



**NORTH CAROLINA**  
Department of Transportation

# Technical Training - DBE Replacement

Michelle Gaddy

Connecting people, products and places safely and efficiently with customer focus, accountability and environmental sensitivity to enhance the economy and vitality of North Carolina

# DBE Commitments

VENDOR NUMBER	DBE NAME ADDRESS	WORK CODE TYPE OF WORK	CERT TYPE	AMOUNT	
WB 4247	SEAL BROTHERS CONTRACTING LLC 131 W. CLEVE STREET , MOUNT AIRY, NC 27030		Sub	376,706.00	COMMITTED
MB 11572	CRUZ BROTHERS CONCRETE, INC. 1572 PAYNE ROAD/LOT 75 LOT 75 , GRAHAM, NC 27253		Sub	1,552,048.50	COMMITTED
WB 4898	BULLINGTON CONSTRUCTION INC 417 FOXGLOVE LANE , INDIAN TRAIL, NC 28079		Sub	231,705.00	COMMITTED
WB 12278	CLIFTON CONSTRUCTION CO., INC. 1435 GIDDENSVILLE ROAD , FAISON, NC 28341		Sub	410,411.00	COMMITTED
MB 9210	AUSTIN TRUCKING LLC P.O. BOX 606 , CLAYTON, NC 27528		Sub	1,371,404.04	COMMITTED
				<b>TOTAL: \$3,942,274.54</b>	
				<b>10.41%</b>	

- DBE Commitments are made at bid time by the prime contractor.
- REs should make sure their field staff is aware of each firm committed to the project – **this commitment is to the line item listed, the line code quantity and dollar value listed**, not just the overall dollar value
- If a line item is committed to 100% of the contract quantity, this includes overruns to that line item.
- Commitments should be discussed at the preconstruction conference to ensure the contractor understands that each firm should be used in the capacity that they are committed.
- RE staff should verify that each submitted firm is subcontracted to perform each line item, the minimum quantity, and minimum unit price when the SAF is received. Field staff should verify that commitments are being met when work is performed in the field

LINE NO.	ITEM NO.	ITEM DESC.	UNIT TYPE	SUBCONTRACTOR QUANTITY	SUBCONTRACTOR UNIT PRICE	EXTENDED AMOUNT
DBE SUBCONTRACTOR: 4247 SEAL BROTHERS CONTRACTING LLC Will Use Quote: Yes						
0112	3503000000-E	WOVEN WIRE F LF		70630.000	3.50000	247205.00
0113	3509000000-E	4" TIMBER PO EA		3987.000	19.50000	77746.50
0114	3515000000-E	5" TIMBER PO EA		1953.000	26.50000	51754.50
DBE COMMITMENT TOTAL FOR SUBCONTRACTOR:						376,706.00
DBE COMMITMENT TOTAL FOR VENDOR (SubContractor )						376,706
DBE SUBCONTRACTOR: 11572 CRUZ BROTHERS CONCRETE, INC. Will Use Quote: Yes						
0093	2451000000-N	CONC TRANS S EA		62.000	700.00000	43400.00
0094	2538000000-E	++'-'*"' CONC LF		4080.000	22.85000	93228.00
0095	2542000000-E	1'-6" CONC C LF		16290.000	16.70000	272043.00
0096	2549000000-E	2'-6" CONC C LF		22910.000	20.25000	463927.50
0097	2556000000-E	SHOULDER BER LF		1860.000	19.50000	36270.00
0098	2577000000-E	CONC EXPRESS LF		1230.000	35.00000	43050.00
0099	2612000000-E	6" CONCRETE SY		1360.000	62.50000	85000.00
0100	2619000000-E	4" CONCRETE SY		33.000	220.00000	7260.00
0101	2655000000-E	5" MONO CONC SY		8360.000	60.75000	507870.00
DBE COMMITMENT TOTAL FOR SUBCONTRACTOR:						1,552,048.50
DBE COMMITMENT TOTAL FOR VENDOR (SubContractor )						1,552,0
DBE SUBCONTRACTOR: 4898 BULLINGTON CONSTRUCTION INC Will Use Quote: Yes						
0103	3030000000-E	STL BEAM GUA LF		6625.000	18.00000	119250.00
0104	3045000000-E	SBRG SHOP CU LF		300.000	19.75000	5925.00
0105	3150000000-N	ADDIT GUARDR EA		20.000	44.00000	880.00
0106	3195000000-N	GR END TYPE EA		2.000	650.00000	1300.00
0107	3210000000-N	GR END TYPE EA		19.000	650.00000	12350.00
0108	3287000000-N	GR END TYPE EA		19.000	3100.00000	58900.00
0109	3360000000-E	REMOVE EXIST LF		100.000	2.00000	200.00
0110	3380000000-E	TEMP STL BM LF		1400.000	11.50000	16100.00
0111	3389150000-N	TEMP GDRL EN EA		6.000	2800.00000	16800.00
DBE COMMITMENT TOTAL FOR SUBCONTRACTOR:						231,705.00
DBE COMMITMENT TOTAL FOR VENDOR (SubContractor )						231,705

