Revised Memorandum

To: Region Contract Specialists, Resident Engineers, Office Managers,

Engineering Technicians

From: Civil Rights: Stacy Frandsen, Tori Gagon, Aaron Watson

Date: 6/3/13

Subject: DBE Commitment Change Order Instructions

When a DBE subcontractor is not used, or not used within 10% of their committed amount due to change in project scope, then a change order is required to reduce their individual DBE commitment amount. In doing this, if the overall DBE commitment is reduced below the project goal, then the difference will need to be made up by changing race neutral commitments to race conscious within the same change order. FHWA check two areas for DBE commitment compliance, first, the overall commitment must meet the goal and, second, all individual line items must meet their individual commitment amounts. A contractor's DBE commitment is part of their contract, which is why change orders are used for this purpose, because change orders are the only way we currently have to amend the contract.

If the contractor does <u>NOT</u> use the committed DBE sub on a committed dollar amount, then a hold harmless agreement is required. One exception to this is if the committed item(s) get eliminated by no fault of the contractor, then a hold harmless agreement is not required.

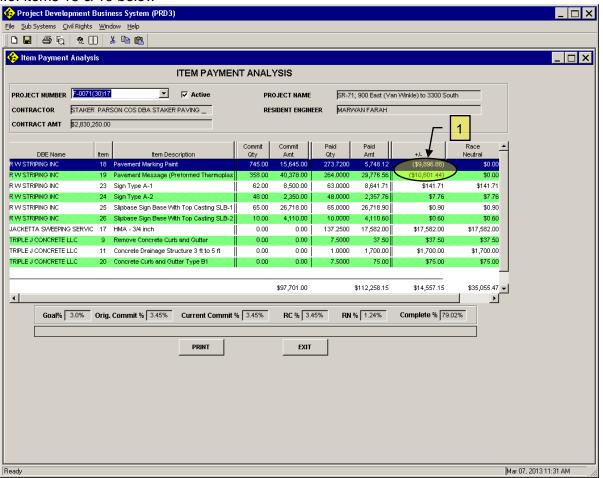
If there is no race neutral work, or not enough to make up the goal, then the contractor needs to provide good faith efforts documentation that they have tried to find additional DBEs to make up the goal or that they cannot use additional DBEs due to type or amount of work. If no good faith efforts are performed then that is when LDs will be assessed.

Please see the screen by screen instructions below:

Step 1:

1 Recognize the line items in the Item Payment Analysis in the "+/-" column that are not within 10% of the committed amount. Fill out the DBE Current Commitment Calculations spreadsheet to get the amount of race neutral work needed to make up the goal (if needed).

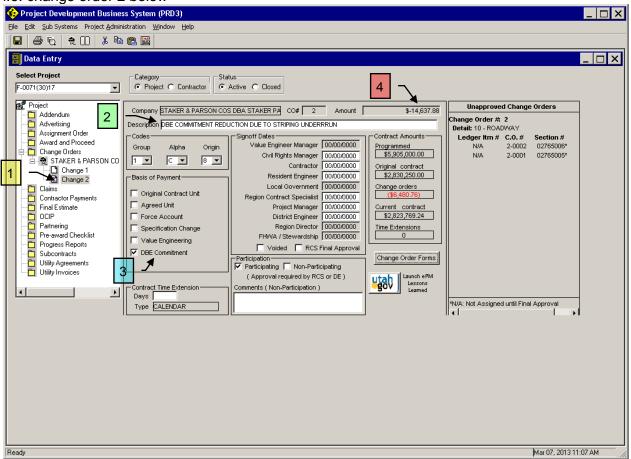
i.e. items 18 & 19 below



Step 2:

1 Create change order for DBE commitment reduction. 2 Name the change order DBE commitment reduction. 3 Check the DBE Commitment box for the Basis of Payment. 4 A DBE commitment change order should be a zero cost change order unless other items are brought in for other reasons (the negative Amount in the example below was a mistake).

