



COLORADO

Department of Transportation

CDOT Trucking Compliance Resource Guide 2024

Introduction

The following trucking guidance is the result of the 2022 Notice of Proposed Rulemaking changes where the Department of Labor provided updates to the Davis Bacon and Related Acts (DBRA) laws for the first time in decades. In October of 2023, the new principles were formally announced. One of the updates provided the codification of a new definition for material supplier. This guide is designed to answer questions about how to determine if the truck driver is operating as a subcontractor or material supplier and the requirements therein. It also addresses the various questions associated with contract compliance and the Department of Labor regulations.

This document is broken into four sections:

- I. Definitions from CDOT Specification (Definition Section 101.02)
- II. Deciding Between Subcontractor or Supplier
- III. Frequently Asked Questions for Truckers as Subcontractors
- IV. Frequently Asked Questions for Truckers as Suppliers

This document includes the following appendices:

- I. Appendix A Contractor Reference Tables
- II. Appendix B Trucking Flow Chart, Definitions, and Abbreviations

Background

There have traditionally been a number of factors that create a framework for contractor compliance on CDOT construction projects. Payrolls, nondiscrimination, subletting, labor interviews, etc. are all components that direct compliance in some way. The Colorado Department of Transportation (CDOT) manages the compliance program to meet the Department of Labor (DOL), Federal Highway Administration (FHWA), and the Federal Transit Agency (FTA) requirements and regulations. CDOT is required to perform quality control procedures to ensure the compliance of contractors and suppliers.

Verification of contract compliance can be challenging, and CDOT continues to work to follow guidance from DOL, FHWA, and FTA. CDOT recognizes that trucking is one area that continues to be challenging due to multiple factors such as drivers serving in various roles, special exemptions, and payroll variances.

Definitions from CDOT Specification (Definition Section 101.02)

What is a subcontractor?

An individual, firm, corporation, or other legal entity to whom the Contractor sublets part of the Contract. A subcontractor shall include an individual, firm, or corporation who meets one or both of the following criteria:

- (a) Establishes a fabricating process or facility exclusively for the use of the Project, whether on or off the site of work (SoW) per 29 CFR 5.2(l)(1) and 29 CFR 5.2(l)(2).
- (b) Performs work that is incorporated within the Project limits.

What is a supplier?

An individual, firm, or corporation who meets all of the following criteria:

- (a) Sells manufactured materials as a broker, distributor, dealer, manufacturer, or wholesaler who may or may not deliver the materials to the SoW.
- (b) The manufacturing of the materials, articles, supplies, or equipment used for the contract that is being supplied shall come from a facility or facilities that:
 - (1) Is not located on, nor does itself constitute, the project or primary construction site or secondary construction site as defined in 29 CFR 5.2; and
 - (2) Either was established before opening of bids on the contract, or is not dedicated exclusively, or nearly so, to the performance of the contract.
- (c) The supplier's only obligations for activity on the contract is the delivery of materials, articles, supplies, or equipment, which may include pickup of the same in addition to, but not exclusive of, delivery, and which may also include activities incidental to such delivery and pickup, such as loading, unloading, or waiting for materials to be loaded or unloaded; and
- (d) If an entity, in addition to being engaged in the activities specified in paragraph of this definition, also engages in other construction, prosecution, completion, or repair on the site of the work, then this entity is not a supplier but a contractor.

I. Deciding Between Subcontractor or Supplier

The goal of this document is to help truckers decide what their reported contract role is as well as to help them determine the contractual responsibilities that are associated with that role.

Who hired you? (Prime contractor/subcontractor or a material supplier)

A) Truckers Count as a Subcontractor:

Truckers (including independent owner/operators) are considered subcontractors when hired by a prime contractor or subcontractor, either as an employee or as an independent contractor.

B) Truckers Count as a Supplier:

Truckers (including independent owner/operators) are considered material suppliers when working for/hired by a material supplier, either as an employee or as an independent contractor.

The other component for a truck driver to be considered a material supplier is that their **only** obligation is the delivery of the materials. (There is no installation or other work conducted on the job site.)

The new [DBRA rules](#) specify that although a material supplier may both deliver and pick up materials, an entity that is solely engaged in picking up and hauling away materials is not a material supplier.

