

DBE/WBE/MBE Guidance

1. Project Formulation and Funding

The Table below lists goal requirements for different project types and funding types. It also specifies when to submit the AV-508, AV-509/510 based upon these criteria. After the sponsor has determined that they need to a DBE/MBE/WBE goal from this table, proceed to Section II for information on goal setting. If the sponsor needs assistance in determining if a goal is required for their project, they should work with their assigned Airport Project Manager (APM) for guidance.

	<u>AV-508</u>	<u>AV-509/510</u>
	DBE/MBE/WBE Prebid Goal Notification and Certification	DBE/MBE/WBE Vendor Commitments/Awards/Payments
Professional Services- Design, CA, RPR (A102, A103, A104, A105)		
No goal is required for projects containing ONLY professional services	<u>Due:</u> at RFA <u>Goal:</u> enter "N/A" Signed by Sponsor	<u>Due:</u> at RFA (does not need to be resubmitted with reimbursement requests) <u>Enter:</u> "N/A" and signed by Sponsor
Construction and Project Improvement Costs included (A-106) -- DBE goals are required on all projects where an airport is spending more than \$250K of federal funds in the FY. MWBE goals are required for all State funded projects that exceed \$100K. Any project that combines funds (state/federal) should be reviewed for DBE goal. This description would just leave us with the guidance for total and phase awards.		
Federal Funding- project total < \$250,000	<u>Due:</u> at RFA <u>Goal:</u> enter "N/A" Signed by Sponsor	<u>Due:</u> at RFA (does not need to be resubmitted with reimbursement requests) <u>Enter:</u> "N/A" and signed by Sponsor
Federal Funding- project total > \$250,000	<u>Due:</u> at RFA <u>Goal:</u> DBE Goal Required Signed by Sponsor	<u>Due:</u> with every reimbursement request* <u>Complete</u> and signed by Payor and Sponsor
State Funding- project total >\$100,000	<u>Due:</u> at RFA <u>Goal:</u> MBE, WBE Required Signed by Sponsor	<u>Due:</u> with every reimbursement request* <u>Complete</u> and signed by Payor and Sponsor
Combination Funding: Awarded with both State and Federal Funds Project total >\$250,000	<u>Due:</u> at RFA <u>Goal:</u> DBE Goal Required Signed by Sponsor	<u>Due:</u> with every reimbursement request* <u>Complete</u> and signed by Payor and Sponsor
Combination Funding: Awarded with both State and Federal Funds Project total <\$250,000	<u>Due:</u> at RFA <u>Goal:</u> MBE, WBE Required (Reviewed for DBE goal) Signed by Sponsor	<u>Due:</u> with every reimbursement request* <u>Complete</u> and signed by Payor and Sponsor
For Total Awards or Phased Awards	<u>Due:</u> at RFA; resubmitted when goals have been determined (when design is at a minimum 60% (preferred 90%) complete) <u>For RFA:</u> enter "TBD" , Sign by Sponsor <u>After goals determined:</u> enter goal, sign by sponsor	<u>Due:</u> at RFA, resubmitted when goals have been determined (when design is at a minimum 60% (preferred 90%) complete) <u>For RFA:</u> enter "TBD" , Sign by Sponsor <u>After goals determined:</u> submit with every subsequent pay request*

*For Professional Services that are not using a minority consultant, use "N/A" on both the AV-508 and the AV509-510. For Construction, the goal should be an actual percentage (even if 0%) or "TBD" but can never be "N/A".

Definitions:

RFA: Request for Aid OCR: Office of Civil Rights
Payor: Prime Contractor performing work APM: Airport Project Manager

2. DBE/MBE/WBE Goal Setting

NCDOT is responsible for all goal setting. A detailed cost estimate is required to provide information to set goals. Design should be far enough such that no major quantity changes are anticipated (minimum 60% design, prefer 90% design). Submit the detailed cost estimate to the Airport Project Manager (APM) for review and processing by the Office of Civil Rights (OCR).

3. DBE/MBE/WBE Goal Advertising

The [AV-508](#) Pre-bid form must be completed, signed and returned to NCDOT via EBS during the submission of the Request for Aid (RFA). If the project contains Construction costs, a copy of the bid advertisement reflecting the approved goal for the project shall also be submitted with the appropriate claim. The bid advertisement must contain a notarized affidavit with the actual advertisement attached.

4. DBE/MBE/WBE Special Provisions and Certifications

The Airport Sponsor/Engineer of Record is responsible for the Special Provisions and Certifications included in the contract documents. The contract documents must contain at a minimum the state or federal conditions and assurances related to the DBE/MBE/WBE requirements. These conditions and assurances may include:

The Federal Funds- If the project is funded with Block Grant funds, the contract document must contain the conditions contained in [49 CFR part 26](#) and the federal grant assurances attached to the grant issued for the project.

State Funds- If the project is funded with State Aid, the contract document must contain the state MBE/WBE [Special Provisions](#) SP01-G-68 and the conditions contained in the state grant assurances.

