

# INSTRUCTION SHEET ON COUNTING PROPOSED DBE PARTICIPATION & PROPERLY COMPLETING DBE SCHEDULES C & D

## FOR CREDIT TOWARD THE DBE CONTRACT GOAL, COUNT ONLY:

- PARTICIPATION by DBEs certified by the Illinois Unified Certification Program (IL UCP)
- PARTICIPATION by DBEs within their IL UCP certified Area of Expertise
- PARTICIPATION by DBEs directly related to this procurement/proposal

## REFER TO:

- Bid Document/Contract Document --
  - Special Conditions, Disadvantaged Business Enterprise Commitment, IV. Counting DBE Participation Toward the Contract Goal; and
- USDOT Regulations --
  - 49 CFR Part 26.55- How is DBE participation counted toward goals?

Schedules C and D are reviewed to evaluate and determine DBE credit for proposed DBE participation. The information provided must be in agreement between Schedule C and D. The **Schedules must be completely filled out** and the **Description of Work must be detailed**. See [Schedule C](#) and [Schedule D](#) Checklists.

## EXAMPLES:

If an electrical subcontractor is a DBE Participant, the description 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 firm will be performing, e.g. “Furnish labor, material and equipment to install....” Identify what the firm is providing and/or provide description from the contract specifications.

If an architectural engineering subconsultant is a DBE Participant, the description 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 description 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 description 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.

**The description of the DBE’s proposed subcontracted portion of work must be clearly defined in detail so as to determine whether the DBE firm is performing a commercially useful function as per USDOT Regulation 49 CFR 26.55 (c):**

(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

**INSTRUCTION SHEET ON COUNTING PROPOSED DBE PARTICIPATION  
&  
PROPERLY COMPLETING DBE SCHEDULES C & D (cont.)**

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.

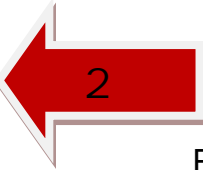
(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.



[NAME OF PROJECT/CONTRACT]



