

CITY OF CHICAGO  
PART 26  
DISADVANTAGED BUSINESS ENTERPRISE  
PROGRAM DOCUMENT

Rahm Emanuel  
Mayor

Updated August 2016

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

The objectives are found in the policy statement attached as Attachment A to this program.

### **Section 26.3 Applicability**

The City of Chicago ("City") is the recipient of Federal financial assistance from the Department of Transportation ("DOT").

### **Section 26.5 Definitions**

The terms in this program have the meaning defined in 49 CFR Section 26.5. References in this program to "Part 26" refer to 49 C.F.R. Part 26.

### **Section 26.7 Non-discrimination Requirements**

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its Disadvantaged Business Enterprise ("DBE") program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

### **Section 26.11 Record Keeping Requirements**

#### **Reporting DBE participation to DOT**

- i. We will transmit to FAA annually on December 1, the "Uniform Report of DBE Awards or Commitments and Payments" form, found in Appendix B to Part 26, as modified for use by FAA recipients by the FAA, if applicable. This report will reflect payments actually made to DBEs on FAA DOT-assisted contracts. We will also report the DBE Contractor firms' contact information either on the FAA DBE Contractor's Form or other similar format or as otherwise directed by DOT operating administrators.
- ii. We will report DBE participation on a semi-annual basis to the FTA using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation. Reports will be submitted on or before June 1st and December 1st of each federal fiscal year. These reports will reflect payments actually made to DBEs on FTA DOT-assisted contracts.
- iii. The City will cooperate with the Illinois Unified Certification Program ("IL UCP") in fulfilling the State's annual obligation to report the percentage of certified DBE firms controlled by (1) women, (2) socially and economically disadvantaged individuals (other than women), and (3) individuals who are women and are otherwise socially and

economically disadvantaged individuals, using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation. Reports will be submitted on or before June 1st and December 1st of each federal fiscal year. These reports will reflect payments actually made to DBEs on FHWA DOT-assisted contracts.

#### Bidders List

The City will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidders' list approach to calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

- i. We will include in the bid or proposal documents a request that bidders/proposers list the names and addresses of subcontractors that quoted on the contract; this request will inform bidders/proposers that failure to respond may result in the firm being deemed non-responsible for the contract for which the bidder/proposer has submitted a bid/proposal and future contracts;
- ii. We will supplement the information provided by bidders as may be necessary with follow-up surveys or questionnaires to obtain the names and addresses of subcontractors that quoted on the contract as necessary.

#### Documentation of Firm's Compliance

The City will maintain records documenting the various firm's compliance with the requirements of 49 CFR Part 26. We will keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records, and other certification and compliance-related records, will be maintained for at least three years or as required by record retention requirements for the applicable financial assistance agreement, whichever is longer.

We will require prime contractors to maintain records and documents of payments to DBEs for at least three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement also extends to any certified DBE subcontractor.

#### Demographic Data

The City will, as a member of the IL UCP, cooperate with the IL UCP's report to the Department of Transportation's Office of Civil Rights, each January 1, the percentage and location of certified DBE firms in the state controlled by (1) women, (2) socially and economically disadvantaged individuals (other than women), and (3) individuals who are women and are otherwise socially and economically disadvantaged individuals.

### **Section 26.13 Federal Financial Assistance Agreement**

The City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a) - Each financial assistance agreement we sign with a DOT operating administration (or a primary recipient) will include the following assurance:

The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The City's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

**Contract Assurance: 26.13(b)**

The City will ensure that the following clause is included in each contract we sign with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT- assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to, (1) withholding monthly progress payments, (2) assessing sanctions, (3) liquidated damages, and/or (4) disqualifying the contractor from future bidding as non-responsible.

**SUBPART B - ADMINISTRATIVE REQUIREMENTS**

**Section 26.21 DBE Program Updates**

The City will receive grant(s) from DOT the cumulative total value of which exceeds \$250,000 or more in a Federal fiscal year. We will continue to carry out this DBE Program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program for approval.

**Section 26.23 Policy Statement**

The Policy Statement is attached as Attachment A.

**Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

Jamie Rhee  
Chief Procurement Officer  
City of Chicago  
Department of Procurement Services



121 N. LaSalle, Room 806  
Chicago, Illinois 60602  
(312) 744-4900

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City complies with all provision of 49 CFR Part 26. The Chief Procurement Officer, who has been designated as DBELO, is the head of the Department of Procurement Services (DPS) and pursuant to the Municipal Code of Chicago, has direct, independent access to the Mayor and responsibility for both procurement and the City's minority- and women-owned business programs, and therefore for the DBE program. For most functions relating to the DBE program, staff separate from those who are involved in bids and contracting are used. This separation of personnel helps avoid potential conflicts of interest. See attached organizational chart as Attachment B.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. As shown in the attached organizational chart, the DBELO has a staff to assist in the administration of the program. Other City departments not under the supervision of the DBELO also provide additional resources relating to the DBE program with respect to infrastructure projects under their purview, particularly the departments of Aviation, Fleet and Facilities Management, Transportation, and Water Management. The duties and responsibilities of the DBELO and her staff include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set DBE overall goals on a triennial basis.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes City's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO\governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Acts as liaison to the Uniform Certification Process in Illinois.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains the City's updated directory on certified DBEs.

## **Section 26.27 DBE Financial Institutions**

It is the policy of the City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

We have made the following efforts to identify and use such institutions:

- A. We include in all of our DOT-assisted contracts the following provision encouraging prime contractors to make use of these institutions:

Contractor is encouraged to utilize financial institutions owned and controlled by socially and economically disadvantaged individuals. Use of such institutions may be considered by the City as evidence of Contractor's willingness to do business with DBEs. Information about such institutions is available in the City of Chicago's DBE Program document. The DBE Program document is available at the Department of Procurement Services, City of Chicago, City Hall Room 806, 121 N. LaSalle Street, Chicago, IL 60602.

- B. Attachment C contains the City's current list of minority and women-owned financial institutions, as may be updated from time to time.

- C. Each year the City invites eligible banks and savings and loan associations to submit proposals to become municipal depositories of the City of Chicago ("Municipal Depository Program"). In accordance with Chapter 2-32, Article V of the Municipal Code of Chicago, the proposers are required to be Federally-insured national or state banks or Federally-insured federal or state savings and loan associations located in the City of Chicago. The City invests excess funds of the City of Chicago with eligible financial institutions that have been approved for that purpose by the Chicago City Council. A Senior Fiscal Policy Analyst actively seeks interested businesses by sending letters, advertising once a year for a Request for Proposals, and reviewing current bank directories to ascertain those institutions that are located in Chicago or have full size branches within the City.

## **Section 26.29 Prompt Payment Mechanisms**

The City has established, as part of its DBE Program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than seven days from receipt of each payment issued to the prime contractor.

We will ensure prompt and full payment of retainage from the prime contractor to the subcontractor within seven days or less after the subcontractor's work is satisfactorily completed. We will use these methods to comply with this requirement:

FAA and FTA funded contracts:

Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within seven days or less after City payment to the prime contractor.

FHWA funded contracts:

Decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

The City will consider a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City. When City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

The City will provide appropriate means to enforce the requirements of this section. This includes providing an online database of payments to prime contractors, including payment date and reported payments to subcontractors empowering subcontractors to verify that they are being timely paid. Subcontractors may report late payments to the Department of Procurement Services for appropriate action, and liquidated damages may be imposed on contractors for unexcused failure to promptly pay. The online database may be accessed here:

<http://webapps.cityofchicago.org/VCSearchWeb/org/cityofchicago/vcsearch/controller/payments/begin.do?agencyId=city>.

The City will include a clause in each DOT-assisted prime contract requiring the prime contractor to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than seven days from the receipt of each payment the prime contractor receives from the City.

The City will also include a clause in each DOT-assisted prime contract requiring the prime contractor to return retainage payments (when retainage is used) to each subcontractor at least within the same number of days retainage is released by the City or seven days.

The prime contract will provide that any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the City. These clauses will apply to both DBE and non-DBE subcontractors.

City contracts will also include:

- (1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.
- (2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
- (3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

### **Section 26.31 Directory**

The City uses the Illinois UCP DBE directory, maintained by the Illinois UCP. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The Illinois UCP revises the Directory as updates are sent by the various participants; we send updates at least monthly. We make the Directory available to the general public through a link

from the City of Chicago, Department of Procurement Services website which can be found at <http://www.cityofchicago.org/city/en/depts/dps.html>.

The link to the ILUCP directory can be found at the bottom right hand corner of Procurement's home page and the directory may be found at:

<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>

The City also maintains its own Directory of DBEs. That directory is available through Procurement Services website through a button toward the top of its page labeled "M/W/DBE Certified Firms," which links to:

<https://chicago.mwdbe.com/FrontEnd/VendorSearchPublic.asp?TN=chicago&XID=8255>

### **Section 26.33 Over-concentration**

#### **Criteria for identifying DBE overconcentration (26.33(a)):**

The City has established four criteria to determine overconcentration of DBEs. The City considers both whether the DBEs' work performing a unique element of work exceeds their proportional share based on their availability, and if DBEs' share of the work for that element exceeded 50% of the work available. Overconcentration may be by one DBE firm or a group of DBE firms. This produces the following matrix:

	Availability within work type	Majority of the work
Overconcentration by DBEs as a group when the number of DBE firms is > 1	1. DBE firms are obtaining a larger share of the market than their availability.	2. DBE firms are obtaining the majority of the market.
Overconcentration by an individual DBE firm	3. A DBE firm is obtaining an excess share of the market.	4. A DBE firm is obtaining the majority of the market.

Overconcentration will be found if any of the following conditions are met:

- A. Condition #1- DBE firms are obtaining a larger share of the market than their availability:  
The percentage of the total amount of work awarded to the DBE firms in a fiscal year exceeds the percentage of the firms that the DBE represent who perform that element of work.
- B. Condition #2 and #4 - One or more DBE firms are obtaining the majority of the market:  
The percentage of the total amount of work DBE firms obtain for an element of work exceeds 50% of that type for a fiscal year, or an individual DBE firm is obtaining over 50% of the work awarded for an element of work for a fiscal year.
- C. Condition #3 - A DBE firm is obtaining an excess share of the market:

The percentage of the total amount of work awarded to an individual DBE firm in a fiscal year exceeds twice its share of the marketplace if the work was evenly divided by all firms who perform that element of work.

In identifying the above conditions, these guidelines will be followed:

- An element of work may be a group of bid items, a specific function, or a product that is furnished by a supplier or manufacturer. The calculations are based on a percentage of the whole element, not a percentage of the work subcontracted.
- Percentages are based on dollar value of the element, not the number of units performed or supplied.
- Overconcentration for an individual DBE only applies to that DBE. Overconcentration for "DBEs as a group" applies to all DBEs.
- The year for calculations is July 1 to June 30, and would be used for contracts let from October 1 to September 30.
- Overconcentration applies to both proposal commitments and contract awards.
- All determinations of overconcentration require approval of the concerned DOT operating administration.

Measures to address DBE overconcentration (26.33(b)):

To date, the City has not found any areas of overconcentration. In the event that overconcentration does occur, the City will devise appropriate measures to address overconcentration, and will obtain the approval of the concerned DOT operating administration for our determination of overconcentration and the measures we devise to address it.

Measures to address DBE underconcentration:

The City is developing a process where if we find, when setting contract-specific goals for a project, that there are no certified firms in an area of specialty, we will notify the local assistance agencies of the lack of firms in those specialty areas.

## **Section 26.35 Business Development Programs**

The City has not established a business development program for DBEs. However, it conducts frequent outreach events, training seminars and meetings.

## **Section 26.37 Monitoring and Enforcement Mechanisms**

The City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

2. The Compliance Division reports to the DBE Liaison Officer and has the responsibility of ensuring that contractors and subcontractors are in compliance with contract requirements and stated goals. The division accomplishes this objective by site visits during the contract period, monitoring and review of utilization plans during the contract period, and final documentation of utilization and payments to contractors and subcontractors.
3. The contractor must (absent good cause such as subcontractor refusal to honor its proposal), within fifteen working days after receiving the awarded contract, execute a formal subcontract or purchase order with the DBEs which were proposed, all in accordance with the terms of the contractor's bid proposal and DBE assurances, and must promptly submit to the City upon request a copy of the DBE subcontracts or purchase orders, each showing acceptance of the subcontract or purchase order by the DBE.
4. The contractor must report to the City's compliance officers periodically on all expenditures made to achieve compliance with the foregoing provisions. The reports must include the name and business address of each DBE solicited by the contractor to work as a subcontractor on the contract and the responses received by the contractor to the solicitation, the name and business address of DBEs actually involved in the contract, a description of the work performed and/or product or service supplied by each such DBE, the date and amount of each expenditure, and such other information as may assist the compliance officer in determining the contractor's compliance with the provisions and the status of any DBE performing any portion of the contract.
5. Failure of a contractor to use a DBE subcontractor to the extent contractor committed to use a DBE in a contract with contract goals, gives the underutilized DBE specific contract remedies, including, in the context of FAA-funded projects, the right to resolve the dispute by binding arbitration before an independent arbitrator and to recover the prevailing DBE's reasonable expenses in accordance with City of Chicago regulations. Additionally, provisions in our DOT-assisted contracts allow the City to assess liquidated damages against the contractor in the event of DBE underutilization under certain circumstances where the contractor has not made a good-faith effort to meet the contract goal.
6. Provisions in our DOT-assisted contracts allow the compliance officer access to the contractor's books and records, including without limitation, payroll records, tax returns and records, and books of account, on 5 business days' notice, to allow the officer to determine the contractor's compliance with its commitment to DBE participation and the status of any DBB performing any portion of the contract.
7. The Contractor must maintain records of all relevant data with respect to the utilization of DBEs, retaining these records for a period of at least 3 years after final acceptance of the work on each project. Full access to records on each project must be granted to the City, federal or state authorities.
8. Attachment D lists the general contract remedies available to us in the event of noncompliance with the DBE regulation by a participant in our procurement activities.
9. As provided in Section 26.53 Good Faith Efforts Procedures of this program, below, and in 49 CFR 26.13(b), 26.29(d) and 26.37, the City may impose reasonable penalties, including administrative fines for noncompliance with DBE requirements.

10. The City may also recover reasonable court costs, attorneys' fees, and disbursements associated with enforcing the requirements of this Program or Part 26.
11. In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following: Suspension or debarment proceedings pursuant to 49 CFR Part 26, Enforcement action pursuant to 49 CFR Part 31, and Prosecution pursuant to 18 USC 1001.

#### Monitoring Payments to DBEs (Section 26.36(b) & (c))

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City of Chicago or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Information about reported contractor payments to subcontractors on construction contracts is available on the City's website for public viewing. This empowers subcontractors to notify the City of discrepancies. The information may be found here:  
<https://webapps1.cityofchicago.org/VCSearchWeb/org/cityofchicago/vcsearch/controller/subPayments/begin.do?agencyId=city>

#### **Section 26.39 Fostering small business participation.**

The City has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The City's small business program element is incorporated as Attachment E to this DBE Program. We will actively implement the program elements to foster small business participation, doing so is a requirement of good faith implementation of our DBE program.

Many of the City's business outreach events, training seminars and meetings are open to small businesses.

Additionally, the City of Chicago Treasurer's Office has established Small Business Loan Programs to assist small businesses and has also established a program to assist unbanked and underbanked individuals in the community. See Attachment C and the Treasurer's website for additional information on these programs: <http://www.chicagocitytreasurer.com/>

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The City does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

If the City anticipates awarding FAA or FTA funded prime contracts exceeding \$250,000 (excluding transit vehicle purchases for FTA funded projects) during any one or more of the reporting fiscal years within the three-year goal period, we will develop overall FAA or FTA DBE goals, respectively, covering a three-year federal fiscal year period. If we do not have contracts exceeding \$250,000 funded by the FAA or FTA, we will not develop a goal for that operating administration, but will continue to maintain our existing DBE program and will develop a goal for the other operating administration if we have contracts funded by that source exceeding \$250,000.

The goal will be due on August 1 at three year intervals in accordance with the schedule established by the applicable operating administration.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment F to this program, and will be in accordance with the two-step process as specified in 49 CFR Part 26.45.

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT.

#### **Section 26.45(f) - Prior Operating Administration Concurrence**

The City understands that we are not required to obtain prior concurrence of the operating administration with our overall goal before implementing it. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate, the operating administration may, after consulting with us, adjust our overall goal or require that we do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

### **Section 26.47 Failure to meet overall goals.**

The City will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the City awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will do the following in order to be regarded by the Department as implementing your DBE Program in good faith:



- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully your goal for the new fiscal year;
- (3) City will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c) (1) and (2) of this section to the FAA, FHWA, or FTA for approval.

#### **Section 26.49 Goals for transit vehicle manufacturers.**

We will require that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR 26.49. Alternatively, we may, at our discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the transit vehicle manufacturer complying with this element of the program.

#### **Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

The City will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation, including those set out in Section 26.51(b). Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment F to this program.

#### **Section 26.51(d-g) Contract Goals**

The City will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39.

If our approved projection under paragraph (c) of section 26.51 estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order to meet our overall goal.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

## **Section 26.53 Good Faith Efforts Procedures**

### Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO, as Chief Procurement Officer, is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded Responsive.

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

### Information to be submitted (26.53(b))

The City treats bidder/offeror's compliance with good faith efforts' requirements as a matter of responsiveness.

**Responsiveness** - Each solicitation for which a contract goal has been established will require all bidders/offerors to submit at the time of bid a compliance plan demonstrating how the bidder/proposer plans to meet the contract goal and/or documentation of good faith efforts. They must submit:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform (to count toward meeting a goal, each firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract);
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract in the kind and amount of work provided for in the prime contractor's commitment;
6. If the contract goal is not met, evidence of good faith efforts. Documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

In order to effectuate the purposes of the DBE program, prior to contract award the City may require the bidder/offeror to correct mistakes in a compliance plan, or may entertain requests for changes in anticipation of DBE substitution requests that would likely arise shortly after award. This may include, but is not limited to, entertaining requests for pre-award substitution of a proposed DBE subcontractor on non-negotiated procurements using a procedure similar to that which would be used in the case of a contractor post-award request for substitution pursuant to 49 CFR 26.53(f)(2), for a good cause set forth at 49 CFR 26.53(f)(3).

#### Administrative reconsideration (26.53(d))

Within 5 business days of being informed by City of Chicago that it has not documented sufficient good faith efforts, a firm (e.g a bidder, proposer, or contractor) may request administrative reconsideration. The firm should make this request in writing to the following official:

Chief Procurement Officer  
Department of Procurement Services  
City Hall Room 806  
121 N. LaSalle Street  
Chicago, IL 60602

The Chief Procurement Officer will appoint a reconsideration official who will not have played any role in the original determination that the firm did not make sufficient good faith efforts.

As part of this reconsideration, the firm will have the opportunity to provide written documentation or argument concerning whether it met the goal or made adequate good faith efforts to do so. The firm will have the opportunity to meet in person with our reconsideration official to discuss whether it met the goal or made adequate good faith efforts to do. We will send the firm a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

#### Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

The City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. Unless the prime contractor obtains our consent, the contractor shall not be entitled to any payment for work or material unless it was performed by the listed DBE.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.

- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state or local law;
- (6) We have determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides to us written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A 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 that we have determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Good cause does not include situations where a prime contractor seeks to terminate a DBE it relied upon to obtain the contract in order to self-perform the work or so that the prime contractor can substitute another DBE or non-DBE after contract award.

Prior to transmitting its request to terminate or substitute a DBE contractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to us, notifying the DBE subcontractor of its intent to terminate or substitute and the reason for the request. The prime contractor must give the DBE subcontractor five days to respond to the notice and advise us and the prime contractor why we should not approve this action. If required in a particular case as a matter of public necessity (e.g., safety) we may provide a response period shorter than five days.

If the contractor submits documentation of good faith efforts rather than finding another DBE subcontractor to substitute for the original DBE, we will provide a written determination to the contractor whether good faith efforts have been demonstrated. If we request documentation, the prime contractor must provide it within seven days, which may be extended for an additional seven days at the request of the contractor.

If the Contractor fails to comply with these requirements, the City may consider such non-compliance as an event of default under the terms of the contract. Attachment D sets forth general remedies available to the City in the event of default on the part of the Contractor; Attachment G includes specific remedies available in the event of noncompliance with this part.

These procedures will also apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

## **Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance

with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

## **SUBPART D – CERTIFICATION STANDARDS**

### **Section 26.61 – 26.73      Certification Process**

The City will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. We will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should visit the City's website at:  
<http://www.cityofchicago.org/city/en/depts/dps/provdrs/cert.html>

or contact:

Department of Procurement Services,  
Certification and Compliance Unit  
City Hall Room 806  
121 N. LaSalle Street Chicago, IL 60602

312-744-4900, TTY 312-944-2949

[dps.certification@cityofchicago.org](mailto:dps.certification@cityofchicago.org)

The City's certification application forms and documentation requirements are established by the Illinois UCP and available through the City's website at  
<http://www.cityofchicago.org/city/en/depts/dps/provdrs/cert.html>.

The Illinois UCP uses the form included in Appendix F to Part 26 as its unified certification application form, a copy of which is attached as Attachment H to this Program.

## **SUBPART E – CERTIFICATION PROCEDURES**

### **Section 26.81 Unified Certification Programs**

The City is the member of a Unified Certification Program (UCP) administered by the Illinois UCP. The UCP will meet all of the requirements of this section. A copy of the version of the "Illinois Unified Certification Program Procedures" in effect as of the date of this Program Document is attached as Attachment I.

### **Section 26.83 Procedures for Certification Decisions**

We will ensure that only firms certified as eligible DBEs under this section participate as DBEs in our program. We will take the required steps outlined in 49 CFR 26.83(c) in determining whether a DBE firm meets the standards of 49 CFR Part 26 Subpart D.

Once we have certified a DBE, it will remain certified unless we remove its certification in accordance with 49 CFR 26.87 as described further below, or pursuant to 49 CFR 26.67(b)(i).

We will conduct certification reviews when appropriate, as provided by Section 26.83(h).

#### **“No Change” Affidavits and Notices of Change (26.83(j))**

The UCP requires all DBEs owners to inform us, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with the application for certification.

The UCP also requires all DBE owners we have certified to submit every year, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 49 CFR 26.83(j). A sample of this affidavit may be found as Attachment J.

