



**Cornell R. Robertson, P.E., P.S.**

---

**FRANKLIN COUNTY ENGINEER**

**Franklin County Engineer's  
Equitable Business  
Enterprise Program for  
Locally Funded Projects**

Franklin County Engineer Cornell R. Robertson, P.E., P.S.

Revised March 4, 2021

# TABLE OF CONTENTS

Franklin County Engineer’s Letter of Commitment .....	1
Diversity & Inclusion Coordinator’s Letter of Commitment .....	2
FCEO Mission Statement .....	3
FCEO EBE Vision Statement.....	3
Non-Discrimination Requirements .....	3
How to do Business with Our Office .....	4
Consultant Selection Process and EBE Participation .....	5
Utilization Plan and Counting EBE Participation .....	6
Prompt Payment Mechanisms .....	9
Goals and Good Faith Efforts .....	10
Certification Standards.....	12
Appendix A - FCE EBE Utilization Plan Form.....	13
Appendix B - FCE EBE CUF Interview Form .....	14
Appendix C - FCE EBE Affirmation Form .....	15
Appendix D - FCE EBE Final Affidavit of Payment Form.....	19
Appendix E - FCE EBE Good Faith Efforts Form .....	20



**CORNELL R. ROBERTSON, P.E., P.S**  
**FRANKLIN COUNTY ENGINEER**

---

May 4, 2020

**Franklin County Engineer's Letter of Commitment to Diversity, Inclusion, & Equity**

As stated in our Vision Statement, The Franklin County Engineer's Office (FCEO) *"understands the importance of, and is committed to utilizing small and disadvantaged business enterprises through procurement and professional services."* On behalf of the citizens of Franklin County, I have established the Franklin County Engineer's Equitable Business Enterprise (EBE) Program for Locally Funded Projects. As The Franklin County Engineer, it is my objective that disadvantaged businesses have an equal opportunity to receive and participate in FCEO-administered contracts and procurement activities, and to promote the use of disadvantaged businesses in all types of contracts and procurement activities conducted by The Franklin County Engineer's Office.

The Franklin County Engineer's Office is responsible for the implementation of the FCE EBE program. I have designated the Diversity & Inclusion Coordinator, Simone Burley, as the Administrator of the program. Implementation of the FCE EBE program is given the same priority as complying with all other legal obligations incurred by FCEO in its financial assistance agreements. As with all things at The Franklin County Engineer's Office, we want our FCE EBE program to be a model of excellence in local government.

The Franklin County Engineer's Office has issued this policy statement to all departments of our organization. This policy will be utilized in all subsequent construction agreements with The Franklin County Engineer. Also, the FCE EBE program will be made available to all firms and organizations doing business with us upon request.

Sincerely,

Cornell R. Robertson, P.E., P.S.  
Franklin County Engineer

CRR:WFC

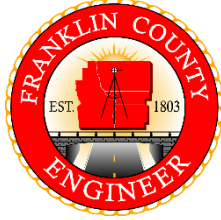
---

970 Dublin Road, Columbus, OH 43215

(614) 525-3030

Fax: (614) 525-3359

[Back to Table of Contents](#)



**CORNELL R. ROBERTSON, P.E., P.S**  
**FRANKLIN COUNTY ENGINEER**

---

May 4, 2020

**Diversity & Inclusion Coordinator's Letter of Commitment to FCE EBE Program**

The vision of the Diversity & Inclusion Department at the Franklin County Engineer's Office is to create an inclusive culture where all types of diversity are welcomed and supported, and to help foster an environment that is uplifting, encouraging and supportive so that all employees, business partners and residents of Franklin County feel valued, respected and relevant every day.

- The Franklin County Engineer's Equitable Business Program (FCE EBE) has been established to:
- (1) Foster nondiscrimination in the award of and administration of FCEO locally funded projects;
  - (2) Help remove barriers to the participation of disadvantaged businesses in FCEO locally funded projects;
  - (3) Assist the development of firms that can compete successfully in the marketplace outside of the FCE EBE program.

Equitable Business Enterprises (EBEs) can be defined as for-profit small businesses where socially and economically disadvantaged individuals own at least a 51% interest and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case by case basis based on their subjection to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

To be regarded as economically disadvantaged, an individual must have a personal net worth that does not exceed \$1.32 million. Small business size regulations can be found in Title 13 Part 121 of the Electronic Code of Federal Regulations. To be seen as a small business, a firm must meet the Small Business Administration (SBA) size criteria **and** have average annual gross receipts not to exceed \$23.98 million.

