

DIVISION 1 - GENERAL REQUIREMENTS
01 11 01 – Supplement to SDC-DB

The Standard Documents for Construction for Design-Build Projects are hereby changed. The following articles replace those in the August 2007 edition. All other articles remain applicable. **General revision: any reference to “MBE/FBE” shall mean “MBE/WBE/PBE/VBE”.**

00 21 16 INSTRUCTIONS TO OFFERORS

.3 Subcontractors and Suppliers

- C. **Subcontract/Supplier Disclosure.** The DB entity shall submit with his/her bid the names and CDB issued identification (ID) numbers (prequalification ID number or registration ID number), if known, of all first tier subcontractors and suppliers with a subcontract value greater than \$50,000 to be utilized by the DB entity in the performance of this contract and any lower tier subcontractor/supplier with a subcontract value greater than \$50,000 and where the subcontractor/supplier is either named in the specifications or is one over whom the DB entity retains the right to approve and/or make payments for work. The subcontract shall include reference for compliance with Illinois Procurement Code (30 ILCS 500/20-120). Financial and Conflict of Interest disclosures and standard certifications for each subcontractor over \$50,000 must be submitted to CDB by the contractor within 20 days of the execution of a contract with CDB or 20 days of the execution of the subcontract, whichever is later. The DB entity shall promptly notify the State in writing of any additional or substitute subcontractors meeting the above criteria hired during the term of this contract (names, addresses, expected contract amount and CDB ID nos.). Upon request by the CPO, the DB entity shall provide CDB a copy of each subcontractor’s subcontract. No work can be performed by these subcontractors until the Certifications and Disclosures have been reviewed and approved by the State Purchasing Officer.

00 21 40 CONTRACT ADMINISTRATION FEE

- .1 **Applicability.** Each Submitter may be assessed a contract administration fee (CAF) as set forth in the RFP documents. The Submitter shall be solely responsible for taking into account the CAF when preparing its proposal.

00 21 55 USE OF ILLINOIS LABOR

- .1 The Employment of Illinois Workers on Public Works Act mandates that during a period of excessive unemployment at least 90% of the total labor hours on State construction projects must be performed by persons who have resided in Illinois for at least thirty (30) days and intend to become or remain Illinois residents. (30 ILCS 570/3). ‘A period of excessive unemployment’ means any month immediately following two (2) consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures. (30 ILCS 570/1).

- .2 The DB entity is required to incorporate the above provisions into all subcontracts for subcontractors who will have workers at the project site.
- .3 To verify that this requirement is being met, the DB entity must submit Certified Payroll forms for themselves and their subcontractors each month for the duration of the contract/subcontract.
 - A. The Certified Payroll form(s) must include the name and address of each worker on the project site during the time period covered by the form.
 - B. For subcontractors, the DB entity will include the beginning and ending dates of the subcontract on the Certified Payroll form.
 - C. If Certified Payroll forms are not submitted timely, payment may be reduced or withheld until Certified Payroll submittals are brought up to date.

00 43 30 BUY ILLINOIS PROGRAM

- .1 **General.** The Buy Illinois Program encourages contractors to incorporate products manufactured, fabricated or assembled in the State of Illinois. It is a voluntary program; there is no incentive provision affecting the award of the contract nor is there a required percent of the contract that must be Illinois products.
- .2 Illinois products will be indicated in the project manual with (IL) preceding the item in the specification paragraph. Typically, only specifications that are prescriptive, those listing three or more manufacturers, will be in the program. The DB entity should consider these products when procuring the materials and equipment for the project. If the DB entity is aware of an Illinois product not listed, the contractor is encouraged to advise the A/E prior to bidding or offer a product substitution with the bid. CDB will verify that the product meets the definition of an Illinois product and add it to CDB’s Buy Illinois product directory.
- .3 The DB entity should provide the total value of Illinois products on the Contractor’s Schedule of Values (CSV) in the space provided. The individual items included in the total should be identified by putting “IL” in front of their descriptions on the CSV.
- .4 Where material is specified by standards and/or codes and not by a list of acceptable manufacturers, contractors are still encouraged to purchase Illinois products. However, the DB entity should not include these materials in the computation of the total dollars for Illinois products on the CSV.

00 43 39 MINORITY, WOMEN, PERSONS WITH DISABILITIES, AND VETERAN BUSINESS ENTERPRISE PARTICIPATION

- .1 **Certification.** CDB will only accept Minority, Women, Persons with Disabilities, and Veteran Business Enterprise (MBE/WBE/PBE/VBE) firms certified by the Illinois Department of Central Management Services (CMS). The MBE/WBE/PBE/VBE’s certification with CMS shall be in

good standing prior to the bid opening date.

