

**NORTHEASTERN ILLINOIS REGIONAL TRANSPORTATION AUTHORITY  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

**July 1, 2014**

**Leanne P. Redden  
ACTING EXECUTIVE DIRECTOR**



**Regional  
Transportation  
Authority**



## OBJECTIVES AND POLICY STATEMENT

The Regional Transportation Authority (RTA) has established this Disadvantaged Business Enterprise (DBE) Program (the Program) in accordance with regulations of the U.S. Department of Transportation (DOT), namely 49 CFR Part 26 (Part 26). The RTA has received federal financial assistance from the DOT, and as a condition of receiving this assistance, the RTA has signed an assurance that it will comply with Part 26. It is policy of the RTA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

The RTA's Regulatory Compliance Officer acts as the DBE Liaison Officer. In that capacity, the Regulatory Compliance 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 legal obligations incurred by the RTA in its financial assistance agreements with the DOT.

The RTA has disseminated this Policy Statement to its Board of Directors, all the component of its organization, and the general public. It has also distributed this statement to DBE and non-DBE business communities that perform work for the RTA on DOT-assisted contracts by posting it on the RTA website ([www.rtachicago.com](http://www.rtachicago.com)) and incorporating it into our procurement processes.

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**APPLICABILITY TO THE RTA (PART 26.3)**

Part 26 applies to the RTA as a recipient of federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178.

**DEFINITIONS (PART 26.5)**

The terms used in this Program have the meanings ascribed to them in Part 26.5.

**NONDISCRIMINATION (PART 26.7)**

The RTA will never exclude any person from participation in, deny any person the benefits, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by part 26 on the basis of race, color, religion, sex or national origin. In administering its DBE Program, the RTA 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, religion, sex or national origin.

**RECORD KEEPING REQUIREMENTS (PART 26.11)**

The RTA will report DBE participation on a semi-annual basis, using the DOT Uniform Report of DBE Awards and Commitments and payments Form, or any successor form(s) prescribed by DOT. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Additionally, the RTA will maintain a small business bidders list, which will include for each firm, the name, address, DBE (or non-DBE status), age of the firm, and information concerning the annual gross receipts of all DBEs and non-DBEs that submit bids or quotes to a prime bidder/offer or on DOT assisted contracts. The RTA collects this information by requiring all of its prime contractors to complete and submit a bidders' list its response to RTA's request for bids or proposals, thereby providing the RTA with the relevant small business and DBE information either directly, in the case of a DBE-or small business certified bidder, or indirectly, through the prime contractor.

**RTA AND CONTRACTOR ASSURANCES (PART 26.13)**

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

The RTA 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 RTA 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 RTA's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference into all RTA contracts. Implementation of this

Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this contract. Upon notification to the RTA 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.).

Additionally, the RTA ensures that the following clause is placed in every DOT-assisted contract and subcontract:

**Disadvantaged Business Enterprise Assurance.**

In accordance with 49 CFR Part 26.13(a), as amended, the Contractor assures the Authority that it shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement or the award and performance of any subcontract hereunder. Furthermore, 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 Agreement, which may result in its termination or such other remedy as the Authority deems appropriate.

**DBE PROGRAM UPDATES (PART 26.21)**

As authorized and required, the RTA will continue to carry out this Program until all funds from DOT financial assistance have been expended, and will provide updates to DOT regarding any significant changes to the Program.

**DBE LIAISON OFFICER (DBELO) (PART 26.25)**

The RTA has designated the following individual as its DBE Liaison Officer:

**Latoya Redd, Regulatory Compliance Officer/DBE Coordinator**  
**175 West Jackson Boulevard, Suite 1650**  
**Chicago, IL 60604**  
**312-913-3212 (Telephone)**  
[redl@rtachicago.org](mailto:redl@rtachicago.org)

In the event that Ms. Redd no longer serves in the capacity of Regulatory Compliance Officer, her successor will assume the role of DBELO.

In this capacity, the Regulatory Compliance Officers is responsible for implementing all aspects of the DBE Program and ensuring that the RTA complies with all provisions of Part 26. The Regulatory Compliance Officer has direct, independent access to the Executive Director concerning DBE Program matters. The current organization chart displaying the Regulatory Compliance Officer's position in the agency is found in Attachment A.

The Regulatory Compliance Officer or his/her designee is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate RTA officials. The duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by DOT;
2. Work with DOT's Office of the DBE as necessary to review and ensure compliance with this program;
3. Review third party contracts and purchase requisitions for compliance with this Program;
4. Work with all departments to set and foster achievement of the RTA's overall annual goal;
5. Ensure that bid notices and requests for proposals are available to DBEs in a timely manner;
6. Identify contracts and procurements so that DBE goals are included in solicitations;
7. Analyze the RTA's progress toward attainment and identifies ways to improve progress;
8. Participate in pre-bid meetings;
9. Advise the Executive Director and the Board of Directors on DBE matters and achievement;
10. Chair any applicable DBE advisory committee;
11. Provide DBEs with information and assistance in preparing bids, obtaining bonding and insurance;
12. Plan and participate in DBE training seminars;
13. Act as liaison to the Uniform Certification Program in Illinois; and
14. Provide outreach to DBEs and community organizations to advise them of opportunities.

Additionally, the **Procurement Division** plays a major role in ensuring that this Program and policy are successful. All purchasing and procurement activity is performed in a manner consistent with this Program and this commitment extends to every member of the Procurement Division.

Procurement staff shall provide timely and complete information to the DBE staff on all requests for proposals, requests for qualifications and bid solicitations. Additionally, project managers are required to obtain the approval of procurement staff and the Regulatory Compliance Officer prior to undertaking a procurement, and the project manager must provide the contact information of DBE and small businesses as a necessary part of receiving this approval.

The RTA's **Finance Department** staff maintains records of contract expenditures and commitments and, within that, DBE specific expenditures and commitments, which can be utilized to generate real-time DBE-specific contract reports. These reports are used to measure DBE goal attainment and are used to provide required reports to the Board of Directors, Executive Director and the relevant federal and state regulatory bodies.

### **DBE FINANCIAL INSTITUTIONS (PART 26.27)**

It is the policy of the RTA 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. The Board of Directors has adopted a RTA Investment Policy that provides that the RTA will ensure significant participation by female and minority owned businesses with such institutions within its service area; however, the level actually maintained will be determined by the RTA's liquidity needs. More specifically, the RTA will ensure significant participation by qualified DBEs to the extent available and possible. Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

The RTA currently utilizes the following DBE financial institutions:

1. American Metro Bank
2. Covenant Bank
3. BBCN Bank
4. Millennium Bank
5. Illinois-Service Federal Savings & Loan Association
6. International Bank of Chicago
7. National Republic Bank
8. Pacific Global Bank
9. Seaway National Bank & Trust

**PROMPT PAYMENT MECHANISMS (PART 26.29)****Prompt Payment: 26.29(a)**

The RTA ensures that the following clause is placed in every DOT-assisted contract and subcontract:

**Prompt Payment.** The Contractor agrees to pay each Contractor Related Party under this Agreement for satisfactory performance of its subcontract no later than fourteen (14) calendar days from the receipt of each payment the Contractor receives from the Authority. A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the Authority. Failure to comply with these prompt payment requirements is a breach of this Agreement which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment. In addition, Contractor's failure to promptly pay its Contractor Related Parties is subject to the provisions Section 9 of the Local Government Prompt Payment Act (50 ILCS 505/9).

**Retainage 26.29(b)**

The prime contractor agrees to return retainage payments to each subcontractor within fourteen (14) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the RTA. This clause applies to both DBE and non-DBE subcontracts.

**Monitoring and Enforcement 26.29 (d)**

If RTA determines that the prime contractor has failed to comply with the prompt payment provisions set forth in the contract, RTA shall give written notice to the Contractor that if the default is not remedied within a specified period of time (at least 5 days), the contract may be terminated. The Contract may be terminated for cause in accordance with the Contract Article entitled EVENTS OF DEFAULT, REMEDIES, STOP WORK ORDER, TERMINATION FOR DEFAULT. RTA shall also impose penalties and sanctions for non-compliance with the prompt payment clause contained in Section 26.37, MONITORING AND ENFORCEMENT MECHANISMS, and as contained in the Contract Compliance Manual (Federal) and other requirements of State law.

**DIRECTORY (PART 26.31)**

The RTA utilizes the Illinois Unified Certification Program DBE Directory, a joint project of the Illinois Department of Transportation, the City of Chicago, the Chicago Transit Authority, Metra Commuter Rail, and Pace Suburban Bus. Interested persons may obtain a copy of the Directory and program information at the following address:

<http://www.dot.state.il.us/ucp/UCP%20Directory%20By%20Name.pdf>

**OVERCONCENTRATION (PART 26.33)**

The RTA has not identified that over concentration exists in the types of work that DBEs perform, though it periodically reviews for overconcentration through the reports submitted by its Procurement Division to the Regulatory Compliance Officer. Should the RTA identify an area of overconcentration, it will proactively seek to remedy the situation by, among other courses of action: (a) discussing the issue with DOT for possible remedial strategies; (b) continuing to monitor and develop new reports to help quantify the areas of overconcentration; (c) discussing the issue with the RTA's contractor community to voluntarily reduce the overconcentration; and (d) utilizing incentives that could redirect the overconcentration, were other strategies to prove unsuccessful.

