

Disadvantaged Business Enterprise

Northeastern Illinois
September 2026

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Objectives and Policy Statement

The Northern Illinois Transit Authority (NITA), formerly the Regional Transportation Authority (RTA) has established this Disadvantaged Business Enterprise (DBE) Program (the Program) in accordance with regulations of the U.S. Department of Transportation (DOT), namely 49 CFR Part 26 (Part 26); any reference in this document and its attachments to the RTA shall be deemed a reference to NITA. NITA has received federal financial assistance from DOT, and as a condition of receiving this assistance, NITA has signed an assurance that it will comply with Part 26. NITA is a Tier II recipient of funds for the Federal Transit Administration (FTA). It is policy of NITA to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure non-discrimination in the award and administration of DOT-assisted contracts.
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
3. To ensure that the DBE Program operates in a nondiscriminatory manner and without regard to race or sex, while maximizing efficiency of service, in accordance with applicable law.
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs.
5. To help remove barriers to the participation of DBEs; and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE program.
7. To promote the use of DBEs in all types of federally assisted contracts and procurement activities.
8. To provide appropriate flexibility in establishing and providing opportunities for DBEs.

NITA's Regulatory Compliance Officer acts as the DBE Liaison Officer. In that capacity, the Regulatory Compliance Officer is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded with the same priority as compliance with all legal obligations incurred by NITA in its financial assistance agreements with the DOT.

NITA has disseminated this Policy Statement to its Board of Directors, all the components of its organization, and the general public. It has also distributed this statement to DBE and non-DBE business communities that perform work for NITA on DOT-assisted contracts by posting it on NITA website (www.nita.illinois.gov) and incorporating it into our procurement processes.

Jamie Rhee

Interim Executive Director

Applicability to NITA (Part 26.3)

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

Definitions (Part 26.5)

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

Nondiscrimination (Part 26.7)

NITA will never exclude any person from participation in, deny any person the benefits, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by part 26 on the basis of race, color, religion, sex or national origin. In administering its DBE Program, NITA will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, religion, sex or national origin.

Record Keeping Requirements (Part 26.11)

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

Additionally, NITA will maintain a Bidders List for DOT assisted contracts, pursuant to 49 C.F.R. § 26.11, which will include for each firm the name; address, including zip code; DBE or non-DBE status; the six-digit NAICS code applicable to each scope of work the firm seeks to perform on the contract; the age of the firm; and the firm's annual gross receipts. NITA collects this information by requiring all of its prime contractors to complete and submit a Bidders' List with its response to NITA's request for bids or proposals.

NITA will maintain a robust data system to:

1. Track DBE participation, commitments, and payments at a detailed level
2. Support performance analysis and disparity evaluation
3. Ensure accurate and timely reporting to U.S. Department of Transportation (USDOT)

Data will be used to:

1. Evaluate program effectiveness
2. Adjust DBE-neutral and DBE-conscious measures as needed

NITA and Contractor Assurances (Part 26.13)

NITA has signed the following assurances, applicable to all DOT-assisted contracts:

NITA 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. NITA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. NITA's DBE Program, as required by 49 CFR Part 26 and as approved by the DOT, is incorporated by reference into all RTA contracts. Implementation of this Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this contract. Upon notification to NITA of its failure to carry out its approved Program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

Disadvantaged Business Enterprise Assurance.

In accordance with 49 CFR Part 26.13(a), as amended, the Contractor assures the Authority that it shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement or the award and performance of any subcontract hereunder. Furthermore, the Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in its termination or such other remedy as the Authority deems appropriate.

DBE Program Updates (Part 26.21)

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

NITA will maintain and update its DBE Program to reflect all current USDOT regulations, including amendments effective October 2025.

NITA will:

1. Incorporate regulatory changes into policies, procedures, and contract requirements.
2. Provide updates to USDOT as required for any significant program changes.
3. Ensure ongoing compliance through internal review, training, and oversight.

DBE Policy Statement (part 26.23)

NITA will issue a dated and signed policy statement that expresses the agency's commitment to its DBE program; states its objectives; and outlines responsibilities for its implementation. NITA will disseminate the statement throughout the organization and to the DBE and non-DBE business communities that perform work on NITA's FTA assisted contracts.