Annual audit and risk assessments serve as verification of compliance.

5. Pre-bid Meeting

For all projects that have a DBE/MBE/WBE requirement, a pre-bid meeting must be held with potential bidders. The purpose of this meeting, at a minimum, is to communicate the DBE/MBE/WBE requirements of the project including, but not limited to, the goals, special provisions, review of payment documentation, and subcontractor eligibility. The APM and OCR must be notified of the meeting in advance and be given the opportunity to attend.

6. DBE/MBE/WBE Subcontractor Certification

A DBE/MBE/WBE vendor must be [certified](#) by the NCDOT to count toward the advertised goal. Federal Assurances require prequalified contractors to perform work at airports. Prime contractors must be prequalified with NCDOT or provide Federal proof of qualification (Federal proof of qualification is only allowed on federally funded projects). To do business with NCDOT, the firm must also be [prequalified](#) with NCDOT prior to starting work. The firm is only considered if OCR certifies them, not the local government unit. To determine if the business is certified, visit the [Vendor Directory](#).

If the vendor(s) submitted to meet the goal(s) is not certified by NCDOT at the time of bid, and/or the advertised goal is not reached, the prime contractor must go through the “Good Faith Effort” review.

7. DBE/MBE/WBE Acceptance and Good Faith Effort

Upon completion of the bidding process and prior to contract award and or acceptance, the following must happen. The bid documents need to be reviewed by the sponsor and/or sponsor’s engineer to determine the most responsible, responsive bidder. The engineer shall sign and seal a certification statement that the bid tabs are correct, the contractor is pre-qualified with NCDOT, and that the MBE/WBE/DBE goals have been met. This document should be submitted to the Division of Aviation APM for review, and written concurrence from the OCR. We will be looking for the following:

- Is the DBE/MBE/WBE certified by the OCR?
- Is the DBE/MBE/WBE prequalified by the OCR?
- Were the goals met?

If all criteria have been met: The project can be concurred with and the APM’s goal confirmation can be issued. The formal Notice to Proceed (NTP) can be issued after this has occurred.

Prime contractor must be prequalified at bidding. Subcontractor(s) must be prequalified before work begins.

If vendor is not certified DBE/MBE/WBE- then the following actions need to take place:

- A good faith effort needs to be made and approved
- The award of the project can go to the next responsible lowest bidder if that DBE/MBE/WBE is certified
- The project can be rebid

If the goals were not met- then a "Good Faith Effort" will be required to be completed and approved by the OCR before the project can proceed. A good faith effort must adhere to the criteria outlined at the following web address and consultation and review with the Contractual Services office:

<https://connect.ncdot.gov/business/SmallBusiness/Pages/Utilization%20Goals.aspx>

The project cannot begin until the above conditions are satisfied.

8. DBE/MBE/WBE Payment Process

As part of the payment process, the [AV-509/510](#) form must be submitted as part of the reimbursement request. Since the AV-509/510 is completed after payment of the subcontractor, it is anticipated that the AV-509/510 submitted with a reimbursement request will reflect the payment of funds to the subcontractor from the previous request.

For Professional Services that are not using a minority consultant, use “N/A” on both the AV-508 and the AV509-510. For Construction, the goal should be an actual percentage (even if 0%) or “TBD” but can never be “N/A”.

9. Replacement of DBE/MBE/WBE

A DBE/MBE/WBE contractor cannot simply be changed and/or replaced by the Prime and/or airport. When a prime has relied on a commitment to a minority firm to meet all or part of a contract goal, the prime contractor shall not terminate the minority firm for convenience without the Engineer's written approval, based upon a finding of good cause for the termination. The Engineer of Record must provide written recommendation to replace the minority firm which is submitted to the APM via the [AV-512: DBE/MBE/WBE Replacement Form](#). The APM then works with OCR to get approval. This is true whether the prime contractor proposed to replace the minority's participation with another minority subcontractor, a non-minority subcontractor, or perform the work with the prime contractor's own forces.

All requests for replacement of a committed minority firm shall be submitted to the APM for approval on the AV-512. If the Contractor fails to follow this procedure, the Contractor may be disqualified from further bidding on any NCDOT projects for a period of up to six months. The work cannot continue until this issue is resolved per the OCR's guidance and approval.

10. Supplemental Agreements (aka Change Orders)

Supplemental Agreements for construction shall be reviewed by the APM for grant eligibility. If a supplemental agreement results in a change of the scope, a new DBE/MBE/WBE goal may be required. Consult with your APM to determine whether a new goal will be required and what steps need to be taken to revise the goal.

11. Project Close Out Documentation

As a part of the final closeout documentation for a project, the [AV509-510](#), should be submitted with the final claim to the Division of Aviation via EBS. If there is a shortfall, the [AV-514](#), DBE/MBE/WBE payment shortfall form, will need to be completed and submitted to the APM for concurrence with OCR before the closeout is requested.