

# City of DeKalb DBE Program

Adopted 1/29/2025

This document provides an overview of the Disadvantaged Business Enterprise and Small Business Policies that have been implemented by the City of DeKalb Transit Division when contracting for equipment and services for Public Transportation.

Methodology, Policies,  
and Procedures

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# City of DeKalb Public Transit DBE and Small Business Program

## 1 POLICY STATEMENT

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### 1.1 OBJECTIVES/POLICY STATEMENT

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

It is the policy of City of DeKalb 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 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 in DOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The City of DeKalb Transit Manager has been delegated as the DBE Liaison Officer. In this capacity, the Transit Manager is responsible for implementing all aspects of the DBE program applicable to Transit Services. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of DeKalb in its financial assistance agreements with the Department of Transportation.

We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts via all contracts and on the City of DeKalb website.



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Transit Manager/DBE Liaison Officer

1/29/2025

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Date

## **2 SUBPART A – GENERAL REQUIREMENTS**

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The City of DeKalb manages all FTA grant funds that are allocated to the DeKalb Urbanized Area. As the City of DeKalb transit staff manages FTA capital and operating assistance funds and State of Illinois operating assistance funds, the DeKalb area DBE program will be overseen by City of DeKalb transit staff.

Projects, which use funding from the following grant sources, shall be subject to the City of DeKalb DBE Program:

- FTA 5307 Capital and Operating Assistance Funds
- For other Federal DOT grants which DeKalb Public Transit is approved, those projects are generally managed and let by the Illinois Department of Transportation (IDOT) and subject to the IDOT DBE Program regulations. If DeKalb Public Transit manages a DOT funded project independent of IDOT, the DeKalb Public Transit DBE program can be used as guidance for the project.

The DeKalb Urbanized Area is a small UZA with a population around 65,000. The urbanized area receives Illinois Department of Transportation (IDOT) Downstate Operating Assistance Program (DOAP) and Federal Transit Administration (FTA) 5307 grant funding for transit capital and operating assistance.

Transit services for both fixed route public transportation and demand response paratransit and deviated fixed route services for the DeKalb Urbanized Area are contracted out to Transdev Services, Inc. Transdev is a multi-modal transportation company. A large portion of the FTA 5307 funds annually is dedicated to pay for these contracted services with Transdev. Transdev is subject to all regulations of the DBE program. Any operating assistance funds, which are used for contracted services, shall be subject to DBE requirements identified herein.

### **2.1 OBJECTIVES**

The objectives are found in the policy statement on the first page of this program.

### **2.2 APPLICABILITY**

The City of DeKalb is the recipient and fiscal agent of federal transit funds authorized by Titles I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178. This policy will apply to all funding received from any federal agency for Transit Services.

### **2.3 DEFINITIONS**

The City of DeKalb will use the Illinois Department of Transportation's Unified Certification Program as the source to identify all DBEs eligible to perform work in the DeKalb Region as a DBE. The City of DeKalb will use terms in this program that have the meanings defined by the cognizant agencies.

#### **2.3.1 Introduction to IDOT's Small Business Enterprises**

IDOT's Bureau of Small Business Enterprises (SBE) is responsible for administering the federally mandated Disadvantaged Business Enterprise (DBE) program. The DBE program is intended to provide contracting opportunities to small businesses owned and controlled by socially and economically

disadvantaged individuals in the United States Department of Transportation's highway, mass transit, and airport financial assistance programs.

Applicant firms must be found eligible to be certified as a DBE under the federal regulations contained in 49 CFR part 26 and part 23. Only those businesses, which are involved in highway construction-related services (non-vertical), consultant, and supplier/equipment rental/trucking services, are considered for participation in IDOT's DBE program.

Once certified, the firm's name is listed in the Illinois Unified Certification Program's (IL UCP) DBE Directory (Directory). The IL UCP's five participating agencies maintain the Directory to provide a reference source to assist bidders/proposers in meeting DBE contract goals. The Directory lists the firms in alphabetical order and provides the industry categories/list and the district(s) in which the firms have indicated they are available.

#### **2.3.2 For clarification purposes, the following definitions are provided:**

- DBE Certification
- Prime Contractor Prequalification
- Consultant Prequalification
- Subcontractor Registration
- Contractor's Market Place
- FTA Tier I Recipient
- FTA Tier II Recipient
- Tiered Program

#### **2.3.3 DBE Certification**

All contractors, whether prime or subcontractor, desiring to participate as a DBE must be certified as a DBE. A firm seeking certification has to meet requirements concerning group membership or individual disadvantage, business size, ownership and control.

Call 217.782.5490 for more information.

#### **2.3.4 Consultant Prequalification**

All architectural-engineering consultants desiring to provide services to IDOT, whether as a prime or Subconsultant, must be prequalified.

#### **2.3.5 Subcontractor Registration**

- IDOT is required to maintain a list of all contractors and subcontractors performing work on IDOT projects.
- Subcontractors interested in participating on IDOT contracts are required to register.
- Only registered subcontractors included in the list can be approved for IDOT projects.
- Prequalified contractors are automatically included in the list and are not required to register.
- Material suppliers and trucking companies are not included in the definition of subcontractor and are not required to register.
- Subcontractors can register electronically by submitting the Subcontractor Registration Form. This form is located under "Doing Business with IDOT, Highway Construction." The registration form requires minimal information and can be completed in minutes. Confirmation, along with a registration number, will be received by e-mail in 1-2 days. Registration is valid for one year and will then require renewal.
- Call 217.782.3413 for more information.

#### **2.3.6 Contractor's Market Place**

The Contractor's Market Place is a forum for prime-contractors, subcontractors, and suppliers wishing to do business with IDOT. The objective is to facilitate communications by providing an electronic bulletin board for the contracting community.

Prime contractors have the ability to communicate their desire for quotes on a specific letting item(s) and work category(ies) to subcontractors and suppliers. Subcontractors and suppliers have the ability to communicate their interest to prime contractors in providing quotes on a specific letting item and work category.

Information from the forms submitted is organized by letting date and posted in an easy-to-read report format. Reports will be updated each day.

### **2.3.7 FTA Tier I Recipient**

An FTA recipient to whom this part applies will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$670,000 in FTA funds in a Federal fiscal year.

### **2.3.8 FTA Tier II Recipient**

An FTA recipient to whom this part applies will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which does not exceed \$670,000 in FTA funds in a Federal fiscal year.

### **2.3.9 Tiered Program**

Prior to the Final Rule, effective May 9, 2024, recipients of federal assistance exceeding \$250,000 per federal fiscal year were required to have a DBE program in full conformity with 49 CFR Part 26. Under the Final Rule, recipients of planning, capital, or operating assistance that cumulatively exceeds \$670,000 in prime contract awards (excluding transit vehicle purchases) per federal fiscal year must develop a Tier I program that complies with all Part 26 requirements.

Tier II recipients that reasonably anticipate awarding prime contracts that are cumulatively less than \$670,000 in a federal fiscal year must develop a Tier II program that complies with the following requirements: reporting and recordkeeping (§26.11), contract assurance (§26.13), policy statement and dissemination (§26.23), SBE program element (§26.39), and TVM procurements (§26.49).