**BUSINESS DEVELOPMENT PROGRAMS (PART 26.35)**

RTA has not established a business development program. We will re-evaluate the need for such a program every year.

**MONITORING AND ENFORCEMENT MECHANISMS (PART 26.37)**

The RTA will engage in the following monitoring and enforcement mechanisms to ensure compliance with Part 26:

1. Bring attention of the DOT 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 Part 26.109.
2. Consider similar acting under state legal authorities, including negative responsibility determinations on future contracts, removal of firms from certain qualified lists, and recommending firms' DBE or small business certifications be revoked.
3. Require prime contractors to maintain records and documents of payments to DBE and small business subcontractors for three years following the performance of any contract, and further require that these records and documents will be made available for inspection upon request by any authorized representative of RTA or DOT.
4. Monitor compliance and verify that work committed to DBEs and small businesses at contract award is actually performed by those DBEs and small businesses. This will be accomplished by reviewing and tracking all invoices received and keeping records of all payments made to DBEs and small businesses.

5. Perform interim audits of contract payments to DBEs and small businesses, which will review payments to subcontractors to ensure that the amount actually paid to those subcontractors (a) equals or exceeds the dollar amounts stated in the schedule of participation and (b) are made in a timely manner.
6. Provide staff in-house training and approve professional development activities as necessary to ensure that the RTA maintains competent compliance professionals.

### **FOSTERING SMALL BUSINESS PARTICIPATION (PART 26.39)**

While the RTA awards very few contracts and, in the past, has not maintained its own program while fully supporting the programs maintained by the Chicago Transit Authority, Metra Commuter Rail, Pace Suburban Bus, and other area agencies, the RTA's contracting processes and requirements are now structured to facilitate competition by small businesses. These processes and requirements, in turn, are intended to provide more opportunities and support for small business and foster their move from subcontractors and sub-consultants to prime contractor and consultant roles. Rather than directly certify firms as small businesses, the RTA accepts the following as verification of a firm's status as a small business:

1. Where participation by a small business as a prime contractor or subcontractor is required for a contract (e.g., as part of a small business set-aside), proof of small business certification under the State of Illinois' Small Business Set-Aside program is required. Program information is located at:  
<http://www.illinois.gov/dceo/SmallBizAssistance/BeginHere/Pages/SBDC.aspx>
2. Where participation by a small business as a prime contractor or subcontractor is not required for a contract award, a notarized affidavit attesting to meeting the definition of a small business as defined by 49 CFR Part 26.65 is also acceptable.

Specific actions undertaken to foster small business participation will include the following:

1. Each year, the DBELO will establish a race-neutral small business participation goal.
2. The RTA will annually provide a reasonable number of prime contracts available for small business, and as part of the procurement process, RTA project managers will be required to identify whether their contract can be performed by a small business as the prime contractor. The contract may then be set aside solely for performance by small businesses.
3. As part of the procurement process, RTA project managers are required to provide a list of small businesses that could work on their project as either a prime contractor or subcontractor.
4. Performing outreach to certified small businesses active in the Illinois Small Business Set Aside Program.

5. On a contract in which a DBE contract goal is established, an intermediate step toward establishing that goal involves determining whether subcontracting opportunities exist. Inasmuch as subcontracting opportunities exist but DBE subcontractors are not available, bidders, proposers, or offerors (Bidders) may be required to commit to small business subcontractors or show good faith efforts of having done so, as set forth relating to DBEs below.
6. When possible, the Procurement Division will relax liability insurance requirements for small businesses.
7. The RTA will educate project managers on the importance of small business participation and encouraging the use of small businesses on RTA contracts
8. The Regulatory Compliance Officer and the Procurement Division will provide regular updates on the progress of the program to the Executive Director.

**QUOTAS (PART 26.43)**

The RTA does not use quotas in any way in the administration of this DBE Program.

**OVERALL GOAL AND PUBLIC PARTICIPATION (PART 26.45)**

In accordance with Section 26.45, the RTA will submit its triennial overall DBE goal to the FTA on August 1 of the year specified by the FTA Group A schedule posted on FTA Civil Rights website. The RTA will also request use of project-specific DBE goals as appropriate and/or will establish project specific DBE goals as directed by FTA when applicable.

The process generally used by RTA to establish overall DBE goals is as follows:

The overall DBE goal represents the amount of FTA-assisted funds the RTA anticipates expending over three Federal Fiscal Years (FFY). The two-step goal setting process required by the 26.45 will be used to determine the RTA's base figure. The two steps for setting an overall goal are:

- Establish a base figure for the relative availability of DBEs
- Determine the base figure adjustment, if necessary

First, the RTA will examine the FTA-Funded projects expected to be awarded during the FFYs the goal is set to cover. Next, the RTA will establish the base figure which is intended to be a measurement of the current ready, willing, and able DBEs as a percentage of all ready, willing and able businesses to perform work on the anticipated FTA assisted contracts in the RTA's market area. The RTA will perform an analysis using information in the Illinois Unified Certification Program DBE Directory (IL UCP) and the Census Bureau's County Business Patterns (CBP) data. The availability data derived from the IL UCP and CBP will be utilized in the goal setting process.

In the Step Two base figure adjustment, the RTA will examine relevant and reliable data in the RTA'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 DBEs' contracting opportunities with RTA. The following factors will be considered for the Step Two adjustment:

- Past DBE participation
- Certified DBEs compared to non-certified DBEs
- Documented private-sector discrimination
- Anecdotal evidence from a Disparity Study (if available).

#### Public Participation

The RTA will conduct a consultation with the DBE assist agencies listed in Attachment E and other small business resource organizations for review of draft overall DBE goal, comment and to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the RTA's efforts to establish a level playing field for the participation of DBEs. Based on consultation, the RTA will complete the consultation process in the month of April prior to issuance of the public notice advertisement.

Following this consultation, the RTA will publish a notice of the proposed overall DBE goal, by no later than June 15th, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its principal office for 30 days following the date of the notice, and informing the public that the RTA and FTA will accept comments on the goals for 45 days from the date of the notice. The notice will include addresses (including offices and websites) to which comments may be sent and business location where the proposed goal may be reviewed. The public notice will be published in general circulation newspapers, which may include the Chicago Sun-Times, the Chicago Defender, and La Raza, through electronic notifications, and will be posted on the RTA website.

Once established, the RTA's overall goal submission to DOT will include a summary of information and comments received during this public participation process and RTA's responses. The RTA will begin using the established overall goal on October 1, unless the RTA has received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

**GOAL SETTING AND ACCOUNTABILITY (PART 26.47)**

If the awards and commitments shown on the RTA's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis; and
3. Submit the plan to FTA within 90 days of the end of the affected fiscal year.

**TRANSIT VEHICLE MANUFACTURERS (PART 26.49)**

All Transit Vehicle Manufacturers (TVM), as a condition of being authorized to bid or propose on RTA-FTA assisted transit vehicle procurements, shall certify that it has complied with the requirements of 49 CFR Section 26.49, including the establishment of an annual overall DBE participation goal that has been submitted to the FTA for concurrence. Each TVM shall complete and submit in its bid or proposal a DBE Certification form acknowledging it has complied with this section and a concurred overall DBE goal on file with the FTA. RTA shall not include the amount of FTA assistance used in transit vehicle procurements in the base amount from which RTA's overall goal is established.

**MEETING OVERALL GOALS/CONTRACT GOALS (PART 26.51)**

The RTA will use contract goals to meet any portion of the overall DBE goal that it does not anticipate being able to meet through the use of race-neutral means. These contract goals will only be utilized on contracts that have subcontracting possibilities, and the size of any particular contract goals, if any, will be adapted to the circumstances of each contract (i.e., type and location of work, availability of DBEs to perform the particular type of work). When utilized, the RTA will express contract goals as a percentage of the total amount of the contract.

The RTA will implement the following race-neutral measures which are aimed at increasing DBE and other small business participation:

**Attendance at Conferences and Business Networking Events**

The RTA's DBELO and staff will attend conferences and networking events to provide information on how to do business with RTA and to provide information on upcoming contracting opportunities. The following is a list events the RTA plans to annually attend: (1) Chicago Minority Supplier Development Counsel - Business Opportunity Fair, (2) Cosmopolitan Chamber of Commerce business fair, (3) Entrepreneurial Woman's Conference/Business Development Fair, (4) Illinois Hispanic Chamber of Commerce Business Expo, and (5) Conference of Minority Transportation Officials, National Meeting and Training Conference.

