



ALLEGHENY LAND TRUST

2020-2021

DEAD MAN'S HOLLOW SIGNAGE PROGRAM REQUEST FOR BIDS

ALLEGHENY LAND TRUST DEAD MAN'S HOLLOW SIGNAGE PROGRAM

REQUEST FOR BIDS | COVER LETTER

CONTACT:

Contact: Emilie Rzotkiewicz, VP of Stewardship
Allegheny Land Trust
416 Thorn Street, Sewickley, PA, 15143

RFB DEADLINE: FEBRUARY 5, 2021
INTENDED START DATE: MARCH 1, 2021
PROJECTED COMPLETION DATE: DECEMBER 15, 2021

To whom it may concern,

Local land conservation nonprofit Allegheny Land Trust (ALT) is seeking bids for a comprehensive signage program at its Dead Man's Hollow Conservation Area. The 450-acre green space needs a variety of signs marking the green space, denoting funders, informing visitors of special features, and offering wayfinding along hiking trails. We are seeking to hire a vendor to produce and install a variety of signs that have been designed by ALT by the end of the 2021 calendar year.

Allegheny Land Trust is a 501(c)3 land conservation organization helping local people save local land in the Pittsburgh region since 1993. ALT protects more than 3,200 acres of green space across 31 municipalities in Allegheny and Washington Counties. The nonprofit's strategic priorities are in protecting and maintaining green space, and providing nature-based education opportunities for all ages to benefit our region's resiliency.

Dead Man's Hollow was ALT's first protected green space and remains among its most visited. The 450-acre McKeesport-area green space comprises roughly 10 miles of recently-completed trail, some of which connect with the popular Great Allegheny Passage rail trail that leads from Pittsburgh to Washington DC through another trail connection. Dead Man's Hollow is known and loved by the community for its historic significance and ruins, hiking trails, wildlife habitat and sightings, biological diversity, and opportunity for nature-based learning and outdoor recreation.

We look forward to receiving your bid. Thank you,

Emilie Rzotkiewicz
Vice President of Land Resources
Allegheny Land Trust
erzotkiewicz@alleghenylandtrust.org

ALLEGHENY LAND TRUST DEAD MAN'S HOLLOW SIGNAGE PROGRAM

REQUEST FOR BIDS | BID REQUEST SUMMARY

PURPOSE

This requests bids for sign design, manufacture, and install of a variety of sign types based on existing files at the Dead Man's Hollow Conservation area in southern Allegheny County. This process is an open call for qualified contractors.

GOAL

Make comprehensive signage on ALT CA for safety, enjoyment, and education of all property visitors.

SCOPE OF WORK & DELIVERABLES (see attachments for descriptive details, number of signs, materials etc.)

1. Trail Markers
2. Boundary Markers
3. Rules and Regulations
4. Roadside ALT with sponsor
5. Access ALT with sponsor
6. Large Kiosk signs
7. Interpretive signs

CONTRACTOR QUALIFICATIONS, REQUIREMENTS, AND RESPONSIBILITIES

1. The contractor shall have demonstrable experience in sign design and installation. Contractor shall provide references from past projects that qualify them for building this project.
2. All equipment will be clean and free of debris before introduced to work site.
3. Meetings and progress reports - The Contractor shall meet with the client at the beginning of each week or other agreed upon date by both parties to review progress and project expectations for the job.
4. This project is fully funded through the PA Recreational Trails Program and the Federal Highway Administration. For this reason, the following must be met:
 - a. Prevailing Wage Act - all workmen employed on the project must be paid the prevailing minimum wage under the Prevailing Wage Act. Information on the PWA may be found at www.dil.state.pa.us/laborlaw by clicking on the link to Prevailing Wage Act. See appendix A.
 - i. The PWA does apply to all contractors and sub-contractors. Please contact the Department of Labor and Industry – Bureau of Labor Law compliance at 717-705-7256 with questions about the PWA.
 - b. Buy America Program- The federal Buy America Program requires that all projects that permanently incorporate iron and steel must use products manufactured domestically. The grantee should review the U.S. Department of Transportation Buy America webpage at <https://www.fhwa.dot.gov/construction/cqit/buyam.cfm> for more information. The grantee must notify their design consultant of these requirements. Design consultants must consider these requirements in the development of the specifications and designs. Specifically, the federal requirements state:
 - i. *“All manufacturing processes of steel or iron materials in a product, including coating; and any subsequent process that alters the steel or iron material’s physical form or shape, or changes its chemical composition; are to occur within the United States. This includes rolling, extruding, machining, bending, grinding, drilling, and coating. Coating includes all processes that protect or enhance the value of the material, such as epoxy coatings, galvanizing or painting.”*The grantee must include notification of the Buy America provisions in their bid or RFP specifications for procurement of steel, iron or manufactured goods. See appendix B.

- c. DCNR Disadvantaged business enterprise (DBE) and small business enterprise (SBE) requirements for the RECREATIONAL TRAILS PROGRAM see appendix D
- **Policy for Federally-Funded Projects.** It is the policy of the U.S. Department of Transportation (DOT) and the Department that DBEs, as defined in 49 CFR Part 26, as amended, (Part 26) and this specification, be given the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this contract. Consequently, the DBE requirements of Part 26, as amended, apply to this contract.
 - **DBE Obligation.** Take all necessary and reasonable steps to ensure that all DBEs have the opportunity to compete for and perform contracts. The grantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract.
 - **Failure to Comply with DBE Requirements.** Failure by the grantee to carry out these requirements is a material breach of this contract, which may result in termination of this grant agreement or such other remedy as the Department deems appropriate, which may include, but is not limited to:
 - a. Withholding progress payments;
 - b. Assessing sanctions;
 - c. Liquidated damages; and/or
 - d. Disqualifying the contractor from future bidding as non-responsible.
 - **Small Business Enterprise (SBE) Participation.** Recruitment and utilization of certified SBEs is in addition to all other equal opportunity requirements of the contract. There is no SBE goal.