II. Frequently Asked Questions for Truckers as Subcontractors

1. Does the prime contractor need approval from CDOT to sublet?

Per CDOT Specification 108.01, the Contractor shall not sublet, sell, transfer, assign, or dispose of the Contract or Contracts, or any portion thereof without written permission of the Engineer.

2. How does the prime contractor request approval from CDOT to sublet?

Prior to beginning any work by the subcontractor, the prime contractor shall request permission from the Project Engineer (PE) by submitting a completed Sublet Permit Application, CDOT Form 205, via the B2GNow software system. The subcontract work shall not begin until the prime contractor has received the PE's recommendation (and the approval of CDOT Civil Rights) via the B2GNow system. The prime contractor shall make all project related written subcontracts, agreements, and purchase orders available to the PE for viewing, upon request, and at a location convenient to the PE. The submission of the CDOT Form 205 indicates that the prime contractor has personal knowledge of a formal, executed subcontract or service agreement for the work or supplies listed above.

3. Are subcontractors required to create an account in the B2GNow compliance software?

All firms to which the prime contractor will be subletting a portion of the contract must have an account created in the B2GNow software system. If the firm does not have an account created, approval of the Form 205 will not occur.

4. What happens if a subcontractor begins work prior to being approved via a CDOT Form 205?

Any work done by that subcontractor prior to the approval date is considered unauthorized work, per CDOT Specification, Subsection 105.17, and the Project Engineer has the authority to have the work removed and replaced or to not pay for it.

5. Do trucking subcontractors fall under DBRA?

- I. Prime contractors and subcontractors, when their employees are operating as truck drivers, are covered by DBRA prevailing wages in the following situations:**

Per the DBRA Final Rule, truck drivers employed by prime contractors or subcontractors must be paid applicable prevailing wage rates for all on-site

driving time unrelated to off-site delivery (e.g., hauling materials from one location on the SoW to another), for any time spent transporting “significant portions” of public works from secondary construction sites, for any time spent transporting materials to or from adjacent or virtually adjacent dedicated support sites, as well as for any on-site time related to office delivery, if such time is not de minimis.

Per the DOL Field Operation Handbook, Chapter 15e22

- a) Drivers of a contractor or subcontractor for time spent working on the site of the work. (SoW)
- b) Drivers of a contractor or subcontractor for time spent loading and/or unloading materials and supplies on SoW, if such time is not de minimis (see FOH 15e22(b)(3)).
- c) Truck drivers transporting materials or supplies between a facility that is deemed part of the site of the work and the actual construction site.
- d) Truck drivers transporting portions(s) of the building or work between a site established specifically for the performance of the contract or project, where a significant portion of such building or work is constructed, and the physical place(s) where the building or work called for in the contract(s) will remain.

II. Prime contractors and subcontractors, when their employees are operating as truck drivers, are not covered in the following instances:

- a) Truck drivers while off the site of the work.
- b) Truck drivers traveling between a DBRA job and a material supply facility that is not located on, nor does itself constitute, the project or contract's primary construction site or secondary construction site, as defined in 29 CFR 5.2; and either was established before opening of bids on the contract, or is not dedicated exclusively, or nearly so, to the performance of the contract.
- c) Truck drivers whose time spent on the site of the work is de minimis, such as only a few minutes at a time merely to pick up or drop off materials or supplies.

Truck drivers of a prime contractor or subcontractor, when covered under DBRA, are required to report certified payroll.

6. What is “site of work (SoW),” and how does it impact DBRA coverage for subcontractor truck drivers?

It is essential to establish at the start of all projects what is considered the SoW as DBRA’s applicability is dependent on that determination. Consider the following:

- The material is coming from a supply facility that meets the criteria as outlined in the supplier definition (see Section I) -- **Not considered SoW.**
- A secondary construction site exists and/or an adjacent or virtually adjacent dedicated support site (see SoW definition below) -- **considered SoW.**

(1) Per the 29 CFR 5.2, “Site of the work” includes all of the following:

(i) The primary construction site(s), defined as the physical place or places where the building or work called for in the contract will remain.