REQUISITION NO.: L##LL#####



SPECIFICATION NO.: CTA #####

DRAWING NO.: None

PROJECT NO.: ###

INSURANCE REQUIRED: None

BID DEPOSIT AMOUNT: None

**INFORMATION:**

**Procurement Administrator:**

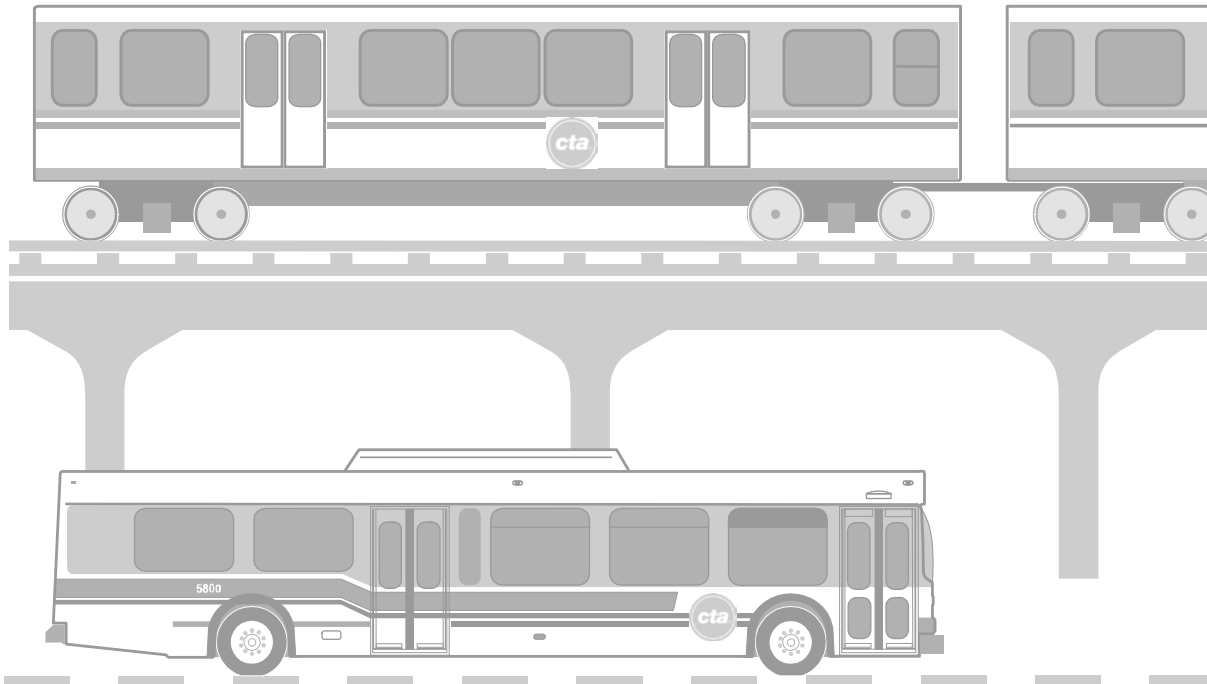
**Phone Number:**

BID PACKAGES TO BE RETURNED TO:

**In Person Drop-off or Delivery Service**

Chicago Transit Authority  
Bid Office - 2<sup>nd</sup> Floor  
567 W. Lake Street  
Chicago, IL 60661-1498

**All Signatures to be sworn before a Notary Public**



ISSUED BY

Purchasing Department, Chicago Transit Authority  
P.O. Box 7560, Chicago, IL 60661-1498  
Marina Popovic, Vice President, Purchasing  
Forrest Claypool, President  
Terry Peterson, Chairman

# DBE Schedule Checklist

## Schedule C

### Letter of Intent from DBE to Perform as Subcontractor, Supplier and/or Consultant

***A completed and signed Schedule C consists of the following elements:***

- 1.** Requisition/Contract Description
- 2.** Requisition/Contract No.
- 3.** DBE Participant Company Name
- 4.** Bidder/Prime Contractor Company Name
- 5.** Date of IL UCP DBE Certification Letter
- 6.** Description/Type of Work (In Detail) (SEE ATTACHED INSTRUCTION SHEET)
- 7.** Quantity/Unit Price, if Applicable
- 8.** Dollar Amount of DBE Contract (Lump Sum Amount for Work or Extended Price for individual Quantity/Unit Price Items) **NOTE: Specify amount Annually or Total Value**
- 9.** (Sub or Grand) Total of above Lump Sum Amount(s) and/or Extended Price(s)
- 10.** Phase (if Applicable) in Which Above-Described Work Will Be Performed

#### ***Sub-Contracting Levels***

- 11.** %    \* of the dollar amount of the DBE's subcontract will be sublet to non-DBE contractors.
- 12.** %    \* of the dollar amount of the DBE's subcontract will be sublet to DBE contractors.

- \* *This is to disclose the % of above-named DBE participant's work to be further subcontracted to others (DBE or non-DBE), not the DBE Participant's % of work on the Bidder's/Prime Contractor's bid/contract.*
- \* *% is to be filled in with a Zero (0) if the above-named DBE Participant will not be further subcontracting any of the work described in this Schedule C.*

- 13.** Signature of Owner, President or Authorized Agent of DBE
- 14.** Printed Name/Title of Owner, President or Authorized Agent of DBE
- 15.** Date Signed
- 16.** Phone Number of Owner, President or Authorized Agent of DBE

#### ***If proposing to perform as a DBE/non-DBE Joint Venture:***

- 17.** Signature of Owner, President or Authorized Agent of non-DBE
- 18.** Printed Name/Title of Owner, President or Authorized Agent of non-DBE
- 19.** Date Signed
- 20.** Phone Number of Owner, President or Authorized Agent of non-DBE
  
- 21.** Completed notarization for Signature of Owner, President or Authorized Agent of DBE Company

**Schedule C:  
LETTER OF INTENT FROM DBE TO PERFORM AS  
SUBCONTRACTOR, SUPPLIER AND/OR CONSULTANT**

*Bidder's or Proposer's failure to submit both pages of this form  
with its bid will result in the bid being rejected in its entirety*

Name of Project/Contract: 1 See Front Page of Bid Document

Requisition No.: 2 See Front Page of Bid Document

Job Order No.: \_\_\_\_\_ N/A

From: 3 DBE Participant Company Name  
(Name of DBE Firm)

To: 4 Bidder/Prime Contractor Company Name and the Chicago Transit Authority  
(Name of Prime Contractor)

The DBE status of the undersigned is confirmed by the attached Letter of Certification from the IL UCP dated 5 Date of IL UCP DBE Certification Letter.  
(If proposing to perform as a DBE/non-DBE Joint Venture, the Letter of Certification from the DBE venturer is attached along with a completed Schedule B and joint venture agreement).