Schedule

ALT anticipates the project will take no more than 12 months from time of Notice to Proceed to providing final deliverables. Exact date of start of project is not known. Schedule of project will be similar to below.

Prior to commencement of work, contractors must provide a Certificate of Insurance naming Allegheny Land Trust as additionally insured.

Compensation

Payment will be made in two phases phases:

½ of the total contract amount will be dispersed upon commencement of signed contract

½ dispersed upon completion and approval by the ALT

Proposal Submission Requirements (not to exceed 3 pages excluding the listed forms)

All bids must be submitted in a sealed envelope

- Commonwealth Public Works Employment Verification Form – See attachment B.
- Return the BUY AMERICA COMPLIANCE STATEMENT in attachment C.
- Return the DBE and SBE form - See attachment D.

Submit copy via email to the following by Feb 5, 2021. All bids will be stored at the ALT office on Thorn Street and opened on Feb 8th by Emilie Rzotkiewicz. The ALT reserves the right to reject any and all bids received in response to the RFB. Any deviations from this submission request or to schedule a site walk through please contact Emilie at the number below.

Contact: Emilie Rzotkiewicz
 VP of Stewardship
 Allegheny Land Trust,
 416 Thorn St.
 Sewickley PA 15143,
 412-741-2750 ext. 201
erzotkiewicz@alleghenylandtrust.org

ALLEGHENY LAND TRUST DEAD MAN'S HOLLOW SIGNAGE PROGRAM

REQUEST FOR BIDS | SPREADSHEET OF NEEDS. Please see below for type of sign and number needed. Some are to be installed by sign company.

SIGN TYPE	DESCRIPTION	INSTALL by sign company?	Dead Man's Hollow
Trail Markers	Main Triangle Shape 6 total colors	No	
	3 Different Colors (100 ea)		300
	3 different colors (75 ea)		225
	Reflective Mile Markers Letters and numbers		15 pages of 1 inch letters and numbers
Property & Trail Map	Smaller, Reminder with "You are Here"	No	10
Boundary Markers	Boundaries: Entering	No	150
	Boundaries: Leaving		150
Rules & Regulations		No	
	Trailhead Rules & Regs: Open Hunting		4
Roadside	Property Visibility, large for roadside (esp. high speed roads) customized per property	Yes	1
Access Point	Property Visibility (smaller for Sewickley and for slower speed roads/parking areas at green spaces) customized per property	Yes	1
Kiosk	Feature Conservation Areas maps, news, events. Customized per property, all three are same design with different location markers	Yes	3
Interpretive Signs	Educational Signage at Green Spaces. 6 Customized signs. Size 4x3- multicolor – design is part of the bid. This will be a partnership between ALT and sign company.	Yes	6
Sponsor/DCNR Sign	Roadside Width	Yes	1
	Access	Yes	1
Please see the following pages for usage, dimensions, materials, and designs for needed signs.			

TRAIL MARKERS

USE

Guide trail-users by marking trail path on trees.

DIMENSIONS

4.5" x 4.5", Rounded Edges

RECOMMENDED MATERIALS

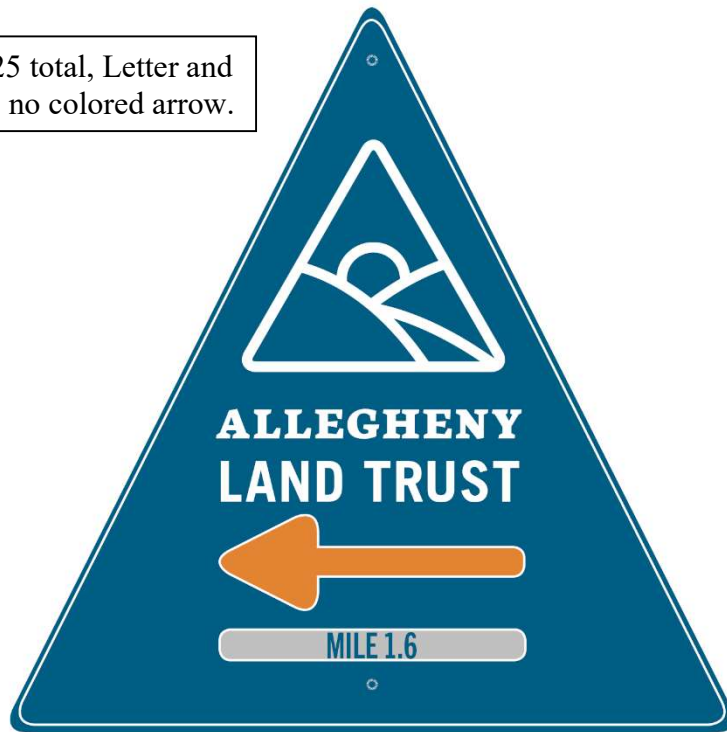
Thicker Plastic.

RECOMMENDED INSTALLATION, NOTES, & QUESTIONS

Nailed (aluminum) to trees along trail. Pre-drilled holes at top and bottom for easy nail-in. Print one sign and attach variable letters (abbrev. for trail) and mileage as needed. Different color per trail. 6 different colors. There is NO ARROW as pictured.



Reminder: 6 colors, 525 total, Letter and numbers only, no strip, no colored arrow.



BOUNDARY MARKERS

USE

Marking boundaries to clarify boundary location for visitors.

