

Definitions of Terms (26.5)

The terms used in this program have the meanings defined in 49 CFR 26.5.

Non-Discrimination (26.7)

MTD 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 DBE program, MTD 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.

Record Keeping Requirements (26.11)

Reporting to FTA

MTD will report DBE participation on a quarterly basis, using the Uniform Report of DBE Awards or Commitments and Payments Form. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

Bidders List

In an effort to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on MTD's Federally-assisted contracts for use in helping set overall goals, MTD maintains a bidders list. Appendix 2.6 of MTD's Procurement Manual, **Exhibit #1**, is used to collect the information below about DBE and non-DBE contractors and subcontractors.

- (i) Firm name;
- (ii) Firm address;
- (iii) Firm's status as a DBE or non-DBE;
- (iv) Age of the firm; and
- (v) The annual gross receipts of the firm. This information may be obtained by asking each firm to indicate into what gross receipts bracket they fit (e.g., less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) rather than requesting an exact figure from the firm.

Federal Financial Assistance Agreement (26.13)

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

Assurance (26.13a)

MTD 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. MTD shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. MTD'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 MTD of its failure to carry out its approved program, the Department may impose sanction 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 (26.13b)

MTD will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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.

The full non-discrimination clause, **Exhibit #2**, is included in all prime contracts.

MTD requires prime contractors to submit all subcontracts to MTD for review. MTD provides **Exhibit #3**, Subcontract Verification, to all prime contractors for inclusion in all subcontracts and verifies whether subcontracts contain the required contract language.

DBE Program Updates (26.21)

Since MTD has received a grant of \$250,000 or more in FTA assistance in the federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

DBE Liaison Officer (DBELO) (26.25)

MTD's Managing Director has designated the following individual as the DBE Liaison Officer (DBELO):

Brenda E. Eilbracht, Chief Administrative Officer
Champaign-Urbana Mass Transit District
1101 E University Avenue
Urbana, Illinois 61802
217.384.8188
217.384.8215 (fax)
beilbracht@mtd.org

In this capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that MTD complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Managing Director concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is shown in **Exhibit #4**.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities are generally assigned as follows:

Chief Administrative Officer (CAO) – DBELO

- Ensures reporting of statistical data and other information as required by DOT
- Reviews third party contracts and purchase requisitions for compliance with this program
- Works with Grants & Governmental Affairs Director to set overall goals
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner
- Analyzes MTD's progress toward goal attainment and identifies ways to improve progress

- Participates in pre-bid meetings
- Advises the Managing Director on DBE matters and achievement
- Refers DBEs to the Uniform Certification Process provided by the Illinois Department of Transportation (IDOT)
- Ensures direct outreach to DBEs and community organizations to advise them of opportunities
- Completes DBE Project Compliance Review Checklist
- Serves as the District's reconsideration official for determination of sufficient good faith efforts.

Grants & Governmental Affairs Director

- Works under the direction of the Chief Administrative Officer
- Prepares and administers Federal and State grants in accordance with established procedures and maintains required compliance documentation and records
- Processes bid invitations, specifications, contracts, and related administrative documents
- Serves as project manager for capital projects, as necessary and appropriate
- Gathers statistical data and other information as required by DOT and reports it to the Chief Administrative Officer for required submittals.
- Prepares third party contracts and purchase requisitions for compliance with this program
- Ensures that bid notices and requests for proposals are available to DBEs in a timely manner
- Participates in pre-bid meetings
- Determines whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive
- Refers DBEs to the Uniform Certification Process provided by the Illinois Department of Transportation (IDOT)
- Completes DBE Project Compliance Review Checklist
- Reports all transit vehicle procurement awards to FTA
- Participates in direct outreach to DBEs and community organizations to advise them of opportunities
- Works to set triennial and project DBE goals following FTA's methodology
- Maintains records on past DBE participation to be used in monitoring progress towards current goals and towards setting future goals
- Create and maintain webpage to provide a list of support services for DBEs and small businesses.

Project Manager

A Project Manager or Managers will be designated for each DOT-assisted contract. The Project Manager may be an MTD employee and/or a Consultant (Architect, Engineer, etc.). The Project Manager(s) has the following duties and responsibilities:

- Reviews bid specifications prior to release
- Participates in pre-bid meetings
- Participates in project kick-off meetings
- Provides on-site oversight of work performed
- Completes DBE Participation Field Log, ensuring DBEs perform work as promised
- Completes DBE Project Compliance Review Checklist

DBE Financial Institutions (26.27)

It is MTD Policy 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.

MTD has searched the IL UCP DBE Directory <https://webapps.dot.illinois.gov/UCP/ExternalSearch> for NAICS Codes 522320, 522110, 541211, 541219, 541214 in District 5 and the FDIC Minority Depository Institutions Program <https://www.fdic.gov/regulations/resources/minority/mdi.html> for qualified companies offering financial and related services.

MTD has identified the following such institutions operating in Champaign County: None

MTD will continue to search for institutions owned and operated by socially and economically disadvantaged individuals and will update its analysis annually.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer.

Prompt Payment Mechanisms (26.29)

MTD requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment MTD makes to the prime contractor. This includes retainage. MTD will release portions of retainage as work is complete and ensure that prime contractors make prompt and full payment of any retainage kept by the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Prompt Payment & Retainage Release Form, **Exhibit #5**, is used by MTD to ensure this.

Directory (26.31)

The Illinois Department of Transportation (the uniform certification program agency) maintains a directory identifying 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 Directory is updated monthly. The Directory is mailed to all prime contractors within the State of Illinois. The Directory is also available online: <https://webapps.dot.illinois.gov/UCP/ExternalSearch>

Overconcentration (26.33)

Overconcentration may occur when prime firms subcontract work to DBEs and other small businesses in certain work types more frequently than others. This event would place a disproportionate burden on non-small businesses in those areas of work. MTD has not identified that overconcentration exists in the types of work that DBE's perform.

To address future concerns of overconcentration, MTD will focus on using non-DBE firms for areas where an overconcentration has been identified. Every three years during the DBE Goal Methodology process MTD will review the contracting activities for the past three years to see if DBE overconcentration exists. In such cases, MTD will attempt to assist DBEs in performing work outside the field in which non-DBEs are unduly burdened. The most recent three-year review is found in **Exhibit #6**.

Business Development Programs (26.35)

MTD has not established a business development program.

Monitoring and Enforcement Mechanisms (26.37)

MTD's procurement practices do not typically include other program participants. There has been one instance of a program participant serving as a subrecipient to MTD in our procurement history: Residents Accessing Mobility Providing Sidewalks (RAMPS). This program participant was active from 2014 to 2017. It is not anticipated that a situation like this will occur again.

In the case that MTD allows for another subrecipient in the future, staff understand MTD's responsibilities for monitoring the performance of other program participants:

- (a) Ensure compliance with the requirements of 49 CFR 26 by all program participants. This will be done by applying legal and contract remedies available under Federal, state and local law.
- (b) As a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed, MTD will utilize an existing monitoring process (see **Exhibit #7**, DBE Project Compliance Review Checklist). This includes a written certification that MTD has reviewed contracting records and monitored work sites for this purpose.
- (c) MTD will maintain a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

Small Business Participation (26.39)

MTD's DBE Program includes an element 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. MTD fosters small business participation through race-neutral measures. Refer to Contract Goals section for detailed information on race-neutral measures to foster small business participation.