### Transportation Symposium and Business Exchange

Transportation Symposium and Business Exchange will be conducted annually or every year and half. This event provides vendors the opportunity to meet in person with RTA's contract administrators and procurement staff. DBEs and other small businesses share their products and services pertinent to the RTA and other transit/transportation agencies and companies in attendance at the event. Attendees are provided with information and assistance on registering as a vendor, certification as a DBE, completing prequalification requirements, as well as given the opportunity to meet key RTA staff.

### **GOOD FAITH EFFORTS PROCEDURES (PART 26.53)**

Any Bidder on an RTA contract for which a contract goal is set must make good faith efforts to comply with such goal, and the RTA treats the Bidder's compliance with good faith efforts requirements as a matter of both responsiveness and responsibility. The Bidder can demonstrate its compliance either by documenting that it has secured sufficient DBE participation or documenting that it made sufficient good faith efforts to meet the DBE contract goal or a combination of the two. Determination of the sufficiency of good faith efforts shall be determined by the guidance found in Appendix A to Part 26.

The Procurement Division, with assistance from the Regulatory Compliance Officer, is responsible for determining whether a Bidder who has not met a contract goal has documented sufficient good faith efforts to meet the contract goal. In each case in which the RTA determines the Bidder has documented good faith efforts, the RTA will have ensured that all information submitted by the Bidder was complete, accurate, and clearly sufficient to document the Bidder's good faith efforts. Furthermore, the RTA will only award contracts funded in whole or in part with federal dollars to Bidders that have been shown to have made good faith efforts to meet the DBE contract goal.

Each procurement for which a contract goal has been established will require the bidders/offerors to submit the following documentation at the time of submission:

1. The names and addresses of DBEs that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE's participation;
4. Written and signed documentation of a commitment to use any DBE contractor it submits to meet a contract goal; and
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the Bidder's commitment.

Or, if the contract goal will not be entirely met through participation, sufficient evidence of good faith efforts made by the Bidder made to meet the contract DBE goal.

Prior to the execution of a contract, if any of the information called for in the paragraph above has changed, the RTA will require the bidder to submit updated documentation establishing compliance with the contract goal.

#### **ADMINISTRATIVE RECONSIDERATION PART 26.53(D)**

A Bidder may request administrative reconsideration of a determination that it has not shown good faith efforts to meet the contract goal within five business days of being informed of the determination. To do so, Bidders must make this request in writing to the following reconsideration official: Audit Department, Regional Transportation Authority, 175 West Jackson Boulevard, Suite 1650, Chicago, Illinois, 60604, 312-913-3200. The Deputy Executive Director of Audit, Michael Zumach, is the reconsideration officer for the Agency. If the Deputy Executive Director of Audit played any role in the original determination that the Bidder did not document sufficient good faith efforts, the reconsideration officer for that procurement shall be the next most senior employee in the Audit Department.

As part of this reconsideration, the Bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the contract goal through participation, good faith efforts, or both. Any written documentation or argument must explain the good faith efforts made by the Bidder at the time of submission and evidence of efforts made subsequent to submission will not be considered. Upon request, the Bidder will have the opportunity to meet in person with the reconsideration officer to discuss the issue of whether it made good faith efforts to meet the contract goal. Upon reaching a determination, the reconsideration officer will send the Bidder a written determination on reconsideration, explaining the basis for finding that the Bidder did or did not exercise good faith efforts meet the contract goal. This determination shall be final and the reconsideration process is not presently administratively appealable to DOT.

#### **SAMPLE BID SPECIFICIATIONS**

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the RTA to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of \_ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the

commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

**DBE REPLACEMENT DURING A CONTRACT**

If a DBE is terminated, or has otherwise failed to complete its work on a contract, the RTA will require the contractor to replace it with another certified DBE to the extent needed to meet the contract goal. If a DBE is unable or unwilling to perform, the prime contractor must notify the DBELO immediately and provide reasonable documentation of the same.

In any situation described above, the RTA will require the prime contractor (a) to obtain RTA's prior approval of any substitute DBE and (b) to provide copies of new or amended contract goal documentation. Failure to abide by these procedures shall be viewed as a breach of contract and the prime contractor will be subject to such sanctions and penalties as are allowed by the contract and law.

**COUNTING DBE PARTICIPATION (PART 26.55)**

The RTA will count DBE participation toward overall and contract goals as provided in Part 26.55. (See above under the heading "MONITORING AND ENFORCEMENT MECHANISMS (PART 26.37)".)

**CERTIFICATION (PARTS 26.61-26.91)**

The RTA relies upon the DBE certifications issued pursuant to the Illinois Unified Certification Program, as discussed above under the heading DIRECTORY (PART 26.31).

Any firm or complainant may appeal an Illinois UCP's decision in a certification matter to DOT. Such appeals may be sent to:

**U.S. Department of Transportation  
Office of Civil Rights Certification Appeals Branch  
1200 New Jersey Avenue. SE  
West Building, 7<sup>th</sup> Floor  
Washington, D.C. 20590**

**INFORMATION. CONFIDENTIALITY. COOPERATION. (PART 26.109)**

The RTA follows procedures to safeguard from disclosure to third parties information that is confidential, consistent with federal, state, and local law, including the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*

Notwithstanding any contrary provisions of federal, state, or local law, the RTA will not release personal or business financial information without the written consent of the submitter or unless required by law or regulation.

**MONITORING PAYMENTS TO DBES**

The RTA 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 RTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform reviews of contract payments to DBEs. The RTA will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

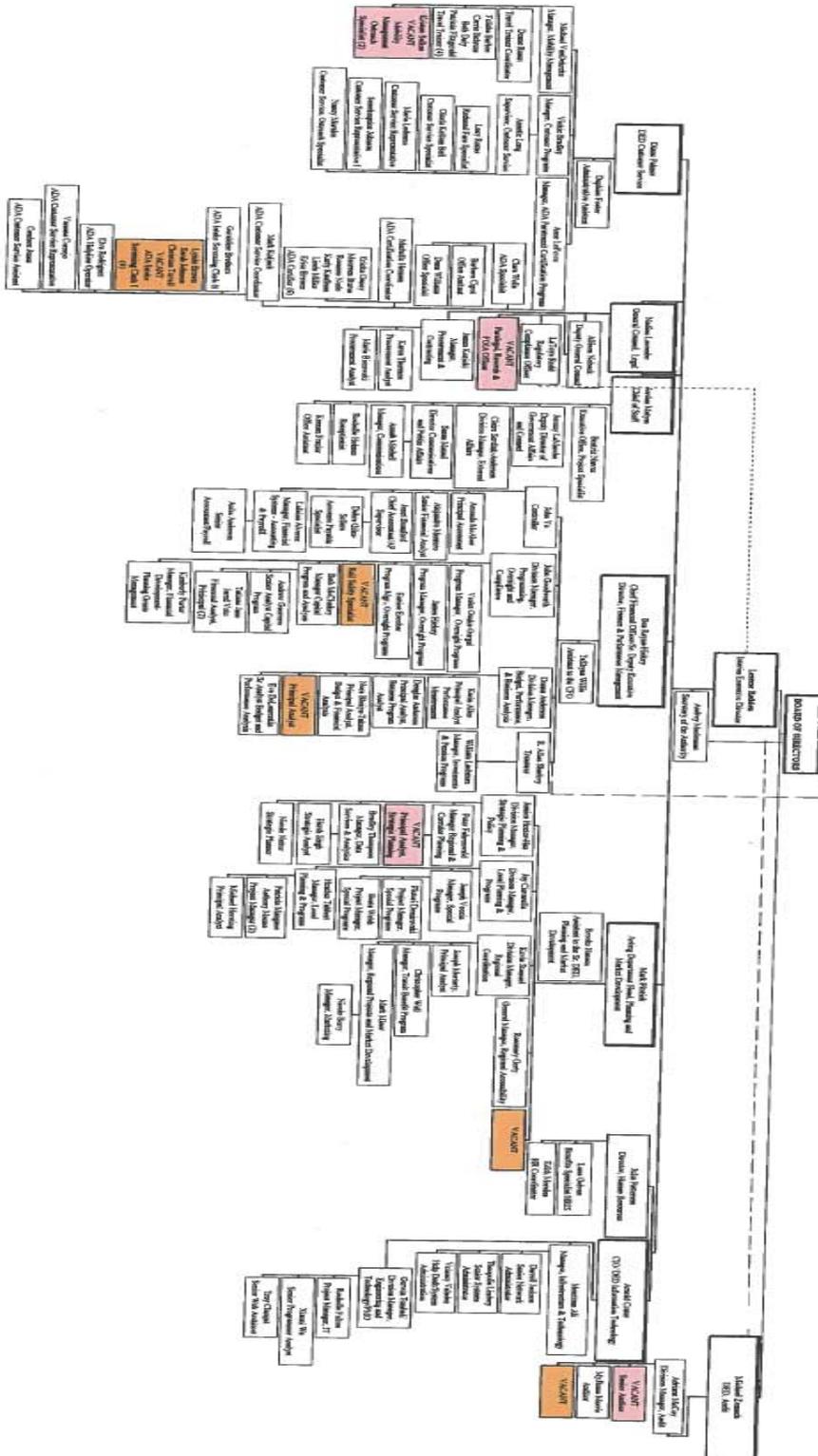
**ATTACHMENTS**

<b>Attachment A</b>	<b>RTA Organizational Chart</b>
<b>Attachment B</b>	<b>2014-2016 Regional Transportation Authority Disadvantage Business Enterprise Goal Rationale</b>
<b>Attachment C</b>	<b>DBE Commitment Forms Submitted by RTA Vendors</b>
<b>Attachment D</b>	<b>RTA's Internal Procurement Checklist</b>
<b>Attachment E</b>	<b>List of Assist Agencies</b>
<b>Attachment F</b>	<b>Monitoring and Enforcement Mechanisms</b>
<b>Attachment G</b>	<b>DBE Directory</b>
<b>Attachment H</b>	<b>Regulations 49 CFR Part 26</b>