A disadvantaged business must be certified with at least one of the federal/state and/or local certifying agencies listed in this program to participate as a disadvantaged business. Any certifications with agencies not listed in this program will be reviewed for acceptance on a case by case basis.

Sincerely,

Simone Burley  
Diversity & Inclusion Coordinator

---

970 Dublin Road, Columbus, OH 43215

(614) 525-3030

Fax: (614) 525-3359

[Back to Table of Contents](#)

## **FCEO Mission Statement**

The Franklin County Engineer's Office provides for safe and efficient movement of people and goods from place to place by building and maintaining Franklin County's roads and bridges. We are an agency of action, innovation, and collaboration.

## **FCEO EBE Vision Statement**

This program is a commitment to Equitable Business Enterprises to encourage competition and provide an even playing field for all businesses. This program is designed to provide assistance to Equitable Business Enterprises and to encourage their participation in FCEO contracts and procurements.

## **Non-Discrimination Requirements**

FCEO will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract or procurement activity on the basis of race, color, sex, national origin or any other underrepresented classification. In administering its FCE EBE program, FCEO will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the FCE EBE program with respect to individuals of a particular race, color, sex, national origin or any other underrepresented classification. Underrepresented groups may be defined as a subset of a population that holds a smaller percentage within a significant subgroup than the subset holds in the general population.

[Back to Table of Contents](#)

## **How to do Business with Our Office**

### **Contracts under \$25,000**

Any contract that is under \$25,000 is awarded via an FCEO selection process, and is conducted at the discretion of the various departments within the FCEO.

- Determine which department(s) can best utilize your goods and services.
- Visit our website to obtain that department head's contact information.
- Send a copy of your W-9 to the department head.
- Send information regarding your business to the department head.
- Follow up with the department head to obtain requirements for potential business opportunities.

### **Contracts between \$25,000 and \$50,000**

Any contract that is between \$25,000 and \$50,000 must undergo a three (3) quote process and is awarded to the lowest and best quote.

- Determine which department(s) can best utilize your goods and services.
- Visit our website to obtain that department head's contact information.
- Send a copy of your W-9 to the department head.
- Send information regarding your business to the department head.
- Follow up with the department head to obtain requirements for potential business opportunities.
- Submit a quote to our office.

### **Contracts \$50,000 and up**

Any contract that is \$50,000 and up must be competitively bid through Bid Express and is awarded to the lowest and best bidder. A cooperative or state contract may be used in lieu of bidding. If you are not registered through Bid Express, please visit [www.bidexpress.com](http://www.bidexpress.com) to establish an account.

- Determine which department(s) can best utilize your goods and services.
- Visit our website to obtain that department head's contact information.
- Send a copy of your W-9 to the department head.
- Submit a Statement of Qualifications to the department head.
- For information about current or future projects, you may visit our website at [www.franklincountyengineer.org](http://www.franklincountyengineer.org) under the "Business with FCEO" tab for bid opportunities.
- Submit a bid to our office. As a reminder, you **must** be registered with Bid Express to submit your bid.

[Back to Table of Contents](#)

### **How bids are organized:**

- Title Page
- Statement of Receipt & “No Bid” Form
- Bid Data Sheet
- General Information
- Contract Terms and Conditions
- Appendices (including EBE Utilization form) [FCE EBE Utilization Plan Form.docx](#)
- Scope of Work

### **Professionals exempt from competitive bidding are:**

- Accountant
- Architect
- Attorney at Law
- Physician
- Professional Engineer
- Construction Project Manager
- Consultant
- Surveyor or Appraiser

## **Consultant Selection Process and EBE Participation**

A minimum ten percent (10%) EBE participation goal will be established on engineering and design related services agreements that have sub-consulting opportunities, as deemed appropriate by the FCEO. FCEO cannot disqualify a consultant for failing to meet the established EBE goal provided the consultant made good faith efforts to meet the participation goal. The FCEO may place in the advertisement or solicitation for engineering and design related services that the prime consultant must meet the established EBE participation goal or demonstrate good faith efforts to meet it. The firm would be required to demonstrate how it would meet the established EBE goal at the negotiation phase of the procurement process. If during the negotiation phase of the procurement process, work proposed to be performed by EBEs in the response to the solicitation is decreased or eliminated through negotiation of the scope of services, the prime consultant must use good faith efforts in revision of its proposal to provide for the participation of EBEs to meet the established EBE goal. The fact that the prime consultant could perform the work with its own forces does not relieve it from making good faith efforts to meet the established EBE goal. However, if the prime is an EBE, their EBE status can be attributed to the goal. If the selected prime consultant does not meet the goal or demonstrate a good faith effort, the FCEO may terminate negotiations and initiate negotiations with another firm.

