

EXHIBIT 17

OBDCR Appendices

APPENDIX A



Disadvantaged Business Enterprise Program/Policy

MAY 2012

**COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION
AUTHORITY
THE NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD
CORPORATION
D/B/A
METRA/METROPOLITAN RAIL**

**THE NORTHEAST ILLINOIS REGIONAL
COMMUTER RAILROAD CORPORATION
D/B/A
METRA/METROPOLITAN RAIL**

**DISADVANTAGED BUSINESS ENTERPRISE CONTRACTING PROGRAM
FEDERALLY FUNDED DBE PROGRAM**

Alexander D. Clifford
Executive Director/CEO

**COMMUTER RAIL
BOARD OF DIRECTORS**

Larry A. Huggins, Acting Chairman
Appointing Authority: City of Chicago

Jack Schaffer, Treasurer
Appointing Authority: McHenry County

Arlene J. Mulder, Secretary
Appointing Authority: Suburban Members, Cook County Board

Paul C. Darley, Director
Appointing Authority: County Board Chairman, DuPage County Board

Don A. De Graff, Director
Appointing Authority: South Suburban Members, Cook County

James C. LaBelle, Director
Appointing Authority: County Board Chairman, Lake County Board

Mike McCoy, Director
Appointing Authority: County Board Chairman, Kane County

John E. Partelow, Director
Appointing Authority: County Executive, Will County

Stanley C. Rakestraw, Director
Appointing Authority: County Board President, Cook County

Brad S. O'Halloran, Director
Appointing Authority: Suburban Members, Cook County Board

William A. Widmer III, Director
Appointing Authority: Suburban Members, Cook County Board

February 2012

The DBE Program has been developed after extensive research, investigation, and input from several Departments and Divisions of Metra, and is the joint and combined efforts of:

Janice R. Thomas, DBE Director

Shelia Barnes, DBE Administrator

Elda Alanis, DBE Associate

Robert L. Whited, DBE Certification Specialist

Michele Sutton, DBE Certification Specialist

Barbara Granger, Administrative Assistant

Shanta Williams, DBE Compliance Analyst

Steve Oganovich, DBE Compliance Specialist

Brittany Waters, DBE Compliance Specialist

Christine Murphy, Labor Compliance Specialist

**Theresa A. Barnett, General Counsel
Law Department**

**John Milano, Assistant General Counsel
Law Department**

**COMMUTER RAIL BOARD
ORDINANCE NO. MET 12-08
AMENDING AND RESTATING METRA'S DBE PROGRAM AND POLICY**

RECITALS

- A. The United States Department of Transportation ("USDOT") has developed a Disadvantaged Business Enterprise ("DBE") program for grant recipients and contractors pursuant to 49 CFR Part 26.
- B. The Commuter Rail Division of the Regional Transportation Authority ("Metra") is a grantee of USDOT and is firmly committed to a policy of non-discrimination in the conduct of its business, including the procurement of goods and services.
- C. Metra originally adopted a comprehensive DBE policy by ordinance in 1984 (CRB 84-42) and adopted revised DBE policies in 1989 (MET 89-5) and 1999 (MET 99-15).
- D. Metra continues to create a level playing field for DBEs and to remove barriers in Metra's contracts for DBE participants.
- E. Metra's DBE program has been revised to reflect personnel changes and to be consistent with modifications to 49 CFR Part 26, including an increase in the Personal Net Worth cap of DBEs and a Small Business Provision;

NOW THEREFORE BE IT ORDAINED that:

1. The Board of Directors of the Commuter Rail Division of the Regional Transportation Authority hereby approves and adopts the revised Disadvantaged Business Enterprise Program/Policy for the Commuter Rail Division, as attached to this Ordinance.
2. The Executive Director/CEO ("CEO") is also directed to implement the policy with respect to the Northeast Illinois Regional Commuter Railroad Corporation.
3. The CEO is hereby authorized and directed to take such action as he deems necessary or appropriate to implement, administer, and enforce DBE program and all subsequent amendments, provided that all amendments are consistent with applicable federal law.