MTD fosters small business participation by ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform. MTD utilizes the threshold of \$1,000,000 contract size to classify accessibility for small businesses and DBEs. Due to our funding structure, it is more common for state and locally funded procurements to be of a size that is more accessible to small businesses. These procurements are more accessible to small businesses due to less burdensome bonding and other procurement requirements. MTD is committed to providing equal and open access for all small business enterprises to participate in MTD's contracting opportunities. This is accomplished through increasing contract awards to small business concerns for projects that are not DOT-assisted. Refer to **Exhibit #8** for procurement history.

Set-asides or Quotas (26.43)

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

Overall Goals (26.45)

In accordance with Section 26.45, MTD will submit its triennial overall DBE goal to FTA on August 1st of the year specified by FTA.

MTD will also request use of project-specific DBE goals as appropriate and/or will establish project specific DBE

goals as directed by FTA.

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

1. Calculate base figures to determine the relative availability of DBE's in specific areas of expertise using the State of Illinois Directory of Certified Disadvantaged Business Enterprises and NAICS codes census information.
2. MTD's figure of the actual DBE participation in the US DOT assisted contracts during the previous years are considered, as appropriate, and the base number is adjusted accordingly.

Before finalizing the overall goal each time, MTD will consult with IDOT, minority, women's, general contractor groups and/or other small business to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's, and MTD's efforts to establish a level playing field for the participation of DBE's. The consultation includes scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process. The consultation process is documented in the goal submission.

Following this consultation, MTD will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at MTD's office and for a 30-day comment period following the date of the notice. This publication will be posted in newspaper (*The News-Gazette*) and MTD's website. Normally, MTD will issue this notice by June 1st of each three-year period. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall goal submission to FTA will include:

- the goal (including the breakout of estimated race neutral and race-conscious participation, as appropriate);
- a copy of the methodology, worksheets, etc., used to develop the goal;
- a summary of information and comments received during this public participation process and our responses; and
- proof of publication of the goal in media outlets listed above

MTD will begin using our overall goal on October 1st of each three-year period, unless we have received other instructions from FTA. If MTD established a goal on a project basis, we will begin using our goal by the time the first solicitation for an FTA-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA.

Shortfall Analysis (26.47)

If the 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, MTD will conduct a shortfall analysis as follows:

- MTD will analyze in detail the reasons for the difference between the overall goal and awards and commitments made in that fiscal year
- MTD will establish specific steps and milestones to correct the problems identified in the analysis which will enable us to achieve our goal for the new fiscal year

Transit Vehicle Manufacturers Goals (26.49)

MTD will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section.

MTD reports all transit vehicle procurement awards within 30 days of making an award. After an award is made or a purchase order is issued to exercise an option on an existing contract, the Grants & Governmental Affairs Director submits the [Transit Vehicle Award Reporting Form on FTA's website](#). This includes the name of the successful bidder and the total dollar value of the contract/purchase.

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

The breakout of estimated race-neutral and race-conscious participation can be found in **Exhibit #9**. This section of the program will be updated when the goal calculation is updated.

Contract Goals (26.51(d-g))

MTD intends to meet its overall DBE program goal to the maximum extent feasible through race-neutral means of facilitating DBE participation. Where race-neutral measures are inadequate to meet any portion of the overall goal, MTD sets specific contract goals for particular projects with subcontracting opportunities.

Race-neutral measures include:

1. Arranging 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.
 - a. An outreach event announcing the solicitation and DBE goal methodology will be held three weeks prior to a pre-bid meeting.
 - b. The outreach event will be advertised to all DBEs in Illinois with NAICS codes related to the solicitation and community stakeholders involved in procurement diversity and workforce diversity.
 - c. During the outreach event for subject solicitation, the date, time, and location of a pre-bid meeting for the solicitation will be communicated.
 - d. The pre-bid meeting will address business, procurement, and technical issues associated with the solicitation.
 - e. The bid submittal date will be at least three-weeks after the pre-bid meeting. A list of DBEs categorized by NAICS codes associated with the solicitation, and those who have expressed interest in the project, will be included as an appendix in the bid documents.
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities.
 - a. All DBEs in the market area with NAICS codes related to the solicitation, along with community stakeholders involved in procurement diversity and workforce diversity, will be solicited for the outreach event and the pre-bid event.
 - b. Several reminders regarding the solicitation bid date will be provided.
3. Providing technical assistance and other support services.

- a. MTD's website provides a list of support for DBEs and small businesses, including: IDOT DBE supportive services, Illinois Procurement Technical Assistance Center, Illinois State Highway and Toll Authority Diversity Programs, Small Business Administration, Illinois Small Business Development Center, Women's Business Development Center, and Veteran Business Assistance Services.
4. Ensuring distribution of the DBE directory to the widest feasible universe of potential prime contractors.

A link to the IL UCP DBE Directory as well as a link to a list of all DBEs that expressed interest in the solicitation from the outreach event and pre-bid meetings will be placed in any literature distributed during the pre-bid meeting, in the bidding documents, in the RFP, and maintained on MTD's website.

Means Used to Meet Overall Goals

MTD aims to meet the maximum feasible portion of the overall goal using race-neutral means of facilitating race-neutral DBE participation. 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 following steps are taken when calculating the triennial DBE goal:

1) Race Neutral: Establish a projection of the portion of the goal that we expect to meet through race-neutral means and the basis for that projection.

- a) If our approved projection estimates that we can meet the entire overall goal for a given year through race-neutral means, MTD will implement our program without setting contract goals during that year, unless it becomes necessary in order to meet the overall goal.
- b) If the DBE participation MTD has obtained by race-neutral means alone meets or exceeds our overall goals for two consecutive years, MTD is not required to make a projection of the amount of the goal we can meet using such means in the next year. MTD does not set contract goals on any contracts in the next year. MTD continues using only race-neutral means to meet our overall goals unless and until we do not meet our overall goal for a year.

2) Race-Conscious: For any portion of the overall goal that MTD does not project being able to meet using race-neutral means, contract goals are established to meet the overall goal.

- a) Contract goals are only used on those DOT-assisted contracts that have subcontracting possibilities.
- b) In any year in which MTD projects meeting part of our goal through race-neutral means and the remainder through contract goals, MTD will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. This is reported to FTA.
- c) If, during the course of any year in which MTD is using contract goals, MTD determines that we will exceed the overall goal, MTD will reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If MTD determines that we will fall short of our overall goal, then MTD will make appropriate modifications in our use of race-neutral and/or race-conscious measures to allow us to meet the overall goal.
- d) If MTD obtains DBE participation that exceeds our overall goal in two consecutive years through the use of contract goals (i.e., not through the use of race-neutral means alone), MTD will reduce the use of contract goals proportionately in the following year.

Good Faith Efforts Procedures (26.53)

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.

When the District has established a DBE contract goal, the contract will only be awarded to a bidder/offeror who makes good faith efforts to meet it. Written guidance for determining whether a bidder/offeror has made good faith efforts is detailed in Appendix 2.5c of MTD's Procurement Manual, **Exhibit #10**.

The Grants & Governmental Affairs Director is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

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

Information to be submitted (26.53(b))

MTD treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors 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 will perform;
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 as provided in the prime contractor's commitment and;
6. If the contract goal is not met, evidence of good faith efforts.

