

**SPRINGFIELD REDEVELOPMENT AUTHORITY
DEPARTMENT OF TRANSPORTATION
DBE PROGRAM- 49 CFR PART 26**

Policy Statement

Section 26.1 and 26.23 Objectives/Policy Statement

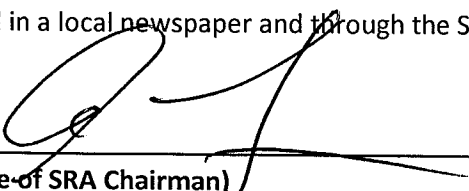
The Springfield Redevelopment Authority (SRA) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The SRA anticipates receiving Federal financial assistance from the Department of Transportation for the Union Station Regional Intermodal Transportation Center, and as a condition of receiving this assistance, the SRA will sign an assurance that it will comply with 49 CFR Part 26.

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

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

Mrs. Amanda Pham, SRA Finance & Compliance Officer, has been delegated as the DBE Liaison Officer (DBELO). In this capacity, the DBELO is responsible for implementing all aspects of the SRA DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the SRA in its financial assistance agreements with the DOT.

The SRA has disseminated this policy statement to its Governing Board and all of the components of its organization. The SRA has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts, through legal notices published in a local newspaper and through the SRA's website.



(Signature of SRA Chairman)

Date: 10/7/13

SUBPART A- GENERAL REQUIREMENTS

Section 26.1 Objectives

The objectives are found in the policy statement of the Objectives/Policy section 26.1 and 26.23 of this DBE program.

Section 26.3 Applicability

The SRA as potential recipient of federal transit funds authorized by Titles I, II, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, II, and V of the Teas-21, Pub. L. 105-178.

Section 26.5 Definitions

The SRA will adopt the definitions below, as contained in Section 26.5 of 49 CFR.

Affiliation - has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

1. Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly and indirectly:
 - a. One concern controls or has the power to control the other; or
 - b. A third party or parties controls or has the power to control both; or
 - c. An identity of interest between or among parties exists such that affiliation may be found.
2. In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native - means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) – means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.)

Compliance - means that a recipient has correctly implemented the requirements of this part.

49 CFR Part 26

Contract - means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor - means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Department or DOT - means the U.S Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or DBE - means a for-profit small business concern—

1. That is at least 50 percent owned by one or more individuals who are both socially and economically disadvantaged, or in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract - means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

DOT/SBA Memorandum of Understanding or MOU - refers to the agreement signed on November 23, 1999, between the Department of Transportation (DOT) and the Small Business Administration (SBA) streamlining certification procedures for participation in SBA's 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, and DOT's Disadvantaged Business Enterprise (DBE) program for small and disadvantaged businesses.

Good faith efforts - means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Home State- means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member - means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Indian tribe - means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaskan Native Corporation (ANC), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as

49 CFR Part 26

Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

Joint venture - means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Native Hawaiian - means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization - means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance - means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or OA - means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

Personal net worth - means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participating DBE firm; or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.

Primary industry classification - means the four-digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the NAICS replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site (www.ntis.gov/naics).

Primary recipient - means a recipient which receives DOT-financial assistance and passes some or all of it on to another recipient.

49 CFR Part 26

Principal place of business - means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business for DBE program purposes.

Program - means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious - measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral - measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

Recipient - is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary - means the Secretary of Transportation or his/her designee.

Set-aside - means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or SBA - means the United States Small Business Administration.

SBA certified firm – refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

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

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

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - a. "Black Americans" which includes persons having origins in any of the Black racial groups of Africa;

49 CFR Part 26

- b. "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- c. "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- d. "Asian-Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S Trust Territories of the Pacific Islands (Republic of Palau), the Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- e. "Subcontinent Asian Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- f. Women;
- g. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Supplier Diversity Office – means the Massachusetts Supplier Diversity Office, the state agency that certifies companies for both State and Federal (M/W/DBE) certification programs.

Tribally-owned concern - means any concern at least 51 percent owned by an Indian tribe as defined in this section.

Unless provided herein, no other definitions will apply. In the event such definitions in 49 CFR Part 26.5 is revised or amended, such changes will be incorporated hereto.

Section 26.7 Non-discrimination Requirements

The SRA will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR part 26 on the basis or race, color, sex, or national origin.

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

Section 26.11 Record Keeping Requirements

Reporting to DOT 26.11(b)

The SRA will report DBE participation to FTA using the Uniform Report of DBE Awards or Commitments and Payments form (49 CFR Appendix B to Part 26) on a semi-annual basis. The

49 CFR Part 26

semi-annual DBE report is a spreadsheet that captures a detailed breakdown of DBE participation in the SRA's DBE program. The reporting periods run from October 1st to March 31st and from April 1st to September 30th on the Union Station Project and reflect commitments and payments made to DBEs.

Bidders List: 26.11(c)

The SRA will create and maintain a bidders list consisting of information it collects on DBE and non-DBE firms. The list will include all firms that bid on prime contracts or bid or quote subcontracts. The bidders lists will be maintained and used by the SRA to measure the relative availability of ready, willing and able DBEs when setting the SRA's overall DBE goals. The bidders list will incorporate information on the age of firm and the annual gross receipts of the firm, to the extent available, from sources such as Massachusetts Supplier Diversity Office and other SRA procurements.

Since the SRA is a first time recipient of DOT funds, the SRA's efforts will be to begin enhancing the future plans and integrity of this program, under the DBE rulings. Please see Attachment 2: DBE Directory: Form- Bidder's Registration Form for the internal documentation used to begin and maintain SRA's bidders list. The SRA will request that the Bidder's Registration Form be filled out by all bidders and pre-qualified companies relative to the Union Station Project and will mandate that all third party contractors do the same with respect to their subcontractors.

Section 26.13 Federal Financial Assistance Agreement

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

Assurance: 26.13(a)

The SRA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assist. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the SRA of its failure to carry out its approved program, the Department may impose sanction as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

49 CFR Part 26

Contract Assurance: 26.13b

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

The contractor, sub-recipient, or sub contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SUBPART B- ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the SRA anticipates receiving grants of \$250,000 or more in DOT (FTA) financial assistance in a federal fiscal year, it will continue to carry out this DBE program until all funds from DOT financial assistance have been expended. The SRA will provide to DOT updates representing significant changes in the program.

Section 26.23 Policy Statement

The Policy Statement is elaborated on the first page of this program; it explains the SRA's DBE program objectives and outlines responsibilities for implementation. The statement is circulated throughout the organization, DBE and non-DBE businesses in the community, as well as posted on the SRA's web-site.

Section 26.25 DBE Liaison Officer (DBELO)

The SRA has designated the following individual as the DBE Liaison Officer (DBELO):

Mrs. Amanda Pham, SRA Finance & Compliance Officer
70 Tapley Street
Springfield, MA 01104
(413) 787-7663
apham@springfieldcityhall.com

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the SRA complies with all provision of 49 CFR part 26. The DBELO has direct, independent access to the SRA Chair and the SRA Executive Director concerning DBE program

49 CFR Part 26

matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 of this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has adequate staff to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisition for compliance with this program.
3. Works to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations
6. Analyzes the SRA's progress toward attainment and identifies ways to improve process.
7. Participates in pre-bid meetings.
8. Advises the SRA Governing Board on DBE matters and achievements
9. Oversees all DBE matters
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Plans and participates in DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them on opportunities.
13. Maintains the SRA's updated directory on certified DBEs
14. Coordinates with local agencies in the efforts to increase certified firms in the region.
15. Monitors and enforces the prompt payment to DBE subcontractor as outlined in section 26.29

Section 26.27 DBE Financial Institutions

It is the policy of the SRA 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 its Construction Manager on DOT-assisted contracts to make use of these institutions.