Policy Statement

Section 26.1, 26.23

Objectives and Policy Statement

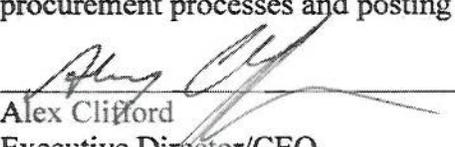
Metra has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Metra has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance,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

It is Metra's policy to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

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

Janice R. Thomas has been hired as the Director of DBE Administration (DBE Liaison Officer). The Director is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Metra in its financial assistance agreements with the Department of Transportation.

Metra has disseminated this policy statement to its Board of Directors and all of the components of our organization. Metra has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by incorporating it into our procurement processes and posting it on our website (www.metrarail.com).


Alex Clifford
Executive Director/CEO

Date

4/20/12

SUBPART A GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

The objectives can be found in the objectives/policy statement of this program.

Section 26.3 Applicability

Metra is the recipient of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Codes, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The terms used in this Program are defined in Section 26.5 of Part 26. Metra will add new/amended definitions as they are provided by DOT and will not include any definitions for terms not defined in Section 26.5 of Part 26.

Disadvantaged Business Enterprise (DBE) means a for-profit small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65 (b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis;
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

- d. "Asian-Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- e. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- f. Women; and
- g. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Section 26.7 Non-Discrimination Requirements

Metra 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, Metra will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Section 26.11 Record Keeping Requirements

Uniform Report of DBE Awards or Commitments and Payments 26.11(a)

Metra will report DBE participation to the FTA on a semi-annual basis using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

Bidders List 26.11(c)

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

Metra will collect this information by requiring Metra's prime contractors to collect it from their non-DBE subcontractors and report it to Metra as part of the award process.

Section 26.13 Assurances

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

Federal Financial Assistance Agreement Assurance 26.13(a)

Metra 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. Metra shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. Metra'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 Metra of its failure to carry out its approved program, the Department may impose sanction as provided 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.).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance 26.13(b)

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

The contractor 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 Metra deems appropriate.

SUBPART B ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

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

Section 26.21 DBE Liaison Officer (DBELO)

Metra has hired the following individual as the Director of DBE Administration (DBE Liaison Officer):

Janice R. Thomas, CPPB
Director of Office of DBE Administration
547 West Jackson Blvd.

Chicago, IL 60661-5717
Telephone (312) 322-6323
Fax (312) 322-4077
jrthomas@metrarr.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Metra complies with all provisions of 49 CFR Part 26. The DBE Director has direct, independent access to the Executive Director/CEO concerning DBE Program matters. The current organization chart displaying the DBE Director's position in the organization is found in *Attachment A* to this program.

The DBE Director is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials; for carrying out technical assistance activities for DBEs; and for disseminating information on available business opportunities so that DBEs are provided an equitable opportunity to bid on Metra's contracts. The DBE Director reports directly to the Executive Director/CEO, however all Department and Division Managers, Directors, Officers, Section Chiefs, Supervisors and employees share in the responsibility for making Metra's DBE Program a success. The Director has a staff of eight and one support employee to assist in the administration of the program. Duties and responsibilities include the following:

1. To develop, monitor implementation of, provide continuing evaluation of Metra's DBE Program. The DBE Director will work closely with those persons responsible for making management decisions regarding procurement and contracting;
2. To report regularly to the Executive Director/CEO on progress being made in the implementation of the DBE Program and to recommend appropriate program modifications;
3. To maintain accurate and up-to-date records;
4. Timely submission of reports required by DOT on the DBE Program, in accordance with 49 CFR Part 26;
5. Work with all departments to set overall annual goals;
6. Certify DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in the State of Illinois;
7. Verify or deny certification of firms claiming DBE status, in accordance with the established rules and regulations therefore;
8. To publicize business opportunities to DBEs with Metra, and to assist such businesses with Metra contracts and subcontracts;
9. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress;
10. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner;
11. To attend pre-proposal, pre-bid, pre-award and pre-construction meetings to explain Metra's DBE requirements;