Administrative reconsideration (26.53(d))

Within 10 days of being informed by MTD that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Brenda Eilbracht, Chief Administrative Officer, 1101 East University Avenue, Urbana, Illinois 61802, beilbracht@mtd.org. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether the goal was met or adequate good faith efforts were made. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. MTD will send the bidder/offeror 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))

MTD 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. MTD 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.

MTD requires that a prime contractor not terminate a DBE subcontractor without prior written consent. MTD will provide such written consent only if we agree, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

Each prime contract includes the provision shown in **Exhibit #11**. Appendix 2.5d of MTD's Procurement Manual is the DBE Subcontract Termination Request Form that is provided to all prime contractors and is shown in **Exhibit #12**. The form ensures notice to the DBE subcontractor, cause of termination, planned replacement of terminated DBE firm, written consent from MTD, submittal of new/modified contract, submittal of good faith efforts, and approval of good faith efforts.

If the contractor fails or refuses to comply in the time specified, MTD's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of MTD 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/offers, 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 (Attachment 1), 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.

Counting DBE Participation (26.55)

MTD will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification Process (26.61 – 26.73)

MTD does not process DBE certifications. Any firms interested in becoming a DBE will be referred to the Illinois Department of Transportation (IDOT) to be certified under the Illinois Unified Certification Program (UCP). IDOT will use the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. IDOT will make certification decisions

based on the facts as a whole.

IDOT certification application form and documentation requirements can be obtained from IDOT. For information about the certification process or to apply for certification, firms should contact:

Illinois Department of Transportation (IDOT)
2300 S Dirksen Parkway
Springfield, IL 62764
(217) 782-5490
www.dot.state.il.us

Unified Certification Programs (26.81)

MTD participates in a statewide uniform certification plan administered by the Illinois Department of Transportation. The UCP will meet all of the requirements of this section.

Certification Appeals

Any firm or complainant may appeal IDOT's decision in a certification matter to USDOT. Appeals may be sent to:

Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Avenue SE
Washington, DC 20590

MTD will promptly implement any USDOT certification appeal decisions affecting the eligibility of DBEs for our USDOT-assisted contracting.

Recertifications (26.83(a)&(c))

Recertifications are performed by IDOT.

No Change Affidavits and Notices of Change

IDOT requires all DBEs to inform them, in a written affidavit, of any change in circumstances affecting the 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 a DBE's application for certification.

IDOT also requires all owners of all DBEs they have certified to submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the [Name Recipient] under 26.83(i). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$16.6 million.

IDOT requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

IDOT will notify all currently certified DBE firms of these obligations annually. 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.

Personal Net Worth

IDOT will require all disadvantaged owners of applicants and of currently-certified DBEs whose eligibility under part 26 they review, to submit a statement of personal net worth as part of the application.

Information, Confidentiality, Cooperation (26.109)

MTD will safeguard from disclosure to third-parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. A summary of Illinois's FOIA law is available: <http://www.nfoic.org/illinois-foia-laws>.

Notwithstanding any contrary provisions of state or local law, MTD will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.



Appendix 2.6 Bidders List – Exhibit 1

Originated	Revision #
J. Sullivan	
3/15/2019	

Bidders ListPrime Contractor

Firm Name	Firm Address	Age of Firm	Annual Gross Receipts of Firm (check box)
			Less than \$500,000
			\$500,000 - \$1,000,000
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000
Contact Name, Phone, Email:			Greater than \$2,000,000

DBE Subcontractors (use additional pages if necessary)

Firm Name	Firm Address	Age of Firm	Annual Gross Receipts of Firm (check box)
			Less than \$500,000
Amount Committed to DBE:			\$500,000 - \$1,000,000
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000
Contact Name, Phone, Email:			Greater than \$2,000,000
			Less than \$500,000
Amount Committed to DBE:			\$500,000 - \$1,000,000
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000
Contact Name, Phone, Email:			Greater than \$2,000,000
			Less than \$500,000
Amount Committed to DBE:			\$500,000 - \$1,000,000
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000
Contact Name, Phone, Email:			Greater than \$2,000,000
			Less than \$500,000
Amount Committed to DBE:			\$500,000 - \$1,000,000
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000
Contact Name, Phone, Email:			Greater than \$2,000,000

Appendix 2.6 Bidders List – Exhibit 1

Non-DBE Subcontractors (use additional pages if necessary)

Firm Name	Firm Address	Age of Firm	Annual Gross Receipts of Firm (check box)	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	
			Less than \$500,000	
Amount Committed to Subcontractor:			\$500,000 - \$1,000,000	
Applicable NAICS Code(s):			\$1,000,000 – \$2,000,000	
Contact Name, Phone, Email:			Greater than \$2,000,000	

Non-Discrimination

- A. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
 - I. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
 - II. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- B. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- C. **Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party Contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
- D. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by the FTA, modified only if necessary, to identify the affected parties.
 - I. 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:
 - a. Withholding monthly progress payments;
 - b. Assessing sanctions;
 - c. Liquidated damages; and/or
 - d. Disqualifying the Contractor from future bidding as non-responsible.

Subcontract Required Clauses

MTD requires prime contractors to submit all subcontracts to MTD for review. The following clauses must be included in all subcontracts:

NON-DISCRIMINATION

- A. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
 - I. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
 - II. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- B. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- C. **Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party Contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
- D. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by the FTA, modified only if necessary to identify the affected parties.
 - I. 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:
 - a. Withholding monthly progress payments;

Exhibit 3

- b. Assessing sanctions;
- c. Liquidated damages; and/or
- d. Disqualifying the Contractor from future bidding as non-responsible.

PROMPT PAYMENT & RETURN OF RETAINAGE

Contractor shall pay subcontractor for satisfactory performance of their contracts no later than 30 days from receipt of each payment MTD makes to the prime contractor. This includes retainage.

TERMINATION

All contracts in excess of \$10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.

Termination for Convenience (General Provision)

MTD may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in MTD's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MTD to be paid the Contractor. If the Contractor has any property in its possession belonging to MTD, the Contractor will account for the same, and dispose of it in the manner MTD directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, MTD may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by MTD that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, MTD, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

MTD, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to MTD's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from MTD setting forth the nature of said breach or default, MTD shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude MTD from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

Exhibit 3

In the event that MTD elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by MTD shall not limit MTD's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

MTD, by written notice, may terminate this contract, in whole or in part, when it is in MTD's interest. If this contract is terminated, MTD shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, MTD may terminate this contract for default. MTD shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of MTD.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, MTD may terminate this contract for default. MTD shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, MTD may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to MTD resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by MTD in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of MTD, acts of another contractor in the performance of a contract with MTD, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies MTD in writing of the causes of delay. If, in the judgment of MTD, the delay is excusable, the time for completing the work shall be extended. The judgment of MTD shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.

Exhibit 3

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of MTD.

Termination for Convenience or Default (Architect and Engineering)

MTD may terminate this contract in whole or in part, for MTD's convenience or because of the failure of the Contractor to fulfill the contract obligations. MTD shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to MTD's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. MTD has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of MTD, MTD's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, MTD may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by MTD.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of MTD.

Termination for Convenience or Default (Cost-Type Contracts)

MTD may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of MTD or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from MTD, or property supplied to the Contractor by MTD. If the termination is for default, MTD may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MTD and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of MTD, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, MTD determines that the Contractor has an excusable reason for not performing, MTD, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VIOLATION AND BREACH OF CONTRACT

All contracts in excess of the Simplified Acquisition Threshold (currently set at \$150,000) shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Rights and Remedies of MTD

MTD shall have the following rights in the event that MTD deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as MTD for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include [MTD to define].