The UCP requires DBEs to submit with this affidavit documentation of the firm’s size and gross receipts (e.g., submission of Federal tax returns).

In accordance with the "Illinois United Certification Program Procedures," the UCP will notify all currently certified DBE firms of these obligations. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

### **Section 26.85 Interstate Certification**

When a firm currently certified in another state applies to us for DBE certification, in accordance with IL UCP policy, we will not accept the other state’s certification without further procedures. The procedures we will follow are specified in the IL UCP and 49 CFR 26.85.

### **Section 26.86 Denials of Initial Requests for Certification**

If we deny a firm’s application or decertify it, it may not reapply until twelve months have passed from our action. An applicant’s appeal of our decision to the Department pursuant to §26.89 does not extend this period.

### **Section 26.87 Removal of a DBE’s Eligibility**

In the event we propose to remove a DBE’s certification, we will follow procedures consistent with 49 CFR 26.87. Attachment I, "Illinois Unified Certification Program Procedures," to this

program sets forth these procedures in detail. To ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions, the appeals are forwarded to the City's Department of Law to provide a Hearing Officer.

None of the attorneys at the Department of Law have taken part in any actions or decisions leading to or seeking to implement the proposal to remove the firm's eligibility. The Hearing Officers will render an independent decision as to the appeal without any direction from the Department of Procurement Services or the DBELO. The Department of Law is knowledgeable about the certification requirements of the DBE program and the DBE regulations.

Upon receiving a request from the firm for an informal hearing or a written appeal, the City will immediately transfer the file to the Department of Law. The Department of Law will schedule the informal hearing within thirty days, if so requested. The Department of Law will render a decision within sixty days following the informal hearing or the receipt of the written appeal.

### **Section 26.88 Summary Suspension of Certification**

Suspension is a temporary status of ineligibility pending a proceeding to determine whether the DBE is ineligible to participate in the program and consequently should be removed. In the event we propose to suspend a DBE, we will follow procedures consistent with 49 CFR 26.88.

We will suspend a DBE's certification when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

We may immediately suspend a DBE's certification when:

- (i) there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or
- (ii) when the DBE fails to notify us in writing of any material change in circumstances as required by §26.83(i) or fails to timely file an affidavit of no change under §26.83(j).

When a firm is suspended, we will immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.

While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. **The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.**

Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the City information demonstrating that the firm is eligible notwithstanding its changed circumstances as provided in 49 CFR 26.88.

If the City fails to lift the suspension and reinstate the firm or commence a decertification proceeding, as required by 49 CFR 26.88(g), is appealable to the U.S. DOT as a constructive decertification.

### **Section 26.89 Certification Appeals**

Any firm or complainant may appeal our decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation  
Departmental Office of Civil Rights  
External Civil Rights Programs Division (S-33)  
1200 New Jersey Ave., S.E.  
Washington, DC 20590

Additional information on filing appeals may be found at the following website:  
<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/filing-appeal>

The UCP will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **Section 26.109 Information, Confidentiality, Cooperation**

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Pursuant to 2-156-070 of the Municipal Code of Chicago, City employees may not use or disclose, other than in the performance of their official duties and responsibilities, or as may be required by law, confidential information gained in the course of an investigation or by reason of his or her position or employment.

The Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq., in general, permits access to information regarding the affairs of government and the official acts and policies of those who represent them as public officials. In the event a FOIA request is submitted to the City for information related to a DBE's certification eligibility, we will provide the DBE with notice that a request has been made; the notice will inform the DBE that they may contest the release of the information through any available means.

Notwithstanding any provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, pursuant to § 26.67, which is specifically intended to preempt Illinois FOIA, we will transmit this information, including a personal net worth statement or documents pertaining to it, to DOT in any certification appeal proceeding.



under § 26.89 of 49 CFR Part 26 or to any other state to which the individual's firm has applied for certification under § 26.85 of Part 26.

All participants in the City's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and City compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to the City, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The City will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by 49 CFR Part 26 or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Part 26. If we violate this prohibition, we are in noncompliance with Part 26.

- END -

## **ATTACHMENTS**

Attachment A	City of Chicago Disadvantaged Business Enterprise Policy Statement
Attachment B	Organizational Chart
Attachment C	List of Minority and Woman-Owned Financial Institutions
Attachment D	Contract Remedies
Attachment E	Small Business Program
Attachment F	Overall Goal Calculations
Attachment G	Special Conditions Regarding Disadvantaged Business Enterprise Commitment
Attachment H	Unified Certification Application Form
Attachment I	Illinois Unified Certification Program Procedures
Attachment J	Sample "No Change" Affidavit

NOTE: 49 CFR Part 26, Participation By Disadvantaged Business Enterprises In Department of Transportation Financial Assistance Programs" may be found at:

[http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

**ATTACHMENT A**  
**City of Chicago Disadvantaged Business Enterprise Policy Statement**



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

**City of Chicago**  
**Disadvantaged Business Enterprise**  
**Policy Statement**

The City of Chicago (City) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving that assistance, the City has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City to ensure that Disadvantaged Business Enterprises (DBEs), as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

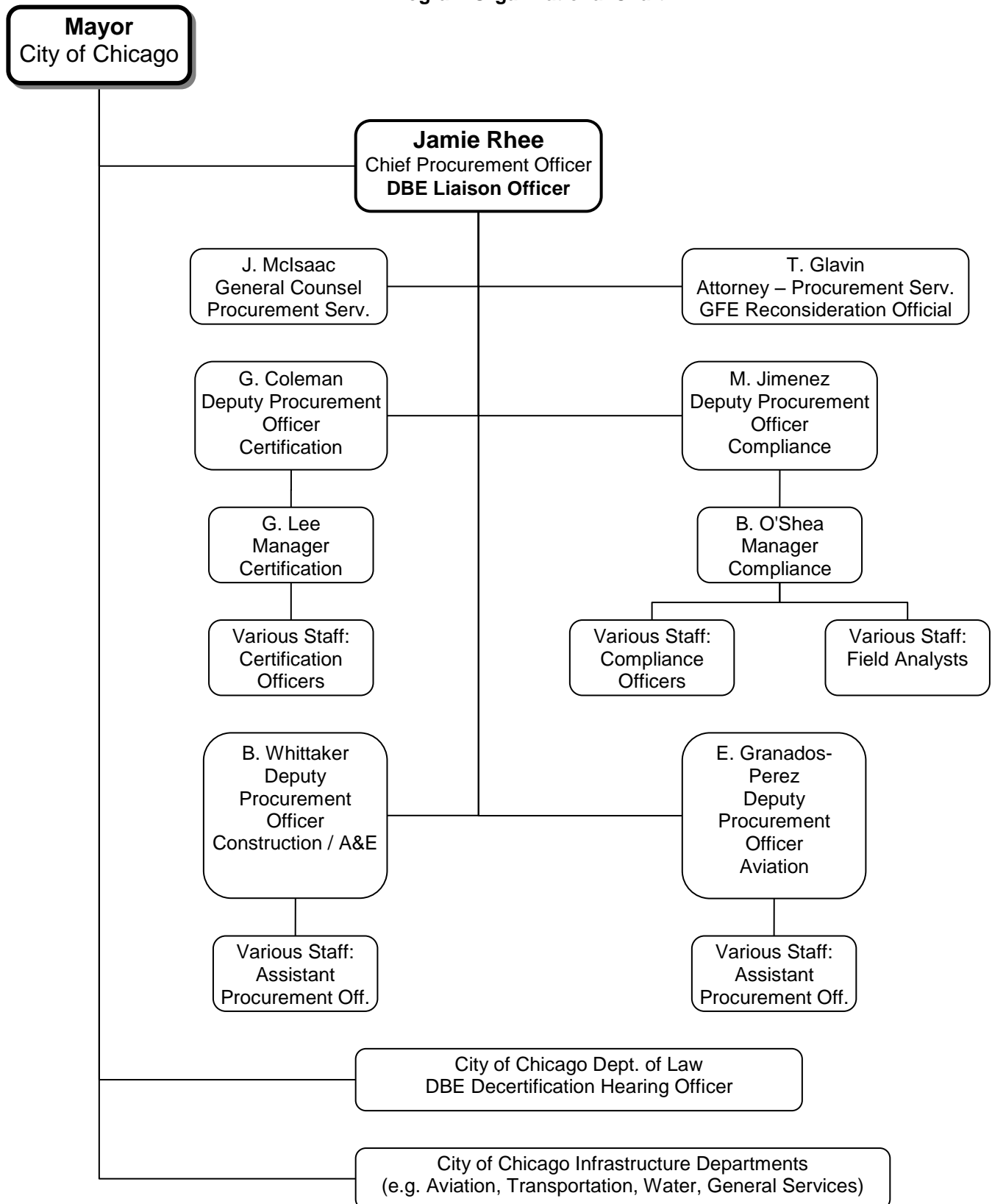
The City's Chief Procurement Officer is designated as the DBE Liaison Officer. In that capacity, the DBE Liaison Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Chicago in its financial assistance agreements with the Department of Transportation.

The City of Chicago has disseminated this policy statement to the heads of the City's executive departments ("Department Heads") and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. A copy of the City's DBE program document will be maintained for public examination in the Department of Procurement Services, City Hall, 121 N. LaSalle St., Room 806, Chicago, Illinois, 60602.

Rahm Emanuel  
Mayor  
City of Chicago

Date: 3-8-2013

**ATTACHMENT B**  
**DBE Program Organizational Chart**



## **ATTACHMENT C**

### **List of Minority and Women-Owned Financial Institutions**

#### **Financial Institutions**

Seaway Bank and Trust Company (Seaway) is certified under the Illinois Unified Certification Program (ILUCP) as an Airport Concessionaire Disadvantaged Business Enterprise (ACDBE). Seaway is currently responsible for providing professional cashiering and customer service services, where customers can make payments for a number of different payment transaction types. These services are provided to various City departments, including the Department of Aviation.

Updated listings of financial institutions and other businesses certified as a DBE or ACDBE can be found online at: <https://webapps.dot.illinois.gov/UCP/ExternalSearch>

Separate from the DBE program, the City also certifies financial institutions under its local Minority/Women Business Enterprise Program ("M/WBE Program") pursuant to MCC § 2-92-420 et seq. and encourages their use on locally-funded contracts. Listings may be found at: <https://chicago.mwdbe.com/FrontEnd/VendorSearchPublic.asp?TN=chicago>

#### **Small Business Loan Programs**

The City Treasurer's Office has three (3) different loan programs available to small businesses. The types of programs are as follows:

##### **Small Business Microlending**

Microloans are business loans provided by community oriented financial institutions that help new and existing businesses get the capital they need to succeed. The amounts range from \$2,000 - \$50,000.

##### **Small Business Improvement Fund**

The City of Chicago's Small Business Improvement Fund (SBIF) helps make improvements to small business properties in select Chicago neighborhoods. The program uses tax increment financing (TIF) revenues to help owners of commercial and industrial properties within specific TIF districts to repair or remodel their facilities for their own business or on behalf of tenants.

Program participants can receive matching grants to cover from 25% to 75% of SBIF-eligible costs with a \$150,000 maximum assistance per project and per applicant. The grants come in a form of rebates, reimbursing building owners or tenants for eligible expenses. The grant does not have to be repaid.

##### **SBA Lenders**

On September 27, 2010, President Obama signed the Small Business Jobs Act of 2010 (the "Small Business Jobs Act"). The Small Business Jobs Act makes significant changes to the amounts that a small business may borrow through the 7(a) loan program, increasing the overall 7(a) loan limit from \$2 million to \$5 million.

Additional information regarding the programs listed above can be found at the City Treasurer's Website: <http://www.chicagocitytreasurer.com/small-business-chicago/small-business-loan-programs/> or by calling 312-744-3356.

## **ATTACHMENT D**

### **Contract Remedies**

The following is a list of contractual remedies that are generally available to the City in the event of default on the part of the contractor. These remedies include, but are not limited to the following:

1. The right to take over and complete the work or any part of it as agent for contractor, either directly or through others. Contractor has, in that event, the right to offset from the cost the amount it would have cost the City under the terms and conditions of this agreement, had contractor completed the work.
2. The right to terminate the contract as to any or all of the work yet to be performed effective at a time specified by the City.
3. The right of specific performance, an injunction or any other appropriate equitable remedy.
4. The right to money damages.
5. The right to withhold all or any part of contractor's compensation under the contract.
6. The right offset off against any payments due or to become due to the contractor or the retention.
7. The right to deem the contractor nonresponsible in future contracts to be awarded by the City.
8. The right to take over and complete the work, or contract with another contractor, including, but not limited to, any subcontractor, and hold contractor liable for any amounts paid for such work above what the City would have paid the contractor for that same work. Upon request of the City, contractor will assign any of its subcontracts to the City that the City may request.

**ATTACHMENT E  
Small Business Program**



DEPARTMENT OF PROCUREMENT SERVICES  
CITY OF CHICAGO

February 28, 2012

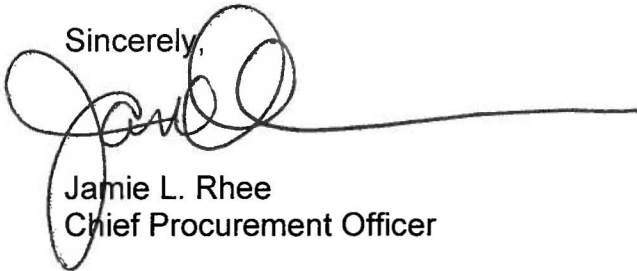
Dwight B. Sinks  
Federal Transit Administration  
Region V Office  
200 West Adams Street, Suite 320  
Chicago, Illinois 60606

Dear Mr. Sinks:

Per 49 CFR Part 26, the City of Chicago is pleased to present its DBE Small Business Participation (SBP) Program for your review and approval.

If you have any questions or need further assistance regarding our proposed SBP Program, please contact Monica Jimenez at (312) 744-0845 or via email at [monica.jimenez@cityofchicago.org](mailto:monica.jimenez@cityofchicago.org).

Sincerely,



Jamie L. Rhee  
Chief Procurement Officer

JLR:mj

Enclosure



**City of Chicago**  
**DBE Small Business Participation Program (SBP)**  
**(49 CFR Part 26.39)**

**A. Introduction**

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the City of Chicago seeks to implement a small business element into its current DBE policy in accordance with applicable law. The City of Chicago is including this element to facilitate competition by small business enterprises and increase contracting opportunities with the City of Chicago. The City of Chicago is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors.

**B. Definitions**

1. **Disadvantaged Business Enterprise (“DBE”)**: Disadvantaged business enterprise or “DBE” means a for-profit small business concern (as defined by the Small Business Administration) that:
  - Is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals.
  - Is one whose socially and economically disadvantaged owners do not exceed the personal net (PNW) standard described in 49 C.F.R. Part 26. The current PNW is \$1.32 million.
  - Is one whose average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$22.41 million.
  - Is one whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owners.and
  - Has been certified as a DBE by the Illinois UCP in accordance with 49 C.F.R. Part 26.
2. **Set Aside**: the reserving of a contract or a portion of a contract exclusively for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location.

3. **Small Business Enterprise (“SBE”)**: a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121, relevant to the scope(s) of work the firm seeks to perform on City contracts. A firm is not an eligible small business enterprise in any fiscal year in which its gross receipts, averaged over the firm’s previous three fiscal years, or its number of employees, per pay period averaged over the past twelve months, exceed the size standards of 13 C.F.R. Part 121.

### C. Eligibility

1. To qualify for the Small Business Participation Program, a business must meet the definition of a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121. In making a determination as to whether a business meets that definition, the Chief Procurement Officer will consider, among other factors, whether the business:
  - Has been in business for at least one (1) year;
  - Will perform the majority of the work with its own forces and/or subcontractors who are also small business enterprises;
  - Is independent, and not an affiliate or subsidiary of any other business, other than businesses that, considered together, would meet the definition of a small business.
  - Has gross receipts, averaged over the previous three fiscal years, or its number of employees, per pay period averaged over the past twelve months, that do not exceed the size standards of 13 C.F.R. Part 121.
2. Independence of a business is determined solely by the Chief Procurement Officer or his or her designee. Indicia of independence include the ability of the applicant to perform satisfactorily in its area(s) of specialty without substantial reliance upon finances, resources, bonding, expertise, staff, facilities, or equipment of another individual or business. Recognition of the applicant as a separate and distinct entity by governmental taxing authorities is not dispositive of the applicant’s assertion of independence. Independence will be evaluated as of the date the applicant was established through and including the application to the SBP.
3. The DBE small business participation program is race and gender neutral. Any small business that meets the definition of a small business as defined by the U.S. Small Business Administration is eligible to bid on a DBE small business participation program contract.

4. The City of Chicago will issue a form of affidavit for firms that have not been certified as DBE's to attest that they meet the definition of a Small Business Enterprise. The Chief Procurement Officer reserves the right to conduct investigations to determine the accuracy of the information provided in such affidavits. (See Exhibit 1).

#### **D. Methods and Strategies**

1. Set Asides: Where feasible, the City of Chicago will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by Small Business Enterprises on federally funded contracts. The Department of Procurement Services (DPS) will identify federally funded projects in the City's Buying Plan, updated each quarter, which will be offered exclusively to Small Business Enterprises. The projects will be sized appropriately for small businesses and typically will be limited to estimated project costs of \$3 million or less. This set aside shall be in addition to the DBE contract goals which may be required pursuant to applicable law or policy.
2. Unbundling: The City of Chicago, where feasible may "unbundle" projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The City of Chicago will conduct contract reviews on each federally funded project to determine whether portions of the project could be "unbundled" or bid separately. The City of Chicago will also encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.
3. For those bidders who have not already been determined to be Small Business Enterprises, the bid package for each DBE small business participation program procurement will contain the affidavit referred to in Section C.4. above to be completed by the bidder.

#### **E. Certification and Verification Procedures**

The City of Chicago will recognize and accept certifications issued by those agencies that utilize the Illinois Unified Certification Program Application and which certify minority and women owned firms pursuant to the eligibility standards set forth by the U.S. Department of Transportation (USDOT) Regulation 49 CFR Part 26 and the procedures established under the IL UCP. Certifications issued by the following agencies will be accepted:

- Illinois Department of Transportation
- Chicago Transit Authority
- Pace
- Metra

## **F. Implementation Schedule**

The City of Chicago will implement this small business element within three months of the approval of this document.

# EXHIBIT 1

## DBE SMALL BUSINESS PARTICIPATION PROGRAM (SBP) AFFIDAVIT OF SMALL BUSINESS STATUS

Project Description:  
Specification Number:

State of \_\_\_\_\_  
County (City) of \_\_\_\_\_

I HEREBY DECLARE AND AFFIRM that I am the duly authorized representative of:

\_\_\_\_\_  
Name of Bidder/Proposer ("Affiant")

and that I have personally reviewed the material and facts set forth herein describing our Affiant's status as a Small Business Enterprise within the requirements of the City of Chicago, DBE Small Business Participation Program, and thereby Affiant's eligibility for award of the contract for the project and specification set forth above.

I. To qualify as a Small Business Enterprise for this Program, a business must meet the definition of a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121. In making a determination as to whether a business meets that definition, the Chief Procurement Officer will consider, among other factors, whether the business:

- Has been in business for at least one (1) year;
- Will perform the majority of the work with its own forces and/or subcontractors who are also small business enterprises;
- Is independent, and not an affiliate or subsidiary of any other business;
- Has gross receipts, averaged over the previous three fiscal years or its number of employees, per pay period averaged over the past twelve months, that do not exceed, the size standards of 13 C.F.R. Part 121.

By its signature below, the Affiant states, represents, warrants and affirms that it meets the foregoing criteria, and that it will perform the majority of the work on the project with its own forces and/or subcontractors who are also small business enterprises as defined by 13 C.F.R. Part 121. Affiant states, represents, warrants and affirms that the subcontractors listed on Affiant's Schedule D are also small business enterprises. (Affidavits of Small Business Status attached).

The Affiant designates the following person as their Small Business Participation Program Compliance Liaison Officer:

Name: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

- II. False statements made in connection with this Affidavit, including statements in, omissions from and failures to timely update the Economic Disclosure Statement, as well as in any other affidavits, statements or contract documents constitute a material breach of any contract for which this Affidavit is provided. Any such misrepresentation renders the contract voidable at the option of the City, notwithstanding any prior review or acceptance by the City of any materials containing such misrepresentation. In addition, the City may debar Affiant, assert any contract claims or seek other civil or criminal remedies as a result of a misrepresentation (including costs of replacing a terminated Affiant pursuant to Chicago Municipal Ordinance 1-21-010).

The City may, in its sole discretion, audit the records of Affiant at any time during the term of any Contract for which this Affidavit is submitted or within five (5) years after the date of this Affidavit, in connection with the representations, statements and affirmations made herein. Each calendar year or partial calendar year is considered an audited period. If, as a result of such an audit, it is determined that Contractor has made any false statements to the City, the City will so notify Contractor.

- III. To the best of Affiant's knowledge, information and belief, the facts and representations contained in this Affidavit are true, and no material facts have been omitted. On behalf of Affiant, I do solemnly declare and affirm under penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the Contractor, to make this affidavit.

Signature of Affiant: \_\_\_\_\_ Date: \_\_\_\_\_

Affiant's SBA Specialty Area: \_\_\_\_\_

NAICS Code(s): \_\_\_\_\_

State of \_\_\_\_\_

County \_\_\_\_\_

The instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (name/s of person/s)

as \_\_\_\_\_ (type of authority, e.g. officer, trustee, etc.)

of \_\_\_\_\_ (name of party on behalf of whom  
instrument was executed)

Notary Public Signature: \_\_\_\_\_

(Seal)

Commission Expires: \_\_\_\_\_



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Western-Pacific Region  
Office of Civil Rights  
P. O. Box 92007  
Los Angeles, CA 90009-2007

Reply to:  
Great Lakes Region  
2300 E. Devon Avenue, Room 440  
Attn: Nancy Cibic  
Des Plaines, IL 60018

July 13, 2012

Ms. Jamie L. Rhee  
Chief Procurement Officer  
City of Chicago  
Department of Procurement Services  
121 North LaSalle Street  
Room 403  
Chicago, IL 60602

Dear Ms. Rhee:

This letter is to notify you that we concur with the City of Chicago's Small Business Element (SBE) which was submitted as part of the Authority's overall DBE program. Please note that your SBE must be implemented within nine (9) months after receipt of this letter.