**ATTACHMENT A**  
**RTA ORGANIZATIONAL CHART**  
**[ATTACHED]**

REGIONAL TRANSPORTATION AUTHORITY  
ORGANIZATION CHART  
April 14, 2014

	ACTUAL HEADCOUNT	BUDGETED VACANCIES	TOTAL POSITIONS
Executive Offices	2	0	2
Audit	3	2	5
Customer Service	35	2	37
Legal	6	1	7
Government and Community Affairs	8	0	8
Finance & Performance Management	25	2	27
Planning and Market Development	21	2	23
Human Resources	3	0	3
Information Technology	9	0	9
<b>Totals</b>	<b>112</b>	<b>9</b>	<b>121</b>



## ATTACHMENT B

### 2014-2016 REGIONAL TRANSPORTATION AUTHORITY DISADVANTAGE BUSINESS ENTERPRISE GOAL RATIONALE

The following is the Regional Transportation Authority's (RTA) Revised Disadvantaged Business Enterprise (DBE) Overall 3-Year Goal for Federal Fiscal Years (FFYs) 2014 through 2016. We have revised the methodology for calculating the step 1 base figure availability of DBEs; adjusted the step 1 base figure under step 2; revised our estimate of the amount of DBE participation we expect to achieve through race-neutral measures and race-conscious contract goals; and described how we will seek consultation with minority, women and general contractor groups, community organizations and other officials or organizations regarding our revised goal and its methodology as required by 49 C.F.R. § 26.45(g)(1). RTA will review its DBE participation at the beginning of each federal fiscal year to determine whether we are meeting the goal, or whether changes are necessary due to new circumstances or projects.

We have applied the approach of using the DBE Directory and the Census Bureau's County Business Pattern data because that is the best method available at this time. We will review our goal when local disparity studies become public, anticipated to be before the end of calendar 2014. In addition, the RTA is working toward having its own disparity study completed in the near future.

#### Proposed Goal Methodology

##### I. Step 1, Estimating the Baseline Availability of DBEs in RTA's Marketplace

The overall goal is based on demonstrable evidence of ready, willing, and able DBEs relative to all businesses in the relevant marketplace. Based on the analysis of the Illinois Unified Certification Program DBE Director and the Census Bureau's County Business Patterns (CBP) data, we estimate the total availability of DBEs for FTA-funded contracts is approximately 4.37%.

First, we examined the FTA-funded projects we expect to award to vendors during FFYs 2014-2016. These projects total \$4,455,500 and are described in Table 1.

**Table 1**  
**RTA FTA-Assisted Projects FFYs 2014-2016**

<b>RTA PROJECT</b>	<b>FTA-FUNDED AMOUNT</b>
Unified Work Program/Community Planning Projects	\$250,000
Interagency Signage Expansion: Graphic Design Support	\$118,750
Interagency Signage Expansion: Engineering, Design & Construction Support	\$318,750
Interagency Signage Expansion: Installation	\$2,666,000
Rosemont Access Study	\$250,000
DuPage Transit Marketing Program	\$600,000
Chicagoland Visitor Travel Survey	\$250,000
<b>Total</b>	<b>\$4,455,500</b>

Next, we assigned NAICS codes to the anticipated scopes of work to be funded by the FTA and the dollar amounts for those scopes, described in Table 2.

**Table 2**  
**Anticipated NAICS Codes and Dollar Amounts**

<b>NAICS CODE</b>	<b>DOLLAR AMOUNTS</b>
238990 (All Other Specialty Trade Contractors)	\$1,999,500
339950 (Sign Manufacturing)	\$666,500
541330 (Engineering Services)	\$688,563
541430 (Graphic Design Services)	\$230,937
541512 (Computer Systems Design Services)	\$20,000
541613 (Marketing Consulting Services)	\$600,000
541910 (Marketing Research & Public Opinion Polling)	\$250,000
<b>Total</b>	<b>\$4,455,500</b>

Third, we chose as the RTA's market area the Illinois counties of Cook, DuPage, Kane, Lake, McHenry and Will. This corresponds to the RTA's service area, and encompasses the majority of firms with which the agency has contracted using FTA funds for the last several years.

Fourth, to calculate the step 1 base figure of the availability of ready, willing and able DBEs in RTA's market area, we utilized the method described in 49 C.F.R. § 26.45(c)(1), Use DBE Directories and Census Bureau Data. We examined the most recent County Business Pattern data for the firms by NAICS codes located in the counties in our market area. We then identified the certified DBEs in those codes, and calculated the percentage DBEs represent of all firms. The results are in Table 3.

**Table 3****Availability of DBEs in the RTA's Market Area**

NAICS CODE	ALL FIRMS	ILUCP DBES	DBE %
238990 (All Other Specialty Trade Contractors)	1758	58	3.30%
339950 (Sign Manufacturing)	78	4	5.13%
541330 (Engineering Services)	2534	153	6.04%
541430 (Graphic Design Services)	892	30	3.36%
541512 (Computer Systems Design Services)	2113	90	4.26%
541613 (Marketing Consulting Services)	1441	47	3.26%
541910 (Marketing Research & Public Opinion Polling)	289	16	5.54%
Total			4.37%

As suggested by the guidance from USDOT,<sup>1</sup> we weighted these estimates of DBE availability to reflect the expected dollars for each NAICS code:

$$[.4488 (.0330) + .1496 (.0513) + .1545 (.0604) + .0518 (.0336) + .0045 (.0426) + .1347 (.0326) + .0561 (.0554)] \times 100 = 4.12\%$$

This resulted in a weighted step 1 base figure of 4.12%, equaling \$183,567 of the total expected dollars.

## II. Step 2, Consideration of Adjustments to the Step 1 Base Figure

Step 2 requires RTA to examine all evidence in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. Included among the types of evidence that must be considered are the current capacity of DBEs to perform work on RTA's federally-assisted contracts, as measured by the volume of work DBEs have performed in recent years, and evidence from disparity studies conducted anywhere within RTA's jurisdiction, to the extent not already accounted for in the base figure. RTA may also consider available evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to, statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in the Program, and data on employment, self-employment, education, training and union apprenticeship programs, to the extent relevant to the opportunities for DBEs to perform in the Program. The regulations caution that any adjustment to the base figure to account for the continuing effects of past

<sup>1</sup> <http://www.dot.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.

discrimination or the effects of an ongoing DBE program must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought. § 26.45(d)(3). Each of these categories is discussed separately below.

#### A. Past DBE Utilization

RTA considered the current capacity of certified DBEs to perform on its FTA-assisted contracts, measured by the volume of work certified DBEs have received in recent years. The average DBE participation for FFYs 2009 through 2013 was 8.62%.

**Table 4**  
**DBE Utilization for FFYs 2009-2013**

FEDERAL FISCAL YEAR	OVERALL DBE UTILIZATION	RACE-NEUTRAL UTILIZATION	RACE-CONSCIOUS UTILIZATION
2009	11.41%	2.26%	9.15%
2010	15.77%	3.40%	12.37%
2011	1.76%	1.40%	.36%
2012	6.30%	0%	6.30%
2013	7.86%	0%	0%

#### B. Evidence from local disparity studies

No disparity studies have been conducted in the Chicago area. Studies are underway for the State of Illinois, Cook County, the Illinois State Toll Highway, and Pace Suburban Bus. When these results become available, RTA will review the studies to determine whether they provide evidence relevant to our annual goal setting methodology and calculations. Further, the RTA is working toward conducting its own study in the near future.

#### C. Statistical evidence of disparities

While research has been provided to the City of Chicago and the Chicago Transit Authority that looks broadly at trends in the economy, we are unaware of data that are narrowly tailored to the market area and industries in which RTA purchases that would permit a legally defensible numerical adjustment to the step 1 base figure estimate.

#### D. Base figure adjustment

Based on the available evidence, RTA therefore will adjust its step 1 base figure estimate to reflect the average of its step 1 figure and the average of its past DBE participation, for an overall, annual DBE goal for FFYs 2014 through 2016 of 6.37% ( $4.12\% + 8.62\%/2 = 6.37\%$ ).

