



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

Pat Quinn, Governor
Marc Miller, Director

February 10, 2010

SUBJECT: Crystal Creek Flood Control Project Phase IIA
Villages of Franklin Park and Schiller Park
Cook County
Contract No. FR-413
Item No. 2W, March 5, 2010 Letting
Addendum A

NOTICE TO PROSPECTIVE BIDDERS

Attached is an addendum to the plans and proposal. This addendum involves revised and/or added material.

1. Revised page 2 of the proposal. (Changed Item No. from 1W to 2W)
2. Replaced the Schedule of Prices.
3. Revised "Notice to Bidders" page. (Changed Item No. from 1W to 2W)
4. Revised pages 1-8 in the Special Provisions. This was done to make the special provision for Required Disadvantaged Business Participation more closely match IDOT's. The main revision is that forms 2025 and 2026 are now required to be submitted with the bid.
5. Revised sheets 1, 3, 4, 15, 37, 39, 41 and 54 of the plans.

Prime contractors must utilize the enclosed material when preparing their bid and must include any Schedule of Prices changes in their bidding proposal.

Bidders using computer-generated bids are cautioned to reflect any and all Schedule of Prices changes, if involved, into their computer programs.

Very Truly Yours,

Ted M. Montrey, P.E., S.E.
Chief, Design Section

cc: William J. Schuck

TMM:GMS:kmp

RETURN WITH BID



ILLINOIS
DEPARTMENT OF
NATURAL RESOURCES
Office of Water Resources

PROPOSAL

TO THE DEPARTMENT OF NATURAL RESOURCES

1. Proposal of _____

Taxpayer Identification Number (Mandatory) _____ a

for the improvement identified and advertised for bids in the Invitation for Bids as:

**2W Cook County
FR-413
Crystal Creek Flood Control Project Phase IIA, Villages of Franklin Park and Schiller Park**

0.40 mile of channel improvement on Crystal Creek beginning approximately 150 feet downstream of 25th Avenue and ending just upstream of Wehrman Avenue in Schiller Park, Illinois. Work consists of revising an existing channel with a varied side slope to a “rectangular” channel with an 18 to 28 foot wide bottom and, 9 to 12 foot tall side walls constructed of segmental concrete blocks. Seven existing pedestrian bridges will be removed and replaced with six PPC deck beam bridges 23 to 25 feet long and one culvert extension. Two stream crossings will have an additional box culvert barrel constructed and three crossings will have the existing culvert replaced with a double box culvert. The work will also include the removal of a garage and existing bridge abutments and all appurtenant work required to complete the project.

2. The undersigned bidder will furnish all labor, material and equipment to complete the above described project in a good and workmanlike manner as provided in the contract documents provided by the Department of Natural Resources and the Department of Transportation. This proposal will become part of the contract and the terms and conditions contained in the contract documents shall govern performance and payments.

Revised 02/10/2010

CRYSTAL CREEK FLOOD CONTROL PROJECT, PHASE IIA
VILLAGES OF FRANKLIN PARK AND SCHILLER PARK
COOK COUNTY
FR-413

* REVISED: FEBRUARY 10, 2010

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
1	Tree Removal (6 to 15 units diameter)	unit	556				
2	Tree Removal (over 15 units diameter)	unit	846				
3	Nitrogen Fertilizer Nutrient	pound	62				
4	Phosphorus Fertilizer Nutrient	pound	62				
5	Potassium Fertilizer Nutrient	pound	62				
6	Channel Excavation	cu yd	2,339				
7	Topsoil Excavation and Placement	cu yd	527				
8	Seeding, Class 4	acre	0.55				
9	Seeding, Class 6A	acre	0.13				
10	Mulch, Method 3	acre	0.68				
11	Temporary Erosion Control Seeding	pound	149				
12	Temporary Ditch Checks	each	11				
13	Perimeter Erosion Barrier	foot	3,471				