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by MTD, the Contractor expressly agrees that no default, act or omission of MTD shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless MTD directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, MTD will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before MTD takes action contemplated herein, MTD will provide the Contractor with sixty (60) days written notice that MTD considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of MTD's [title of employee]. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute

Unless otherwise directed by MTD, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between MTD and the Contractor arising out of or relating to this agreement or its breach will

Exhibit 3

be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which MTD is located.

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MTD or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Exhibit 3

Verification of Subcontracts

Step 1: MTD Approval of Retainage Payment Request

To be completed by Contractor

Page #	Clause	Applicability
	Non-Discrimination	All
	Prompt payment & Return of retainage	All
	Termination	> \$10,000
	Violation and Breach of Contract	> \$150,000 (Simplified Acquisition Threshold)

Step 2: MTD Approval Subcontract Terms

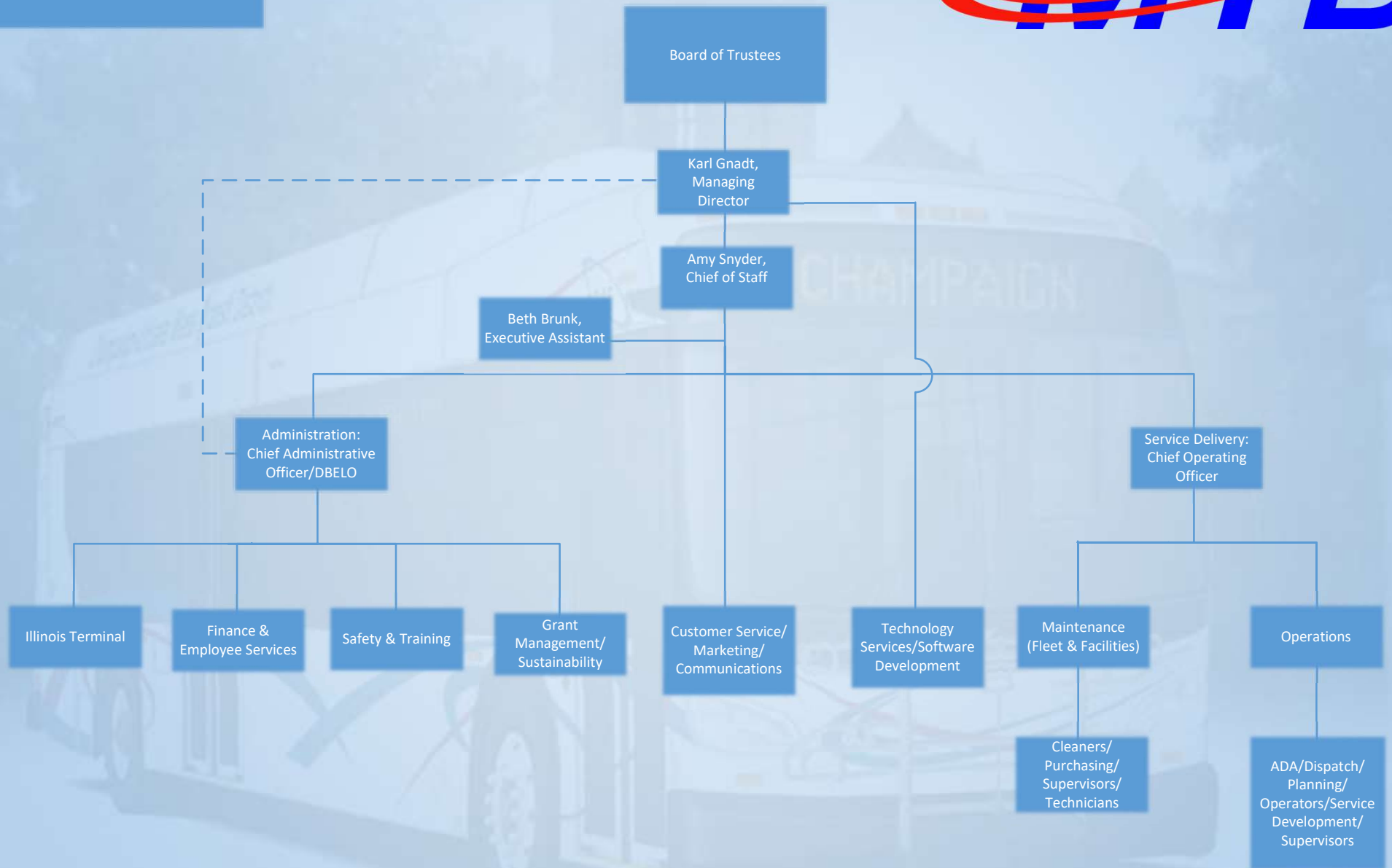
To be completed by MTD

_____	_____	_____	_____
Name	Title	Signature	Date

Champaign-Urbana Mass Transit
District

Organizational Chart

Exhibit 4





Chief of Staff-
Communications/Marketing
STAFF

Amy Synder,
Chief of Staff

Drew Bargmann,
Customer Service
Director

Autumn Soliman,
Marketing
Manager

Office Supervisors
Annie Clay,
Chris Collins

Allison Haines,
Customer Support
Specialist

Information
Assistants/
Customer Support

Champaign-Urbana Mass Transit
District

Organizational Chart



Service Delivery
STAFF

Korbin Figg,
Chief Operating
Officer

Eric Broga,
Maintenance
Director

Kirk Kirkland,
Facilities
Director

Chuck Wilson,
Operations
Director

Stu Smith,
Maintenance
Administrator

Building Custodial
& Maintenance

Randy Fouts,
Asst. Operations
Director

Mike Healea,
Vehicle Technology
Supervisor

Ken Napper,
Inventory
Supervisor

Steve Ellis,
Night Maintenance
Supervisor

Tom Conrad,
Control Center
Manager

OPEN, Planning
Manager

Martin Palmisano,
Inventory Agent

Technicians/Utility/
Maintenance

Controller/
Supervisors:
Sue Greer, Robert
Stickels

Evan Alvarez,
Planning & Outreach
Coord.;
Jay Rank, Planner

Full-time Operations Supervisors:
Jason Blunier, Vilaivone Grimm,
Dennis Harper, Larry Helm, Chip
Rulon, Patches Sapp, Donavyn Seay,
Ray Thomas, Todd Whitt

Part-time Operations Supervisors:
Mark Cunningham, Steve Pittman

OPEN,
Special Services
Manager

Full time and
Part time
Operators



Administration

STAFF

Brenda Eilbracht,
Chief
Administrative
Officer/DBELO

Jane Sullivan,
Grants and Government
Affairs Director

Mitch Spicer
Safety & Training
Director

Michelle Wright,
CPA,
Finance Director

Josh Dhom,
Illinois Terminal
Manager

Lisa Herthel,
Finance and Government
Specialist

Annette Goodrich,
Asst. Safety &
Training Director of
Compliance

Open,
Asst. Safety &
Training Director of
Instruction

Building
Security

Wendy Dominguez,
Illinois Terminal
Office Supervisor

Employee Services:

Debbie Bosch, Payroll & Benefits
Supervisor
Sasha Green, Employee Services
Specialist
Cindy Wilson, Payroll & Benefits
Clerk

Financial Services:

Jolene Gensler, CPA,
Comptroller
Suzy Leever, Staff Accountant
Angie Roy & Marilyn Carter,
Finance Clerks



Technology Services/
Software Development

STAFF

Karl Gnadt, Managing
Director

Ryan Blackman,
Software
Development
Manager

Jeremy Fenelon,
Technology
Services Manager

OPEN,
Software
Developer

Don Orr, Tech
Support Specialist
(FT)

Brad Cronk, Tech
Support Specialist
(PT)

Prompt Payment

This completed form shall accompany each pay application with the exception of the first pay application.