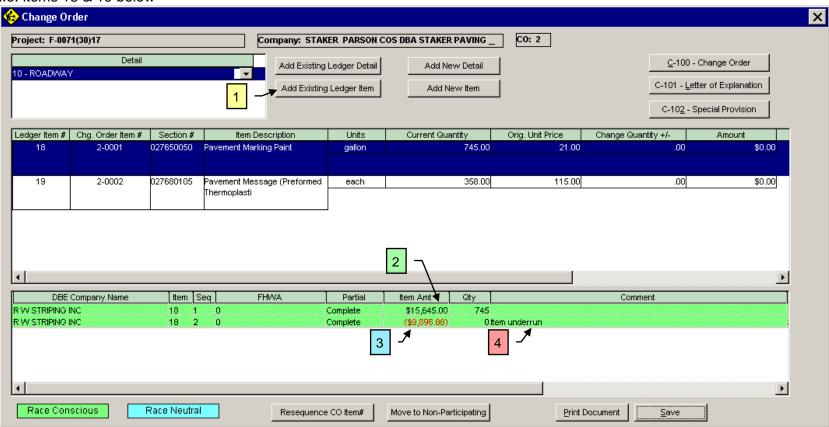
i.e. change order 2 below

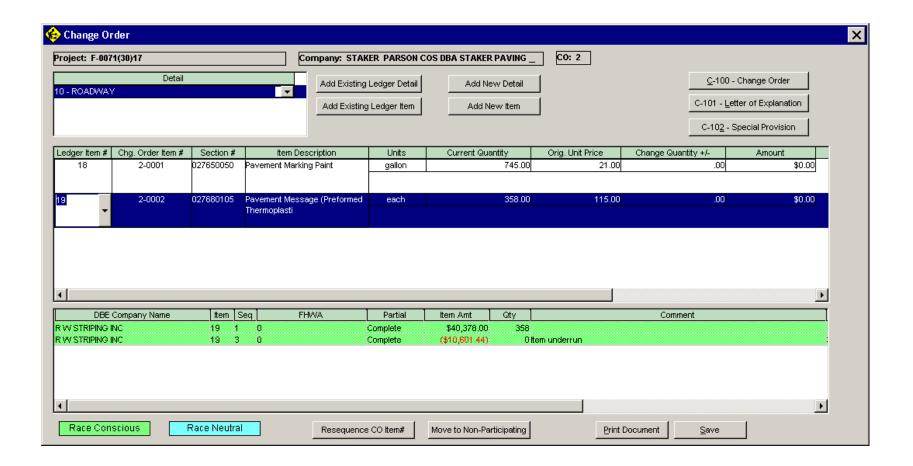


Step 3:

1 Add an Existing Ledger Item. 2 The original commitment will come in automatically. 3 Reduce the commitment by the amount in the Item Payment Analysis (Step 1) by adding a second commitment line. This second line will come in as race neutral (blue), soyou will need to change it to race conscious (green). 4 Add a comment to the commitment line, i.e. Item Underrun, DBE Commitment Reduction.

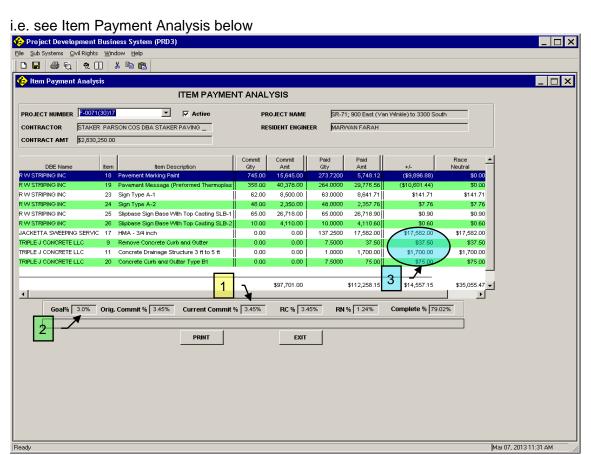
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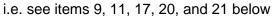
Step 4a:

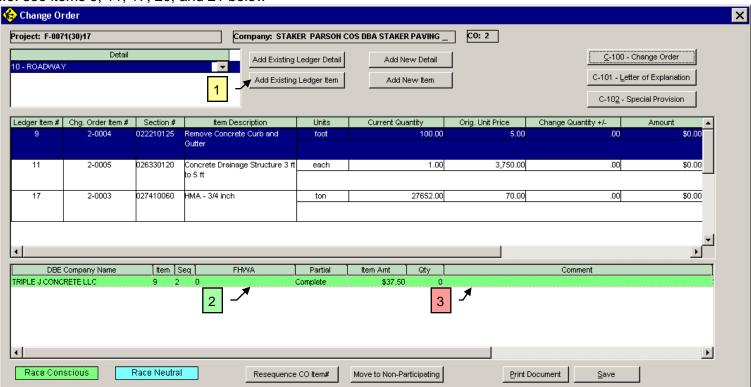
If reducing the commitments of the individual line items puts the 1 Current Commitment below the 2 project Goal, then race neutral items will need to be brought into the change order and changed to race conscious to make up the goal. Any positive amount in the "+/-" column of the item payment analysis can be used in a change order as race neutral work and changed to race conscious to make up the goal. This example brings in much more 3 race neutral work than needed to make up the goal. Only bring in enough race neutral work to make up the goal. See the DBE Current Commitment Calculations sheets at the end of this memo, only \$7705 is really needed to make up the goal.