(ii) Any secondary construction site(s), defined as any other site(s) where a significant portion of the building or work is constructed, **provided** that such construction is for specific use in that building or work and does not simply reflect the manufacture or construction of a product made available to the general public, and **provided further** that the site is either established specifically for the performance of the contract or project, or is dedicated exclusively, or nearly so, to the performance of the contract or project for a specific period of time. A “significant portion” of a building or work means one or more entire portion(s) or module(s) of the building or work, such as a completed room or structure, with minimal construction work remaining other than the installation and/or final assembly of the portions or modules at the place where the building or work will remain. A “significant portion” **does not include** materials or prefabricated component parts such as prefabricated housing components. A “specific period of time” means a period of weeks, months, or more, and does not include circumstances where a site at which multiple projects are in progress is shifted exclusively, or nearly so, to a single project for a few hours or days in order to meet a deadline.

(iii) Any adjacent or virtually adjacent dedicated support sites, defined as:

(A) Job headquarters, tool yards, batch plants, borrow pits, and similar facilities of a contractor or subcontractor that are dedicated exclusively, or nearly so, to the performance of the contract or project, **and** adjacent or virtually adjacent to either a primary construction site or a secondary construction site, and

(B) Locations adjacent or virtually adjacent to a primary construction site at which workers perform activities associated with directing vehicular or pedestrian traffic around or away from the primary construction site.

(2) With the exception of locations that are on, or that themselves constitute, primary or secondary construction sites as defined in paragraphs (1)(i) and (ii) of this definition, site of the work **does not include:**

(i) Permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular Federal or federally assisted contract or project; or

(ii) Fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a material supplier, which are established by a material supplier for the project before opening of bids and not on the primary construction site or a secondary construction site, even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

DBRA Coverage for SoW

- Truck drivers of a prime contractor or subcontractor **are covered** by DBRA while working on the “site of the work” as per the “SoW” definition outlined above in (1) (i, ii, and iii).
- Truck drivers of a prime contractor or subcontractor that are hauling from a facility deemed part of the “SoW” to a project location deemed part of the “SoW” **are covered** under DBRA. **(SoW to sit is covered by DBRA, and de minimis counting is never applicable or allowable in this situation.)**
 - For example, truck drivers of a contractor or subcontractor hauling between the job site and a batch plant, hot mix plant, materials pit, or

staging area dedicated exclusively, or nearly so, to the project, and whose location is adjacent or virtually adjacent, are considered to be hauling exclusively on the “SoW,” and therefore, all hauling time between the two locations will be covered under DBRA.

- Truck drivers of a prime contractor or subcontractor that are hauling from a facility deemed part of the “sSoW” to a location not considered “SoW.” (Covered by DBRA for time spent on the SoW, but not between the SoW location and the other non-SoW location. The application of de minimis may be applicable.)
 - For example, truck drivers of a prime contractor or subcontractor hauling between a location that is not considered “SoW” (such as a pit that is not located on the project’s primary or secondary construction site and was established before the opening of bids on the contract and is not dedicated exclusively, or nearly so, to the performance of the contract) to a location that is considered “SoW,” hauling time is covered under DBRA once the driver reaches the “SoW” and not the distance between the two locations.

7. What is de minimis ?

De minimis is categorized as a “few minutes at a time” merely to pick up or drop off materials or supplies.” De minimis is considered to be an “insubstantial or insignificant” period of time on the project.

DOL has specified that when a truck driver is repeatedly going on and off site over the course of the day or week, the time should be aggregated in determining whether the driver spends more than a de minimis amount of time on-site.

How was de minimis changed for CDOT?

- **Greater than de minimis:** When a truck driver spends a few minutes at a time to pick up or drop off materials from an off-site location to an on-site location, and the aggregated time spent on the SoW fits into one or both of the following categories:
 - When 10% or greater of the truck driver’s total daily work time is spent on the SoW (operating as a truck driver)
 - When 10% or greater of the truck driver’s total workweek (operating as a truck driver) is spent on the SoW, such time will be considered greater

than de minimis and will be subject to all associated labor standards, including certified payroll.

- **Less than de minimis:** When a truck driver spends a few minutes at a time to pick up or drop off materials from an off-site location to an on-site location, and the aggregated time spent on the SoW fits into one or both of the following categories:
 - When less than 10% of the truck driver's total daily work time is spent on the SoW (operating as a truck driver), such time will be considered less than de minimis, and therefore, no certified payrolls are required.
 - When less than 10% of the truck driver's total workweek (operating as a truck driver) is spent on the SoW, such time will be considered less than de minimis and no certified payrolls are required.