DBE Liaison Officer (DBELO) (Part 26.25)

NITA has designated the following individual as its DBE Liaison Officer (DBELO):

Latoya Redd, Regulatory Compliance Officer/DBE Coordinator

175 West Jackson Boulevard, Suite 1650

Chicago, Illinois 60604

312-913-3212 (Telephone)

latoya.redd@nita.illinois.gov

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

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

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

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

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

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

provide the contact information of DBE and small businesses as a necessary part of receiving this approval.

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

DBE Financial Institutions (Part 26.27)

It is the policy of NITA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. The Board of Directors has adopted a NITA Investment Policy that provides that NITA will ensure significant participation by female and minority owned businesses with such institutions within its service area; however, the level maintained will be determined by NITA's liquidity needs. More specifically, NITA will ensure significant participation by qualified DBE financial institutions to the extent available and possible. Information on the availability of such institutions can be obtained from the DBELO.

NITA currently utilizes the following DBE financial institutions:

1. American Metro Bank
2. Millennium Bank
3. GN Bank
4. International Bank of Chicago
5. Mischler Financial Group

Prompt Payment Mechanisms (Part 26.29)

Prompt Payment 26.29(a)

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

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

In addition to the contractual prompt payment requirements, NITA will implement active monitoring procedures to ensure compliance.

NITA will:

1. Track and verify payments to DBE subcontractors.
2. Require contractors to provide payment documentation upon request.
3. Monitor payment timeliness and identify patterns of delayed payment.
4. Take appropriate enforcement action in cases of non-compliance, including withholding payments, contract remedies, or other sanctions permitted by law.

Retainage 26.29(b)

The prime contractor agrees to return retainage payments to each subcontractor within fourteen (14) 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 NITA. This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement 26.29 (d)

If NITA determines that the prime contractor has failed to comply with the prompt payment provisions set forth in the contract, NITA shall give written notice to the Contractor that if the default is not remedied within a specified period of time (at least 5 days), the contract may be

terminated. The Contract may be terminated for cause in accordance with the Contract Article entitled EVENTS OF DEFAULT, REMEDIES, STOP WORK ORDER, TERMINATION FOR DEFAULT. NITA shall also impose penalties and sanctions for non-compliance with the prompt payment clause contained in Section 26.37, MONITORING AND ENFORCEMENT MECHANISMS, and as contained in the Contract Compliance Manual (Federal) and other requirements of State law. NITA shall maintain records of prompt payment compliance and utilize this information in contractor performance evaluations and future responsibility determinations.

Directory (Part 26.31)

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

http://www.dot.state.il.us/ucp/UCP_Directory_By_Name.pdf

<https://webapps1.dot.illinois.gov/UCP/ExternalSearch>

Overconcentration (Part 26.33)

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

Business Development Programs (Part 26.35)

NITA has not established a business development program. We will re-evaluate the need for such a program regularly.

Monitoring and Enforcement Mechanisms (Part 26.37)

NITA will implement the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. NITA will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the Program, so that appropriate actions may be taken pursuant to 49 CFR Part 26.109, including but not limited to referral to the Department of Justice for criminal prosecution, referral to the USDOT Office of Inspector General, and actions under suspension, debarment, and Program Fraud and Civil Penalties provisions.
2. NITA will pursue similar enforcement actions under applicable Illinois laws and regulations, including but not limited to negative responsibility determinations for future

contracts, removal of firms from qualified vendor lists, and recommending revocation of DBE or small business certifications.

3. NITA will require prime contractors to maintain records and documentation of all payments made to DBE and small business subcontractors for a period of no less than seven (7) years following completion of the contract. Such records shall be made available for inspection upon request by authorized representatives of NITA or the USDOT.
4. NITA will actively monitor contract performance to ensure that work committed to DBEs and small businesses at the time of award is actually performed by those firms. This includes verification that each DBE is performing a commercially useful function (CUF). Monitoring activities will include review and tracking of invoices and payments through NITA's electronic diversity management system.
5. NITA will provide in-house training and support professional development activities, as necessary, to ensure that staff responsible for DBE compliance maintain the knowledge and competency required to effectively administer the Program.

