The Civil Rights Bureau indicated that we would not have different rules for implementing a federal program for primary and local contracts. FHWA concurred and indicated that maybe DBE goal assignment could consider local vs. primary for this reason.</p> <p>The Contracts and Specifications Bureau pointed out that with a November implementation on contracts, there will be some time before most of these projects start to get new procedures in place. Local Systems staff and others at the DOT will be available to assist locals if they have projects with DBE trucking.</p> <p>Construction and Materials pointed out that recent issues with DBE trucking administration would not be addressed by these revisions.</p> <p>Due to concerns about the administrative burden of the new rules, not having procedures in place to know what that administrative burden will be, and Wes and Niki needing to leave the discussion early, these revisions have been deferred to the October Specification Committee Meeting for further discussion. If the item is approved at the October meeting, it could still be implemented for the November letting as previously discussed with AGC.</p>			
Specification Section Recommended Text:			
1102.17, D, 2, g.			
Replace Articles 1 through 3:			
<ol style="list-style-type: none"> 1) The DBE shall be responsible for the management and supervision of the entire trucking operation, and there cannot be a contrived arrangement for the purpose of meeting the DBE commitment. The DBE shall maintain strict records to verify the amount of hauling 			

done by each trucker for the duration of the contract. These records shall be made available to the Engineer if requested.

- 2) The Civil Rights Bureau will maintain a truck roster for each DBE that performs trucking. Each truck on the ~~truck~~ roster shall be either owned by the DBE or controlled by the DBE under a lease. Trucks that are leased shall be from a firm that is in the commercial leasing business; the owner of the commercial leasing business cannot be a heavy-highway contractor. The DBE firm shall make the lease agreement available to the Department ~~the lease agreement~~ if requested.
- 3) ~~To meet the DBE commitment, the following conditions shall be used:~~
 - a) At least one fully licensed, insured, and operational DBE-owned and operated truck, listed on the truck roster under the DBE trucking company shown on the [Form 102115](#), shall be hauling on the project at all times. The Contractor will receive credit for the ~~fee~~ total value of the transportation services provided by and paid to the DBE for these trucks.
 - ~~b~~ 4) The DBE trucker may use trucks from another DBE firm, including a DBE owner-operator. Any truck on the truck roster of another DBE may be used. There is no limitation to the number of these trucks that can be used. The Contractor will receive credit for the ~~fee~~ total value of the transportation services provided by and paid to the DBE for these trucks.
- 5) The DBE trucker may use trucks from a non-DBE truck leasing company and use its own employees as drivers. The Contractor will receive credit for the total value of the transportation services provided by and paid to the DBE for these trucks.
- ~~e~~ 6) A The DBE trucker may ~~also~~ use trucks from a non-DBE firm, including from an owner-operator. ~~The Contractor will receive credit toward the DBE commitment only for the fee or commission retained by the DBE trucker. The Contractor will not receive credit for the total amount paid for the truck because the DBE was a lessee rather than the actual provider of transportation services.~~ The Contractor will receive credit for the total value of the transportation services provided by and paid to the DBE for these trucks, not to exceed the value of transportation services provided by the DBE trucker using DBE-owned, leased and operated trucks. For additional participation by non-DBE owned and operated trucks, the Contractor will receive credit only for the fee or commission paid to the DBE trucker for the truck lease or cost component of the transportation services provided.
- 7) For purposes of these requirements, a lease must indicate that the DBE trucker has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. All leased trucks must display the name and identification number of the DBE trucker.

Comments: Changes will be implemented by proposal note prior to the April 2025 letting.

Member's Requested Change: (Do not use 'Track Changes', or 'Mark-Up'. Use **Strikeout** and **Highlight**.)