- .2 Designated Projects.** CDB may designate projects with "MBE/WBE/PBE/VBE participation goals." See the request for proposals for applicable goals for first and second tier (level) subcontractors and supplier MBE/WBE/PBE/VBE participation.
- .3 Proposal.** Each offeror shall name, on the proposal, utilization plan, the minority, women, persons with disabilities, and veteran owned businesses it intends to use to meet the specified goals. If no eligible participation is listed on the utilization plan, then the bidder must submit documentation of its good faith efforts to achieve the goals with its proposal or the proposal will be considered non-responsive. If eligible participation is included on the utilization plan, but the specified goals are not met, within ten (10) calendar days from the date of notification, the offeror shall: (1) cure the deficiency in the bid by adding participation to meet the goals, or (2) request a waiver of the specified goals including documentation of its good faith efforts to achieve the goals.
- .4 MBE/WBE/PBE/VBE Offeror.** If the DB entity is a minority, woman, person with disability or veteran owned business then the DB entity shall indicate the work proposed to be done with own forces on the utilization plan. CDB encourages MBE/WBE/PBE/VBE prime bidders to use MBE/WBE/PBE/VBE subcontractors/suppliers.
- .5 Joint Venture.** If the offeror is a joint venture, the MBE/WBE/PBE/VBE joint venture may be used to meet the MBE/WBE/PBE/VBE goal for the contract, consistent with the provisions of subsection .11(G).
- .6 Phase 1.** The DB entity will submit a list of proposed firms to be utilized to meet the MBE/WBE/PBE/VBE goals, together with the work to be done and approximate contract amount.
- .7 Phase 2.** The DB entity will submit CDB's MBE/WBE/PBE/VBE Subcontractor Supplier Certification form for each MBE/WBE/PBE/VBE subcontractor(s) and/or supplier(s) being utilized to meet the designated participation goals.
 - A. The Certification form must be signed by the MBE/WBE/PBE/VBE firm.
 - B. Completion of the MBE/WBE/PBE/VBE Subcontractor Supplier Certification form is not required if the DB entity is an MBE/WBE/PBE/VBE firm. MBE/WBE/PBE/VBE prime contractors are encouraged to utilize MBE/WBE/PBE/VBE subcontractors/suppliers.
- .8 Subcontracts.** Subcontracting of work to a lower tier non-MBE/WBE/PBE/VBE firm which would reduce the proceeds received by the subcontracting MBE/WBE/PBE/VBE firm below the specified goal is prohibited. CDB may, in such cases, reject the bid or terminate the contract.
- .9 Request for Assistance.** If the DB entity needs assistance in locating subcontractors or suppliers to meet the goals, the DB entity shall contact CDB's Fair Employment Practices Unit (FEP) both prior to the submittal, and, if applicable, during the 10-day cure period.

.10 Submittal of Good Faith Effort documentation for a waiver request. Good Faith Effort documentation must include the following:

- A. All information indicating why the specified goal cannot be met.
- B. A list of all MBE/WBE/PBE/VBE firms the offeror has used in the current and prior fiscal years, if available. The fiscal year is from July 1 until June 30.
- C. A list of all certified MBE/WBE/PBE/VBE firms eligible to perform the work, if available. To be eligible to perform the work, a firm must be certified by CMS.
- D. A clear determination that the number of certified MBE/WBE/PBE/VBE firms eligible to perform the work is insufficient to ensure adequate competition, if available.
- E. Demonstrated proof that the MBE/WBE/PBE/VBE firms' prices were excessive or unreasonable, if available.
- F. A list of all MBE/WBE/PBE/VBE firms contacted and the dates they were contacted, including documentation from those firms. Documentation shall include, when applicable:
 - 1) A log of telephone contacts including date and time of call, telephone number, name of person called, and the outcome of the call;
 - 2) Copies of written or electronic email correspondence showing the date, postal or email address, name of person contacted, and subsequent correspondence that reflects the outcome.
- G. Copies of all bid solicitation letters or electronic email correspondence to MBE/WBE/PBE/VBE firms. Letters shall contain, at a minimum:
 - 1) Project title and location;
 - 2) Classification of work items for which quotations are requested;
 - 3) Date, time, and place quotations are due; and
 - 4) Returnable acknowledgment of the solicitation.
- H. All other evidence of good faith efforts made by the DB entity to secure eligible MBE/WBE/PBE/VBE firms to meet the specified goal including documentation that demonstrates the following:
 - 1) A reasonable number of MBE/WBE/PBE/VBE firms were contacted.
 - 2) The work selected by the DB entity for allocation to MBE/WBE/PBE/VBE firms was

selected in order to increase the likelihood of achieving the specified goal, if available.