### **III. Projection of DBE Goal Attainment through Race-Neutral Measures and Race-Conscious Contract Goals**

#### **A. Projection of race-neutral versus race-conscious achievement**

To estimate the portions of the goal to be met through race-neutral and race-conscious measures, RTA evaluated past race-neutral certified DBE participation as defined in § 26.51(a).

As detailed in Table 4, RTA has achieved the great majority of its DBE participation through the use of race-conscious contract goals. Based upon the average of the race-neutral participation achieved from FFY 2009 through 2013, we project that we will achieve 1.41% DBE participation through race-neutral measures and 4.96% through race-conscious contract goals.

#### **B. Efforts to increase race-neutral participation**

RTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. To facilitate race-neutral participation, the RTA consistently conducts outreach to DBEs to provide information regarding opportunities to participate in RTA projects and procurements. One of the RTA's significant outreach initiatives is the annual Transportation Symposium & Business Exchange (the Transportation Symposium). This networking and informational event has been held for the past seventeen years. The purpose of this event is to inform vendors of upcoming business opportunities at each of the participating agencies. An informational procurement workshop is held prior to the start of the networking portion of the Transportation Symposium to provide attendees with information. The Transportation Symposium provides participants an opportunity to meet and have a one-on-one business exchange with RTA procurement and DBE staff, as well as staff from each participating agency. Also, companies that have large dollar contracts with the RTA and the other sponsor agencies are invited to participate as exhibitors to explore DBE and sub-contracting partnerships. The Symposium serves as an extensive outreach effort, and the RTA firmly believes such involvement increases DBE participation achieved through both race neutral and race conscious means by increasing awareness of the RTA and its procurements.

Representatives from the RTA also participate on committees of minority and female organizations and attend numerous events and programs to provide information about the RTA and to assist in identifying and utilizing DBEs, such as:

- Annual Chicago Business Opportunity Fair/Chicago Minority Supplier Development Council
- Annual Entrepreneurial Woman's Conference/Women's Business Development Council (WBDC)
- Annual Chicago Cosmopolitan Chamber of Commerce business fair
- Annual Illinois Hispanic Chamber of Commerce Business Expo

- Winning with the State of Illinois Business Forum 2013: Providing Tools For Opportunities, a business fair for small & minority businesses
- Illinois Transit and Transportation Roundtable: RTA is a strategic partner in the economic growth and development of small, minority, female-owned and disadvantaged businesses.
- Annual Conference of Minority Transportation Officials-National Meeting and Training Conference.

In addition, RTA staff is available to meet with DBEs and other small firms to assist them with how to do business with the agency, such as preparing bids and proposals to comply with the RTA's procurement requirements and processes. We also search the IL UCP and the RTA's Vendor Profile database to identify DBE prime firms and DBE subcontractors; answer questions of DBEs and provide DBE information to bidders/proposers during pre-proposal conferences; send solicitation information to DBEs based upon contacts obtained during outreach events; and participate as a partner in the Illinois Transit and Transportation Roundtable's meetings and events to facilitate the development, growth, and sustainability of DBEs in contracting opportunities.

#### **IV. Public Participation**

To meet the requirements of 49 C.F.R. § 26.45, that RTA published a notice in the Chicago Defender; the Chicago Sun-Times and LaRaza, attached hereto as Exhibit A, announcing its proposed DBE goal for Fiscal Years 2014-2016 and informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the RTA's office for 30 days following the date of the notice, and informing the public that RTA will accept comments on the goals for 45 days from the date of the notice.

RTA will also seek public input to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the RTA's efforts to establish a level playing field for the participation of DBEs, through notices announcing its proposed DBE goal for Fiscal Years 2014-2016 to various assist agencies.

**ATTACHMENT C**  
**DBE COMMITMENT FORMS SUBMITTED BY RTA VENDORS**  
**[ATTACHED]**

**EXHIBIT \_\_\_\_**  
**REGIONAL TRANSPORTATION AUTHORITY (RTA)**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) COMPLIANCE PLAN**

**Project name:** \_\_\_\_\_

**Vendor name:** \_\_\_\_\_

**Instructions for Completing the DBE Compliance Plan**

It is the objective of the Regional Transportation Authority (RTA) to promote the participation of Disadvantaged Business Enterprises (DBEs) in the performance of its contracts. To promote this objective, the RTA has established a DBE Program in conformance with U.S. Department of Transportation (U.S. DOT) regulations at 49 CFR Part 26. Additional information and guidance about the regulations is available at [www.osdbuweb.dot.gov](http://www.osdbuweb.dot.gov). Additional information on the RTA's DBE Program is available at [www.rtachicago.org/dbe](http://www.rtachicago.org/dbe).

**A proposer or bidder for this RTA project (referred to herein as Vendor) must either achieve or exceed the DBE contract goal established for this project through DBE participation or must sufficiently document its good faith efforts to meet the DBE goal.**

A DBE is a business certified through the Illinois Unified Certification Program (IL UCP), in accordance with the U.S. DOT's requirements. The firm must be IL UCP certified as a DBE at the time of bid or proposal submittal in order to be counted as a DBE on this project. Other certifications are not acceptable and dollars spent with firms not DBE certified will not be counted towards achieving the DBE contract goal on this project. Information on DBE certification through the IL UCP, including a listing of certified DBEs, is available at [www.dot.state.il.us/ucp/ucp.html](http://www.dot.state.il.us/ucp/ucp.html). All DBE certifications must be pre-certifications, i.e., certifications that have been made final before the due date for bids/proposals as required by 49 CFR 26.81(c).

All Vendors must submit the DBE Compliance Plan to the RTA at the time specified by the RTA. A Vendor that is itself a DBE must still submit the DBE Compliance Plan to the RTA. Specific instructions for completing this DBE Compliance Plan are included for each Section. The DBE Compliance Plan must be signed and dated by an authorized representative of the Vendor. **If the DBE Compliance Plan is not submitted at the time specified by the RTA, the Vendor may be deemed non-responsible and its bid/proposal rejected.**

The RTA-approved DBE Compliance Plan will be incorporated into any contract relating to this project and will be attached as an exhibit thereto. Sections I – VII are the DBE Compliance Plan and supporting forms.

Questions about this DBE Compliance Plan may be directed to the RTA's DBE Coordinator by email at [DBE@rtachicago.org](mailto:DBE@rtachicago.org) or by telephone to 312-913-3213.

**DBE Compliance Plan Check List**

Please complete the following steps:

- ( ) Review Section I, DBE Program Provisions and DBE Compliance Plan Instructions.
- ( ) Complete and sign Section II, DBE Participation Commitment, even if no DBEs will be utilized. Submit it with your bid/proposal (or as otherwise specified by the RTA).
  - Designate the Vendor's DBE contact person for the project.
  - List all DBE subconsultants, subcontractors, suppliers and joint venture partners.
  - Describe the area of specialty and type of work to be performed by the DBE subconsultant, subcontractor, supplier and joint venture partner.
  - List the dollar amount of DBE participation commitment.
  - List the total proposal/contract price.
- ( ) If the DBE contract goal was not fully achieved through participation, complete Section III, Documentation of Good Faith Efforts to Achieve DBE Contract Goal, and submit it with your bid/proposal (or as otherwise specified by the RTA).
  - Complete the Good Faith Efforts checklist and attach relevant documents.
  - Complete Good Faith Efforts Contacts Log.
- ( ) If the Vendor proposes to achieve the DBE contract goal by entering into a joint venture arrangement with a DBE, complete Section IV, DBE Joint Venture Agreement. Submit a copy of the Joint Venture Agreement with your bid/proposal (or as otherwise specified by the RTA).
- ( ) Complete Section V, Letter of Intent, for each DBE proposed to be utilized on the project as a subconsultant, subcontractor or supplier (but not as a joint venture partner), and submit it with your bid/proposal (or as otherwise specified by the RTA).
- ( ) Have an authorized officer of the Vendor sign Section VII, Attestation, and have it notarized.
- ( ) Submit entire DBE Compliance Plan to the RTA with your bid/proposal (or as otherwise specified by the RTA).

**SECTION I****DBE PROGRAM PROVISIONS AND DBE COMPLIANCE PLAN INSTRUCTIONS**

The DBE Compliance Plan must list all DBE firms that will participate on the project as subconsultants, subcontractors, suppliers or joint venturer partners for the Vendor. By listing a subconsultant, subcontractor, supplier or joint venture partner on the DBE Compliance Plan, the Vendor indicates that the firm agrees to the price and scope of work proposed. In the event the Vendor is awarded a contract (or, in the case of a task order contract, task orders are established), the Vendor agrees to contract with the firms listed on the Compliance Plan for the scope and price disclosed. These Provisions and Instructions will be incorporated by reference into the contract.

**Counting DBE Participation Toward the DBE contract Goal**

All DBEs must be certified by the IL UCP at the time the bid/proposal is submitted to the RTA. The value of the work actually performed by the DBE, including supplies purchased or equipment leased by the DBE, will be counted toward the DBE contract goal established by the RTA in the manner set forth in 49 CFR 26.55.