Fostering Small Business Participation (Part 26.39)

NITA's contracting processes and requirements are structured to facilitate competition by small businesses; provide more opportunities and support for small businesses; and foster their move from subcontractors and subconsultants to prime contractor and consultant roles. Rather than directly certify firms as small businesses, NITA accepts the following as verification of a firm's status as a small business:

1. Proof of small business certification by a member of the Illinois Unified Certification Program or the State of Illinois' Small Business Set-Aside program (<http://www.illinois.gov/dceo/SmallBizAssistance/BeginHere/Pages/SBDC.aspx>) is required.

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

1. Each year, DBELO will establish a DBE-neutral small business participation goal.
2. On appropriate solicitations, NITA will establish contract goals for small business participation.
3. NITA will annually provide a reasonable number of contracts for which small business contract goals may be established. As part of the procurement process, NITA project managers will be required to identify whether any of the scopes of work of their contract can be performed by a small business as the subcontractor. The contract may then establish a goal for participation by small businesses either as a prime contractor or as a subcontractor.
4. NITA will annually provide a reasonable number of prime contracts available for small businesses. As part of the procurement process, NITA project managers will be required to identify whether their contract can be performed by a small business as the prime contractor. The contract may then be set aside solely for performance by small-businesses.
5. As part of the procurement process, NITA project managers are required to provide a list of small businesses that could work on their project as either a prime contractor or subcontractor.
6. NITA will perform outreach to certified small businesses certified by any Illinois Unified Certification program member or the Illinois Small Business Set Aside Program.

7. When possible, the Procurement Division will relax liability insurance requirements for small businesses.
8. NITA will educate project managers on the importance of small business participation and encouraging the use of small businesses on NITA contracts.
9. The Regulatory Compliance Officer and the Procurement Division will provide regular updates on the progress of the program to the Executive Director.

Overall Goal and Public Participation (Part 26.45)

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

The process generally used by NITA to establish its overall DBE goal is as follows:

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

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

First, NITA will examine the FTA-Funded projects expected to be awarded during the FFYs the goal will cover. Next, NITA will establish the base figure which is intended to be a measurement of the current ready, willing, and able DBEs as a percentage of all ready, willing and able businesses to perform work on the anticipated FTA assisted contracts in NITA's market area. NITA will perform an analysis using the most current data available.

In the Step Two base figure adjustment, NITA will examine relevant and reliable data in NITA's market area to determine if an adjustment to the base figure is warranted. The consideration of an adjustment is intended to account for any impact the relevant factors may have on DBEs' contracting opportunities with NITA.

As required by 26.45(g), NITA will conduct a public consultation with general contractor groups, community organizations, and other officials or organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses and NITA's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, NITA will publish on its website a notice of the proposed overall DBE goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at its principal office for 30 days following the date of the notice, and informing the public that NITA will accept comments on the goals for 30 days from the date of the notice. The notice will include addresses (including offices and websites) to which comments may be sent and business location where the proposed goal may be reviewed.

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

Goal Setting and Accountability (Part 26.47)

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

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

Transit Vehicle Manufacturers (Part 26.49)

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

Meeting Overall Goals/Contract Goals (Part 26.51)

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

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

- Providing information at trade events and meetings.
- Promoting awareness of DBE and small business opportunities.
- Providing information on specific contracting opportunities.
- Arranging solicitations, specifications, and delivery schedules in ways that facilitate participation by DBEs and making contracts more accessible to small businesses.
- Developing a reasonable number of prime contracts that are of the size that DBEs and small businesses can perform.
- Encouraging prime contractors to provide subcontracting opportunities to small businesses, rather than self-performing all the work.

- Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- Encouraging prime contractors to offer mentorship and training for DBE and small businesses.
- Providing technical assistance and other services.
- Utilization of the Illinois Uniform Certification Program Directory and other local assist agencies directories to communicate opportunities.

NITA's DBELO and staff will attend conferences and networking events to provide information on how to do business with NITA and to provide information on upcoming contracting opportunities.

NITA will regularly evaluate the effectiveness of its DBE-neutral measures in achieving DBE participation. If DBE-neutral measures are not sufficient to meet the overall DBE goal, NITA will adjust its strategies and may implement DBE-conscious contract goals as appropriate. NITA will document the basis for the use of DBE-conscious measures and ensure that such measures operate in a nondiscriminatory manner and without regard to race or sex, while maximizing efficiency of service, in accordance with applicable regulations.