- 3) The DB entity negotiated, in good faith, with the potential MBE/WBE/PBE/VBE firms by not imposing any conditions which are not similarly imposed on all other subcontractors and suppliers, or by denying benefits ordinarily conferred on subcontractors or suppliers for the type of work for which bids were solicited, if available.
 - 4) The MBE/WBE/PBE/VBE firms were not rejected as being unqualified without sound reasons based on a thorough investigation of their capabilities, if available.
 - 5) The DB entity engaged with FEP for assistance in its efforts to achieve the specified participation.
 - 6) The DB entity attended the CDB pre-bid meeting for the project.
- I. All actions taken to solicit MBE/WBE/PBE/VBE firms both before and after the submittal date.
 - J. A revised utilization plan, if MBE/WBE/PBE/VBE participation increases during the 10-day cure period but goals are not met.
 - K. Other relevant information in support of the waiver request.

.11 Replacement of MBE/WBE/PBE/VBE Subcontractor or Supplier. If it can be demonstrated that the MBE/WBE/PBE/VBE subcontractor or supplier cannot perform the work, or if an MBE/WBE/PBE/VBE loses its CMS certification after the bid opening, then the DB entity shall make a good faith effort to replace, in-kind, the MBE/WBE/PBE/VBE. The DB entity shall identify the replacement MBE/WBE/PBE/VBE or provide evidence of good faith effort to find a replacement on the DB entity's letterhead and submit with documented evidence of cause to CDB's FEP Unit. CDB will review the submittal and may authorize the replacement or approve the good faith effort.

.12 Calculation of MBE/WBE/PBE/VBE Participation as a Material Supplier or Subcontractor

- A. MBE/WBE/PBE/VBE as a material supplier: A 100 percent goal credit is allowed for the cost of materials or purchases from an MBE/WBE/PBE/VBE manufacturer or supplier.
- B. MBE/WBE/PBE/VBE as a subcontractor: A 100 percent goal credit is allowed for the work of the subcontract performed by the MBE/WBE/PBE/VBE's own forces (performing, managing and supervising the work), including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the MBE/WBE/PBE/VBE subcontractor from the DB entity or its affiliates. Work that an MBE/WBE/PBE/VBE subcontractor in turn subcontracts to a non-MBE/WBE/PBE/VBE does not count toward the MBE/WBE/PBE/VBE goal.

.13 Work to be Completed by Certified Firms. To be credited towards goals for Minority

Business Enterprise (MBE), Women Business Enterprise (WBE), Persons with Disabilities Business Enterprise (PBE) and Veteran Business Enterprise (VBE) participation, work must be performed by an entity certified by CMS pursuant to the Business Enterprise for Minorities, Women, and Persons with Disabilities Act (30 ILCS 575/5) and the Illinois Procurement Code (30 ILCS 500/45-57).

- A. The entire amount of contractual work performed by an MBE, WBE, PBE, or VBE's own forces will be credited towards MBE/WBE/PBE/VBE goals, including the cost of supplies, materials, and equipment obtained by the MBE, WBE, PBE, or VBE for this work (except supplies and equipment the MBE/WBE/PBE/VBE obtains from the prime contractor or its affiliate).
- B. The entire amount of fees or commissions charged by an MBE/WBE/PBE/VBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services will be credited towards MBE/WBE/PBE/VBE goals provided such fees are reasonable and not excessive as compared to fees customarily allowed for similar services. Services for materials and supplies are defined in Section 00 43 39.14 and are not considered to be professional, technical, consultant, or managerial services.
- C. Work subcontracted by an MBE/WBE/PBE/VBE to another firm will not be credited towards goals unless the subcontractor performing the work is also certified by CMS as an MBE/WBE/PBE/VBE. Work that an MBE/WBE/PBE/VBE subcontracts to a firm not certified as an MBE/WBE/PBE/VBE does not count toward the goal. For example, if an MBE firm has a subcontract to perform \$100,000 worth of work and subcontracts \$10,000 of that work to a non-MBE firm, only the \$90,000 worth of work performed by the MBE firm will be credited toward the goal.
- D. If a firm is not certified as an MBE/WBE/PBE/VBE at the time of the bid opening, the firm's participation will not be counted toward any goals.
- E. The dollar value of work performed under a contract with a firm after it has ceased to be certified will not be counted toward the overall goal.
- F. The participation of an MBE/WBE/PBE/VBE subcontractor will not be counted toward the DB entity's final compliance with its MBE/WBE/PBE/VBE obligations on a contract until the amount being counted has actually been paid to the MBE/WBE/PBE/VBE.
- G. When an MBE/WBE/PBE/VBE performs as a participant in a joint venture, a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE/WBE/PBE/VBE performs with its own forces may be counted toward MBE/WBE/PBE/VBE goals.

.14 Commercially Useful Function. Expenditures to an MBE/WBE/PBE/VBE will only be credited towards MBE/WBE/PBE/VBE goals if the MBE/WBE/PBE/VBE performs a commercially useful function on that contract. An MBE/WBE/PBE/VBE 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 MBE/WBE/PBE/VBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering material, and installing (where applicable) and paying for the material itself.

- A. Factors to be used in determining whether an MBE/WBE/PBE/VBE is performing a commercially useful function include, but are not limited to, the amount of the work subcontracted, industry practices, and whether the amount the firm is paid is commensurate with the work it is performing and the MBE/WBE/PBE/VBE credit claimed for its performance of the work.
- B. An MBE/WBE/PBE/VBE 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 MBE/WBE/PBE/VBE participation. In determining whether an MBE/WBE/PBE/VBE is such an extra participant, similar transactions, particularly those in which MBE/WBE/PBE/VBEs do not participate, will be examined.
- C. If an MBE/WBE/PBE/VBE does not perform at least 30 percent of the total cost of its contract with its own work force, or the MBE/WBE/PBE/VBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved, a presumption will arise that the MBE/WBE/PBE/VBE is not performing a commercially useful function. An MBE/WBE/PBE/VBE firm may present evidence to CDB to rebut this presumption. The MBE/WBE/PBE/VBE must provide such evidence to rebut the presumption within seven (7) business days of being notified that the presumption will be applied.
- D. A DB entity that is an MBE/WBE/PBE/VBE will still be required to meet the goals required on the contract. In determining whether the MBE/WBE/PBE/VBE DB entity has met the goal, the work the MBE/WBE/PBE/VBE DB entity actually performs with its own forces will be credited, as well as work performed by MBE/WBE/PBE/VBE subcontractors or suppliers, consistent with the terms of Section 00 43 39.
- E. A DB entity's efforts to exercise Good Faith Efforts by providing assistance in advance of the submittal to an MBE/WBE/PBE/VBE firm in making purchases, obtaining bonding, obtaining credit, or providing equipment will not invalidate the commercially useful function of an MBE/WBE/PBE/VBE, provided that the MBE/WBE/PBE/VBE has otherwise performed a commercially useful function consistent with the terms of Section 00 43 39. Credit will only be given for work performed by, purchases made by, and equipment obtained by the MBE/WBE/PBE/VBE, consistent with the terms of Section 00 43 39. A DB entity's efforts to assist the MBE/WBE/PBE/VBE will not be credited.

.15 Trucking Company. To be credited towards MBE/WBE/PBE/VBE goals, a trucking company or major construction equipment rental (MCER) must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract,

and there cannot be a contrived arrangement for the purpose of meeting MBE/WBE/PBE/VBE goals.

- A. The MBE/WBE/PBE/VBE must itself own and operate at least one fully licensed, insured, and operational truck or major construction equipment unit (MCEU) used on the contract.
- B. The entire value of transportation services an MBE/WBE/PBE/VBE provides on the contract using trucks or MCEUs it owns, insures, and operates using drivers it employs will be credited towards MBE/WBE/PBE/VBE goals.
- C. If an MBE/WBE/PBE/VBE leases trucks or MCEUs from another MBE/WBE/PBE/VBE, the entire value of the services provided by the lessee will be credited.
- D. If an MBE/WBE/PBE/VBE leases trucks or MCEUs from a company that is not an MBE/WBE/PBE/VBE, the total value of transportation services provided by the lessee is not to exceed the value of transportation services provided by MBE/WBE/PBE/VBE owned trucks or MCEUs on the contract.
- E. For purposes of this section, a lease must indicate that the MBE/WBE/PBE/VBE has exclusive use of and control over the truck(s) or MCEU(s). This does not preclude the leased truck from working for others during the term of the lease with the consent of the MBE/WBE/PBE/VBE, so long as the lease gives the MBE/WBE/PBE/VBE absolute priority for the leased truck(s) or MCEU(s). Leased trucks and MCEUs must display the name and identification number of the MBE/WBE/PBE/VBE.
- F. The MBE/WBE/PBE/VBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting MBE/WBE/PBE/VBE goals.