As a reminder, Federal Regulation 49 CFR Part 26 requires airport grant recipients that award prime contracts during a fiscal year in excess of \$250,000 or more to submit DBE goals. 49 CFR 26.11 specifically requires airport grant recipients to annually submit the Uniform Report of DBE Awards or Commitments and Payments associated with the contracts awarded during the fiscal year. For, FAA, these reports are due December 1 for the prior fiscal year. The race and gender neutral DBE participation on federally-funded projects that is achieved through the small business element should be reported in the same annual Uniform Report of DBE Awards or Commitments and Payments.

Thank you for your continued attention to and support of the very important DBE program. If you have any questions or need any other assistance, please contact Nancy Cibic, FAA Great Lakes Region Compliance Specialist at [nancy.cibic@faa.gov](mailto:nancy.cibic@faa.gov), or 847-294-7182.

Sincerely,

for  
Michael D. Freilich, Director  
Civil Rights and DBE Compliance  
Western Pacific Region

cc:

Ms. Monica Jimenez  
City of Chicago  
Contract Compliance  
121 North LaSalle Street, Room 403  
Chicago, Illinois 60602

**ATTACHMENT F  
DBE Goal Document**



*Note: Goal document for Federal fiscal years 2014 through 2016 attached. Updated goal document for Federal fiscal years 2017 through 2019 to be submitted by October 1, 2016.*

**CITY OF CHICAGO**

**DISADVANTAGED BUSINESS ENTERPRISE**

**OVERALL GOAL for FAA-ASSISTED CONTRACTS**

**FISCAL YEAR 2014, 2015, AND 2016**

## I. INTRODUCTION

The City of Chicago (City) submits its Disadvantaged Business Enterprise (DBE) overall goal to the Federal Aviation Administration (FAA) for review and approval. The report has been prepared to comply with the DBE Federal Regulations, 49 CFR Part 26, and describes the methodology used to establish the City's overall FAA DBE goal for FFY 2014-2016. The City performed a thorough analysis of the relative availability of DBEs to participate in our DOT-assisted contracts by using historical contract and payment data, the IL UCP Directory of Certified DBEs, and the Census Bureau's County Business Pattern database to arrive at its overall goal of 23 percent.

## II. PROPOSED OVERALL GOAL FOR FAA-ASSISTED PROJECTS, FFY 2014-2016

The recommended overall DBE goal for FFY 2014-2016 will be 23 percent. The total FAA-assisted contract amounts the City of Chicago expects to bid out in the next three years is as follows:

FEDERAL FISCAL YEAR	DOLLAR AMOUNT
2014	\$238,770,850
2015	\$64,220,480
2016	\$25,000,000

## III. METHODOLOGY USED FOR DETERMINING DBE OVERALL GOAL

In order to establish an overall goal consistent with the process in 49 CFR Part 26, the City began by defining its local market for FAA-assisted contracts by collecting and analyzing data from the IL UCP Directory of Certified DBEs, bidder's list and U.S. Census data. The City's Uniform Report of DBE awards, commitments and payment reports were also used in determining the City's overall DBE goal.

Based on available data from the City's FAA-assisted contracts, the City determined that virtually all DBEs performed (either as prime contractors or subcontractors) in the following North American Industry Classification System (NAICS) Codes:

NAICS CODE	TITLE
237310	Highway, Street, and Bridge Construction
237990	Other Heavy and Civil Engineering Construction
238110	Poured Concrete Foundation and Structure Contractors
238120	Structural Steel and Precast Concrete Contractors
238130	Framing Contractors
238140	Masonry Contractors
238150	Glass and Glazing Contractors
238190	Other Foundation, Structure, and Building Exterior

	Contractors
238210	Electrical Contractors and Other Wiring Installation Contractors
238220	Plumbing, Heating, and Air-Conditioning Contractors
238290	Other Building Equipment Contractors
238310	Drywall and Insulation Contractors
238320	Painting and Wall Covering Contractors
238330	Flooring Contractors
238340	Tile and Terrazzo Contractors
238350	Finish Carpentry Contractors
238390	Other Building Finishing Contractors
238910	Site Preparation Contractors
484110	General Freight Trucking, Local
484220	Specialized Freight (except Used Goods) Trucking, Local
541310	Architectural Services
561612	Security Guards and Patrol Services
561730	Landscape Services
561990	Flagging (i.e., traffic control) services

#### IV. BASE FIGURE DETERMINATION

To determine a base figure of relative availability of DBEs, the City used County Business Pattern data available for the Local Market and the IL UCP Directory of Certified DBEs. A six-digit NAICS code was assigned to each of the anticipated federally funded projects in FFY 2014-2016. Table 1 below defines the NAICS codes by Industry:

**Table 1: NAICS Title and Industry**

NAICS CODE	INDUSTRY	NAICS INDUSTRY DESCRIPTION
237310	Construction	Highway, Street, and Bridge Construction
237990	Construction	Other Heavy and Civil Engineering Construction
238110	Construction	Poured Concrete Foundation and Structure Contractors
238120	Construction	Structural Steel and Precast Concrete Contractors
238130	Construction	Framing Contractors
238140	Construction	Masonry Contractors
238150	Construction	Glass and Glazing Contractors

238190	Construction	Other Foundation, Structure, and Building Exterior
238210	Construction	Electrical Contractors and Other Wiring Installation Contractors
238220	Construction	Plumbing, Heating, and Air-Conditioning Contractors
238290	Construction	Other Building Equipment Contractors
238310	Construction	Drywall and Insulation Contractors
238320	Construction	Painting and wall Covering Contractors
238330	Construction	Flooring Contractors
238340	Construction	Tile and Terrazzo Contractors
238350	Construction	Finish Carpentry Contractors
238390	Construction	Other Building Finishing Contractors
238910	Construction	Site Preparation Contractors
484110	Truck Transportation	General Freight Trucking, Local
484220	Truck Transportation	Specialized Freight (except Used Goods) Trucking, Local
541310	Professional, Scientific and Technical Services	Architectural Services
561612	Administrative and Support Services	Security Guards and Patrol Services
561730	Administrative and Support Services	Landscape Services
561990	Administrative and Support Services	Flagging (i.e., traffic control) services

The USDOT rules require the calculation of the base figure using the following formula:

Step One Base Figure = Ready, willing and able DBEs

All ready, willing and able businesses (including DBEs and non-DBEs)

Using this calculation, Table 2 below represents the relative DBE availability by NAICS code of the anticipated contracts only. The percent of available businesses in each NAICS code reflects the

portion of all available businesses within the six county regions (Cook, DuPage, Kane, Lake, McHenry and Will counties). The relative availability of DBES within the six county regions is 22.10 percent.

**Table 2: Relative Base Figure**

NAICS Code	Number of Available Businesses		Number of Available Businesses	
	DBE	ALL	DBE	ALL
237310	183	320	2.65%	4.63%
237990	60	100	0.87%	1.45%
238110	177	364	2.56%	5.27%
238120	50	65	0.72%	0.94%
238130	33	72	0.48%	1.04%
238140	27	335	0.39%	4.85%
238150	10	80	0.14%	1.16%
238190	12	54	0.17%	0.78%
238210	80	825	1.16%	11.94%
238220	54	1232	0.78%	17.83%
238290	14	45	0.20%	0.65%
238310	35	171	0.51%	2.47%
238320	57	122	0.82%	1.77%
238330	18	79	0.26%	1.14%
238340	19	36	0.27%	0.52%
238350	53	207	0.77%	3.00%
238390	14	48	0.20%	0.69%
238910	167	227	2.42%	3.29%
484110	28	1048	0.41%	15.17%
484220	265	503	3.84%	7.28%
541310	56	302	0.81%	4.37%
561612	27	46	0.39%	0.67%
561730	77	420	1.11%	6.08%
561990	11	209	0.16%	3.02%
<b>TOTAL</b>	<b>1527</b>	<b>6910</b>	<b>22.10%</b>	<b>100.00%</b>

For each industry in which the City anticipates to award, the City used the number of listed DBEs as the numerator and the total number of all established businesses as the denominator and then weighted these percentages based on the percentage of the estimated budget for FFY 2014-2016. Table 3 represents the calculation of weighted availability, which was determined to be 23 percent for DBEs.

**Table 3: Weighted Base Figure**

		Number of Available Businesses				Weighted Availability
NAICS Code	Industry	DBE	ALL	Anticipated Contract Amount	Weight	DBE
237310	Construction	183	320			
237990	Construction	60	100			
238110	Construction	177	364			
238120	Construction	50	65			
238130	Construction	33	72			
238140	Construction	27	335			
238150	Construction	10	80			
238190	Construction	12	54			
238210	Construction	80	825			
238220	Construction	54	1232			
238290	Construction	14	45			
238310	Construction	35	171			
238320	Construction	57	122			
238330	Construction	18	79			
238340	Construction	19	36			
238350	Construction	53	207			
238390	Construction	14	48			
238910	Construction	167	227			
<b>Sub Total</b>		1063	4382	\$ 255,833,237	78%	18.92%
484110	Truck Transportation	28	1048			
484220	Truck Transportation	265	503			
<b>Sub Total</b>		293	1551	\$ 13,119,653	4%	0.76%
541310	Professional , Scientific and Technical Services	56	302			
<b>Sub Total</b>		56	302	\$ 55,758,526	17%	3.15%
561612	Administrative and Support Services	27	46			
561730	Administrative and Support Services	77	420			
561990	Administrative and Support Services	11	209			
<b>Sub Total</b>		115	675	\$ 3,279,914	1%	0.17%
<b>TOTAL</b>		1527	6910	\$ 327,991,330	100%	23.00%

## V. STEP TWO ADJUSTMENT FACTOR

The Step Two base figure adjustment, as recommended in Tips for Goal Setting, requires examining relevant and reliable data in the recipient's market area to determine if an adjustment to the base figure is warranted. The consideration of an adjustment is intended to account for any impact the relevant factors may have on a DBE's contracting opportunities with the City of Chicago.

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment (if any) was needed to the base figure in order to arrive at the overall goal. The data used to determine the adjustment to the base figure was the median of historical DBE participation which range from 23.6% to 29%. Arranging this historical data from low to high, the median is 24.5%.

Total Award Amount	Total DBE Participation	Total DBE%
2013 \$ 60,926,105	\$14,380,865	23.6%
2012 \$190,856,356	\$46,844,583	24.5%
2011 \$332,811,195	\$96,604,913	29.0%

The City will not make an adjustment to the Step 1 base figure because the average of the total (step 1 base figure and median) is 23.75% (step 1 base figure is 23%). The evidence does not suggest that an adjustment is necessary. Therefore, the City adopted its weighted base figure of 23% as its overall goal for FY 2014, 2015, and 2016. This is an overall goal for the City (O'Hare and Midway airports) and the goal also applies to each airport individually.

## VI. Breakout of Estimated Race-Neutral and Race-Conscious Participation

The City of Chicago will meet the maximum feasible portion of its overall goal by using race-neutral means to facilitate DBE participation. The City of Chicago uses the following race-neutral means to increase DBE participation: 1) Provide assistance in overcoming limitations such as the inability to obtain bonding or financing; providing technical assistance in the workplace; 2) Convey information and communications on specific contracting procedures and contract opportunities; 3) Update the distribution of the DBE directory through print, if necessary, and electronic means to the widest feasible universe of potential prime contractors; 4) Assist DBEs, and other small businesses to develop their capacity to utilize emerging technology and conduct business through electronic media; and 5) Break out large projects into small bid packages.

In the event the overall DBE goals are not met, we will look to see if adjustments should be made in light of DBE capacity and availability as it relates to the types of contract to be let. The City is also prepared to implement or re-establish the following contractor development initiatives as a means to increase race neutral participation: 1) Implement a supportive services program to develop and improve immediate and long-term business management, record keeping, and accounting capability for DBEs and other small businesses; 2) Provide services to help DBEs, and other small businesses,



improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency; 3) establish a program to assist new, startup firms, particularly in fields in which DBE participation has historically been low; 4) review solicitations and specifications for ways to unbundle and divide work among lower capacity contractors; 5) encourage DBEs to network within their specialty for joint venture opportunities; and 6) educate larger prime contractors and DBEs on the policies and procedures of Mentor-Protégé programs and encourage them to form Mentor-Protégé relationships.

We estimate that in meeting the FAA goal of 23%, we will obtain 3% from race-neutral participation and 20% through race-conscious measures. The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

In calculating its FY 2014, 2015, and 2016 DBE Goal, the City found that in estimating its race neutral percentage it could gain no more than 3% participation through race neutral means. We arrived at 3% race neutral participation from the following estimates:

**Break-out of Estimated Race Neutral Participation:**

DBE Prime Contractor Participation	Est. >1%
"0" Contract Goals	Est. 0%
Exceeding Contract Goals	Est. 2%
Progress through Increased Race Neutral Means	Est. 1%

Our estimates of 0% for "0" Contract Goals" and 2%"Exceeding Contract Goals" was based on DBE past participation. We have found that the bulk of our race neutral participation has been gained through exceeding contract goals, rather than the expected DBE prime contractor participation.

The City anticipates increased race neutral participation as the result of our continually evolving outreach programs (See Attachment A) project awareness forums, new business development initiatives like, capacity building and prompt pay contract requirements.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract that a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract that exceeds the contract goal; and DBE participation from a subcontract through a prime contractor that did not consider a firm's DBE status in making the award.

## **VII. Contract Goals**

The City of Chicago will use contract goals to meet any portion of the overall goal that the City of Chicago does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those FAA-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). We will express our contract goals as a percentage of the total amount of DOT-assisted contracts.

#### **VIII. Good Faith Efforts**

The City of Chicago handles bidder's/respondent's compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidder/respondent to submit the following at the time of bid submission:

- a. Names and addresses of DBE firms that were solicited for potential DBE and non-DBE participation as a subcontractor.
- b. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits in order to meet a contract goal.
- c. A description of the work that each DBE will perform.
- d. Dollar amount of participation of each DBE firm performing work.
- e. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment.
- f. If a commitment to the contract goal could not be met, evidence of good faith efforts must be fully documented and submitted to the City for review and approval.

#### **IX. Process and Notice of Goal**

The City of Chicago will consult with minority and woman contractors and groups, local assist agencies, prime contractors, and certified vendors to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and the City of Chicago's efforts to establish a level playing field for the participation of DBE's. A notice of the proposed overall goal will be published on the City's Website for public comment.

## Attachment A

### Department of Procurement Services Outreach Events

#### Quarterly Workshops:

- Professional Declaration of Eligibility Information Sessions

Recommended for Attorneys and Accountants: The Professional Declaration of Eligibility is an innovative way of allowing qualified attorney's and CPAs to review, verify and attest that an applicant meets the requirements to become certified with the City of Chicago for one of the following certification programs: Minority Owned Business Enterprise (MBE) or Women Owned Business Enterprise (WBE). This workshop will outline who qualifies to use the PDE program, and who is qualified to submit a PDE application.

January 8, 2013 – April 9, 2013 – July 9, 2013 – October 8, 2013

- The ABC's of DBE and ACDBE Certification

This workshop provides an overview of the City's Disadvantaged Business Enterprise (DBE), and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs. Topics include the application process and benefits of certification as part of the Illinois Unified Certification process with the City of Chicago, Illinois Department of Transportation, Chicago Transit Authority, Metra, and Pace.

January 9, 2013 – April 10, 2013 – July 10, 2013 – October 2, 2013

- Introduction to City Bonding Requirements

Learn valuable information about City required bid, payment and performance bonds. Professionals will be on hand to discuss the legal basis for the City bonds, the nuts and bolts of compliance and circumstances under which the City might make claims on a bond.

January 16, 2013 – April 17, 2013 – July 17, 2013 – October 23, 2013

- How to Navigate the DPS Website

This workshop will take you through all of the resources that are found on the DPS website. Come and see how the M/WBE forum works, how to do a search for MBE/WBE firms, how to search for awarded contracts and the bid take out lists, and much more.

January 23, 2013 – April 3, 2013 – July 24, 2013 – October 15, 2013

- The Online Schedule A Application – MBE/WBE/BEPD

This workshop will give hands on experience filling out the MBE/WBE/BEPD Schedule A application. During this training you will learn where to find the online application, what documents will be needed, and how to upload the documents. Be prepared to work on your application. NOTE: Please bring your username and password for C2 and business Tax ID number with you to class.

February 5, 2013 – May 7, 2013 – August 6, 2013 – November 5, 2013

- Meet the Department of Procurement Services

Do you have questions about how to become a successful bidder on City of Chicago contracting opportunities? Do you have questions about contract and bid specification language? Come and ask your questions to the City's Procurement Staff. You will be able to speak directly to procurement staff that is eager to assist you in learning about the City's Procurement process.

February 6, 2013 – May 8, 2013 – August 7, 2013 – November 6, 2013

- The JOC Information Session

A Job Order Contract (JOC) is another delivery method for the City of Chicago to procure construction services. JOC is a firm, fixed price, competitive bid with indefinite quantity, delivery method designed to produce a large number of multi-traded, repair and rehabilitation projects, as well as, minor new construction projects quickly.

Come out and find out how a Job Order Contract could benefit your company.

March 13, 2013 – May 22, 2013 – August 14, 2013 – November 13, 2013

- Your Business Is Certified: Now What?

This workshop will provide newly certified MBE/WBE/DBE and BEPD firms valuable information on how to compete for City contracts in addition to providing information on resources available to firms.

March 20, 2013 – May 15, 2013 – August 21, 2013 – October 16, 2013

- Compliance Documentation 101

This workshop will provide vendors with an overview of the City's Minority and Women-Owned Business Enterprise (M/WBE), Equal Employment Opportunity and Chicago Residency Ordinance contracting requirements. Learn helpful tips on how to complete bid submittal compliance documentation and also gain insight on laws, rules and regulations governing compliance.

February 20, 2013 – June 5, 2013 – September 4, 2013 – December 4, 2013

- Contracting 101: How to Respond to a Request for Proposal (RFP)

This workshop is designed to teach business owners how to respond to a City of Chicago RFP. Learn what evaluators look for in a RFP and how to avoid common mistakes. Learn helpful tips on how to navigate RFP specifications.

February 13, 2013 – June 19, 2013 – September 11, 2013 – December 18, 2013

- City of Chicago Procurement Fundamentals

This workshop teaches vendors about the laws, policies, rules and regulations which govern the procurement process. Attendees will be afforded an opportunity to discuss how these various elements impact the bidding process.

March 6, 2013 – June 12, 2013 – October 9, 2013 – December 11, 2013

#### Monthly Workshops:

- How to Become Certified

This workshop will provide information on who is qualified to be certified as a Minority/Women-Owned Business Enterprise. Find out what documents are needed when submitting an application and how to avoid the most common mistakes.

January 30, 2013 – February 27, 2013 – March 27, 2013 – April 24, 2013

May 29, 2013 – June 26, 2013 – July 31, 2013 – August 28, 2013

September 25, 2013 – October 30, 2013 – November 20, 2013

- Doing Business with the City of Chicago

This workshop is designed to outline the role and responsibility of the Department of Procurement Services in the City's purchasing process. Ideal for companies looking to do business with the City of Chicago.

January 30, 2013 – February 27, 2013 – March 27, 2013 – April 24, 2013

May 29, 2013 – June 26, 2013 – July 31, 2013 – August 28, 2013

September 25, 2013 – October 30, 2013 – November 20, 2013

## Events and Outreach

City Treasurer's Small Business Expo	October 5, 2012
CHA Certification Panel Discussion	October 30, 2012
Assist Agency Meeting	November 7, 2012
South Shore Chamber of Commerce Members Meeting	November 7, 2012
Doing Business with the City of Chicago/OEMC	November 16, 2012
Introduction to the Small Business Initiative	December 4, 2012
Doing Business with the City of Chicago/DoIT	December 6, 2012
DPS Construction Summit	January 29, 2013
Municipal Marketing Meeting	January 31, 2013
Latin American Chamber of Commerce Breakfast Meeting	February 20, 2013
Chicago NAACP Certification Information Session	February 23, 2013
Polish American Small Business Expo	March 9, 2013
Cosmopolitan Chamber of Commerce Annual Conference	March 14, 2013
Federation of Women Contractors C2 Training	March 25, 2013
Chicago Minority Business Association Business Meeting	March 27, 2013
African American Contractors Association	March 27, 2013
Intergovernmental Small Business Forum	March 29, 2013
Chicago Bar Association Lien Subcommittee Meeting	April 1, 2013
Aviation Concessions Open House	April 5, 2013
Black Woman's Expo	April 6th & 7th, 2013
Black Contractors' United Membership Meeting	April 9, 2013
Goldman Sachs Award Luncheon/Graduation	April 11, 2013
Alderman Lona Lane Business Symposium	April 19, 2013
Alderman Carrie Austin Executive Staff Meeting Training	April 25, 2013
Alderman Harris Town Hall Meeting	April 25, 2013
19th Annual Construction and Transportation Award Lunch	May 3, 2013
U of C School of Business	May 4, 2013
Operation Push Certification/Business Workshop	May 4, 2013
Construction Contractors Graduation	May 9, 2013
Latino Small Business Expo	May 11, 2013
How to Become Certified for Asian American Chamber	May 16, 2013
Assist Agency Meeting	June 11, 2013
Clinton Business Symposium	June 13th & 14th, 2013
DPS 2013 Vendor Fair	June 24, 2013
Asian American Business Expo	June 29, 2013
LISC's Commercial Corridor Roundtable	July 17, 2013
CHA Panel Discussion on Certification/Doing Business	July 25, 2013
Alderman Mitts Ward Meeting	July 25, 2013
2013 ACCA National Training Institute	August 23, 2013
NIGP Forum	August 24th – 28th, 2013
Construction Conference	August 24, 2013
2013 Events and Outreach	
Illinois Hispanic Chamber of Commerce Business Expo	August 29, 2013
Assist Agency Meeting	September 10, 2013

Chicago Urban League Construction Development Program  
Social Justice Radio Show  
Chicago Park District Business Expo  
CPO Roundtable  
BIG Ideas Small Business Conference  
WBDC Annual Conference

September 13, 2013  
September 14, 2013  
September 17, 2013  
September 19, 2013  
September 24, 2013  
September 26, 2013

**ATTACHMENT G**  
**Sample Special Conditions for DOT-Assisted Contracts**

The Sample Special Conditions below apply to all DOT-Assisted contracts subject to the City's Part 26 Program. While the standard terms and conditions and cross-references may differ depending upon the type of Federal funding (e.g. FTA, FAA, or FHWA), the content remains substantially similar to the language below. These Sample Special Conditions are provided as an example only; the City may revise them as it deems appropriate.