The SRA will maintain a listing of Minority Bank Deposit participants and minority members doing business in MA, provided by the Bureau of the United States Department of Treasury (www.fms.treas.gov). Currently the United States Department of Treasury has identified One United Bank in Boston Mass. as the only Minority Bank Depository participant doing business in Massachusetts.

49 CFR Part 26

Section 26.29 Prompt Payment Mechanisms

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

The SRA requires Construction Manager to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract received from the SRA. The Construction Manager must agree to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. This clause applies to both DBE and non-DBE subcontracts.

For further detail with respect to monitoring and enforcement mechanism please reference Sections 26.35 & 26.37, below.

Section 26.31 Directory

The SRA utilizes the Massachusetts UCP unified DBE directory to identify all firms eligible to participate as DBEs. This list is available for use by prospective contractors in identifying DBEs with skills particular to their contracting and business needs. Interested persons may obtain a copy of this Directory by contacting the DBELO at apham@springfieldcityhall.com.

SRA's DBE directory consists of the below information and will be updated on a semi-annual basis:

1. Company Name
2. NAICS Code of Company
3. Name of DBE
4. Address
5. Work/Fax Number
6. Email Address
7. DBE Status

The SRA, in collaboration with the City of Springfield's Information Technology Department, has created a user friendly database designed to assist in sorting and identifying statewide certified DBEs that can perform services necessary on specific contracting opportunities based on matching the opportunity with the DBE firm NAICS codes. The database mirrors the information presented in the Massachusetts UCP DBE Directory and allows the SRA to search based on a broad or narrow range of NAICS categories and/or descriptions. This allows greater flexibility with respect to the procurement at hand and to target the potential DBE firms that may want to participate on certain contract opportunities. The SRA updates this database on a semi-annual basis or more frequently, if necessary.

49 CFR Part 26

The Massachusetts UCP Directory is updated on a daily basis and can also be a reference point for prospective contractors, www.somwba.state.ma.us/BusinessDirectory/BusinessDirectory.aspx.

Section 26.33 Overconcentration

The SRA has not identified an overconcentration of DBEs in any of the work categories where the SRA would normally contract. However, the SRA will monitor future utilization to determine whether there is overconcentration and consider appropriate actions, as necessary. The SRA will also consider varying use of contract goals, to the extent consistent with Section 26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

Section 26.35 & 26.37 Monitoring and Enforcement Mechanisms

The SRA will undertake the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The SRA will bring to the attention of DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecutions, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The SRA will consider similar action under legal authorities and debarment or responsibility determination in future contracts.
3. The SRA will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by the efforts of the SRA and other Union Station Project team members and will accompany the close out files. See Attachment 3 for more information.
4. The SRA will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award, through the use of a Certificate of Payment forms to be submitted, by the Construction Manager
5. Article 9 of the Construction Manager's contract outlines the additional procedures in place to ensure that proper payment is received by the respective subcontractors. In addition, the Authority reserves the right to take reasonable steps to compel the CM to make each such payment to each such subcontractor.
6. The SRA will take proactive and preventative measures to identify irregularities early on in the Union Station project in order to ensure and maintain regulatory compliance.

The DBE Liaison Officer will enforce the monitoring elements of the SRA's DBE Program with the projects Owners Project Manager, Construction Manager and other third party contractors, for the Union Station project. Enforcement and monitoring forms will be submitted as progress continues on the project. All relevant enforcement documentation will be presented to

49 CFR Part 26

contractors at the time of bidding and formal inspections/reviews of DBE services will be made on site. The DBELO will obtain certification of payments made to DBEs quarterly, at a minimum.

Prompt payment and return of retainage procedures are identified through contract clauses in both the Authority's contract with the Construction Manager, as well as the Construction Managers sub contracts. Contract clauses state that the Construction Manager will not be reimbursed for work performed by subcontractors unless and until the Construction Manager ensures that the subcontractors are promptly paid for the work they have performed and/or completed. For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented. When the SRA has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by the acceptance is deemed to be satisfactorily completed, and will be signed off on by the CM, OPM (Clerk of the Works), and the SRA. Once the SRA is satisfied with the completion of work, the SRA will proceed with payments of the retainage to the Construction Manager, at which time the contractor will have 30 days to forward retainage payments to their subcontractors.

The SRA believes that if its presence is felt at all levels of the projects activities and the above actions are taken; businesses will be deterred from fraudulent activities. The DBE Liaison Officer will maintain up to date records of payments made to DBEs in comparison to the Construction Manager stated commitments; follow-up meetings with the OPM and other third party contractors will take place if alignment of these commitments have shifted.

Section 26.39 Fostering Small Business Participation

Introduction

The DBE program regulations that became effective on February 28, 2011, require that the recipient's DBE program include an element to structure contracting requirements to facilitate competition by small business concerns and take all reasonable steps to eliminate obstacles to the participation of small business concerns in procurements as prime contractors or subcontractors. This program element is being submitted for approval to US DOT, concurrent with SRA's DBE Program.

Fostering small business participation may include, but is not limited to the following strategies:

1. Establishing a race-neutral small business set aside for prime contracts under a stated amount, depending on the amount of grant funding awarded during the goal reporting period (e.g., \$1 million).
2. In multi-year design-build contracts or other large contracts, requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

49 CFR Part 26

3. On prime contracts not having DBE contract goals, encouraging the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work included. It should be noted that DBE goals and SBE goals shall not be placed on the same contract.
4. Identifying alternative acquisition strategies and structuring procurements to facilitate the ability to consortia or joint ventures consisting of small businesses, including DBE's, to compete for and perform prime contracts.
5. To meet the portion of SRA's overall goal it projects to be met through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
6. Assisting small businesses in finding identifying technical and financial resources with an emphasis on certification, re-certification and business development and growth.
7. SRA sponsored courses, administered by the Massachusetts Supplier Diversity Office (SDO) for a variety of business related topics and educational courses along with educating small businesses on the benefits of obtaining state/federal certifications through the SDO offices.

Definition of Small Business

49 CFR Part 26.5 states, "Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration (SBA) regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b)." This essentially means the size standards established by the SBA appropriate to the type(s) of work a firm seeks to perform in DOT-assisted contracts, while remaining at or below the overall size standard established by the US DOT Secretary (currently \$33.5 Million).

Compliance with 49 CFR 26.39 Requirements

It is the policy of the Springfield Redevelopment Authority (SRA) to ensure non-discrimination on the basis of race, color, national origin, or gender in the award and performance of any contract, and shall take all reasonable and necessary steps to ensure non-discrimination in the administration of the small business element of the Disadvantaged Business Enterprise (DBE) program. It is the intent of the SRA to have an environment that is equitable and in which small businesses can compete fairly for contracts financed in whole or in part with federal funds.