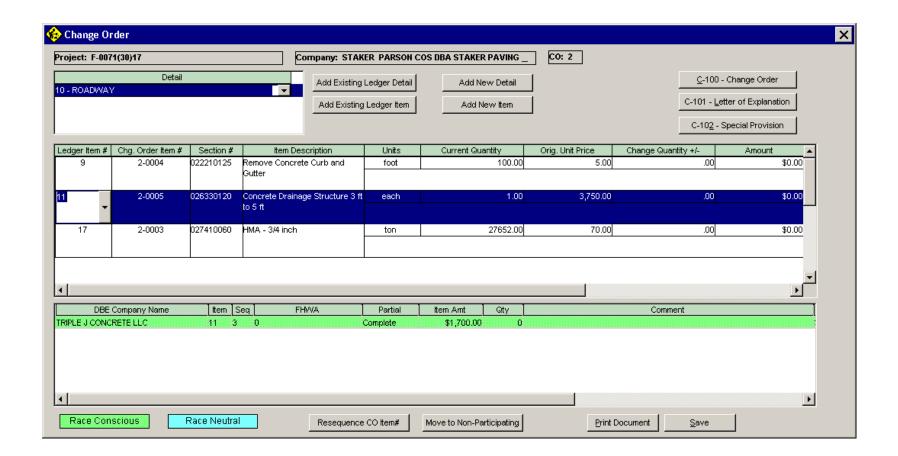


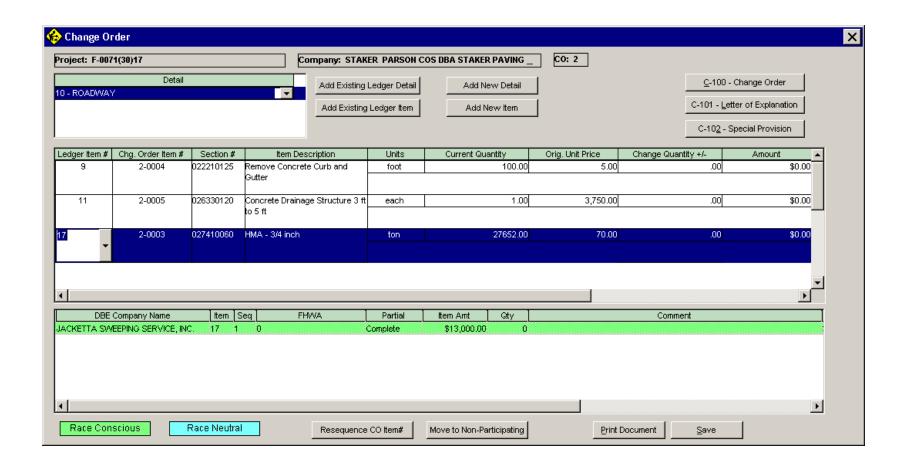
Step 4b:

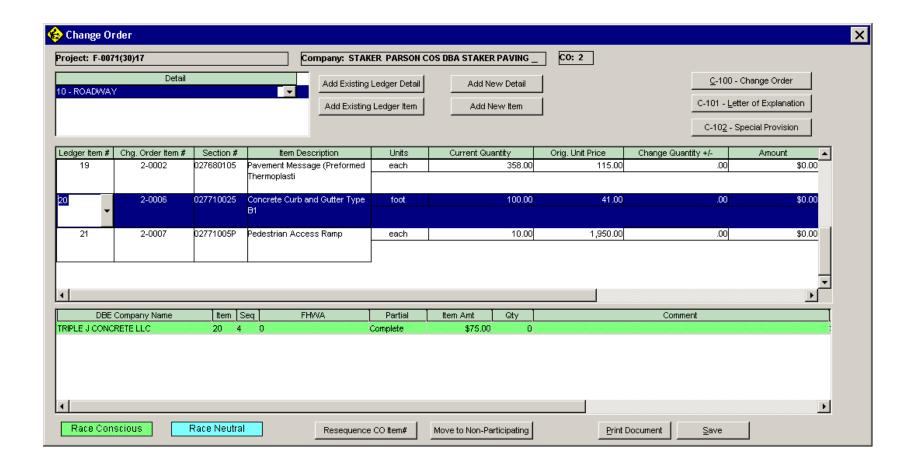
Bring the race neutral items into the change order (1 Add Existing Ledger Item). Right click on the blue commitment line and change to 2 Race Conscious (green). Add a comment in the commitment line, i.e. 3 Change RN work to RC.