**CITY OF CHICAGO**  
**Department of Procurement Services**  
**Jamie L. Rhee, Chief Procurement Officer**  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602-1284  
**Fax: 312-744-3281**

**DBE SPECIAL CONDITIONS FOR FAA/FTA/FHWA (IDOT) FUNDED CONTRACTS  
CONSTRUCTION, SERVICES, TASK ORDER SERVICES, AND SUPPLY**

**ARTICLE 1. SPECIAL CONDITIONS REGARDING DISADVANTAGED BUSINESS ENTERPRISE COMMITMENT**

Contractor must comply with the following terms and conditions where Work or Services are funded in whole or in part by any U.S. Department of Transportation ("DOT") federal funds including but not limited to FHWA, FTA and FAA.

**1.1. Policy and Terms**

In the event of a conflict between these Special Conditions and 49 CFR Part 26, the provisions of 49 CFR Part 26 shall control.

It is the policy of the City that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, have the maximum opportunity to participate fully in the performance of contracts subject to 49 CFR Part 26. Contractor must not discriminate against any person or business on the basis of race, color, national origin or sex in the performance of this Contract. Contractor must carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation (DOT)-assisted contracts and take affirmative action to ensure that businesses owned by socially and economically disadvantaged individuals have full opportunity to participate.

The City has set an overall DBE Program Goal of 30%.

Failure to carry out the commitments and policies set forth in this Article constitutes a material breach of the Contract and may result in the termination of the Contract or such remedy as the City deems appropriate.

**1.1.1. Contract-Specific DBE Participation Goal**

The City sets contract-specific goals for participation in furtherance of reaching its overall DBE Program Goal.

For purposes of this contract, the City has set the following contract goal:

**Contract DBE Participation Goal: \_\_\_\_\_ percent.**

*Note: if this contract is task-order based, goals will be set for the individual task orders; in the context of each task order, these provisions will apply to those task order goals as if they were an overall contract goal.*

Award of this contract will be conditioned upon meeting the requirements of 49 CFR 26.53. Among other things, a bid or proposal may be rejected as non-responsive if the bidder/proposer fails to submit one or more of the following with its bid demonstrating its good faith efforts to meet the Contract DBE Participation Goal by reaching out to DBEs to perform work on the contract:

- A. A DBE compliance plan demonstrating how the bidder/proposer plans to meet the Contract DBE Participation Goal (Schedule D, D-1 or D-3 and Schedule(s) C, C-1 or C-3); and/or
- B. Documentation of Good Faith Efforts to obtain DBE participation in this contract.

*Note: Schedules D and C are used for contracts for construction work. Schedules D-1 and D-3 are used for contracts for services, and Schedules D-3 and C-3 are used for task order based contracts.*

In evaluating the bid/proposal, the Chief Procurement Officer has the option to require bidder/proposer to correct mistakes in the DBE compliance plan or documentation of Good Faith Efforts, if the Chief Procurement Officer determines in his or her sole discretion that the mistakes were made in a bona fide, good-faith effort to provide a compliance plan and not obtaining the correction would be contrary to the intent of the DBE program, or to require bidder/proposer to provide additional information. In the event that corrections or additional information is requested, it must be submitted within five calendar days of the request unless otherwise specified by the Chief Procurement Officer. Failure to provide requested corrections, information, and/or an adequate explanation may result in rejection of the bid, and forfeiture of the bid deposit if applicable.

The bidder/proposer must make good faith efforts to obtain DBE participation in this contract. The commitment will be reflected in Schedule D, D-1 or D-3. The bidder/proposer must document that it has obtained enough DBE participation to meet the Contract DBE Participation Goal set forth above or, if unsuccessful in doing so, has made adequate Good Faith Efforts to meet the goal (see Section 1.7 "Good Faith Efforts"). If awarded the Contract, Contractor must expend not less than the committed percentage of the total Contract Price (including any amendments and modifications) for contract participation by DBEs.

For purposes of evaluating bidder/proposer's responsiveness, the Contract DBE Participation Goal will be a percentage of the total contract value. The Contract DBE Participation Goal applies to the total value of the contract, inclusive of all amendments and modifications. The Chief Procurement Officer also has the authority to review each proposed contract modification and amendment that by itself or aggregated with previous modification/amendment requests, increases the contract value by 10 percent of the initial award or \$50,000, whichever is greater, for opportunities to increase participation of DBEs already involved in the contract.

The Contract DBE Participation Goal may be met by the bidder/proposer's status as DBE, or by joint venture with one or more DBEs (but only work performed by the DBEs own forces will be counted), or by subcontracting a portion of the work to one or more DBEs, or by purchasing materials used in the performance of the contract from one or more DBEs or by any combination of the foregoing, as further described in Section 1.5, "Counting DBE Participation Towards the Contract DBE Participation Goal."

#### **1.1.2. DBE Financial Institutions**

Bidder/Proposer is encouraged to use financial institutions owned and controlled by socially and economically disadvantaged individuals. Use of such institutions may be considered by the City as evidence of bidder/proposer's willingness to do business with DBEs. Information about such institutions is available in the City's DBE Program document. In addition, the Illinois Unified Certification Program (IL UCP) Disadvantaged Business Enterprises Directory is available via the Internet at [www.cityofchicago.org/dps](http://www.cityofchicago.org/dps).

#### **1.1.3. DBE Participation Goals for Contract Modifications**

The DBE Participation Goals established at the time of bid/proposal submission shall also apply to any modifications to the Contract after award. This is, any additional work and/or money added to the Contract must also adhere to these Special Conditions requiring Contractor to (sub)contract with DBEs to meet the DBE Participation Goals.

- Contractor must assist the Construction Manager or User Department in preparing its "proposed contract modification" by evaluating the subject matter of the modification and determining whether there are opportunities for DBE participation and at what rates.
- Contractor must produce a statement listing the DBEs that will be utilized on any contract modification. The statement must include the percentage of utilization of the firms. If no DBE participation is available, an explanation of good faith efforts to obtain participation must be included.

The Chief Procurement Officer shall review each proposed contract modification and amendment that by itself or aggregated with previous modification/amendment requests, increases the contract value by ten percent (10%) of the initial award, or \$50,000, whichever is less, for opportunities to increase the participation of DBEs already involved in the Contract.

## 1.2. Definitions and Usage

Terms that are capitalized in these Special Conditions are defined terms and have the meanings set forth in 49 CFR Part 26.5, unless otherwise defined in these Special Conditions or the Contract Documents.

**"Area of Specialty"** means the description of a DBE firm's business which has been determined by the certifying agency to be most reflective of the DBE firm's claimed specialty or expertise. Each DBE letter of certification contains a description of the firm's Area of Specialty including applicable NAICS codes. This information is also contained in the Directory. Credit toward the Contract DBE Participation Goal is limited to the participation of firms certified in a NAICS code applicable to the kind of work the firm would perform on the project.

**NOTICE: The Department of Procurement Services does not make any representation concerning the ability of any DBE to perform work within its Area of Specialty. It is the responsibility of all bidders/proposers to determine the capability and capacity of DBE firms to satisfactorily perform the work proposed.**

Certain terms are used in these Special Conditions to indicate the stage of bidding, proposing or contracting in which certain obligations arise. The term "proposer" means a firm responding to a request for proposals by the City for professional or technical services or other procurement not adaptive to competitive bidding; a bidder or proposer becomes a "contractor" after being awarded a contract by the City.

**"Contractor"** also means "Consultant," if Consultant is the term used for the entity that has entered into this agreement or contract with the City.

**"Directory"** means the IL UCP Disadvantaged Business Enterprises Directory, maintained by the City as well as all IL UCP participating agencies, that identifies all firms eligible to participate as DBEs. The Directory lists the firm's name, address, phone number, date of most recent certification and the type of work the firm has been certified to perform as a DBE. The City revises the Directory on a monthly basis. The Directory is available via the internet on the City's web site at [www.cityofchicago.org/dps](http://www.cityofchicago.org/dps). Bidder/Proposers are responsible for verifying the current certification status of all proposed DBE firms.

**"Disadvantaged Business Enterprise" or "DBE"** means a for-profit small business concern that (i) is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or in the case of a corporation, 51 percent of the stock is owned by one or more such individuals; (ii) whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; (iii) the personal net worth of the individuals who own it does not exceed the limit specified at 49 CFR Part 26; and (iv) it has been certified as a DBE in accordance with the procedures set out in 49 CFR Part 26.

**"Joint Venture"** means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

## 1.3. Third Party Challenges To Eligibility Of DBE Firm

As noted in 49 CFR Section 26.87, any third party (complainant) may file a complaint alleging that a currently certified DBE is ineligible. The complaint must be made in writing to the City and specify the alleged reasons why the firm is ineligible and include all available information relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged. The City, during its determination of findings, will notify the challenged party of the allegations and notify both parties in writing of the outcome. The confidentiality of the complainant's identity will be protected as provided in 49 CFR Section 26.109(b). If the City determines first, that there were not reasonable grounds presented in the complaint sufficient to

justify an inquiry, then the City will notify the complainant and the challenged party of this determination and the reasons for it. During the pendency of any complaint, the presumption that the challenged party is socially and economically disadvantaged will remain in effect.

#### **1.4. Joint Ventures**

Bidders/proposers may develop joint venture agreements as an instrument to provide participation by DBEs in contract work. A joint venture may consist of any combination of DBEs and non-certified firms as long as one member is a DBE.

A. The joint venture may be eligible for DBE participation credit towards the Contract Specific Goals only if:

1. The DBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
2. The DBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;
3. Each joint venture partner executes the bid/contract to the City; and
4. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items 1, 2, and 3 above in this Paragraph A.

B. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the Contract Specific Goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive DBE credit for work performed by the DBE joint venture partner(s) equal to the value of work performed by the DBE with its own forces for a distinct, clearly defined portion of the work.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other DBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the Contract Specific Goals.

C. Schedule B: DBE Affidavit of Joint Venture

Where the bidder/proposer's Compliance Plan includes the participation of any DBE as a joint venture partner, the bidder/proposer must submit with its bid or proposal a Schedule B and the proposed joint venture agreement. These documents must both clearly evidence that the DBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the DBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

1. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;
2. Work items to be performed by the DBE's own forces and/or work to be performed by employees of the newly formed joint venture entity;
3. Work items to be performed under the supervision of the DBE joint venture partner; and
4. The DBE's commitment of management, supervisory, and operative personnel to the performance of the contract.

Vague, general descriptions of the responsibilities of the DBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions

of the work. Roles assigned should require activities that are performed on a regular, recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the City entails the delivery of goods or services to various sites in the City, stating that the DBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

#### D. DBE Participation Level in Joint Venture

Credit for participation by DBEs in joint ventures with non-DBEs does not require a minimum participation of 51 percent in venture ownership and control on the part of the DBE. Credit is based on the percentage of the work performed by the DBE's own forces. See Section 1.5, "Counting DBE Participation Toward the Contract DBE Participation Goal").

**NOTE: The City requires that whenever a joint venture submits a bid/proposal as prime contractor, each joint venturer must separately sign the bid/proposal to the City on the pages marked TO BE EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR as applicable.**

#### 1.5. Counting DBE Participation Toward The Contract DBE Participation Goal

When a DBE participates in a contract, count only the value of the work actually performed by the DBE toward the DBE Participation Goal, as described in 49 CFR 26.55. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the DBE will perform on the contract.

Refer to this section when preparing the DBE compliance plan and completing Schedule D for guidance on what value of the participation by DBEs will be counted toward the stated DBE Participation Goal. The "Percent Amount of Participation" depends on whether and with whom a DBE subcontracts out any portion of its work and other factors.

**Expenditures to a DBE contractor, subcontractor, or supplier may be counted only if the DBE is performing a "commercially useful function" on the contract. The term "commercially useful function" is defined in 49 CFR 26.55(c).** If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the City will rebuttably presume that the DBE is not performing a commercially useful function.

A contractor (and bidder/proposers in their proposals) may count only the following toward the Contract DBE Participation Goal and should report only the following to the Chief Procurement Officer:

##### A. **The value of the work actually performed by a DBE**, as described below:

##### 1. For construction contracts and other contracts not covered by A.2., below:

The entire amount of that portion of a contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate). (See 49 CFR 26.55(a)(1).)

##### 2. For contracts involving the provision of "bona fide services" (such as professional, technical, consultant or managerial services), or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract:

The entire amount of fees or commissions charged by a DBE for providing a bona fide service, provided that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services. The determination of whether the fee is reasonable and not excessive will be made by the City. (See 49 CFR 26.55(a)(2).)

##### 3. When a DBE subcontracts part of the work of its contract to another firm:

The value of the subcontracted work may be counted toward the Contract DBE Participation Goal only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward the Contract DBE Participation Goal. (See 49 CFR 26.55(a)(3).)

- B. **Joint Ventures:** When a DBE performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces is counted towards the Contract DBE Participation Goal. (See 49 CFR 26.55(b).)
- C. **Materials and Supplies:** Regarding expenditures with a DBE for materials or supplies:
1. If the materials or supplies are obtained from a DBE "manufacturer," as that term is described in 49 CFR 26.55(e)(1), 100 percent of the cost of the materials or supplies. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described in the specifications.
  2. If the materials or supplies are purchased from a DBE "regular dealer," as that term is described in 49 CFR 26.55(e)(2), 60 percent of the cost of the materials or supplies.
  3. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided that the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of materials and supplies themselves.

The City shall determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expeditor) on a contract-by-contract basis.

- D. **Trucking Firms:** If the DBE manages and supervises the entire trucking operation for which it is responsible on a particular contract and the DBE itself owns and operates at least one fully licensed, insured and operational truck used on the contract and all leased trucks display the name and identification number of the DBE and the lease indicates that the DBE lessee has exclusive use of and control over the truck, or, if the truck is used for work for others with the DBE lessee's consent, then the lease must give the DBE lessee absolute priority over its use, then:
1. The total value of the transportation services a DBE provides on the contract using trucks it owns, insures and operates using drivers it employs.
  2. The total value of the transportation services a DBE provides on the contract using trucks leased from another DBE trucking firm, including an owner-operator who is certified as a DBE trucking firm.
  3. The total value of transportation services provided by non-DBE leased trucks (trucks leased from a non-DBE firm, including an owner-operator) equipped with drivers, but not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional credit by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
- E. **Other Considerations:**
1. Firm Not Currently Certified: If a firm is not currently certified as a DBE in accordance with the standards of 49 CFR Part 26, subpart D, at the time of execution of the contract, do not count or report the firm's participation, except as provided in 49 CFR 26.87(i).
  2. Firm Whose Eligibility Has Been Removed: Do not report the dollar value of work performed under a contract with a firm after it has ceased to be certified.

3. Payment: Do not report the participation of a DBE subcontractor until the amount to be counted toward the goal has been paid to the DBE.
4. Area of Specialty: Only the value of the dollars paid to the DBE firm for work that it performs in its Area of Specialty in which it is certified counts toward the DBE Participation Goal.

#### **1.6. Procedure To Determine Bid/Proposal Compliance**

The following Schedules and documents constitute the bidder's/proposer's DBE proposal, and must be submitted at the time of submission of proposals unless stated otherwise:

##### **1.6.1. Schedule B: Affidavit of DBE/Non-DBE Joint Venture**

Where the bidder/proposer's DBE proposal includes the participation of any DBE as a joint venturer prime or subcontractor, the bidder/proposer must submit, together with its bid/proposal, a Schedule B: Affidavit of DBE/Non-DBE Joint Venture with an attached copy of the joint venture agreement proposed among the parties. See Section 1.4 above, "Joint Ventures," for detailed requirements.

##### **1.6.2. Schedule C, C-1 or C-3: Letter of Intent to Perform as a Subcontractor, Consultant, Subconsultant or Material Supplier**

Bidder/proposer must submit a Schedule C, C-1 or C-3, for each DBE included on its Schedule D, D-1, or D-3 (including any DBE joint venture partners), signed by the respective DBE firm. Schedule C and D must be used for contracts for construction work, and Schedule C-1 and Schedule D-1 for all other contracts, except for task order based contracts, where Schedule C-3 and Schedule D-3 must be used instead.

Each Schedule C, C-1 or C-3 must accurately detail the work to be performed by the DBE firm and the agreed rates and prices to be paid. Each Schedule must specify the percentage of the dollar value of the DBE's subcontract that will be sublet to non-DBE and DBE contractors and be signed and dated by the DBE. Each Schedule must also include a separate sheet as an attachment on which the DBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the DBE in its Area of Specialty and including the applicable NAICS code(s). If a facsimile copy of Schedule C, C-1 or C-3 has been submitted with the bid or proposal, an executed original Schedule C-1 must be submitted promptly by the bidder/proposer for each DBE included on the Schedule D, D-1 or D-3 after the date of bid or proposal opening.

Failure to submit any Schedule C, C-1, or C-3 as required by this Section will result in a Chief Procurement Officer's determination that a bid or proposal is "non-responsive." The Chief Procurement Officer has the discretion to apply additional suitable sanctions against any bidder/proposer who fails to comply with the requirements of this section. Appropriate sanctions may include, without limitation, forfeiture of the bidder/proposer's bid deposit, or, where fraud is involved, suspension of the bidder/proposer's eligibility to enter into future contracting opportunities with the City.

##### **1.6.3. Schedule D, D-1 or D-3: Affidavit of Prime Contractor Regarding DBEs**

Bidders/Proposers must submit at the time specified in the request for proposals, a completed Schedule D or D-1 (or for Task Order based contracts, Schedule D-3, which must be submitted at the time specified in the request for task order proposals) committing them to the utilization of each listed DBE firm (*but see, Section 1.7, Good Faith Efforts*). The Schedule D, D-1 or D-3 must include the name, address, description of the work to be performed and dollar amount participation of each DBE subcontractor, supplier or consultant.

The bidder/proposer must use "Good Faith Efforts," as that term is described in Section 1.7 to meet the Contract DBE Participation Goal (i.e., the specific dollar amount of participation by each DBE firm included on its Schedule D-1 or D-3). The total dollar commitment to proposed DBE firms should equal the Contract DBE Participation Goal. Bidders/proposers are responsible for calculating the dollar equivalent of the Contract DBE Participation Goal as a percentage of their proposal. All commitments made by the bidder/proposer's Schedule D, D-1 or D-3 must conform to those presented in the submitted Schedule Cs, C-1s or C-3s.

A contractor may not modify its Compliance Plan after proposal opening except as directed by the Department of Procurement Services to correct minor errors or omissions. Bidders/proposers shall not be permitted to add DBEs after proposal opening to meet the Contract DBE Participation Goals, however, contractors are encouraged to add additional DBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial, documented justification is provided, the bidder/proposer or contractor shall not reduce the dollar commitment made to any DBE in order to achieve conformity between the Schedule Cs/C-1s/C-3s and Schedule D/D-1/D-3. All terms and conditions for DBE participation on the contract must be negotiated and agreed to between the bidder/proposer or contractor and the DBE prior to submission of the Compliance Plan. If a proposed DBE ceases to be available after submission of the Compliance Plan, the bidder/proposer or contractor must comply with the provisions of Section 1.10, "DBE Substitutions."

#### **1.6.4. Schedule F: Report of Subcontractor Solicitations**

All Bidders/Proposers must submit, together with their bid/proposal, a completed Schedule F report containing information on all subcontractors, DBEs and non-DBEs, solicited for participation in the contract. The Schedule F shall include the following subcontractor information:

Contractor name; Address; Contact person; DBE status; Type of work solicited.

#### **1.6.5. Letters of Certification**

A copy of each proposed DBE firm's Letter of Certification from the IL UCP must be submitted with the bid or proposal if currently certified. All Letters of Certification issued by the IL UCP include a statement of the DBE firm's Area of Specialty and NAICS code(s) corresponding to the DBE firm's Area of Specialty. The DBE firm's scope of work, as detailed by its Schedule C, C-1, or C-3 must conform to the NAICS code(s) of its Area(s) of Specialty listed in the Letter of Certification.

**NOTE: Failure to submit the following information at the time of submission of bids or proposals (or in the case of task order contracts, the time of submission of task order proposals) will render the bid or proposal non-responsive: the names and addresses of DBE firms that will participate in the contract (Schedule D, D-1 or D-3), a description of the work that each DBE will perform (Schedule D, D-1 or D-3), the dollar amount of the participation of each DBE firm participating (Schedule D, D-1 or D-3), written documentation of the bidder/proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal (Schedule D, D-1 or D-3), written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment (Schedule C, C-1 or C-3), affidavit of joint venture when a DBE participates in the contract for DBE credit as a joint venturer (Schedule B), report on all subcontractors solicited for participation in the contract (Schedule F) and if the Contract goal is not met, evidence of good faith efforts, as set out in Section 1.7, "Good Faith Efforts".**

#### **1.6.6. Procedure**

- A. The submittals must have all blank spaces on the Schedule pages applicable to the subject specification filled in correctly.

Agreements between a bidder/proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other bidder/proposers are prohibited.

- B. During the period before award, the submitted documentation will be evaluated. As required under 49 CFR 26.109(c), all participants in the DBE Program, including the bidder/proposer, must give, upon request, earnest and prompt cooperation to the using department and the City's Chief Procurement Officer or his or her authorized delegate in submitting to interviews that may be necessary, or in allowing entry to places of business or in providing further documentation, or in soliciting the cooperation of a proposed DBE in providing such assistance. A bid/proposal may be treated as non-responsive by reason of the determination that the bidder/proposer was found to be unresponsive or uncooperative when asked for further information about the bid/proposal, or that false statements were made in the Schedules.



- C. Bidders/Proposers will not be permitted to modify their DBE proposal except as permitted to do so by the City. All terms and conditions stipulated for prospective DBE sub-contractors or suppliers therefore should be satisfactorily negotiated prior to the submission to the City of the bidder/proposer's DBE commitment as part of the DBE proposal. If circumstances arise, where a proposed DBE becomes no longer available, the process described in Section 1.10, DBE Substitutions, should be followed.
- D. When necessary in the interest of time, the City may treat a bid/proposal as non-responsive instead of granting extended time for a bidder/proposer to replace DBEs named in the DBE proposal that are later determined to be ineligible or unavailable.

