

## **Suppliers, Brokers, Manufacturers and the Awarding of DBE Credit**

The Indiana Department of Transportation's Economic Opportunity Division ("INDOT EOD") has recently conducted several commercially useful function reviews under 49 CFR 26.55 which have led to the discounting of regular dealer credit to broker credit on federally funded contracts. After discussion with both the Federal Highway Administration and several certified DBE's who expressed the need for additional clarity on the awarding of DBE credit in these categories, INDOT EOD has developed this policy guidance which should be helpful to both INDOT's Prime Contractors and our DBE's.

### **Manufacturer Credit 49 CFR (e)(i)**

Manufacturer credit is appropriate when the DBE 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. (Emphasis added) Alterations or customizations of a "stock" product would be eligible for manufacturer credit. DBE credit is awarded at 100% for this type of work. Delivery type is not relevant in this type of credit.

### **Broker Credit 49 CFR 26.55 (e)(iii)**

Broker credit is appropriate when the DBE arranges or expedites the transaction of materials or supplies that it does not manufacture or deliver and is never in possession of the products. In this type of transaction, a DBE would serve as a third party intermediary between the manufacturer and the contractor. The DBE assumes little to no risk in this transaction and is awarded DBE credit for the "mark-up" of the product only. Drop ship transactions would only be eligible for broker credit.

For direction on how a specialty item can be eligible for supplier credit, see the discussion provided below. A specialty item that does not fully meet these requirements can only be credited at brokerage rates.

### **Supplier Credit 49 CFR 26.55 (e)(ii)**

Supplier credit is appropriate when the DBE 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. If a legitimate public warehouse exists, that regularly stocks, deals and sells to the walk-in public, then the method of delivery of the goods is not examined. Supplier credit would be awarded at 60% of the cost of the materials. 49 CFR 26.55 (e)(ii)

### **Bulk Items 49 CFR 26.55 (e)(ii)**

A DBE may be eligible for supplier credit in regards to non-specialty bulk items (i.e. petroleum, steel, asphalt, aggregate) without a warehouse or storefront. If bulk items are purchased directly from  
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the manufacturer the DBE must **both** own and operate its own distribution equipment. The DBE may supplement its own distribution equipment through a long term lease (defined as more than one year) but the DBE must demonstrate unimpeded access to the leased equipment and operate the equipment with the DBE's own employees. If **all** of these circumstances do not exist, the DBE is only eligible for broker credit.

### **Specialty Products**

Specialty products are those products that are ordered contract-specific for a job. Examples may include, but are not limited to, steel beams, concrete beams, box culverts or piping. Supplier credit is available in two different scenarios:

- Supplier credit would be available if the DBE owns its own facility and is in the business of selling products and materials to the public and sells products of a similar nature to the specialty item and the DBE must take possession of the specialty item to determine quality and quantity of the specialty item(s). To be eligible for supplier credit, the DBE must deliver the specialty item with its own distribution equipment and employees.
- Supplier credit would be available if the DBE does not own its own facility but does own its own distribution equipment which it uses to pick up the specialty item(s) and deliver it to the job site with the DBE's own employees.

Any other scenario dealing with specialty products would only be eligible for broker credit.