



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JOSH STEIN
GOVERNOR

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SECRETARY

DATE: November 10, 2025

TO: NCDOT Divisions and All Federal-Aid Subrecipients (Transit, Aviation, and Local Governments)

FROM: Chris Peoples, P.E., Chief Operating Officer 

SUBJECT: Updated Guidance – DBE Interim Final Rule Implementation

On October 6, 2025, the North Carolina Department of Transportation (NCDOT) issued initial guidance regarding implementation of the U.S. Department of Transportation's (USDOT) Interim Final Rule (IFR) modifying the certification, compliance, and reporting requirements of the Disadvantaged Business Enterprise (DBE) program. Following publication of the IFR in the Federal Register on October 3, 2025, USDOT has since provided additional clarification through a Frequently Asked Questions (FAQ) document and direct communications with state recipients. This updated memorandum incorporates that new federal guidance and provides further direction on the administration of existing and future transportation contracts during the reevaluation period. This guidance applies to recipients of federal transportation funds, including NCDOT and all subrecipients such as transit agencies, airports and local governments and by extension State-funded transportation projects governed by N.C.G.S. § 136-28.4.

The full IFR and FAQ document can be found here:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-laws-policy-and-guidance>

1. GUIDANCE based on USDOT FAQ for Contracts Executed Prior to October 3, 2025:

- DBE contract provisions on executed federally funded contracts must continue to be enforced as written.
- MB/WBE contract provisions on executed State-funded funded contracts must continue to be enforced as written.

DBE Replacement

- All DBE/MB/WBE contract commitments made at bid time shall be honored.

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- If termination of a committed DBE is necessary for good cause, follow the DBE replacement procedures specified in the contract and obtain written approval from the Department prior to substituting or terminating the DBE.
- If replacement is authorized for good cause, no Good Faith Effort (GFE) for replacement will be required at this time.
- Contact your Area Construction Engineer.

2. NEW GUIDANCE based on USDOT FAQ for Contracts Let (bids opened) Prior to October 3, 2025, but Not Executed by October 3, 2025:

The October 6, 2025, NCDOT guidance focused on the contract *award* date as the benchmark for determining how to handle contract goals and commitments. The new guidance emphasizes the contract *execution* date. To clarify, even if award letter was issued prior to October 3, 2025, if the contract was not *executed* prior to October 3, 2025, the following actions should be taken:

- DBE contract provisions on federally funded projects should have the contract goals removed.
- MB/WBE contract provisions on state funded projects should have the contract goals removed.
- For both categories of projects, re-advertisement will not be required. Upon contract execution, a supplemental agreement will be executed with the contractor that removes the contract goals and commitment requirements.

DBE Replacement

- With goals and commitment requirements removed by supplemental agreement, DBE Replacement will not be required.

3. NEW GUIDANCE: Contracts Advertised prior to October 3, 2025, but project not Let (bids not opened):

- DBE goals must be removed from federally funded projects currently advertised for letting. Divisions and subrecipients should coordinate with their respective procurement offices to issue addenda or bidder notifications as needed.
- MB/WBE goals must be removed from State-funded projects currently advertised for letting. Divisions and subrecipients should coordinate with their respective procurement offices to issue addenda or bidder notifications as needed

DBE Replacement

- With goals and commitment requirements removed by supplemental agreement, DBE Replacement will not be required.

4. NEW GUIDANCE: Contracts with Let date (bids opened) After October 3, 2025, with DBE/MB/WBE Goals:

The October 6, 2025, NCDOT guidance did not address this scenario, however it has come to our attention that there are projects that fall into this category.

- Any federally funded or state funded projects with DBE or MB/WBE goals where bids were opened after October 3, 2025, should be re-advertised with contract goals removed.

5. GUIDANCE: Future Projects; Not Advertised:

No changes from the October 6, 2025, NCDOT guidance:

- No DBE goals may be established for future federally funded contracts until further guidance is provided.
- No MB/WBE goals may be established for future State-funded contracts until further guidance is provided.

ADDITIONAL NEW GUIDANCE (applicable to all contract categories identified above):

- **Commercially Useful Function (CUF)**
 - CUF compliance evaluations are suspended until further notice.
 - Resident Engineer (RE) staff are not required to monitor DBE utilization in trucking. No trucking or hauling plan is required.
- **Subcontractor Payment Tracking**
 - NCDOT will continue to track subcontractor payments on all projects.
 - Contractors must continue to enter payments into the Subcontractor Payment Tracking System, and RE staff must continue to review them.
 - While only DBE subcontractor payments are required, contractors are encouraged to enter payments for all subcontractors into the Subcontractor Payment Tracking System.
- **DBE Supportive Services**
 - Existing DBE certified and small firms may continue to access supportive service resources available through the Office of Civil Rights.
- **Alternative Delivery Contracts & Work Packages**
 - Design Build – Follow guidelines listed above.
 - Express Design Build – Follow guidelines listed above.
 - Construction Manager/General Contractor – Follow guidelines listed above.
 - Progressive Design-Build – Follow guidelines listed above.

- **Locally Administered Projects and other federally funded projects (Non-DOT Let)**
 - Follow guidelines listed above.

NCDOT remains committed to ensuring compliance with USDOT's DBE program requirements and will continue to issue updates as additional federal guidance becomes available.

For questions, please contact:

DBE Certification/ Supportive Services:

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