## **1.7. Good Faith Efforts**

### **1.7.1. Demonstration of Good Faith Efforts**

In order for a bid/proposal to be responsive, at the time specified in the request for bids/proposals, the bidder/proposer must demonstrate it has made Good Faith Efforts to meet the Contract DBE Participation Goal. The demonstration is made in the form of the documentation described in Section 1.7.2, "Documenting Good Faith Efforts." The bidder/proposer can demonstrate it has made Good Faith Efforts to meet the Contract DBE Participation Goal either by:

- A. Meeting the Contract DBE Participation Goal, as provided in these Special Conditions, and documenting commitments for participation by DBE firms sufficient for this purpose; or
- B. Documenting, in the manner described below, adequate Good Faith Efforts to meet Contract DBE Participation Goal. This means bidders/proposers must submit at the time specified in the request for bids/proposals, documentation to show that it took all necessary and reasonable steps to achieve the Contract DBE Participation Goal or other requirements of 49 CFR Part 26, Appendix A, which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if the bidder/proposer was not fully successful. The following are examples of documented actions the City may consider to determine whether the bidder/proposer made Good Faith Efforts:
  - i. Soliciting through all reasonable and available means (e.g., attendance at pre-bid/proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder/proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
  - ii. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the Contract DBE Participation Goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even where the prime contractor might otherwise prefer to perform these work items with its own forces.
  - iii. Providing interested DBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.
  - iv. Negotiating in good faith with interested DBEs. It is the bidder/proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. A bidder/proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there

may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder/proposer's failure to meet the Contract DBE Participation Goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract within its own organization does not relieve the bidder/proposer of the responsibility to make Good Faith Efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

v. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBE's standing within its industry, membership in specific groups, organization or associations and political or social affiliation (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder/proposer's efforts to meet the Contract DBE Participation Goal.

vi. Making efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance as required by the City or the bidder/proposer.

vii. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

viii. Effectively using the services of available minority/women community organizations and contractors' groups; local, state and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

#### **1.7.2. Documentation of Good Faith Efforts**

The following 11 types of documentation, and such other documentation and information as outlined in 49 CFR Part 26, as applicable to the situation, will be considered by the Chief Procurement Officer in determining whether the bidder/proposer has made Good Faith Efforts to meet the Contract DBE Participation Goal. Documentation of Good Faith Efforts must be submitted at the time of submission of proposals or the proposal will be deemed non-responsive.

- A. Copies of each DBE and non-DBE subcontractor quote submitted to the bidder/proposer when a non-DBE subcontractor was selected over a DBE for work on the contract. This must be included in the documentation of Good Faith Efforts whenever a non-DBE subcontractor is selected over a DBE for work on the contract.
- B. A detailed statement of efforts to identify and select portions of work identified in the request for proposals to certified DBE firms. Include copies of attendance logs from pre-bid/proposal meetings, advertisements and written notices, as applicable.
- C. A listing of all DBE firms contacted that includes:
  - names, address and telephone numbers of DBE firms solicited;
  - date and time of contact;
  - method of contact (written, telephone, facsimile transmittal, etc.)
  - name of the person contacted.
- D. Copies of letters or any other evidence of mailing that substantiates outreach to DBE vendors that includes:
  - project identification and location;
  - classification/commodity of work items for which quotations were sought;
  - date, item and location for acceptance of subcontractor bid proposals;
  - detailed statement which summarizes direct negotiations with appropriate DBE firms for specific portions of the work and indicates why negotiations were unsuccessful;
  - affirmation that good faith efforts have been demonstrated by choosing subcontracting opportunities likely to achieve the Contract DBE Participation Goal by not imposing any limiting conditions which were not mandatory for all subcontractors; or denying the benefits ordinarily conferred on DBE subcontractors for the type of work that was solicited.

- E. Copies of proposed plans for selecting portions of the work to be performed by DBEs in order to increase the likelihood that the Contract DBE Participation Goal will be achieved.
- F. Evidence that the bidder/proposer negotiated in good faith with interested DBEs.
- G. Evidence that the bidder/proposer did not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- H. Evidence that the bidder/proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance, as required by the City or the bidder/proposer.
- I. Evidence that the bidder/proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
- J. Evidence that the bidder/proposer has provided timely notice of the need for subcontractors to at least 50 percent of the DBEs listed in the City's Directory as being certified in the applicable Areas of Specialty. Proof of notification (e.g. certified mail receipt or facsimile transmittal receipt) prior to the date a bidder/proposer's DBE proposal is due is required for any proposal to be deemed responsive. The Chief Procurement Officer may contact the certified DBEs for verification of notification.
- K. Evidence that subcontractor participation is excessively costly. Submit the following:
  - 1. A detailed statement of the work identified for DBE participation for which the bidder/proposer asserts the DBE quote(s) were excessively costly.
  - 2. A listing of all potential subcontractors contacted for a quotation on that work item
  - 3. A copy of every DBE and non-DBE subcontractor quote received for the work item.
  - 4. Calculation of the average price quoted. Subcontractor participation will be deemed excessively costly when the DBE subcontractor proposal exceeds the average price quoted by more than 15 percent.
  - 5. If applicable, other documentation that demonstrates to the satisfaction of the Chief Procurement Officer that the DBE proposals are excessively costly, even though not in excess of 15 percent higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
    - (A) the City's estimate for the work under a specific subcontract;
    - (B) the bidder/proposer's own estimate for the work under the subcontract;
    - (C) an average of the bona fide prices quoted for the subcontract;
    - (D) demonstrated increase in other contract costs as a result of subcontracting to the DBE or other firm.

**Note:** The City reserves the right to modify this procedure when deemed appropriate.

### **1.8. Reporting**

- A. The Contractor will, not later than fifteen calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the DBEs included in their approved DBE Utilization Plan.
- B. The contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the contractor with instructions to report payments that have been made in the prior month to each subcontractor. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth day of each month.

C. Once the prime contractor has reported payments made to each DBE, including zero dollar amount payments, the DBE will receive an email and or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

D. All subcontract agreements between the contractor and DBE firms or any first tier non-certified firm and lower tier DBE firms must contain language requiring the DBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.

Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at: <https://chicago.mwdbe.com>

E. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to DBE participation and the status of any DBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.

F. The contractor shall maintain records of all relevant data with respect to the utilization of DBEs retaining these records for a period that is the longer of five years or as required by relevant retention schedules after final acceptance of the work. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

G. The contractor must make available upon request a copy of all DBE subcontracts. The contractor must ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with the provisions of 49 CFR Part 26.

### **1.9. Required Assurance**

Contractor must comply with, and each subcontract Contractor signs with a subcontractor must include, the following assurance:

The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT- assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to, (1) withholding monthly progress payments, (2) assessing sanctions, (3) liquidated damages, and/or (4) disqualifying the Contractor from future bidding as non-responsible.

### **1.10. DBE Substitutions**

A. Arbitrary changes by the bidder/proposer of the commitments earlier certified in the Schedule D, D-1 or D-3 are prohibited. Further, after once entering into each approved DBE subcontract, the bidder/proposer may neither terminate the subcontract, nor reduce the scope of the work to be performed by the DBE, nor decrease the price to the DBE, without in each instance (i) having just cause, including situations where bidder/proposer's contract with the DBE includes termination for convenience; (ii) making Good Faith Efforts to find another DBE subcontractor to substitute for the original DBE (these Good Faith Efforts must be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the Contract DBE Participation Goal); and (iii) receiving the prior written approval of the City in all instances.

**Unless the City provides written approval for the substitution of a DBE, the contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.**

1. The bidder/proposer must give the Chief Procurement Officer reasons that justify the bidder/proposer's terminating a DBE, reducing the scope of work to be performed by a DBE, or decreasing the price to a DBE. The substitution procedure will be as follows:
  - a) The bidder/proposer/contractor must notify the Chief Procurement Officer as soon as possible in writing of an apparent necessity to reduce or terminate a DBE subcontract and to propose a substitute firm for some phase of work, if needed in order to sustain the fulfillment of the Contract DBE Participation Goal. Prior to submitting notice to the Chief Procurement Officer, bidder/proposer/contractor must give notice in writing to the DBE subcontractor, with a copy to the Chief Procurement Officer, of its intent to request to terminate and/or substitute, and the reason for the request.
  - b) Bidder/proposer/contractor must give the DBE five days to respond to the notice, and advise the City and bidder/proposer/contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the City should not approve the bidder/proposer/contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the City may provide a response period shorter than five days.
2. The bidder/proposer/contractor's notification should include the specific reasons for the proposed substitution. Stated reasons which would be acceptable include the following examples:
  - a) The listed DBE subcontractor fails or refuses to execute a written contract;
  - b) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
  - c) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
  - d) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
  - e) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200, or applicable state law;
  - f) The City has determined that the listed DBE subcontractor is not responsible;
  - g) The listed DBE subcontractor voluntarily withdraws from the project and provides to the City written notice of its withdrawal;
  - h) The listed DBE is ineligible to receive DBE credit for the type of work required;
  - i) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
  - j) Other documented good cause that the City may determine compels the termination of the DBE subcontractor.

The bidder/proposer/contractor's position in these cases must be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include: A replacement firm has been recruited to perform the same work under terms more advantageous to the prime contractor; issues about performance by the committed DBE were disputed (unless every reasonable effort has already been made to have the issues resolved or mediated satisfactorily); a DBE has requested reasonable price escalation which may be justified due to unforeseen circumstances; or the bidder/proposer seeks to terminate a DBE it relied upon to obtain the contract so that the bidder/proposer can self-perform the work for which the DBE subcontractor was engaged.

3. The bidder/proposer/contractor's notification should include the name, address and principal official of any proposed substitute DBE and the dollar value and scope of work of the proposed

subcontract. Attached should be all the same DBE affidavits, documents, and Letter of Intent which are required of bidders, as enumerated in Section, Procedure to Determine Bid Compliance.

4. The City will evaluate the submitted documentation, and respond within fifteen working days to the request for approval of a substitution. The response may be in the form of a request for more information, or a request for an interview to clarify or mediate the problem. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the City will instead respond as soon as practicable.

4. If termination of a DBE subcontractor is approved, or a DBE subcontractor fails to complete its work on the contract for any reason, bidder/proposer/contractor must make Good Faith Efforts to replace that subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract. The good faith efforts shall be documented by the bidder/proposer. If the City requests documentation, the bidder/proposer/contractor shall submit the documentation within seven days, which may be extended for an additional seven days if necessary at the request of the bidder/proposer/contractor. The City shall provide a written determination to the bidder/proposer/contractor stating whether or not good faith efforts have been demonstrated.

5. Actual substitution of a replacement DBE to fulfill the Contract DBE Participation Goal may not be made before City approval is given of the acceptability of the substitute DBE. A subcontract with the substitute DBE subcontractor must be executed within five working days following the City's approval, and a copy of the DBE subcontract with signatures of both parties to the agreement should be submitted immediately to the City.

B. The City will not approve extra payment for escalated costs incurred by the bidder/proposer/contractor when a substitution of subcontractors becomes necessary for the bidder/proposer/contractor to comply with the Contract DBE Participation Goal.

C. The Chief Procurement Officer will make the determination of whether the bidder/proposer/contractor has exercised Good Faith Efforts.

#### **1.11. Non-Compliance**

A. Each of the following constitutes a material breach of this contract and entitles the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract, at law or in equity:

1. failure to make good faith efforts to satisfy the Contract DBE Participation Goal proposed by the bidder/proposer and accepted by the City; and
2. the contractor, a subcontractor or supplier is disqualified as a DBE, where the status was a factor in the contract award and was misrepresented by the contractor.

If the contractor is determined by the City not to have been involved in any misrepresentation of the status of a disqualified subcontractor or supplier, the contractor must discharge the disqualified subcontractor or supplier and, if possible, identify and engage a qualified DBE as its replacement. Furthermore, contractor's continued eligibility to enter into future contracting arrangements with the City may be jeopardized as a result of non-compliance. The City may withhold payments due to the contractor until corrective action is taken.

B. When the contract requirements are completed, in the event that the City has determined that the bidder/proposer/contractor failed to comply with the Contract DBE Participation Goal proposed by the bidder/proposer/contractor and accepted by the City, but not to the extent the under- or non-utilization occurs pursuant to Good Faith Efforts approved by the City or approved DBE Substitutions, the City will thereby be damaged in the failure to provide the benefit of participation to DBEs to the degree set forth in the Special Conditions. Therefore, in such case of non-compliance, the City will deduct as liquidated damages cumulative amounts computed as follows:

For each one percent (or fraction thereof) of shortfall toward the Contract DBE Participation Goal, one percent of the base bid for this contract shall be surrendered by the bidder/proposer to the City of Chicago in payment as liquidated damages.

C. For contracts funded in whole or in part by the Federal Aviation Administration only: The contractor's failure to comply with the Contract DBE Participation Goal proposed by the bidder/proposer and accepted by the City, or failure to comply with the provisions of Section 1.10, above, "DBE Substitutions," will entitle the affected DBEs to recover from the contractor damages suffered by these DBEs as a result of such under- or non-utilization, but this provision will not apply to the extent the under- or non-utilization occurs pursuant to Good Faith Efforts approved by the City. See Section 1.12, "Arbitration (FAA Funded Contracts)."

#### **1.12. Arbitration (FAA Funded Contracts)**

A. The contractor hereby agrees that any disputes between the contractor and any affected DBE regarding damages as a result of contractor's under- or non-utilization of the DBE on any contract funded, in whole or in part, by the Federal Aviation Administration may, at the sole discretion of the DBE, be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorneys' fees, being recoverable by a prevailing DBE in accordance with applicable City regulations. This provision is intended for the benefit of any DBEs affected by under- or non-utilization and grants them specific third party beneficiary rights. In cases where deemed appropriate by the Contract Compliance Administrator, notification of a dispute by the affected DBE or prime contractor may lead to the withholding of final contract payouts until the City receives a copy of the final arbitration decision. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including those contained in a subcontract, suborder or communicated orally between a contractor and a DBE.

B. If requested by the DBE, the DBE has the right to arbitrate. A DBE desiring to arbitrate must contact the contractor in writing to initiate the arbitration process. Except as otherwise agreed to in writing by the affected parties, subject to the limitation contained in the last sentence of the previous paragraph, within ten days of the contractor receiving notification of the intent to arbitrate from the DBE the above-described disputes must be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office 150 N. Michigan Avenue, Suite 3050, Chicago, Illinois 60601. (Phone: 312-616-6560; website at: [www.adr.org](http://www.adr.org)). All such arbitrations must be initiated by the DBE filing a demand for arbitration with the AAA; must be conducted by the AAA; and held in Chicago, Illinois.

C. All fees of the arbitrator are the initial responsibility of the DBE; the arbitrator, however, is authorized to award reasonable expenses, including attorney's and arbitrator fees, as damages to a prevailing DBE.

D. The DBE must send the City a copy of the "Demand for Arbitration" within ten days after it is filed with the AAA. The DBE also must send the City a copy of the decision of the arbitrator within ten days of receiving the decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

#### **1.13. Prime Contractor Assistance**

Prime contractors should themselves assist DBEs in overcoming barriers to program participation. The following instruments of assistance, for example, should be used as applicable:

- Developing solicitations of sub-contract bids so as to increase potential DBE participation. This can take the form of breaking down large subcontracts into smaller ones, and of issuing notice of solicitations in a timely manner.
- Providing technical assistance and guidance in the bidding, estimating and scheduling processes.
- Considering purchasing supplies and/or leasing the required equipment for a job, then subcontracting only for the expertise required to perform the work.
- Providing accelerated payments or establishing pro-rated payment and delivery schedules so as to minimize cash flow problems faced by small firms.

- Providing, waiving or reducing subcontractor bonding requirements; allowing stage bonding (bonding carried over from one project stage to the next).
- Providing a pre-bid conference for potential sub-contractors.

In addition to the employment of DBEs, the bidder/proposer should consider the utilization of DBEs in fields indirectly related to the contract, such as banking, office equipment sales, vehicles sales, mechanical repair, legal and accounting services, building security, graphics and advertising, etc.

#### **1.14. Record Keeping**

The Contractor shall maintain records of all relevant data with respect to the utilization of DBEs, retaining these records for a period that is the longer of five years or as required by relevant retention schedules after final acceptance of the work. Full access to these records shall be granted to the City of Chicago, Federal or State authorities in this project, the U. S. Department of Justice, or any duly authorized representatives thereof.

#### **1.15. DBE Financial Institutions**

As of August 2016 Illinois has only one certified DBE financial institution, Seaway National Bank.

Other Minority and/or Female Owned Institutions:

- Banco Popular
- First Commercial Bank
- Illinois Federal Savings Bank

#### **1.16. Assistance Agencies**

Small business guaranteed loans, surety bond guarantees; 8(a) certification:

U. S. Small Business Administration  
500 W. Madison Street, Suite 1250  
Chicago, Illinois 60601  
Attention: Robert Conner  
(312)353-4528

S.B.A. Bond Guarantee Program/Surety Bonds  
500 W. Madison Street, Suite 1250  
Chicago, Illinois 60601  
(312)353-7331

S.B.A. Procurement Assistance  
500 W. Madison Street, Suite 1250  
Chicago, Illinois 60601  
Attention: Robert P. Murphy, Assistant Regional Administrator  
(312)744-1895

City of Chicago Department of Procurement Services Web site:  
[www.cityofchicago.org/dps](http://www.cityofchicago.org/dps)

Information on DBE availability in the manufacturing, sales or supplies, and related fields (direct assistance from 42 regional affiliates located throughout the U.S.):

National Minority Supplier  
Development Council, Inc.  
1040 Avenue of the Americas – 2nd Floor  
New York, New York 10018  
Attention: Harriet R. Michel  
(212)944-2430



Chicago Minority Business Development Council  
11 South LaSalle Street – Suite 850  
Chicago, Illinois 60603  
Attention: Tracye Smith  
(312)263-0105

**1.17. Equal Employment Opportunity**

Compliance with DBE requirements will not diminish or supplant Equal Employment Opportunity and Civil Rights provisions as specified elsewhere in this contract and as they relate to prime contractor and subcontractor obligations.

--END--

**ATTACHMENT B**  
**(On Bidder/Proposer's Letterhead)**

**RETURN RECEIPT REQUESTED**

(Date)

Re: Specification \_\_\_\_\_  
Description: \_\_\_\_\_

(Assist Agency Name and Address)

Dear \_\_\_\_\_:

(Bidder/Proposer) \_\_\_\_\_ intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due on \_\_\_\_\_.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged Business Enterprise ("DBE") contract goal. If you are aware of any DBE firms that would be capable of performing in any of the above-identified areas, please contact:

\_\_\_\_\_ at \_\_\_\_\_  
Name of Company Representative Address/phone

within (10) ten working days of receipt of this letter.

**Due to our inability to identify an appropriate DBE firm(s) certified by the Illinois Unified Certification Program ("IL UCP") to participate as a subcontractor or joint venture partner on this project, a request for the waiver of the contract goals will be submitted.** Written comments on (Bidder/Proposer's) waiver request may be directed within fifteen (15) working days of your receipt of this letter to:

Jamie L. Rhee  
Chief Procurement Officer  
Department of Procurement Services  
City of Chicago  
121 N. LaSalle Street, Room 403  
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_

## SCHEDULE B: Affidavit of DBE/Non-DBE Joint Venture (FTA, FHWA and FAA Funded Contracts)

Note: If all joint venturers are DBEs, a written joint venture agreement between the DBE venturers may be submitted in lieu of this form. In all proposed joint ventures, each DBE venturer must submit a copy of its current Letter of Certification.

ALL INFORMATION REQUESTED BY THIS SCHEDULE MUST BE ANSWERED IN THE SPACES PROVIDED. DO NOT REFER TO YOUR JOINT VENTURE AGREEMENT EXCEPT TO EXPAND ON ANSWERS PROVIDED ON THIS FORM. IF ADDITIONAL SPACE IS REQUIRED, ADDITIONAL SHEETS MAY BE ATTACHED.

- I. Name of joint venture: \_\_\_\_\_  
 Address of joint venture: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone number of joint venture: \_\_\_\_\_
- II. Identify each non-DBE venturer(s): \_\_\_\_\_  
 Name of Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Contact person for matters concerning DBE compliance: \_\_\_\_\_
- III. Identify each non-DBE venturer(s): \_\_\_\_\_  
 Name of Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Contact person for matters concerning DBE compliance: \_\_\_\_\_
- IV. Describe the role(s) of the DBE venturer(s) in the joint venture:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- V. Attach a copy of the joint venture agreement. In order to demonstrate the DBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the DBE's own forces; (3) work items to be performed under the supervision of the DBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the DBE to be dedicated to the performance of the project.
- VI. Ownership of the Joint Venture.
- A. What are the percentage(s) of DBE ownership of the joint venture?  
 DBE ownership percentage(s) \_\_\_\_\_  
 Non-DBE ownership percentage(s) \_\_\_\_\_
- B. Specify DBE percentages for each of the following (provide narrative descriptions and other details as applicable):
1. Profit and loss sharing: \_\_\_\_\_
  2. Capital contributions:
    - (a) Dollar amounts of initial contribution: \_\_\_\_\_
    - (b) Dollar amounts of anticipated on-going contributions: \_\_\_\_\_

## SCHEDULE B: Affidavit of DBE/Non-DBE Joint Venture

3. Contributions of equipment (specify types and quantities of equipment to be provided by each venturer):

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4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control: \_\_\_\_\_

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5. Provide copies of all written agreements between venturers concerning this project.

6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

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- VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (indicate any limitations to their authority such as dollar limits and co-signatory requirements.):

- A. Joint venture check signing:

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- B. Authority to enter contracts on behalf of the joint venture:

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- C. Signing, co-signing and/or collateralizing loans:

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- D. Acquisition of lines of credit:

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- E. Acquisition and indemnification of payment and performance bonds:

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- F. Negotiating and signing labor agreements:

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- G. Management of contract performance. (identify by name and firm only):

1. Supervision of field operations: \_\_\_\_\_
2. Major purchases: \_\_\_\_\_
3. Estimating: \_\_\_\_\_
4. Engineering: \_\_\_\_\_

**SCHEDULE B: Affidavit of DBE/Non-DBE Joint Venture****VIII. Financial Controls of joint venture:**

- A. Which firm and/or individual will be responsible for keeping the books of account?  
\_\_\_\_\_
- B. Identify the "managing partner", if any, and describe the means and measure of their compensation:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- C. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IX. State the approximate number of operative personnel (by trade) needed to perform the joint venture's work under this contract. Indicate whether they will be employees of the non-DBE firm, the DBE firm, or the joint venture.**

Trade	Non-DBE Firm (number of employees)	DBE (number of employees)	Joint Venture (number of employees)

Note: If any personnel proposed for this project will be employees of the joint venture:

- A. Are any proposed joint venture employees currently employed by either venturer?  
Currently employed by non-DBE (number)                      Currently employed by DBE
- B. Identify by name and firm the individual who will be responsible for hiring joint venture employees:  
\_\_\_\_\_
- C. Which venturer will be responsible for the preparation of joint venture payrolls:  
\_\_\_\_\_

X. Please state any material facts of additional information pertinent to the control and structure of this joint venture.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Attach additional sheets as needed

### **SCHEDULE B: Affidavit of DBE/Non-DBE Joint Venture**

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.