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COOK COUNTY
FR-413

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ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
14	Stone Riprap, Class A4	sq yd	867				
15	Stone Dumped Riprap, Class A4	ton	324				
16	Filter Fabric	sq yd	867				
17	Aggregate Base Course, Type A 6"	sq yd	14				
18	Hot-Mix Asphalt Base Course, 8"	sq yd	331				
19	Bituminous Materials, (Prime Coat)	gallon	25				
* 20	Hot-Mix Asphalt Binder Course, IL-19.0, N50	ton	128				
21	Hot-Mix Asphalt Surface Course, Mix "D", N50	ton	56				
22	Portland Cement Concrete Sidewalk 6 inch	sq ft	2,199				
23	Pavement Removal	sq yd	556				
24	Aggregate Shoulders, Type B	ton	10				
25	Combination Concrete Curb and Gutter Removal and Replacement	foot	223				
26	Removal of Existing Structures No. 1	each	1				

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COOK COUNTY
FR-413

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ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
27	Removal of Existing Structures No. 2	each	1				
28	Removal of Existing Structures No. 3	each	1				
29	Removal of Existing Structures No. 4	each	1				
30	Removal of Existing Structures No. 5	each	1				
31	Removal of Existing Structures No. 6	each	1				
32	Removal of Existing Structures No. 7	each	1				
33	Removal of Existing Structures No. 8	each	1				
34	Removal of Existing Structures No. 9	each	1				
35	Pipe Culvert Removal	foot	177				
36	Structure Excavation	cu yd	4,543				
37	Concrete Structures	cu yd	74.6				
38	Precast Prestressed Concrete Deck Beams (11" Depth)	sq ft	593				
39	Expansion Bolts 3/4 inch	each	99				

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ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
40	Reinforcement Bars	pound	24,390				
41	Reinforcement Bars, Epoxy Coated	pound	32,540				
42	Bar Splicers	each	38				
43	Bicycle Railing	foot	180				
44	Slope Wall 6"	sq yd	92				
45	Name Plates	each	12				
46	Concrete Box Culverts	cu yd	285.5				
47	Precast Concrete Box Culvert 10'x4' (M273)	foot	50.5				
48	Precast Concrete Box Culvert 10'x5' (M273)	foot	229				
49	Concrete Collar	cu yd	5.7				
50	Storm Sewers, Class A, Type 1 12"	foot	6				
51	Storm Sewers, Class A, Type 2 36"	foot	9				
52	Storm Sewers, Class B, Type 2 12"	foot	1				

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ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
53	Storm Sewer Removal 6"	foot	10				
54	Storm Sewer Removal 8"	foot	17				
55	Storm Sewer Removal 10"	foot	9				
56	Storm Sewer Removal 15"	foot	7				
57	Storm Sewer Removal 24"	foot	7				
58	Storm Sewer Removal 36"	foot	16				
59	Catch Basins, Type C, Type 8 Grate	each	1				
60	Steel Plate Beam Guardrail, Type A	foot	25				
61	Steel Plate Beam Guardrail, Attached to Structures	foot	100				
62	Chain Link Fence, 6'	foot	3,068				
63	Chain Link Fence to be Removed and Re-erected	foot	2,115				
64	Engineer's Field Office, Type B	cal mo	24				
65	Mobilization	l sum	1				
66	Traffic Control and Protection, (Special)	l sum	1				

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ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
67	Temporary Concrete Barrier	foot	165				
68	Relocate Temporary Concrete Barrier	foot	140				
69	Segmental Concrete Block Wall	sq ft	28,659				
70	Wood Information Signs	sq ft	30				
71	Temporary Soil Retention System	sq ft	118				
72	Building Removal No. 1	l sum	1				
73	Impact Attenuators, Temporary (Non-redirective), Test Level 2	each	1				
74	Impact Attenuators, Relocate (Non-redirective), Test Level 2	each	1				
75	Construction Staking	l sum	1				
76	Seeding, Mulching and Fertilizing	acre	0.81				

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ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE		TOTAL PRICE	
				DOLLARS	CENTS	DOLLARS	CENTS
77	Temporary Cofferdam System	l sum	1				
78	Stone Face Finish	sq ft	540				
				TOTAL PROPOSAL			

NOTE:

1. Each pay item should have a unit price and a total price.
2. The unit price shall govern if no total price is shown or if there is a discrepancy between the product of the unit price multiplied by the quantity.
3. If a unit price is omitted, the total price will be divided by the quantity in order to establish a unit price.
4. A bid will be declared unacceptable if neither a unit price nor a total is shown.



ILLINOIS
DEPARTMENT OF
NATURAL RESOURCES
Office of Water Resources

NOTICE TO BIDDERS

- 1. TIME AND PLACE OF OPENING BIDS.** Sealed proposals for the improvement described herein will be received by the Department of Transportation for the Department of Natural Resources at the Harry R. Hanley Building, 2300 South Dirksen Parkway, in Springfield, Illinois until 10:00 o'clock a.m., March 5, 2010. All bids will be gathered, sorted, publicly opened and read in the auditorium at the Department of Transportation's Harry R. Hanley Building shortly after the 10:00 a.m. cut off time.
- 2. DESCRIPTION OF WORK.** The proposed improvement is identified and advertised for bids in the Invitation for Bids as:

2W Cook County
FR-413
Crystal Creek Flood Control Project Phase IIA, Villages of Franklin Park and Schiller Park

0.40 mile of channel improvement on Crystal Creek beginning approximately 150 feet downstream of 25th Avenue and ending just upstream of Wehrman Avenue in Schiller Park, Illinois. Work consists of revising an existing channel with a varied side slope to a "rectangular" channel with an 18 to 28 foot wide bottom and, 9 to 12 foot tall side walls constructed of segmental concrete blocks. Seven existing pedestrian bridges will be removed and replaced with six PPC deck beam bridges 23 to 25 feet long and one culvert extension. Two stream crossings will have an additional box culvert barrel constructed and three crossings will have the existing culvert replaced with a double box culvert. The work will also include the removal of a garage and existing bridge abutments and all appurtenant work required to complete the project.
- 3. INSTRUCTIONS TO BIDDERS.** (a) This Notice, the invitation for bids, proposal and letter of award shall, together with all other documents in accordance with Article 101.09 of the Standard Specifications for Road and Bridge Construction, become part of the contract. Bidders are cautioned to read and examine carefully all documents, to make all required inspections, and to inquire or seek explanation of the same prior to submission of a bid.

(b) State law, and, if the work is to be paid wholly or in part with Federal-aid funds, Federal law requires the bidder to make various certifications as a part of the proposal and contract. By execution and submission of the proposal, the bidder makes the certification contained therein. A false or fraudulent certification shall, in addition to all other remedies provided by law, be a breach of contract and may result in termination of the contract.
- 4. AWARD CRITERIA AND REJECTION OF BIDS.** This contract will be awarded to the lowest responsive and responsible bidder considering conformity with the terms and conditions established by the Illinois Department of Transportation and the Illinois Department of Natural Resources in the rules, Invitation for Bids and contract documents. The issuance of plans and proposal forms for bidding based upon a prequalification rating shall not be the sole determinant of responsibility. The Illinois Department of Natural Resources reserves the right to determine responsibility at the time of award, to reject any or all proposals, to readvertise the proposed improvement, and to waive technicalities.

By Order of the

Illinois Department of Natural Resources

Marc Miller, Director

Revised 02/10/2010

STATE OF ILLINOIS

SPECIAL PROVISIONS

LOCATION OF PROJECT

The project is located on Crystal Creek in Schiller Park, Cook County, Illinois. It begins approximately 150 feet downstream of 25th Avenue and ends just upstream of Wehrman Avenue with an omission of approximately 640 feet from just downstream of Irving Park Road to just upstream of the first alley east of Scott Street.

DESCRIPTION OF PROJECT

The project consists of approximately 0.44 mile of channel improvement not including the above mentioned omission. Work consists of revising an existing channel with a varied side slope to a "rectangular" channel with an 18 to 28 foot wide bottom and, 9 to 12 foot tall side walls constructed of segmental concrete blocks; removing seven existing pedestrian bridges and replacing them with six PPC deck beam bridges approximately 23 to 25 feet long and one culvert extension; constructing an additional box culvert barrel at two stream crossings; replacing the existing culverts at three stream crossings with double box culverts; removing and disposing of a garage; removing and disposing of some existing bridge abutments and all incidental and collateral work necessary to complete the project as shown on the plans and as described herein.