DIMENSIONS

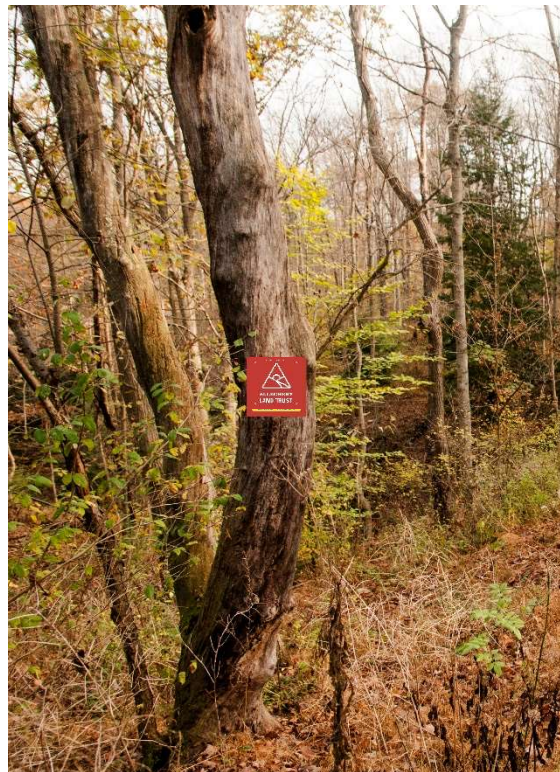
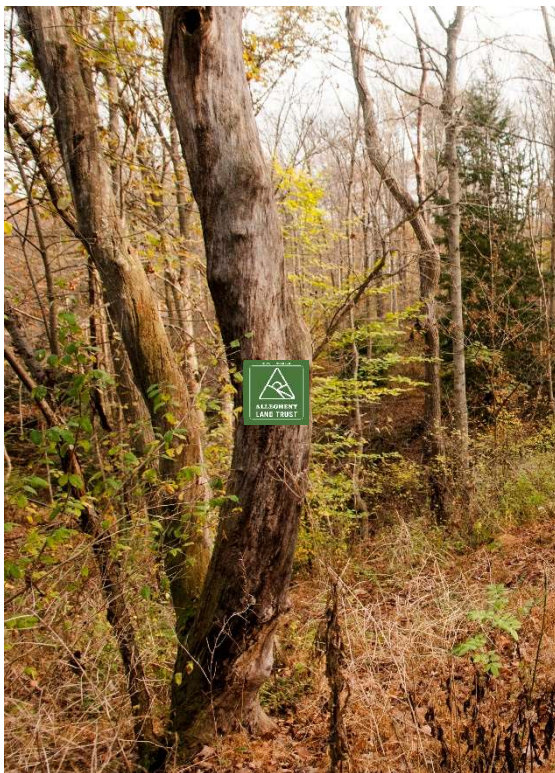
4.5" x 4.5"

RECOMMENDED MATERIALS

Plastic

RECOMMENDED INSTALLATION, NOTES, & QUESTIONS

Nailed (aluminum) to trees along boundary.



NOW ENTERING



**ALLEGHENY
LAND TRUST**

NOW LEAVING



**ALLEGHENY
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RULES & REGULATIONS

USE	Educate visitors on rules and regulations of every accessible conservation area at access points.
DIMENSIONS	12" x 18", Rounded Corners
RECOMMENDED MATERIALS	Alumalite
RECOMMENDED INSTALLATION, NOTES, & QUESTIONS	Nailed (aluminum) to trees/posts near all conservation area access points.





**ALLEGHENY
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Protected Conservation Area

Rules & Regulations

The property that you are standing on is owned and permanently protected by Allegheny Land Trust (ALT). It is available for your enjoyment, exploration, and education. Please help us keep this conservation area healthy, safe, and beautiful by respecting the following guidelines:

- Leave No Trace. If you packed it in, please take it out with you.
- Hours are dawn to dusk every day.
- Express consent from ALT is required for camping and campfires.
- All pets must be leashed unless otherwise noted. You must clean up after your pets and remove the waste from the conservation area.
- All geocaches must be registered with ALT prior to placement at this conservation area.
- Fishing is permitted in accordance with PA Fish & Boat Commission Law.

Prohibited Activities

- Hunting or trapping of any species.
- Removal of plants, animals, minerals, fossils, or other objects (except for trash).
- Abandoning, dumping, or littering of any materials.
- Use of any motorized vehicle.

All local ordinances regarding disorderly behavior, excessive noise, possession of alcohol, vandalism, and more will be enforced. Other policies may apply. Please contact ALT if you have questions regarding the use or management of this conservation area.

Make a Difference

Get involved by joining us as a member, donor, or volunteer.



Allegheny Land Trust | 412-741-2750

CONSERVATION AREA, ROAD-SIDE

USE

Conservation Area markers for passers-by on busy/high-speed roads

DIMENSIONS

54" wide x 24"-29" varied height, Rounded Corners

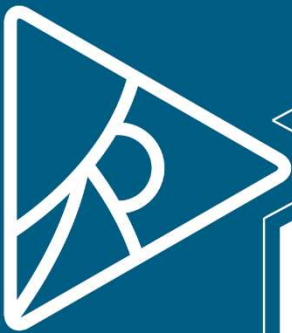
RECOMMENDED MATERIALS

Alumalite or other cost-effective, durable option

RECOMMENDED INSTALLATION, NOTES, & QUESTIONS

Slide into grooves on two wooden posts; wooden posts have slot below for sponsorship signage to be added if necessary. Each post system should come with a spacer between sign and sponsor sign.





ALLEGHENY
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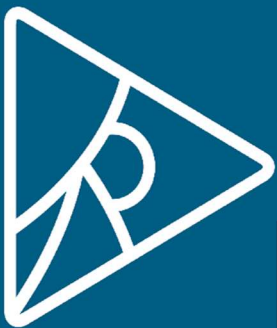
DEAD MAN'S HOLLOW

Conservation Area

CONSERVATION AREA, ACCESS

USE	Conservation Area and/or parking area markers for visitors seeking the green space.
DIMENSIONS	32" wide x 21-26" varied height, Rounded Corners
RECOMMENDED MATERIALS	Alumalite or other cost-effective, durable option
RECOMMENDED INSTALLATION, NOTES, & QUESTIONS	Slide into grooves on two wooden posts; wooden posts have slot below for sponsorship signage to be added if necessary. Each post system should come with a spacer between sign and sponsor sign.





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DEAD MAN'S HOLLOW
Conservation Area

KIOSK

USE

Feature conservation area map and informational board. Should contain map, trail/green space info, notices, upcoming events, and DCNR/funder/sponsor info.

DIMENSIONS

72" x 48", Rounded Corners

RECOMMENDED MATERIALS

Mix of Alupalite sign that attaches to wooden backdrop and cork board for notices.

