NC Division of Water Infrastructure MBE/WBE (DBE) Compliance Supplement

Instructions

(This package combines the various aspects of State of NC HUB program requirements and Federal DBE requirements into a single compliance supplement in order to eliminate redundancy and ambiguity)

Item	What to do with it
Good Faith Efforts Form	Provided by all bidders to be responsive Only low bidder's form is submitted to the State
Table A (Summary of firms on job)	Provided by all bidders to be responsive Only low bidder's form is submitted to the State
Table B (per item being subbed)	Provided by low bidder if SRF project or SRP/SEL* that obtains less than 10% M/WBE utilization (see page 2)
Provide documentation of anything you did that is mentioned later in this supplement	- Proof of trade paper advertisement - Printouts of DBE sources used - Solicitation emails and/or letters
~~Additional Forms for SRF Projects~~ (these forms are currently not applicable)	
~~6100-3 (per M/WBE firm)~~	~~Provided by low bidder if SRF project~~
~~6100-2~~	~~Distributed to M/WBE firms if SRF project~~
~~Subs submit concerns on 6100-2 forms to:~~	~~**Michael Pigram**~~ ~~**Region 4, Atlanta Federal Center**~~ ~~**61 Forsyth Street**~~ ~~**Atlanta, GA 30303-8960**~~

NOTES on this Compliance Supplement

Verifiable Goals

- **EPA MBE/WBE participation goals:** MBE 10.9%
WBE 10.4%

These are goals that the State reports against and are not quotas. *The good faith efforts must be adhered to and all forms provided regardless of what percentage utilization is achieved.*

- **State of NC MBE/WBE participation goal:** 10% (combined)

Table B is not required for SRP and SEL projects if you achieve 10% utilization.

DBE (MBE or WBE) Certification

In order for a firm to count towards the goals, a firm must be properly certified. Table A and Table B both provide spaces to note who certified the firm. The North Carolina Department of Administration and North Carolina Department of Transportation are the most common certifications we see listed. Division of Water Infrastructure staff verify all certifications listed.

For SRF projects, please note the EPA's six Good Faith Efforts found in 40 CFR 33
Filling out the Good Faith Efforts Form and providing Table B (if subcontracting is achieved) constitutes compliance with EPA's six good faith efforts.

(1) Ensure MBE/WBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and local Government recipients, this will include placing MBE/WBEs on solicitation lists and soliciting them whenever they are potential sources.
(2) Make information of forthcoming opportunities available to MBE/WBEs and arrange time for contracts and establish delivery schedules, where requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
(3) Consider in the contracting process whether firms competing for large contracts could subcontract with MBE/WBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities in order to increase opportunities for participation by MBE/WBEs in the competitive process.
(4) Encourage contracting with a consortium of MBE/WBEs when a contract is too large for one of these firms to handle individually.
(5) Use the services and assistance of the SBA and the MBDA.
(6) If the prime contractor awards subcontracts, require the prime contractor to take the steps in subparagraphs (1)-(5) of this section.

Pertinent State of North Carolina Administrative Code Regarding M/WBE Compliance. The provisions in this Compliance Supplement constitute compliance with the Rules below.

Owner Requirements	01 NCAC 30I .0306
Contractor Requirements	01 NCAC 30I .0308

Resources

Some sources for identifying MBE/WBE (DBE) firms

- https://www.ips.state.nc.us/vendor/SearchVendor.aspx (NCDOA)
- https://www.ebs.nc.gov/VendorDirectory/default.html (NCDOT)
- http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm (US SBA)

Some sources for finding minority trade papers for potential solicitation advertisements and Federal advertising options

- http://web.sba.gov/subnet/ (US SBA Subnet advertising website)
- https://www.mbda.gov/ (US Dept. of Commerce)
- https://ncadmin.nc.gov/businesses/hub (NC HUB Office)

Good Faith Efforts Form

Attempts to provide subcontracting opportunities for MBE/WBE firms.

Per 01 NCAC 30I .0101, 50 points must be claimed below by the bidder.
(This is identical to State of NC Affidavit A)

☐ **1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.

☐ **2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.

☐ **3** – **(15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.

☐ **4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.

☐ **5** – **(10 pts)** Attended prebid meetings scheduled by the public owner.

☐ **6** – **(20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.

☐ **7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.

☐ **8** – **(25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.

☐ **9** – **(20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.