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

<u>Description/Type of Work (In Detail)</u>	<u>Quantity/Unit Price</u>	<u>Dollar Amount of DBE Contract</u>
<u>6 See Instruction Sheet</u>	<u>7 #/\$</u>	<u>8 Lump Sum or Extended Price</u>

Sub (or Grand) Total: \$ 9 Total of Above Amounts  
**(SPECIFY ANNUALLY or TOTAL VALUE)**

**Multi-Phase Project(s).** For those projects that are multi-phase, please indicate the phase in which the DBE will be performing work: 10

**Schedule C:  
LETTER OF INTENT FROM DBE**

**Sub-Contracting Levels**

% 11 of the dollar amount of the DBE's subcontract will be sublet to non-DBE contractors.

% 12 of the dollar amount of the DBE's subcontract will be sublet to DBE contractors.

**NOTICE:** IF THE DBE WILL NOT BE SUB-SUBCONTRACTING ANY OF THE WORK DESCRIBED IN THIS SCHEDULE, A ZERO (0) MUST BE SHOWN IN EACH BLANK ABOVE.

**NOTICE:** IF **ANY** OF THE DOLLAR AMOUNT OF THE DBE'S SCOPE OF WORK WILL BE SUBLET, A BRIEF EXPLANATION AND DESCRIPTION OF THE WORK TO BE SUBLET MUST BE ATTACHED TO THIS SCHEDULE.

**NOTICE:** Any misrepresentation regarding the status of a person or an entity in order to qualify for DBE status may result in conviction for a Class 2 felony, including a penalty for one and a half times the value of the contract. Material misrepresentation on any matter will also be grounds for terminating any contract which may be awarded, and for initiating action under federal or state laws concerning false statements.

The undersigned will enter into a formal written agreement for the above work with you as Prime Contractor, conditioned upon your execution of a contract with the Chicago Transit Authority, and will do so within (5) five calendar days of your receipt of a signed contract from the Chicago Transit Authority.

13  
(Signature of Owner, President or Authorized Agent of DBE)

14  
Name/Title (Print)

15 16  
Date Phone

**If proposing to perform as a DBE/non-DBE Joint Venture:**

17  
(Signature of Owner, President or Authorized Agent of non-DBE)

18  
Name/Title (Print)

19 20  
Date Phone

21 On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-signed Officer

\_\_\_\_\_  
(Name of DBE company)

personally known to me as the persons described in the foregoing Affidavit, acknowledged that h/she executed the same in the capacity therein stated and for the purpose therein contained.

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

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

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

**SEAL**

# DBE Schedule Checklist

## Schedule D DBE Utilization Plan

***A completed and signed Schedule D consists of the following elements:***

- 1.** Requisition/Contract Description
- 2.** Requisition/Contract No.
- 3.** State of
- 4.** County (City) of
- 5.** Title of Affiant (Bidder/Prime Contractor Duly Authorized Representative)
- 6.** Bidder/Prime Contractor Company Name
- 7.** DBE Participant(s) Company Name(s)
- 8.** Description/Type of Work (In Detail) for Each DBE Participant (See Instruction Sheet)
- 9.** Dollar Amount of Each DBE Contract (Sub or Grand) Total from each DBE's Schedule C)
- 10.** Total Dollar Amount for All DBE Contracts Listed (**Specify Annually/Total Value**)
- 11.** Printed or Typed Name of Person Designated as DBE Liaison Officer
- 12.** Phone Number of Person Designated as DBE Liaison Officer
- 13.** Printed or Typed Name of Bidder/Prime Contractor
- 14.** Signature of Affiant
- 15.** Printed or Typed Name and Title of Affiant
- 16.** Date Signed
- 17.** Completed notarization for Affiant of Bidder/Prime Contractor





**Schedule D:  
AFFIDAVIT OF PRIME CONTRACTOR**

I hereby acknowledge that I have been advised of the following: Any misrepresentation regarding the status of a person or an entity in order to qualify for DBE status may result in conviction for a Class 2 felony, including a penalty for one and a half times the value of the contract. Material misrepresentation on any matter will also be grounds for terminating any contract which may be awarded, and for initiating action under federal or state laws concerning false statements.