.16 Materials and Supplies

- A. Credit towards goals will be given for materials purchased from an MBE/WBE/PBE/VBE supplier or manufacturer that is certified by CMS.
- B. For purposes of this section, a manufacturer is a firm that operates and maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described in the specifications.
- C. For the purposes of this section, a supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 - 1) A supplier must be an established, regular business that engages as its principal business and under its own name, in the purchase and sale or lease of the products in

question.

- 2) A person may be a supplier in such bulk items as steel, cement, gravel, stone, petroleum products, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph C if the person both owns and operated distribution equipment for the products. Any supplementing of a supplier's own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
- 3) Brokers, packagers, manufacturers' representatives, or other persons who arrange or expedite transactions are not suppliers within the meaning of this section.

00 43 44 ILLINOIS WORKS JOBS PROGRAM ACT APPRENTICESHIP INITIATIVE

- .1 Apprenticeship Goal.** The goal of the Illinois Works Jobs Program Act Apprenticeship Initiative is that, for projects estimated to cost \$500,000 or more, apprentices will perform either 10% of the total labor hours actually worked in each prevailing wage classification or 10% of the estimated labor hours in each prevailing wage classification, whichever is less. See Section 00 43 44 of the project manual for applicable apprenticeship goals.
- .2 Illinois Works Budget Supplement.** Submission of the Illinois Works Jobs Program Act Apprenticeship Initiative Budget Supplement shall be a post-award requirement. The Budget Supplement shall contain a complete and thorough estimate of all the labor hours to be performed by the DB entity and all of its subcontractors for the project, broken down by prevailing wage category. The Budget Supplement shall be used in determining the appropriate number of hours to be performed by apprentices.
- .3 Reporting Requirements.** The DB entity shall submit monthly reports of its hourly workforce utilization including all apprenticeship hours to CDB's Fair Employment Practices Unit on Illinois Works Apprenticeship Initiative Reporting Forms.
- .4 Reduction or Waiver of Goal.** If, at any point during the project, the DB entity determines that it may not meet the apprenticeship goal for any prevailing wage classification, the DB entity shall submit a request for a reduction or waiver of that particular goal, indicating why the goal may not be met. The DB entity shall include all documentation supporting the request. The request for a reduction or waiver of the goal shall be reviewed pursuant to 30 ILCS 559/20-20(b).
- .5 Certification of Completion.** Upon completion of the work set forth in the contract, the DB entity shall submit a certification demonstrating that it has met the 10% apprenticeship goal or received a reduction or waiver of the 10% apprenticeship goal for each prevailing wage classification.

00 45 00 CERTIFICATIONS OF COMPLIANCE WITH APPLICABLE LAWS

- .14 Recertification.** If the contract extends over multiple years, vendor and its subcontractors shall

certify, by January 1 of each fiscal year covered by the contract after the initial fiscal year, of any changes that affect its ability to meet the requirements for being awarded a contract under Article 50 of the Illinois Procurement Code. Failure to do so may result in voiding the contract by operation of law or rendering the contract voidable at the option of the State without additional compensation. Violations of certain provisions may also be deemed a civil or criminal offense. If a vendor or subcontractor continues to meet all the requirements of the Illinois Procurement Code, it shall not be required to submit any certification.

.15 Illinois Works Jobs Program Act Apprenticeship Initiative. The DB entity will comply with the Illinois Works Jobs Program Apprenticeship Initiative (30 ILCS 559/20-20(a)(2)).

00 51 20 ACCEPTANCE AND REJECTION OF BIDS

.1 CDB's Rights. When, in its opinion, it is in the best interest of the State, CDB reserves the right to:

- A. Accept any proposal
- B. Reject any or all proposals
- C. Waive technical deficiencies and irregularities
- D. Allow offeror to remedy technical deficiencies or irregularities within a stated time
- E. Rescind any notice of award if CDB determines the notice of award was issued in error
- F. Rescind any notice of award when it is in the best interest of the State
- G. Reissue any RFP

.2 Proposal Rejection.

- A. Proposals will be rejected for the following material deficiencies:
 - 1) Failure of any of the following to be prequalified with CDB prior to the deadline for submittal of Phase 1 proposals (Article 00 21 05) or being determined non-responsible after the deadline for Phase 1 proposals: the individual members of the DB entity; all design professionals and other entities as defined in Section 30-30 of the Illinois Procurement Code to which any work may be subcontracted during the performance of the contract; all entities that will perform any of the 5 subdivisions of work defined in Section 30-30 of the Illinois Procurement Code; and any other team members of the DB entity identified in the RFP as requiring CDB prequalification.
 - 2) Submission of a proposal late (Paragraph 00 51 10.1).
 - 3) Use of a bid envelope, which is received by CDB unsealed, or marked in a manner that

does not reasonably identify the project and/or contract for which it is intended (Paragraph 00 41 10.3).

- 4) Deletion of original signatures to the extent that an intent to be bound by the bid is not apparent.
 - 5) Failure to attend a mandatory pre-bid meeting.
 - 6) Bids not in substantial conformance with the request for proposal and whose non-conformance is determined to be material and unresponsive.
 - 7) Failure to submit Bidder Disclosure(s) form and Certifications with the proposal, when the offeror is not registered with the Illinois Procurement Gateway (IPG).
 - 8) Failure to be registered with the State Board of Elections, prior to deadline to for submittal of Phase 1 proposals, when applicable.
 - 9) Failure to submit documentation of the offeror's good faith efforts to meet applicable MBE/WBE/PBE/VBE goals at time of bid when no eligible participation is listed on the utilization plan.
 - 10) Any other material deficiency specifically identified in the request for proposal.
- B. Failure to remedy the following technical deficiencies with seven (7) calendar days after the bid opening shall result in rejection of the bid. These technical deficiencies are:
- 1) Failure to use a revised proposal form when proposal forms have been changed by amendment.
 - 2) Failure to acknowledge an amendment, or failure to incorporate amendment changes into the proposal.
 - 3) Failure to provide USDOL Apprenticeship and Training Certification for offerors and all known subcontractors in conformance with Section 30-22 of the Illinois Procurement Code (30 ILCS 500/30-22).
 - 4) Failure to submit offeror's Certificate of Registration in an approved apprenticeship and training program.
 - 5) Failure to supply subcontractor and/or supplier names and Taxpayer Identification Numbers as required on Document 00 41 01.
 - 6) Submission of a bid bond not on CDB's form (Paragraphs 00 43 13.1 and 00 43 13.2).
 - 7) Submission of a bid security in a form other than a bid bond, certified check, cashier's check or bank draft (Paragraph 00 43 13.1).

- 8) Omission of the signature of the officer of the surety or any other required signatures except the signature in Paragraph 00 51 20.2.A.5, submission of those signatures in pencil or submission of a non-original signature.
 - 9) Replacement of a bid security from an unacceptable surety with one from a surety acceptable to CDB (Paragraph 00 43 13.4).
 - 10) Failure to furnish and/or complete the 00 41 04 Form (Illinois Department of Human Rights (DHR) Form PC-2).
 - 11) Failure to submit a signed affidavit stating that the offeror will maintain an Illinois office as the primary place of employment for persons employed in the construction authorized by the contract.
 - 12) Failure to submit Certificate of Registration with State Board of Elections in accord with 30 ILCS 500/20-160.
 - 13) Failure to submit Disclosure of Business Operations with Government of Iran form in accord with 30 ILCS 500/50-36.
 - 14) Any other technical deficiency specifically identified in the project bid documents.
- C. MBE/WBE/PBE/VBE goal compliance deficiencies. Failure to remedy the following deficiencies within ten (10) calendar days after the date of notification shall result in rejection of the bid. These deficiencies are:
- 1) When applicable, failure to submit a revised utilization plan, documenting achievement of goals.
 - 2) When applicable, failure to submit documentation acceptable by CDB of good faith efforts to meet MBE/WBE/PBE/VBE goals.
- D. CDB at its sole discretion and without conferring any rights on any offerors may waive bid technical deficiencies or irregularities that are not in conformance with the request for proposal but whose non-conformance is non-material or minor.
- E. Submittal of conditions or qualifying statements contrary to CDB's contract terms is not acceptable and, unless rescinded, the bid shall be rejected.

00 51 28 MBE/WBE/PBE/VBE BUSINESS CERTIFICATION, POST AWARD REQUIREMENTS

- .1 Post Award Submittal.** See Article 00 51 40. The contract awardee shall submit CDB's MBE/WBE/PBE/VBE Subcontractor Supplier Certification Form, Document 00665 (available in the Reference Library on CDB's website), for each of the MBE/WBE/PBE/VBE

subcontractor(s) and/or supplier(s) being utilized to meet the designated participation goals as specified on the request for proposals and in Section 01 11 00 of the project manual. The form must be signed by the MBE/WBE/PBE/VBE subcontractor or supplier and shall be submitted to CDB's FEP Unit. Completion of the 00665 form is not required if the DB entity is an MBE, WBE, PBE, or VBE firm. MBE/WBE/PBE/VBE prime contractors are encouraged to utilize MBE/WBE/PBE/VBE subcontractors/suppliers. If goals are split (separate MBE, WBE, PBE, and VBE goals), then an MBE, WBE, PBE, or VBE firm must supply 00665 forms for the subcontractor firm(s) utilized to meet the MBE, WBE, PBE, or VBE goal, respectively.