RECOMMENDED INSTALLATION, NOTES, & QUESTIONS

Permanent board installed between two wooden posts, sheltered by slanted roof. Blue Sign is attached to structure, replaceable. Two boxes in lower right hand corner screw into the sign to hold flyers.



Final design is required, just a guide – all three will be identical with a different “You Are Here” marker



**ALLEGHENY
LAND TRUST**



About the Hollow's Trails

About the Hollow's Trails

About the Hollow's Trails



Allegheny Land Trust

Allegheny Land Trust



Rules & Regulations

Rules & Regulations

GUIDELINES

- ## GUIDELINES



About the Hollow

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Funding for this site was provided in partnership with the

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Attachment A

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE This Clause must be attached to the contract for the job.

The Grantee agrees:

- 1.** In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- 2.** The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any of its employees.
- 3.** The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement.
- 4.** The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate in violation of the PHRA and applicable federal laws against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
- 5.** The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Grantee and each subgrantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the granting agency and the Bureau of Small Business Opportunities (BSBO), for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.

- 6.** The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.
- 7.** The Granter's and each subgrantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- 8.** The Commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

Based on Management Directive 215.16 amended (2/24/15)

Public Works Employment Verification Form

PUBLIC WORKS EMPLOYMENT VERIFICATION ACT

The Public Works Employment Verification Act, 43 P.S. §§167.1-167.11, became effective on January 1, 2013. As a bidder on a public works contract, you are required to comply with Section 4 of the Act by submitting the Public Works Employment Verification Form as a condition to being awarded the contract. By completing the Form, you affirm that you have utilized the Federal E-Verify program to verify the employment eligibility of all new employees hired post January 1, 2013, and that you will continue to comply with the provisions of the Act for all new hires throughout the duration of the Contract. The Public Works Employment Verification Form and a link to the U.S. Department of Homeland Security's Employment Verification web site can be found on the Department of General Services' Construction and Public Works web page at www.dgs.state.pa.us.

During construction, the prime contractor is required to collect Verification Forms from subcontractors of every level. The completed Verification Forms from subcontractors will be forwarded to the agency that awarded the construction contract. A subcontractor is defined as: (i) A person, other than a natural person, including a staffing agency, that performs work for a public works contractor under a contract for public works; (ii) The term includes subcontractors of every level, that is, sub-subcontractors, sub-sub-subcontractors, and the like; (iii) The term does **not** include persons that supply materials for a project.



COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Business or Organization Name {Employer} _____

Address _____

City _____ State _____ Zip Code _____

Check One:

☐ D Contractor

☐ D Subcontractor

Contracting Public Body _____

Contract/Project Number _____

Project Description _____

Project Location _____

Date Enrolled in E-Verify: _____

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, _____ authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

Authorized Representative Signature

Date of Signature

**DCNR Administrative Policy/Grant Guidelines
For the PA Recreational Trails Federal Funding Program
Appendix D**

Buy America Program Provisions (23 CFR 635.410)

§ 635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of [§ 635.409\(a\)](#) of this subpart.

(b) No Federal-aid highway [construction](#) project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or iron [materials](#), or (ii) if steel or iron [materials](#) are to be used, all manufacturing processes, including application of a coating, for these [materials](#) must occur in the United States. Coating includes all processes which protect or enhance the value of the [material](#) to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic [materials](#) and products, including steel and iron [materials](#), to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron [materials](#) which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron [materials](#) which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron [materials](#), and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron [materials](#) unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron [materials](#) by more than 25 percent.

(4) When steel and iron [materials](#) are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron [materials](#), if the cost of such [materials](#) used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c)

(1) A State may request a waiver of the provisions of this section if;

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and iron [materials](#)/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the [FHWA Division Administrator](#). A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain [materials](#) or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the Federal Register for public comment.

(7) In determining whether the waivers described in [paragraph \(c\)\(1\)](#) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

[[48 FR 53104](#), Nov. 25, 1983, as amended at [49 FR 18821](#), May 3, 1984; [58 FR 38975](#), July 21, 1993]

BUY AMERICA COMPLIANCE STATEMENT
PA DEPT. OF CONSERVATION AND NATURAL RESOURCES
BUREAU OF RECREATION AND CONSERVATION
RECREATIONAL TRAILS PROGRAM

Instructions

Bidder to complete the Buy America Compliance Statement below. This signed statement MUST BE submitted with the bidder's bid response.

Compliance Statement for procurement of steel, iron or manufactured products.

Compliance Statement for 23 CFR 635.410

The bidder or offeror hereby certifies that it has read and **will meet** the requirements of 23 CFR 635.410 and any amendments thereto.

Signature _____

Company Name _____

Title _____

Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) Cover Sheet

All contractors are **required** to make a Good Faith Effort to provide the opportunity for Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) firms to participate in the performance of this construction contract. Bidders must submit documentation of their good faith effort (i.e. print screen shots from the PAUCPWeb and SBEWeb websites showing the list of DBEs/SBEs they contacted and copies of emails, faxes, call logs, etc. of DBEs/SBEs that they contacted.).

A specific participation goal has not been set for this project but if any sub-contractors are needed, you must put in a good faith effort to find one from the following lists:

1. <https://www.dotsbe.pa.gov/PAUCPWeb/paucp/viewHome.do>
2. <https://www.dotsbe.pa.gov/SBEWeb/sbe/viewHome.do>

Bidders should use the following documents to comply with this requirement:

1. **Prime Contractor Compliance Statement** – Required to be submitted with bid
2. **Appendix A to Part 26—Guidance Concerning Good Faith Efforts** – For reference
3. **Exhibit A; DCNR Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) Requirements for the Recreational Trails Program** – For reference
4. **Biannual Status Report** – Successful bidder will be required to submit this form throughout the course of the project.
5. **DBE Participation for Federal Projects (EO-380)** – Required to be submitted with the bid only if the bidder has secured a DBE/SBE firm.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
BUREAU OF RECREATION AND CONSERVATION

PA Recreational Trails Program
Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE)
Prime Contractor Compliance Statement

Contractor Name: _____

Contractor Owner/Authorized Officer Name: _____

DCNR Grant Recipient Name: _____

DCNR Grant Project Number: _____

Date(s) of Initial Solicitation: _____ Date(s) of Follow-up Solicitation: _____

Date(s) of Search(es): _____ Counties Searched: _____

Solicited By: ☐ Email ☐ Phone ☐ Fax

Please submit the following items, along with this form, to the DCNR Grant Recipient:

☐ DCNR Grant Recipient has been provided copies of all documentation that supports the direct search for and solicitation of potential participation of DBE/SBE contractors in the competitive process. This includes the documentation related to web searches, contact correspondence, and contact logs.