**Selection Procedures:** Qualified consultants will be considered and selected for performing work with FCEO based on the policy and procedures outlined in the current edition of the FCEO Consultant Selection Policy.

[Back to Table of Contents](#)

## Utilization Plan and Counting EBE Participation

Each prime contractor must submit a utilization plan with the bid documents outlining any EBE subcontractors to be used on the project with the bid documents [FCE EBE Utilization Plan Form.docx](#). In addition, if the prime contractor is an EBE, a utilization plan must be submitted with the bid documents.

EBE certification does not guarantee that FCEO will count the firm's work on a project towards FCEO's FCE EBE goal. In order for services performed by an EBE to count toward the FCE EBE goal, the firm must perform a CUF (Commercially Useful Function) [FCE EBE CUF Interview Form.docx](#).

Expenditures to an EBE contractor can be counted toward EBE goals only if the EBE is performing a CUF on that contract. Considerations in determining CUFs include the following:

- (1) An EBE performs a CUF when the EBE is responsible for execution of the work and is actually performing, managing, and supervising the work involved. To perform a CUF, the EBE 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;
- (2) To determine whether a EBE is performing a CUF, FCEO will evaluate the amount of work subcontracted, industry practices, whether the amount the EBE is to be paid under the contract is commensurate with the work it is actually performing and the EBE credit claimed for its performance of the work, and other relevant factors;
- (3) FCEO must presume an EBE is not performing a CUF if the EBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to create the appearance of EBE participation. In determining whether an EBE is such an extra participant, FCEO must examine similar transactions, particularly those in which EBEs do not participate;
- (4) If an EBE does not perform or exercise responsibility for at least 30 percent of the total cost of the EBE's contract with its own workforce, or the EBE 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, FCEO must presume that the EBE is not performing a CUF. The 30% requirement does not apply to EBE trucking; and
- (5) When an EBE is presumed not to be performing a CUF as stated in paragraphs 2 and 3, the EBE may present evidence to rebut this presumption. FCEO may determine that the EBE is performing a CUF given the type of work involved and normal industry practices.

Monitoring CUF plays a vital role in the success of the FCE EBE Program. In keeping with normal contract requirements, it is the primary responsibility of the prime contractor to ensure that the EBE is performing a CUF. FCEO, as the contracting agency, has oversight responsibility to ensure that the prime contractor has effectively met this responsibility under its contract with FCEO.

[Back to Table of Contents](#)



In determining the portion of EBE work on a project that will count toward the FCE EBE goal, please refer to the bulleted list below. This list is not an exhaustive list; FCEO may request additional information from the prime contractor and/or EBE firm to determine the portions of work FCEO will count as EBE participation.

- (1) The EBE firm is performing a CUF;
- (2) The work is performed by the EBE's own workforce;
- (3) Supplies and equipment purchased or leased by the EBE are not affiliated with the prime contractor;
- (4) The cost of supplies and materials obtained by the EBE for the work is counted including purchases and leased equipment;
- (5) Reasonable fees or commissions charged by an EBE for providing a bona fide service, or for providing bonds or insurance required for performance of an FCEO contract may be counted. Examples of bona fide services include professional, technical, consultant, or managerial services; and
- (6) The work an EBE subcontracts to others is counted only if the work is subcontracted to another EBE. Work subcontracted to non-EBEs does not count.

When an EBE performs as a participant in a joint venture, EBE credit will be counted only for work that is clearly defined in the contract that the EBE performs with the EBEs own management, workforce, and equipment. All CUF rules still apply.

Considerations in determining whether an EBE trucking company is performing a CUF include the following:

- (1) The EBE will be responsible for the management and supervision of the entire trucking operation on a particular contract. An EBE is not performing a CUF under a contract if the contract is entered into for the purpose of creating the appearance of EBE participation;
- (2) The EBE must own and operate at least one fully licensed, insured, and operational truck used on the contract;
- (3) The EBE receives credit for the total value of the transportation services the EBE provides on the contract using trucks the EBE owns, insures, and operates using drivers it employs;
- (4) If an EBE leases trucks (lessor) from another EBE (lessee), including an owner-operator who is certified as an EBE, the EBE lessor receives credit for the total value of the transportation services the lessee EBE provides on the contract; and
- (5) A lease must indicate that the EBE has exclusive use of and control over the truck, including responsibility of maintenance and insurance for the truck. This does not preclude the leased truck from working for others during the term of the lease with the EBEs consent, as long as the lease gives the EBE absolute priority for use of the leased truck. Leased trucks must display the EBEs name and identification number.