12. To assist in securing management and technical assistance resources for DBEs as requested or needed;
13. To ensure that successful bidders/proposers for goods and/or services are in compliance with applicable federal, state and Metra laws and ordinances with respect to the participation of DBEs;
14. To monitor contractor's and subcontractor's compliance with all applicable requirements for DBE participation;
15. Reviews third party contracts and purchase requisitions for compliance with this program;
16. To serve as liaison with agencies supporting economic development in the DBE community;
17. Provide outreach to DBEs and community organizations to advise them of opportunities;
18. Plan and participate in DBE training seminars; and
19. Provide DBEs with information and assistance in preparing bids, obtaining bonding and insurance.

Other Personnel Responsible for the DBE Program

Metra personnel at every level who are empowered to commit funds or expend, deposit, or do any act of commerce on behalf of Metra shall affirmatively direct their activities in accordance with this Disadvantaged Business Enterprise Program/Policy.

Other Metra personnel with responsibilities for implementation of the DBE Program include the following:

1. The Materials Management Manager and his staff shall play a paramount role in making this Program/Policy work. All purchasing and procurement activity must be performed in a manner consistent with this Program. The commitment to this Program must extend to every member of that staff. Additionally, both the Procurement and Professional Services/Contracts Divisions shall provide the DBE Office with copies of purchase requisitions indicating pending solicitations. These requisitions will be used by the DBE Office to identify DBE subcontracting possibilities and locate possible additional vendors for goods and services to be requisitioned.
These two Divisions shall also provide timely and complete information to the DBE Office on all RFPs and IFBs, along with proposed vendors' listings prior to the mailing of these documents, in order to ensure that DBEs are included in the bid solicitation process.
The Procurement and Professional Services/Contracts Divisions shall also act affirmatively to ensure that DBEs are solicited and given equal consideration in bid, quote, and proposal offerings.
2. The Senior Division Director of Strategic Capital Planning shall keep the DBE Office advised of proposed activities involving possible opportunities for DBEs resulting from planned proposals and provide the DBE Office with pertinent and

timely information regarding Metra's requests for DOT project funding, and the receipt of such funds.

3. Metra's Treasurer shall ensure that equitable banking relationships are established and maintained with minority and female controlled financial institutions.
4. The Division Manager of Risk Management (Insurance) & Claims and staff shall follow the public bidding procedures in quest of carriers and carrier agents to contract for Insurance coverage. This includes providing the DBE Office with specifications and the proposed lists of bidders prior to solicitations. The DBE Office will, where appropriate, add additional firms to be solicited.
5. The Engineering Department shall work with the DBE Director to set contract specific DBE goals on Engineering projects. They shall provide timely notice to the DBE Director of all pre-bid/pre-proposal and pre-award conferences to ensure that all compliance requirements are explained to contractors. Subcontractors and joint venture partners proposed by prime contractors will require the approval of the DBE Director and the Department Head of Engineering. Substitutions of designated DBE subcontractors must be approved, in advance, by the DBE Director, and must be based on documented valid reasons.
6. The DBE Director shall copy the Department Head of Engineering on all correspondence to prime contractors relating to compliance problems
7. The Law Department shall provide such counsel as may be needed to ensure compliance with relevant statutes, law, ordinances, court decisions, and Presidential orders.

Section 26.27 DBE Financial Institutions

It is Metra's 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. To date Metra has identified the following such institutions and has money deposited at the institutions:

1. Foster Bank,
2. Highland Community Bank,
3. Illinois Service Fed Savings
4. Pacific Global Bank
5. Pan American Bank
6. Seaway Bank
7. Urban Partnership Bank (F/K/A South Shore Bank)

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

Section 26.29 Prompt Payment Mechanisms

Prompt Payment Section 26.29

Metra will include the following clause in each DOT-assisted prime contract:

The contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the contract receives from Metra. Any failure to comply with this section will be a material breach of this contract, and Metra reserves all its rights in law and equity for such breach. In addition such breach will be consideration for the contractor's responsibility status for future contracts with Metra. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Metra. This clause applies to both DBE and non-DBE subcontracts.