Note: de minimis cannot be claimed for time that a truck driver hauls from on-site to on-site. This time will all be covered for DBRA purposes. De minimis can only be a factor for prime contractor/subcontractor truck drivers when identifying time spent on-site from an off-site location.

Other Considerations Regarding De Minimis

From Frequently Asked Questions: Updating the Davis-Bacon and Related Acts Regulations Final Rule

The final rule codifies the Department's current guidance that requires prime contractors and subcontractors to pay DBRA wages to delivery drivers for on-site time related to offsite delivery if such time is not **de minimis**. The Department has generally excluded periods of a few minutes on-site just to drop off materials as **de minimis**. However, the total amount of time a driver spends on the site of the work during a typical day or workweek, not just the amount of time that each delivery takes, should be considered in determining whether the driver's on-site time was de minimis.

DOL has specified that when a truck driver is repeatedly going on and off site over the course of the day or week, the time should be aggregated in determining whether the driver spends more than a de minimis amount of time on-site. Per the Department's instruction, this means that a driver who spends a few minutes per trip on-site, but makes multiple trips, will generally be spending more than a de minimis amount of time on-site.

8. What are the tracking requirements for de minimis?

Critical to determining the 10% threshold for de minimis status is identifying what part of the driver's workday and/or workweek (see question 7 for clarification) is spent on the SoW. De minimis status shall be continually monitored and tracked by the truck driver and prime contractor to ensure compliance with the DBRA regulations for the duration of the contract. It is the responsibility of the prime contractor to ensure that DBRA compliance and documentation is kept to support de minimis status and can be provided to CDOT or other regulatory agencies upon request. Each trucker shall keep documentation that supports the total amount of time spent on the SoW (operating as a truck driver) in each employee's day and workweek. This includes the amount of time that was spent in queue within the project's SoW.

9. What are the certified payroll requirements for de minimis status?

For drivers that claim de minimis time on a project, either as employees or through a written agreement for a construction contractor or a subcontractor, then that trucker subcontractor would **not** be required to report payroll as that time would be considered de minimis.

10. What are the certified payroll requirements for trucker subcontractors if they were originally categorized as de minimis, and then that status changes to more than de minimis?

If at any time on the project the truck driver no longer meets the criteria for de minimis status, the prime contractor shall notify the CDOT Project Engineer/Project Manager (PE/PM) to request LCPtracker setup for the applicable subcontractor truck driver. The truck driver shall submit certified payrolls into LCPtracker for the time spent on the SoW that is more than de minimis.

Once de minimis is no longer met, and certified payroll and LCPtracker are initiated on the project, "no work weeks" are required to be submitted for subsequent weeks that meet de minimis status until the final payroll is reported. In the event that this scenario is repeated and de minimis is not met again, certified payroll must be reported in LCPtracker for that week.

11. What are the requirements for de minimis reporting?

At the end of each month, after the prime contractor's analysis and review of the trucker time spent on the SoW, if it is determined that the driver's time met de minimis status (with no certified payrolls required), the prime shall provide a list to

the PE/PM and to the Region Civil Rights specialist(s) detailing all trucking firms that meet that status.

If prime contractors do not submit a list of the trucking firms (including owner/operators) that operated in a de minimis capacity each month, CDOT will expect that every trucker shall be listed in LCPtracker and will submit certified payroll on a weekly basis.

12. Is a brokerage firm a subcontractor or supplier?

If a brokerage firm is hired by a supplier (as outlined previously in this document) to provide trucking services to haul their material for the project, then that brokerage firm is functioning as an extension of the material supplier, and therefore, the brokerage firm is a supplier. If the contract between the brokerage firm and material supplier is in excess of \$10,000, a CDOT form 1425 is required for that firm and all hired haulers (with a written, executed agreement in excess of \$10,000) under that brokerage firm. In those situations where a supplier truck driver is hauling on the SoW, they are not covered under DBRA, and therefore, certified payroll is not required. (See Supplier Section IV.)