If a DBE subconsultant, subcontractor, supplier or joint venture partner elects to subcontract part of the work to another firm (i.e., to a second tier subcontractor), the value of the second tier work may be counted toward the DBE contract goal only if the second tier subcontractor is itself a DBE. Work that a DBE subcontracts to a second tier non-DBE will not count towards the goal.

After contract award, when evaluating compliance with DBE requirements, the RTA will not credit the participation of a DBE subconsultant, subcontractor or supplier towards the DBE contract goal until that amount has been paid to the DBE.

The participation of a DBE subconsultant, subcontractor, supplier or joint venture partner that “graduates” from the Illinois Unified Certification Program, based upon exceeding the firm size or personal net worth limitations, after contract award and execution of a subcontract with the Vendor, will be counted toward achieving the contract goal (as set forth in 49 CFR 26.87(i)). The participation of a DBE subconsultant, subcontractor, supplier or joint venture partner that loses its certification eligibility before it signs a subcontract for this RTA project for any reason or as a result of fraud, collusion or any other misconduct after contract award shall not be counted toward the contract goal. RTA may require that a subconsultant, subcontractor, supplier or joint venture partner that loses its certification because of misconduct be replaced.

The DBE must perform a Commercially Useful Function on the contract in the Area of Specialty for which it is certified as a DBE to be counted towards the DBE contract goal. Commercially Useful Function means responsibility for the execution of a distinct element of the work on the project and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a Commercially Useful Function,

the RTA will evaluate the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors. Area of Specialty means the description of a DBE's activity most reflective of the firm's claimed specialty or expertise, as listed on its IL UCP letter of certification. The RTA does not make any representations concerning the ability of any DBE to perform work within its Area of Specialty or the quality of any DBE's work. It is the responsibility of the Vendor to determine the capability and capacity of DBEs to perform the proposed work.

### **Demonstrating Good Faith Efforts to Achieve the DBE Contract Goal**

If the Vendor cannot achieve the DBE contract goal through DBE participation on the contract (or, in the case of a task order contract, on the relevant task order), it must document adequate Good Faith Efforts to do so in Section III of this document, including providing any supporting documentation requested by the RTA in order to be found responsible.

A Vendor must show that it took all necessary and reasonable steps to achieve the DBE goal. The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Vendor's failure to achieve the DBE contract goal, as long as such costs are reasonable. Also, the ability or desire of a Vendor to perform the work on the project with its own forces or organization does not relieve the Vendor of the responsibility to achieve the DBE contract goal through participation or to make Good Faith Efforts to do so. A Vendor is not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

The RTA, in its sole discretion, will determine whether the Vendor has made adequate Good Faith Efforts to achieve the DBE contract goal. In evaluating the Vendor's Good Faith Efforts, the DBE participation and/or Good Faith Efforts of other vendors on this project or projects of a similar nature may be considered for comparative purposes.

If the RTA determines that the Vendor has made Good Faith Efforts to achieve the DBE contract goal, the Vendor will be eligible for contract award (provided that it is otherwise eligible for award).

If the RTA determines that the Vendor has not made Good Faith Efforts to achieve the DBE contract goal, the RTA will notify the Vendor of that determination and will provide the apparent successful Vendor an opportunity for administrative reconsideration prior to contract award as set forth in 49 CFR 26.53(d).

The RTA may request written clarification of items on the DBE Compliance Plan; however, such clarification does not provide an opportunity to augment listed DBE participation commitments or Good Faith Efforts. Changes to the DBE Compliance Plan are permitted only pursuant to the procedures established in Section VI of this document.

Only those vendors who make adequate good faith efforts to meet a contract DBE goal on a contract funded in whole or in part with federal funds will be eligible for contract award.

### **Joint Ventures with DBEs**

Joint venture(s) that the Vendor enters into with DBEs may be counted toward the DBE contract goal. A joint venture is an association between two or more persons, or any combination of types of business enterprises and persons numbering two or more, proposing to perform a for-profit business enterprise in which each joint venture partner contributes property, capital, effort, skill and knowledge, and in which the DBE joint venturer is responsible for a distinct, clearly defined portion of the work on the project and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest. Joint venturers must have an agreement in writing specifying the terms and conditions of their relationships and their risks and responsibility. The joint venturers must complete Section VI of the DBE Compliance Plan, submit a copy of their joint venture agreement at the time of submitting their DBE Compliance Plan, and must each provide the attestation to the DBE Compliance Plan at Section VII of this document.

### **Changes to the DBE Compliance Plan or Substitutions of Subconsultants, Subcontractors or Suppliers**

The Vendor may not make changes to its DBE Compliance Plan or its contractual DBE commitments, or substitute a subconsultant, subcontractor or supplier at any time, without the prior written approval of the RTA. Requests for changes or substitutions must be made on the form provided in Section VI of this document. **Unauthorized changes or substitutions, including the performance by the Vendor's own forces of the work designated for a subconsultant, subcontractor or supplier may render the Vendor ineligible for contract award or, if a contract has already been established, will be considered a material breach of the contract.** The facts supporting the request for changes or substitutions must not have been known, or could not reasonably have been known, by the Vendor prior to submitting the DBE Compliance Plan to the RTA.

Section VI, Request for Change of Compliance Plan, should be submitted only if and when the Vendor seeks to change its DBE Participation Commitments as contained in Section II of this document, or make any other changes to its previously submitted DBE Compliance Plan. Changes or substitutions requested by the Vendor shall not be considered approved until such approval is given to the Vendor by the RTA in writing.

In the event that a Vendor's request for change(s) to its Compliance Plan or substitution(s) will result in a change in the Vendor's DBE participation, and the revised participation does not achieve the DBE commitment in the Compliance Plan, the Vendor will be required to submit an updated Section III of the DBE Compliance Plan to demonstrate that it made Good Faith Efforts to achieve the DBE contract goal.

If the Vendor's request involves adding a new DBE subconsultant, subcontractor or supplier, the Vendor must submit with the Request for Change of Compliance Plan a signed and notarized Letter of Intent (Section V of this document), from the DBE identified in the revised Compliance Plan.

The RTA will evaluate the Vendor's request and, in its sole discretion, may approve or reject the request. The written request for a change or substitution must state specific reasons for the proposed change or substitution. Acceptable reasons for changes may include, but are not limited to, the following:

- Unavailability of the subconsultant, subcontractor or supplier after the initial submission of the DBE Compliance Plan;
- Failure of the subconsultant, subcontractor or supplier to perform the agreed scope(s) of work;
- Financial incapacity of the subconsultant, subcontractor or supplier;
- Failure of the subconsultant, subcontractor or supplier to honor the proposal price;
- Mistake of fact or law about the scope(s) of work where a reasonable price cannot be agreed upon;
- Failure of the subconsultant, subcontractor or supplier to meet bonding, insurance, or licensing requirements specified in the solicitation; or
- Withdrawal of the bid or proposal by the subconsultant, subcontractor or supplier.

A statement from the DBE to be substituted stating why it cannot perform on the project may be submitted to support the request. Where the reason for the requested change is a valid mistake or disagreement between the Vendor and the subconsultant, subcontractor or supplier on the scope of work, the request must document all efforts made by the parties to reach an agreement for a reasonable price for the corrected scope of work.

### **Records Retention**

The Vendor must maintain a record of all relevant data with respect to the utilization of DBEs, including but without limitation, payroll records, invoices, canceled checks, sworn statements and books of account for a period of at least 5 years after the RTA's final acceptance of the work. Full access to these records shall be granted to the RTA, or to any municipal, state or federal authorities, by the Vendor upon 48 hours written demand by the RTA. The RTA shall have the right to obtain from the Vendor any additional data reasonably related or necessary to verify any representations by the Vendor in the DBE Compliance Plan or documents regarding the Vendor's compliance with its Compliance Plan or the DBE Program Provisions.

### **Sanctions**

The RTA reserves the right to withhold payment to the Vendor to enforce the provisions of the Vendor's DBE Compliance Plan and the RTA's DBE Program. Final payment shall not be made

on the contract until the Vendor demonstrates, to the reasonable satisfaction of the RTA, achievement of the DBE contract goal or its Good Faith Efforts to achieve the DBE contract goal, pursuant to its DBE Compliance Plan.

The RTA will periodically review the Vendor's compliance with its DBE Compliance Plan and the terms of its contract. Without limitation, the Vendor's failure to comply with its DBE Compliance Plan, failure to cooperate in providing information regarding its compliance, or the provision of false or misleading information or statements concerning compliance, certification status of subconsultants, subcontractors, suppliers or joint venture partners, Good Faith Efforts or any other material fact or representation shall constitute a material breach of contract and entitle the RTA to declare a default, terminate the contract, or exercise those remedies provided for in the contract or at law or in equity.