FCEO will ensure no contract goal credit will be provided under either of the following conditions:

[Back to Table of Contents](#)

- (1) The subcontracted EBE firm is not certified at the time of contract award; and
- (2) Prime contractor's or consultant's payments to the certified EBEs on the project have not been paid.

The prime contractor is required to maintain and make available to FCEO, when so requested, records substantiating the performance of a CUF by an EBE contractor and supplier as part of the contractor's compliance. Contractor records, which may be reviewed to substantiate CUF, include, but are not limited to:

- Contracts, subcontracts, or rental agreements
- Delivery tickets
- Invoices
- Bills of Lading
- Lease agreements
- Hauling tickets
- Contractor's daily trucking records
- Canceled checks
- Bank records
- Equipment titles of ownership
- Material/supply agreements
- Payroll records

FCEO records which will be reviewed to confirm CUF include, but are not limited to:

- Contractual commitments
- Daily reports and project photos
- Subcontractor payments
- CUF Form and Prevailing Wage (PW) Interviews
- Payroll records
- Directory Information from affiliated certifying agency

In the assessment of a CUF, copies of invoices should be requested based on the following factors:

- (1) The EBE is a material supplier, manufacturer, or regular dealer on a project;
- (2) There is a concern that the EBE is not performing a CUF and invoices are needed for further verification.

When an EBE is presumed not to be performing a CUF, the EBE may present evidence to rebut this presumption. Decisions regarding CUF determinations are subject to review by the goal setting committee. CUF decisions are considered to be contract administration issues.

FCEO's internal monitoring system and electronic bidding system provide the conduit for contractors to submit the EBE Utilization Plan [FCE EBE Utilization Plan Form.docx](#) at time of bid and the EBE Affirmation form(s) [FCE EBE Affirmation Form.docx](#) by 5:00 p.m. on the fifth (5<sup>th</sup>) calendar day after bid opening. You **must** be registered with Bid Express to submit your bid to our office. If you are not registered through Bid Express please visit [www.bidexpress.com](http://www.bidexpress.com) to establish an account.

[Back to Table of Contents](#)

## **Prompt Payment Mechanisms**

Federal and Ohio state law require the prompt payment of subcontractors, subconsultants, subrecipients, and suppliers by the awarded prime contractor or consultant. This provision also ensures that second tier subcontractors, subconsultants, and suppliers are paid promptly. The Prime Contractor shall notify the FCEO within 30 calendar days of payment from FCEO that all subcontractors have been paid by submitting the FCEO Final Affidavit of payment form [FCE EBE Final Affidavit of Payment Form.docx](#).

### ***Prompt Payment Investigation Process***

In the event funds are unlawfully retained by a prime contractor, the subcontractor has the right to pursue their legal remedies within the terms of the contract between the prime contractor and the subcontractor.

### ***Retainage***

FCEO holds 8% of the invoiced amount of work completed up to 50% of the contract amount. Once more than 50% of the contract amount has been invoiced, the Engineer's Office holds 4% of the invoiced amount of work completed.

### ***Monitoring Payments to EBEs***

FCEO will utilize an internal monitoring system to assess payment transactions between FCEO and each project's awarded prime contractor, and the duration for the prime to in turn complete payments to its subcontractors within the allowable timeframe. FCEO will require prime contractors to maintain records and documents of payments to EBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of FCEO. This reporting requirement also extends to any certified subcontractor or subconsultant.

FCEO will perform interim audits of contract payments to EBEs. The audit will review payments to EBE subcontractors and subconsultants to ensure that the actual amount paid to EBE subcontractors or subconsultants equals or exceeds the dollar amounts stated in the EBE Utilization Plan.

[Back to Table of Contents](#)

## **Goals and Good Faith Efforts**

### ***Goal Setting***

EBE participation goals for FCEO locally funded projects will be set on a project-by-project basis. FCEO goal setting policy will be administered by a goal setting committee. The committee will consist of the following: a Chief Deputy, the Diversity & Inclusion Coordinator, the Planning & Programming Engineer, the Construction Services Engineer, the department head responsible for plan/bid development, and any other FCEO employee as deemed necessary on a project-by-project basis.