### **2.3.10 Continuity**

Any new/amended definitions provided by USDOT or IDOT shall be included within the program whether identified herein or not.

## **2.4 NON-DISCRIMINATION REQUIREMENTS**

City of DeKalb 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, City of DeKalb 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.

## **2.5 RECORD KEEPING REQUIREMENTS**

### **2.5.1 Uniform Report of DBE Awards or Commitments and Payments**

City of DeKalb will report DBE participation to the relevant operating administration [FTA] using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation. Should the City procure any transit vehicles using FTA funds, the Transit Program Administrator will report the federally-funded procurement by submitting the required Transit Vehicle Manufacturer ("TVM") form, or such other documentation as may then be required, to the FTA Office of Civil Rights within thirty days of making the award.

### **2.5.2 Bidders List**

The City of DeKalb shall maintain a bidders list. The purpose of this list is to provide accurate data about DBE and non-DBE contractors and subcontractors who seek to work on state or federally-assisted contracts in the DeKalb Region. The bidders list will include the name, address, DBE and non-DBE status, Race and gender information for the firm's majority owner, NAICS codes applicable to each scope of work the firm sought to perform in its bid, age of firm and annual gross receipts of firms (indicated by bracket - e.g., less than \$1 million; \$1-3 million; \$3-6 million; \$6-10 million; etc.).



The bidders list is not an endorsement of DBE or non-DBE firms. Reporting may be annually, however, inclusion to participation is ongoing during the program year. Additionally, Transit staff agree to build an overall Bidders List, using the following methods:

- When a specific project is identified, search the Central Contract Register to identify potential contractors based on applicable NAICS Codes.
- When a project is awarded, request a listing of firms that the contractor works with to further expand Bidder List.
- Retain contact information on all contractors and subcontractors who have bid on previous projects, but did not win award contract;

As it is difficult to identify all potential bidders solely in a list, all projects over \$100,000 must be advertised, and projects under \$100,000 are advised to be publicly advertised.

## **2.6 ASSURANCES**

City of DeKalb agrees to and has signed where required the following assurances, applicable to all DOT-assisted contracts and their administration unless other assurances, requirements or regulations are mandated by rule or law.

### **2.6.1 Federal Financial Assistance Agreement Assurance:**

The City of DeKalb shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipients DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of DeKalb 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.*).

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

*[Note: This language is to be used verbatim, as it is stated in 26.13(a) on all USDOT funded contracts]*

### **2.6.2 Contract Assurance**

We 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.

*[Note: This language is to be used verbatim, as it is stated in 26.13(b) on all USDOT funded projects]*

We will ensure that solicitation for subcontracts, including procurements of materials and equipment whether by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract for Transit Services.

Contractor shall provide all information and reports required by the Regulations, or directives issues pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Federal agency to be pertinent to ascertain compliance such Regulations or directives. Where any information required of a Contractor is in the exclusive

possession of another who fails or refuses to furnish the information, the Contractor shall so certify and shall set forth what efforts it has made to obtain the information.

Contractor shall include provisions of Section 2.6 labeled “Assurances” in every subcontract for Transit Services, including procurement of material and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement for Transit Services as the City of DeKalb may direct as a means of enforcing such provisions including sanctions for noncompliance.

## 3 SUBPART B – ADMINISTRATIVE REQUIREMENTS

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
### 3.1 DBE PROGRAM UPDATES

City of DeKalb Transit staff manages all grants received from FTA allocated to the DeKalb IL Urbanized Area. Each federal fiscal year, staff will determine status as either a Tier I or Tier II recipient and will enforce all requirements applicable to appropriate Tier as outlined in the DBE Program.

- Funds used in the procurement of buses for the transit fleet if purchased from bus vendors identified in the FTA’s Transit Vehicle Manufacturers (TVMs) list ([http://www.fta.dot.gov/12326\\_5626.html](http://www.fta.dot.gov/12326_5626.html)) shall be exempt.
- In circumstances where any transportation project is let through the Illinois Department of Transportation (IDOT) procurement system, the project shall be overseen by the IDOT DBE program.

The City of DeKalb 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.

### 3.2 DBE LIAISON OFFICER (DBELO) AND DBE COORDINATOR (DBEC)

City of DeKalb Transit has designated the following as the primary  Officers:

#### **DBE Liaison Officer (DBELO)**

**Transit Manager  
City of DeKalb  
1216 Market St.  
DeKalb, IL 60115  
(815) 748-2000**

#### **DBE Coordinator (DBEC)**

**Transit Grants and Procurement Coordinator  
City of DeKalb  
1216 Market St.  
DeKalb, IL 60115  
(815) 748-2000**

In that capacity, the DBELO is responsible for oversight in implementing all aspects of the DBE program and ensuring that the City of DeKalb complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the City Manager of the City of DeKalb concerning DBE program matters. An organizational chart displaying the DBELO’s position in the organization is found in **Appendix B: Organization Chart**.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. The DBEC shall be in charge of the day-to-day operations of the DBE program, including reporting to federal officials, maintenance of the DBE plan, and other duties as necessary. The duties and responsibilities include the following:

1. DBEC: Gathers and reports statistical data and other information as required by DOT;
2. DBEC: Reviews third party contracts and purchase requisitions for compliance with this program;
3. DBEC: Works with all departments to set overall annual goals;
4. DBEC: Ensures that bid notices and requests for proposals are available to DBEs in a timely manner;

5. DBEC: 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;
6. DBEC: Analyzes City of DeKalb's progress toward attainment and identifies ways to improve progress;
7. DBELO & DBEC: Participates in pre-bid meetings;
8. DBELO: Advises the CEO\governing body on DBE matters and achievement;
9. DBELO: Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance;
10. DBEC: Plans and participates in DBE training seminars;
11. IDOT: Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in the State of Illinois;
12. DBEC: Provides outreach to DBEs and community organizations to advise them of opportunities;
13. DBEC: Maintains the City of DeKalb's updated directory on certified DBEs; and
14. DBELO: Takes all complaints regarding the City of DeKalb's DBE and Civil Rights programs and negotiates to resolve any complaints to the best of City of DeKalb resources.

### 3.3 DBE FINANCIAL INSTITUTIONS

In the provision of financial services dealing with FTA funds, transit staff shall encourage City of DeKalb finance staff to make outreach to possible DBE financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. We will also re-evaluate the availability of DBE financial institutions annually. To date we have identified no DBE or small business financial institutions, which serve the DeKalb region.

- There are a few institutions, which serve other regions of Illinois. If the City of DeKalb bids a project, which has financial subcontracting opportunities, a list of those institutions may be provided as part of the project RFP.

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

### 3.4 PROMPT PAYMENT MECHANISMS

#### 3.4.1 Prompt Payment:

City of DeKalb will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than **thirty (30) actual days** from the receipt of each payment the prime contract receives from the City of DeKalb. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of DeKalb. This clause applies to both DBE and non-DBE subcontracts.

#### 3.4.2 Retainage:

City of DeKalb will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to return retainage payments to each subcontractor within **thirty (30) actual days** after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of DeKalb. This clause applies to both DBE and non-DBE subcontracts.

#### 3.4.3 Monitoring and Enforcement:

The City of DeKalb shall require in all FTA funded contracts language that allows the City to monitor and enforce that prompt payment and return of retainage is in fact occurring on any contract, which involves sub-contracting [see **Appendix E: Monitoring and Enforcement Mechanisms** for language to be included

in all applicable contracts]. In the event of the contractor's noncompliance with these prompt payment provisions, the City may impose such additional sanctions and penalties as it or the cognizant agencies may determine to be appropriate for Transit Services, including, but not limited to:

1. Withholding of payments to the contractor under the contract until the contractor complies; and/or
2. Deduction from a contract funds due or to become due to the contractor; and/or
3. Disqualification of the contractor as a non-responsible contractor; and/or
4. Cancellation, termination or suspension of the contract in whole or in part; and/or
5. Any other remedy as the cognizant agency deems appropriate

## **3.5 DIRECTORY**

### **3.5.1 DBE Directory**

- The City of DeKalb uses the State of Illinois Unified Certification Program (UCP) directory to identify all firms eligible to participate as DBEs in the DeKalb region (District 3). The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory shall be downloaded annually from the IDOT website (<http://idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>).
- If any firm wishes to become certified as a DBE in the State of Illinois, they can submit an application via the IDOT website at <http://idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/index>.
- All Bidders/offerors must submit DBE Forms 1 & 2 as part of the IFB/RFP bid submission to verify their compliance with all DBE regulations identified herein.

### **3.5.2 Small Business Directory**

- The City of DeKalb uses the System for Award Management (SAM) (<https://www.sam.gov/portal/public/SAM/>) (previously known as CCR) to identify all firms eligible to participate as a small business. All contractors and subcontractors wishing to participate in any FTA funded contract must be registered on the SAM in order to determine their small business status.
- In order to determine if a business can be considered as a small business the City of DeKalb uses the size definition developed by the U. S. Small Business Administration ([http://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table.pdf](http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf)).
- All Bidders/offerors must submit Small Business Forms 1 & 2 as part of the IFB/RFP bid submission to verify their compliance with all DBE regulations identified herein.

## **3.6 OVERCONCENTRATION**

City of DeKalb has not identified that overconcentration exists in the types of work that DBEs perform in District 3.

Overconcentration will be re-evaluated annually when the new IDOT UCP listing becomes available.

## **3.7 MONITORING AND ENFORCEMENT MECHANISMS**

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

1. The City will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General,

action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.

2. The City will consider similar action under its own legal authorities, including responsibility determinations in future contracts. **Appendix E** lists the regulation, provisions, and contract remedies available to us in the event of non-compliance with the DBE regulation by a participant in our procurement activities.
3. In FTA funded contracts where subcontracting occurs, the contracts shall be written to allow for onsite visits to any DBE or small business subcontractor to ensure compliance with all DBE regulations and verification of the existence of the identified DBE. Any inspection should include a written certification of the inspections performed, which could include a review of contracting records with the prime contractor, records of bills and payments, and monitoring of work sites on which DBEs are performing contracted work. Site inspections should occur if a prime contractor reports issues with a DBE subcontractor, if a DBE subcontractor submits a complaint about a prime contractor, if the City feels there may be an issue with either the contractor or subcontractor, or on a random basis as needed. In the situation where the DBE is the main contractor, the completion of the project to the satisfaction of the scope of work shall be considered compliance and no onsite inspection shall be required unless it appears the contractor is not satisfactorily complying with the identified scope of work.
4. Transit staff will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award and report them on the TrAMS website.

### 3.8 SMALL BUSINESS PARTICIPATION

City of DeKalb 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):

#### 3.8.1 Definition of Small Business

- City of DeKalb shall define a small business according to the definition developed by the U.S. Small Business Administration  
([http://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table.pdf](http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf))

#### 3.8.2 Verification of Small Business Status

- In order to be considered as a small business in any City of DeKalb Transit Advertised project, the firm must be registered as a small business in the SAM (*see Small Business Directory for definition*).
- When issuing an IFB or RFP, Transit staff shall search the SAM database to identify all small businesses in Illinois, which may be able to bid as a prime or subcontractor for the project according to the applicable NAICS codes identified. Those companies shall then be contacted directly about the project to allow them a chance to bid. Transit staff shall keep a list of all contacted businesses for each project and identify if any of them bid on the project.
- All bids, which are submitted, shall identify the following information for the Contractor and all subcontractors:
  - Number of employees broken down by specialty [*specialties shall be identified at the time the RFP is written as different businesses will have different specialties*]
  - Identify if firm is identified as a small business by any organization other than the SAM [*i.e. US Small Business Association, IDOT, etc.*]
  - Identify if firm is registered as an Illinois DBE and when that registration expires.
  - Transit staff shall be required to follow up on any registration as a small business or DBE to ensure the information they are providing is accurate.

### 3.9 MECHANISM TO ALLOW DBE & SMALL BUSINESS PARTICIPATION

- **FTA funded Contracts Under \$100,000**
  - The majority of all FTA funded contracts [excluding the purchase of transit buses and providing operating assistance to Transdev Services Inc. for public transit in the DeKalb region] are smaller contracts under \$100,000. Contracts of this size usually are not profitable unless the demands of labor

or extent of time needed to complete project is limited. This allows small businesses to compete at an equal level with larger businesses, as larger businesses must downsize the resources, they allocate towards the project to remain profitable.

- **FTA funded Contracts \$100,000 and above**

- Staff shall review the type of project to identify if there are ways to unbundle the project into smaller pieces to allow opportunities for DBEs and small businesses if such unbundling is economically feasible. Based on the types of projects usually implemented by DeKalb, the following opportunities may be applicable:
  - Purchase of pre-made equipment (bus shelters, software, office hardware, security apparatus, etc.). These purchases may exceed \$100,000 due to the quantity of product ordered, rather than the complexity or employee capability of the firm. In this situation, smaller firms that make or sell the desired products can compete as they already have the systems set up to sell the needed products. Suggestions for this situation include:
    - First, identify if there are already DBE or small businesses, which already manufacture the products City of DeKalb is looking to acquire. In this situation, those firms shall be made aware of the bid and allowed to competitively bid with all other firms.
    - If no manufacturing firms are identified, bid out the contract to appropriate supplier firms, identify possible DBE and small business firms, which may be able to compete.
    - In some situations, the product may be so specific that only a few firms may produce item (example: specialized software or hardware). In this situation, staff should make the best effort to identify possible DBEs or small businesses, but ultimately participation may be impossible. Staff should maintain a paper trail to document efforts to identify DBEs and small businesses.
  - Construction and Service Projects. If a larger construction project should be performed, the project will be considered for various strategies to ensure participation by small business and DBE firms. Options can include:
    - Unbundle the contract into smaller segments that would be of the size and scope that small businesses can actively compete with larger firms in the bid for the individual projects if the economy of buying a larger volume purchase is not lost.
    - If the project does not lend itself to unbundling, the RFP shall be written to investigate the bidder to provide specific subcontracts appropriate for small businesses.
  - Planning / Architecture / Engineering Studies. Transit and transportation Planning / Architecture / Engineering studies tend to be specialized in nature with a limited number of firms, small or large, who perform such studies. For such projects, staff shall:
    - First, identify if there are already DBE or small businesses, which can perform such studies. In this situation, those firms shall be made aware of the bid and allowed to competitively bid with all other firms.
    - Given a rather limited field of firms dedicated to transportation studies and plans, there will be no mandatory small business or DBE inclusion requirements. Issued RFPs shall include documented outreach to DBE and small business firms as part of the scoring system to select a bidder.
    - In some situations, the study may be so specific that only a few firms may perform such studies. In this situation, staff should make the best effort to identify possible DBEs or small businesses, but ultimately participation may be impossible. Staff should maintain a paper trail, such as copies of emails, advertisements, posts to social sites, etc. to document efforts to identify DBEs and small businesses.