The SRA is committed to facilitate competition for small businesses by taking all reasonable steps to eliminate obstacles as described above. The SRA will continue to encourage small businesses, DBE and non-DBE, to participate in its procurement process. The SRA will assess potential SBE contract opportunities on a continuous basis.

49 CFR Part 26

The use of race-neutral small business goals on the same contracts than have DBE contract goals can be extremely difficult to administer, as such, the SRA will not place SBE goals and DBE goals on the same contract so that all reporting can remain consistent and accurate.

Through the active implementation of these strategies, and within the statutory requirements of Chapter 149A, the SRA will foster small business participation throughout the Union Station project. The SRA has created a Vendor Database that ties certified DBE's with area small businesses and firms that are seeking to participate in SRA procurements. This database, in conjunction with the DBE Directory and Bidder's List, will provide the SRA with an array of businesses eager to perform work for the redevelopment authority, along with providing the Authority with demographics that will assist in the reassessment of small business presence and future enhancement efforts that should be taken to this program.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.41 Statutory 10 Percent DBE Goal

The statutes authorizing this program provide that not less than 10 percent of the authorized funds are to be expended with DBEs. This goal is an aspirational goal at the national level, which is used as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts. The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

Section 26.43 Set-asides or Quotas

The SRA does not use quotas or set-asides in any way in the administration of this DBE program.

Section 26.45 Overall Goals

The SRA has determined its annual DBE goal for Fiscal Years 2013 through 2015 to be 2.35% of the total federal financial assistance the SRA will expend on Union Station Project contracts. The SRA projects that 1.18% can be achieved through race and gender neutral means, and 1.17% can be achieved through race and gender conscious means. A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program. This section of the program will be updated every three years and will be applicable to new DOT-assisted contracts awarded following implementation of the updated program.

In accordance with Section 26.45(f) the SRA will submit its overall goal to DOT on August 1 of the upcoming project year. Before establishing the overall goal of the project, the SRA will consult with the City of Springfield, the regional office of the Small Business Administration, area chambers of commerce, M/W/DBE firms, and other various organizations representing the interests of DBE's in the goal development and outreach process. Through this consultation the

49 CFR Part 26

SRA will be able to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the feedback with respect to SRA's efforts in establishing a level playing field.

Based on the update in regulations, the SRA's goal will be set for a three year period. The SRA will only adjust its goal, during this duration period, if there is a substantial adjustment in funding. In addition to the initial programs consultation session, the SRA will publish a public notice in the Springfield Republican newspaper and will provide notice on the SRA's website.

Information on its proposed overall goal, including the rationale for establishing the goal, will be available for inspection during normal business hours at the SRA offices located at 70 Tapley Street, Springfield, MA 01104, for a period of 30 days, following the date of the public notice informing the public that the SRA and DOT will accept comments on the goal for 45 days from the date of the notice. The SRA will issue a notice by June 1 of each DBE program year. The notice will include a means by which comments may be sent and the location of where the proposal may be reviewed.

The SRA will begin using its overall goal on October 1st of each program year, unless otherwise instructed by DOT. Since the SRA is establishing a goal on a project basis it will begin using the goal prior to its first solicitation for a DOT-assisted contract.

Section 26.47 Failure to Meet Overall Goal

The SRA intends to support this program and document good faith efforts in achieving this goal. If the SRA does not meet the goal set in this plan, the SRA will not be in noncompliance and be penalized for the short fall of the overall goal. The SRA will only be penalized for the failure to administer the program with good faith.

Pertaining to the Uniform Report, if the overall goal is less than what was committed; the SRA will document the reasoning for the difference between the overall goal set and the awards and commitments made along with a full explanation on how to correct the problems in order to meet the goal for the next year. As an authority not meeting the criteria of 49 CFR Section 26.47 (c)(3)(i) the SRA will retain analysis and correction actions documentation for three years and will be made available to the FTA upon request. If the reports state that current trends make it unlikely to achieve DBE awards and commitments based on approved plan, then the SRA will formally modify the race conscious and race-neutral sections of the report to achieve their stated goal.

Section 26.51(a-c) Meeting Overall Goals (Breakout of Estimated Race-Neutral and Race-Conscious Participation)

A breakout of Estimated Race Neutral and Race Conscious Participation can be found in Attachment 5, of this program.

Section 26.51(d-g) Contract Goals

49 CFR Part 26

The SRA will use specific individual contract goals to meet any portion of the overall DBE goal that the SRA does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall DBE goal applies, they will cumulatively result in meeting the overall goal.

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

The SRA will express its contract goals in all applicable bid documents. When applicable, the following language will be including in SRA's bid documents.

The requirements of 49 CFR Part 26, Regulations of the U.S Department of Transportation, apply to this contract. It is the policy of the SRA to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offers, including those who qualify as a DBE. A DBE contract goal of ___% has been established for this contract. The bidder/offeror shall make good faith efforts, as demonstrated in Appendix 6, 49 CFR Part 26 to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: 1) the names and addresses of DBE firms that will participate in the contract; 2) a description of the work that each DBE firm will perform; 3) the dollar amount of the participation of each DBE firm; 4) Written documentation of the bidders/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; 5) Written confirmation from the DBE that is participating in the contract as provided in the commitment made under 4) & 5) if the contract goal is not met, evidence of good faith efforts.

The SRA will express its contract goals as a percentage of the total amount of the DOT- assisted contract.

Section 26.53 Good Faith Efforts Procedures

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

1. Meet the contract goal with verified, countable DBE participation; or
2. Documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so.

49 CFR Part 26

It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluations of good faith efforts (26.53(a) &(c))

The obligation of a bidder is to make good faith efforts to meet DBE participation goals. To demonstrate sufficient reasonable efforts to meet the DBE contract goals, a bidder shall document that it has obtained adequate DBE participation to meet the goal or document the steps it has taken to obtain DBE participation, including but not limited to the following:

1. Attendance at a pre-bid meeting, if any, scheduled by the SRA to inform DBEs of subcontracting opportunities under a given solicitation.
2. Advertisement in general circulation media, trade association publications
3. Written notification to DBEs that their interest in the contract is solicited;
4. Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goal;
5. Efforts made to negotiate with DBEs for specific sub-bids including at minimum:
 - a) The names, addresses and telephone numbers of DBEs that were contacted
 - b) A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed
 - c) A statement of why additional agreements with DBEs were not reached
6. Information regarding each DBE the bidder contacted and rejected as unqualified and the reasons for the bidder's conclusion

Attachment 6 to this program, are forms utilized by the SRA to document and evaluate good faith efforts.

The following person is responsible for determining whether a bidder, who has not met the contract goal, has documented sufficient good faith efforts to be regarded as responsive: Mrs. Amanda Pham: SRA Finance & Compliance Officer.

The SRA will ensure that all information is complete and accurate and adequately documents the bidder/offeree's good faith efforts before it commits to the performance of the contract by the bidder/offeree.

Information to be submitted (26.53(b))

The SRA treats bidder/offerees' compliance with good faith efforts' requirements as a matter of responsiveness.

Each contract for which a contract goal has been established will require the bidders/offerees to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;

49 CFR Part 26

2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use DBE subcontractor whose participation it submitted to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts

Administrative Reconsideration (26.53(d))

Within 7 days of being informed by the SRA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/Offeror should make this request in writing to the following Reconsideration Official:

Christopher Moskal, SRA Executive Director
70 Tapley Street
Springfield, MA 01104

The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with SRA's Reconsideration Official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The SRA will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the DOT.