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

The undersigned will enter into formal agreements with all listed DBE firms for work as indicated by this Schedule D and accompanying Schedules, and will enter into such agreements within five (5) calendar days after receipt of the contract executed by the Chicago Transit Authority. In the event the Prime Contractor cannot meet said five (5) day schedule, it must provide a written explanation for the delay and an estimate date by which the written agreement will be completed. The Prime Contractor designated the following person as their DBE Liaison Officer:

\_\_\_\_\_ 11 \_\_\_\_\_ 12  
(Name - Please Print or Type) (Phone)

I do solemnly declare and affirm under penalty of perjury that the contents of the foregoing document are true and correct, and that I am authorized on behalf of the Prime Contractor to make this affidavit.

\_\_\_\_\_ 13  
(Name of Prime Contractor – Print or Type)

\_\_\_\_\_ 14  
(Signature)

\_\_\_\_\_ 15  
(Name and Title of Affiant – Print or Type)

\_\_\_\_\_ 16  
(Date)

17 On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the

\_\_\_\_\_ (Title of Affiant) \_\_\_\_\_ (Name of Company)

personally known to me as the person described in the foregoing Affidavit, acknowledged that he/she executed the same in the capacity therein stated and for the purpose therein contained.

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

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

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

**SEAL**

## **GUIDANCE CONCERNING GOOD FAITH EFFORTS (49 CFR – 26.53)**

In order to be responsive, a bidder must make good faith efforts to meet the DBE participation goal set forth in the contract. The bidder must document the good faith efforts it made in that regard. Thus, the Bid submitted to the Authority must be accompanied by written documentation prepared by the bidder evidencing all of its sufficient and reasonable good faith efforts toward fulfilling the goal. These efforts must be active steps, and ones, which could reasonably be expected to lead to sufficient DBE participation to meet the contract DBE participation goal. Mere *pro forma* efforts are not acceptable and will be rejected by the General Manager, DBE Program. Good Faith Efforts require that the bidder consider all qualified DBEs, who express an interest in performing work under the contract. This means that the bidder cannot reject a DBE as unqualified unless the bidder has sound reasons based on a thorough investigation of the DBE's capabilities. Further, the DBE's standing within its industry, membership in specific groups, organizations or associations and political or social affiliation (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the contract DBE participation goal. The following list, which is not exclusive or exhaustive, sets forth the types of actions, which indicate good faith efforts on the part of a bidder to meet the DBE goal. The extent and type of actions required will vary depending on such things as industry practice; the time available for submitting a bid and the type of contract involved.

- Attendance at a pre-bid meeting, if any, scheduled by the Authority to inform DBEs of subcontracting opportunities under a given solicitation.
- Advertisement in general circulation media, trade association publications, and minority-focus media for at least twenty (20) days before bids are due. If 20 days are not available, publication for a shorter reasonable time is acceptable.
- Written notification to capable DBEs that their interest in the contract is solicited.
- Documentation of efforts to negotiate with DBEs for specific sub-contracts including at a minimum:
  - The names, addresses, and telephone numbers of DBEs that were contacted and the date(s) of contact.
  - A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed.
  - A statement explaining why additional agreements with DBEs were not reached.
- For each DBE the bidder contacted but rejected as unqualified, the reason for the bidder's conclusion.
- Documentation of efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the bidder or the Authority.
- Documentation of efforts to utilize the services of small business organizations, community and contractor groups to locate qualified DBEs.
- Documentation that the bidder has broken out contract work items into economically feasible units in fields where there are available DBE firms to perform the work.
- Evidence that adequate information was provided to interested DBEs about the plans, specifications and requirements of the contract, and that such information was communicated in a timely manner.
- Documentation of any efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.