If the brokerage firm is hired by a prime contractor/subcontractor to provide trucking services to haul material for the project, then that brokerage firm is functioning as a subcontractor, and therefore, the brokerage firm is a subcontractor. A CDOT Form 205 is required to be submitted for the brokerage firm, as well as all hired haulers under that brokerage firm. In those instances of the truck driver hauling for the brokerage firm while on the SoW, they are covered under DBRA, and certified payroll is required. (See Section III, questions 5 and 6.)

13. If a wage decision contains a truck driver classification on it, do all truck driver suppliers and subcontractors have to submit certified payrolls uniformly?

No, it is vital to evaluate if the firm is categorized as a supplier or subcontractor to determine certified payroll requirements, even if the wage decision contains a classification of truck driver. To evaluate if a truck driver is categorized as a subcontractor or supplier. (See Section I & II of this manual.)

IV. Frequently Asked Questions for Truckers as Suppliers

1. What are the requirements for suppliers in the B2GNow compliance software?

All rental equipment companies and all entities who meet the Supplier definition, as outlined in 101.02, in which the written agreement **exceeds \$10,000**, shall have the following requirements for the Contract:

(a) Rental equipment companies and suppliers shall create an account in the B2GNow software system.

(b) The prime contractor shall submit a completed Form 1425 in the B2GNow software system at such time that the \$10,000 amount is known to be exceeded and/or before the following occurs on the Contract:

- the Supplier's upper tier begins work, or
- rental equipment is being used, or
- incorporating materials into the Contract

Failure to comply with the requirements of this subsection shall be grounds for withholding of progress payments.

2. Is the supplier status governed by the type of material that is being hauled?

No. The type of material does not govern the status of a driver as either a supplier or subcontractor. The status of the hauler is determined using the following information:

Who hired you?

(i) If hired by a material supplier (as defined in section I) the truck driver is considered a material supplier.

(ii) If hired by the prime contractor or by a subcontractor (as defined in Section I) the truck driver is considered a subcontractor.

3. Are supplier truck drivers required to submit certified payrolls?

No. Supplier truck drivers are exempt from DBRA requirements. Accordingly, certified payroll is not required.

4. When a material supplier (as defined in Section I) contracts with a truck driver to haul their materials (for a project), is that contracted truck driver (although not an employee of the material supplier) still considered a material supplier?

Yes. The defining factor is who the truck driver is working for, regardless of whether there is an employment relationship between the driver and whomever they are working for. If the driver is working for a material supplier (or is working for someone who is working for a material supplier), they are considered a supplier, as long as their only obligation for activity on the contract is the delivery of the materials, articles, suppliers, or equipment.

5. Consider the following situation: A material supplier truck driver is delivering asphalt, and within that delivery, there is a standard procedure which takes a bit of time. For example, either the asphalt has to go into the hopper of a laydown machine, or it can be placed as a windrow (line of asphalt) in front of the laydown machine. Is the truck driver considered to be doing work on the SoW, or are they considered to be delivering materials?

Delivery of materials into equipment or mixing facilities is still delivery, as long as they don't begin laying down and spreading the asphalt themselves. Therefore, the truck driver that is outlined in the question above is still considered to be a material supplier.

6. What is the deciding factor in the determination between the truck driver being considered a subcontractor or a material supplier?

The deciding factor in determining whether a truck driver is considered a subcontractor or a material supplier is who the truck driver is working for -- whether the truck driver is working as an employee or as an independent contractor or subcontractor. If a material supplier (as defined in Section I) hired a truck driver (as an employee or as an independent trucker to deliver materials), and the material supplier's only obligations fall within the delivery (no installation, etc.), then the driver is considered a material supplier. If a prime contractor or subcontractor, as defined in Section I, hired a truck driver (as an employee or as an independent truck driver to deliver materials), that driver is considered a subcontractor.

7. In order for a truck driver to be considered a material supplier on the project, does the truck driver that is hauling materials also have to sell said materials to the contractor?

If a material supplier (as defined in Section I) hired a truck driver (as an employee or

as an independent trucker to deliver materials), and the material supplier and hired truck driver's only obligations fall within delivery (no installation, etc.), then the hired driver is considered a material supplier.

8. If a firm both sells material supplies and installs material on one project, are they considered a material supplier or a prime contractor/subcontractor?