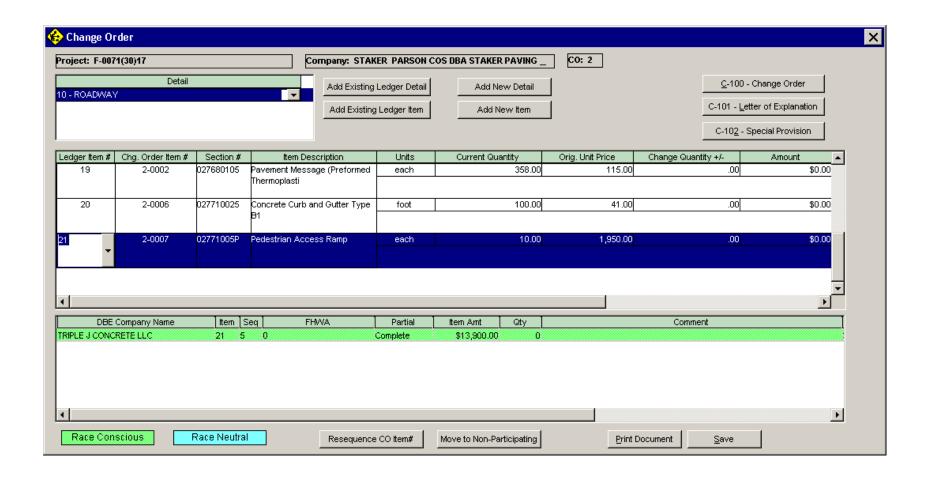








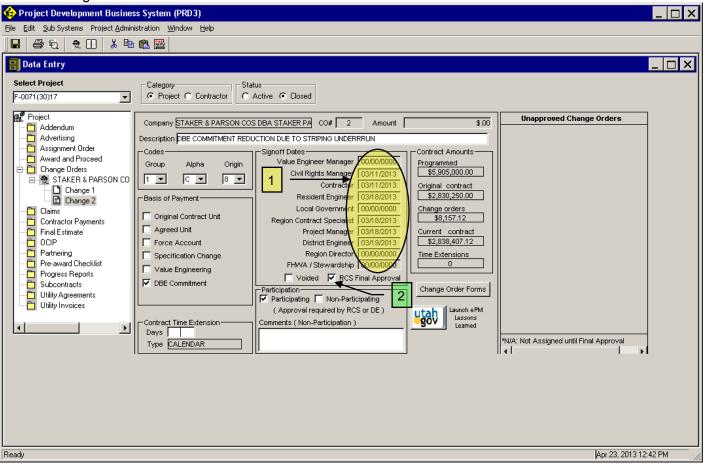




Step 5:

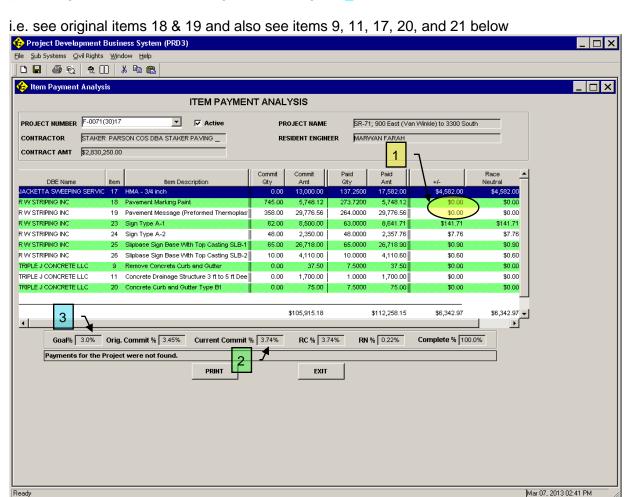
1 Date and 2 check the RCS Final Approval. Central Civil Rights can check your change order <u>BEFORE</u> you date it and get signatures to make sure all is in order. This can make it so you don't have to get signatures twice. Please let us know.

