



DBE Reduction, Termination, and/or Substitution Guidance

In accordance with 49 CFR 26, on contracts which a DBE goal has been assigned, the Prime Contractor/Consultant must **NOT** terminate or reduce the approved commitment of a DBE subcontractor/subconsultant identified on the DBE Pre-Award Commitment or an approved substitute **WITHOUT PRIOR WRITTEN APPROVAL FROM RIDOT OCR.**

The Prime Contractor/Consultant must identify good cause to terminate and/or reduce the DBE commitment in accordance with DBE regulations. Good Cause may be defined as:

1. Listed DBE fails or refuses to execute a written contract
2. Listed DBE fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards (good cause does not exist if the failure of refusal of the DBE subcontractor to perform work is a result of bad faith or discriminatory action demonstrated by the Prime)
3. Listed DBE fails or refuses to meet the Prime's reasonable nondiscriminatory bond requirements
4. Listed DBE becomes bankrupt, insolvent, or exhibits credit unworthiness
5. Listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings
6. RIDOT has determined the listed DBE is not a responsible contractor
7. Listed DBE voluntarily withdraws from the project and provides written notice of its withdrawal
8. Listed DBE is ineligible to receive DBE credit for the type of work required
9. Listed DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract
10. Other documented good cause approved by RIDOT OCR that compels termination of the listed DBE (good cause does not exist if the Prime Contractor seeks to terminate the listed DBE in order to self-perform or substitute a non-DBE contractor after contract award)

If the Prime Contractor determines "Good Cause" and the DBE is unable to perform as identified on letter of intent or subcontract agreement, one of the actions listed below must be completed by the Prime Contractor prior to submitting form DBE-007 to OCR for approval:

1. Notify the listed DBE in writing (copy to RIDOT OCR) of **intent** to terminate/reduce DBE scope of work **AND** the reason for the termination/reduction. If the reduction is a result of a RIDOT change order (ROC), the notice must include a description of the department change and the impact on DBE participation. ROC number must be included in description.
 - Allow the DBE 5 days to respond with any objections. (Response time may only be reduced if approved in advance by RIDOT OCR)
 - If the DBE disagrees with the Prime's intent to terminate/reduce, the DBE must respond to the Prime **and** RIDOT OCR in writing of the objection
2. Obtain the DBEs voluntarily withdrawal from the project in writing

Note: In the event a listed DBE is terminated or fails to complete the work as agreed in subcontract agreement for **ANY** reason, the Prime Contractor must demonstrate Good Faith Efforts (GFE) to identify a substitute DBE subcontractor to perform at least the same dollar amount of work contracted by the terminated DBE, to the extent needed to achieve the contract goal. All efforts must be documented by the Prime and provided to RIDOT OCR upon request.

DBE Participation Termination and Substitution Request form DBE 007 submission instructions:

1. Complete all fields
2. Attach all supporting documentation regarding the proposed
3. For all proposed DBE substitutions, applicable DBE-003, DBE-004 or DBE-005 form must be attached. If the Prime Contractor is unable to identify substitute DBE, to the extent needed to meet contract goal, GFE documentation will be reviewed. Executed DBE Good Faith Efforts form (DBE-006) or equivalent and supporting documentation must be submitted to RIDOT OCR for approval.
4. Submit form DBE-007 to RIDOT OCR via e-mail **or** certified mail:
 - E-mail- Send to DOT.DBE@dot.ri.gov with subject line - "RIC #; DBE Termination/Substitution Request"
 - The DBE subcontractor, RIDOT Construction Manager and RIDOT Project Manager **MUST** be cc'd
 - Certified Mail - Office of Civil Rights, Two Capitol Hill, Providence, RI, 02903
5. Upon receipt of DBE-007, RIDOT OCR will review and respond within 72 hours. OCR will contact the Prime to provide approval and denial determination.

If you have any questions, please contact the RIDOT Office of Civil Rights at:
DOT.DBE@dot.ri.gov