PLANS AND DRAWINGS

The work to be done is shown on the drawings entitled "Crystal Creek Flood Control Project Phase IIA, Villages of Franklin Park and Shiller Park, Cook County, FR-413".

REQUIRED DISADVANTAGED BUSINESS PARTICIPATION

Definitions. This Special Provision is inserted in each contract which contains a Disadvantaged Business Enterprise (DBE) Utilization Goal as required by Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, implemented by Subpart D of 49 CFR Part 23; and as required by the Illinois "Business Enterprise for Minorities, Females, and Persons with Disabilities Act." For the purpose of this Special Provision, the following definitions apply:

- (a) "Disadvantaged Business Enterprise" (DBE) means a business certified by the Department of Transportation in accordance with the requirements of 49 CFR part 26 and listed in the Illinois Unified Certification Program (IL UCP) DBE Directory.
- (b) "Disadvantaged Business Joint Venture" means an association of two or more businesses formed to carry out a single business enterprise for which they combine their property, capital, efforts, skills and knowledge. At least one of the partners in the venture must be a certified entity.

Contractor Assurance. The Contractor makes the following assurance and agrees to include the assurance in each subcontract that the Contractor signs with a subcontractor:

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of contracts funded in whole or in part with federal or state funds. 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.

Contract Goal To Be Achieved By The Contractor. This contract includes a specific DBE utilization goal established by the Department. The goal has been included because the Department has determined that the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. This determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates that, in the absence of unlawful discrimination, and in an arena of fair and open competition, DBE companies can be expected to perform 2.5 % of the work. This percentage is set as the DBE participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the Department will only award this contract to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set forth in this Special Provision:

- (a) The bidder documents that enough DBE participation has been obtained to meet the goal; or
- (b) The bidder documents that a good faith effort has been made to meet the goal, even though the effort did not succeed in obtaining enough DBE participation to meet the goal.

DBE Locator References. Bidders may consult the IL UCP DBE Directory as a reference source for DBE-certified companies. In addition, the Illinois Department of Transportation (IDOT) maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the IDOT's Bureau of Small Business Enterprises at telephone number (217)785-4611, or by visiting the IDOT's web site at www.dot.il.gov.

Bidding Procedures. Compliance with this Special Provision is a material bidding requirement. The failure of the bidder to comply will render the bid not responsive.

- (a) The bidder shall submit a Disadvantaged Business Utilization Plan on IDOT forms SBE 2025 and 2026 with the bid.
- (b) The Utilization Plan shall indicate that the bidder either has obtained sufficient DBE participation commitments to meet the contract goal or has not obtained enough DBE participation commitments in spite of a good faith effort to meet the goal. The Utilization Plan shall further provide the name, telephone number, and telefax number of a responsible official of the bidder designated for purposes of notification of plan approval or disapproval under the procedures of this Special Provision.

- (c) The Utilization Plan shall include a DBE Participation Commitment Statement, IDOT form SBE 2025, for each DBE proposed for the performance of work to achieve the contract goal. For bidding purposes, submission of the completed SBE 2025 forms, signed by the DBEs and faxed to the bidder will be acceptable as long as the original is available and provided upon request. All elements of information indicated on the said form shall be provided, including but not limited to the following:
- (1) The names and addresses of DBE firms that will participate in the contract;
 - (2) A description, including pay item numbers, of the work each DBE will perform;
 - (3) The dollar amount of the participation of each DBE firm participating. The dollar amount of participation for identified work shall specifically state the quantity, unit price, and total subcontract price for the work to be completed by the DBE. If partial pay items are to be performed by the DBE, indicate the portion of each item, a unit price where appropriate and the subcontract price amount;
 - (4) DBE Participation Commitment Statements, form SBE 2025, signed by the bidder and each participating DBE firm documenting the commitment to use the DBE subcontractors whose participation is submitted to meet the contract goal.
 - (5) If the bidder is a joint venture comprised of DBE companies and non-DBE companies, the plan must also include a clear identification of the portion of the work to be performed by the DBE partner(s); and,
 - (6) If the contract goal is not met, evidence of good faith efforts.