**SECTION II  
DBE Participation Commitment**

**This form must be completed and submitted by the Vendor with its bid or proposal (or at the time otherwise specified by RTA) even if no DBE subcontractors will be utilized. Failure to do so may render the Vendor non-responsible and cause its bid/proposal to be rejected and/or render the Vendor ineligible for contract award, at the RTA’s sole discretion.**

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

Vendor Name: \_\_\_\_\_

RTA’s DBE contract goal for the project: \_\_\_\_\_%

The undersigned will enter into complete subcontracts, purchase orders or other appropriate agreements or joint venture agreements with all listed DBEs for work as described in this Section II, DBE Participation Commitment, and will enter into such agreements within 5 business days after the date of final execution of the contract with the RTA (or, in the case of a task order contract, 5 business days after final execution of the relevant task order to which the DBE participation commitments apply). Copies of each signed subcontract, purchase order, or other agreement with a DBE must be submitted to the RTA within 10 business days after execution.

The Vendor designates the following as its DBE contact person:

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

Please Print or Type

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ E mail: \_\_\_\_\_

All DBEs must be certified with the Illinois Unified Certification Program (IL UCP, [www.dot.state.il.us/ucp/ucp.html](http://www.dot.state.il.us/ucp/ucp.html)) at the time you submit your bid/proposal. If the DBE contract goal is achieved, in whole or in part, through a joint venture with a DBE, you must also complete the Joint Venture Affidavit, Section III, and submit it along with a copy of the joint venture agreement with your bid/proposal (or as otherwise specified by the RTA).

All DBE subconsultants, subcontractors, suppliers or joint venture partners must be listed on the following form.

By: \_\_\_\_\_

\_\_\_\_\_  
Name/Title

## SECTION III

### Documentation of Good Faith Efforts to Achieve DBE Contract Goal

If the DBE contract goal was not achieved, the Good Faith Efforts checklist (Section III A) and contacts log (Section III B) must be submitted with your bid or proposal (or as otherwise specified by the RTA). **Failure to do so may render the Vendor non-responsible and cause its bid or proposal to be rejected, and/or render the Vendor ineligible for contract award, at the RTA's sole discretion.** The Vendor must provide documentation in support of its Good Faith Efforts to the RTA at the time it submits its bid or proposal. The RTA also reserves the right to independently verify that these efforts have been made.

#### Section III A

##### Good Faith Efforts Checklist

A representative of the Vendor should insert his/her initials on the line before each of the efforts described below that have been undertaken by the Vendor. Documentation evidencing those activities undertaken by the Vendor should be attached to this form. **If any of the items below were not completed, attach a detailed written explanation why such effort was not completed.** If any other efforts were made to obtain DBE participation in addition to the items listed below, attach a detailed written explanation of those efforts. The amount of effort that a Vendor must undertake to meet the DBE contract goal varies from contract to contract but includes a number of distinct activities geared to actually finding DBE subcontractors. Examples of the types of documentation that may be attached to support good faith efforts are listed below. These are examples only and are not intended to be the only type of documentation that Vendors can use. The Vendor should use its own judgment when determining which documentation in its possession best evidences the good faith efforts it has made.

\_\_\_\_\_ Identified portions of the project work which could be performed by available DBEs, including, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation.

Ex: A clear summary of the work the Vendor intends to perform with its own employees and a clear summary of the work the Vendor identified as available for subcontracting.

\_\_\_\_\_ Solicited through reasonable and available means (e.g., written notices, advertisements) DBEs to perform the types of work that could be subcontracted on this project, within sufficient time to allow them to respond. (The DBE Directory is available at [www.dot.state.il.us/ucp/ucp.html](http://www.dot.state.il.us/ucp/ucp.html).)

Ex: Copies of all advertisements, notices and solicitation letters placed in newspapers, trade magazines or small business media, posted in any public place or sent directly to DBE firms.

\_\_\_\_\_ Provided timely and adequate information about the plans, specifications and requirements of the project. Followed up initial solicitations to answer questions and encourage DBEs to submit proposals or bids.

Ex: Completion of the attached Good Faith Efforts Contacts Log including information on dates of initial contact and all follow-up contacts w/DBE's. If contact was written, copies of solicitation letter and any other written information could be attached.

\_\_\_\_\_ Negotiated in good faith with interested DBEs that submitted proposals or bids and thoroughly investigated their capabilities.

Ex: Explain thoroughly why you were not able to reach agreement with each DBE listed on the Good Faith Efforts Contacts Log and attach copy of bids if any, submitted by those DBEs.

\_\_\_\_\_ Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as may be required for performance of the contract (if applicable).

Ex: A brief written description of the assistance provided to DBEs.

\_\_\_\_\_ Utilized resources available to identify available DBEs, including but not limited to DBE assistance groups; local, state and federal minority or women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

Ex: Copies of letters, facsimiles and email messages sent to organizations, and responses received, and name and phone number of person(s) contacted.

**Section III B**

**Good Faith Efforts Contacts Log For Soliciting  
DBE Subconsultant, Subcontractor or Supplier Participation**

Use this form to document all contacts and responses (telephone, e-mail, fax, etc.) regarding the solicitation of DBE subconsultants, subcontractors and suppliers. Duplicate as needed. (It is not necessary to show contacts with DBEs with which the Vendor reached an agreement to participate on this project, as shown on Section II of this document.)

Name of DBE firm	Date and method of contact	Scope of work solicited	Reason agreement was not reached

**SECTION IV**  
**DBE Joint Venture Agreement**

If Vendor proposes to utilize a joint venture arrangement for this project to meet the DBE contract goal, this form must be submitted with the bid or proposal (or as otherwise specified by the RTA). Failure to do so may render the Vendor non-responsible, non-responsive, cause its bid or proposal to be rejected, and/or render the Vendor ineligible for contract award, at the RTA's sole discretion. (Attach additional sheets as necessary for additional joint venture partners.)

**Attach a copy of the joint venture agreement(s).** The agreement(s) must describe each partner's roles and responsibilities and demonstrate that the DBE partner's share in the capital contribution, control, management, risks, costs and profits of the joint venture is equal to its ownership interest.

If there is any change in the information submitted below or to the joint venture agreement after this form is submitted to the RTA, you must immediately inform the RTA.

**Name of joint venture:** \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Contact person: \_\_\_\_\_

**Name of non-DBE partner:** \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Contact person: \_\_\_\_\_

**Name of DBE partner:** \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Contact person: \_\_\_\_\_

**SECTION V**

**Letter(s) of Intent between Vendor and DBE Subconsultant, Subcontractor or Supplier**

A separate Letter of Intent must be provided for each DBE subconsultant, subcontractor or supplier. Failure to provide a Letter of Intent may result in that DBE firm’s participation not being counted for purposes of achieving the DBE contract goal. The Letter of Intent must match the description of services or products and the amount stated in Section II, DBE Participation Commitment. (Duplicate this form as needed.)

Project name: \_\_\_\_\_

Name of Vendor: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip Code

Telephone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

Name of DBE subconsultant, subcontractor or supplier: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip Code

Telephone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

Proposed subcontract amount: \$: \_\_\_\_\_

Specific description of work to be performed by DBE:

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

The Vendor and the DBE listed above hereby agree that upon the execution of a contract for the above-named project with the RTA, the DBE will perform the scope of work described above for the price indicated above.

Vendor: \_\_\_\_\_  
Name of Firm

DBE: \_\_\_\_\_  
Name of Firm

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

**SECTION VI**

**Request for Change of Compliance Plan or Substitution of Subconsultants, Subcontractors, Suppliers or Joint Venture Partners**

This form should be submitted only if and when the Vendor seeks to change its previously submitted and approved DBE Compliance Plan or to substitute a previously approved subconsultant, subcontractor, supplier or joint venture partner. **Failure to obtain prior written approval from the RTA before making the change may render the Vendor ineligible for contract award, at the RTA’s sole discretion, or, if a contract has already been established, will be a material breach of the contract.**

Vendor name: \_\_\_\_\_

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

Current total contract price: \$ \_\_\_\_\_

DBE goal established by RTA for the project: \_\_\_\_\_%

DBE participation prior to proposed change: \_\_\_\_\_% \$ \_\_\_\_\_

DBE participation after proposed change: \_\_\_\_\_% \$ \_\_\_\_\_

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Complete the following with this request for change:

- Revised Section II, DBE Participation Commitment form.
- Updated Section III, Good Faith Efforts form (if applicable).
- Section V, Letter(s) of Intent between Vendor and DBE (if applicable).
- Section VII, Attestation and Affidavit

Detailed explanation of reasons for requesting change (attach additional pages and supporting documentation as necessary):

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**PROPOSED DELETION:**

Name of subconsultant, subcontractor or supplier:

\_\_\_\_\_

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

Telephone No.: \_\_\_\_\_

E mail: \_\_\_\_\_

Amount of subcontract/joint venture: \$ \_\_\_\_\_ ( \_\_\_\_\_ % of Vendor's contract)

Description of work: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PROPOSED ADDITION:**

Name of subconsultant, subcontractor or supplier:

\_\_\_\_\_

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

Telephone No.: \_\_\_\_\_

E mail: \_\_\_\_\_

Amount of subcontract/joint venture: \$ \_\_\_\_\_ ( \_\_\_\_\_ % of Vendor's contract)

Description of work: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Is the firm DBE certified by the IL UCP?: \_\_\_\_\_ yes \_\_\_\_\_ no

If yes, area of specialty identified in IL UCP

certification: \_\_\_\_\_

**SECTION VII  
Attestation and Affidavit**

**This form must be submitted with your bid or proposal (or as otherwise specified by the RTA). Failure to do so may render the Vendor non-responsive and cause its bid or proposal to be rejected, and/or render the Vendor ineligible for contract award, at the RTA's sole discretion.**

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTY OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, THAT I HAVE READ THE DBE COMPLIANCE PLAN INSTRUCTIONS AND THAT I AM AUTHORIZED ON BEHALF OF VENDOR TO MAKE THIS ATTESTATION.**

\_\_\_\_\_  
Name of Vendor

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Signature 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 purposes therein contained.