### ***Good Faith Efforts for Prime Contractors***

On FCEO projects that have an established FCE EBE contract goal, the Prime Contractor must make sufficient Good Faith Efforts (GFEs) to meet the goal. The Prime Contractor can meet this requirement in either one of two ways. The Prime Contractor can meet the required goal with sufficient EBE participation or, the Prime Contractor can document adequate GFEs to meet the FCEO EBE goal on the project. Both ways require FCEO's review and approval. FCEO's determination concerning the sufficiency of the Prime Contractor's GFEs is a judgment call and FCEO will not make the determination using quantitative formulas.

### ***Demonstration of GFEs***

A Prime Contractor must show that it took all necessary and reasonable steps to achieve an FCE EBE goal which could reasonably be expected to obtain sufficient EBE participation, even if it was not successful. The documentation should reflect that the Prime Contractor was actively and aggressively trying to obtain EBE participation sufficient to meet the FCE EBE contract goal. Mere pro forma efforts are not an acceptable demonstration of a Prime Contractor's GFEs in meeting the EBE contract goal.

### ***Documentation of GFEs***

Evidence of GFEs should include, but are not limited to, a list of names, a number of contact attempts, how firms were contacted (i.e. copies of email, letters, etc.), addresses, and telephone numbers of EBEs 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 agreements could not be reached for EBEs to perform the work. Please note that documentation provided may be subject to audit by the FCEO. The FCE EBE Good Faith Effort form [FCE EBE Good Faith Efforts Form.docx](#) must be submitted to the FCEO to document a Prime Contractor's GFEs.

[Back to Table of Contents](#)

### ***Additional Considerations***

The fact that there may be some additional costs involved in finding and using EBEs is not in itself sufficient reason for a Prime Contractor's failure to meet the contract FCE EBE goal, as long as such costs are reasonable.

The ability or desire of a Prime Contractor to perform the work of a contract with its own organization does not relieve the Prime Contractor of the responsibility to make GFE.

Prime Contractors are not required to accept higher quotes from EBEs if the price difference is excessive or unreasonable. It should be noted that excessive or unreasonable quotes will be evaluated by the FCEO on a case by case basis while reviewing the Prime Contractor's total GFEs submittal.

If a substitution or a replacement of an EBE occurs on a project, a Prime Contractor's inability to find a replacement EBE at the original price is not alone sufficient to demonstrate GFEs. Prime Contractors shall select EBE firms that are certified by one of the certifying agencies listed in the FCE EBE program, and are assigned the proper NAICS codes for the work the EBE will be performing. Conversely, EBE firms shall not commit to work that they do not have the proper NAICS codes to perform.

### ***FCEO Good Faith Effort Penalties***

- 1<sup>st</sup> Step: Letter of Reprimand
- 2<sup>nd</sup> Step: Liquidated damages equivalent to EBE shortfall
- 3<sup>rd</sup> Step: If a pattern of paying liquidated damages persists or the Contractor has falsified, misrepresented or withheld information, FCEO can pursue other remedies such as grounds for not awarding future contracts

Factors to be considered in issuing sanctions may include, but are not limited to the following:

- The magnitude and the type of offense
- The degree of the Contractor's culpability
- Any steps taken to rectify the situation
- The Contractor's record of performance on other projects including, but not limited to:
  - Annual EBE participation
  - Annual EBE participation on projects without goals
  - The number of complaints the FCEO has received regarding the Contractor
  - The number of times the Contractor has previously been penalized by the FCEO

[Back to Table of Contents](#)

## **Certification Standards**

The FCE EBE Program will accept certifications from the agencies listed below. Verification of certification must be submitted with the bid documents. If certification is set to expire before project completion, verification of certification renewal must be submitted prior to the expiration deadline.

### ***Franklin County Engineer's Office EBE Certifying Agencies:***

#### **8(a) BUSINESS DEVELOPMENT (SBA):**

[www.sba.gov/oh/columbus](http://www.sba.gov/oh/columbus)

#### **City of Columbus (MBE, WBE):**

<https://www.columbus.gov/odi/supplier-diversity/Business-Certifications/>

#### **Columbus City Schools (LEDE):**

<http://www.ccsch.us/vendors>

#### **Ohio Department of Administrative Services (DAS): E D G E / M B E / V B E**

<http://das.ohio.gov/Divisions/EqualOpportunity/MBEEDGECertification/tabid/134/Default.aspx>

#### **Ohio Department of Transportation (ODOT) (DBE, MBE, EDGE):**

<http://www.dot.state.oh.us/Divisions/ODI/SEBE/Pages/UCP.aspx>

#### **Ohio Minority Supplier Development Council (OMSDC):**

<http://www.ohiomsc.org/for-mbes/>

#### **US Department of Veterans Affairs – Office of Small & Disadvantaged Business Utilization:**

<https://www.va.gov/osdbu/>

#### **Women's Business Enterprise National Council (WBENC):** <http://www.wbenc.org/certification>

#### **Small and Emerging Business Enterprise (“SEBE”)**

<https://bids.franklincountyohio.gov/account/register.cfm>

[Back to Table of Contents](#)

# Appendix A - FCE EBE Utilization Plan Form

## FCE EBE Utilization Plan Document

A completed Bidder's FCE EBE Utilization Plan Document of good faith efforts must accompany the Bid Form or the signed Contract.

\_\_\_\_\_ ("Bidder") submits the following information regarding its level of EBE Participation:

List all EBE subcontractors and suppliers, EBE status, services and materials provided, with contract amounts that Bidder will use for its work on the Project. EBE requirements for EBE certification policy can be obtained from the FCE EBE Program.

Certifying Agency - the contractor will state whether the EBE received a certification from a political subdivision or self-certified.

Name of EBE Subcontractor	Certifying Status: (DBE, MBE, EDGE, LEDE, VBE, WBE, WBENC)	Certifying Agency	Services / Materials	Contract / Subcontract Amount
1.				\$
2.				\$
3.				\$
4.				\$
5.				\$
		<b>A. TOTAL AMOUNT OF EBE CONTRACT / SUBCONTRACTS</b>		\$
		<b>B. TOTAL BID</b>		\$
		<b>PERCENTAGE OF DIVERSITY PARTICIPATION (A ÷ B x 100)</b>		%

The undersigned will immediately notify the Owner in the event that any of the information provided in this EBE Utilization Plan Document changes in any material way.

"BIDDER"

By: \_\_\_\_\_

Print Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

(continue list on additional sheets of paper if necessary)

[Back to Table of Contents](#)

## Appendix B - FCE EBE CUF Interview Form



### COMMERCIALLY USEFUL FUNCTION (CUF) PROJECT SITE REVIEW

<p><b>CUF FORM</b> Per 49 CFR 26.55, "An equitable business enterprise (EBE) 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... An EBE does not perform a CUF 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 EBE participation..." This form is for the purposes of reviewing EBEs for compliance with the CUF requirements for credit. Field personnel will perform CUF reviews on EBE subcontractors. Perform a review for each EBE on a FCEO locally funded construction project. The review should be conducted when the EBE first begins work. Monitor compliance through the course of the project.</p>		
<p><b>Project No.:</b>  <b>County:</b>  <b>Prime Contractor:</b>  <b>EBE Superintendent/Foreman:</b>  <b>EBE Start Date:</b></p>	<p><b>FCEO Reviewer:</b>  <b>Reviewer Title:</b>  <b>Review Date:</b>  <b>EBE Anticipated Completion Date:</b></p>	
<p><b>EBE Name:</b></p>		
<p>Provide a brief description of the EBE's scope of work:</p>		
<p><u>Supervision</u>                  Does the EBE have a superintendent/foreman on project?                  Does the superintendent/foreman work exclusively for the EBE?                  If not, who does he/she work for?                  Who does the superintendent/foreman report to?</p>	<p>Yes</p>	<p>No</p>
<p><u>Employees</u>                  Does the EBE have employees on the job?                  Who assigns work to them?                  What is the name of the company that pays the EBE's employees?</p>	<p>Yes</p>	<p>No</p>
<p><u>Performance</u>                  Has any other contractor performed any of the EBE's work?                  If yes, who and what work items?</p>	<p>Yes</p>	<p>No</p>
<p><u>Equipment</u>                  Whose name appears on the equipment?                  Does EBE own or lease equipment?                  Does EBE use prime contractor's equipment?</p>	<p>Yes</p>	<p>No</p>
<p><u>CUF</u>                  Does it appear the EBE is performing a CUF?                  If EBE is <u>not</u> performing a CUF, contact the FCEO Planning &amp; Programming Department at 614-525-2438.</p>	<p>Yes</p>	<p>No</p>
<p><u>COMMENTS:</u></p>		

FCEO CUF Form

[Back to Table of Contents](#)



## Appendix C - FCE EBE Affirmation Form

### FCE EBE AFFIRMATION FORM FOR FCEO LOCALLY FUNDED PROJECTS

Instructions: Complete one form for each EBE firm on the project (whether being used toward the goal or not). Please scan each completed form, which must include the EBE's signature or other acceptable written affirmation\*, and email to the prevailing wage coordinator [rmccown@franklincountvengineer.org](mailto:rmccown@franklincountvengineer.org) by 5:00PM on the 5<sup>th</sup> calendar day after bid opening. The FCEO's office will notify the appropriate parties when the affirmation(s) are approved.

