



# Guide to Completing: DBE Regular Dealer/Distributor Affirmation Form

Updated June 2025


# Introduction

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- Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue.
  - The following slides will help DBE suppliers navigate and define which type of supplier they are according to federal regulation
  - Below are the different types of suppliers and their definitions
- Types of Suppliers
  - **Manufacturer** (49 CFR §26.55(e)(1): “...a manufacturer is a firm that owns (or leases) and operates 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. Manufacturing includes blending or modifying raw materials or assembling components to create the product to meet contract specifications. When a DBE makes minor modifications to the materials, supplies, articles, or equipment, the DBE is not a manufacturer. Minor modifications are additional changes to a manufactured product that are small in scope and add minimal value to the final product.” (count 100%)
  - **Regular Dealer** (§26.55(e)(2)(ii)): “...a regular dealer is a firm that owns (or leases) and operates 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 sufficient quantities, and regularly sold or leased to the public in the usual course of business.” (count 60%)
  - **Distributor** (§26.55(e)(3)): “... neither maintains sufficient inventory or uses its own distribution equipment for the products in question,... A distributor is an established business that engages in the regular sale or lease of the items specified by the contract. A distributor assumes responsibility for the items it purchases once they leave the point of origin (e.g., a manufacturer’s facility), making it liable for any loss of damage not covered by the carrier’s insurance.”

# Step one

- You should begin by filling out the information in the top right corner of the form: Bidder name and Contract Name/Number.
- Continue down the page and fill out the DBE Name, Total Subcontract/Purchase Order Amount, Authorized DBE Representative (Name and Title), and
- the Total Subcontract/ Purchase Order Amount:

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

# Step Two (Question One)

The first question on the Affirmation form asks about all items sold or leased being provided from the on-hand inventory at your establishment?

- You will answer **Yes** or **No** in the boxes to the right of the question
  - If you answer **Yes**, you are indicating your ability to perform as a regular dealer/ distributor and 60% may be counted toward your preliminary counting determination for each DBE (You may stop there and sign the affirmation below)
  - If you answer **No**, Continue to question 1.a

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

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

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

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

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

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

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



# Step Two (Question one) Continued

- If you are directed to answer question 1.a it will ask you if you are selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)?
  - You will answer **Yes** or **No** in the boxes below the question
    - If you answer **Yes**, Go to Question 2
    - If you answer **No**, Continue to 1.b
- If you are directed to answer question 1.b you will be asked “Will at least 51% of the items you are selling, be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided in your inventory?”
  - You will answer **Yes** or **No** in the boxes below the question
    - If you answer **Yes**, you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. (STOP here. Read and sign the affirmation at the bottom of the page)
    - If you answer **No**, your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

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

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

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

☐ **YES** ☐ **NO** (If “**YES**,” Go to Question 2. If “**NO**” Continue.)

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

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

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

# Step Three (Question two)

- If you are asked to continue to question two you will be asked to answer the prompt: “Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?”
- You will answer **Yes** or **No** to the right of the prompt
  - If you answer **Yes**, you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. (Stop here. Read and sign the affirmation at the bottom of the page)
  - If you answer **No**, your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60% (Go to Question 3.)

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

☐ YES ☐ NO<sup>1</sup>

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

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

# Step Four (Question three)

- If you are directed to answer question three you will be presented with the prompt: **“Will the written terms of your purchase order or bill of lading from a third-party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. manufacture’s facility)?”**
- Next you will answer question 3.a given the prompt: **“Will you be using sources other than the manufacturer (or other seller) to deliver or arrange, delivery of the item sold or leased?”**
  - If you responded to 3 and 3.a with **Yes**, you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of times sold or leased may be counted at 40%
  - If you responded to either 3 or 3.a with a No, counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

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

☐ YES ☐ NO<sup>1</sup>

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

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