Good Faith Effort Procedures. The contract will not be awarded until the Utilization Plan submitted by the apparent successful bidder is approved. All information submitted by the bidder must be complete, accurate and adequately document the good faith efforts of the bidder before the Department will commit to the performance of the contract by the bidder. The Utilization Plan will be approved by the Department if the Utilization Plan commits sufficient commercially useful DBE work performance to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal pursuant to 49 CFR part 26, Appendix A. The Utilization Plan will not be approved by the Department if the Utilization Plan does not commit sufficient DBE participation to meet the contract goal unless the apparent successful bidder documented in the Utilization Plan that it made a good faith effort to meet the goal. This means that the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. The Department will consider the quality, quantity, and intensity of the kinds of efforts that the bidder has made. Mere *pro forma* efforts, in other words, efforts done as a matter of form, are not good faith efforts; rather, the bidder is expected to have taken genuine efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

- (a) The following is a list of types of action that the Department will consider as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of the Department may be relevant in

appropriate cases, and will be considered by the Department.

- (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
- (2) Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime Contractor might otherwise prefer to perform these work items with its own forces.
- (3) Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (4) a. Negotiating in good faith with interested DBE companies. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.
b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable.
- (5) Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
- (6) Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- (7) Making efforts to assist interested DBE companies in obtaining necessary equipment, supplies, materials, or related assistance or services.

- (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
- (b) If the Department determines that the apparent successful bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the Department will award the contract provided that it is otherwise eligible for award. If the Department determines that the bidder has failed to meet the requirements of this Special Provision and that a good faith effort has not been made, the Department will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification shall include a statement of reasons why good faith efforts have not been found.
- (c) The bidder may request administrative reconsideration of a determination adverse to the bidder within the five working days after receipt of the notification date of the determination by delivering the request to:

Illinois Department of Natural Resources, Office of Water Resources
One Natural Resources Way
Springfield, Illinois 62702-1271
Attention: Manager, Division of Project Implementation
(Telefax: (217)785-5014)

Deposit of the request in the United States mail on or before the fifth business day shall not be deemed delivery. The determination shall become final if a request is not made and delivered. A request may provide additional written documentation and/or argument concerning the issue of whether an adequate good faith effort was made to meet the contract goal. The request will be forwarded to the Department's Reconsideration Officer. The Reconsideration Officer will extend an opportunity to the bidder to meet in person in order to consider all issues of whether the bidder made a good faith effort to meet the goal. After the review by the Reconsideration Officer, the bidder will be sent a written decision within ten working days after receipt of the request for 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. A final decision by the Reconsideration Officer that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

Calculating DBE Participation. The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The Department is only able to count toward the achievement of the overall goal and the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The Department and Contractor are governed by the provisions of 49 CFR part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR part 26.55, the provisions of which govern over the summary contained herein.

- (a) DBE as the Contractor: 100 percent goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE does not count toward the DBE goals.
- (b) DBE as a joint venture Contractor: 100 percent goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- (c) DBE as a subcontractor: 100 percent goal credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the prime Contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE does not count toward the DBE goal.
- (d) DBE as a trucker: 100 percent goal credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed, and insured by the DBE must be used on the contract. Credit will be given for the following:
 - (1) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - (2) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement.
- (e) DBE as a material supplier:
 - (1) 60 percent goal credit for the cost of the materials or supplies purchased from a DBE regular dealer.
 - (2) 100 percent goal credit for the cost of materials or supplies obtained from a DBE manufacturer.
 - (3) 100 percent credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a regular dealer or manufacturer.

Contract Compliance. Compliance with this Special Provision is an essential part of the contract. The Department is prohibited by federal regulations from crediting the participation of a DBE included in the Utilization Plan toward either the contract goal or the Department's overall goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Utilization Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal.