Prime contractor shall make all payments, including retainage, owed to subcontractors for satisfactory completion of accepted work **within 30 days** after receipt of payment from the District. Prime contractor will not be reimbursed for work performed by subcontractors unless and until prime contractor ensures that subcontractors are promptly paid for the work performed on all previous pay applications.

Previous Pay Application

Pay Application #: _____

Project: _____

Prime Contractor: _____

Period of Work (date range): _____

Current Pay Application #: _____

Date Payment Received by Prime: _____

Complete based on previous pay application:

Subcontractor	DBE (Y/N)	Amt. Paid This Period	Date Payment Received by Sub	Subcontract Total	Balance to Finish	Retainage Remaining
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%
		\$	____/____/____	\$	\$	%

Prime Contractor Notes

Owner Notes

Retainage Release Request, Verification, and Approval

This form shall accompany each pay application that includes a reduction in retainage of any subcontractor.

The District provides for prompt and regular incremental acceptances of portions of the prime contract, pays retainage to prime contractors based on these acceptances, and requires the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work **within 30 days** after receipt of payment from the District.

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required. When the District 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.

Project: _____ Prime Contractor: _____ Associated Pay Application #: _____

Step 1: Request for Retainage Payment

To be completed by Prime Contractor

Subcontractor	DBE (Y/N)	Retainage Payment Request	Retainage Remaining after Payment
		% \$	% \$
Description of work completed:			

Step 2: MTD Approval of Retainage Payment Request

To be completed by MTD

Name Title Signature Date

Step 3: Verification of Payment to Subcontractor Within 30 Days

To be completed by Prime Contractor

Retainage Payment Amount Date Payment Received by Prime Date Payment Received by Sub
\$ _____ / ____ / ____ / ____ / ____

Prime Contractor Signature

Subcontractor Signature

DBE Program Update 2019 – Exhibit 5

Step 4: MTD Approval of Retainage Payment

To be completed by MTD

Name

Title

Signature

Date

Overconcentration Analysis

2019 - 2021		
Project	DBE Participation	NAICS
Transit System Analysis	Public engagement	541820
Boiler Replacement	HVAC Balancing	238220
Vehicle Lift Replacement	TBD	
Conference Room A/V Upgrade	TBD	
Admin Office Remodel	TBD	
Hydrogen Station	TBD	
Hydrogen Facility Modifications	TBD	

2016 – 2018			Summary	
Project	DBE Participation	NAICS	NAICS Code	Occurrence
CDL Training Center	Trucking/equipment	484220	484220	3
	Paving accessories	325998	237310	3
	Material (pipe)	423510	238210	2
	Construction layout	541370	541370	1
	Fertilizer, seeding, mulch	561730	325998	1
	Furnish & installation of chain link fence	423390	423390	1
Boiler Replacement	Demolition	237310	423510	1
	Trucking	484220	444190	1
Sidewalk Construction	Trucking/equipment	484220	541330	1
Sink & Hand Dryer Replacements	Electrical removal	238210	561730	1
Fuel Management System	Equipment installation	238210		
Maintenance Facility Expansion	Building demolition	237310		
	Pavement marking	237310		
	Material supply (electrical)	444190		
Maintenance Department Study	Engineering consulting services	541330		

Overconcentration Analysis

2013 – 2015			Summary	
Project	DBE Participation	NAICS	NAICS Code	Occurrence
Chiller Replacement	Material supply (pipes, valves, fittings)	332913	332913	2
Plumbing Replacements	Material supply (plumbing fixtures)	332913	561730	1
Train Platform Rehabilitation	seeding, fertilizing, mulching	561730	333414	1
Radiant Heater Replacement	Material supply (heater)	333414	423610	1
Solar Array Installation	Material supply (conduit, wire, gear, inverters)	423610		

Disadvantage Business Enterprises

DBE Participation Field Log

I _____, serving as _____
Name
Title

Witnessed the below DBE firms working on MTD project _____ on the date specified below.

FIRM NAME	DATE VERIFIED	WORK PERFORMED	NUMBER OF EMPLOYEES	NUMBER OF DBE VEHICLES	COMMENTS

Signature _____

Date: _____

DBE Project Compliance Review Checklist
Champaign-Urbana Mass Transit District

Project Name/Description _____

Prime Contractor _____

MTD Project Manager _____

On-Site Monitor(s) _____

Pre-Award Checklist

- _____ DBE certification(s) for all subcontractors, if applicable
- _____ UCP Documentation of subcontractor(s) DBE status
- _____ DBE “good faith” worksheet, if project goals were not met

Post-Award Checklist

- _____ Collect fully executed subcontracts for all DBE firms listed on the DBE Participation Statement (Form 2025)
 - _____ Review DBE subcontract(s) to ensure firms listed and scope of work is consistent with what is listed on form 2025
 - _____ Ensure dollar value of DBE subcontract(s) is/are equal to or greater than the amount(s) listed on form 2025
- _____ Establish schedule with prime contractor to determine date(s) DBE work is to be completed
- _____ Designate personnel responsible for on-site DBE monitoring

Project In-Progress Checklist

- _____ Provide monitoring of DBE participation
 - _____ Verify that business names on equipment and vehicles are not covered with paint or magnetic signs (visual inspection on site)
 - _____ Verify who employs the workers on site (visually inspect badges/ids; establish reporting relationships of workers on site/review certified payrolls)

Exhibit 7

- _____ Collect DBE participation field logs from designated on-site monitors
- _____ Review supplier invoices and cancelled checks to verify what firm orders and pays for the necessary supplies being used by the DBE subcontractor
- _____ Ensure DBE firms are paid promptly
- _____ Document and file any correspondence related to terminations, substitutions or deletions of DBE firms
- _____ Ensure documentation is included which verifies DBE firm received sufficient notice and time to respond
- _____ If terminations, substitutions or deletions were approved, collect documentation of prime contractor's good faith effort to find a replacement firm prior to performance of the work originally to be performed by the DBE firm being replaced

Post-Project Checklist

- _____ Ensure DBE goal has been achieved
- _____ If the DBE goal has not been met, complete and retain a shortfall analysis and develop and implement a corrective action plan

Procurement History

	Over \$1,000,000
	Under \$1,000,000

2019 - 2021

Project	Contract Amount	DBE Participation	Funding Source
Bus Stop Markings	\$11,096.78	0%	State, Local
Transit System Analysis	\$199,521.00	10%	State, Local
Boiler Replacement	\$46,262.00	2.59%	State, Local
Vehicle Lift Replacement	TBD	TBD	State, Local
Conference Room A/V Upgrade	TBD	TBD	State, Local
Admin Office Remodel	TBD	TBD	State, Local
Hydrogen Station	TBD	TBD	Federal, State
Hydrogen Detection Facility Modifications	TBD	TBD	Federal, State