## What if the commitment can't be met



- Occasionally, there are times when the subcontractor can't be used by the prime contractor.
- The prime should reach out to the RE office to discuss the circumstances. Examples of good cause for replacement include but are not limited to:
  - DBE fails to sign written contract with the prime
  - DBE fails to perform work that is contracted to perform consistent with industry standards
  - DBE fails to meet reasonable, non-discriminatory bond requirements
  - DBE goes out of business, becomes insolvent, or can't provide labor, equipment,
  - DBE is not eligible to work due to suspension or debarment procedures
  - DBE voluntarily withdraws from the project and provides written notice

# DBE Replacement Form

**STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION**

**DBE/MBE/WBE REPLACEMENT REQUEST FORM**     PARTIAL     FULL

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:** \_\_\_\_\_

**Replacement NON-DBE Firm:** \_\_\_\_\_

**Amount of Subcontract:** \_\_\_\_\_    **Line Items:** \_\_\_\_\_

**Committed DBE/MBE/WBE Signature:** \_\_\_\_\_    **Date:** \_\_\_\_\_

By signing this document, the Contractor, DBE/MBE/WBE and the NCDOT Contract Administrator acknowledges that the **5 business 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 Construction Engineer  
State Contractor Utilization Engineer

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

IN ADDITION TO SUBMITTING THIS FORM, THE CONTRACT ADMINISTRATOR MUST ENSURE THAT THE STEPS BELOW ARE FOLLOWED:

1. Prior to starting the replacement process, the 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. The Contract Administrator will notify the Construction Unit to determine whether the DBE/MBE/WBE firm would benefit from supportive services provided by the Business Opportunity and Workforce Development Unit in the Office of Civil Rights. (Link to [BOWDSupportiveServicesFieldForm](#))
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 Construction Unit to begin the replacement process. The Construction Unit will coordinate with other sections, to include the State Contractor Utilization Engineer, 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 and/or substitution of a DBE, the Contractor shall give written notice by certified mail and email of the proposal, including the reason(s) for termination and/or substitution, to the DBE/MBE/WBE with a copy to the Engineer. The DBE/MBE/WBE shall be given five (5) business days to respond unless it is reduced by public necessity (e.g. safety). The five-day notice period shall begin on the next business day after written notice is provided to the DBE subcontractor. Upon receipt, the Construction Unit will email a copy of the Notice of Intent to Request Termination and/or Substitution to the State Contractor Utilization Engineer and other units to include [DBE@ncdot.gov](mailto:DBE@ncdot.gov), [BOWD@ncdot.gov](mailto:BOWD@ncdot.gov), and [TitleVI@ncdot.gov](mailto:TitleVI@ncdot.gov).
4. After the notice period the Contract Administrator will ensure that the Contractor has submitted all supporting documentation for the 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. Upon receipt of a disputed response from the DBE subcontractor, the Department will conduct a meeting with the Contractor and DBE subcontractor before making a final determination regarding the replacement.
6. If the Contractor is given approval by the Contract Administrator to replace a DBE/MBE/WBE subcontractor, the Contractor will submit all documentation of a Good Faith Effort (phone logs, emails, and any other documentation) to the Contract Administrator. The Contract Administrator will coordinate with the Construction Unit to review the documentation. The Construction Unit will coordinate with other sections, to include the State Contractor Utilization Engineer, as appropriate. The Contractor must make a Good Faith Effort to replace a DBE, MBE or WBE with the same certification type based on funding source. 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.
7. Signature lines on form: The form should contain the signature of the original DBE/MBE/WBE subcontractor being replaced. However, if this is not possible (e.g., the DBE/MBE/WBE does not sign the form), 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 a committed DBE/MBE/WBE subcontractor.
8. A file copy of the replacement documentation and completed form should be sent to the State Construction Engineer and State Contractor Utilization Engineer in the Office of Civil Rights.