Retainage Section 26.29 (b)

The contractor agrees to return retainage payments to each subcontractor within 15 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Metra. This clause applies to both DBE and non-DBE subcontracts.

Section 26.31 Directory

Metra utilizes the Illinois Unified Certification Program (ILUCP) DBE directory, a joint project of the Illinois Department of Transportation, the City of Chicago, the Chicago Transit Authority, Pace Suburban Bus and Metra. The ILUCP updates the directory monthly. The Directory is available at Metra's Office of DBE Administration, 547 W. Jackson Blvd., Chicago, IL 60661-5717, (312) 322-6323, or online at the following address:
<http://www.dot.state.il.us/ucp/ucp.html>.

Section 26.33 Overconcentration

Metra has not identified overconcentration in one or more types of work of its contracts. If Metra does identify overconcentration in the future, it will devise appropriate measures consistent with federal laws to address the overconcentration.

Section 26.35 Business Development Programs

Currently Metra does not provide business development programs but it does provide the following support services to DBEs: assistance in the DBE certification process; plans and specifications free of charge to DBEs; and referrals to other assist agencies.

Section 26.37 Monitoring and Enforcement Mechanisms

Metra will engage in the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. Monitor and enforce DBE obligations for each contract/project through staff audits of DBE participation, procedures, policies, designed to ensure compliance. Contractors must provide signed contracts with DBEs within a specified number of days after receiving the notice of award. A notice to proceed cannot be issued until signed contracts from the DBEs are received. Moreover, monthly project invoices must provide documentation of payments to DBEs, including cancelled checks. Site visits are also performed to determine compliance. Metra also notifies its contractors that they should notify Metra immediately of any problems or concerns regarding DBE participation or the Program. Failure to abide by any DBE commitment is deemed by Metra to be a material breach of the contract, which may result in its termination or any other such remedy that Metra shall enforce.
2. Bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
3. Keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

Section 26.39 Small Business Participation

Metra has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses). Metra's contracting processes and requirements are now structured to facilitate competition by small businesses and to eliminate obstacles to their participation. These processes and requirements, are intended to provide more opportunities and support for small businesses and foster their move from subcontractors to prime contractor roles.

We will implement the following strategies to foster small business participation:

1. To meet the race-neutral goal, Metra will take a proactive approach to notify DBE and small business firms about procurement opportunities and encourage them to compete as prime contractors;
2. On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs can reasonably perform, rather than self-performing all the work involved;
3. "Unbundling" or breaking larger projects into several smaller projects sized so that small businesses might bid on them as prime contractors against other firms, and setting them aside for small businesses only where applicable;

4. Enhance training to DBE and small business firms on how to do business with our agency to expand their knowledge of the procurement process and the importance of being both a responsive and responsible bidder to make them more competitive;
5. Increase outreach and networking opportunities for small businesses efforts;
6. Encourage qualified firms to become DBE certified; and assist in the growth and development of minority and women owned businesses and small businesses by identifying and building relationships with vendors, interest groups and government agencies; and
7. Provide plans and specifications free of charge to DBEs and small businesses.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Quotas

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

Section 26.45 Overall Goals

In accordance with Section 26.45, Metra will submit its tri-annual overall DBE goal to the FTA on August 1 of the year specified by DOT.

Metra submits its overall goal to DOT tri-annually in August. Before establishing the overall goal, Metra will consult with interested groups or persons to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and Metra's efforts to establish a level playing field for the participation of DBEs. Following this consultation, Metra will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at Metra's Office of DBE Administration, 547 W. Jackson Blvd., Chicago, IL 60661-5717 for 30 days following the date of the notice, and informing the public that Metra and DOT will accept comments on the goals for 45 days from the date of the notice. Metra will publish this notice in a general circulation newspaper as well as minority focus media and on Metra's website. Normally, Metra will issue this notice by June 1 tri-annually before the goal is submitted to DOT. This notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

Metra will begin using our overall goal on the October 1 immediately following our tri-annual goal submittal and will continue to use that goal for 3 years, unless Metra receives other instructions from DOT.