In addition, NITA's DBELO and staff will host pre-proposal conferences and outreach events designed to target firms specifically interested in doing business with NITA and highlighting upcoming projects to encourage collaboration between large and small companies prepared to provide the services needed.

Good Faith Efforts Procedures (Part 26.53)

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

In evaluating good faith efforts, NITA will consider the quality, quantity, and effectiveness of the bidder's efforts to obtain DBE or small business participation. Efforts must be meaningful and result oriented.

NITA will require that bidders demonstrate:

1. Targeted outreach to certified DBEs or small businesses capable of performing the work:
2. Timely and documented communication with DBEs or small businesses including follow-up efforts:
3. Evidence of negotiations conducted in good faith: and
4. Efforts to break down contract work into economically feasible units to facilitate DBE or small business participation.

NITA will not consider passive or incomplete efforts to constitute adequate good faith efforts. Actions such as general advertisements without follow-up or contacting DBEs or small businesses without providing sufficient information to respond, will be deemed insufficient.

The Procurement Division, with assistance from the DBELO, is responsible for determining whether a bidder who has not met a contract goal has documented sufficient good faith efforts to meet the contract goal. In each case in which NITA determines the bidder has documented good faith efforts, NITA will have ensured that all information submitted by the

bidder was complete, accurate, and clearly sufficient to document the bidder's good faith efforts. Furthermore, NITA will only award contracts funded in whole or in part with federal dollars to bidders that have been shown to have made good faith efforts to meet the DBE or small business contract goal.

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

Documentation of good faith efforts must clearly demonstrate that all efforts were undertaken prior to bid submission. Post-submission efforts will not be considered in determining responsiveness.

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

If the contract goal is not entirely met through participation, sufficient evidence of good faith efforts made by the bidder to meet the contract DBE goal will be evaluated.

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

A bidder may request administrative reconsideration of a determination that it has not shown good faith efforts to meet the contract goal within five business days of being informed of the determination. The bidder must make this request in writing to the reconsideration official: Audit Department, Northern Illinois Transit Authority, 175 West Jackson Boulevard, Suite 1650, Chicago, Illinois, 60604, 312-913-3200. The Chief Auditor is the Reconsideration Official for the agency. If the Chief Auditor played any role in the original determination that the bidder did not document sufficient good faith efforts, the Reconsideration Official for that procurement shall be a member from NITA's Capital Program division.

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

The bidder will be required to submit the following information: (1) the names and addresses of the DBEs or small businesses that will participate in the contract; (2) a description of the work that each DBE or small business will perform. To count toward meeting a goal, each DBE or small business must be certified in a six-digit NAICS code applicable to the kind of work the firm would perform on the contract; (3) the dollar amount of the participation of each DBE or small business; (4) written documentation of the bidder's commitment to use a DBE or small business subcontractor whose participation it submits to meet the contract goal; (5)

written confirmation from the DBE or small business that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

If a DBE or small business is terminated or has otherwise failed to complete its work on a contract, NITA will require the contractor to replace it with another certified DBE or small business to the extent needed to meet the contract goal or make good faith efforts to do so. The contractor must not terminate a DBE's or small business's contract or any portion of the work without NITA's written consent, unless NITA caused the termination or reduction. A termination includes any reduction or underrun in work listed for a DBE or small business not caused by a material change to the prime contract by NITA. This requirement applies to instances what include, but are not limited to, when a prime contractor seeks to perform, work originally designated for a DBE or small business subcontractor with its own forces or those of an affiliate, a non-DBE or large business, or with another DBE or small business.

NITA will include in each prime contract a provision stating that the contractor must utilize the specific DBE(s) or small business(es) listed to perform the work and supply materials for which each is listed unless the contractor obtains NITA's written consent, and that unless that consent is provided, the contractor will not be entitled to any payment for work or materials unless it is performed or supplied by the listed DBE or small business.

