



## Rethinking DBE for Design Build

### EDC-7 State of the Practice/ Implementation Plan Form

Below are the EDC-7 progress report questions and schedule.

Report	Reporting Period	Due from Division Offices
<a href="#">Baseline Report</a> #1	Current status as of April 2023	COMPLETED!
Progress Report #2	May 2023 through April 2024 (1 year)	May 17, 2024
Progress Report #3	May 2024 through October 2024 (6 months)	November 15, 2024
Final Progress Report #4	November 2024 through April 2025 (6 months)	May 16, 2025

Progress Report Questions:	
1) If there has been NO CHANGE on this innovation during this reporting period and the previous Report is still accurate, select "No Change from last Progress Report" and you do not need to complete Questions 2-5.	(Choice) <input type="checkbox"/> No Change from last Progress Report <input type="checkbox"/> Changes indicated in Progress Report Below
2) What is the State's current stage of innovation implementation?  Review your past progress report responses and the Implementation Stage Definitions on page 1.	(Choice) <input type="checkbox"/> Not Implemented <input checked="" type="checkbox"/> Development Stage <input type="checkbox"/> Demonstration Stage <input type="checkbox"/> Assessment Stage <input type="checkbox"/> Institutionalized
3) Describe the State's accomplishments for this reporting period (State DOT, local agency, and transportation partners accomplishments).  -- If advanced to the next implementation stage, consider the prompt questions in the chart and explain the advancements made to support your selection.  -- Please include benefits as part of your explanation (i.e. time/cost savings, delay/crash reductions, etc.)	NCDOT is currently in between the development and demonstration stages. With Open Ended Performance Plans included as a requirement in the recent DBE Final Rule, there has been a collaboration effort between the Office of Civil Rights, the Design Build Unit, the Construction Unit and the Chief Engineer's office to develop criteria that will included on the next design build project that is advertised.
4) Describe any implementation challenges or lessons learned. Also, indicate if and how your state and transportation partners can assist others in their implementation of this innovation.	In April of 2024, USDOT invited all state and federal DOT's who are responsible for the administering the oversight of the 49 CFR, to Washington, DC to give a technical updated on the DBE Final Rule.  As of May 9th, 2024, the DBE Final Rule was codified into the 49 CFR ( Code of Federal Regulations). Included in the final rule is OEPP (Open Ended Performance Plan). OEPP



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	<p>was included into regulation and must now be added into state agency's business practices.</p> <p>The new guidance from USDOT and upcoming Design Build Projects in our STIP has impacted our timeline to implementation of EDC-7. The teams are currently meeting bi-weekly to discuss NCDOT fulfillment of the new OEPP regulation.</p>
5) Describe any additional assistance needed by your state or partners.	<i>(open discussion)</i>



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*The below table is meant to provide a means to define the implementation stages that will be used throughout the 2-years of EDC-7 deployment. These definitions are used when capturing your baseline, progress, and final reports for each of the innovations and were developed to provide consistency between states in measuring the deployment progress of an innovation.*

<b>Innovation Implementation Stage Definitions</b>  <i>*State is all-inclusive (e.g., state transportation agency, local municipalities, contractors, consultants)</i>	<b>Guidance Questions</b>  Prompt questions to help assess your current state of practice.  <b>NOTE: Not all questions have to be affirmatively answered to meet any given stage; judgment is required; call the Deployment Team w/ questions.</b>
<b>Not Implemented:</b>  The State is not implementing this innovation.	Has the State decided to not implement this innovation because: <ul style="list-style-type: none"><li>• The STA does not have legislation to use for design-build contracting?</li><li>• The STA implements the DBE program as Race Neutral?</li><li>• The STA does not have the resources (human, financial, or technological) to implement the innovation?</li><li>• The STA is not interested in learning more about this innovation at this time.</li><li>• The STA has concerns about open ended performance plans compliance with the federal DBE regulations?</li></ul>
<b>Development Stage:</b>  The State uses or plans to use DB contracting on their Federal-aid projects and operates a DBE race-conscious program but is not familiar with or, has not considered DBE open ended performance plans as a means of proposer commitment to the DBE goal.	<ul style="list-style-type: none"><li>• Does the State have an implementation champion or team?</li><li>• Does the State have an upcoming DB project?</li><li>• If the STA does not currently have legislation for DB contracting (or does but doesn't use DB on Fed-aid projects), is the State planning to enact legislation (or use on Fed-aid projects) for DB contracting?</li><li>• Is the State interested in learning about DBE open ended performance plans?</li><li>• Is the State willing to build support with external stakeholders (e.g., contractors, DBE community) for the use of this innovation?</li></ul>
<b>Demonstration Stage:</b>  The State has an upcoming Design-Build project and is interested in piloting an Open-Ended Performance Plan (OEPP).	<ul style="list-style-type: none"><li>• Is the State willing to implement a DBE open-ended performance plan on a DB project?</li><li>• Is the State's DBE team working closely with the Office(s) of DB project development?</li><li>• Does the State's leadership support a close working relationship between the Office of Civil Rights (DBE</li></ul>



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	<p>team) and other agency offices and consultant teams that develop, execute, and award DB projects?</p> <ul style="list-style-type: none"><li>• Has the State applied for, or received, grant funding (e.g., STIC, AID Demo) to pilot tools and techniques related to this innovation?</li></ul>
<b>Assessment Stage:</b>  The State* has used Open Ended Performance Plans on one or more DB projects and is interested in evaluating their process and procedures.	<ul style="list-style-type: none"><li>• Is the State considering OEPP as a standard practice in DB project development?</li><li>• Is the State ready to develop a draft template of contract language for to adopt the OEPP in the RFP for DB projects?</li><li>• Has the State collected feedback from stakeholders such as contractors and the DBE community on the implementation of the OEPP?</li><li>• Does the State plan to incorporate this innovation into their design manuals, standard details, contract language, guidance, or policies?</li></ul>
<b>Institutionalized:</b>  The state has adopted the innovation as a standard practice and uses it regularly on projects.	<ul style="list-style-type: none"><li>• Has the State successfully integrated all aspects of DBE OEPP on their DB projects (ITP, Evaluation criteria, Monitoring post award) in manuals, procedures, contract specifications?</li><li>• Is the State monitoring the institutionalized language and execution of OEPP to improve language in design manuals, contract provisions, specifications?</li><li>• Is the State consistently letting projects that use this innovation on a regular basis?</li></ul>

#### Deployment Team Contact Information

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