- **FTA Funded Large Scale Projects (typically approaching a million dollars or more)**

- City of DeKalb and Transdev Services Inc. are looking at a few larger projects including the building of a new transit facility. As staff does not have the resources to manage all the FTA requirements that are required on a large-scale projects, projects of this size will require the following:
  - The construction bid will require mandatory DBE and small business goals.

- All proposals shall include a section on identification of all federal and state regulations and reporting requirements are applicable to project. This will be used to ensure that any bidder shall have a comprehensive knowledge of all required regulations.
  - The bidder must identify a specific person who shall be responsible to provide all federal, state, and local reporting requirements and oversight of all staff and sub-contracted staff to ensure compliance with all federal regulations (this oversight does not replace the oversight requirements of DeKalb staff, but supplements it).
  - For purchases where identification of DBEs and small businesses is not applicable (such as land purchases), staff should include in the DBE folder for the contract why the purchase was not applicable to DBE procurement procedures.
- **FTA Funded Transdev Services Inc Operating Assistance.** As sub-recipient of FTA 5307 operating assistance funds, Transdev Services Inc. shall be subject to the following requirements:
  - Transdev Services Inc. must either submit their own DBE / Small Business Participation Plan to the City of DeKalb or adopt this plan as their own plan within 60-days of the final non-conditional approval of the City Plan by the Federal Transit Administration (FTA).
  - Transdev Services Inc shall be required to meet the DeKalb DBE goal for DBE participation based on the amount of FTA Operating Assistance funds provided by the City of DeKalb.
  - Transdev Services Inc shall be required to provide all needed DBE and small business funding information required by the FTA in order to submit DeKalb's semi-annual DBE report in TrAMS.
  - All contracts bid or issued shall be subject to the same requirements as is required by DeKalb as identified in this document.
- **FTA Funded Purchase of Transit Bus Fleet Vehicles**
  - It shall be the policy of the City of DeKalb to purchase transit fleet vehicles from vendors who are participants in the FTA's Transit Manufacturers DBE program. As this program is directly overseen by the FTA, DeKalb FTA funds for purchasing transit fleet vehicles shall be exempt from DeKalb DBE goals.
  - In situations where transit vehicles are purchased from vendors not on the FTA manufacturers list, the vendor shall be subject to all DBE and small business goals and regulations identified in this document.

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

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### 4.1 SET-ASIDES OR QUOTAS

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

### 4.2 OVERALL GOALS

In accordance with Section 26.45, City of DeKalb will submit its triennial overall DBE goal to *the relevant DOT operating administration [FTA]* on August 1 of the year specified by [FTA].

City of DeKalb 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 City of DeKalb to establish overall DBE goals is as follows:

- Using the Illinois UCP most recent listing, transit staff shall identify all DBEs who serve Illinois District 3 [See **Appendix C** for map of IDOT Districts]
- The list shall then be broken down by Specialty to identify overall DBE goals. The following is a list of current specialties, but shall be reviewed annually to identify if specialties should be modified to more accurately identify applicable projects in the DeKalb Urbanized Area region:
  - Trucking
  - Manufacturing
  - Suppliers
  - Professional

- Construction
- Architecture
- Financial
- Miscellaneous
- Each firm in the listing shall be identified by the specific types of projects they perform as identified by the US Census North American Industry Classification System (NAICS) code (see <http://www.census.gov/eos/www/naics/> for more information on the classification system). The total number of firms under each NAICS code shall be added together to identify the total number of firms per specialty.
- Based on firm NAICS codes, the MSA Business Patterns (NAICS) shall be used to identify the number of firms in the Chicago and Rockford MSAs per NAICS code. From that information, the total number of firms per NAICS Code shall be matched to the DBE NAICS code to identify the total number of firms in the DeKalb Service Area for each code.
- Based on specialty the total number of firms identified, as DBE shall be divided by the total number of firms in the DeKalb service area to identify the DBE Goal.
- This process must conform to the most current options described in Section 26.45 of the DBE regulation.

The City of DeKalb overall goal submission to DOT 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.
- The City of DeKalb will begin using our overall goal on August 1 of the specified year, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by [FTA].

### **4.3 GOAL SETTING AND ACCOUNTABILITY**

If the awards and commitments shown on City of DeKalb 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. Identify by project all DBEs and small businesses that were contacted to bid on projects [*if there are no applicable DBEs in the region that should also be identified*];
2. If none of the contact DBEs or small businesses bid on a project, a random sample of contacted businesses shall be asked to identify reasons why they did not apply;
3. Establish specific steps and milestones to correct the problems identified in the analysis.

### **4.4 TRANSIT VEHICLE MANUFACTURERS GOALS**

Due to its smaller size, City of DeKalb has adopted the policy that all transit vehicles shall only be purchased via the IDOT or other State DOT procurement programs, and only FTA approved Transit Vehicle Manufacturers shall be used for procurement. As these manufactures have developed DBE goals in direct cooperation with the FTA, the City of DeKalb shall subtract the amount of funds spent on transit fleet procurement from its overall DBE goal.

[Note: this element applies only to FTA recipients' programs.]



## 4.5 MEETING OVERALL GOALS/CONTRACT GOALS

City of DeKalb will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation.

Race-neutral means include, but are not limited to, the following:

- 1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
- 2) As DBEs are certified through IDOT's DBE program, bidders and subcontractors should seek assistance from IDOT and their DBE program if facing limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- 3) Promote programs provided by IDOT, FTA, FHWA, and others as they become available through website resources. These resources can include:
  - a) Providing technical assistance and other services;
  - b) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
  - c) Supportive services programs provided to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
  - d) Services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
  - e) Programs to assist new, start-up firms, particularly in fields in which DBE participation has historically been low; and
  - f) Help for DBEs and small businesses to develop their capability to utilize emerging technology and conduct business through electronic media.
- 4) The City of DeKalb DBE information shall be available for all to view on the City of DeKalb's website ([www.cityofdekalb.com](http://www.cityofdekalb.com)) and printed upon request.

## 4.6 GOOD FAITH EFFORTS PROCEDURES

### Award of Contracts with a DBE Contract Goal: 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, City of DeKalb will not award the contract to a bidder who does not either:

- (1) meet the contract goal with verified, countable DBE participation; or
- (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

### 4.6.1 Evaluation of Good Faith Efforts:

It shall be the responsibility of the City Engineer and his staff to review all bids to determine if any and all bids are responsive and responsible [*Note: Recipients can choose either approach*].

The process used to determine whether good faith efforts have been made by a bidder are as follows:

See **Appendix F: City of DeKalb Responsible and Responsive Definition** for City of DeKalb regulations on identifying responsible bidders.

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

#### **4.6.2 Information to be submitted:**

City of DeKalb treats bidder/offeree's compliance with good faith efforts requirements as a matter of *[responsiveness]* or *[responsibility]*. Each solicitation for which a contract goal has been established will require the bidders/offerees to submit the following information:

1. If the DBE is selected as the sole contractor with no subcontractors, the scope of work in its entirety shall the description of work for the DBE and the dollar amount of the contract shall be allocated towards the DBE Goal.
2. Should the project have subcontractors, the Prime Contractor shall supply the following information:
  - a. The names and addresses of DBE firms that will participate in the contract;
  - b. A description of the work that each DBE will perform;
  - c. The dollar amount of the participation of each DBE firm participating;
  - d. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
  - e. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
  - f. If the contract goal is not met, evidence of good faith efforts.

#### **4.6.3 Administrative Reconsideration:**

Within 30 days of being informed by The City of DeKalb that it is not *[responsive or responsible]* because it has not documented sufficient good faith efforts, a bidder/offeree may request administrative reconsideration. Bidder/offerees should make this request in writing to the following reconsideration official:

Mike Neuenkirchen, 1216 Market St, DeKalb, IL 60115, (815) 748-2370,  
michael.neuenkirchen@cityofdekalb.com

The reconsideration official will not have played any role in the original determination that the bidder/offeree did not document sufficient good faith efforts.

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. The bidder/offeree 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. We 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. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

#### **4.6.4 Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals:**

City of DeKalb requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without the City of DeKalb's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to the City of DeKalb its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the City of DeKalb prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise the City of DeKalb of why it objects to the proposed termination. *[Note: the five-day period may be reduced if the matter is one of public necessity [e.g., safety].]*

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

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our legal 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 legal officer may issue a termination for default proceeding.

#### **4.6.5 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 City of DeKalb 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 [insert goal according to specific type of project] 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) If the bidder/offeror is themselves a DBE
- (2) the names and addresses of DBE firms that will participate in the contract;
- (3) a description of the work that each DBE firm will perform;
- (4) the dollar amount of the participation of each DBE firm participating;
- (5) Written documentation of the bidder/offeror’s commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- (6) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (5); and
- (7) If the contract goal is not met, evidence of good faith efforts.

*[Note: When a contract goal is established pursuant to the recipient’s DBE program, the sample bid specification can be used to notify bidders/offers of the requirements to make good faith efforts. The forms found at **Appendix H.: Demonstration of Good Faith Efforts Forms** can be used to collect information necessary to determine whether the bidder/offeror has satisfied these requirements. The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.]*

#### **4.7 COUNTING DBE PARTICIPATION**

The City of DeKalb will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

## **5 SUBPARTS D & E– CERTIFICATION**

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### **5.1 UNIFIED CERTIFICATION PROGRAMS**

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

Pursuant to the requirements of the federal regulations, 49 CFR part 26, all recipients of federal-aid must implement a “one-stop” certification process for Disadvantaged Business Enterprises (DBEs). Because of this requirement, the following five state agencies, the Illinois Department of Transportation (IDOT), City of Chicago, CTA, Metra, and Pace, have established the Illinois Unified Certification Program (IL UCP). Information on the IDOT UCP program can be found at <http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>.

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

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### **6.1 INFORMATION, CONFIDENTIALITY, COOPERATION**

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

Notwithstanding any contrary provisions of state or local law, we 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.

#### **6.1.1 Monitoring Payments to DBEs**

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

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

## Appendix A. **LIST OF ATTACHMENTS**

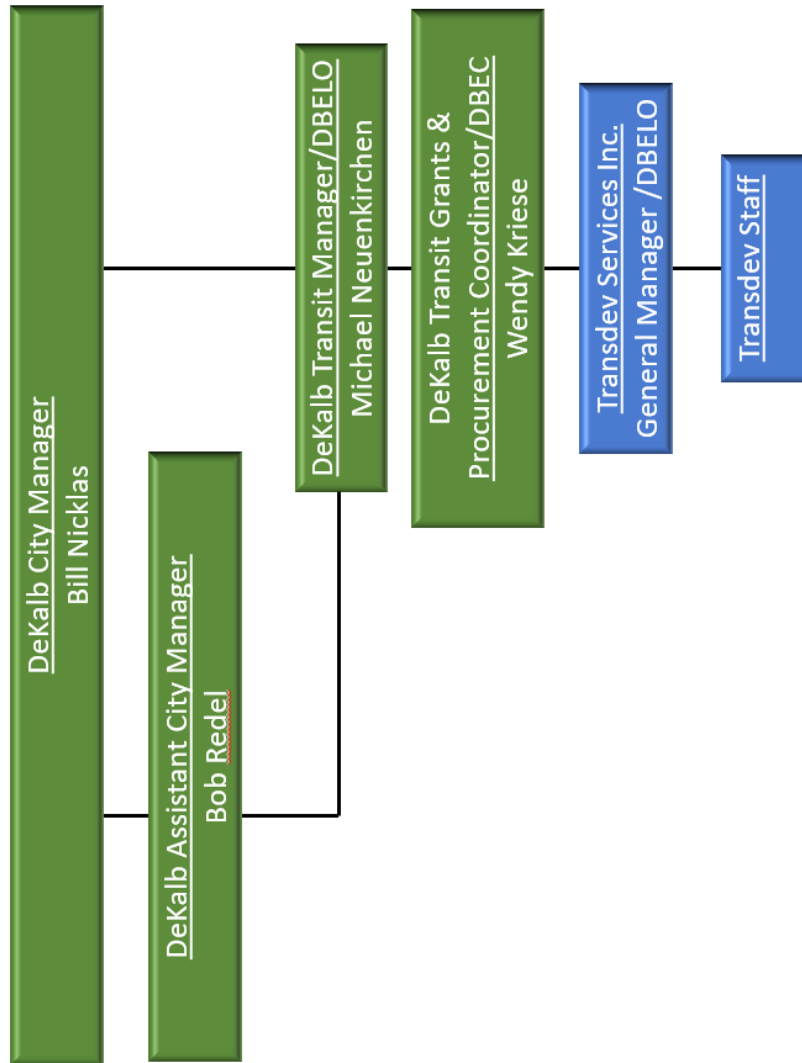
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The following are the attachments to the DBE Program that should be reviewed and updated annually.

