

8-2 Determine if Firm will be Performing as a Subcontractor (Form 205) or Supplier (Form 1425) (Prime Contractor)



Details

Responsible Parties

- Prime Contractor

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Procedure Objective

This document is intended to assist the Prime Contractor with how to determine if a firm is performing on the contract as a subcontractor or a supplier.

System Procedures

1. Follow steps 2-5 of this process guide to determine if a firm is a subcontractor or supplier for all types of firms EXCEPT truck drivers. Follow steps 7-10 to determine if a truck driver is a subcontractor or supplier truck driver.
2. According to the CDOT Standard Specifications for Road and Bridge Construction, Section 101.02, the subcontractor definition is as follows:

Subcontractor. An individual, firm, corporation, or other legal entity at any tier to whom the Contractor sublets part of the Contract. A subcontractor shall include an individual, firm, corporation, or other legal entity 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 per 29 CFR 5.2 Site of Work (1)(i)(ii)(iii).

(b) Performs work that is incorporated within the project limits.

3. If the entity fits the subcontractor definition outlined in step one above, the Prime Contractor shall complete a CDOT Form 205 for this company once it has knowledge of a formal, executed subcontract or service agreement for the work.
4. According to the CDOT Standard Specifications for Road and Bridge Construction, Section 101.02, the supplier definition is as follows:

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 site of work.

(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 contract's 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 (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.

5. If the entity fits the supplier definition outlined in step 4 of this process guide and there is a written agreement that exceeds \$10,000, the Prime Contractor shall complete a CDOT Form 1425.

Note: This analysis is required for all first-tier subcontractors/suppliers as well as all lower-tier subcontractors and suppliers.

6. Follow steps 7-10 of this process guide to determine if a truck driver is considered a subcontractor or supplier.

7. According to the [CDOT Trucking Compliance Resource Guide for Preliminary Injunction \(2025\)](#), a trucking firm is a subcontractor are those that:

- Haul material onsite to onsite
- Perform work ("construction, prosecution, completion, or repair") on the site of work.
- Haul material off of the project solely (no offsite delivery work is conducted by the truck driver).

8. If the trucking firm fits the subcontractor definition outlined in step one above, the Prime Contractor shall complete a CDOT Form 205 for this company once it has knowledge of a formal, executed subcontract or other written agreement for the work.

9. According to the CDOT Trucking Compliance Resource Guide for Preliminary Injunction (2025), a trucking firm is a supplier are those that:

- Engage in offsite delivery work.

Note: See the [CDOT Trucking Compliance Resource Guide for Preliminary Injunction \(2025\)](#) for the definition of offsite delivery work.

10. If the trucking firm fits the supplier definition outlined in step 9 of this process guide and there is a written agreement that exceeds \$10,000, the Prime Contractor shall complete a CDOT Form 1425.
11. The Prime Contractor has successfully determined if a company will be performing as a subcontractor or a supplier on a contract.