Good Faith Efforts when a DBE is replaced on a contract (26.53(f)):

Replacement of a DBE contractor

The SRA will require the Construction Manager to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal.

In the event that a DBE contractor must be replaced, the SRA will require the Construction Manager to notify the DBE and SRA, in writing, of the intent to terminate and provide the reason for the requested replacement, allowing for five days of response time in opposition of the rejection. This five day response period may be reduced if the matter is one of public necessity (i.e., safety). The Construction Manager needs authority from the SRA in order to terminate or

49 CFR Part 26

replace the DBE subcontractor. The Construction Manager must support its decision based on good cause and will be required to make good faith efforts to replace a DBE contractor with another certified DBE, as established by Section 26.53 (f)(3) of 49 CFR Part 26.

Situations in which a DBE may be replaced for good cause, include, but are not limited to, the following:

1. The DBE fails or refuses to execute a written contract
2. The DBE fails or refuses to perform the work consistent with normal industry standards
3. The DBE fails or refuses to meet the prime contractor's nondiscriminatory bond requirements
4. The DBE becomes bankrupt or has credit unworthiness
5. The DBE is ineligible to work because of suspension and debarment
6. It has been determined that the DBE is not a responsible subcontractor
7. The DBE voluntarily withdraws, with written notification, from the contract
8. The DBE is ineligible to receive credit for the type of work required
9. The DBE owner dies or becomes disabled resulting in the inability to perform the work on the contract
10. Or other documented compelling reasons.

Notice of Substitution

The SRA shall require the Construction Manager to notify the DBELO immediately of the DBE's inability or unwillingness to perform its work on a contract and provide reasonable documentation.

The SRA shall require the Construction Manager to notify the SRA when the need for substitution arises and to submit a request for substitution, prior to any actions being taken to terminate/replace the DBE subcontractor. Such a request must be in writing and include a description and good cause justification for the substitution and a new Schedule of Work and Subcontractor/Supplier Form.

Approval of Substitution

The SRA shall require the Construction Manager to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts to obtain a DBE replacement subcontractor. The Construction Manager shall submit a written request for administrative approval of the substitution prior to making a change in the contract. The Construction Manager's good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract, as the terminated DBE.

Failure to Comply

If the Construction Manager fails or refuses to comply in the time specified, the SRA will issue an order stopping all or part of payment and/or work until satisfactory action has been taken. If the

49 CFR Part 26

Construction Manager still fails to comply, the contracting officer may issue a termination of default proceeding.

Section 26.55 Counting DBE Participation

Each DBE is subject to a certification procedure to ensure its DBE eligibility status prior to award of contract. The SRA will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. The total dollar value of the contract awarded to the DBE is counted toward the applicable DBE goal.

Section 26.55(e) DBE Manufacturers and Suppliers/Participation by a Regular Dealer:

Considerations in determining if expenditures with DBE's for materials or supplies may be counted for DBE utilization include the following:

1. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE participation. For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 - a) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - b) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
 - c) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.
2. If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE participation.
3. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE participation, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE participation.

SUBPART D– CERTIFICATION STANDARDS

Section 26.61-26.73 Certification Process

The Disadvantaged Business Enterprise (DBE) requirements contained in 49 CFR Part 26 require that all DOT recipients in Massachusetts participate in a Unified Certification Program (UCP). The Supplier Diversity Office is a state regulatory agency within the Massachusetts Department of Economic Development to oversee the Massachusetts UCP and certify businesses for state funded M/WBE programs and federal DBE transportation programs. Under contract with the state's major transportation agencies and authorities, the SDO provides certification services required by federal regulation and state executive orders.

The Supplier Diversity Office maintains a directory of state-certified DBE firms. The SRA will utilize the Supplier Diversity Office's Directory of Certified Businesses and will require every DBE participant to submit proof of current certification. The SRA will not certify firms but will be a direct point of contact with regard to any questions or concerns they may have about getting certified.

For information regarding the DBE certification process or how to apply for certification, firms should contact:

Mrs. Amanda Pham, SRA Finance & Compliance Officer
Springfield Redevelopment Authority
70 Tapley Street
Springfield, MA 01104
Phone- (413) 787-7663
Email – apham@springfieldcityhall.com

The SRA strives to further inform Western Massachusetts Disadvantaged Business Enterprises, through various training sessions and pre-certification seminars in the western part of the state; to date the SRA has conducted a Connecting Businesses to the Commonwealth event, and in fiscal year 2013 has two seminars scheduled for assistances of businesses in Western MA. The SRA is enthusiastic to promote the benefits of this certification and will continue to work with the SDO offices to promote training events and to foster the growth and education of businesses west of Boston.

SUBPART E– CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

The SRA participates in the Massachusetts Unified Certification Program (UCP) administered by the Massachusetts Supplier Diversity Office. The Supplier Diversity Office is responsible for

49 CFR Part 26

certifying DBEs under the Massachusetts UCP and meets all of the requirements of this section, 26.81. The SRA will use and count, for DBE credit, only those DBE firms certified by the Massachusetts Supplier Diversity Office, the Massachusetts UCP.

The SRA will encourage and assist in the facilitation of firms in obtaining certification and will act as the mediator with respect to directing small businesses toward achieving certifications and expressing the opportunities that come from it, along with promoting the effort of the Massachusetts Supplier Diversity Office in its outreach and training efforts in Western Massachusetts.

Section 26.83-26.91 Procedures for Certification Decisions

The Massachusetts UCP certification procedures can be found online at:
<http://www.mass.gov/anf/budget-taxes-and-procurement/procurement-info-and-res/procurement-prog-and-serv/sdo/ucp/cert-standards-and-proc/>.

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

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

The SRA will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

SUBPART F- COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

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

Notwithstanding any contrary provisions of state or local law, the SRA will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without written consent of the submitter.

Monitoring Payments to DBEs

49 CFR Part 26

The SRA will require Construction Manager to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the SRA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The SRA will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation. Certificate of Payment forms will be submitted by the Construction Manager quarterly and reconciled.

Commercial Useful Functions

During performance of contracts, monitoring is conducted by various on-site project staff in conjunction with the Compliance Officer to ensure:

1. The type of work and the value of work performed is consistent with work stated in the "Schedule of Participation"
2. The DBE is performing a "commercially useful function" by actually performing, managing, and supervising the work with its own workforce
3. The equipment utilization is either owned or leased by the DBE

The Project Site Review form, found in Appendix 3, will be utilized to serve as written certification by the SRA that contracting records have been reviewed and work monitored relative to distinct elements of each DBE subcontract.