Per the supplier definition referenced in Section I of this manual (Section 101 in the CDOT Specification), "...If an entity, in addition to being engaged in the activities specified in paragraph C of this definition, also engages in other construction, prosecution, completion, or repair on the site of the work, then this entity is not a supplier but a contractor." If a firm does any work on a project outside of the delivery of material, that firm is acting as a prime contractor/subcontractor and is responsible for all requirements therein.

9. Can the firm referenced in question number eight, that sometimes performs functions related to both selling material supplies and installing material (and is considered a prime contractor/subcontractor), be considered a material supplier on the next project when their only scope of work is to sell and deliver material (no installation, etc.)?

Yes, because it is established that if an entity is acting as a contractor on one project, it does **not** result in the dynamic that they must always perform in that one capacity. Therefore, a firm that functions as a prime contractor/subcontractor on one project can act as a supplier on another project, depending on what the entity is engaged in.

10. Once it has been established on a project that a firm is acting as a prime contractor/subcontractor, can that entity be re-evaluated as a material supplier if they provide additional (different) material that is not installed?

For example, a Firm #1 is providing the asphalt and laying that asphalt on a project, but then they provide concrete that Firm #2 will be installing. Would Firm #1 be considered a contractor for the asphalt material and a supplier for the concrete material?

No. If an entity contracts to deliver two types of material and provides installation or other construction work onsite, it would not be true that their, "... only obligation for work on the contract/ project is for the delivery of materials." Their obligations are to deliver two types of materials **and** to perform construction. Therefore, Firm #1 would be considered a contractor for the duration of the project.

IV. Miscellaneous

1. Does a truck driver have to complete certified payroll for every CDOT job?

No. The certified payroll reporting requirements are based on the role of the truck driver. (See Sections I and II for help in determining the role.) Prime contractor/subcontractor truck drivers must complete certified payroll when hauling on the SoW. (See Section III, questions 5 and 6). Those determined to be material supplier truck drivers are not subject to DBRA, and therefore are not required to submit certified payroll.

2. Is certified payroll reporting required for owner-operators of trucks?

It depends. DOL has an enforcement position with respect to **bona fide** owner-operators of trucks -- an owner-operator is a person who owns and drives their own truck. The first step is to identify the role that the trucker owner-operator is performing. (See Sections I and II for help in determining the role.) If it is determined that the trucker owner-operator is a supplier, certified payroll is not required as they are not subject to DBRA. For those trucker owner-operators that are considered subcontractors, and are hauling on site more than a **de minimis** amount of time, certified payrolls are required by DBRA.

For trucker owner-operators completing certified payrolls, this requirement mandates:

- a) The full name of the owner-operator within LCPtracker.
- b) The selection of the owner-operator status within LCPtracker
- c) The attachment of the Contractor Fringe Benefit Statement (CFBS), Owner-Operator Affidavit, driver's license, and truck registration in LCPtracker e-documents.
- d) The entry of the check number and payment date within LCPtracker.

Trucker owner-operators will not need to include the hours worked, nor the rates paid, within LCPtracker. Truck drivers who are independent (and are not another contractor's employee) cannot be listed on any other contractor's payroll, and they must report payroll (and other obligations) independently. Either the truck drivers are independent owner-operators who fall under the contractor or material supplier role (as outlined in Sections I and II), or they are employees; they are not both.

These exemptions **do not** apply to any trucking employees under a trucker owner-operator. Additionally, this position does not apply to owner-operators of other equipment such as bulldozers, cranes, etc.

3. What are the certified payroll reporting requirements for a 1099 truck driver?

The first step is to identify the role that the 1099 truck driver is performing. (See Sections I and II of this manual for help in determining the role.) If the 1099 driver is considered a contractor or subcontractor, certified payroll requirements apply. A 1099 driver is never considered a W-2 employee, and therefore, they are responsible for submitting their own certified payroll in LCPTracker. As stated above, if it is determined that the 1099 truck driver is a supplier, certified payroll is not required as they are not subject to DBRA.

4. How does DBE counting work for trucking for those operating in a subcontractor (including 1099) or supplier role?

With respect to trucking, the DBE trucking firm must own and operate at least one (1) fully licensed, insured, and operational truck used on the contract in order to perform a Commercial Useful Function(CUF). Additionally, the DBE trucking firm must be responsible for the management and supervision of their entire trucking operation on the contract. Work, by a DBE trucking firm, will count as eligible participation **only** if the work was performed as follows:

- (i.) with trucks owned and insured by the DBE trucking firm, and those trucks were operated by drivers employed by the trucking firm, or
- (ii.) with trucks leased by the DBE trucking firm from another DBE firm, including owner/operators who are certified DBEs. The DBE who leases trucks from another DBE receives credit for the transportation services that the lessee DBE provides on the contract.