Section 26.47 Goal Setting and Accountability

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

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

Section 26.49 Transit Vehicle Manufacturers (TVM)

Metra 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. Alternatively, Metra may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51 Meeting Overall Goals/Contract Goals

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Metra will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Metra uses the following means to increase DBE participation:

- Metra provides information on a regular basis to various minority/women organizations for contract opportunities;
- Metra's Office of DBE Administration reviews the bidders lists for all contracting opportunities to ensure that DBEs are included;
- Metra provides plans and specifications free of charge to DBEs;
- Metra's Office of DBE Administration provides DBEs with bid histories when requested; and
- Metra, on an annual basis, hosts along with the Regional Transportation Authority (RTA), Chicago Transit Authority (CTA), Pace, Illinois Department of Transportation (IDOT), and the Illinois Toll Highway Authority (Tollway) a Transportation Symposium with a focus on business opportunities.

Metra will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect the actual DBE participation [see 26.51(f)], and Metra will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation

through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Contract Goals

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

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

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

Section 26.53 Good Faith Efforts Procedures

Information to be submitted: 26.53(b)

Metra treats bidder/offerors' compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidder/offeror, prior to, or with the bid/proposal, to submit the following information:

1. The names and addresses of DBEs that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of each DBE's participation;
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 contractors commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Evaluation of Good Faith Efforts: 26.53(a) & (c)

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to 49 CFR Part 26.

The DBE Director is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts so it may be responsive.

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

Administrative Reconsideration: 26.53(d)

Within 5 working days of being informed by Metra that it is not responsive because it has not demonstrated sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Alexander Clifford, Executive Director/CEO, Metra, 547 W. Jackson Blvd., Chicago, IL 60661-5717, (312) 322 6979. 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 it met the goal or made adequate good faith efforts to do so. 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 so. Metra 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 Terminated/Replaced on a Contract: 26.53(f)

Metra will require the prime contractor to notify the DBE Director immediately of the DBE's inability or unwillingness to perform and to provide reasonable documentation. Termination of the DBE shall require Metra's prior consent. Metra 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.

In this situation, Metra will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. Failure to abide by the DBE participation requirements shall be viewed as a breach of contract and subject to such sanctions and penalties as allowed by law.

Counting DBE Participation (Section 26.55)

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

SUBPARTS D & E CERTIFICATION

Section 26.61-26.73

Certification Process

Metra 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 DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Metra will make its certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact: Janice R. Thomas, Director, Office of DBE Administration, 547 W. Jackson Blvd., Chicago, IL 60661-5717, (312) 322-6323 or online at the following address: www.metrarail.com.

Our certification application forms and documentation requirements are found in **Attachment B** to this program.

Recertification

For firms that Metra has certified or reviewed and found eligible under Part 26, Metra will again review their eligibility five years from their last certification or recertification. These reviews will include an on-site review and completion of a Continued Eligibility Affidavit (CEA).

“No Change” Affidavits and Notices of Change

Metra requires every DBE to inform us, in written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership, or control criteria of 49 CFR Part 26, or any material changes in the information provided with the DBE’s application for certification within 30 days of change.

Metra also requires all owners of all DBE firms that have been Metra certified to submit, on the anniversary date of the firm’s certification, a “no change” affidavit. The following is an excerpt of the text of this affidavit:

I swear 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 in which you have provided written notice under 49 CFR 26.83 (I). The applicant and its affiliates continue to meet the Small Business Administration (SBA) criteria for being a small business and its average annual gross receipts (pursuant to SBA, NAICS size limits), in addition to ensuring the firm’s previous three fiscal years, does not exceed the USDOT, \$22.41 million size limit.

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

Metra will notify all currently certified DBE firms by mail of these obligations on the anniversary date of certification. This notification will inform DBEs that to submit their “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.