☐ Copies of any quotes received from DBE/SBE contractors in response to solicitation efforts are attached.

☐ If a DBE /SBE firm is secured, a signed DBE/SBE Participation for Federal Projects form (EO-380).

As the Owner/Authorized Officer for the above named company, I certify that good faith efforts have been performed in conformance with DBE/SBE regulations 49 CFR (Part 26). All good faith efforts have been properly documented as outlined in the Disadvantaged Business Enterprise Requirements. All documentation has been supplied to the above named DCNR Grant Recipient and will be retained in accordance with applicable record retention requirements under the financial assistance agreement for the above referenced project. I understand that such documentation is subject to an audit review by the Pennsylvania Department of Conservation & Natural Resources and/or the Pennsylvania Department of Transportation to further ensure compliance. I understand that I must comply with additional contract administrative requirements related to DBE/SBE regulations 49 CFR (Part 26).

Signature of Contractor Owner/Authorized Officer: _____

Printed Name of Contractor Owner/Authorized Officer: _____

Date: _____

Appendix A to Part 26—Guidance Concerning Good Faith Efforts

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere *pro forma* efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (*i.e.* , obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring *bona fide* good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or

associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

EXHIBIT A

DCNR DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS ENTERPRISE (SBE) REQUIREMENTS FOR THE RECREATIONAL TRAILS PROGRAM

2. DBE

Include the following provisions (Paragraphs a through d) in every contract, so that such provisions will be binding not only upon the grantee, but upon any contractor, supplier, service provider and trucking firm performing work towards the grant.

- **Policy for Federally-Funded Projects.** It is the policy of the U.S. Department of Transportation (DOT) and the Department that DBEs, as defined in 49 CFR Part 26, as amended, (Part 26) and this specification, be given the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this contract. Consequently, the DBE requirements of Part 26, as amended, apply to this contract.
- **DBE Obligation.** Take all necessary and reasonable steps to ensure that all DBEs have the opportunity to compete for and perform contracts. The grantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract.
- **Failure to Comply with DBE Requirements.** Failure by the grantee to carry out these requirements is a material breach of this contract, which may result in termination of this grant agreement or such other remedy as the Department deems appropriate, which may include, but is not limited to:
 - a. Withholding progress payments;
 - b. Assessing sanctions;
 - c. Liquidated damages; and/or
 - d. Disqualifying the contractor from future bidding as non-responsible.
- **Small Business Enterprise (SBE) Participation.** Recruitment and utilization of certified SBEs is in addition to all other equal opportunity requirements of the contract. There is no SBE goal.

3. DEFINITIONS

The following definitions apply for terms used in this specification:

- **Disadvantaged Business Enterprise (DBE).** A for-profit small business concern:
 1. An entity certified by the Pennsylvania Unified Certification Program (PAUCP) as listed on www.paucp.com.
 2. That meets the ownership and control requirements of the DBE certification program.
 3. That meets the Personal Net Worth requirements of the DBE certification program.
- **Small Business Enterprise (SBE).** A for-profit small business concern:
 1. An entity certified by the Pennsylvania Department of Transportation (PennDOT) as listed on www.dotsbe.pa.gov.
 2. That meets the ownership and control requirements of the Small Business Enterprise (SBE) certification program.
 3. That meets the Personal Net Worth requirements of the SBE certification program.

- **Commercially Useful Function.** A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable), and paying for the material itself.
- **Supplier.** A manufacturer, regular dealer, or transaction expeditor/broker.
 1. **Manufacturer.** A DBE/SBE 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.
 2. **Regular Dealer.** A DBE/SBE 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. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided above if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Whether a DBE/SBE firm meets the criteria for being treated as a regular dealer is a contract-by-contract determination to be made by the Department.
 3. **Transaction Expeditor/Broker.** A DBE/SBE packager, broker, manufacturers' representatives, or other persons who arrange or expedite transactions and who arrange for material drop-shipments.

3. COUNTING DBE PARTICIPATION

Although no DBE goal is established for this project, the grantee is still encouraged to involve DBEs in the required work and to submit documentation of any such involvement in the project. Recruitment and utilization of certified DBEs is in addition to all other equal opportunity requirements of the contract.

(a) Construction.

1. **Prime Contractor.** A DBE prime contractor will receive credit for all work performed with its own forces. The Department strongly encourages DBE prime contractors to make additional outreach efforts to solicit DBEs to perform subcontracting work on the project.
2. **Subcontractor.** When a DBE participates in a contract directly as a subcontractor or as a second-tier or lower-tier subcontractor, count only the value of the work actually performed by the DBE.

Count the entire amount of that portion of a construction contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the subcontract, including supplies purchased or equipment leased by the DBE.

When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count.

Count expenditures to a DBE contractor only if the DBE is performing a CUF on that contract.

(b) Materials and Supplies.

1. **DBE Manufacturer.** If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies.