When a DBE is a material supplier (whose contract total includes the delivery of the material), CDOT will count eligible DBE participation based on the classification of the material supplier, without regard to whomever is delivering the material (employee of supplier, DBE trucking firm, or non-DBE trucking firm):

- Manufacturer -- 100% of the cost of material supplies
- Regular Dealer -- 60% of the cost of material supplies (non-manufacturer supplier)
- Broker -- Only the reasonable brokerage fee

Appendix A Contractor Reference Tables

Contractor Reference Information Potential Impact to DBE Program	
Subcontractor	Subcontractor work generally counts as 100% DBE participation if the Subcontractor performs work for which it is certified.
Supplier	Only count work performed by the DBE towards the goal if the supplier is certified for that work. This definition accounts for a manufacturer which would count for 100% participation. It does not account for regular dealers and brokers who will only count for a portion of the firm's participation (60% for regular dealers and only commission fees for brokers). Regular dealers provide supplies to a project but do not manufacture and/or produce goods. Brokers are third-party facilitators for a transaction involving goods.
On-Site Trucking	Count 100% DBE participation for any transportation services provided by trucks owned, insured, and operated by the DBE firm's employees.
Owner-Operators	Count 100% DBE participation for any transportation services provided by trucks owned, insured, and operated by the DBE firm's employees.
Other Contractor/Firm Types	Count cost of delivery as part of DBE participation if the supplier is a DBE.
Material Production Sites	Count cost of delivery as part of DBE participation if the supplier is a DBE.
Hired Drivers	If the trucking firm that hired the driver (either as an employee or a 1099 contractor) is a DBE certified and the driver operates the DBE firm's truck, count that participation as DBE participation.

Contract Requirement Matrix for Subcontractors & Suppliers		
Requirement	Subcontractor	Supplier
Required Form on CDOT Project	CDOT Form 205 (CDOT Specification 108.01)	CDOT Form 1425, \$10,000 threshold (CDOT Specification 106.01)
FHWA 1273	Yes, required to be physically incorporated	Yes, required to be included by reference
EEO Reporting (required if contract/agreement exceeds \$10,000)	Yes (CDOT Specification: Affirmative Action Requirements, Equal Employment Opportunity)	No (CDOT Specification: Affirmative Action Requirements, Equal Employment Opportunity)
FHWA 1391	Yes (if subcontract/agreement exceeds \$10,000)	Not required
B2GNow Account Creation	Yes (CDOT Specification 108.01)	Yes, \$10,000 threshold (CDOT Specification 106.01)
Input into B2GNow	Yes (CDOT Specification 109.06 (h))	Yes, \$10,000 threshold (CDOT Specification 109.06(h))
Prompt Payment Requirement	Yes (CDOT Specification 109.06(e))	Yes (CDOT Specification 109.06(e))

<p>Potential Impact to DBE Counting/Program</p>	<p>Depends on service provided; generally counts as 100% DBE participation if the subcontractor performs work for which it is certified.</p>	<p>Only count work performed by the DBE towards the goal if the supplier is certified for that work. This definition accounts for a manufacturer which would count for 100% participation. It does not account for regular dealers and brokers who will only count for a portion of the firm's participation (60% for regular dealers and only commission fees for brokers). Regular dealers provide supplies to a project but do not manufacture and/or produce goods. Brokers are third-party facilitators for a transaction involving goods.</p>
<p>Input into LCPTracker</p>	<p>Yes (CDOT Specification: Certified Payroll Requirements for Construction Contracts)</p>	<p>No. Supplier truck drivers are exempt from DBRA requirements. Accordingly, certified payroll is not required.</p>
<p>Certified Payroll Requirements</p>	<p>Link to information for certified payroll about subcontractors. Link to information for certified payroll about suppliers.</p>	<p>No. Supplier truck drivers are exempt from DBRA requirements. Accordingly, certified payroll is not required.</p>

Appendix B Trucking Flowchart

Trucking Flowchart