- **Appendix B:** Organization Chart
- **Appendix C:** IDOT District Map
- **Appendix D:** DBE Directory
- **Appendix E:** Monitoring and Enforcement Mechanisms/Legal Remedies,
- **Appendix F:** City of DeKalb Responsible and Responsive Definition
- **Appendix G:** DBE Goal Calculations
- **Appendix H:** Demonstration of Good Faith Efforts Forms
- **Appendix I:** Certification Forms
- **Appendix J:** Regulations: 49 CFR Part 26

## Appendix B. ORGANIZATION CHART

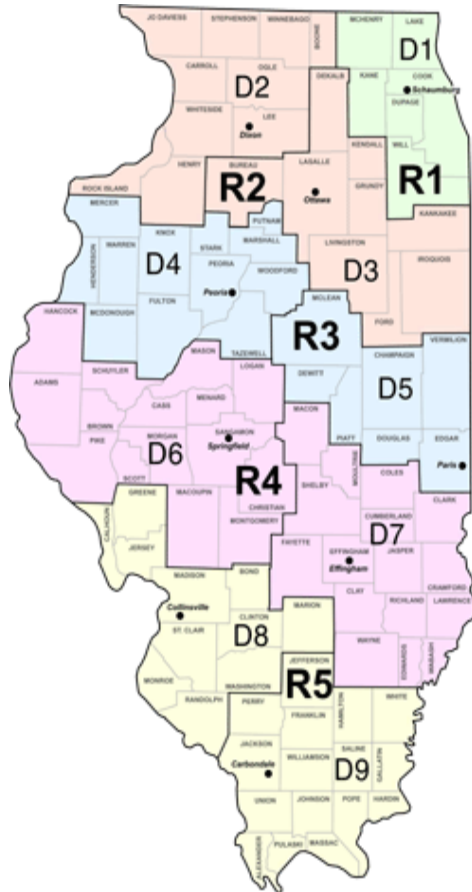
*City of DeKalb DBE Organizational Chart*



## Appendix C. IDOT DISTRICT MAP

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Figure 1. IDOT District Map



The DeKalb Urbanized Area is located within IDOT District 3 and all DBE firms selected are those indicating they will provide services to agencies and firms located in District 3.

## Appendix D. **DBE DIRECTORY**

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See <http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index> for link to the Directory of DBE firms serving District 3.



## Appendix E. MONITORING AND ENFORCEMENT MECHANISMS

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### A.E.1 MONITORING AND ENFORCEMENT MECHANISMS/LEGAL REMEDIES

In addition, all procurement performed by City of DeKalb is subject to the FTA Third Party Contracting Guidance ([http://www.fta.dot.gov/legislation\\_law/12349\\_8641.html](http://www.fta.dot.gov/legislation_law/12349_8641.html)), including, but not limited to, the following:

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

### A.E.2 FEDERAL TRANSIT ADMINISTRATION ADDENDUM REQUIRED IN ALL CITY OF DEKALB CONTRACTS:

This Federal Transit Administration Addendum ("Addendum") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of DeKalb ("City") and \_\_\_\_\_ ("Contractor").

Whereas, Contractor has been retained to work on City of DeKalb projects which are proposed to receive funding, grant or technical assistance from the Federal Transit Administration ("FTA"), namely: \_\_\_\_\_ ("the Project"); and,

Whereas, City and Contractor agree that compliance with this Addendum and compliance with all FTA rules, regulations or statutes is required as a component of working on the Project; and,

Whereas, in consideration of the City agreeing to hire and compensate Contractor for the Project and other good and valuable consideration, the adequacy and receipt of which are acknowledged, Contractor agrees and covenants that it shall comply with all applicable requirements contained herein.

#### A.E.2.1 Timely Payment:

The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from the City. In addition, the Contractor (choose one):

- may not hold retainage from its subcontractors.
- is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the City and Contractor's receipt of the partial retainage payment related to the subcontractor's work.

#### A.E.2.2 Subcontractor Agreements:

The Contractor agrees that it shall maintain a written contract with any subcontractors, which subcontract shall refer to and incorporate the terms of this Addendum by reference. Each such subcontract shall require each Disadvantaged Business Enterprise ("DBE")/small business firm/subcontractor to contact the City and notify the City when the DBE/small business firm/subcontractor receives payment from the Contractor, and shall require each DBE/small

business firm/subcontractor to notify the City if such subcontractor is not paid within 30 days of the date on which the Contractor receives payment for the subcontractor's work from the City. Contractor and DBE/small business/subcontractors shall all affirm and commit to compliance with all applicable FTA rules, regulations, and statutes.

**A.E.2.3 Notice of Subcontracts:**

The Contractor shall identify all activities to be completed by DBEs, small business firms, or subcontractors, in writing, to the City, after contracting with such entities and before they begin completion of work on the Project. The City shall have the authority to review the qualifications of each subcontractor and to inspect the work of the subcontractor to confirm that all required work is being performed. Contractor shall cooperate with the City in providing access for such inspections. Nothing contained herein shall operate to waive or limit the primary obligation of the Contractor to manage and supervise all subcontractors and to be responsible for their performance of work related to the Project. Further, nothing contained herein shall create any duty or obligation on the part of the City to review the work methods or safety precautions employed by the Contractor or Subcontractor, nor shall the City be responsible for the means or methods of performance of work relating to the Project.

**A.E.2.4 Notice of Termination or Default:**

The Contractor must promptly notify the City, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City.

**A.E.2.5 Compliance Monitoring:**

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

- a) Contractor and the City will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR 26.109.
- b) The City will consider similar action under our own legal authorities, including responsibility determinations in future contracts. The regulation, provisions, and contract remedies available to in the events of non-compliance with the DBE regulation by a participant in the City's procurement activities include: actions for breach of contract; prosecution for any criminal activity or violation of City Code or Ordinance; enforcement of claims against any retainage, bond, surety or insurance provided by Contractor or any subcontractor; legal action on any City cause of action created under the applicable provisions of state or federal law; revocation, cancellation or termination of the contract between the City and the Contractor for the Project; any other action permitted at law or in equity; or, any self-help measures that the City may lawfully undertake to rectify the default.
- c) The City and Contractor will also jointly provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This compliance monitoring shall include the following steps:

- (1) The Contractor shall, prior to undertaking work on the Project, provide the City with an accurate list of all DBEs who are or who are anticipated to be subcontractors working on the project, which list shall include an accurate, detailed description of all work to be done by each DBE. This list shall be updated any time there is a change in the DBEs working on the project or a change in the allocation of work between or among DBEs. The Contractor shall provide this list with a sworn certification that it is true and accurate.
- (2) The City shall review the sworn DBE list provided by the Contractor and confirm its accuracy. The City may request, and Contractor shall provide, copies of any subcontracts or other contractual documentation between Contractor and any subcontractors to confirm the scope of work for each.
- (3) The Contractor shall notify the City of the dates/times when the DBEs are anticipated to be performing each contractual task related to the Project, so that the City can verify DBE participation in the Project, and can verify that the DBEs identified on the sworn list are participating in the project. This shall be performed as a component of construction inspection and supervision relating to the project, or may be performed as a standalone compliance verification process if the City determines the same to be necessary.
- (4) On all payment notifications required to be provided to the City under this agreement, the Contractor shall identify each DBE receiving payment, and any DBE receiving payment shall indicate its status as a DBE on its payment notifications.
- (5) Contractor and its subcontractors shall agree to comply with any further measures that the City determines to be necessary or appropriate to impose for the purpose of verifying DBE participation in the Project.
- (6) The Contractor shall provide and the City shall maintain a running tally of actual payments to DBE firms for work committed to them at the time of contract award, verified at the time of any payments to Contractor for the Project, and verified at the time DBE firms certify to the City that they have been paid, as required under Section 2 above.