#### GENERAL INFORMATION

Project Name	Letting Date	EBE Goal %	Prime Bidder's Firm	Bid Amount	Prime Bidder's Contact E-mail

#### APPARENT LOW BIDDER MUST COMPLETE THIS SECTION

EBE FIRM	CONTACT PERSON	PHONE NUMBER
CHECK THE APPROPRIATE BOX: <input type="checkbox"/> SUBCONTRACTOR <input type="checkbox"/> TRUCKING <input type="checkbox"/> SUPPLIER - MANUFACTURER (EBE MSV) <input type="checkbox"/> SUPPLIER - REGULAR DEALER (EBE MSV) <input type="checkbox"/> SUPPLIER - BROKER (EBE MSV) <input type="checkbox"/> CONSULTANT <input type="checkbox"/> SERVICE <input type="checkbox"/> OTHER _____	<b>DESCRIPTION OF WORK TO BE PERFORMED BY EBE (IF TRUCKING, PLEASE COMPLETE ADDITIONAL QUESTIONS BELOW)</b> _____ _____ _____ _____ _____ _____ _____	
	<b>TRUCKING QUESTIONNAIRE</b> 1. Please provide the commodity or commodities to be trucked; Also, will the EBE be purchasing this commodity (please note "yes" or "no" for each item listed)?  2. Please provide the "to" and "from" locations (i.e. from asphalt plant to the project site)	
_____ % OF WORK TO BE SELF-PERFORMED BY THE EBE FIRM ABOVE	    	

### FCE EBE AFFIRMATION FORM FOR FCEO LOCALLY FUNDED PROJECTS

<p>_____ % OF WORK TO BE SUBCONTRACTED TO ANOTHER EBE FIRM FROM EBE FIRM LISTED</p> <p><small>Note: a copy of the subcontract agreement will be required post award but prior to the start of work</small></p>	<p>3. Please provide the estimated quantity of material to be trucked by listed firm for each item.</p>
<p>_____ % OF WORK TO BE SUBCONTRACTED TO A NON-EBE FIRM</p> <p><small>Note: work subcontracted to a non-EBE firm will not count as participation toward the project EBE goal</small></p>	<p>4. Please provide estimated number of trucks required to transport the material listed above.</p>
<p>Will this EBE be used for the FCE EBE goal?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, what \$ amount of the agreement is intended to be used toward the FCE EBE goal? \$ _____</p>	<p>TOTAL AGREEMENT \$ _____</p> <p>CREDIT- up to 100% for an approved EBE Materials and Supplies Vendor (MSV) \$ _____ (EBE Supplier questions must be completed)</p>

**EBE FIRM MUST COMPLETE THIS SECTION**

<p><b>TO BE ANSWERED BY EBE MATERIALS AND SUPPLIES VENDORS (EBE MSVs) ONLY:</b></p> <p>1.) Please list the materials/supplies to be fulfilled by your firm and/or attach the quote provided by your firm for review.</p> <p>2.) Is your firm certified with one of the FCEO's approved certifying agencies? If yes, list name of agency.</p> <p>3.) Is your firm manufacturing <u>all</u> of the materials/supplies in fulfillment of your subcontract? (If yes, skip ahead to the Certification of EBE section.)</p> <p><b>THE FOLLOWING QUESTIONS PERTAIN TO MATERIALS/SUPPLIES <u>NOT</u> MANUFACTURED BY YOUR FIRM:</b></p> <p>4.) Does your firm engage, as its principal business and under its own name, in the purchase and sale or lease of the materials/supplies in question?</p>
--

## FCE EBE AFFIRMATION FORM FOR FCEO LOCALLY FUNDED PROJECTS

- 5.) Does your firm own, operate, or maintain a store, warehouse, or other establishment in which the materials/supplies of the general character described by the specifications and required under your subcontract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business?

If you answered "no" to question #5, skip to question #7.

- 6.) For this subcontract, will the specific materials/supplies in question be picked from your stock, and are such items kept in stock and regularly sold or leased to the public in the usual course of business?

- 7.) Will your firm deliver the materials/supplies in question?

If you answered "no" to question #7, skip ahead to the Certification of EBE section.

- 8.) Will your firm deliver the materials/supplies in question with trucks and other distribution equipment it both owns and operates with its own employees?

If you answered "yes" to question #8, skip ahead to the Certification of EBE section.

- 9.) Will the materials/equipment/supplies be drop-shipped or shipped by a 3<sup>rd</sup> party carrier from your location?