Removal of Eligibility

In the event Metra proposes to remove a DBE's certification, Metra will follow procedures consistent with Section 26.87. *Attachment C* to this program sets forth these procedures in detail. To ensure separation of functions in a decertification, Metra has determined that the DBE Director will serve as the decision maker in decertification proceedings.

If Metra denies a firm's application because the applicant did not submit all requested information, the applicant may submit the missing information at a later date (as long as the firm is not being considered for credit towards DBE goal achievement on a pending project), and we will reopen the file for evaluation. If the applicant is denied for failure to meet the eligibility criteria of Part 26, then the applicant must wait twelve months to reapply.

Unified Certification Program (Section 26.81)

Metra is a member of the Illinois Unified Certification Program (ILUCP) administered by Illinois Department of Transportation (IDOT). The ILUCP will meet all of the requirements of this section. Metra will use and count for DBE credit only those DBE firms certified by the Illinois Unified Certification Program.

Procedures for Certification Decisions (Section 26.83-26.91)

Metra will follow the certification processes of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT –assisted contracts. The Illinois Unified Certification Program Procedures are found in *Attachment D* to this program.

For information about the certification process or to apply for certification, firms should contact: Janice R. Thomas, Director, Office of DBE Administration, 547 W. Jackson Blvd., Chicago, IL 60661-5717, (312) 322-6323.

Certification Appeals

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

U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Ave. SE, Rm. W78-340
Washington, DC 20590

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

Attachments
(incorporated by reference)

Attachment A: Organizational Chart
Attachment B: Certification Application Forms and Documentation Requirements
Attachment C: Removal of Eligibility
Attachment D: Illinois Unified Certification Program Procedures
Attachment E: 49 CFR Part 23 and 26
Attachment E: 49 CFR Part 26

APPENDIX B



Metra Office of Business Diversity and Civil Rights
Professional Service Pre-Bid/Pre-Proposal Meeting Presentation
Professional Service Bidder/Proposer Compliance Requirements

Disadvantaged Business Enterprise (DBE) Requirements

Exhibit ___ contains the Disadvantaged Business Enterprise Compliance Requirements as per USDOT DBE Regulations.

- Metra's DBE Goal for this IFB/RFP is _____%.
- In order to be responsive, Bidders/Proposers must make good faith efforts to meet the goal, meeting this requirement in either of two ways:
 1. A Bidder/Proposer can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose.

Provide completed and signed Schedule A or Schedule D and Schedule C(s).

2. If a Bidder/Proposer doesn't meet the goal, it can **document adequate good faith efforts**. This means that the bidder *must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.*

Provide Schedule A or Schedule D and Schedules C(s) as well as detailed and corroborating documentation evidencing good faith efforts to achieve the contract goal.

COUNTING DBE PARTICIPATION

- Metra will only count those DBEs that are currently certified by the IL UCP at the time of bid/proposal toward the Contract goal.
- DBE participation will only be credited in the DBE's IL UCP certified area of specialization.

Per 49 CFR Part 26.55

- Metra counts expenditures to a DBE toward DBE goals only if the DBE is performing a commercially useful function per 49 CFR Part 26.55(c)(1).
- Metra counts only the value of the work actually performed by the DBE toward the DBE goal.
- Metra counts the entire amount of that portion of a construction contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

- Metra counts the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided Metra determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- When a DBE performs as a participant in a **joint venture**, **Metra counts** a portion of the total dollar value of the base bid equal to **the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals**.
- Trucking/Transportation/Hauling
 - The DBE receives **credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs**.
 - The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives **credit for the total value of the transportation services the lessee DBE provides on the contract**.
 - (5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. **The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract**.
 - **A lease must indicate that the DBE has exclusive use of and control over the truck**. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- Materials or Supplies:
 - From a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.
 - A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 - From a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.
 - A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 - To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as previously described for a regular dealer if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

APPENDIX C

METRA OFFICE OF DBE ADMINISTRATION

Compliance Review of Contractor Schedules A and C
(49 CFR § 26.55 How is DBE participation counted toward goals? Is attached for reference)