Note: If there are any changes in the information submitted after filing this Schedule B and before the completion of the joint venture's work on the project, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

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Name of DBE Partner Firm

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Name of Non-DBE Partner Firm

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Signature of Affiant

Signature of Affiant

---

Name and Title of Affiant

---

Name and Title of Affiant

---

Date \_\_\_\_\_

---

Date \_\_\_\_\_

On this            day of            , 20            , the above-signed officers

(names of affiants)

personally appeared and, known to me to be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Signature of Notary Public

My Commission Expire: (SEAL)

# SCHEDULE C

## DBE Letter of Intent to Perform as a Subcontractor or Supplier

**FOR  
CONSTRUCTION  
PROJECTS ONLY**

Project Name: \_\_\_\_\_ Specification No.: \_\_\_\_\_

From: \_\_\_\_\_  
(Name of DBE Firm)

To: \_\_\_\_\_ and the City of Chicago.  
(Name of Prime Contractor)

The DBE status of the undersigned is confirmed by the attached City of Chicago or Illinois Uniform Certification Program Certification Letter.

The undersigned is prepared to perform the following services in connection with the above named project/contract. If more space is required to fully describe the DBE proposed scope of work and/or payment schedule, attach additional sheets as necessary:

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The above described performance is offered for the following price and described terms of payment:

<u>Pay Item No./Description</u>	<u>Quantity/Unit Price</u>	<u>Total</u>

Grand Total: \$ \_\_\_\_\_

### Partial Pay Items

For any of the above items that are partial pay items specifically describe the work and subcontract dollar amount(s):

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Grand Total: \$ \_\_\_\_\_

### SUB-SUBCONTRACTING LEVELS

A zero (0) must be shown in each blank if the DBE will not be subcontracting any of the work listed or attached to this schedule.

\_\_\_\_\_ % of the dollar value of the DBE subcontract that will be subcontracted to non-DBE contractors.

\_\_\_\_\_ % of the dollar value of the DBE subcontract that will be subcontracted to DBE contractors.

**NOTICE: If any of the DBE scope of work will be subcontracted, list the name of the vendor and attach a brief explanation, description and pay item number of the work that will be subcontracted.**

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, within three (3) business days of your receipt of a signed contract from the City of Chicago.

**NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES.**

\_\_\_\_\_  
(Signature of President/Owner/CEO or Authorized Agent of DBE) (Date)

\_\_\_\_\_  
(Name/Title-Please Print)

\_\_\_\_\_  
(Email & Phone Number)



**SCHEDULE D**  
**Affidavit of Prime Contractor**  
**Regarding Disadvantaged Business Enterprises (DBEs)**  
 (FTA/FHWA and FAA Funded Projects)

Project Name: \_\_\_\_\_

Department Project No.: \_\_\_\_\_

Specification No.: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) :ss  
 County (City) of \_\_\_\_\_ )

In connection with the above captioned contract, I HEREBY DECLARE AND AFFIRM that I am the  
 and duly authorized representative of  
 (Title of Affiant)

\_\_\_\_\_  
 (Name of Prime Contractor)

and that I have personally reviewed the material and facts set forth in and submitted with the attached Schedules of Disadvantaged Business Enterprises (DBE), Schedule Cs and Schedule Bs (if applicable), being such information.

<b>Names of DBE Firms</b>	<b>Type of Work to be Performed (in accordance with Schedule Cs)</b>	<b>Credit Toward DBE Goal</b>
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$

**Total DBE Credit: \$** \_\_\_\_\_

Schedule D: Affidavit of Prime Contractor Regarding DBE (FTA/FHWA/FAA Funded Projects)

To the best of my knowledge, information and belief, the facts and representations contained in the aforementioned attached Schedules are true, and no material facts have been omitted.

The undersigned will enter into formal agreements with all listed DBE firms for work as indicated by this Schedule D and accompanying Schedules, and will enter into such agreements within five (5) business days after receipt of the contract executed by the City of Chicago. Copies of each signed subcontract, purchase order, or other agreement will be submitted to the Department of Procurement Services so as to assure receipt within ten (10) business days after Award.

The Prime Contractor designates the following person as their DBE Liaison Officer:

(Name, Please Print or Type)

\_\_\_\_\_  
(Phone)

Email Address:

Fax#:

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.

\_\_\_\_\_  
(Name of Prime Contractor - Print or Type)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name of Affiant)

\_\_\_\_\_  
(Date)

On this        day of        , 20    , the

above signed officer,        ,  
(Name of Affiant)

personally appeared and, known by me to be  
the person described in the foregoing Affidavit,  
acknowledged that (s)he executed the same  
in the capacity stated therein and for the pur-  
poses therein contained.

IN WITNESS WHEREOF, I hereunto set my hand  
and seal.

Notary Public Signature

Commission Expires:        (Seal)

## SCHEDULE F: Report of Subcontractor Solicitations (FHWA, FTA and FAA Funded Contracts)

Project Name: \_\_\_\_\_

Specification #: \_\_\_\_\_

I, \_\_\_\_\_ on behalf of \_\_\_\_\_

(Name of reporter)

(Prime contractor)

have either personally solicited, or permitted a duly authorized representative of this firm to solicit, work for this contract from the following subcontractors which comprise all DBE and non-DBE subcontractors who bid or quoted price information on this contract:

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor\_\_\_\_\_

Contact Person \_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited \_\_\_\_\_

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor

Contact Person \_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor \_\_\_\_\_

Address of Subcontractor

Contact Person \_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited

Years in Business (if available)

Annual Gross Receipts (if available) \_\_\_\_\_

Name of Subcontractor \_\_\_\_\_

Address of Subcontractor \_\_\_\_\_

Contact Person

Status: DBE Certified?	Yes	No
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Type of Work Solicited

Years in Business (if available)

Annual Gross Receipts (if available)

Name of Subcontractor

Address of Subcontractor

Contact Person	
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Status: DBE Certified?	Yes	No
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Type of Work Solicited

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor\_\_\_\_\_

Contact Person\_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited\_\_\_\_\_

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor\_\_\_\_\_

Contact Person\_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited\_\_\_\_\_

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor\_\_\_\_\_

Contact Person\_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited\_\_\_\_\_

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor\_\_\_\_\_

Contact Person\_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited\_\_\_\_\_

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

Name of Subcontractor\_\_\_\_\_

Address of Subcontractor\_\_\_\_\_

Contact Person\_\_\_\_\_

Status: DBE Certified?\_\_\_\_\_ Yes No

Type of Work Solicited\_\_\_\_\_

Years in Business (if available)\_\_\_\_\_

Annual Gross Receipts (if available)\_\_\_\_\_

(Date)

Commission Expires: \_\_\_\_\_

**Attachment H**  
Unified Certification Application Form



**UNIFORM CERTIFICATION APPLICATION**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) /**  
**AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)**  
**49 C.F.R. Parts 23 and 26**

*Roadmap for Applicants*

**1. Should I apply?**

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed \$23.98 million in gross annual receipts for DBE (\$56.42 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

**2. How do I apply?**

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

**3. Where can I send my application?** IDOT/2300 SO. DIRKSEN PARKWAY; RM. 319; SPRINGFIELD, IL 62764

**4. Who will contact me about my application and what are the eligibility standards?**

The DBE and ACDBE Programs require that all U.S. Department of Transportation (DOT) recipients of federal assistance participate in a statewide Unified Certification Program (UCP). The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs for DOT grantees, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

**5. Where can I find more information?**

U.S. DOT—<https://www.civilrights.dot.gov/> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS): <http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 CFR §26.5 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 CFR §23.3. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 2, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 CFR Parts 180 and 1200, Nonprocurement Suspension and Department, take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.



**INSTRUCTIONS FOR COMPLETING THE  
DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)  
UNIFORM CERTIFICATION APPLICATION**

**NOTE:** All participating firms must be for-profit enterprises. If your firm is not for profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

**Section 1: CERTIFICATION INFORMATION**

**A. Basic Contact Information**

- (1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website addresses, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

**B. Prior/Other Certifications and Applications**

- (10) Check the appropriate box indicating whether your firm is currently certified in the DBE/ACDBE programs, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of state/UCP members that conducted the review.
- (11) Indicate whether your firm or any of the persons listed has ever been denied certification as a DBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

**Section 2: GENERAL INFORMATION**

**A. Business profile:**

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.

- (2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.
- (3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.
- (4) State the date each person became a firm owner.
- (5) Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (6) Check the appropriate box that indicates whether your firm is "for profit." **If you checked "No," then you do NOT qualify for the DBE/ACDBE program** and should not complete this application. All participating firms must be for-profit enterprises. If the firm is a for profit enterprise, provide the Federal Tax ID number as stated on your firm's Federal tax return.
- (7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. Identify all joint venture partners if applicable. If you checked "Other," briefly explain in the space provided.
- (8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.
- (9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firm(s) Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

**B. Relationships and Dealings with Other Businesses**

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or





oral agreement. Provide an explanation of any items shared with other firms in the space provided.

- (2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.
- (3) Check the appropriate box that indicates whether at present or at any time in the past your firm:
  - (a) ever existed under different ownership, a different type of ownership, or a different name;
  - (b) existed as a subsidiary of any other firm;
  - (c) existed as a partnership in which one or more of the partners are/were other firms;
  - (d) owned any percentage of any other firm; and
  - (e) had any subsidiaries of its own.
- (f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

### Section 3: MAJORITY OWNER INFORMATION

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

#### A. Identify the majority owner of the firm holding 51% or more ownership interest

- (1) Enter the full name of the owner.
- (2) Enter his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) Enter his/her home (street) address.
- (5) Indicate this owner's gender.
- (6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.
- (8) Enter the number of years during which this owner has been an owner of your firm.
- (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
- (10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.

#### B. Additional Owner Information

- (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
- (2) Indicate whether this owner performs a management or supervisory function for any other business. If you

checked "Yes," state the name of the other business and this owner's function/title held in that business.

- (3) (a) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.
  - (b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.
- (4) (a) Provide the personal net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).
- (b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.
- (5) Check the appropriate to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

### Section 4: CONTROL

#### A. Identify the firm's Officers and Board of Directors

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.



## **B. Duties of Owners, Officers, Directors, Managers and Key Personnel**

(1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who control the functions listed for the business. Submit résumés for each owner and non-owner identified below. State the name of the individual, title, race and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

**C. Inventory:** Indicate firm inventory in these categories:

### **(1) Equipment and Vehicles**

State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

### **(2) Office Space**

State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

### **(3) Storage Space**

State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

## **D. Does your firm rely on any other firm for management functions or employee payroll?**

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

## **E. Financial / Banking Information**

**Banking Information.** State the name, City and State of your firm's bank. In the space provided, identify the persons able to sign checks on this account. Provide bank authorization and signature cards

**Bonding Information.** State your firm's bonding limits (in dollars), specifying both the aggregate and project limits.

## **F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.**

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm. Provide copies of signed loan agreements and security agreements

## **G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:**

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

## **H. Current licenses/permits held by any owner or employee of your firm.**

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and haul authority forms.

## **I. Largest contracts completed by your firm in the past three years, if any.**

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

## **J. Largest active jobs on which your firm is currently working.**

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

## **AIRPORT CONCESSION (ACDBE) APPLICANTS**

Identify the concession space, address and location at the airport, the value of the property or lease, and fees/lease payments paid to the airport. Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of the concession enterprise.

## **AFFIDAVIT & SIGNATURE**

The Affidavit of Certification must accompany your application for certification. Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

## Section 1: CERTIFICATION INFORMATION



### A. Basic Contact Information

(1) Contact person and Title: \_\_\_\_\_ (2) Legal name of firm: \_\_\_\_\_

(3) Phone #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ (4) Other Phone #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ (5) Fax #: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

(6) E-mail: \_\_\_\_\_ (7) Firm Websites: \_\_\_\_\_

(8) Street address of firm (No P.O. Box): \_\_\_\_\_ City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(9) Mailing address of firm (if different): \_\_\_\_\_ City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### B. Prior/Other Certifications and Applications

(10) Is your firm currently certified for any of the following U.S. DOT programs?

☐ DBE ☐ ACDBE Names of certifying agencies: \_\_\_\_\_

⊗ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date \_\_\_\_/\_\_\_\_/\_\_\_\_ State/UCP Member: \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_ State/UCP Member: \_\_\_\_\_

(11) Indicate whether the firm or any persons listed in this application have ever been:

(a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? ☐ Yes ☐ No

(b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? ☐ Yes ☐ No

If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision,

## Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

(2) Applicable NAICS Codes for this line of work include: \_\_\_\_\_

(3) This firm was established on \_\_\_\_/\_\_\_\_/\_\_\_\_ (4) I/We have owned this firm since: \_\_\_\_/\_\_\_\_/\_\_\_\_

(5) Method of acquisition (Check all that apply):

☐ Started new business ☐ Bought existing business ☐ Inherited business ☐ Secured concession  
☐ Merger or consolidation ☐ Other (explain) \_\_\_\_\_



(6) Is your firm "for profit"? ☐ Yes ☐ No → **⊗ STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.  
Federal Tax ID# \_\_\_\_\_

(7) Type of Legal Business Structure: (check all that apply):

- ☐ Sole Proprietorship ☐ Limited Liability Partnership  
☐ Partnership ☐ Corporation  
☐ Limited Liability Company ☐ Joint Venture (Identify all JV partners \_\_\_\_\_)  
☐ Applying as an ACDBE ☐ Other, Describe \_\_\_\_\_

(8) Number of employees: Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Seasonal \_\_\_\_\_ Total \_\_\_\_\_  
(Provide a list of employees, their job titles, and dates of employment, to your application).

(9) Specify the firm's gross receipts for the last 3 years. (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

#### **B. Relationships and Dealings with Other Businesses**

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? ☐ Yes ☐ No

If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared.

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(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?

☐ Yes ☐ No If Yes, explain \_\_\_\_\_

(3) At present, or at any time in the past, has your firm:

- (a) Ever existed under different ownership, a different type of ownership, or a different name? ☐ Yes ☐ No  
(b) Existed as a subsidiary of any other firm? ☐ Yes ☐ No  
(c) Existed as a partnership in which one or more of the partners are/were other firms? ☐ Yes ☐ No  
(d) Owned any percentage of any other firm? ☐ Yes ☐ No  
(e) Had any subsidiaries? ☐ Yes ☐ No  
(f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? ☐ Yes ☐ No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).



### Section 3: MAJORITY OWNER INFORMATION

#### A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: \_\_\_\_\_ (2) Title: \_\_\_\_\_ (3) Home Phone #: \_\_\_\_\_  
( ) - \_\_\_\_\_

(4) Home Address (Street and Number): \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
\_\_\_\_\_ - \_\_\_\_\_

(5) Gender: ☐ Male ☐ Female

(6) Ethnic group membership (Check all that apply):

- ☐ Black ☐ Hispanic  
☐ Asian Pacific ☐ Native American  
☐ Subcontinent Asian  
☐ Other (specify) \_\_\_\_\_

(7) U.S. Citizenship:

- ☐ U.S. Citizen  
☐ Lawfully Admitted Permanent Resident

(8) Number of years as owner: \_\_\_\_\_

(9) Percentage owned: \_\_\_\_\_ %

Class of stock owned: \_\_\_\_\_

Date acquired \_\_\_\_\_

(10) Initial investment to	Type	Dollar Value
acquire ownership	Cash	\$ _____
interest in firm:	Real Estate	\$ _____
	Equipment	\$ _____
	Other	\$ _____

Describe how you acquired your business:

- ☐ Started business myself  
☐ It was a gift from: \_\_\_\_\_  
☐ I bought it from: \_\_\_\_\_  
☐ I inherited it from: \_\_\_\_\_  
☐ Other \_\_\_\_\_

(Attach documentation substantiating your investment)

#### B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:

(2) Does this owner perform a management or supervisory function for any other business? ☐ Yes ☐ No

If Yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) ☐ Yes ☐ No

Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: \_\_\_\_\_

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification ? \$ \_\_\_\_\_

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? ☐ Yes ☐ No

(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? ☐ Yes ☐ No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: (Please attach extra sheets, if needed): \_\_\_\_\_



### Section 3: OWNER INFORMATION, Cont'd.

**A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm** (Attach separate sheets for each additional owner)

(1) Full Name: \_\_\_\_\_ (2) Title: \_\_\_\_\_ (3) Home Phone #: \_\_\_\_\_  
( ) - \_\_\_\_\_

(4) Home Address (Street and Number): \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
\_\_\_\_\_ - \_\_\_\_\_

(5) Gender: ☐ Male ☐ Female

(6) Ethnic group membership (Check all that apply)

- ☐ Black ☐ Hispanic  
☐ Asian Pacific ☐ Native American  
☐ Subcontinent Asian  
☐ Other (specify) \_\_\_\_\_

(7) U.S. Citizenship:

- ☐ U.S. Citizen  
☐ Lawfully Admitted Permanent Resident

(8) Number of years as owner: \_\_\_\_\_

(9) Percentage owned: \_\_\_\_\_ %

Class of stock owned: \_\_\_\_\_

Date acquired \_\_\_\_\_

(10) Initial investment to acquire ownership interest in firm:	Type	Dollar Value
	Cash	\$
	Real Estate	\$
	Equipment	\$
	Other	\$

Describe how you acquired your business:

- ☐ Started business myself  
☐ It was a gift from: \_\_\_\_\_  
☐ I bought it from: \_\_\_\_\_  
☐ I inherited it from: \_\_\_\_\_  
☐ Other \_\_\_\_\_

(Attach documentation substantiating your investment)

### B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) Does this owner perform a management or supervisory function for any other business? ☐ Yes ☐ No

If Yes, identify: Name of Business: \_\_\_\_\_ Function/Title: \_\_\_\_\_

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) ☐ Yes ☐ No

Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: \_\_\_\_\_

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ \_\_\_\_\_

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? ☐ Yes ☐ No

(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? ☐ Yes ☐ No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: (Please attach extra sheets, if needed): \_\_\_\_\_



## Section 4: CONTROL



### A. Identify your firm's Officers and Board of Directors (If additional space is required, attach a separate sheet):

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				

### (3) Do any of the persons listed above perform a management or supervisory function for any other business?

☐ Yes ☐ No If Yes, identify for each:

Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

### (4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)

☐ Yes ☐ No If Yes, identify for each:

Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
 Nature of Business Relationship: \_\_\_\_\_

### B. Duties of Owners, Officers, Directors, Managers, and Key Personnel

1. (Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed).)

A = Always F = Frequently	S = Seldom N = Never	Majority Owner (51% or more)				Minority Owner (49% or less)			
		Name: _____	Title: _____	Percent Owned: _____		Name: _____	Title: _____	Percent Owned: _____	
Sets policy for company direction/scope of operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks		A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

**2. Complete for all Officers, Directors, Managers, and Key Personnel who control the following functions for the firm.** (Attach separate sheets as needed).

<b>A = Always</b> <b>S = Seldom</b> <b>F = Frequently</b> <b>N = Never</b>	Officer/Director/Manager/Key Personnel				Officer/Director/Manager/Key Personnel			
	Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____				Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____			
Sets policy for company direction/scope of operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Bidding and estimating	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Major purchasing decisions	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Marketing and sales	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Supervises field operations	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Attend bid opening and lettings	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Perform office management (billing, accounts receivable/payable, etc.)	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hires and fires management staff	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Hire and fire field staff or crew	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Designates profits spending or investment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Obligates business by contract/credit	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Purchase equipment	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>
Signs business checks	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>	A <input type="checkbox"/>	F <input type="checkbox"/>	S <input type="checkbox"/>	N <input type="checkbox"/>

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function: \_\_\_\_\_

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship: \_\_\_\_\_

**C. Inventory:** Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):

**1. Equipment and Vehicles**

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				

**2. Office Space**

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease
_____		
_____		
_____		





**3. Storage Space** *(Provide signed lease agreements for the properties listed)*

Street Address

Owned or Leased by  
Firm or Owner?

Current Value of Property or Lease

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**D. Does your firm rely on any other firm for management functions or employee payroll?** ☐ Yes ☐ No

**E. Financial/Banking Information** *(Provide bank authorization and signature cards)*

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are able to sign checks on this account: \_\_\_\_\_

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_

The following individuals are able to sign checks on this account: \_\_\_\_\_

**Bonding Information:** If you have bonding capacity, identify the firm's bonding aggregate and project limits:

Aggregate limit \$ \_\_\_\_\_ Project limit \$ \_\_\_\_\_

**F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. (Provide copies of signed loan agreements and security agreements).**

Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1. _____					
2. _____					
3. _____					

**G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years** *(Attach additional sheets if needed):*

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1. _____					
2. _____					
3. _____					

**H. List current licenses/permits held by any owner and/or employee of your firm**  
*(e.g. contractor, engineer, architect, etc.)(Attach additional sheets if needed):*

Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1. _____			
2. _____			
3. _____			



I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

**AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION**

Identify the following information concerning the ACDBE applicant firm:

<u>Concession Space</u>	<u>Address/ Location at Airport</u>	<u>Value of Property or Lease</u>	<u>Fees/Lease Payments Paid to the Airport</u>

Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession

<u>Name of Concession</u>	<u>Location</u>	<u>Type of Concession</u>	<u>Start Date of Concession</u>



## AFFIDAVIT OF CERTIFICATION

*This form must be signed and notarized for each owner upon which disadvantaged status is relied.*

**A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.**

I \_\_\_\_\_ (full name printed),  
swear or affirm under penalty of law that I am  
\_\_\_\_\_ (title) of the applicant firm

\_\_\_\_\_ and that I  
have read and understood all of the questions in this  
application and that all of the foregoing information and  
statements submitted in this application and its attachments  
and supporting documents are true and correct to the best of  
my knowledge, and that all responses to the questions are full  
and complete, omitting no material information. The responses  
include all material information necessary to fully and  
accurately identify and explain the operations, capabilities and  
pertinent history of the named firm as well as the ownership,  
control, and affiliations thereof.