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

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

Seal

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

**ATTACHMENT D**  
**RTA'S INTERNAL PROCUREMENT CHECKLIST**

**[ATTACHED]**





**VENDOR CONTACT INFORMATION**

**NAME OF PROJECT MANAGER:** [Click here to enter text.](#)

**PROJECT:** [Click here to enter text.](#)

Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
 Address: [Click here to enter text.](#)  
[Click here to enter text.](#)  
[Click here to enter text.](#)  
 Email: [Click here to enter text.](#)  
 Phone: [Click here to enter text.](#)  
 Small business:  DBE:

Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
 Address: [Click here to enter text.](#)  
[Click here to enter text.](#)  
[Click here to enter text.](#)  
 Email: [Click here to enter text.](#)  
 Phone: [Click here to enter text.](#)  
 Small business:  DBE:

Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
 Address: [Click here to enter text.](#)  
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 Email: [Click here to enter text.](#)  
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 Small business:  DBE:

Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
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 Email: [Click here to enter text.](#)  
 Phone: [Click here to enter text.](#)  
 Small business:  DBE:

Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
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Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
 Address: [Click here to enter text.](#)  
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 Email: [Click here to enter text.](#)  
 Phone: [Click here to enter text.](#)  
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Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
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 Phone: [Click here to enter text.](#)  
 Small business:  DBE:

Firm Name: [Click here to enter text.](#)  
 Contact: [Click here to enter text.](#)  
 Address: [Click here to enter text.](#)  
[Click here to enter text.](#)  
[Click here to enter text.](#)  
 Email: [Click here to enter text.](#)  
 Phone: [Click here to enter text.](#)  
 Small business:  DBE:

**ATTACHED E****ASSIST AGENCIES**

Mr. Omar Shareef  
 African American Contractors Association (AACA)  
 7445 S. South Chicago Ave.  
 Chicago, IL 60619  
 Tel: 312-915-5960  
 Email: aacanatlassoc@gmail.com

Mr. William Frey  
 Associated General Contractors of Illinois  
 3219 Executive Park Drive  
 Springfield, IL 62703  
 Tel: 217-789-2650  
 Email: bfrey@agcil.org

Kenneth Chin  
 Association of Asian Contractors  
 c/o Reliable Contractors  
 333 North Ogden  
 Chicago, IL 60607  
 Tel: 312-666-3626

Black Contractors United (BCU)  
 12000 S. Marshfield Ave.  
 Calumet Park, IL 60827  
 Tel: 708-389-5730  
 Email: bcunewera@att.net

Ms. Andrea Zopp  
 Chicago Urban League  
 4510 South Michigan Avenue  
 Chicago IL 60653  
 Tel: 773-451-3500  
 Email: president@thechicagourbanleague.org

Ms. India Birdsong  
 Conference Of Minority Transportation Officials  
 (COMTO)  
 P. O. Box 61833.  
 Chicago, IL 60654  
 Tel: 312-432-8049  
 Email: ibirdsong@transitchicago.com

Jorge Perz  
 Hispanic American Construction  
 Industry Association  
 650 W. Lake Street, Suite 415  
 Chicago, IL 60661  
 Tel: 312-575-0389  
 Email: jperez@haciaworks.org

Ms. Beth Doria  
 Federation of Women Contractors  
 5650 South Archer Avenue  
 Chicago, IL 60638  
 Tel: 312-360-1122/Email: fwcchicago@aol.com

Ms. Carnice Carey  
 Cosmopolitan Chamber of Commerce  
 30 E. Adams St.  
 Chicago, IL 60603  
 TEL: 312-499-0611/EMAIL: CCAREY@COSMOCHAMBER.ORG

D. Lorenzo Padron  
 Latin American Chamber of Commerce  
 3512 West Fullerton Avenue  
 Chicago, IL 60647  
 Tel: 773-252-5211

Blanca Berthier  
 Mexican American Chamber of Commerce  
 300 West Randolph Dr., 49<sup>th</sup> Fl.  
 Chicago, IL 60601  
 Tel: 312-729-1355/EMAIL: BLANCA.BERTHIER@USMCOC.ORG

National Society of Black Engineers(NSBE-IIT, MTCC)  
 Illinois Institute of Technology  
 3201 South State St.  
 Chicago, IL 60616

Mrs. Felicia McQuitter-Neal  
 Rainbow Push Coalition  
 Community Affairs Department  
 930 East 50<sup>th</sup> Street  
 Chicago, IL 60615  
 Tel: 773-373-3366/Email: fneal@rainbowpush.org

Ms. Kristin Travis  
 Women's Business Development Center  
 8 S. Michigan Avenue, 4<sup>th</sup> Floor  
 Chicago, IL 60603  
 Tel: 312-853-3477/Email: ktravis@wbdc.org

Chicago Minority Business Opportunity Center  
 105 W. Adams Street, Suite 2300  
 Chicago, IL 60603  
 Tel: 312-755-2565

**ATTACHMENT F****MONITORING AND ENFORCEMENT MECHANISMS/LEGAL REMEDIES**

The following sections contain the standards, policies, practices and procedures RTA uses to assess whether a contractor is in compliance with regulatory and contract requirements applicable to DOT-assisted projects:

**A. Contract Requirements and Remedies**

Contract requirements and remedies are provided in this DBE program and by administrative policies, practices and procedures requirements in each contract. All contractors, as a condition of participation in any DOT-assisted contract, shall agree to the terms of this DBE program, and shall incorporate the DBE program and the DBE administrative policies, practices and procedures requirements into their contracts and subcontracts at all tiers.

1. **Contracts Provisions** - The RTA requires each project supported by DOT-assisted funds to include in its contract terms and conditions set forth in the RTA's contract with the Contractor.

2. **Auditing and Inspection** - RTA reserves the right to audit the records and of its Contractors and any Subcontractors of any tier for the purpose of verifying the DBE participation and/or adherence to the DBE Program requirements. Contractors and Subcontractors shall permit access to their records at the request of RTA.

**B. Regulatory Provisions**

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:

1. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises Department of Transportation Financial Assistance Programs; particularly, Subpart F, Compliance and Enforcement
2. 49 CFR Part 31 – Program Fraud Civil Remedies
3. 49 CFR Part 29 – Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug-Free Workplace
4. Prosecution pursuant to 18 USC 1001.

**C. Findings of Non-Compliance and Administrative Sanctions**

Contractors found not to be compliant with any part of the DBE program requirements shall be notified of RTA's finding of Non-Compliance, in writing. The notice shall cite the DBE program requirement under which the contractor is noncompliant, state the date of the findings and the grounds on which the finding was made and state the category of sanctions being imposed. Upon a finding of noncompliance, RTA may choose to impose sanctions including, but not limited to:

1. Suspension of Payment - RTA may suspend payment to the contractor of any monies held by it.
2. Termination of the Contract for Default .
3. Suspension and Debarment (49 CFR Part 29) - Information concerning the existence of a cause for suspension or debarment shall be reported, investigated and referred, when appropriate, to the proper official for consideration. After consideration, the official will issue the appropriate notice of proposed action.

**D. Enforcement Mechanisms**

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:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26,
2. Enforcement action pursuant to 49 CFR Part 31, and
3. Prosecution pursuant to 18 USC 1001.

**E. Resolution of Disputes**

Disputes between the Contractor and any subcontractors, which cannot be settled by discussions between the parties involved, shall be settled as described herein. Contractor shall notify the RTA of such dispute within ten 10 days of failure to resolve through a written notice. The Contractor and Subcontractors shall include the dispute resolution provision in their contract. Both parties shall agree to proceed through informal meetings, mediation, or arbitration, or any combination thereof. Dispute submittals shall include terms and timeframes and the service or assistance to be employed.

## ATTACHMENT G

### DBE DIRECTORY

A list of certified DBEs can be found under the following link:

<http://www.dot.state.il.us/ucp/UCP%20Directory%20By%20Name.pdf>

**ATTACHMENT H**  
**REGULATIONS 49 CFR PART 26**