Procurement No. (IFB, RFP, etc.): _____

Procurement Description/Location: _____

Bidder/Proposer: _____

Proposed DBE Participant: _____

DBE SCOPE OF WORK TO BE PERFORMED IS Detailed/Descriptive/Distinct (*See Page 2) Enough to Count DBE Credit and to Determine DBE provides a CUF within its IL UCP DBE Certified Area of Expertise

- 1. Schedule A and Schedule C(s) completely filled out, signed and dated
- 2. DBE scope of work to be performed and agreed price are in agreement between Schedules A and C
- 3. DBE currently certified under the IL UCP (IL UCP DBE Directory Listing(s) attached)
- 4. DBE scope of work to be performed is to:
 - Provide professional services to....
 - Provide labor, material, tools, and/or equipment to install...
 - Provide labor or temporary help to provide or install or erect, etc...
 - Manufacture and deliver material/product
 - Furnish and deliver material and/or equipment
 - Furnish/Supply material and/or equipment (drop ship)

(As manufacturer, regular dealer, or other than regular dealer, scope of work to be performed should specify quantity and total agreed price)

- Provide delivery of _____ from _____ to _____....
- Provide hauling of waste from Contract site to ...

(Scope of work should include the origin, destination, and the items (as described in the specifications, if possible) to be hauled, trucked, or delivered)

5. NAICS Code(s) Reviewed and DBE scope of work to be performed within IL UCP Certified Area of Expertise Yes _____ No _____

Certification Specialist _____ Date _____

Remarks

- 6. DBE scope of work will not be further subcontracted
- DBE scope of work will be subcontracted _____% to a DBE
- DBE scope of work will be subcontracted _____% to a Non-DBE
- DBE trucking firm will not lease additional trucks
- DBE trucking firm will lease additional trucks

7. DBE scope of work to be performed is directly related to this procurement (within Contract scope of work)

Performed by:

Printed Name, Title _____ Signature _____ Date _____

METRA OFFICE OF DBE ADMINISTRATION

Compliance Review of Contractor Schedules A and C

(49 CFR § 26.55 How is DBE participation counted toward goals? Is attached for reference)

***EXAMPLES:**

If an electrical subcontractor is a DBE Participant, the scope of work should include more than "Electrical" or "Electrical Work". The description should be inclusive of the entire scope of the distinct subcontracted portion of work that the DBE will be performing, e.g. "Furnish labor, material and equipment to install..." Identify what the DBE is providing and/or provide description from the contract specifications.

If an architectural engineering subconsultant is a DBE Participant, the scope of work should include more than "Engineering" or "Architectural Services". The description should be inclusive of the entire scope of the distinct subcontracted portion of work that the firm will be performing. Identify what the firm is providing and/or provide description from the contract specifications.

If a material supplier is a DBE Participant, the scope of work should include more than "Electrical Material", "Plumbing Fixtures", etc. It should be specific and detailed as necessary to the actual activity taken by the DBE Participant, i.e. "Furnish and Deliver to the Job Site...." Identify the material(s) and/or provide description from the contract specifications. Include quantities and unit prices when applicable.

If a trucking firm is a DBE Participant, the scope of work should include more than "Trucking" or "Delivery". The description should include the origin, destination, and the items (as described in the specifications, if possible) to be hauled, trucked, or delivered.

METRA OFFICE OF DBE ADMINISTRATION

Compliance Review of Contractor Schedules A and C

(49 CFR § 26.55 How is DBE participation counted toward goals? Is attached for reference)

49 CFR § 26.55 How is DBE participation counted toward goals?

- (a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.
- (1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
 - (2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- (b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
- (c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.
- (1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.
 - (2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.
 - (3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.
 - (4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.
 - (5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

METRA OFFICE OF DBE ADMINISTRATION

Compliance Review of Contractor Schedules A and C

(49 CFR § 26.55 How is DBE participation counted toward goals? Is attached for reference)

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

- (1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- (2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- (3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- (4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- (5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it **must obtain written consent from the appropriate Department Operating Administration**.