2. **DBE Regular Dealer.** If the materials or supplies are purchased from a DBE regular dealer, count 60% of the cost of the materials or supplies. Note: There is no North American Industry Classification System (NAICS) code for regular dealer.
 3. **DBE Transaction Expeditor/Broker.** If the materials or supplies are purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves.
- (c) **Service Providers.** Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance the contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
- (d) **Trucking Firms.** Count 100% of trucking costs using the following factors to determine what can be counted:
1. Count if the DBE is 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. Count if the DBE owns and operates at least one fully licensed, insured, and operational truck used on the contract.
 3. Count the total value of the transportation services the DBE 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 a certified DBE. If the DBE leases trucks from another DBE, count 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 an owner-operator. If the DBE leases trucks from a non-DBE firm and the DBE operates these leased trucks (with its own forces), count the total value of the transportation services. If the DBE leases trucks from a non-DBE owner-operator, count only the fee or commission it paid as a result of the lease arrangement. Do not count the total value of the transportation services provided by the lessee (non-DBE owner-operator), since these services are not provided by a DBE.
 6. For purposes of this provision, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from being used for work 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. A lease must explicitly state that the DBE leases trucks without operators when the counting of the total value of transportation services is desirable.
- (e) **Specialty Items.** In cases where specialty items and DBE involvement overlap, follow the requirements specified in Section 108.01(c).

4. COUNTING SBE PARTICIPATION

Although no SBE goal is established for this project, the grantee is still encouraged to involve SBEs in the required work and to submit documentation of any such involvement in the project. Recruitment and utilization of certified

SBEs is in addition to all other equal opportunity requirements of the contract. Count SBE participation the same as you would count DBE participation.

5. COMMERCIALLY USEFUL FUNCTION

A Commercially Useful Function (CUF) analysis is required under 49 CFR §26.55 to ensure DBE participation is credited appropriately on federally-assisted transportation projects. A DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

- (a) The grantee (or designee other than the prime contractor) will complete the Form EO-354, DBE Commercially Useful Function Report, (Attachment 1) for all DBEs performing work towards the grant. The CUF form must be completed within five (5) days of the DBE performing work on the project. If all questions on the CUF form are answered 'Yes', then no further action is required. However, a copy of the form must be kept with the project's files for auditing purposes and submitted to the Department with the final close-out information for the grant.
- (b) If any question on the CUF form is answered 'No' then the grantee (or designee other than the prime contractor) will immediately fax or e-mail the form to Department. The Department will fax or e-mail a copy of the form to the PennDOT's Bureau of Equal Opportunity (BEO) for further review and analysis. The analysis and subsequent determination of the CUF will be made by BEO. However, BEO may request additional information from DCNR to help with the investigation and analysis. BEO will also consult with Department staff prior to issuing its determinations on the CUF. The determination will be issued in writing and provided to all parties (the Department, the grantee, the prime contractor and the DBE firm being impacted). If the determination warrants a change in the DBE commitment the Department will be notified. The Department will work closely with PennDOT to make the necessary revisions.

6. RECORDS & REPORTING

The grantee is required to keep such records and submit such reports as are necessary to determine compliance with DBE Requirements.

- (a) **Records.** The records must be designed to indicate the following:
 - 1. The number of DBEs, SBEs, and non-DBE/SBE contractors, suppliers, truckers, and or/service providers and the type of work on services performed on or materials incorporated into the project;
 - 2. The progress and efforts made in seeking out DBE and SBE contractor organizations and individual DBEs and SBEs for work on the grant;
 - 3. Documentation of all communication to obtain the services of DBEs/SBEs on a project;
 - 4. The dollar amounts paid to DBEs/SBEs each month.
- (b) **Reports.** While no DBE or SBE goal has been established in connection with the grant, the grantee is required to submit documentation of DBE and SBE involvement should they perform work in support of the grant.
 - 1. The grantee must submit the Monthly DBE/SBE Status Report, EO-402 (Attachment 2. This Form should be completed each month once the grantee has issued a notice to proceed to the prime contractor. The report is to be completed by the prime contractor within five (5) business days following the end of each month. The grantee, upon receipt, should immediately review for completeness and forward to the Department.
 - 2. If no payments are made to DBE or SBE firms during a given month, the prime contractor must still submit a zero activity report to the grantee. The grantee must inform the Department, in writing, of

any situation in which payments are not made to DBE/SBE subcontractors, suppliers, service provider or consultant as required by the subcontract including reasons why.

3. While they need not be submitted to the Department monthly, the grantee must keep cancelled checks on file showing payment to DBE or SBE firms. This documentation must be provided for inspection and audit by the Department upon request.
4. Upon completion of a DBE's or SBE's work, the grantee must submit a certification of the total amount paid to the DBE or SBE. In the event the actual amount paid is less than the award amount, provide a complete explanation of the difference.

Maintain all such records and reports for a period of three (3) years following acceptance of final payment. Make these records available for inspection by the Department and FHWA.

ATTACHMENTS

Attachment 1 – DBE Commercially Useful Function Report – EO-354

Attachment 2 – Monthly DBE/SBE Status Report – EO-402

Instructions

DCNR – Recreational Trails Program Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) Biannual Status Report

The purpose of the DBE/SBE Biannual Status Report is to verify the subcontracts and payments to DBE/SBE firms approved for participation on federally-funded Recreational Trails Program project. The report must be submitted the DCNR Project Manager in March and September throughout the life of a project.

1. Provide DCNR Grantee and Prime Contractor information as requested
2. Indicate the Reporting Period (April 1 – September 31 or October 1 – March 31) and the Assigned DBE Goal.
3. Original Contract Amount = Bid Amount
Current Contract Amount = Current Contract Amount including deletions and/or additional work
4. Name of each DBE/SBE contracted to perform work on the project
5. Indicate whether DBE/SBE is listed on the DBE Commitment Form (EO-380)
6. Dollar amount committed to DBE/SBE (from approved EO-380)
7. Date of Executed Subcontract, Purchase Order, etc.
8. Dollar Amount of Executed Subcontract, Purchase Order, etc.
9. Dollar Amount paid to DBE/SBE firms during the preceding 6 months for work performed under this contract.
10. Check Number(s) for payment(s) listed under (8) above
11. Total Dollar Amount Paid to Date to DBE/SBE firms
12. Signature of an official certifying that the information is accurate and true concerning subcontracts and amount paid to DBE/SBE firms are in accordance with the contractual obligations
13. This item will be completed by grantee official (or designee other than the prime contractor).