2016 – 2018

Project	Contract Amount	DBE Participation	Funding Source
Rooftop HVAC Replacement	\$97,590.00	0%	State, Local
Sidewalk Construction	\$168,070.75	4.76%	State, Local
CDL Training Center	\$2,129,000.00	4.634%	State, Local
Property Demolition	\$38,000.00	0%	Local
Boiler Replacement	\$144,085.00	4.63%	State, Local
Sink & Hand Dryer Replacements	\$27,290.00	21.59%	State, Local
Fuel Management System	\$111,749.00	13.67%	State, Local
Maintenance Facility Expansion	\$9,208,352.00	4.65%	Federal, State
HVAC Control System Upgrade	\$99,975.00	0%	State, Local
Maintenance Department Study	\$14,742.88	100%	Local
Fall Protection System	\$56,307.00	0%	State, Local

2013 – 2015

Project	Contract Amount	DBE Participation	Funding Source
Solar Array Installation	\$1,130,560.00	12%	State, Local
Chiller Replacement	\$238,038.65	9.8%	State, Local
Plumbing Replacements	\$29,482.00	9.8%	State, Local
Train Platform Rehabilitation	\$254,700.00	9.8%	State, Local
Radiant Heater Replacement	\$60,000.00	10%	State, Local
LED Lighting Retrofit	\$304,538.25	0%	State, Local
Static Pressure System Door Retrofit	\$31,092.00	0%	State, Local
Parking Lot Pavement Replacement	\$204,896.83	0%	State, Local
Roof Ice Guards	\$37,950.00	0%	State, Local
Illinois Terminal Expansion Study	\$150,000.00	0%	State, Local

DBE Goal Methodology – *updated 5/2019*
Champaign-Urbana Mass Transit District
Triennial DBE Goal: FY 2019 – FY 2021

Overview/Introduction

The Champaign-Urbana Mass Transit District's (MTD) triennial DBE goal is .91%. This is a 100% race neutral goal. MTD only uses federal funding for capital projects, not operating expenses. MTD will not have any subrecipients during this triennial period.

This goal and methodology represent all FTA funds that MTD will expend on all FTA assisted contracting opportunities from October 2018 through September 2021, excluding the purchase of transit vehicles.

Contracting Opportunities

In the FY 2019 - FY 2021 period, MTD has confirmed one FTA-funded project: Hydrogen Fuel Cell Buses & Infrastructure. FY 2017 FTA 5339(c) Low or No Emissions funding in the amount of \$1,450,000 was awarded to MTD for this project. This project will also be funded with approximately \$1,122,500 FTA Section 5307 and \$4,777,500 in State of Illinois Downstate Operating Assistance Program Debt Service funding. This equates to 35% federal funding and 65% state funding with total federal funding at \$7,350,000.

The federally-funded portion of this project has been separated into two separate prime contracts.

Component A includes plans to modify our existing Maintenance Facility to allow the buses to be housed in the facility. Facility modifications will include addition of detection equipment, changes to fire and HVAC systems, exhaust fan equipment, and building electrical changes. A general contractor will be hired through a competitive bidding process to conduct the work.

Component B includes hydrogen production and fueling infrastructure which will be installed on property near current fueling station. Hydrogen infrastructure is expected to include a dispenser, station module, supply storage, fueling storage, supply compressor, electrolyzer, transformer, water, and a pipeline. This will be a design-build procurement, through a competitive request for proposals process.

All aspects of the project have been evaluated to identify subcontracting opportunities (Table 1).

Table 1

Component	NAICS Code	Activity	Estimated Federal Funding
A	236220	Commercial and Institutional Building Construction	\$52,500
	238210	Electrical Contractors and Other Wiring Installation Contractors	\$99,225
	238220	Plumbing, Heating and Air Conditioning Contractors	\$159,565
	238320	Painting and Wall Covering Contractors	\$2,975
	423610	Electrical Apparatus and Equipment, Wiring Supplies and Related Equipment Merchant Wholesalers	\$115,828
B	237110	Water and Sewer Line and Related Structures Construction	\$43,750
	237120	Oil and Gas Pipeline and Related Structures Construction	\$105,000
	237130	Power and Communication Line and Related Structures Construction	\$52,500
	238910	Site Preparation Contractors (Demolition)	\$35,000
	238110	Concrete	\$35,000
	238220	Plumbing & HVAC	\$26,250
	238210	Electrical Work	\$52,500
	238290	Other Building Equipment Contractors	\$52,500
	541330	Engineering Services	\$87,500
	811310	Commercial and Industrial Machinery and Equipment Repair and Maintenance	\$105,000

Geographic Market Area

We anticipate the substantial majority of subcontractors interested in this project will be within the state of Illinois. In the past, we have identified a market area of a 100-mile radius. However, the scale of this project is likely to cast a wider net, and we therefore include the entire state of Illinois in our geographic market area.

Goal Calculation

Step 1: Develop the base figure to determine relative availability of DBEs

The method used to determine a base figure for the relative availability of Disadvantage Business Enterprises (DBE) for step 1 utilizes DBE Directories and Census data (American Factfinder). The DBE goal was established based on the known availability of qualified DBEs.

- We determined the number of ready, willing, and able DBEs in the market area from the **Illinois UCP DBE Directory** for firms within the project NAICS codes. This is shown in Table 2, Column C.
- We determined the number of all ready, willing, and able businesses available in the associated market that perform work in the same NAICS codes using the **American Factfinder**. This is shown in Table 2, Column D.
- The weight of each activity was multiplied by the relative availability of DBE firms for that activity to find the weighted base. This is shown in Table 1, Column G.

- d) The weighted base numbers for each activity were summed to determine the **base figure percentage**.

Table 2

	A	B	C	D	E	F	G
Component	NAICS Code	Activity	# DBE Available (IL UCP Directory)	# Firms Available (American Factfinder)	Relative Availability = C / D	Weight (% of Total Grant Funds)	Weighted Base (= E * F)
A	236220	Commercial and Institutional Building Construction	87	1,365	6.37%	0.71%	0.00%
	238210	Electrical Contractors and Other Wiring Installation Contractors	140	2,746	5.10%	1.35%	0.03%
	238220	Plumbing, Heating and Air Conditioning Contractors	110	3,986	2.76%	2.17%	0.03%
	238320	Painting and Wall Covering Contractors	80	1,472	5.43%	0.04%	0.00%
	423610	Electrical Apparatus and Equipment, Wiring Supplies and Related Equipment Merchant Wholesalers	28	633	4.42%	1.58%	0.07%
B	237110	Water and Sewer Line and Related Structures Construction	34	345	9.86%	0.60%	0.06%
	237120	Oil and Gas Pipeline and Related Structures Construction	4	38	10.53%	1.43%	0.15%
	237130	Power and Communication Line and Related Structures Construction	36	190	18.95%	0.71%	0.14%
	238910	Site Preparation Contractors (Demolition)	103	1,130	9.12%	0.48%	0.04%
	238110	Concrete	157	806	19.48%	0.48%	0.09%
	238220	Plumbing, Heating and Air Conditioning Contractors	110	3,986	2.76%	0.36%	0.00%
	238210	Electrical Contractors and Other Wiring Installation Contractors	140	2,746	5.10%	0.71%	0.02%
	238290	Other Building Equipment Contractors	17	316	5.38%	0.71%	0.04%
	541330	Engineering Services	140	1,871	7.48%	1.19%	0.09%
	811310	Commercial and Industrial Machinery and Equipment Repair and Maintenance	7	964	0.73%	1.43%	0.01%
Base figure percentage (total)							.91%

Step 2: Adjustment

Disparity Study: MTD reviewed [the Illinois Department of Transportation \(IDOT\) 2017 disparity study](#), which was conducted to help inform IDOT's implementation of the Federal Disadvantaged Business Enterprise (DBE) Program. Key findings of the study suggest that there may be a need to account for barriers that minorities and women face in human capital and owning businesses in the local contracting industry. However, we determined that this study is not a close enough match to make an adjustment to our DBE goal based on this study. IDOT's study included both construction and professional service contracts. Our upcoming project does not include any professional service contracts. It is not evident from IDOT's study whether or not the scope of work for the construction projects is comparable to the scope of work of our upcoming project. Additionally, it is safe to assume that the magnitude of the scope of IDOT's projects is immense in comparison to MTD's scope of the upcoming project. No adjustment was made based on the 2017 IDOT Disparity Study.