Enforcement Protocols

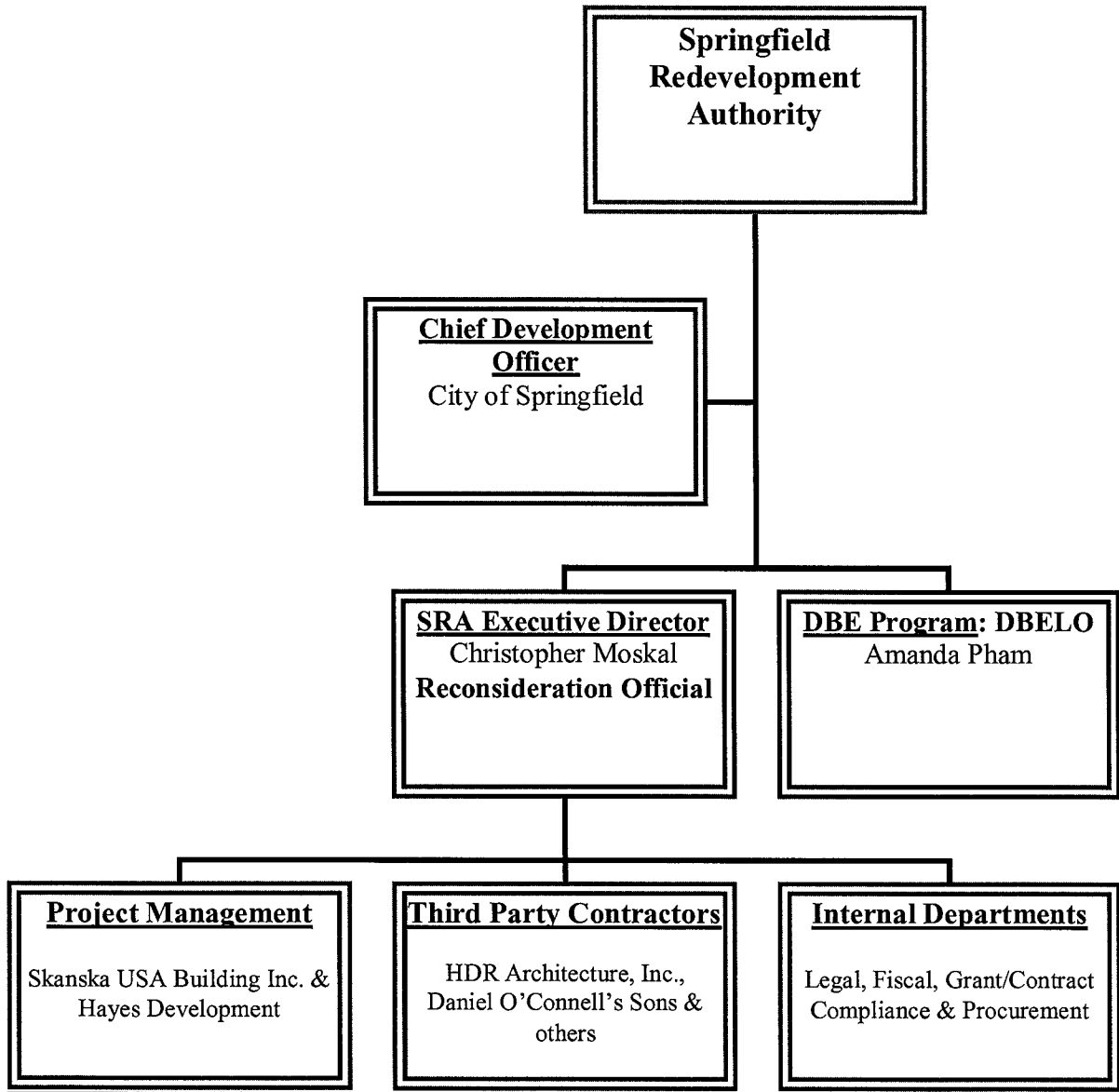
Where the Construction Managers found to have operated in a manner that is inconsistent with the requirements of 49 CFR part 26.55, as set forth in the DBE Special Provisions, the SRA will take immediate action to ensure that any actual or projected goal shortfall resulting is addressed. Depending on the severity of the matter, the Construction Manager or contractors involved will be advised in writing of the violation. Contractors that have demonstrated a pattern of violating the requirements set forth in the DBE Special Provisions. If the inconsistent actions are fraudulent, deceitful, or false representation of work performed the SRA will consider the actions and indications of this serious lack of business integrity and report them to the SRA Executive Director along with the SDO for potential debarment and suspension proceedings.

49 CFR Part 26

ATTACHMENTS

Attachment 1	Organizational Chart
Attachment 2	DBE Directory Form: Bidders Registration
Attachment 3	Monitoring and Enforcement Mechanisms Form: DBE Project Site Review Report
Attachment 4	Overall Goal Calculations
Attachment 5	Breakout of Estimated Race-Neutral & Race-Conscious Participation
Attachment 6	Forms for Demonstration of Good Faith Efforts
Attachment 7	Certification Application Forms
Attachment 8	Regulations: 49 CFR Part 26

Attachment #1
Organizational Chart



Attachment # 2

DBE Directory

For a complete directory of DBEs please contact the SRA's DBE Liaison Officer at:
apham@springfieldcityhall.com

Below is the Bidders Registration form that the Springfield Redevelopment Authority will utilize to obtain all the necessary information to maintain a directory of all firms bidding on DOT assisted contracts.

**SPRINGFIELD REDEVELOPMENT AUTHORITY
BIDDER'S REGISTRATION FORM**

Date Submitted: _____

Disadvantaged Business Enterprise (DBE) regulations as stated in 49 CFR 26.11(c) require the creation and maintenance of a comprehensive Bidders List, consisting of all firms who seek to work or are bidding on prime contracts or quoting/bidding subcontracts on federally-funded transportation projects. This includes all manufacturers and suppliers that provide materials being incorporated into the project. To comply with this requirement, the following information is required:

Firm Name		DBA (if applicable)	
Contact Name	Title	Phone Number	
Firm Mailing Address	City	State	Zip Code
E-mail Address		Year Firm Was Established	
Business is Certified by SBO (check all that apply) <input type="checkbox"/> DBE <input type="checkbox"/> MBE <input type="checkbox"/> WBE		Date (s) Certified: DBE MBE WBE	

Please Check Range of Annual Gross Receipts:

<input type="checkbox"/> \$.00 - 500,000	<input type="checkbox"/> \$ 500,000 - \$ 999,000	<input type="checkbox"/> \$ 1,000,000 - \$ 1,999,999
<input type="checkbox"/> \$ 2,000,000- \$ 4,999,999	<input type="checkbox"/> \$ 5,000,000- \$ 7,999,999	<input type="checkbox"/> \$ 8,000,000 - 10, 999,999
<input type="checkbox"/> \$ 11,000,000- \$ 13,999,999	<input type="checkbox"/> \$ 14,000,000 - \$ 16,999,999	<input type="checkbox"/> \$ 17,000,000 - Plus

Please Check Business Type:

Please Check Business Ownership:

<input type="checkbox"/> Contractor	<input type="checkbox"/> Manufacturer	This information is requested on a voluntary basis for statistical analysis			
<input type="checkbox"/> Consultant	<input type="checkbox"/> Trucking			<input type="checkbox"/> Black American	<input type="checkbox"/> Native American
<input type="checkbox"/> Supplier	<input type="checkbox"/> Equipment Lease			<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Subcont. Asian American
<input type="checkbox"/> Other _____				<input type="checkbox"/> Asian Pacific	<input type="checkbox"/> Non-Minority Women
				<input type="checkbox"/> Other: _____	

Please Check Areas Where Company is Willing to Work (MA):

<input type="checkbox"/> Barnstable County	<input type="checkbox"/> Hampshire County
<input type="checkbox"/> Berkshire County	<input type="checkbox"/> Middlesex County
<input type="checkbox"/> Bristol County	<input type="checkbox"/> Nantucket County
<input type="checkbox"/> Dukes County	<input type="checkbox"/> Norfolk County
<input type="checkbox"/> Essex	<input type="checkbox"/> Plymouth County
<input type="checkbox"/> Franklin County	<input type="checkbox"/> Suffolk County
<input type="checkbox"/> Hampden County	<input type="checkbox"/> Worcester County

Springfield Redevelopment Authority requires annual registration for ALL bidders

If you have already registered as a bidder with SRA this year, please disregard this form. If you have not registered for this year, submittal of this registration is considered a condition of the pre-award requirements. For further information about the Bidders List, call SRA's DBE Liason Officer at (413) 787-7663.

Submit completed form to:
Springfield Redevelopment Authority
DBE Liason Officer
70 Tapley Street
Springfield, MA 01104
Fax: (413) 787-7740
Email: agoncalves@springfieldcityhall.com

Attachment # 3

Monitoring and Enforcement Mechanisms

The SRA has several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract as well as Massachusetts statutes and common laws
2. Breach of contract action, pursuant to state statute and common law
3. Certificate of Payment forms will be maintained to monitor the compliance of DBE requirements.

In addition, the federal government has several enforcement mechanisms that it 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
3. Prosecution pursuant to 18 USC 1001.

The SRA will undertake the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. The SRA will bring to the attention of DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecutions, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. The SRA will consider similar action under legal authorities and debarment or responsibility determination in future contracts.
3. The SRA will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by the efforts of the SRA and other Union Station Project team members and will accompany the close out files. See Attachment 3 for more information.
4. The SRA will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award, through the use of Certificate of Payment forms which will be submitted by the Construction Manager
5. Article 9 of the Construction Manager's contract outlines the additional procedures in place to ensure that proper payment is received by the respective subcontractors. In addition, the Authority reserves the right to take reasonable steps to compel the CM to make each such payment to each such subcontractor.

49 CFR Part 26

The SRA will take proactive and preventative measures to identify irregularities early on in the Union Station project in order to ensure and maintain regulatory compliance

The DBE Liaison Officer will enforce the monitoring elements of the SRA's DBE Program with the projects Owners Project Manager, Construction Manager and other third party contractors, for the Union Station project. Enforcement and monitoring forms will be submitted on a regular basis as progress continues on the project. All relevant enforcement documentation will be presented to contractors at the time of bidding and formal inspections/reviews of DBE services will be made on site. The DBELO will obtain certification of payments made to DBEs quarterly, at a minimum.

Prompt payment and return of retainage procedures are identified through contract clauses in both the Authority's contract with the Construction Manager, as well as the Construction Managers sub contracts. Contract clauses state that the Construction Manager will not be reimbursed for work performed by subcontractors unless and until the Construction Manager ensures that the subcontractors are promptly paid for the work they have performed and/or completed. For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented. When the SRA has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by the acceptance is deemed to be satisfactorily completed, and will be signed off on by the CM, OPM (Clerk of the Works), and the SRA. Once the SRA is satisfied with the completion of work, the SRA will proceed with payments of the retainage to the Construction Manager, at which time the contractor will have 30 days to forward retainage payments to their subcontractors.

The SRA believes that if its presence is felt at all levels of the projects activities and the above actions are taken, businesses will be deterred from fraudulent activities. The DBE Liaison Officer will maintain up to date records of payments made to DBEs in comparison to the Construction Manager stated commitments; follow-up meetings with the OPM and other third party contractors will take place if alignment of these commitments have shifted.

SPRINGFIELD REDEVELOPMENT AUTHORITY
 DBE- Commercially Useful Function (CUF)
 Project Site Review

Project: Union Station Regional Intermodal Transportation Center

Date of Visit: _____

Prime Contractor: _____

DBE Company: _____

CF: _____

Name/Title of DBE on-site representative: _____

1. Per the condition of award, indicate DBE work observed this date			
DBE Item Number	Approx. % Complete	Item Description (Note material items)	Dollar Value

2. DBE Subcontractor's Start Date	3. Contract Percentage Complete (time)	4. Anticipated Sub Completion Date
5. Do the DBE's employees receive work assignments from the DBE Foreman/Superintendent? YES <input type="checkbox"/> NO <input type="checkbox"/>		6. Exclusively Employed by the DBE Contractor? YES <input type="checkbox"/> NO <input type="checkbox"/>
6a. If No, Please Explain:		
7. Is Foreman/Superintendent shown on DBE payroll? YES <input type="checkbox"/> NO <input type="checkbox"/>		8. Is Foreman/Superintendent shown on any other Contractor's Payroll? YES <input type="checkbox"/> NO <input type="checkbox"/>
8a. If Yes, Please Explain:		
9. Who does the DBE Foreman/Superintendent report to:		10. Are DBE's employees shown on any other contractor's payroll? YES <input type="checkbox"/> NO <input type="checkbox"/>
10a. If yes, whose?		
11. List names and crafts of DBE's crew as observed (use additional sheets if needed).		
12. Does the equipment used have the DBE's name and/or logo on it? YES <input type="checkbox"/> NO <input type="checkbox"/>		12a. If no, whose firm's name and/or logo is on the equipment?
12. Does the equipment used have the DBE's name and/or logo on it? YES <input type="checkbox"/> NO <input type="checkbox"/>		12a. If no, whose firm's name and/or logo is on the equipment?
13. Does the equipment used belong to the DBE? YES <input type="checkbox"/> NO <input type="checkbox"/>		13a. If no, is the equipment rented or leased?
14. Has any other contractor performed work that was to be performed by the DBE? YES <input type="checkbox"/> NO <input type="checkbox"/>		14a. If yes, identify the contractor who performed the work:
15. What work items were performed by the identified contractor?		15a. Were these items on the DBE's subcontract? YES <input type="checkbox"/> NO <input type="checkbox"/>
16. Has the DBE owner been present on the job site? YES <input type="checkbox"/> NO <input type="checkbox"/>		16a. Are personnel and equipment under direct supervision of the DBE subcontractor? YES <input type="checkbox"/> NO <input type="checkbox"/>
Comment:		

Note: Attach any documents pertinent to the review, i.e., invoices, photographs, daily reports, correspondence, etc.

Review Conducted By: _____

Date Submitted: _____

Signature: _____

Attachment # 4

Springfield Redevelopment Authority
Overall Goal Calculation- FY2013- 2015

Amount of Goal

1. The SRA's overall goal for the following time period FY 2013-2015, is as follows: **2.35 percent** of the Federal financial assistance it will expend in DOT-assisted contracts. The FY2013-2015 goal is currently based upon the Union Station Project costs. This is the Authority's only project with federal DOT financial assistance, at this time.
2. The anticipated total dollar amount of DOT-assisted contracts that the SRA expects to receive for the Union Station Project is \$7,405,586. As such, that the SRA has set a goal of expending \$174,031. with DBEs.

Methodology Used to Calculate Overall Goal

Step 1: 26.45 (c)

Determine the base figure for the relative availability of DBEs. The relative availability of DBEs is based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts.

