



DBE MBE WBE REPLACEMENT REQUEST FORM

The North Carolina Department of Transportation (NCDOT) is committed to the participation of Disadvantaged, Minority and Woman Business Enterprises (DBE/MBE/WBE), in contracting opportunities in accordance with 49 Code of Federal Regulations (CFR).

In accordance with the Special Provisions, the Contractor shall not terminate a committed DBE/MBE/WBE subcontractor for convenience or perform the work with its own forces or those of an affiliate. Reasonable methods to resolve performance disputes must be applied. The contractor shall follow the attached Instructions for Submittal of Replacement. Replacement of a DBE/MBE/WBE without written approval from NCDOT is a violation of contract provisions and may result in the Contractor being disqualified from bidding for a period of up to 6 months.

Contract Number: _____

DBE/MBE/WBE being replaced: _____

Explanation for Replacement: _____

Subcontract Amount: _____

Amount of Subcontract Remaining: _____

Line Items: _____

If a committed DBE/MBE/WBE subcontractor is terminated for good cause as specified in the Special Provisions the Contractor will make a good faith effort to find another DBE/MBE/WBE subcontractor to substitute for the terminated DBE/MBE/WBE. These good faith efforts shall be directed at finding another DBE/MBE/WBE to perform at least the same amount of work under the contract as DBE/MBE/WBE that was terminated, to the extent needed to meet the contract goal established for the project

Replacement DBE/MBE/WBE: _____

Amount of Subcontract: _____

Line Items: _____

New Committed DBE/MBE/WBE Signature:

Date:

By signing this document, the Contractor, DBE/MBE/WBE and the NCDOT Contract Administrator acknowledges that the 5 days to respond was given, and concurs with the process of replacing the named DBE/MBE/WBE subcontractor.

Original DBE/MBE/WBE Signature

Date

Prime Contractor Signature

Date

NCDOT Contract Administrator

Date

**Upon Completion Send to: State Contractor Utilization Engineer
State Construction Engineer**

**INSTRUCTIONS FOR SUBMITTAL OF
DBE/MBE/WBE REPLACEMENT REQUEST FORM**

IN ADDITION TO SUBMITTING THIS FORM, THE CONTRACT ADMINISTRATOR MUST ENSURE THAT THE FOLLOWING STEPS ARE SATISFIED.

1. Prior to starting the replacement process, the prime contractor is responsible for coordinating with the DBE/MBE/WBE subcontractor to see if they are willing and able to perform the work as indicated in their contract. If the contractor notices a reoccurring issue with a DBE/MBE/WBE subcontractor they are to notify the Contract Administrator and keep them abreast of the issues.
2. If the DBE/MBE/WBE subcontractor cannot perform the work or if the Contractor shows good cause for replacement, the Contract Administrator will coordinate with the State Contractor Utilization Engineer to begin the DBE/MBE/WBE replacement process. The State Contractor Utilization Engineer will coordinate with other sections as appropriate.
(Examples of good cause include: DBE fails or refuses to execute a written contract; DBE fails or refuses to perform the work of its subcontract consistent with normal industry standards; DBE fails to meet reasonable, nondiscriminatory bond requirements; DBE becomes bankrupt, insolvent, or exhibits credit unworthiness; DBE is ineligible to work because of suspension and debarment proceedings; DBE voluntarily withdraws from the project and provides written notice; DBE is ineligible to receive DBE credit for the type of work required; DBE owner dies or becomes disabled and is unable to complete its work; or other documented good cause that compels termination. Good cause does not exist where failure or refusal to perform the work of the subcontract results from bad faith or discriminatory action of the prime contractor.)
3. Before requesting NCDOT's consent for the proposed termination/replacement of a DBE, the contractor shall give written notice of the proposal, including the reason for termination/replacement, to the DBE/MBE/WBE with a copy to the Contract Administrator. The DBE/MBE/WBE shall be given **five days** to respond unless it is reduced by public necessity (e.g. safety).
4. After the notice period has passed, the Contract Administrator will ensure the Contractor has submitted all supporting documentation for DBE/MBE/WBE replacement. Letters, emails or any other correspondence between the Contractor, the DBE/MBE/WBE subcontractor, and the Contract Administrator will be considered supporting documentation. This documentation must provide valid reason(s) for replacement as well as the opportunity to correct the issue. Contractors cannot replace for convenience or perform the work with its own forces or those of an affiliate.
5. If the Contractor is given approval by the Contract Administrator to replace a DBE/MBE/WBE subcontractor, the Contract Administrator will submit all documentation of Good Faith required of the Prime Contractor (Phone logs, emails, any other documentation to support a Good Faith Effort) to the State Contractor Utilization Engineer. The Prime Contractor shall be made aware that he/she needs to make a Good Faith Effort to replace a DBE with a DBE on federal contracts. On state funded contracts Good Faith Efforts shall be made to replace a MBE with a MBE, and a WBE with a WBE.

Per the Special Provisions, the Contractor may utilize additional DBE(s) submitted at time of bid to cover the same amount of work as the DBE/MBE/WBE that was terminated.

6. Signature lines on form: Ideally, the form should contain the signature of the original DBE/MBE/WBE subcontractor being replaced. However, if this is not possible (i.e. the DBE/MBE/WBE will not sign), then documentation supporting the decision and acknowledgement of the reasons for replacement of the DBE/MBE/WBE subcontractor should be attached. The form shall also be signed by the replacement DBE/MBE/WBE to show their participation on the project as the new committed DBE/MBE/WBE.
7. A copy of the replacement documentation and the form should be sent to the State Contractor Utilization Engineer in the Utilization and Certification Section of the Office of Equal Opportunity and Workforce Services and the State Construction Engineer.