The contractor must establish that it has good cause to terminate the listed DBE or small business or reduce any portion of its work. Good cause does not exist if the contractor seeks to terminate a DBE or small business or reduce any portion of its work that it relied upon to obtain the contract so that the contractor may self-perform the work for which the DBE or small business contractor was engaged, or so that the contractor can substitute another DBE or small business or non-DBE or large businesses after contract award. Good cause includes the following circumstances:

1. The listed DBE or small business subcontractor fails or refuses to execute a written Subcontract.
2. The listed DBE or small business subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Good cause does not exist, however, if the failure or refusal of the DBE or small business subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the contractor.
3. The listed DBE, or small business subcontractor, fails or refuses to meet the contractor's reasonable, nondiscriminatory bond requirements.
4. The listed DBE or small business subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
5. The listed DBE or small business subcontractor is ineligible to work on contract because of suspension and debarment or applicable federal or state law.
6. NITA has determined that the listed DBE or small business subcontractor is not a responsible subcontractor.
7. The listed DBE or small business subcontractor voluntarily withdraws from the project and provides written notice to NITA of its withdrawal.
8. The listed DBE or small business subcontractor is ineligible to receive DBE or small business credit for the type of work required.
9. DBE or small business owner dies or becomes disabled with the result that the listed DBE or small business subcontractor is unable to complete its work on the contract.
10. Other documented good cause that NITA determines compels the termination of the DBE or small business subcontractor.

Before requesting to terminate and/or substitute a DBE or small business subcontractor or any portion of its work, the contractor must give notice in writing to the DBE or small business

subcontractor, with a copy to NITA sent concurrently, of its intent to request to terminate and the reason for the request. The contractor's written notice must give the DBE or small business five business days to respond and advise NITA and the contractor of the reasons, if any, why the DBE or small business objects to the proposed termination of its subcontract/or portion thereof and why NITA should not approve the request. If required in a particular case as a matter of public necessity (e.g., safety), NITA may require a response period shorter than five business days. In addition to post-award terminations, the provisions of this section apply to pre-award deletions or changes to DBEs or small businesses, or their listed work put forward by offerors in negotiated procurement.

When a DBE or small business subcontractor or any portion of its work is terminated by the contractor, or the DBE or small business fails to complete its work on the Contract for any reason, including when work committed to a DBE or small business is not countable or reduced due to overestimations made prior to award, the contractor must make good faith efforts to include additional DBE or small business participation to the extent needed to meet the contract goal. The contractor must submit a DBE or small business subcontractor's Letter of Intent for each proposed new DBE or small business subcontractor. The good faith efforts shall be documented by the contractor. If the contractor is not successful in substituting another DBE or small business, then its documented good faith efforts to do so must be submitted within 7 calendar days of the approved request. NITA shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

Failure to abide by these procedures shall be viewed as a breach of contract and the contractor will be subject to such sanctions and penalties as are allowed by the contract and law.

The contractor must make available upon request a copy of all DBE or small business subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs or small businesses to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with these provisions.

Counting DBE Participation (Part 26.55)

NITA will count DBE or small business participation toward overall and contract goals as provided in Part 26.55.

Certification (Parts 26.61-26.91)

NITA relies upon the DBE certifications issued pursuant to the Illinois Unified Certification Program, as discussed in 26.31.

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

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

Information. Confidentiality. Cooperation (Part 26.109)

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

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

Attachments

Attachment A	NITA Organizational Chart
Attachment B	Monitoring and Enforcement Mechanisms
Attachment C	DBE Directory
Attachment D	Regulations 49 CFR Part 26

Attachment A

NITA Organizational Chart

Attachment B

Monitoring and Enforcement Mechanisms/Legal Remedies

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

A. Contract Requirements and Remedies

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

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

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

B. Regulatory Provisions

The federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

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

C. Findings of Non-Compliance and Administrative Sanctions

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

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

D. Enforcement Mechanisms

The federal government has available several enforcement mechanisms that may apply to firms participating in the DBE program, including, but not limited to, the following:

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

E. Resolution of Disputes

The contractor shall notify NITA in writing of any dispute between the contractor and any subcontractors, which cannot be settled by discussions between the parties, within ten calendar days of failure to resolve the dispute. The contractor and subcontractor(s) shall include a dispute resolution provision in their contract.

Attachment C

DBE Directory

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

<https://webapps.dot.illinois.gov/UCP/externalsearch>

Attachment D

Regulations 49 CFR Part 26

A link to U.S. DOT Regulations 49 CFR Part 26:

https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl