

Refer to Contracting Oversight & Equity Committee
RESOLUTION

WHEREAS, recently, the U.S. Department of Transportation purported to unilaterally amend the federal Disadvantaged Business Enterprise (DBE) program and related Airport Concessions Disadvantaged Business Enterprise (ACDBE) program in direct contradiction of the laws duly enacted by Congress; and

WHEREAS, the more than 40-year-old DBE program – implemented pursuant to a law passed by both chambers of Congress and signed by the president – is designed to remedy past discrimination by requiring an aspirational goal of 10% participation on federally-funded projects by businesses owned by “socially and economically disadvantaged” individuals; and

WHEREAS, under applicable law, “socially disadvantaged individuals” are “those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities”, and “economically disadvantaged” individuals “are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged”; and

WHEREAS, importantly, these programs are not some novel or arbitrary “mandate” – notwithstanding the fact that “mandating” the executive branch behave in a particular way is *the* core power of the legislature under our system of government – rather, it is a duly enacted law, supported by extensive Congressional fact-finding, not only at its inception, but repeatedly over the years in connection with each extension and amendment across the decades of their existence; and

WHEREAS, in fact, the precise problem Congress was attempting to redress is bias towards *groups* of people based on immutable characteristics in federal contracting, or, said another way, the “social disadvantage” faced by individuals belonging to these groups as a result of widespread discriminatory practices, prejudices, and other biases; and

WHEREAS, despite the decades-long use of the programs, despite the repeated reauthorization and expansion of these and similar programs, and despite the *billions* in public and private funds expended in reliance on the programs, the Secretary of Transportation is trying to waive it all away with the stroke of a pen; and

WHEREAS, moreover, justifying these actions by looking to a single *preliminary* decision by a district court judge – who even acknowledged in the order that “the Court is aware that its decision goes down the road less travelled” in light of the overwhelming majority of Circuit Courts upholding the programs over their decades of existence – and a draft consent decree that has yet to be approved is disingenuous at best; and

WHEREAS, using their self-created government shutdown as cover, the administration issued these new “rules” in an attempt to rule by fiat and overturn lawfully executed contracts; and

WHEREAS, indeed, this purported “rule” was issued *for public comment* on October 3, 2025 – and immediately used as a political cudgel to punish the administration’s political opponents that very same day, including pausing the disbursement of nearly \$2 billion in funds for the Red Line Extension project, with zero notice to the public or private actors who have expended funds in reliance on those contracts; and

WHEREAS, with utter disregard to wasted public funds or private investments on projects that will never be recouped, the U.S. Department of Transportation is upending not only these specific projects, but the confidence of any local public or private entity contracting for public improvements, precisely at the time when the bills for decades of deferred infrastructure maintenance are coming due; and

WHEREAS, far from “streamlining” the federal contracting process to “enhance speed and efficiency, reduce costs, and require Federal contractors and subcontractors to comply with our civil rights laws”, these new “rules” will do precisely the opposite – slow down and increase the costs of issuing grants and awarding contracts to account for individualized reviews of “personal narratives” and, more importantly, punish those for complying with the laws passed by Congress and then-current administrative rules while rewarding those who engage in the exact conduct meant to be remedied; and

WHEREAS, worse yet, given their past practice, there is every reason to believe that this administration will use these new “rules” – focused solely on the discretionary review of “personal narratives” – to benefit their favored groups and patrons, inverting the entire purposes of the programs as established by Congress by reading the “socially disadvantaged” requirement out of the program entirely; and

WHEREAS, in the system of government conceived by the Founders, it is not for the President – let alone a lower-ranking federal cabinet member – to declare something “illegal” or “unconstitutional”; those decisions are reserved for the legislature and judiciary, respectively; now, therefore

BE IT RESOLVED, that we, the members of the City Council of the City of Chicago, hereby condemn the Secretary of Transportation’s purported new “rules” for the federal DBE and ACDBE programs, their immediate and nakedly partisan application to the administration’s political opponents during the statutorily notice and comment period, the resulting waste of public and private funds, and, most importantly, the obliteration of trust in public works contracting that will result from this ham-fisted attempt to score cheap political points to obscure the real and serious impacts of their self-created government shutdown; and

BE IT FURTHER RESOLVED, that we call upon the appropriate city officials(s) to submit comments in opposition to such proposed rules no later than the November 3, 2025 deadline; and

BE IT FURTHER RESOLVED, that we call upon the Committee on Contracting Equity and Oversight to convene a subject matter hearing regarding the impacts of these purported rule changes on City and Sister Agencies projects and grants, and to explore ways in which the City and Sister Agencies can work proactively to minimize the deeply harmful effects of these proposed changes.



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