Note: DCNR is to be notified immediately if scheduled payments are not made to DBE firms. Cancelled checks reflecting payment for items of work performed under this contract and/or supporting documentation shall be on file for inspection or audit, as required, by DCNR and/or appropriate state and/or federal officials.

**DCNR – Recreational Trails Program
Biannual DBE/SBE Status Report**

DCNR Grantee Name:			Reporting Period:			Original Contract Amount: \$		
DCNR Grant Number: BRC-PRT-			Assigned DBE Goal: %					
Prime Contractor Name:						Current Contract Amount: \$		
Prime Contract Number:								
DBE/SBE Firm Name	DBE or SBE	Listed On EO-380 (Y/N)	Committed Amount on EO-380	Date of Executed Subcontract	Amount of Executed Subcontract	Amount Paid This Period	Check #	Total Amount Paid to Date
			\$		\$	\$		\$
			\$		\$	\$		\$
			\$		\$	\$		\$
			\$		\$	\$		\$
			\$		\$	\$		\$
I certify that contracts have been executed with the above firms, amounts listed are accurate and payments were made in accordance with contractual obligations. Cancelled checks and/or supporting information will be on file for inspection or audit.						_____ Reviewed by Grantee - Signature		
_____ Company Official's Signature						_____ Date		
_____ Date						_____ Date		



DBE PARTICIPATION FOR FEDERAL PROJECTS

original () or Revision #

Page

of

letting Date/BID Date:

(mm/dd/yyyy)

Date: _____ Project owner: _____

CONTRACT NUMBER	PROJECT	FEDERAL NUMBER	COUNTY	DBE GOAL
BID AMOUNT	PRIME CONTRACTOR			

CONTACT PERSON	PHONE NUMBER
----------------	--------------

COMPLETE THIS SECTION FOR DBE firm

DBE FIRM	DBE CERTIFICATE NUMBER
CONTACT PERSON	PHONE NUMBER

TOTAL AGREEMENT \$ _____ (Include Mobilization)	MOBILIZATION \$ _____
CREDIT @ 60% \$ _____ (Regular Dealer Only)	
STARTING DATE: _____ (mm/dd/yyyy)	COMPLETION DATE: _____ (mm/dd/yyyy)

CHECK THE APPROPRIATE BLOCK: SUBCONTRACTOR	REGULAR DEALER	SERVICE
MANUFACTURER	CONSULTANT	OTHER _____
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-
-	-	-

Identify the North American Industrial Classification System Code(s) that correspond(s) to the work to be performed by the DBE firm.

NAICS Code: _____

Description of work for all item numbers; including partial items: _____

I am a DBE certified by the Pennsylvania Unified Certification Program (PA UCP). I hereby certify that as a DBE, I quoted the above price and type of work.

Signature of DBE: _____ Date: _____
(Signature and Title of Company Official) (mm/dd/yyyy)

I hereby certify, on behalf of, and intending to bind, the Bidder, that the information contained herein is true and correct to the best of my knowledge, information and belief.

Signature of PRIME: _____ Date: _____
(Signature and Title of Company Official) (mm/dd/yyyy)

PENNDOT USE ONLY

☐ Approved

☐ Conditional Approval (Prequalification only)

☐ Disapproved

Condition: _____

By: _____ Date: _____

Note: Complete one form for each DBE on the project



DBE COMMERCIALLY USEFUL FUNCTION REPORT (for Federally Funded Projects Only)

ECMS Project Number	District	SR	Sec.
Prime Contractor:			
DBE Firm:		Date DBE began work	
Date CUF Review Conducted by District		Review type: <input type="radio"/> Initial <input type="radio"/> Follow-up	
Work type (e.g., Earthwork –Clearing and Grubbing)			

****Please note that not all questions apply to all work items. If the question is not applicable simply check 'N/A.'**

	YES	NO	N/A
1. Was the DBE firm that performed the work the same firm originally committed to in ECMS for this work item?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, briefly explain _____ 2.			
Were materials drop shipped?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, briefly explain _____ 3.			
Were materials delivered after hours?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, briefly explain _____			
4. If materials shipped to the project site by a third party, was lease agreement provided?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, briefly explain _____			
5. Did the DBE provide necessary paperwork (e.g., certifications, delivery tickets, permits, etc.) as required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, briefly explain _____			
6. Did the DBE have a superintendent or other representative assigned to the project who was responsible for ensuring effective control of the work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, briefly explain _____			
7. Did you observe the DBE firm using any equipment or tools that appeared to be the property of another company (e.g., magnetic signs, stamps, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, briefly explain _____			
8. Was the DBE's work suspended, in whole or in part, because the firm failed to comply with specifications or with the provisions of the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, briefly explain _____			
9. Did the DBEs employees appear to be knowledgeable of the necessary construction methods related to this item of work?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, briefly explain _____			
10. Is the DBE self-performing work without assistance from the prime or another subcontractor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If no, briefly explain _____			

11. Based on your observations, did the DBE demonstrate that it was responsible for execution of the work of the contract and carried out its responsibilities by actually performing, managing, and supervising the work involved? ☐ ☐ ☐

If no, explain in 'Comments' below:

COMMENTS (As appropriate, explain any steps taken to resolve any issue(s) identified above at the project level. Also, indicate whether resolution was achieved.)