If the answer to question #9 is "yes":

a) If drop-shipped, what is your commission/mark-up?

b) If a 3<sup>rd</sup> party carrier, what is the cost of this service?

## FCE EBE AFFIRMATION FORM FOR FCEO LOCALLY FUNDED PROJECTS

### CERTIFICATION OF EBE\*

I am an EBE certified by one of the FCEO's certifying agencies. I hereby certify that as an EBE, I quoted the above price and type of work and that all information contained in this form is true and accurate to the best of my knowledge.

Signature of EBE: \_\_\_\_\_

*(Signature and Job Title of Company Official)*

Date: \_\_\_\_\_ (mm/dd/yyyy)

# Appendix D - FCE EBE Final Affidavit of Payment Form



## FRANKLIN COUNTY ENGINEER'S OFFICE FINAL AFFIDAVIT OF EBE SUBCONTRACTOR PAYMENT

The affidavit seeks to verify actual payments made to EBE firms on the project. Each EBE firm must verify the actual payment amount. Submission of the Affidavit is the responsibility of the Prime Contractor.

Project Name \_\_\_\_\_  
Prime Company Name \_\_\_\_\_  
EBE Sub-Subcontractor \_\_\_\_\_

Check the box(s) that apply:

- |  |              |
|--|--------------|
| <input type="checkbox"/> Pay Estimate #1 | Amount _____ |
| <input type="checkbox"/> Pay Estimate #2 | Amount _____ |
| <input type="checkbox"/> Pay Estimate #3 | Amount _____ |
| <input type="checkbox"/> Pay Estimate #4 | Amount _____ |
| <input type="checkbox"/> Pay Estimate #5 | Amount _____ |

Final affidavits for each EBE firm must be submitted within 30 calendar days of payment from FCEO.

Total/Final Payment \_\_\_\_\_ All amounts indicated must be cumulative.

By signing below, the noted firms agree that the payment amounts recorded above are true and accurate as noted above. Furthermore, by signing, the noted firms attest to the fact that the EBE firm listed above has abided by all requirements of the EBE Program.

<p>_____ <b>Prime's Signature/Title</b></p> <p><b>NOTE: This affidavit must be notarized.</b> Sworn or affirmed and subscribed before me this _____ day of _____ 20____</p> <p>Notary Signature _____</p>
---

<p>_____ <b>(If applicable) EBE Sub-subcontractor Signature/Title</b></p> <p><b>NOTE: This affidavit must be notarized.</b> Sworn or affirmed and subscribed before me this _____ day of _____ 20____</p> <p>Notary Signature _____</p>
---

Please mail original, completed and signed form to: FCEO Construction Department, 970 Dublin Road, Columbus, OH 43215.

FCEO Final Affidavit of Payment  
Revised - 03/2021

[Back to Table of Contents](#)

## Appendix E - FCE EBE Good Faith Efforts Form

### Good Faith Efforts

<b>Date:</b>	<b>Authorized Representative:</b>		
<b>Prime Contractor</b>			
<b>FCEO Project Number</b>			
<b>FCEO Project Manager</b>			
<b>Original Contract Amount</b>			
<b>EBE Goal Percentage</b>			
<b>EBE Goal Amount</b>			
<b>EBE Shortfall</b>			

<b>ORIGINAL APPROVED EBE PLAN</b>	
<b>EBE Subcontractor</b>	<b>Amount</b>
	\$
	\$
	\$
	\$
	\$
<b>Total EBE Plan</b>	\$

<b>Project Description</b>	
<b>Work Begin Date</b>	
<b>Substantial Work Completion Date</b>	

<b>Reason for Shortfall</b>
*           

\*Provide explanation for shortfall including dates of notifications (i.e. work non-performed, quantities estimated vs actual, plan changes etc.).

[Back to Table of Contents](#)

<b>Good Faith Efforts</b>		
**		
<b>Subcontractor Contacted</b>	<b>Amount/Date of Bid</b>	<b>Work Items</b>
***		
***		
***		
***		
***		
***		
***		

\*\* Provide a description of overall Good Faith Efforts to mitigate shortfall.

\*\*\*Provide explanation of why the replacement firm (EBE, Non-EBE, or Self Performance) was/was not used in the spaces provided. If unable to reach the EBE firm, detail how you attempted to reach the EBE firm and the number of times you attempted to reach the EBE firm.

<b>Summary</b>

Please attach appropriate documentation (i.e. e-mail chains, letters of non-acceptance, phone logs, copies of replacement subcontracts, etc.) of the Good Faith Efforts listed above.

[Back to Table of Contents](#)