#### **A.E.2.6 Other Terms:**

The City and Contractor agree and acknowledge that this Agreement is a binding addendum and supplement to any other contractual undertakings between the City and Contractor relating to the Project, and affirm that but for the execution of this Addendum, the City would not be undertaking the Project or retaining the Contractor. In the event that Contractor identifies a conflict between this Addendum and any term in the other contractual or regulatory undertakings between the City and Contractor, the Contractor shall refer such conflict to the City, and the City shall, in its absolute and sole discretion, determine which conflicting term shall prevail, in order to ensure compliance with all applicable laws and regulations. In the event that applicable FTA regulations change during the course of the Project, the City, and Contractor agrees that they shall negotiate in good faith to prepare an amendment to this Addendum, if required by the change in regulations.

#### **A.E.2.7 Penalty:**

If the Contractor (or any DBE, small business firm or subcontractor working under the Contractor) fails to satisfy any obligation contained herein: a) further progress payments to the Contractor shall be withheld until the default is cured to the City's satisfaction; b) if the Project is fully paid, the Contractor may be required by the City to return a specified percentage of the Project cost, as determined in the City's sole and absolute discretion, that relates to the scope and magnitude of the default.

City of DeKalb

\_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

Contractor

\_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

## Appendix F. CITY OF DEKALB RESPONSIBLE AND RESPONSIVE DEFINITION

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### A.F.1 RESPONSIBLE BIDDER; LOCAL PREFERENCE (10-16)

Unless otherwise permitted under the provisions of Chapter 54 of this Code, the City will award contracts in an amount exceeding \$20,000 for construction on City property, to a responsible bidder, as defined herein. (10-16)

#### A.F.1.1 Responsible Bidder.

“Responsible bidder for contracts for construction on City property” shall mean a bidder on a proposed contract in an amount exceeding \$20,000 for the demolition, removal, erection, construction and/or repair of infrastructure or structure located under, within or upon property owned by the City of DeKalb, which bidder meets all of the job specifications for that contract and the following applicable criteria: (10-16)

- (a) Is in conformance with all applicable laws which are a prerequisite to doing business within the State of Illinois;
- (b) Provides evidence of its Employer Tax Identification Number (FEIN) or, for individuals, his/her Social Security Number;
- (c) Provides evidence of compliance with the provisions of Section 2000(e) of Chapter 21, Title 42 of the United States Code and federal Executive Order Number 11246, as amended by Executive Order Number 11375, known as the Equal Opportunity Employer provisions;
- (d) Is in compliance with all provisions of the Illinois Prevailing Wage Act, as may be amended from time to time, including wages, medical and hospitalization insurance and retirement benefits for those trades covered in the Act, and shall turn in all certified payrolls as required by the Act;
- (e) Certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or City of DeKalb, nor has the bidder made an admission of guilt of such conduct which is a matter of record, nor has an official, agent or employee of the bidder committed bribery or attempted bribery on behalf of the bidder and pursuant to the direction or authorization of a responsible official of the bidder;
- (f) Certifies that it is not barred from bidding on the contract as a result of a conviction for the violation of State law prohibiting bid-rigging or bid-rotating;
- (g) Certifies that it shall agree to abide by the terms and conditions of the City of DeKalb’s Drug Free Workplace Policy during the life of the contract;
- (h) Certifies that it does not discriminate on the basis of race, creed, color, sex, religion, age, national origin, or ancestry, physical or mental handicap, marital status, or matriculation in its employment practices.
- (i) Certifies that it is in compliance with and/or shall conform to the sexual harassment policy set forth in 5 ILC, 5/2-105 (A) (4) regarding sexual harassment:

“Every party to a public contract and every eligible bidder shall have a written sexual harassment policy that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the vendor’s internal complaint process including penalties; (v) the legal recourse, investigate and complaint

process available through the Illinois Department of Human Rights and the Illinois Human Rights Commission; (vi) directions on how to contact the Illinois Human Rights Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. A copy of the policies shall be provided to the Department upon request.”

- (j) Provides certificates of insurance for the insurance coverage set forth in the specifications for the contract, naming the City as an additional insured;
- (k) Is not a debtor to the City of DeKalb. For purposes of this subparagraph, a debtor is defined as having outstanding fees, water bills, sales tax or restaurant/bar tax payments that are 30 days or more past due, or has outstanding weed or nuisance abatements or liens, failure to comply tickets or parking tickets that are not in dispute as to their validity and are not being challenged in court or other administrative process;
- (l) For those projects involving street improvements, including but not limited to: alleys, pavement and curb work, traffic signal installation or sidewalks, each bidder shall be prequalified with the Illinois Department of Transportation and shall satisfy the City as to its ability, financial and otherwise, to carry out and successfully complete the work;
- (m) For those projects involving demolitions, water tower painting or the purchase of electrical items to be installed, each bidder shall have a minimum of five (5) years of experience with similar work and shall satisfy the City as to its ability, financial or otherwise, to carry out and successfully complete the work.

#### **A.F.1.2 Compliance of Requirements**

The bidder shall provide evidence to the City of compliance with all of the requirements of Section 54.14a), in accordance with the bid specifications, the contract and/or the applicable ordinance, law, regulation, or statute. (10-16)

#### **A.F.1.3 Exempted from Provisions**

Exempted from the provisions of this section on responsible bidders are any contracts funded in full or in part with state and/or federal monies. Such contracts shall be controlled by the applicable state and/or federal specifications and requirements. (10-16)

\*Note: The City of DeKalb local preference regulations are nullified on all contracts funded with Federal DOT funds.

## Appendix G. DBE GOAL CALCULATIONS

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The City of DeKalb submits its Disadvantaged Business Enterprise (DBE) Overall Goal Setting Methodology Report to the Federal agencies listed in the DBE Program for review and approval. The report must be prepared in compliance with 49 CFR Part 26.45, Participation by Disadvantaged Business Enterprises.

These regulations require that the overall goal for Transit Services be prepared using a two-step process whereby the recipient must first determine a base figure for the relative availability of certified and non-certified minority and woman-owned business enterprises in the relevant market area. Next, the recipient must examine all relevant evidence to determine what adjustment to the base figure, if any, is needed in order to arrive at an overall goal for Transit Services. The final adjusted figure is the recipient's overall goal, and represents the proportion of federal funding the recipient is expected to allocate to DBEs during the subsequent three federal fiscal years for Transit Services.