*(IF ADDITIONAL SPACE IS NEEDED, PLEASE ATTACH A SEPARATE SHEET)

Inspector-in-Charge Only

Print Name

Phone Number

Date

1. Did any work committed to the DBE get eliminated and if so, were appropriate adjustments made to the commitment in ECMS? YES NO N/A
☐ ☐ ☐

If no, briefly explain

2. If this DBE firm was a replacement, was the required documentation received? ☐ ☐ ☐

If no, briefly explain

3. If a shortfall exists, describe any steps taken to avoid or minimize it.

Briefly explain

4. Based on your review of the above information, did the DBE demonstrate that it was responsible for execution of the work of the contract and carried out its responsibilities by actually performing, managing, and supervising the work involved? ☐ ☐ ☐

If no, explain in 'Comments' below:

COMMENTS

ACE (or designee) Only

Print Name

Phone Number

Date

BEO Only

Based on our review of this CUF Report:

Concur ☐ Do not concur ☐

Comment:

Signature

Date

Print Name

Phone Number

GUIDANCE FOR COMPLETING THE CUF FORM

The guidance below is included to assist you in identifying situations that may indicate that a Disadvantaged Business Enterprise (DBE) is not performing a Commercially Useful Function (CUF) as required under Section 26.55 of Title 49 Code of Federal Regulations Part 26 (Part 26). Federal DBE regulations provide that a DBE is performing a CUF when it is responsible for execution of the work it committed to perform under a contract with the prime and is, in fact, carrying out its contractual responsibilities by performing, managing, and supervising the work. CUF is evaluated under the portion of Part 26 that indicates when DBE participation can be counted towards the project goal (that section is included as an attachment to this document). If it is determined that a DBE is not performing a CUF on some or all of the work subcontracted to them, the prime contractor will lose DBE credit.

Things to remember:

Failure of a DBE to perform a CUF is significant. Please keep in mind the following:

1. A DBE firm's activity in relation to its contractual obligations does not end with the completion of one CUF form. Accordingly, it may be necessary to review a DBE's performance multiple times and file multiple CUF forms throughout the life of a project.
2. Complete a new CUF form at least once in a construction season, and anytime a DBE performs a new or different scope of work, or if there are issues identified with the DBE's performance. Also, complete a new CUF form every time a DBE performs a new or different item of work on the project, e.g., furnish and install to supply only. A CUF form must be completed for all DBEs performing on any federally funded highway project, regardless if they are being used to meet the DBE project goal.
3. A DBE firm's performance should be reviewed in light of what it is contractually obligated to do. It is important to be familiar with the work the DBE has contractually committed to do. The identification of "red flags" during a review may not mean that a CUF issue exists. Accordingly, it is important to document what you observe for further evaluation.

A CUF form must be completed either on paper or through the PPCC. If your project has not been placed in the PPCC, please continue to maintain the completed CUF form(s) in the project field office, while also remembering to email a copy of the form to BEO for approval. As stated above, complete a new CUF form at least once in a construction season, and anytime a DBE performs a new or different scope of work. This must be done regardless if the DBE is being used to meet the project goal or not. If all supporting documentation is not yet available, complete the CUF form to the fullest extent, indicating in the 'Comments Box' any items that are still needed for review.

Once a CUF form has been completed, continue to monitor the DBE firm to ensure that Commercially Useful Function requirements are being met during the life of the project. When in doubt, contact the Bureau of Equal Opportunity (BEO) at 717-787-5891 or 1-800-468-4201 or via the email resource account at: penndotcuf@pa.gov for additional guidance and/or assistance.

Red Flags

The following are examples of some of the more common red flag occurrences:

PERFORMANCE

- Employee(s) working for both the Prime and the DBE. (Note: This could be the result of union agreements and therefore must be examined closely.)
- Equipment used by DBE belongs to the Prime Contractor
- Equipment signs and markings cover another contractor's identity, with no formal lease agreement
- Equipment used by DBE belongs to another contractor with no formal lease agreement
- Equipment has another contractor's name on it
- All or a portion of the DBE's work is being done by the Prime Contractor or jointly with another contractor

RECORDS/DOCUMENTS

- Certified payrolls
- Equipment ownership, rental, or lease documents (recommend District require copy along with subcontract submittal)
- Subcontract Agreement or Purchase Order

HAULING FIRMS

RED FLAGS

- Trucks used by DBE belong to the Prime Contractor.
- Trucks used by DBE belong to another contractor with no formal lease agreement
- Truck signs and markings conceal another contractor's identity
- Trucks have another contractor's name on them
- Operator(s) working for both the Prime and DBE
- Use of operator(s) for leased trucks is not specified in the lease agreement and operator(s) is not an/are not employee(s) of the DBE
- Haul tickets and/or bills of lading have a firm other than the DBE listed

RECORDS/DOCUMENTS

- Certified payrolls
- Truck ownership/vehicle registration, purchase orders, rental, or lease documents (recommend District require copy along with subcontract submittal)

MATERIAL SUPPLIERS OR MANUFACTURERS/FABRICATORS

RED FLAGS

- Invoices do not indicate that DBE is the customer
 - A Prime Contractor's employee is listed as the contact person on invoices
 - Materials are ordered, billed to, and/or paid, by the Prime Contractor
 - Drop shipped materials are addressed to the Prime Contractor
 - Materials for DBE credited work are delivered by the Prime Contractor
 - Evidence that the DBE supplier is not actually supplying material
 - Evidence that the DBE manufacturer is not actually manufacturing material
 - Two Party checks or joint checks sent by the Prime to the supplier or manufacturer
 - DBE owner or superintendent does not come to project site to verify the adequacy of drop shipped materials (quality and quantity)
- RECORDS/DOCUMENTS**
- Invoices/Purchase Orders
 - Copies of cancelled checks, electronic bill transfers, bank statements, credit card statement, etc.
 - Bills of Lading

SUPERVISION

RED FLAGS

- Prime Contractor or another subcontractor is completely supervising or directing the DBE's work
- The DBE's employees are being supervised or otherwise receiving a large amount of direction on the performance of their work from Prime Contractor or another subcontractor
- The DBE provides little or no supervision of work
- The DBE supervisor is

not a full-time employee of the

DBE RECORDS/DOCUMENTS

- Document communication with DBE owner or Superintendent (recommend note in field inspector's diary/PSA)
- Certified Payrolls
- Photos

DBE REGULATIONS REGARDING COMMERCIALLY USEFUL FUNCTION (CUF)

49 Code of Federal Regulations Part 26 Section 55 as edited for conformity with Pennsylvania Department of Transportation requirements

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

- (1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its

responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

- (2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

- (3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

- (4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c) (3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

- (5) Your decisions on commercially useful function matters are subject to review by the concerned operating

administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

- (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.
- (6) For purposes above, 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.