I recognize that the information submitted in this application is  
for the purpose of inducing certification approval by a  
government agency. I understand that a government agency  
may, by means it deems appropriate, determine the accuracy  
and truth of the statements in the application, and I authorize  
such agency to contact any entity named in the application, and  
the named firm's bonding companies, banking institutions,  
credit agencies, contractors, clients, and other certifying  
agencies for the purpose of verifying the information supplied  
and determining the named firm's eligibility.

I agree to submit to government audit, examination and review  
of books, records, documents and files, in whatever form they  
exist, of the named firm and its affiliates, inspection of its  
places(s) of business and equipment, and to permit interviews  
of its principals, agents, and employees. I understand that  
refusal to permit such inquiries shall be grounds for denial of  
certification.

If awarded a contract, subcontract, concession lease or  
sublease, I agree to promptly and directly provide the prime  
contractor, if any, and the Department, recipient agency, or  
federal funding agency on an ongoing basis, current, complete  
and accurate information regarding (1) work performed on the  
project; (2) payments; and (3) proposed changes, if any, to the  
foregoing arrangements.

I agree to provide written notice to the recipient agency or  
Unified Certification Program of any material change in the  
information contained in the original application within 30  
calendar days of such change (e.g., ownership changes,  
address/telephone number, personal net worth exceeding \$1.32  
million, etc.).

I acknowledge and agree that any misrepresentations in this  
application or in records pertaining to a contract or subcontract  
will be grounds for terminating any contract or subcontract  
which may be awarded; denial or revocation of certification;  
suspension and debarment; and for initiating action under  
federal and/or state law concerning false statement, fraud or  
other applicable offenses.

I certify that I am a socially and economically disadvantaged  
individual who is an owner of the above-referenced firm seeking  
certification as a Disadvantaged Business Enterprise or Airport  
Concession Disadvantaged Business Enterprise. In support of my  
application, I certify that I am a member of one or more of the  
following groups, and that I have held myself out as a member of  
the group(s): (Check all that apply):

☐ Female   ☐ Black American   ☐ Hispanic American  
☐ Native American   ☐ Asian-Pacific American  
☐ Subcontinent Asian American   ☐ Other (specify) \_\_\_\_\_

I certify that I am socially disadvantaged because I have been  
subjected to racial or ethnic prejudice or cultural bias, or have  
suffered the effects of discrimination, because of my identity  
as a member of one or more of the groups identified above,  
without regard to my individual qualities.

I further certify that my personal net worth does not exceed  
\$1.32 million, and that I am economically disadvantaged  
because my ability to compete in the free enterprise system has  
been impaired due to diminished capital and credit  
opportunities as compared to others in the same or similar line  
of business who are not socially and economically  
disadvantaged.

I declare under penalty of perjury that the information  
provided in this application and supporting documents is true  
and correct.

Signature \_\_\_\_\_  
(DBE/ACDBE Applicant)                      (Date) \_\_\_\_\_

### NOTARY CERTIFICATE



## UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following **REQUIRED** documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

### Required Documents for All Applicants

- ☐ Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- ☐ Personal Net Worth Statement for each socially and economically disadvantaged owners comprising 51% or more of the ownership percentage of the applicant firm.
- ☐ Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- ☐ Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- ☐ Documented proof of contributions used to acquire ownership for each owner (*e.g., both sides of cancelled checks*)
- ☐ Signed loan and security agreements, and bonding forms
- ☐ List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- ☐ Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- ☐ Licenses, license renewal forms, permits, and haul authority forms
- ☐ Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- ☐ Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- ☐ DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertifications, if applicable; and any U.S. DOT appeal decisions on these actions.
- ☐ Bank authorization and signatory cards
- ☐ Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- ☐ List of all employees, job titles, and dates of employment.
- ☐ Proof of warehouse/storage facility ownership or lease arrangements

### Partnership or Joint Venture

- ☐ Original and any amended Partnership or Joint Venture Agreements

### Corporation or LLC

- ☐ Official Articles of Incorporation (*signed by the state official*)
- ☐ Both sides of all corporate stock certificates and your firm's stock transfer ledger
- ☐ Shareholders' Agreement(s)
- ☐ Minutes of all stockholders and board of directors meetings

- ☐ Corporate by-laws and any amendments
- ☐ Corporate bank resolution and bank signature cards
- ☐ Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

### Optional Documents to Be Provided on Request

*The UCP to which you are applying may require the submission of the following documents. If requested to provide these document, you must supply them with your application or at the on-site visit.*

- ☐ Proof of citizenship
- ☐ Insurance agreements for each truck owned or operated by your firm
- ☐ Audited financial statements (if available)
- ☐ Personal Federal Tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm.
- ☐ Trust agreements held by any owner claiming disadvantaged status
- ☐ Year-end balance sheets and income statements for the past 3 years (*or life of firm, if less than three years*)

### Suppliers

- ☐ List of product lines carried and list of distribution equipment owned and/or leased

**ATTACHMENT I**  
Illinois Unified Certification Program Procedures

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
Unified Certification Procedures

# Illinois Unified Certification Program

Created 07/10/02  
Updated 5/14/13

# **IL UCP PROCEDURES**

## **Illinois Unified Certification Program**

Pursuant to the requirements of the federal regulations, 49 CFR part 26 all recipients of federal-aid must implement a "one-stop" certification process for Disadvantaged Business Enterprises (DBE) and Airport Concessions Disadvantaged Business Enterprises (ACDBE).

As a result of this requirement, the following five entities have established the Illinois Unified Certification Program (IL UCP). The five certifying Illinois United States Department of Transportation (US DOT) direct recipients (Participants) are:

- **Illinois Department of Transportation (IDOT)**
- **City of Chicago**
- **Chicago Transit Authority (CTA)**
- **Commuter Rail Division of the Regional Transportation Authority (Metra)**
- **Suburban Bus Division of the Regional Transportation Authority (Pace)**

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## Introduction

The IL UCP is based on the concept of reciprocity among the Participants. Pursuant to 49 CFR 26.81(b)(2), "one-stop shopping" will be provided to applicants for Disadvantaged Business Enterprises (DBE) certification, such that an applicant need only to apply once for DBE certification that will be honored by all recipients in the state of Illinois.

In order for the IL UCP to succeed and the Participants to maintain the level of trust needed to effectively comply with the IL UCP requirements, it is necessary to implement minimum program requirements for compliance, as well as a process for dealing with any Participant that is found to be in non-compliance. The specific minimum requirements are:

- All decisions and recommendations related to certification must be made in compliance with 49 CFR Part 26.
- All Participants will abide by IL UCP determinations and use only IL UCP certified firms.
- All hearings *must* be decided by a third party who was not involved in the certification determination nor was a direct or indirect supervisor of the party involved in such decision.
- The IL UCP Participants must each have a US DOT-approved DBE program in place that clearly defines the role of the administrative staff. In addition, each Participant must have clearly defined processes and procedures related to administration of its DBE program and certification decisions.
- All IL UCP Participants agree to full disclosure of their complete applicant files and/or documentation when requested by any other IL UCP Participants.
- Any Participant with a DBE program administered in conjunction with a MBE/WBE program must have separate and clearly defined procedures and policies for the DBE program that comply with all requirements of 49 CFR Part 26. This includes, but is not limited to, eligibility requirements, data tracking, and removal/denial of certification.
- All Participants understand that there are no "emergency" or "conditional" certifications pursuant to 49 CFR Part 26. All certifications must be made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.
- All IL UCP Participants agree to safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may



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reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.

## **Non-Compliance**

If any IL UCP Participant believes that another Participant has failed to comply with its obligations under 49 CFR Part 26, the complaining Participant may file a written complaint with the concerned operating administration's Office of Civil Rights.

## **Illinois UCP Interstate Certification Procedures (Initial Applications/Continued Eligibility Affidavits)**

### **A. Out of State Firm:**

It is the policy of the IL UCP not to accept an out of state firm's certification for review until the firm provides:

- 1) A complete copy of its application form and all supporting documents and any other information submitted to any state related to its certification. This includes No Change Affidavits and any notices of changes the firm submitted to any recipient concerning its application or status as a DBE;
- 2) Any notices or correspondence from states other than the firm's home state concerning its status as an applicant or a DBE (e.g., denial of certification or subject to decertification action);
- 3) If the firm has filed a certification appeal with DOT, it must disclose this and provide its appeal letter and DOT's response;
- 4) An affidavit sworn to by the firm's owner before a person authorized by state law to administer such oaths or an unsworn declaration under penalty of perjury that the firm's owner has submitted all information required by 49 C.F.R. § 26.85(c) (above) and the information is correct and that the information in 1 (above) is identical to the information submitted to its home state. If the firm's home state on-site report is more than three years old as of the date of the firm's application to the IL UCP, the IL UCP will require that the affidavit also affirm that the facts in the on-site report remain true and correct. NOTE: If the on-site is more than three years old and the IL UCP agency has eligibility concerns, the firm's home state may be requested to conduct a courtesy on-site interview.

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**Processing:** The IL UCP will take the following actions when it receives all the information listed above:

- 1) Within 7 days, the IL UCP agency will request a copy of the site visit report from the firm's home state, any updates to the site review and any evaluation based on the site visit. The firm's home state must transmit this information to the requesting IL UCP agency within 7 days of receiving the request. If the IL UCP agency does not receive a copy of the site visit report from the firm's home state within 14 days after it has made a timely request, the certification review process will be in abeyance pending receipt of this report. In this event, the IL UCP agency will notify the firm of this delay and the reason for it no later than 30 days from receipt of all the required information from the firm. Noncompliance with this timeframe may result in application not being processed and returned to the applicant.

**NOTE:** When the firm's home state fails to provide a site visit report that is less than five years old or received within 45 days after all information is received from the firm, the application and all support information will be returned to the firm with an explanation as to why the IL UCP agency is unable to process the application.

- 2) The IL UCP agency will review all submitted information to determine whether it believes the home state's certification is erroneous or should not apply in Illinois. This determination will be based upon:
  - a) Fraud is involved in the certification;
  - b) Information not available when the home state certified the firm showing that the firm is not eligible;
  - c) The home state's certification is erroneous or was inconsistent with the requirements;
  - d) The state law of Illinois requires a different result than the home state's law.
  - e) The information provided by the firm does not meet the requirements listed in 1 through 4 above.
- Should the IL UCP agency determine that the home state's certification is not erroneous or applies in Illinois; no later than 60 days from receipt of all the information required from the firm, send notification to the firm that it is certified and its information will be listed in the next issuance of the IL UCP DBE Directory.

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- Should the IL UCP agency determine the firm's home state certification is erroneous or should not apply in Illinois, no later than 60 days from receipt of all the required information from the firm, send written notification to the firm stating the reasons for the determination and offer the firm an opportunity to respond. The firm will be given 20 days from receipt of the notification to respond, either may in writing, request an in person meeting with the IL UCP agency hearing officer, or both. The IL UCP agency hearing officer must be thoroughly familiar with the DBE certification requirements. If a meeting is requested, the IL UCP agency must schedule a meeting to take place within 30 days of receipt of the firm's request, and notify the home state of determination.

The firm bears the burden of proof based upon a preponderance of the evidence with respect to the particular issues raised by the IL UCP agency. The IL UCP agency must issue a written decision within 30 days of receipt of the written response from the firm or meeting with the IL UCP agency hearing officer, whichever is later. The firm's certification application is stayed pending the outcome of this process. The decision by the IL UCP may be appealed to the US DOT Department of Civil Rights under § 26.89.

## **B. IL UCP certified firm seeking DBE status outside Illinois:**

It is the policy of the IL UCP to cooperate fully and timely to process IL UCP certified firm's request for certification outside Illinois within 14 days receipt of the firm's written request.

- 1) Copy firm's application and all supporting documentation and provide to firm.
- 2) Provide a copy of the site visit report to the requesting state within 7 days of receipt of the request.

NOTE: If the site visit report is more than three years old and the requesting state requires more current information, the IL UCP agency will conduct a courtesy review within 14 days after receipt of this notification from the requesting state.

## **C. Ineligibility Determinations:**

When an IL UCP agency denies a firm's application, rejects a firm certified in another state or removes a firm's eligibility in whole or in part, it must make an entry in the Department of Transportation Office of Civil Rights' Ineligibility Determination Online Database. The entry shall include:

- i) Firm's name;

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- ii) Firm's owner(s) name(s);
- iii) Type and date of the action; and
- iv) Reason for the action.

The IL UCP agencies will check the DOCR website at least monthly to determine whether any firm that is applying to it for certification or has already been certified, is on the list. If such a firm is on the list, the IL UCP will promptly request a copy of the listed decision from the UCP that made it. The information will be considered in determining what action to take with respect to a DBE or applicant. A UCP receiving the request will provide a copy of the decision to the requesting UCP within 7 days.

## Certification Process

The Participants must ensure that all certification procedures (Subpart E) and standards (Subpart D) under 49 CFR part 26 are followed in making eligibility decisions. **Note:** Each Participant will ensure that adequate training will be provided to their staff.

The certification process by each Participant includes the following:

A thorough, detailed and complete analysis of the application and supporting documentation must be performed, and an on-site visit at the offices and/or job site(s) of each applicant must be conducted by the certifying Participant. Following completion of the file analysis and on-site questionnaire (attached), a summary report is written by a certification analyst. The summary report provides the recommendation regarding the applicant's certification eligibility. The recommendation is presented to the analyst's supervisor, and then to the Participant's DBE Liaison Officer (DBELO) or designated individual, who makes the final decision regarding the firm's DBE program eligibility.

The certifying Participants have the responsibility to ensure a standardized approach to all certification decisions. The procedures outlined herein provide guidance and direction for completing the certification process. Additional information and regulatory requirements pertaining to the DBE program are contained in 49 CFR Part 26, as well as 13 CFR Part 121 and 49 CFR Part 23.

Decisions on applications for certification must be made by the certifying Participant within ninety (90) days of receiving all required information from the applicant firm. This time period may be extended once, for no more than an additional sixty (60) days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. Failure to make a decision by the applicable deadline shall be deemed a constructive denial of the application, on the basis of which the firm may appeal to US DOT under 49 CFR 26.89.

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Once a firm is certified, it shall remain certified until its certification has been removed through the procedures set forth in 49 CFR 26.87. Unless there are changes in the factual basis on which the certification was made, a firm is not required to reapply for certification as a condition of continuing to participate in the program during this five-year period. However, a DBE-certified firm must provide a No Change Affidavit to the certifying IL UCP Participant every year on the anniversary of the date of its certification, and on the fifth year of a firm's anniversary date it must provide a Continued Eligibility Affidavit, sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

Any change in circumstances affecting a DBE firm's ability to meet size, disadvantaged status, ownership, or control requirements or any material change in the information previously provided must be provided by the DBE firm in writing to the certifying Participant within thirty (30) days of the occurrence of the change. Changes in management responsibility among members of a limited liability company are included in this requirement. Supporting documentation must be attached that describes in detail the nature of such changes. The notice must take the form of an *Affidavit* sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. If the DBE firm fails to make timely notification of such a change, it will be deemed to have failed to cooperate under 49 CFR 26.109(c).

## **Certification Procedures:**

### **A. When a certification application is received:**

1. Incoming certification application requests will be date/time stamped and logged.
2. The file is forwarded to the certification staff. Following receipt of the file, the certification staff will:
  - a) Perform a complete review of the application and supporting documentation against the completed checklist to ensure that all relevant documents have been submitted.

If there are questions/concerns, a Request for Information (RFI) letter is prepared within thirty days, documenting the need for additional information. The initial RFI shall capture all missing and/or incomplete



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documentation. The letter may be sent by certified mail, return receipt requested, to the applicant.

Applicants are given twenty (20) calendar days after receipt of the RFI letter to respond. If information is not received by the twentieth calendar day, a follow-up RFI letter will be sent giving the firm ten (10) additional calendar days to respond. If an applicant requests an extension, ten (10) calendar days may be granted by the analyst.

If, within the specified time period, no contact has been made with the applicant, the analyst submits a memorandum to his/her supervisor recommending denial based on 49 CFR 26.109(c) - failure to cooperate. The analyst prepares the denial letter and forwards it to the DBELO or designee for signature.

- b) Keep a record in the file of all contact with an applicant. This file information is a permanent record of activity with an applicant. The record should include the date of contact, contact person, questions asked and responses.
- c) Conduct an analysis to determine business size and personal net worth eligibility. In addition to submitting copies of their corporate tax returns or business tax returns and personal income tax returns, each individual owner of a firm applying to participate as a DBE must submit a signed, notarized statement of personal net worth, with personal income tax returns.

This step in the review process should precede all other document reviews. It will assist each agency to immediately render size determinations prior to expending unnecessary time and manpower for ineligible firms.

- 1) A firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards. The Participant must apply current SBA business size standards and NAICS codes found in 13 CFR Part 121 and 49 CFR Part 26.71 (n)(1), appropriate to the type(s) of work the firm seeks to perform. Per 49 CFR Part 26.65, a firm is not an eligible DBE if it's (including its affiliates) average annual gross receipts over the previous three fiscal years have exceeded the DBE program cap of \$22, 410,000 or \$56,420,000 for ACDBE, 49 CFR Part 23. The US DOT Secretary adjusts the cap for inflation from time to time.
- 2) The personal net worth of each individual owner whose ownership and control are relied upon for DBE certification must be less than

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\$1,320,000 [see SBA regulation 13 CFR 124.104(c)(2)]. Personal net worth decisions will be based upon the standard accounting principal formula of *Assets - Liabilities = Net Worth*. Ownership interest in the applicant's firm and equity in the primary personal residence are excluded when determining personal net worth.

- d) Perform subsequent analysis and review of the file. A subsequent RFI letter maybe sent if necessary. This includes reviewing the information contained in the file, individually as well as collectively, and documenting the findings during the review.

Particular attention should be paid to the areas of special concern listed below while conducting the review of the file. **Note:** The first item listed below must be met before any consideration is given to an out-of-state firm's eligibility. The special concerns listed are not intended to be all-inclusive. They are meant to give direction and be a starting point for analysis and review of an application.

- The applicant, whose principal place of business is located in a state other than Illinois, must be certified by its home state US DOT-approved UCP, or certified as a DBE with a DOT recipient in the firm's home state, in accordance with 49 CFR Part 26 prior to applying for IL UCP DBE certification.
- The applicant seeking certification in the work category of trucking must obtain proper intra-state authorization from the Illinois Commerce Commission (ILCC).
- The authorized/registered legal name of the firm should be verified for accuracy.
- The main address of the firm should be the actual physical location of the main or corporate office. Post office box numbers are not acceptable by themselves.
- The contact person should be an individual(s) the analyst can contact for answers to questions regarding the certification application.
- Ethnicity should be resolved early. In cases where the ethnicity status cannot be determined, additional documentation is required. Copies of one or more documents evidencing ethnicity are necessary, e.g.:

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- Birth certificate
- Membership letter or certificate from an ethnic organization
- Tribal certificate
- Bureau of Indian Affairs card
- Driver's license
- Passport
- Armed service discharge papers (D.D. 214)
- Baptismal certificate
- Any other document that provides evidence of ethnicity

**Note:** Make sure copies of all of the following relevant business documents (depending on type of firm) are included:

- Sole Proprietorship - A copy of the assumed name certificate issued by the county clerk's office to provide evidence of registration;
- Partnership - Copies of the original and amended partnership agreements and the assumed name certificate issued by the county clerk's office;
- Limited Liability Company - Copies of the original and amended administrative agreements and the assumed name certificate issued by the county clerk's office;
- Corporation:
  - Articles of incorporation - this document confirms that the business is incorporated. Information contained in this document should include:
    - names of incorporators
    - date of incorporation
    - state of incorporation
    - type of business in which the firm is authorized to engage, and
    - information concerning voting and non-voting stock in the firm.
  - First organizational meeting minutes - this document is a record of the first organizational meeting. It is reviewed to verify information contained in other documents. Pertinent information which can be verified by this document includes:
    - election of officers,
    - identity of board of directors,
    - purchase and issuance of stock, and



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- adoption of by-laws.
- Corporate by-laws - this document explains how the corporation should function. Important information to be contained includes:
  - duties and responsibilities of the board of directors
  - the number of directors
  - duties and responsibilities of the officers
  - information concerning the voting stock of the firm
  - voting rights of the shareholders and directors
  - information about firm meetings, and
  - possible restrictive language affecting shareholders and directors.
- Stock certificate(s), signed on both sides, and documentation to substantiate stock purchases.
- Copy of the signed corporate bank resolution(s) and bank signature card(s).

Attention should be given to names appearing in the documents since the applicant's name may appear on different documents. Different names on different documents may indicate a relationship that affects the control of the firm by disadvantaged owners.

Also, evidence of the equity contribution by the disadvantaged owners must be examined closely. Among other documents, proof of contribution may be shown by copies of canceled checks (both sides), signed loan agreements, deposit slips, proofs of purchase and vehicle titles.

Tracing dates through the documentation is a good review technique. Conflicting dates/information must be resolved. Compare changes in financial position to check for possible effects on control.

**Note:** An organizational chart is helpful when there are changes or several companies with interlocking directors and/or officers. This will give a clearer picture of interlocking relationships (possible affiliations).

Reviews of equipment titles and registrations can be used to assist in determining ownership. Obtain or compile a list of the equipment owned by or available to the firm and the license(s) the firm and its key personnel possess to perform the requested work categories.

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Review the resume(s) of the owner(s), officer(s), member(s) of the board of directors and principal management and control personnel. Resumes may indicate technical competence based on experience in the industry and the degree of operational and/or managerial control to be exercised by the owner(s) and other principals within the firm. When reviewing the resumes, observe:

- present and prior occupations,
- length of time in the industry,
- areas of expertise, and
- relevant occupational licenses/certificates.

Operational and managerial control - "control" means that the disadvantaged owner(s) not only directs the management of the business, but also oversees its day-to-day operations.

Areas of consideration include:

- hiring and firing authority
- signature authority
- financial obligation authority
- contract negotiation authority
- bidding and estimating expertise
- firm policy development ability
- job selection authority, and
- day-to-day and long-term decision-making authority that affect the performance/operation of the firm.

Ownership (control) - means a firm must be at least 51 percent owned by socially and economically disadvantaged individuals

In the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

In the case of a partnership, socially and economically disadvantaged individuals must own 51 percent of each class of partnership interest. Such ownership must be reflected in the firm's partnership agreement.