☐ **10** - **(20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

Results of Good Faith Efforts Undertaken *(you must check one box below)*

☐ No subcontractors are being used for this contracted work. Fill out Table A listing only the Prime Contractor. (This statement takes the place of State of NC Affidavit B)

☐ Subcontractors are being used. Fill out Table A and B for each trade**. Each Table B lists 3.**

☐ Subcontractors are being used. If any Table B has fewer than 3 solicitations you must also advertise in an M/WBE trade paper and indicate what source of M/WBE firms you used (*must list at least one)*. Some possible papers and sources of M/WBE firms are listed in the Instructions of this Supplement.

Name of the Trade Paper: _____

Submit proof of advertisement with package

M/WBE Sources: Source:_____ Source:_____

Submit printouts from M/WBE source(s)

Certification Statement and Affidavit of Contractor.
The below affidavit constitutes compliance with 01NCAC 30I .0308(7)(a) and (b) and takes the place of State of North Carolina Affidavits C and D.

I have read the information in this compliance supplement and all information provided to the State in this package is accurate and true to the extent of my knowledge including the calculated percentages and the good faith efforts presented herein.

_____ _____
Prime Contractor Company Name (Print) Prime Contractor Representative (Sign & Date)

SEAL

State of_____, County of _____

Subscribed and sworn to before me this _____day of _____ 20____

Notary Public _____

My Commission Expires_____

_____ _____
Applicant Name (Print) Applicant Authorized Representative (Sign & Date)

_____
Division of Water Infrastructure Project Number

Table A: Prime Contractor and list of selected subcontractors

List Prime and ALL of the selected subcontractors (both DBE's and non-DBE's) being used on the project. Each Trade listed on this sheet should have a completed Table B: Subcontract Solicitation List showing the DBE firms contacted and given opportunities to bid.

Company Name (list prime first then subs)	Company Address and Phone	Trade (Above) and Price (Below)	MBE or WBE and certifying agency if applicable	(State use only) Listed in EPLS as Debarred?
		$		
		$		
		$		
		$		

Calculate M/WBE utilization as a percent (00.00%) of the prime contract. Limited to 100% even if the Prime is a DBE.

MBE and WBE subs total	**$**	_____%
Prime Contract Price	**$**	

Note: Table A substitutes for both the State of NC "Identification of Minority Participation" form and EPA Form 6100-4.

Table B: Subcontract Solicitation List

Table B is required if:

1) Project is Federally funded (**SRF**) OR;
2) Project is a State Reserve Project or State Emergency Loan (**SRP or SEL**) and Utilization % on Table A is less than 10%
3)

Trade: _____(enter the trade being solicited, paving, hauling etc.)

List the firm being used on the project first. If three MBE or WBE firms are not listed, additional information must be provided showing advertisements and sources used to identify MBE/WBE subs.

Use as many of these sheets as are necessary to cover every trade being subbed out.

Company Name	Company Address and Phone	MBE or WBE and certifying agency if applicable.	How was this firm contacted (email, letter, phone) and what was the result of the solicitation?*

*Must submit copies of emails or letters. If phone calls were made this sheet can serve as documentation of calls.

MBE/WBE (DBE) – Change or Add a Subcontractor Form

According to EPA guidance on 40 CFR 33.302

If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six good faith efforts described in §33.301 if soliciting a replacement subcontractor.

Please provide the information below **if the subcontracted work in question was included in previously submitted good faith efforts documentation**:

Prime Contractor:

Subcontracted work:

Previous Subcontractor:

Reason this firm did not complete the work:

New subcontractor and DBE status: ☐MBE ☐WBE ☐N/A

If this is a new trade being subcontracted, or was not documented in the original Project Bid Information submittal to the State then good faith efforts to solicit a DBE firm must be documented. As the original DBE instructions indicate, please provide a Table B from those original instructions, showing all the DBE firms contacted to perform this work. If three (3) firms are not listed on Table B, then additionally you must submit proof of an advertisement in a minority trade paper and evidence that there were not three reasonably available firms in the work area. The EPA provides in 33.301(a) that good faith efforts are to be carried out "…to the fullest extent practicable…". If solicitations were not carried out due to being impracticable, please attach this explanation to this form.

Please follow the steps below for new subcontracted work:

Indicate the new trade being subcontracted:

Indicate the firm being used and DBE status: ☐MBE ☐WBE ☐N/A

Attach Table B

(For State Use) Is this sub debarred? ☐Yes ☐No

_____ _____

Project Owner/Applicant: Project Number:

_____

Signature of Prime Contractor's Representative