- (a) No amendment to the Utilization Plan may be made without prior written approval from the Department. All requests for amendment to the Utilization Plan shall be submitted to:

Illinois Department of Natural Resources, Office of Water Resources
One Natural Resources Way
Springfield, Illinois 62702-1271
Attention: Manager, Division of Project Implementation
Telephone number (217) 782-0900 Telefax number (217)785-5014

- (b) The Contractor must notify and obtain written approval from the Department's Manager, Division of Project Implementation prior to replacing a DBE or making any change in the participation of a DBE. Approval for replacement will be granted only if it is demonstrated that the DBE is unable or unwilling to perform. The Contractor must make every good faith effort to find another certified DBE subcontractor to substitute for the original DBE. The good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the original DBE, to the extent needed to meet the contract goal.
- (c) Any deviation from the DBE condition-of-award or contract specifications must be approved, in writing, by the Department. The Contractor shall notify affected DBEs in writing of any changes in the scope of work which result in a reduction in the dollar amount condition-of-award to the contract.
- (d) In addition to the above requirements for reductions in the condition of award, additional requirements apply to the two cases of Contractor-initiated work substitution proposals. Where the contract allows alternate work methods which serve to delete or create underruns in condition of award DBE work, and the Contractor selects that alternate method or, where the Contractor proposes a substitute work method or material that serves to diminish or delete work committed to a DBE and replace it with other work, then the Contractor must demonstrate one of the following:
- (1) That the replacement work will be performed by the same DBE (as long as the DBE is certified in the respective item of work) in a modification of the condition of award; or
 - (2) That the DBE is aware that its work will be deleted or will experience underruns and has agreed in writing to the change. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so; or
 - (3) That the DBE is not capable of performing the replacement work or has declined to perform the work at a reasonably competitive price. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so.
- (e) Where the revision includes work committed to a new DBE subcontractor, not previously involved in the project, then a Request for Approval of Subcontractor, IDOT form BC 260A, must be signed and submitted.
- (f) If the commitment of work is in the form of additional tasks assigned to an existing

subcontract, than a new Request for Approval of Subcontractor shall not be required. However, the Contractor must document efforts to assure that the existing DBE subcontractor is capable of performing the additional work and has agreed in writing to the change.

- (g) All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the Participation Statement. The Contractor shall not terminate for convenience a DBE listed in the Utilization Plan and then perform the work of the terminated DBE with its own forces, those of an affiliate or those of another subcontractor, whether DBE or not, without first obtaining the written consent of the Department's Manager, Division of Project Implementation to amend the Utilization Plan. The Contractor shall notify the Department's Manager, Division of Project Implementation of any termination for reasons other than convenience, and shall obtain approval for inclusion of the substitute DBE in the Utilization Plan. If good faith efforts following a termination of a DBE for cause are not successful, the Contractor shall contact the Department's Manager, Division of Project Implementation and provide a full accounting of the efforts undertaken to obtain substitute DBE participation. The Department will evaluate the good faith efforts in light of all circumstances surrounding the performance status of the contract, and determine whether the contract goal should be amended.
- (h) The Contractor shall maintain a record of payments for work performed to the DBE participants. The records shall be made available to the Department for inspection upon request. After the performance of the final item of work or delivery of material by a DBE and final payment therefore to the DBE by the Contractor, but not later than thirty calendar days after payment has been made by the Department to the Contractor for such work or material, the Contractor shall submit a DBE Payment Agreement on IDOT form SBE 2115 to the Department's Manager, Division of Project Implementation. If full and final payment has not been made to the DBE, the DBE Payment Agreement shall indicate whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes that the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Utilization Plan and after good faith efforts are reviewed, the Department may deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages. The Contractor may request an administrative reconsideration of any amount deducted as damages pursuant to subsection (j) of this part.
- (i) The Department reserves the right to withhold payment to the Contractor to enforce the provisions of this Special Provision. Final payment shall not be made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Special Provision or after liquidated damages have been determined and collected.
- (j) Notwithstanding any other provision of the contract, including but not limited to Article 109.09 of the Standard Specifications, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the Department's Manager, Division of Project Implementation and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Special Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the Department.