Example to this paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

- (6) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck [and]. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(e) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

- (1) (i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.
 - (ii) For purposes of this paragraph (e)(1), a **manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications**.
- (2) (i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.
 - (ii) For purposes of this section, a **regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business**.

METRA OFFICE OF DBE ADMINISTRATION

Compliance Review of Contractor Schedules A and C

(49 CFR § 26.55 How is DBE participation counted toward goals? Is attached for reference)

- (A) To be a **regular dealer**, the firm must be an **established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.**
 - (B) A person may be a **regular dealer in such bulk items** as petroleum products, steel, cement, gravel, stone, or asphalt **without owning, operating, or maintaining a place of business** as provided in this paragraph (e)(2)(ii) if the person **both owns and operates distribution equipment for the products.** Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
 - (C) **Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers** within the meaning of this paragraph (e)(2).
- (3) With respect to **materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer**, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.
- (f) If a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i).
 - (g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.
 - (h) Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003]

APPENDIX D

METRA OFFICE OF BUSINESS DIVERSITY AND CIVIL RIGHTS DBE CREDIT WORKSHEET

IFB/RFP NO: _____
REQUISITION FOR: _____

IFB ##### _____
Description of Work _____
Location of Work _____

BIDS OPENED: _____ Bid Date _____

EVALUATED BY: _____
DATE EVALUATED: _____

DBE Specialist _____
Evaluation Date _____

DBE GOAL: _____
CONTRACTING AGENT/BUYER: _____

15%
Contracting Agent Name _____

BIDDER	BID/PROPOSAL AMOUNT	DBE PARTICIPANT	ETHNIC GROUP	GENDER	DBE SCHEDULE A DESCRIPTION OF PARTICIPATION	DBE PARTICIPANT'S AMOUNT	COUNTED TOWARD GOAL %	DBE \$ PARTICIPATION TOWARD GOAL	DBE % PARTICIPATION TOWARD GOAL
Prime Bidder Name	\$ -	DBE Company Name Specialty: NAICS Code Description				\$ -	0%	\$ -	#DIV/0!
		DBE Company Name Specialty: NAICS Code Description				\$ -	0%	\$ -	#DIV/0!
		DBE Company Name Specialty: NAICS Code Description				\$ -	0%	\$ -	#DIV/0!
Total DBE Participation						\$ -		\$ -	#DIV/0!
COMMENTS									

APPENDIX E

NOTE:

A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

APPENDIX F

**METRA OFFICE OF BUSINESS DIVERSITY AND CIVIL RIGHTS
 DBE COMMERCIALY USEFUL FUNCTION
 CONSTRUCTION, ARCHITECTURAL/ENGINEERING,
 PROFESSIONAL SERVICE, SUPPLIER
WORK SITE REVIEW**

Metra Contract No.: _____

Description/Location: _____

The Contract between:

_____ and DBE _____
 (Prime Contractor Name) (DBE Contractor Name)

- | | | |
|------------------------------------------------|-----------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Subcontractor | <input type="checkbox"/> Subconsultant | <input type="checkbox"/> Material Contractor |
| <input type="checkbox"/> Manufacturer | <input type="checkbox"/> Regular Dealer | <input type="checkbox"/> Broker |
| <input type="checkbox"/> Other (Specify) _____ | | |

CONTRACTOR WORK SITE REVIEW (Attach photos if available) DATE: _____

ADDRESS/LOCATION: _____

The DBE is responsible for execution of the work of the contract and carrying out its responsibilities:

Y N
 installing, where applicable (DBE contractor's materials and supplies on the contract);

DESCRIBE: _____

Y N
 actually performing/manufacturing, where applicable (DBE contractor/consultant workers on site performing identified work);

DESCRIBE: _____

Y N
 managing and supervising the work involved (DBE contractor/consultant has supervision on site and is in control of subcontracted portion of work – is independent and not under constant supervision of prime or other contractor/consultant)

DESCRIBE: _____

Performed by:

_____	_____	_____
Printed Name, Title	Signature	Date

APPENDIX G

NOTE:

A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.