1102.17 DISADVANTAGED BUSINESS ENTERPRISES.

D. Counting DBE Participation Toward Meeting Goals.

1. The Contractor may count toward the goals only expenditures to DBEs that perform a commercially useful function towards the completion of a contract, including those functions as a subcontractor. Work performed by a DBE firm in a particular transaction may be counted toward the goal only if the Department determines that it involves a commercially useful function. The work performed by the DBE firm shall be necessary and useful to the completion of the contract, and consistent with normal highway construction industry practices in Iowa.
2. The bidder may count the following DBE expenditures towards the DBE commitment:

g. Transportation or Hauling of Materials - If a DBE trucking company picks up a product from a manufacturer or regular dealer and delivers the product to the Contractor, the commercially useful function performed is not that of a supplier, but that of a transporter of goods. Unless the DBE company is itself the manufacturer or a regular dealer in the product, credit only will be allowed for the cost of the transportation service. For transportation of materials by truck to be used toward meeting the DBE commitment, the following shall apply:

- ~~1) The DBE shall be responsible for management and supervision of the entire trucking operation. The DBE shall maintain strict records to verify the amount of hauling done by each trucker for the duration of the contract. These records shall be available to the Engineer, upon request.~~
- 1) The DBE shall be responsible for the management and supervision of the entire trucking operation, and there cannot be a contrived arrangement for the purpose of meeting the DBE commitment. The DBE shall maintain strict records to verify the amount of hauling done by each trucker for the duration of the contract. These records shall be made available to the Engineer if requested.
- 2) The Civil Rights Bureau will maintain a truck roster for each DBE that performs trucking. Each truck on the truck roster shall be either owned by the DBE or controlled by the DBE under a lease. Trucks that are leased shall be from a firm that is in the commercial leasing business; the owner of the commercial leasing business cannot be a heavy-highway contractor. The DBE firm shall make the lease agreement available to the Department the lease agreement if requested.
- ~~3) To meet the DBE commitment, the following conditions shall be used:
 - ~~a) At least one fully licensed, insured, and operational truck, listed on the truck roster under the DBE trucking company shown on the Form 102115, shall be hauling on the project at all times. The Contractor will receive credit for the fee paid to the DBE for these trucks.~~
 - ~~b) Any truck on the truck roster of another DBE may be used. There is no limitation to the number of these trucks that can be used. The Contractor will receive credit for the fee paid to the DBE for these trucks.~~
 - ~~c) A DBE trucker may also use trucks from a non-DBE firm, including an owner operator. The Contractor will receive credit toward the DBE commitment only for the fee or commission retained by the DBE trucker. The Contractor will not receive credit for the total amount paid for the truck because the DBE was a lessee rather than the actual provider of transportation services.~~~~
- 3) At least one fully licensed, insured, and operational DBE-owned and operated truck, listed on the truck roster under the DBE trucking company shown on the Form 102115, shall be hauling on the project at all times. The Contractor will receive credit for the total value of the transportation services provided by and paid to the DBE for these trucks.
- 4) The DBE trucker may use trucks from another DBE firm, including a DBE owner-operator. Any truck on the truck roster of another DBE may be used. There is no limitation to the number of these trucks that can be used. The Contractor will receive credit for the total value of the transportation services provided by and paid to the DBE for these trucks.
- 5) The DBE trucker may use trucks from a non-DBE truck leasing company and use its own employees as drivers. The Contractor will receive credit for the total value of the transportation services provided by and paid to the DBE for these trucks.
- 6) The DBE trucker may use trucks from a non-DBE firm, including from an owner-operator. The Contractor will receive credit for the total value of the transportation services provided by and paid to the DBE for these trucks, not to exceed the value of transportation services provided by the DBE trucker using DBE-owned, leased and operated trucks. For additional participation by non-DBE owned and operated trucks, the Contractor will receive credit only for the fee or commission paid to the DBE trucker for the truck lease or cost component of the transportation services provided.

7) For purposes of these requirements, a lease must indicate that the DBE trucker has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. All leased trucks must display the name and identification number of the DBE trucker.

Reason for Revision: To revise our current more-restrictive DBE trucking specification requirements to match 49 CFR 26.55 (d) requirements.

Exact language from 49 CFR 26.55 (d) (1-7) is below for convenient reference:

- (1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- (2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- (3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- (4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- (5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

Example to paragraph (d)(5):

DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks equipped with drivers from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

- (6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph (d)(6):

DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

- (7) For purposes of this [paragraph \(d\)](#), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

New Bid Item Required (X one)	Yes	No X
Bid Item Modification Required (X one)	Yes	No X
Bid Item Obsolescence Required (X one)	Yes	No X

Comments:

County or City Comments:

Industry Comments: AGC is supportive and this version reflects their input as of Aug 8, 2024.