Once the adjusted overall goal for Transit Services is determined, the recipient is required to determine what portion of the goal will be met by race and gender-neutral measures, those measures must be utilized. In contrast, if the recipient determines it cannot achieve the entire overall goal using only race and gender-neutral measures, it must establish a race and gender-conscious portion of the overall goal for Transit Services.

## **Appendix H. DEMONSTRATION OF GOOD FAITH EFFORTS FORMS**

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### **A.H.1 FORMS 1 & 2 FOR DEMONSTRATION OF GOOD FAITH EFFORTS**

*[Forms 1 and 2 should be provided as part of the solicitation documents.]*



## A.H.2 DBE FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

	The bidder/offer is a registered DBE and is identified as a certified DBE in the Illinois UCP (100% of this project performed by bidder/offer and funded by City of DeKalb FTA 5307 grant funds shall be assigned to the City of DeKalb DBE goal). If identified as a DBE in another program, please identify here:  _____
For Contracts for which a DBE participation goal has not been set (check applicable):	
	<p>Please check the appropriate category (only one) for small business participation in this proposal:</p> <p><input type="checkbox"/> The bidder/offer is performing all activities identified in the scope of work in-house and <b>IS NOT</b> identified as DBE in any program.</p> <p><input type="checkbox"/> The bidder/offer is performing all activities identified in the scope of work in-house <b>IS</b> identified as a DBE (provide a copy of the _____ for each DBE).</p> <p><input type="checkbox"/> The bidder/offer is subcontracting some activities and there is a _____% small business utilization on this bid/proposal (provide a copy of the <a href="#">Uniform Certification Application</a> for each DBE).</p> <p><input type="checkbox"/> The bidder/offer is subcontracting some activities, however, there is no small business utilization on this bid/proposal.</p>
For Contracts for which there is no subcontracting opportunities:	
	<input type="checkbox"/> The bidder/offer performing all activities identified in the scope of work in-house and therefore is not subject to DBE subcontractor goals
For Contracts where a DBE subcontracting goal is required:	
	<input type="checkbox"/> The bidder/offeror is committed to a minimum of _____% DBE utilization on this contract (if contractor is a registered DBE, their work performed can be considered as part of the DBE goal).
	<input type="checkbox"/> The bidder/offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _____% DBE utilization on this contract and shall submit documentation demonstrating good faith efforts in seeking DBE participation.

Name of bidder/offeror's firm: \_\_\_\_\_

DUNS No. \_\_\_\_\_

By \_\_\_\_\_ Title  
(Signature)

## A.H.3 DBE FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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Name of DBE firm: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

---

### Type of DBE Firm:

Description of work to be performed by DBE firm:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above estimated dollar value of this work is \$ \_\_\_\_\_.

### Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Signature) Title

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor.)

#### A.H.4 SMALL BUSINESS FORM 1: SMALL BUSINESS CERTIFICATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

(Please Check)	The bidder/offer has an active registration in the System for Award Management (SAM) on-line registrant database for the U.S. Federal Government (note: registration on the SAM is required to be considered in this IFB/RFP).
	The SAM has determined the bidder/offer qualifies as a small business under the following NAICS codes: _____ _____
For Contracts for which a small business participation goal has not been set (check applicable):	
Please check the appropriate category (only one) for small business participation in this proposal: <input type="checkbox"/> The bidder/offer is performing all activities identified in the scope of work in-house and <b>IS NOT</b> identified as a small business in the SAM. <input type="checkbox"/> The bidder/offer is performing all activities identified in the scope of work in-house <b>IS</b> identified as a small business in the SAM. <input type="checkbox"/> The bidder/offer is subcontracting some activities and there is a _____% small business utilization on this bid/proposal. <input type="checkbox"/> The bidder/offer is subcontracting some activities, however, there is no small business utilization on this bid/proposal.	
For Contracts where a Small Business _____% subcontracting goal is required (check applicable):	
	<input type="checkbox"/> The bidder/offeror has committed to a _____% small business utilization on this contract (if contractor is a registered small business, their work performed can be considered as part of the DBE goal).
	<input type="checkbox"/> The bidder/offeror is unable to meet the small business goal of _____%, but is committed to a minimum of _____% small business utilization on this contract and is submitting documentation demonstrating good faith efforts to meet goal.

Name of bidder/offeror's firm: \_\_\_\_\_

DUNS No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

## A.H.5 SMALL BUSINESS FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: \_\_\_\_\_

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

City: \_\_\_\_\_ State: WI Zip: 544

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Name of Small Business Firm: \_\_\_\_\_

DUNS # of Small Business Firm: \_\_\_\_\_

Registered NAICS Codes: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

Annual Average Gross Receipts: \$ \_\_\_\_\_ Annual Average Employment: \_\_\_\_\_

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### Type of Small Business Firm:

☐ SBA Certified 8A Program Participant

☐ SBA Certified HUB Zone Firm

☐ SBA Certified Small Disadvantaged Business

☐ Self-Certified Small Disadvantaged Business

☐ Service Disabled Veteran Owned

☐ AbilityOne (formerly JWOD) Non-Profit Agency

☐ Veteran Owned Business

☐ Woman Owned Business

☐ Women-Owned Small Business (WOSB)

☐ Economically Disadvantaged Women-Owned Small Business (EDWOSB)

Description of work to be performed by small business firm:

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The bidder/offeror is committed to utilizing the above-named small business firm for the work described above estimated dollar value of this work is \$ \_\_\_\_\_.

## Affirmation

The above-named small business firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Signature) Title

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each DBE subcontractor and for bidder/offeror also, if a registered small business.)

## Appendix I. CERTIFICATION FORMS

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### A.I.1 CERTIFICATION FORMS

City of DeKalb does not certify DBEs but rather uses the list of DBEs identified in the IDOT UCP. To register as DBE in Illinois you should register on the applicable agency websites identified here:

- [IDOT](http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index) (217-782-5490) <http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>
- [City of Chicago](http://www.cityofchicago.org/city/en/ofinterest/bus/mwdbe.html) (312-742-0766) <http://www.cityofchicago.org/city/en/ofinterest/bus/mwdbe.html>
- [Pace](http://www.pacebus.com/sub/purchasing/dbe_program.asp) (847-228-4257) [http://www.pacebus.com/sub/purchasing/dbe\\_program.asp](http://www.pacebus.com/sub/purchasing/dbe_program.asp)
- [CTA](http://transitchicago.com) (312-681-2601) [Procurement: Vendor Registration - CTA \(transitchicago.com\)](http://transitchicago.com)
- [Metra](#) (312-322-6323) [DBE Resources | Metra](#)

## Appendix J. FEDERAL REGULATIONS

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### **A.J.1 REGULATIONS: 49 CFR PART 26**

The text of 49 CFR Part 26 can be found at the link:

[http://www.access.gpo.gov/nara/cfr/waisidx\\_08/49cfr26\\_08.html](http://www.access.gpo.gov/nara/cfr/waisidx_08/49cfr26_08.html)