Past Participation: MTD only had one federal project in the previous triennial period, the Maintenance Facility Expansion. Staff looked to state funded capital project for past DBE participation as well. DBE participation for Federal and State- and federally-funded projects in the past five years is shown in Table 3 below.

Table 3

Project	Total Contract Amount	DBE Participation
Radiant Heater Replacement	\$60,000.00	10%
Chiller Replacement	\$238,038.65	9.8%
Plumbing Replacements	\$29,482.00	9.8%
Pavement Replacement	\$186,293.80	9.74%
Train Platform Rehabilitation	\$254,700.00	9.8%
LED Lighting Retrofit	\$304,538.25	0%
Maintenance Facility Expansion	\$9,208,352	4.65%
Property Demolition	\$38,000	0%
Boiler Replacement	\$144,085	4.63%
Sink & Hand Dryer Replacements	\$27,290	21.59%
Fuel Management System	\$111,749	13.67%

The scope of the project in the current triennial period is very different from the types of projects MTD has let in recent years. Thus, we cannot assume that past rates of DBE participation are an accurate reflection of DBE capacity in the type of work we will perform this triennial period. Based on our evaluation or information, no adjustment is warranted at this time.

Race Neutral Measures

MTD will carry out the following race neutral measures:

1. Arranging 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.
 - a. An outreach event announcing the solicitation and DBE goal methodology will be held three weeks prior to a pre-bid meeting.

- b. The outreach event will be advertised to all DBEs in Illinois with NAICS codes related to the solicitation and community stakeholders involved in procurement diversity and workforce diversity.
 - c. During the outreach event for subject solicitation, the date, time, location of a pre-bid meeting for the solicitation will be communicated.
 - d. The pre-bid meeting for the solicitation will be at least three weeks after the outreach event.
 - e. The pre-bid meeting will address business, procurement and technical issues associated with the solicitation.
 - f. The bid submittal date will be at least three weeks after the pre-bid meeting. A list of DBEs categorized by NAICS codes associated with the solicitation and have expressed interest in the project will be included as an appendix in the bid documents.
- 2. Carrying out information and communications programs on contracting procedures and specific contract opportunities.
 - a. All DBEs in IL with NAICS codes related to the solicitation along with community stakeholders involved in procurement diversity and workforce diversity will be solicited for the outreach event and the pre-bid event.
 - b. Several reminders regarding the solicitation bid date will be provided.
 - c. A webpage will be created and maintained to provide a list of support services that provide technical, bonding and other forms of assistance for DBEs and small businesses.
 - d. This webpage will be developed and posted prior to the initial outreach event.
 - e. A list of all DBES that expressed interested in the solicitation from the outreach event and pre-bid meetings will have their contact information posted on the webpage advertising the solicitation.
 - f. All prime bidder that expressed interested in the solicitation from the outreach event and pre-bid meetings will have their contact information posted on the webpage advertising the solicitation.
- 3. Ensuring distribution of DBE directory to the widest feasible universe of potential prime contractors.
 - a. A link to the IL UCP DBE Directory as well as a link to a list of all DBES that expressed interested in the solicitation from the outreach event and pre-bid meetings will be placed in any literature distributed during the pre-bid meeting, in the bidding documents, in the RFP, and maintained on the MTD website.
- 4. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.
 - a. City Blue Technologies will be the preferred vendor where the electronic drawings of the solicitation will be hosted. City Blue Technologies supports DBEs and small businesses by providing electronic access drawings at no cost and permits selective printing of drawing sheets for those related to the DBEs specialty reducing their cost exposure.

Consultation

MTD conducted direct and interactive consultation with minority, women's and general contractor groups on April 30, 2019. An invitation to this event was sent to the 608 firms listed as IDOT UCP certified in the appropriate NAICS codes.

At the event, MTD presented a project overview, construction scope, DBE methodology and goal, anticipated schedule, resources and accepted feedback and questions. We also distributed the potential bidders list for Component B (this does not exist yet from Component A, but will be distributed at a later date). Six firms attended the event, which included four DBE firms and two WBE firms. Seven questions were received at the event. The answers to these questions were verbalized at the event and later posted on mtd.org. No feedback was received on the DBE methodology or goal.

The presentation, Q&A, and potential bidders have been posted on mtd.org along with other resources for DBEs.

After completing this outreach, we do not see any adjustment to the goal necessary at this time.



Originated	Revision #
J. Sullivan	
3/15/2019	

Good Faith Effort and Guidance

I. DBE Contract Goal

1. When the District has established a DBE contract goal, contract will only be awarded to a bidder/offeree who makes good faith efforts to meet it.
2. The District shall determine that a bidder/offeree has made good faith efforts if the bidder/offeree does either of the following things:
 - (a) Documents that it has obtained enough DBE participation to meet the goal; or
 - (b) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.
3. If the bidder/offeree does document adequate good faith efforts as stated in item 2 (b), the District will not deny award of the contract on the basis that the bidder/offeree failed to meet the goal. Refer to item III. Guidance Concerning Good Faith Efforts for further information on the District's determination of the adequacy of a bidder/offeree's good faith efforts.
4. When a non-DBE subcontractor was selected over a DBE for work on the contract, documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder.
5. The District will make sure all information is complete and accurate and adequately documents the bidder/offeree's good faith efforts before committing yourself to the performance of the contract by the bidder/offeree.

II. Reconsideration

1. If the District determines that the apparent successful bidder/offeree has failed to meet the requirements, the bidder/offeree is provided an opportunity for administrative reconsideration, before awarding the contract.
2. As part of this reconsideration, the bidder/offeree will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.
3. The District's decision on reconsideration will be made by an official who did not take part in the original determination that the bidder/offeree failed to meet the goal or make adequate good faith efforts to do so.
4. The bidder/offeree will be offered the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.
5. The District will send the bidder/offeree 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.
6. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

III. Guidance Concerning Good Faith Efforts

1. When a contract goal for DBE participation is established, a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts to meet the goal.
2. If bidder is unable to meet the goal by documenting commitments for participation by DBE firms, the bidder can document adequate good faith efforts.
3. "Adequate good faith efforts" means that the bidder shows that it took all necessary and reasonable steps to achieve a DBE goal, by their scope, intensity, and appropriateness.
4. The District has the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. The District will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance.
5. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements.
6. The following is a list of types of actions which the District would consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

(a) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. This may include:

- (i) attendance at pre-bid meetings and events
- (ii) advertising and/or written notices
- (iii) posting of Notices of Sources Sought and/or Requests for Proposals
- (iv) written notices or emails to all DBEs listed [IDOT's UCP Directory](#) that specialize in the areas of work desired and which are located in the area or surrounding areas of the project.