The base figure for the relative availability of DBE's was calculated as follows:

$$\text{Base Figure} = \frac{760 = \text{Ready, willing, and able DBEs}}{33,274 = \text{All firms ready, willing and able}}$$

The data source or demonstrable evidence used to derive the numerator:

The current federally funded project is projected to take three years to complete and involves the full spectrum of scope (from design through construction- by NAICS code) for the redevelopment of the Union Station Regional Intermodal Transportation Center. All DBEs researched were from the Massachusetts UCP DBE Directory in order to achieve and maintain full and open competition with regard to this historical project.

The Massachusetts Supplier Diversity Office through its UCP maintains a listing of certified DBEs that can be found at:

<http://www.somwba.state.ma.us/BusinessDirectory/BusinessDirectoryList.aspx>.

49 CFR Part 26

From this list, SRA staff identified all specific NAICS codes applicable to the Union Station Regional Intermodal Transportation Center project, and compared it to the businesses (certified and non-certified) that exist in the Massachusetts whom can perform the services needed to complete the project.

The data source or demonstrable evidence used to derive the denominator:

In order to determine the number of firms ready, willing, and able to perform all necessary services needed for the Union Station project, SRA staff used statistics compiled by the U.S Census Bureau in the report entitled "2011 County Business Patterns". Using data specific to the NAICS codes targeted for this project, the SRA was able to determine that there were over 33,000 DBE and non DBE firms in Massachusetts that could perform services for the Union Station Intermodal Transportation Center.

Below is a summary breakdown by NAICS categories of the areas of services anticipated for the Union Station project and the specific computations for each category relative to the number of DBE and Non DBEs:

	Total Establishments	Applicable Categories	% Utilization of Category	# of DBE's	% Availability
23 Construction	16,480	11,698	71.0%	258	2.21%
42 Wholesale Trade	8,068	2,394	29.7%	58	2.42%
53 Real Estate & Rental Lease	6,316	2,155	34.1%	17	0.79%
54 Professionals	21,218	12,348	58.2%	347	2.81%
Administrative/Support & Waste					
56 Mgmt	9,706	4,679	48.2%	80	1.71%
	61,788	33,274		760	2.28%

*Applicable Categories was determined through analysis of each subgroup within the NAICS category

By dividing the numerator by the denominator, the SRA arrived at the base figure for the overall goal and that number was 2.28-percent.

The SRA identified the need to apply weights to the base figure calculated above based on the forecasted spending for the project. The SRA used the following methodology with respect to the additional weight applied to the computations of the SRA's DBE program goal.

	Estimated Budget	% of Total Budget	Weight Factor	x	Availability	Weighted
Construction	\$ 25,265,868	49.4%	0.494	x	2.21%	1.09%
Wholesale Trade	\$ 10,183,614	19.9%	0.199	x	2.42%	0.48%
Real Estate and Rental and leasing	\$ 950,000	1.9%	0.019	x	0.79%	0.01%
Professionals	\$ 12,499,692	24.4%	0.244	x	2.81%	0.69%
Administrative and support and waste mgmt and remediation	\$ 2,284,200	4.5%	0.045	x	1.71%	0.08%

Total Budget \$ **51,183,374** **Sum of weighted** **2.35%**

49 CFR Part 26

The SRA analyzed the percentage of total budget for the applicable NAICS categories and weighed it against the availability of firms in each category. This action altered the SRA's goal from 2.28% to a 2.35%.

Step 2: 26.45 (d)

After calculating a weighed base figure of the relative availability of DBEs, there was no evidence that suggested an additional need to adjust the goal presented. Since SRA is a first time recipient of DOT funds, it has no historical data on which to base adjustments. However, the SRA believes it can achieve its goal based on the data of other regional programs and the efforts of their internal staff. The SRA is eager to assist in enhancement of DBE participation and is committed to this program and the implementation of efforts to ensure its success. For these reasons, the SRA has established a DBE participation goal of 2.35 percent. This goal is reflective of the SRA's determination of the level of DBE participation expected absent of the effects of discrimination.

Public Participation

The SRA will publish its goal information in the following media outlets: The Springfield Republican, public bulletin board at Springfield City Hall, notification of area chambers and the Small Business Administration, and on the SRA's public website. On July 15, 2011, the SRA published its first legal notice for the 30 day public review period of its previous goal of 2.8% for the Union Station project. The DBE goal and supporting documentation was available to the public until August 15, 2011, by request or my email. Comments were accepted by fax, email or mail. To date, the SRA has not received any comments on its DBE program. Based on the SRA's revision to its methodology from 2.8% to 2.35% the SRA will be resubmitting these notices and providing an additional 30 day public review period to obtain any comments with respect to this revised program.

The SRA held a Public Participation Event on August 11, 2011 for which the DBE Liaison Officer provided the attendees with a presentation of SRA's DBE Goal and DBE program. This detailed the SRA's implementation of these federal regulations along with upcoming procurement opportunities. In addition to this presentation was an information session presented by two SDO representatives from Boston, MA, whom assisted the SRA in some of its solicitation for the event by sending an email to all registered companies on the UCP Database. The SDO representative focused their presentation on the steps toward obtaining state/federal certification as well as answering questions the participants had. The attendees were a mixture of local disadvantaged business (certified & uncertified), and local area organizations.

During the presentation to the public, the DBE Liaison Officer asked all participants what they felt were obstacles that disadvantaged business in our region had to overcome.

Below are just some of the concerns that arose during the consultation session:

49 CFR Part 26

- Lack of outreach to disadvantaged businesses
- The benefits of obtaining such certifications
- Lack of training programs in the western portion of the state
- Assistance with the technical and financial capability in order to participate in large projects

All participants were enthusiastic about our efforts and support. They are eager to begin the certification process and work with us in embracing these new regulations.

The SRA will work closely with local area organizations in coordinating our goals to increase the presence of certified firms and training programs in Western Massachusetts. The SRA plans to coordinate various training sessions, with the aid of area organizations and Massachusetts Supplier Diversity Office representatives to educate businesses on various subjects pertaining to growth and complexity of projects/procurements and the benefits of becoming certified. To date the SRA has hosted or has scheduled many SDO seminars, in Springfield, to promote access of these free education courses to businesses in Western MA. The SRA intends to continue this cooperative agreement with the SDO in order to assist businesses of Springfield, and Western MA as a whole.

As the Union Station project progresses, the SRA will continue these training events as well as host informational session about upcoming bid opportunities. The SRA in coordination with the projects' Construction Manager held an Open House, on April 18, 2013, for interested businesses in the area. This session was meant as a meet and greet as well as an informational session regarding upcoming subcontract opportunities and the Chapter 149A subcontractor trade prequalification process. This event was a great success with over 20+ businesses in attendance, all eager to perform work and understand the bid process of MGL.

The SRA will continue to research additional outreach opportunities to encourage DBE participation and intends to update this section as those efforts advance. The SRA is extremely dedicated to this program and is eager to enhance DBE participation in the region. As a public redevelopment agency, the SRA is committed to the utilization of disadvantaged (DBE), women (WBE) and minority (MBE) business enterprises and encourages increased business opportunities to ensure equitable distribution of contracting opportunities to these sectors.

Attachment # 5

**Meeting Overall Goals
(Breakout of Estimated Race-Neutral & Race-Conscious Participation)**

The SRA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contract that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

The SRA will strive to obtain 100% race-neutral participation if possible, but is prepared to intervene with race conscious efforts, if meeting the overall project goal is not possible through race neutral participation only. The SRA estimates that in meeting its overall goal, it will achieve 1.18% percent race-neutral participation, which is equivalent to 50% of the SRA's FY13-15 DBE Goal of 2.35%. Since the SRA is a first time participant in this program, the region is not familiar with our involvement and race-conscious measures may need to be taken if the project DBE goal does not seem to be attainable through the measures taken to maintain a race-neutral participation.