Areas of consideration/concern include:

- previous employers, common to two or more principals of the firm
- previous employers who subcontract work with the firm
- interlocking directors/officers and the possible effect on control
- equipment/office/storage lease arrangements
- day-to-day operational decisions and responsibilities, and
- composition and responsibilities of the board of directors.

**Note:** Financial information - a close review of the financial statements is required to determine firm actions that may restrict or dilute the disadvantaged owner's effectiveness to control the business.

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Financial information is useful in resolving management, operational and ownership control concerns.

Areas of consideration include:

- Financial statements:
  - end-of-year balance sheets and profit and loss statements over a three-year period
  - accounts/notes payable
  - notes and loans payable/receivable to/from stockholders and officers
  - accrued expenses
  - purchases/loans, and
  - footnotes to the financial statement.
- Expense statements:
  - salaries
  - rent expenses
  - lease expenses
  - payment to subcontractors, and
  - changes in financial position.
- Corporate tax returns:
  - salaries paid to officers
  - dividends paid, and
  - names of officers and stock ownership.
- Partnership/Third party agreements:
  - terms/purpose of agreement
  - parties to the agreement
  - duties and responsibilities of each Party, and
  - dollar investment/division of profits.

These documents explain the terms and conditions of the arrangement(s). Check to see if the firm's control is diluted or restricted by the agreement(s). If it is determined that a firm's average annual gross receipts over the preceding three (3) fiscal years exceed the DBE program size cap, the firm is not an eligible DBE.

Bonding capacity - Attention should be paid to the bonding capacity of the firm. The dollar amount should be in line with the work history of the firm, including contracts it has received and work it has completed.

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Work Category(ies) and location(s) - The work category(ies) and location(s) the firm prefers should be denoted in the application.

Affiliates must be considered together in determining whether a firm meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

## On-Site Interview/Visit

The federal regulations [49 CFR 26.83(c)(1)] require the performance of an on-site visit to the offices of the firm seeking DBE certification. The site visit report of a DBE applicant by any other US DOT federal fund recipient may be relied upon to meet this requirement.

### Procedure:

The on-site visit allows the analyst to conduct an interview while observing the firm's owner(s) in his/her own principal place of business in an effort to substantiate and clarify submitted documentation, while ascertaining the general pattern of operation of the business. In addition to reconciling information/concerns, the on-site visit will assist in detecting and eliminating "fronts" and "shams" (applicants that do not meet the eligibility standards set forth in the federal regulations). The procedures outlined herein provide guidance and direction for completing the on-site interview and visit. A sample on-site questionnaire form is attached. See Appendix C.

The onsite procedures are listed below:

1. Prepare standardized and specific questions for the on-site visit/interview. Questions for the interview should be determined in advance by reviewing and analyzing the application and supporting documentation. Any conflicting information brought out during the review should be questioned and clarified by staff. Additional questions may be raised during the on-site interview. In addition, staff should discuss any concerns with his/her supervisor prior to the visit.

Questions should also be devised in a manner that will evoke a coherent response. Questions should not be leading and the applicant should not be able to answer the question in one or two words.

### Examples of typical interview questions include:

"Explain the process used to monitor job costs."

"Describe your corporate duties and responsibilities."

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"Explain and describe the bidding and estimating process."

**The above questions are typical examples only.** The questions developed should be unique to the particular file being reviewed. They should be prepared and based on information derived from the applicant file.

2. Conduct an on-site visit/interview at the office(s) of the firm and any job site(s) in the Participant's jurisdiction or local area at which the firm is working at the time of the eligibility investigation. The principal officers and majority owners of the firm must be interviewed and their resumes and/or work histories reviewed. The interview is concluded after all questions/concerns have been addressed and the administrative process that follows the interview is explained.

**Note:** Depending on the circumstances, a firm may or may not be notified when an on-site visit/interview will be conducted.

3. Reconcile any concerns and questions regarding an application prior to making a recommendation.
4. Prepare the summary report following completion of the analysis and review of the file. The content of the summary report is very important. It must be accurate and complete and satisfy all areas addressed on the questionnaire form. See Appendix C.

**The report should include the following:**

- Name of the firm
- Date and location of the on-site visit/interview
- People present at the interview
- Information supplied to the applicant, and
- Questions asked and responses received.

A copy of the on-site questionnaire is attached to the summary report.

Summary reports written on "reapplication after denial" applications must include the issues and eligibility standards for which the firm was previously denied certification. In addition, the report should clearly indicate how the firm's operations/ownership/control have changed since the previous denial.

5. Forward the file and summary report to his/her supervisor, and then to the Participant's DBELO or designee, who makes the final decision regarding the firm's DBE program eligibility.

## IL UCP Notification

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Once an eligibility decision is rendered, the certifying Participant notifies the firm in writing. Information regarding approved DBE certifications is submitted for the IL UCP DBE Directory.

## IL UCP DBE Directory

The IL UCP Participants will maintain a unified DBE directory containing pertinent information on all firms certified by the IL UCP [including those from other states certified under the provisions of 49 CFR 26.81(d)]. The IL UCP Participants shall make the directory available to the public electronically on the Internet, as well as in print. The IL UCP Participants shall update both electronic and print versions by including additions, deletions, and other changes on a regular basis.

## No Change Affidavits

To remain certified and in good standing, all DBE firms are required to submit an annual *No Change Affidavit*. The DBE firm is required to submit documentation of the firm's gross receipts and personal net worth of the qualifying owners with the *No Change Affidavit*.

In addition, the *No Change Affidavit* must affirm that there have been no changes in the firm's circumstances affecting its ability to meet:

- size,
- disadvantaged status,
- ownership, or
- control

and no material changes in the information provided. If the DBE fails to provide this *No Change Affidavit* in a timely manner, the DBE will be deemed to have failed to cooperate under 49 CFR 26.109(c).

## No Change Affidavit Process

1. Sixty (60) days prior to the anniversary date of a firm's DBE certification, the *No Change Affidavit* and *Statement of Personal Net Worth* forms are sent to the firm. The forms will be sent with a cover letter explaining that the firm must complete the forms and file the requested supporting documentation in order to remain certified and in good standing with the IL UCP. If the firm has not responded after 30 calendar days, a follow up request is sent to the firm. If the firm fails to respond to the host agency's



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request for a No Change Affidavit by the firm's anniversary date, the firm's DBE certification will be removed through the procedures listed in 49 CFR 26.87 due to failing to cooperate as detailed in 49 CFR, Part 26.109(c).

2. Forms/Supporting Documentation Submitted Complete - When the completed forms and supporting documentation are submitted and reviewed/approved a document is prepared stating the firm remains in good standing. A notification of continued eligibility is sent to the DBE firm. The notification of continued eligibility, supporting documentation and the memo are placed in the firm's file.
3. Forms Submitted Incomplete - If the forms/supporting documentation have been submitted but are incomplete, a Request for Information letter that lists the deficiencies is sent to the firm. The firm is given **20 calendar days** upon receipt of the letter to submit the requested information. Once 20 calendar days has passed, a second request for the requested additional information is sent to the firm, giving them an additional **10 calendar days** upon receipt of the letter to submit the requested information. This second request will list the requested information and the date the firm will be denied if they do not respond to this request. If the firm does not respond in this time frame, or the firm's response is incomplete, the firm will be issued a notice of proposed removal of DBE certification due to a lack of cooperation pursuant to 49 CFR, Part 26.109(c). This proposed removal will be in accordance with the procedures listed in 49 CFR, Part 26.87.

## Continued Eligibility Affidavit

To remain in good standing, all DBE firms are required to submit, a *Continued Eligibility Affidavit* (see Appendix F), on the fifth year of its anniversary date. The DBE firm is required to submit documentation of the firm's size and gross receipts, changes in ownership/management of the firm and updated corporate records with the *Continued Eligibility Affidavit*.

This *Continued Eligibility Affidavit* must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, control requirements or any material changes in the information provided in its application form. If changes do exist that the host UCP agency has not been made aware of, they should be submitted at this time as long as the firm is in compliance with 49 CFR, Part 26.83(i). The process for filing a *Continued Eligibility Affidavit* is set forth on page 17 hereof.

The *Continued Eligibility Affidavit* shall specifically affirm that the DBE continues to meet business size criteria as stated in the federal regulations and the overall

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gross receipts cap of 49 CFR 26.65; documenting this affirmation with supporting documentation of the firm's size and gross receipts. If the DBE fails to provide this *Continued Eligibility Affidavit* in a timely manner, the DBE will be deemed to have failed to cooperate under 49 CFR 26.109(c).

In addition, pursuant to 49 CFR 26.83(i), during the period that a firm is certified, it must inform the certifying Participant in writing of any change(s) in circumstances affecting the firm's ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR part 26 or any material change in the information provided in the firm's application for certification within thirty (30) days of the occurrence of the change.

## Continued Eligibility Process

1. Sixty (60) days prior to the five year anniversary date of a firm's DBE certification, the *Continued Eligibility Affidavit* and *Statement of Personal Net Worth* forms are sent to the firm. The forms will be sent with a cover letter explaining that the firm must complete the forms and file the requested supporting documentation in order to remain certified and in good standing with the IL UCP. If the firm has not responded within 30 calendar days, a follow up request is sent to the firm. If the firm fails to respond to the host agency's request for a *Continued Eligibility Affidavit* by the firm's anniversary date, the firm will be issued a notice of proposed removal of DBE certification due to a lack of cooperation pursuant to 49 CFR, Part 26.109(c). This proposed removal will be in accordance with the procedures listed in 49 CFR, Part 26.87.
2. Each firm seeking continued eligibility is required to have another site visit conducted. Out of state firms must submit a site visit that is less than five (5) years old, from their home state certifying agency to continue their participation in the IL UCP.
3. Forms/Supporting Documentation Submitted Complete - When the completed forms and supporting documentation are and reviewed/approved, a report is prepared stating the firm remains in good standing. A notification of continued eligibility is sent to the DBE firm. The notification of continued eligibility and supporting documentation are placed in the firm's file.
4. Forms Submitted Incomplete - If the forms/supporting documentation have been submitted but are incomplete, a Request for Information letter that lists the deficiencies is sent to the firm. The firm is given **20 calendar days** upon receipt of the letter to submit the requested information. Once 20 calendar days has passed, a second request for the requested additional information is sent to the firm, giving them an additional **10**



# IL UCP PROCEDURES

**calendar days** upon receipt of the letter to submit the requested information. If the firm does not respond in this time frame, or the firm's response is incomplete, the firm will be issued a notice of proposed removal of DBE certification due to a lack of cooperation pursuant to 49 CFR, Part 26.109(c). This proposed removal will be in accordance with the procedures listed in 49 CFR, Part 26.87.

## **Status of Firm during Reviews of Continued Eligibility Affidavits**

A firm remains an eligible DBE during the review of its *Continued Eligibility Affidavit*. Upon completion of the review process, the firm will be sent a letter verifying their continued eligibility.

## **Eligibility Investigation / Removal Process**

1. Third Party Challenge - the IL UCP Participants shall accept written complaints from any person alleging that a currently certified firm is ineligible (general allegations and anonymous complaints need not be considered). The complainant must state specific reasons for ineligibility, and any documentation in support of the complaint must be attached. The identity of the complainant will be kept confidential at all times.
2. US DOT Directive to Initiate Proceeding - if US DOT determines that information in certification records or other available information provides reasonable cause to believe that an IL UCP-certified DBE firm does not meet the eligibility criteria of 49 CFR part 26, US DOT may direct the certifying Participant to initiate a proceeding to remove the firm's certification.

The concerned operating administration must provide the certifying Participant and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information. The certifying Participant must immediately commence and prosecute a proceeding to remove eligibility, following the procedures set forth in the following paragraphs.

3. IL UCP Partner Challenge - if based on sections 1 or 2 above, and/or notification by a firm of a change in its circumstances or other information that of which an IL UCP Participant becomes aware, it is determined that there is reasonable cause to believe that a currently certified IL UCP firm is ineligible, the IL UCP Participant originally responsible for the certification shall thoroughly investigate the complaint/inquiry within sixty (60) days. The

# IL UCP PROCEDURES

certifying Participant shall also notify the challenged firm in writing, giving the stated reasons and the relevant regulations.

The IL UCP-certifying Participant will review the records concerning the firm, any material provided by the challenged firm and other available information. The certifying Participant may request additional information from the firm or conduct any other investigation that it deems necessary.

If the IL UCP-certifying Participant determines that such reasonable cause does not exist, the IL UCP-certifying Participant must notify the complainant and the firm in writing of this determination and the reasons for its decision.

If the IL UCP-certifying Participant finds reasonable cause to believe that the firm is ineligible, written notice must be provided to the firm that the IL UCP-certifying Participant proposes to find the firm ineligible, setting forth the reasons for the proposed determination. In this notice, the firm must be given an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified, or in the alternative, the firm may choose to file a written appeal. The firm is given twenty (20) calendar days from the date of the notice of proposed decertification to request an informal hearing or submit a written appeal (Request for Appeal), before the Hearing Officer. If the firm requests the opportunity to appeal in person the firm must also state whether the firm will be represented by counsel. The IL UCP-certifying Participant must notify all other Participants within two (2) calendar days of receipt of the request.

Pursuant to 49 CFR 26.87, the IL UCP-certifying Participant's Hearing Officer must maintain a complete record of the hearing, by any means acceptable under state law, for the retention of a verbatim record of an administrative hearing. If there is an appeal to US DOT under 49 CFR 26.89, the certifying Participant must provide the hearing transcript to US DOT; and on request to the firm. The original record of the hearing must be maintained. The firm may be charged only for the cost of copying the record.

The Hearing Officer must render a decision within sixty (60) days following receipt of the written appeal or informal hearing. The IL UCP-certifying Participant must provide the firm written notice of the decision in a timely manner, including the reasons for it and specific references to the evidence in the record that supports each reason for the decision. The IL UCP Participants are notified in writing within two (2) calendar days of the decision.

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<u>Participant</u>	<u>Address</u>
1. IDOT	2300 S Dirksen Parkway, Springfield, IL
2. City of Chicago	121 N. LaSalle, Room 806 Chicago, IL
3. CTA	567 W. Lake St, 4 <sup>th</sup> Floor, Chicago, IL
4. Metra	547 W. Jackson, 5W Chicago, IL
5. Pace	550 W. Algonquin Rd Arlington Hts., IL

## Grounds for Decision

A decision by any IL UCP Participant to remove eligibility must not be based on a reinterpretation or changed opinion of information available to the IL UCP-certifying Participant at the time of its certification of the firm. A decision may only be based on one or more of the following:

- Changes in the firm's circumstances since the certification of the firm that rendered the firm unable to meet the eligibility standards of 49 CFR part 26;
- Information or evidence not available at the time the firm was certified;
- Information that was concealed or misrepresented by the firm in previous certification actions;
- A change in US DOT's certification standards or requirements since the firm was certified; or
- A documented finding that the certifying Participant's determination to certify the firm was factually erroneous.

## Status of Firm during Proceedings

A firm remains an eligible DBE during the pendency of proceedings to remove its eligibility. The firm does not become ineligible unless and until the notice removing its certification is issued.

# IL UCP PROCEDURES

## Availability of US DOT Appeal

After the IL UCP Participant makes its final decision to remove a firm's eligibility, the firm may appeal the removal to US DOT under 49 CFR 26.89. The firm must send a letter to US DOT within ninety (90) days of the date of the decision, attaching information and arguments concerning why the decision should be reversed. Pending US DOT's decision, the decision of the IL UCP Participant remains in effect.

The IL UCP will promptly implement any US DOT certification appeal decisions affecting the eligibility of DBEs for the IL UCP's US DOT-assisted contracting.

Appeals should be sent to: U.S. Department of Transportation  
Department of Civil Rights  
1200 New Jersey Ave., SE W-35  
Washington, D.C. 20590

## Effects of Removal of Eligibility

If the certifying Participant removes a firm's eligibility, the firm may not reapply for certification within twelve (12) months from receipt of the certifying Participant's final denial decision.

When a firm's eligibility is removed, per 49 CFR 26.87(i)(1)(2)(3), the following action(s) must be taken:

When a prime contractor has made a commitment to use the ineligible firm, or the IL UCP Participant has made a commitment to use a prime contractor, but a subcontract or contract has not been executed before the decertification notice is issued, the ineligible firm does not count toward the contract goal or overall goal. The prime contractor must be directed to meet the contract goal with an eligible DBE firm or demonstrate that it has made a good faith effort to do so.

If a prime contractor has executed a subcontract with the firm before the firm was notified of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where a prime contract was let to a DBE firm that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the notice of its ineligibility was issued shall not count toward a Participant's overall goal, but may count toward the contract goal.

Exception: If the DBE firm's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, its participation may continue to be counted on that contract toward overall and contract goals.

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**In Witness Whereof**, the parties hereto have caused this Unified Certification Proposal to be executed by their respective authorized officials:

Illinois Department of Transportation

Date



6/26/13

City of Chicago

Date

Chicago Transit Authority

Date

Commuter Rail Division of the  
Regional Transportation Authority (METRA)

Date

Suburban Bus Division of the  
Regional Transportation Authority (PACE)

Date

# **IL UCP PROCEDURES**

## **IL UCP Appendices**

- A. DBE Certification Application**
- B. No Change Affidavit**
- C. On-Site Questionnaire**
- D. Personal Net Worth**
- E. Social and Economic Disadvantage Disclosure**
- F. Continued Eligibility Affidavit**

**ATTACHMENT J**  
Sample "No Change" Affidavit

**ILLINOIS UNIFIED CERTIFICATION PROGRAM  
DBE NO CHANGE AFFIDAVIT**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone No.: (    ) \_\_\_\_\_ - \_\_\_\_\_ Fax No.: (    ) \_\_\_\_\_ - \_\_\_\_\_

E-mail: \_\_\_\_\_ Federal Employer ID No.: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

**List annual gross receipts for the last three years:**

Year \_\_\_\_\_ \$ \_\_\_\_\_ Year \_\_\_\_\_ \$ \_\_\_\_\_ Year \_\_\_\_\_ \$ \_\_\_\_\_

**List annual number of employees for the last three years:**

Year \_\_\_\_\_ Employee No. \_\_\_\_\_ Year \_\_\_\_\_ Employee No. \_\_\_\_\_ Year \_\_\_\_\_ Employee No. \_\_\_\_\_

**Identify any owner or management official of the applicant firm who has an ownership interest in any other firm. Provide information as to owner's title, address of firm, percent of ownership and product or service of the other firm.**

Owner/Manager	Name and Address of Other Firm	Title in Other Firm	% of Ownership	Product or Service of Firm

**SUBMISSION OF THE FOLLOWING DOCUMENTS IS REQUIRED FOR CONTINUING DBE CERTIFICATION STATUS:**

- Affidavit must be signed by **all individuals** whose socio and economic status is relied upon for certification (51% DBE ownership required). **Affidavit must be notarized.**
- A copy of current year business tax returns, including all schedules/attachments, (e.g., 1120s, 1065s, 1040/Schedule C) must be submitted with the affidavit.

**NOTE: For any additional specialty area you wish to apply for in which you were not previously certified, submit the necessary documentation (licenses, resumes, previous contracts, etc.), demonstrating your ability to perform in the additional area(s).**



Upon penalty of perjury, the undersigned certifies that he/she is the \_\_\_\_\_  
(Title in Firm)  
of \_\_\_\_\_ and that he/she is authorized by the firm to execute this  
(Firm Name)

affidavit in its behalf and attests to the accuracy and truthfulness of the information on the affidavit and its supporting documentation. Affiant(s) also understands that information provided herein may be audited, shared or verified by other means with other city, state or federal agencies as provided by law.

The affiant(s) also affirms that the disadvantaged, minority or women interests in the business constitutes 51% majority control over business operations and further affirms that there have been no changes in the circumstances of \_\_\_\_\_ affecting its ability to meet size, disadvantaged status, ownership, or  
(Firm Name)

control requirements of 49 CFR, part 26. There have been no material changes in the information provided with the original application for certification, except for any changes in which you have provided written notice under 49 CFR 26.83(1). The applicant and its affiliates continue to meet the Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (pursuant to SBA, NAICS size limits), in addition to ensuring the firm's previous three fiscal years, does not exceed the USDOT, **\$23.98 million size limit**. The undersigned also agrees to inform in writing of any circumstances affecting its ability to meet size, disadvantaged status, ownership or control requirements of this part or any material change in the information provided in your application form. Change notices must take the form of a notarized affidavit, sworn to by the applicant, execute under penalty of perjury of the laws of the United States. **Applicant must provide written notification within 30 days of the occurrence of the change.** Failure to make timely notification of such changes will deem the firm to have failed to cooperate under section 26.109(c).

Under SEC 26.107 of 49 CFR, part 26: If at any time the Department or a Recipient has reason to believe that any firm that does not meet the eligibility criteria of Subpart D, Certification Standards, and attempts to participate in a DOT assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 49 CRF, part 29. The Department may also take enforcement action under 49 CRF, part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action. The Department may refer to the Department of Justice, for prosecution under U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT assisted program or otherwise violates applicable Federal statutes.

I/We understand and acknowledge that to fraudulently obtain or retain certification or public monies, to willfully make a false statement to an official for the purpose of influencing certification eligibility or to obstruct or impede an official or employee who is investigating the qualifications of a business which has requested certification is a Class 2 felony subject to prosecution under 720 ILCS 5/33C of the Criminal Code of the State of Illinois. ANY MATERIAL MISREPRESENTATION OF INFORMATION IN THIS DOCUMENT WILL BE GROUNDS FOR: (1) DENIAL OF CERTIFICATION, (2) DECERTIFICATION/REMOVAL OF ELIGIBILITY, (3) DEBARMENT, (4) TERMINATING ANY CONTRACT WHICH MAY BE AWARDED, AND (5) INITIATING ACTION UNDER FEDERAL OR STATE LAWS CONCERNING FALSE STATEMENTS.

\_\_\_\_\_  
(Signature of Owner, Title) Date

\_\_\_\_\_  
(Signature of Owner, Title) Date

\_\_\_\_\_  
(Signature of Owner, Title) Date

\_\_\_\_\_  
(Signature of Owner, Title) Date

**Notary Seal: Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_**

**Signed: \_\_\_\_\_ Notary Public in and for the**

**County of: \_\_\_\_\_ State \_\_\_\_\_ Notary Seal**

**My commission expires: \_\_\_\_\_**