# DBE Replacement

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

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3. Before requesting NCDOT's consent for the proposed termination and/or substitution of a DBE, the Contractor shall give written notice by certified mail and email of the proposal, including the reason(s) for termination and/or substitution, to the DBE/MBE/WBE with a copy to the Engineer. The DBE/MBE/WBE shall be given five (5) business days to respond unless it is reduced by public necessity (e.g. safety). The five-day notice period shall begin on the next business day after written notice is provided to the DBE subcontractor. Upon receipt, the Construction Unit will email a copy of the Notice of Intent to Request Termination and/or Substitution to the State Contractor Utilization Engineer and other units to include [DBE@ncdot.gov](mailto:DBE@ncdot.gov), [BOWD@ncdot.gov](mailto:BOWD@ncdot.gov), and [TitleVI@ncdot.gov](mailto:TitleVI@ncdot.gov).
4. After the notice period the Contract Administrator will ensure that the Contractor has submitted all supporting documentation for the 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.
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8. A file copy of the replacement documentation and completed form should be sent to the State Construction Engineer and State Contractor Utilization Engineer in the Office of Civil Rights.

- The prime is responsible for coordinating with the DBE to see if they are willing to perform the work. Documentation of these efforts should be provided to the RE office.
- RE office shall contact your **ACE (Area Construction Engineer)** in the Central Construction Unit to discuss all steps regarding the DBE replacement process.
- If a DBE is not able to perform the work as committed, discuss whether or not supportive services would be beneficial to the subcontractor with your ACE. Also, prime should determine if a PARTIAL DBE Replacement is appropriate where the committed firm continues to work put at a reduced amount.
- For INVOLUNTARY replacements, the contractor will be required to provide written notice to the DBE subcontractor by certified mail. Include the reason for termination/substitution and copy the RE. **Contractor shall contact RE Office PRIOR to sending any termination notices.**
- The DBE is allowed 5 business days to respond. The 5 day period begins on the day after written notice is provided to the DBE subcontractor. NOTE: 5-Day Notice is only required for INVOLUNTARY DBE Replacements (not Voluntary).

# DBE Replacement

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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 Construction Unit to begin the replacement process. The Construction Unit will coordinate with other sections, to include the State Contractor Utilization Engineer, 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 and/or substitution of a DBE, the Contractor shall give written notice by certified mail and email of the proposal, including the reason(s) for termination and/or substitution, to the DBE/MBE/WBE with a copy to the Engineer. The DBE/MBE/WBE shall be given five (5) business days to respond unless it is reduced by public necessity (e.g. safety). The five-day notice period shall begin on the next business day after written notice is provided to the DBE subcontractor. Upon receipt, the Construction Unit will email a copy of the Notice of Intent to Request Termination and/or Substitution to the State Contractor Utilization Engineer and other units to include [DBE@ncdot.gov](mailto:DBE@ncdot.gov), [BOWD@ncdot.gov](mailto:BOWD@ncdot.gov), and [TitleVI@ncdot.gov](mailto:TitleVI@ncdot.gov).
4. After the notice period the Contract Administrator will ensure that the Contractor has submitted all supporting documentation for the 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. Upon receipt of a disputed response from the DBE subcontractor, the Department will conduct a meeting with the Contractor and DBE subcontractor before making a final determination regarding the replacement.
6. If the Contractor is given approval by the Contract Administrator to replace a DBE/MBE/WBE subcontractor, the Contractor will submit all documentation of a Good Faith Effort (phone logs, emails, and any other documentation) to the Contract Administrator. The Contract Administrator will coordinate with the Construction Unit to review the documentation. The Construction Unit will coordinate with other sections, to include the State Contractor Utilization Engineer, as appropriate. The Contractor must make a Good Faith Effort to replace a DBE, MBE or WBE with the same certification type based on funding source. 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.
7. Signature lines on form: The form should contain the signature of the original DBE/MBE/WBE subcontractor being replaced. However, if this is not possible (e.g., the DBE/MBE/WBE does not sign the form), 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 a committed DBE/MBE/WBE subcontractor.
8. A file copy of the replacement documentation and completed form should be sent to the State Construction Engineer and State Contractor Utilization Engineer in the Office of Civil Rights.

