

**INDIANA DEPARTMENT OF TRANSPORTATION
PROCEDURES FOR USING JOINT CHECKS UNDER THE DISADVANTAGED BUSINESS
ENTERPRISE (DBE) PROGRAM**

A joint check is a “two party” check payable to two parties. Typically, a joint check is issued by a prime contractor to a subcontractor and to a material supplier or another third party for items or services to be incorporated into a project.

INDOT understands that prime contractors, subcontractors and suppliers may wish to use joint check arrangements for a variety of legitimate reasons, such as assuring that timely payment will be for the supplier’s items or dealing with situations in which it is difficult for a subcontractor to obtain bonding at a competitive rate. However, INDOT also understands that the use of joint checks can raise questions about whether it is proper to count DBE credit for the items purchased using the joint check.

When joint checks are utilized, DBE credit toward the contract goal will only be allowed when the DBE is performing a “commercially useful function” in accordance with 49 CFR 26.55(c)(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 the 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.”

The following conditions will apply to payments to DBE subcontractors and material vendors using joint checks. INDOT will closely monitor the use of joint checks to ensure that such a practice does not erode the independence of the DBE nor inhibit the DBE’s ability to perform a commercially useful function. Joint checks will not be allowed simply for the convenience of the prime contractor. Failure to follow these conditions may disqualify DBE participation or adversely impact a contractor’s bidding status.

1. Any implementation of a Joint Check Agreement must first be approved by INDOT and requested by the DBE involved using the *DBE Joint Check Request Form* provided by INDOT;
2. A formalized Joint Check Agreement between the parties involved (including the conditions of the arrangement and expected use of the joint checks) must accompany the *DBE Joint Check Request Form*;
3. Each party to the Joint Check Agreement must also submit a statement of its history in using joint checks and any related policies with the *DBE Joint Check Request Form*;
4. Joint checks should be focused on accomplishing the procurement of materials needed for a particular purpose at a particular time (i.e., contract specific).
5. Even with joint checks, the DBE will remain responsible for the other elements of 49 CFR 26.55(c)(1);
6. No requirement by the prime contractor that the DBE is to use a specific supplier nor the prime contractors “negotiated” price;
7. DBE must release the joint check to the material supplier (upon determining that the material supplier or other third party has fulfilled its responsibilities under the contract);
8. DBEs must be more than an extra participant in releasing the check to the material supplier;
9. Prime contractors must make joint checks available to all contract participants, and may not be restrictive to any one participant; and
10. All parties involved in a formalized joint check agreement must provide INDOT (upon request) with any documentation deemed necessary to substantiate compliance.

INDIANA DEPARTMENT OF TRANSPORTATION

DBE JOINT CHECK REQUEST FORM

Name of DBE

Contract Number

Name of Prime Contractor

Item Number(s)

Name of Material Supplier

INDOT will closely monitor the use of joint checks. To receive DBE credit for performing a commercially useful function with respect to obtaining materials and supplies, a DBE must “be responsible for negotiating price, determining quality and quantity, ordering the material and installing (where applicable) and paying for the material itself.” Only when a DBE meets all of these requirements should credit be counted for the procurement of the items by the DBE. Please refer to the attached *Procedures for Using Joint Checks under the Disadvantaged Business Program* for qualifying conditions. If proper procedures are not followed or INDOT determines that the arrangement results in lack of independence for the DBE involved, no credit for the DBE’s participation as it relates to the material cost will be counted toward the contract goal requirement.

I have read and understand the above information and have attached a copy of the Joint Check Agreement relating to this request. I hereby acknowledge that the information provided on this form is true and accurate.

Authorized DBE Representative		
Signature	Title	Date

Authorized Prime Contractor Representative		
Signature	Title	Date

Authorized Material Supplier Representative		
Signature	Title	Date

INDOT USE ONLY	
Date Received:	INDOT Representative:
<input type="checkbox"/> Approved <input type="checkbox"/> Denied	<i>Note: Do not process this request without a signed copy (all parties) of the Joint Check Agreement, statement of history, and any related policies.</i>
Comments:	

Please send the DBE Joint Check Request Form and supporting documentation to promptpayment@indot.in.gov.