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

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under 26.39 of this program;
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
3. Providing technical assistance and other services;
4. Carrying out information and communications programs on contacting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders, ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, if requested);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

49 CFR Part 26

7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential primes contractors, and;
9. Assisting DBEs, and other small business, to develop their capability to utilize emerging technology and conduct business through electronic media.

The SRA is driven to enhance DBEs and other small business in their long-term success with development and expansion. The SRA will utilize the federal regulations and its drive and emphasize of this program to steer the SRA to its current participation goals.

After collecting some historic DBE participation data, through the Union Station Regional Intermodal Transportation Center, the SRA will re-visit the programs outcomes and achievements and make the necessary adjustments to its race-neutral and race-conscious participation goal (see 26.51 (f) and will track and report race-neutral and race conscious participation separate). If the SRA recognizes the inability to meet the goal using race-neutral means or the over commitment of DBE participation the project team will re-asses the need and utilization of DBEs for future procurements and either eliminate or begin to include contract goals. SRA is eager to sustain this program and a culture of diversity throughout the redevelopment authority's future.

In order to ensure that the SRA's DBE program will be narrowly tailored to overcome the effects of discrimination and to emphasize SRA's aspirational goal of race neutrality, the SRA will perform the below activities designed to ensure that DBEs have the maximum opportunity to participate in contracts and increase DBE participation on SRA contracts:

1. Inform and communicate to DBEs and small businesses the contracting procedures and specific contracting opportunities by planning and participating in business development training seminars and community outreach activities for the purpose of informing potential contractors of available business opportunities. These seminars and outreach activities will assist businesses in also achieving certification and becoming more aware of the benefits of such programs. This effort will be of great benefit to the region of Western Massachusetts by increasing the presence of DBEs.
2. Maintain a current Massachusetts UCP DBE Directory as a source of identifying all DBEs currently certified by the Massachusetts Supplier Diversity Office, and make available copies of the directory to prospective contractors desiring contract information for projects. In addition the SRA will encourage the Construction Manager to subcontract portions of work that they might otherwise perform with their own forces to maximize the opportunity for DBEs.

49 CFR Part 26

3. E-mail copies of contract notices to those firms listed in the Massachusetts UCP DBE directory, along with utilizing of the SRA's website for information regarding all bid opportunities, documentation for bid submission, and other helpful links.
4. Assist in identifying problems confronting DBEs and small businesses in performing contracts and work diligently to arrive at an acceptable solution along with providing technical assistance.
5. Facilitate the receipt of timely progress payments to DBEs for work completed, following such request for payment.
6. Encourage DBE attendance at pre-bid/pre-proposal meetings. Provide assistance to DBEs and small businesses during the solicitation or bid period for any project, and assist with explanation of documentation. The SRA will arrange solicitation times for presentation of bids and pre-bid meetings that facilitated DBEs and other small firms' participation.
7. Provide assistance, to the extent possible, in obtaining bonding, financing and insurance which will enable DBEs to participate in SRA contracting activities.
8. Maintain a system of record and reports documenting:
 - a. Specific efforts made to identify and award contracts to DBEs; and
 - b. Specific awards made to DBEs

Attachment # 6

Below is a **Letter of Intent** and **Demonstration of Good Faith Efforts** forms to be used to demonstrate the Construction Managers attainment of DBE participation or good faith efforts to obtain DBE participation.

Springfield Redevelopment Authority

70 Tapley Street • Springfield, MA 01104 • (413) 787-6020

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

Letter of Intent

(To be supplied if using DBE sub-contractors)

To: _____ (Name of Prime Offeror)

The undersigned intends to perform work in connection with this project as (check one):

- an individual
- DBE
- a partnership
- a joint venture

The Disadvantaged Business status of the undersigned is confirmed

- (a) on the most recent reference list of Disadvantaged Business Enterprises published by Massachusetts Supplier Diversity Office dated _____, or
- (b) on the attached Disadvantaged Business Enterprise Identification Statement

The undersigned is prepared to perform the following work in connection with the above project, (Specify in detail particular work items or parts thereof to be performed):

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

\$ _____.

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

<u>Items</u>	<u>Projected Commencement Date</u>	<u>Projected Completion Date</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

The above work will not be sublet to a non-Disadvantaged Business Enterprise at any tier. The undersigned will enter into a formal agreement for the above work conditioned upon an execution of a contract with SRA.

Date _____

Name of Disadvantaged Business Enterprise

Springfield Redevelopment Authority

70 Tapley Street • Springfield, MA 01104 • (413) 787-6020

Contractor DBE Good Faith Effort

Company Name: _____

Company Contact: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

The following is a list of the types of actions that may be considered as good faith efforts. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases, however please check all that apply in this instance. Please provide documentation for ALL instances selected. Describe any other efforts not covered below that may indicate affirmative action to obtain DBE participation on this project and provide documentation.

- Selected portions of work to be performed by DBEs and where appropriate, broke down contracts into economically feasible units to facilitate DBE participation.
- Followed up initial solicitation of interest by contacting DBE to determine interest. (provide documentation Pg. 2)
- Provided written notice to DBEs in sufficient time to allow the DBE to respond. (provide documentation on Pg.2)
- Used the services of minority organizations, minority contractors' groups, local state and federal minority business assistance offices and other organizations that provide assistance identifying subcontractors.
- Advertised subcontracting opportunities in appropriate media.
- Made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by Contractor.
- Negotiated in good faith with interested DBE, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
- Provided interested DBE with adequate information about plans, specifications, and requirements of the contract.

Describe any other efforts not covered above that may indicate affirmative action to obtain DBE participation on this project and provide documentation:

49 CFR Part 26

If the dollar value of the goal for DBE participation in this project has not been met, the Contractor is required to complete the following questions to describe efforts to obtain DBE participation. Copies of correspondence return receipts, telephone logs, or other documentation will be required to support good faith efforts. Please provide a copy of this form for each DBE.

Company Name: _____

Indicate Work or Materials to be provided: _____

Date Contacted: _____

Contact Method (check all that apply):

- Phone
- Fax
- Mail
- E-Mail

DBE Response

- No Response
- Submitted an acceptable sub-bid
- Not interested: Indicate Reason(s) _____
- Needs more information: Date Prime provided requested information _____
- Will provide quote by: Date _____
- Other: _____
- Received unacceptable sub-bid: Bid Amount: \$ _____ Date _____
Type of Work: _____

Additional Information: _____

Please attach bid solicitations and all bid responses

49 CFR Part 26

Attachment # 7
Certification Application Forms

Certification will occur under the Massachusetts UCP through the Massachusetts Supplier Diversity office. A copy of the federal certification application forms can be found on the SRA website at www.springfield-ma.gov/planning/sra.html

Attachment # 8
Regulations: 49 CFR Part 26

Please refer to the SRA's website for a complete 49 CFR Part 26- Participation by Disadvantaged Business Enterprise in Department of Transportation Financial Assistance Programs.
(www.springfield-ma.gov/planning/sra.html)