i.e. see change order 2 below



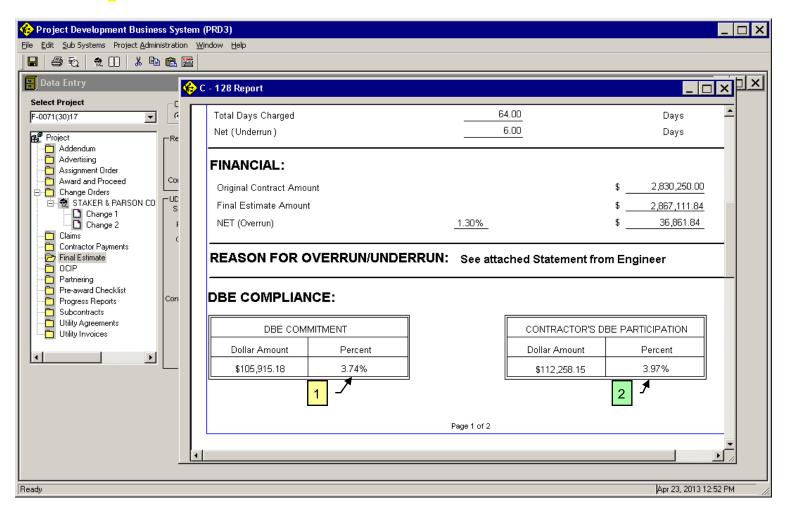
Step 6:

After the change order is dated and the RCS box is checked, check the Item Payment Analysis again. It should now show zeros for the 1 line items that were not meeting commitment before in the "+/-" column and should show the 2 Current Commitment percentage at the bottom meeting or exceeding the 3 Goal.



Step 7:

Check DBE Commitment on the C-128 report (Project Admin/Data Entry/Final Estimate/C-128 Report button next to comments box), the 1 DBE Commitment should meet or exceed the project goal. Also check the 2 Contractor's DBE Participation, this should meet or exceed the 1 DBE Commitment.



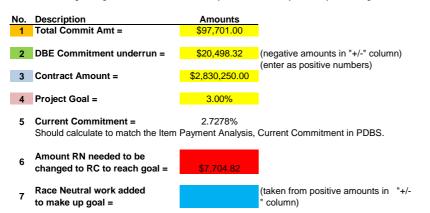
DBE Current Commitment Calculations in PDBS:

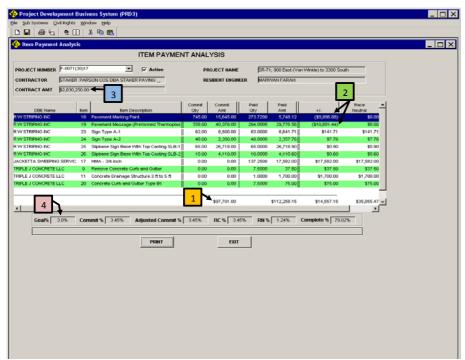
(see the Memorandum - DBE Commitment CO PIN =
Project Number =

9433
F-0071(30)17

Revised for directions on how to create the change order)

- A. Prior to starting a DBE change order, fill in the yellow highlighted cells. Retrieve the amounts from the Item Payment Analysis in PDBS/Subsystems/Civil Rights/Reports. See screen shot below.
- B. No. 2 are the line item amounts that will need to have their commitments reduced in the change order.
- C. No. 6 will then calculate the amount of race neutral work needed to be changed to race conscious (highlighted red) to reach the goal. If No. 6 turns green then the overall goal is met already.
- D. When all yellow highlighted cells are filled in and No. 6 is red, then fill out No. 7 (highlighted blue), by entering only enough race neutral work to make up the amount in No. 6. The No. 7 amount can be taken from the positive values in the "+/-" column of the Item Payment Analysis. This column represents both un-committed race neutral work and overpaid committed work, which is also race neutral when it is an overage.
- E. When enough race neutral work is added to No. 7, then No. 6 will turn green and say "Goal is Met". This will also update the current commitment, No. 5, to match the goal.
- F. The amount in No. 7 must then be brought in to the change order by line item and each race neutral amount must then be changed to race conscious.
- G. If all yellow highlighted cells are filled in and No. 6 is green, Goal is met, and you still have an amount in No. 2, then you still need a change order to reduce the commitment of that item(s), but you do not need to bring in any race neutral work to make up the goal.
- H. So now that each commitment underrun is reduced by line item and the goal is made up by race neutral work being changed to race conscious, then you are now ready to start your change order.





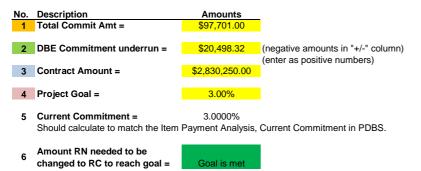
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7 Race Neutral work added to make up goal =

(taken from positive amounts in "+/\$7,705.00 " column)