The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

(b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes the following, where appropriate:

- (i) breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- (ii) establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.
- (c) 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 with their offer for the subcontract.
- (d) Negotiating in good faith with interested DBEs. It is the bidder'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:
 - (i) names, addresses, and telephone numbers of DBEs that were considered;
 - (ii) a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and
 - (iii) evidence as to why additional Agreements could not be reached for DBEs to perform the work.
- (e) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- (f) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (g) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (h) Effectively using the services of available minority/women community organizations; minority/women 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.

7. The District will review the performance of other bidders in meeting the contract goal for assistance in this determination.

8. When a non-DBE subcontractor is selected over a DBE for work on the contract, bidder must submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder.

IV. Unacceptable/Insufficient Efforts

The following are example of unacceptable or insufficient efforts to prove good faith effort in meeting the contract DBE goal.

1. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
2. Rejection of the DBE because its quotation for the work was not the lowest received. The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason

for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. However, the bidder is not required to accept unreasonable quotes in order to satisfy contract goals.

When a non-DBE subcontractor is selected over a DBE for work on the contract, bidder must submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder for District review and determination.

3. In the case of DBE subcontractor termination:

(a) a prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE.

(b) the fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

4. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder 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.

5. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.

6. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

V. References

49 CFR 26: Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

§26.53 and Appendix A to Part 26.

DBE Subcontractor Termination

I. Contractor shall utilize the DBEs listed in **Bidders List Collection Form** submitted with the proposal to perform the work and supply the materials for which each is listed unless the Contractor obtains MTD's written consent. Unless consent is provided, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

II. Prime Contractor shall utilize **Exhibit #: DBE Subcontractor Termination Request Form** to request DBE subcontractor termination. Prime Contractor shall not terminate a DBE without MTD's prior written consent. This includes, but is not limited to, instances in which a Prime Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

III. MTD will provide such written consent only if MTD agrees, for reasons stated in a concurrence document, that the Prime Contractor has good cause to terminate the DBE firm. Good cause includes the following circumstances:

- 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 1,200, or applicable state law;
- f. The listed DBE subcontractor is determined not a responsible Contractor;
- g. The listed DBE subcontractor voluntarily withdraws from the project and provides 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 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.

IV. Notice to DBE subcontractor:

- a. Before transmitting to MTD its request to terminate and/or substitute a DBE subcontractor, the Prime Contractor must give notice in writing to the DBE subcontractor, with a copy to MTD, of its intent to request to terminate and/or substitute, and the reason for the request.
- b. Prime Contractor shall afford the DBE five days to respond to the Prime Contractor's notice and advise MTD and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why MTD should not approve the prime Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), Prime Contractor may provide a response period shorter than five days.

V. DBE Subcontractor Substitution after Termination

Exhibit 11

- a. When a DBE subcontractor is terminated or fails to complete its work on the contract for any reason, Prime Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE.
- b. 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 goal established for the procurement.
- c. The good faith efforts shall be documented by the Contractor. Refer to **Exhibit #: Good Faith Effort Guidance**.
- d. The Contractor shall submit documentation of good faith efforts within seven days. This time period may be extended for an additional seven days if necessary, at the request of the Contractor.
- e. MTD shall provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

VI. The provisions of this section apply to post-award terminations as well as pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

VII. Failure by the Contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth that MTD deems appropriate if the Prime Contractor fails to comply with the requirements of this section.



Originated	Revision #
J. Sullivan	
3/15/2019	

Appendix 2.5d DBE Subcontractor Termination Request Form

DBE Subcontractor Termination Request Form

Project Name: _____ Prime Contractor: _____

DBE Firm subject to Termination: _____ Date: _____

Step 1: Notice to DBE Subcontractor

- | Y | N | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Written notice of intent to request termination has been provided to DBE firm (attach). |
| <input type="checkbox"/> | <input type="checkbox"/> | DBE firm provided response within 5 days of issuance of notice (if yes, attach). |
| <input type="checkbox"/> | <input type="checkbox"/> | DBE has objected to the proposed termination. |

Step 2: Indicate Cause of Termination

Prime Contractor must select one or more of the following causes of termination and provide a detailed explanation:

- | | |
|--------------------------|---|
| <input type="checkbox"/> | The listed DBE subcontractor failed or refused to execute a written contract. |
| <input type="checkbox"/> | The listed DBE subcontractor failed or refused to perform the work of its subcontract in a way consistent with normal industry standards. |
| <input type="checkbox"/> | The listed DBE subcontractor failed or refused to meet the prime contractor's reasonable, nondiscriminatory bond requirements. |
| <input type="checkbox"/> | The listed DBE subcontractor has become bankrupt, insolvent, or exhibits credit unworthiness. |
| <input type="checkbox"/> | The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings. |
| <input type="checkbox"/> | The listed DBE subcontractor is determined not a responsible contractor. |
| <input type="checkbox"/> | The listed DBE subcontractor voluntarily withdraws from the project and has provided written notice of its withdrawal. |
| <input type="checkbox"/> | The listed DBE is ineligible to receive DBE credit for the type of work required. |
| <input type="checkbox"/> | A DBE owner has died or become disabled with the result that the listed DBE contractor is unable to complete its work on the contract. |
| <input type="checkbox"/> | Other documented good cause that compels the termination of the DBE subcontractor. |

Detailed explanation of cause(s) selected above.



Appendix 2.5d DBE Subcontractor Termination Request Form

Originated	Revision #
J. Sullivan	
3/15/2019	

Step 3: Planned Replacement of Terminated DBE firm

- ☐ (a) New contract with another DBE firm
☐ (b) Modification of existing contract with another DBE firm
☐ (c) New contract with a non-DBE firm
☐ (d) Modification of existing contract with a non-DBE firm
☐ (e) Prime Contractor's own forces

If options (a) or (b) are chosen, *DBE Subcontractor Participation Form* must be included with this submission. If options (c), (d), or (e) are chosen, evidence of good faith efforts will be requested upon District approval in Step 4.

Step 4: Written Consent from the District

☐ Y ☐ N The District hereby agrees, for reasons stated in this request form, that the prime contractor has good cause to terminate the DBE firm.

Name of Authorizing Individual: _____
Title: _____
Signature: _____
Date: _____

Step 5 a): Provide New/Modified Contract

If options (a) or (b) are chosen in Step 3, contractor shall submit a new or modified contract with replacement DBE subcontractor.

If options (a) or (b) are chosen, this procedure is complete upon completion of this step.

Step 5 b): Good Faith Efforts

If options (c), (d), or (e) are chosen in Step 3, contractor shall submit documentation of good faith efforts within 7 days of return on this form with Step 4 completed. Refer to *Good Faith Effort Guidance*.

Step 6: Approval of Good Faith Efforts

☐ Y ☐ N The District hereby accepts good faith effort documentation provided by contractor.

Name of Authorizing Individual: _____
Title: _____
Signature: _____
Date: _____

Step 7: Provide New/Modified Contract

Upon approval in Step 6, contractor shall submit new or modified contract with non-DBE subcontractor.