- .2 Listed Firms.** The 00665 certification form shall be completed and submitted for each MBE/WBE/PBE/VBE firm listed on the utilization plan.
- .3 Compliance.** The MBE/WBE/PBE/VBE participation goal dollar value is based upon the total contract sum (including any awarded deviations). The participation goal percentage amount(s) shall meet or exceed the goal(s) as specified on the bid form (and in Section 01 11 00 of the project manual), or in an approved change/waiver request (refer to Article 00 43 39 herein).
- .4 Voluntary Participation.** DB entities are encouraged to utilize MBE/WBE/PBE/VBE subcontractors/suppliers for those projects that are not designated for MBE/WBE/PBE/VBE participation and complete the 00665 certification form for each MBE/WBE/PBE/VBE firm. MBE/WBE/PBE/VBE subcontractors/suppliers may be added at any time during the project.
- .5 Subcontracts/Supplier Agreements.** Copies of subcontracts or supplier agreements (to correspond with each 00665 form) are required to be submitted within ten (10) calendar days of the Notice of Award.

00 51 40 POST AWARD REQUIREMENTS

- .2 Submittals.** Within ten (10) calendar days from the date of the notice of award letter, the DB entity shall furnish, on CDB forms, the following:
 - A. Contract executed by the DB entity;
 - B. Performance Bond;
 - C. Labor and Material Payment Bond;
 - D. Certificates of Insurance;
 - E. Builder's Risk Insurance Policy;
 - F. MBE/WBE/PBE/VBE Subcontractor Supplier Certifications, Form 00665 and MBE/WBE/PBE/VBE Subcontractor/Supplier agreements (if applicable);
 - G. Completed Substance Abuse Prevention Certification form and DB entity's substance abuse plan (if applicable);

- H. DHR PC-2 accepted by FEP Technician;
- I. Project Labor Agreement signature sheets for the DB entity and known Subcontractors (if applicable); and
- J. Illinois Works Jobs Program Act Apprenticeship Initiative Budget Supplement.

00 72 10 TIME

- .4 Approval Authority.** Changes in contract time are subject to approval at or above the CDB Regional Manager level.

00 72 25 CDB - RIGHTS AND RESPONSIBILITIES

.4 Right to Terminate the Contract for Cause.

- A. CDB may terminate the DB entity's right to proceed with the work if the DB entity fails or refuses to perform the work with such diligence as to allow timely completion of performance in accordance with the current progress schedule or fails to complete the work in accordance with the documents or commits a breach of any other provision of the contract documents.
- B. In such case, CDB will give the DB entity and its surety written notice of intention to terminate and the reason therefore, and, unless within ten calendar days the delay or violation shall cease or satisfactory arrangement of correction made, CDB may issue a written termination notice to the DB entity and its surety.
- C. The DB entity shall stop work and vacate the construction site immediately upon receipt of notice of termination. However, the DB entity shall not remove tools, appliances, construction equipment and machinery, or materials or equipment for which CDB has paid, wherever stored, without the written consent of CDB. Any material stored off-site, and which have been paid for by CDB, shall be immediately delivered to CDB or its designated representative upon request. CDB reserves the right either to have the material delivered to the site and deduct the cost of the delivery from contract balance or to abandon the material and deduct the cost of the materials from the contract balance.
- D. The surety shall complete the work upon demand by CDB in accordance with the contract documents. Such completion may include, but not be limited to, the use of a completing contractor selected by CDB pursuant to a written takeover agreement with the surety, or payment of a sum of money required to allow CDB to complete the work, or other arrangements agreed to by the CDB and surety.
- E. If within ten calendar days the surety fails to act on CDB's demand, CDB may take over the work and take possession of all of the DB entity's tools, appliances, construction equipment, and machinery at the site and use the same to the full extent they could have been used by

the DB entity (without liability for trespass or conversion), incorporate into the work all materials and equipment stored at the site or for which CDB has paid the DB entity but which are stored elsewhere, and finish the work by selecting the most advantageous method identified in the Illinois Procurement Code or in other relevant procurement laws and administrative rules. In such case the DB entity shall not be entitled to receive any further payment until the work is finished. If CDB's expenses in completing the work exceed the unpaid balance of the contract sum, the DB entity and/or the surety shall pay the difference to CDB.