- After the 5-day notice period, the RE will request all supporting documentation from the prime contractor. This should include letters, emails, and any other supporting documentation. Documentation should include GOOD CAUSE for the replacement and shows opportunity to correct any issues.
- If the DBE subcontractor disputes the replacement, the RE will conduct a meeting with the prime contractor and the DBE subcontractor prior to making a determination.
- Contractor should replace the DBE with another DBE that performs same work
- Good Faith Efforts Post Award: RE Office should contact the ACE (Area Construction Engineer) to obtain a list of all prequalified DBE firms in the Directory for that scope of work and interested in working in that area. Prime should send blast email and allow **at least 3 work days** response period. Good Faith Efforts documentation (phone logs, emails, etc) should be provided to show effort to replace.

## DBE Replacement

- Form includes the following:
  - Full or Partial Replacement
  - Contract Number
  - DBE Being Replaced – original DBE committed to work
  - Explanation for Replacement – brief good cause why being replaced. More detailed information should be attached (emails, correspondence, etc).
  - Subcontract Amount – original Committed DBE subcontract amount (or commitment amount if no subcontract signed)
  - Amount of Subcontract Remaining - dollar value of work remaining of ORIGINAL Committed DBE Firm
  - Line items – list of line items subcontracted

STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION	
DBE MBE WBE REPLACEMENT REQUEST FORM <input type="radio"/> PARTIAL <input checked="" type="radio"/> FULL	
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:	<input type="text"/>
DBE/MBE/WBE being replaced:	<input type="text"/>
Explanation for Replacement:	<input type="text"/>
Subcontract Amount:	<input type="text"/>
Amount of Subcontract Remaining:	<input type="text"/>
Line Items:	<input type="text"/>



## DBE Replacement

Form includes the following:

- Replacement DBE – Firm that will be used for replacement if a DBE is used
- Replacement Non-DBE Firm – Firm that will be used as a replacement if a non-DBE firm is used.
- A good faith effort is required to replace with a non-DBE
- Amount of Subcontract – value of new subcontractor’s work
- Line Items – line items of work to be performed by replacement subcontractor
- Committed DBE Signature – Replacement DBE contractor should sign and date acknowledging they are now a new commitment for the contract
- Original DBE Signature – Original committed DBE firm (submitted at time of bid) should sign and date. If no signature is obtained, include documentation supporting replacement and emails from DBE Firm.
- Prime Contractor Signature – prime contractor should sign and date
- NCDOT Contract Administrator – RE should sign and date
- Make sure copies are sent to directly to the ACE (Area Construction Engineer) to review PRIOR to signatures and uploading to the DBE Correspondence Folder in SharePoint and distribution.

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: \_\_\_\_\_

Replacement NON-DBE Firm: \_\_\_\_\_

Amount of Subcontract: \_\_\_\_\_ Line Items: \_\_\_\_\_

Committed DBE/MBE/WBE Signature: \_\_\_\_\_ Date \_\_\_\_\_

By signing this document, the Contractor, DBE/MBE/WBE and the NCDOT Contract Administrator acknowledges that the **5 business 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 Construction Engineer  
State Contractor Utilization Engineer



**ncdot.gov**

## **Summary Points**

- Area Construction Engineer (ACE) is the first point of contact for all DBE Replacements
- DBE Replacements only required for committed firms
- Voluntary replacements/withdrawals does not require 5 day notice (sub would like to be released)
- Involuntary replacements must follow 5 day notification process
- Good Cause must be documented on the form and supported by documentation
- Signatures should not be completed until full review by ACE



**Thank you!**

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