- .6 Availability of Appropriation; Sufficiency of Funds.** The contract is contingent upon and subject to the availability of sufficient funds. CDB may terminate or suspend the contract, in whole or in part, without penalty or further payment being required, if (i) sufficient funds for the contract have not been appropriated or otherwise made available to CDB by the State or the Federal funding source, (ii) the Governor or CDB reserves funds, or (iii) the Governor or CDB determines that funds will not or may not be available for payment. CDB shall provide notice, in writing, to the DB entity of any such funding failure and its election to terminate or suspend the contract as soon as practicable. Any suspension or termination pursuant to this Section will be effective upon the date of the written notice, unless otherwise indicated.
- .7 Right to Suspend the Contract Without Cause.** CDB may, without cause, order the DB entity in writing to suspend, delay or interrupt the work in whole or in part for such a period of time as CDB may determine, not to exceed 90 days. At the expiration of 90 days, the contract may continue upon written agreement of the parties or may be terminated in writing by either party. The contract may remain suspended at the expiration of 90 days until the parties either agree in writing to continue the contract or until either party terminates the contract in writing. If the parties enter into a written agreement to continue the contract, the contract may remain suspended after the expiration of 90 days.
- A. The contract time will be adjusted for increases in time caused by the suspension, delay or interruption as described in Article 00 72 10.
- B. CDB may decide to terminate the contract under Article 00 72 25 at any time during the period of suspension, delay or interruption.

00 73 17 BONDS, GENERAL

- .1 Requirements.** The DB entity shall furnish a performance bond and a labor and material payment bond covering the faithful performance of the contract and the payment of all obligations arising thereunder, in accordance with the Public Construction Bond Act (30 ILCS 550). Each bond shall be in the full amount of the contract on forms provided by CDB and executed by a surety acceptable to CDB.
- .3 Acceptability.** Bonds that meet the requirements of Paragraph 00 73 17.1 shall be acceptable to CDB when issued by a surety that meets all of the following standards:
- A. Has a current financial strength of at least "A-" as rated by A.M. Best Company, Inc.,

Moody's Investor Service, Standard & Poor's Corporation, or similar rating agency (30 ILCS 550/1); and a current Best's financial class of at least "V".

- B. Is duly licensed in the State of Illinois by the Department of Insurance (30 ILCS 550/1) and does not have an unacceptable record of improper conduct or financial problems with the Illinois Department of Insurance.

01 29 73.1 SCHEDULE OF VALUES

- G. Provide CDB prequalification/registration ID numbers on the CSV form for subcontractors/suppliers described in 00 21 50.2C.
- H. Identify work performed by MBE/WBE/PBE/VBE subcontractors and suppliers on the CSV form.
- I. Revise and resubmit CSV for approval if any substitution or replacement of subcontractors or suppliers occurs.
- J. Revise and resubmit CSV for approval if any change in the contract amount of subcontractors or suppliers other than a change resulting from a change order occurs.

01 29 76 PROGRESS PAYMENT PROCEDURES

- .2 Contract Administration Fee.** The DB entity shall include the amount of the contract administration fee on the schedule of values (Form CSV) and all contractor's affidavit and sworn statement (CASS) forms.

- A. **Initial Payment Request.** The full amount of the contract administration fee shall be invoiced by the DB entity on the initial payment request. This sum shall not be subject to retention.

- B. **Deadline for Payment.** Prior to approval of the second payment request and no later than twenty (20) calendar days from the invoice-voucher date (Block No. 5) of the initial payment request, the DB entity shall direct to the fiscal section of CDB, a check or money order made payable to CDB in the amount of the contract administration fee.

.5 Payments to Subcontractors and Suppliers.

- D. Subcontractors (as described in 00 21 16.3(C) who have not obtained a CDB ID number and/or have not submitted the required Disclosures and Certifications may have their payment amounts withheld by CDB in addition to any other remedy provided by this contract or by law. No work can be performed by these subcontractors until the Certifications and Disclosure documents have been reviewed and approved by the State Purchasing Officer.

- .7 Retention.** CDB will retain 10% of each progress payment. Retention will not be withheld for bonds, insurance, and contract administration fee. After 50% of the work has been

completed, CDB will reduce retention provided the DB entity is in compliance with all contract requirements, including MBE/WBE/PBE/VBE goals. Retention will not be reduced if the contract is behind the approved schedule including extensions, or if substantial claims are outstanding against the DB entity or for other causes related to nonperformance.

01 77 00.3 CLOSEOUT PROCEDURES

J. Certification of Compliance with the Illinois Works Jobs Program Act Apprenticeship Initiative.