BEFORE THE
ILLINOIS COMMERCE COMMISSION
Railroad Supplier Diversity Policy
Friday, September 14th, 2018
Chicago, Illinois

Met pursuant to notice at 10:00 a.m., at
160 North Lasalle Street, Chicago, Illinois.

PRESENT:
BRIAN J. SHEAHAN, Chairman
SADZI M. OLIVA, Commissioner
JOHN R. ROSALES, Commissioner
D. ETHAN KIMBREL, Commissioner
ANASTASIA PALIVOS, Acting Commissioner

I'd like to thank, in particular, our speakers this morning including the Illinois Railroad Association representatives from UP and BNSF Railroads.

Today's session is a result of a new statute, Public Act 100-0423, stating that Class I railroads may submit to the Commission an annual report containing information described in Section 5117 of the Public Utilities Act, which describes a supplier diversity report that large regulated utilities submit to the Commission.

The new statute requires the Commission to hold a workshop to hear from railroads and their advocates to collaboratively seek solutions to improve supplier diversity. Under the statute reporting by railroads is voluntary and the Railroad Association had submitted one report on behalf of railroads which you can find on the Commission website at the supplier diversity page.
The ICC is proud to be the most diverse public utility commission in the nation and embracing and encouraging diversity in the supply chain is an effort the ICC is pleased to lead.

I am pleased to invite our first speaker. Joe, I'm going to mispronounce your last name.

MR. CIACCIO: Ciaccio.

MR. SHEAHAN: Ciaccio.

President of the Illinois Railroad Association for his presentation.

Joe?

MR. CIACCIO: Mr. Chairman, thank you and commissioners. My name is Joe Ciaccio. I'm the president of the Illinois Railroad Association. We are an association of freight railroads and railroad suppliers. In addition, we have the distinction of representing all seven Class I railroads.

Also with me today to my right is Wes Hutcherson from Union Pacific Railroad. And on the telephone is Lynn Baker with the BNSF. They're the experts in the field and we hope that we'll be able to answer your questions.
I want to begin by saying that the railroads take the issue of diversity very seriously, and the issue of extending opportunities to women, minorities, and veterans, both in our workforce and with our suppliers and contractors. Much of the work the railroad does is done in-house with our employees.

If you have been to Springfield lately, you'll notice all the work that's going on the 3rd Street corridor and the City is dotted with Union Pacific trucks. Those are Union Pacific employees doing the work. It's not something that's contracted out. And that includes putting up fencing and pedestrian crossings and pedestrians gates. But we do make a commitment to being diverse.

As the chairman said, this bill is not mandatory. Our filing is not mandatory, but we want to be part of the process and we will continue filing every year and hopefully we'll get a little better at the numbers we produce.

In February 2016 -- 2017, Senator Sandoval went under 1267 and that ultimately became the law
that we had before us. Over the period until May
when the bill passed, nearly every Class I railroad
met on numerous occasions with Senator Sandoval and
with Representative Evans, who is the chairman of the
House of Transportation Committee and the House
sponsor of the bill.

And the question always asked of us by
Senator Sandoval, he couldn't get over the fact we
didn't have these numbers. And his comment was,
look, if the Utilities can do it, you can do it.
Well, we are unlike any industry. Most particularly,
we are not like any of the Utilities. Prior to 1985,
the Railroad Statute could be found in the Public
Utilities Act. In 1985, the legislature passed the
Commercial Transportation Law and moved trucks,
trains, buses, barges, all into the vehicle code
under the Commercial Transportation Law.

In addition, our rates are not regulated.
We're not guaranteed a return on our investment. We
operate interstate. Some railroads operate as many
as 23, 25 states. We're not -- No Class I railroad
is headquartered in Illinois. So you can understand
decisions are made system-wide -- network-wide for the railroad industry and typically at headquarters.

Our chief regulator, as you know, is the Federal Railroad Administration. It seems that we make daily filings on any number of topics. Diversity doesn't happen to be one of them. But as I said, we are committed to working within this process. We are committed to continue filing these reports.

Mr. Hutcherson and Lynn can probably explain whether or not our numbers can be broken out state by state.

But if you think about it, I don't know how many states require us to do this, but surely we can't be required to file something different in 48 different states, but we're going to continue with this process. We're committed to having a diverse work force and diversity with suppliers.

And as I said, even though we're not mandated to do it, we will continue filing reports and work within the process. I appreciate it.

MR. SHEAHAN: Thank you, sir.

Ms. Baker, are you with us? All right --
MS. BAKER: Can you hear me okay now?

MR. SHEAHAN: There we go. We can hear you.

MS. BAKER: There we go.

MR. SHEAHAN: Ms. Baker --

MS. BAKER: Are you ready for me?

MR. SHEAHAN: The floor is yours.

MS. BAKER: Okay. Thank you.

Well, as Joe has mentioned I manage the supplier diversity program for BNSF Railroad, so I really look forward to kind of filing our program and how it relates to the programs of the other railroads. The nature of the supplier diversity program for the railroads is different as he said because we're just operationally different. We're not a consumer-based company or utility or government contractor.

We're not selling products. We're actually the ones transporting them and moving them for anyone from Clorox to automotive or to a manufacturing entity. Our -- We have a lot of special needs. So as he said, we self-perform a lot of services, our track
maintenance, a lot of our construction, our bridge work, locomotive or railcar maintenance. We have big shops -- enormous shops to handle that. And we do a lot of our own telecom and IT work.

And when we do bring in a supplier into our supply base, one of the things we value a great deal is railroad experience because of our operational needs. Also, we do -- Our forcing strategy takes into account that we need goods and services on a network-wide basis, like facility maintenance or ballast that's going to be across, what, 40,000 miles of track and laying along the track.

We do this, one of the main reasons is, to insure consistent standards are maintained and that we achieve financial efficiency and performance across our system and across the whole network. Our program, specifically, we're recognized as the best-in-class program. We received numerous awards, ongoing recognition.

And some of the components of that business class program are that we have very strong executive support. We have a corporate policy specifically
addressing supplier diversity. And I coordinate --
and, as a whole, forcing that, we coordinate very
well with our overall diversity and inclusion
objectives and programs.

    From an outreach standpoint, that's where
-- that's where the -- we hit the road. We're very
active with all the certifications counsel both on --
or not both, but at a local regional and national
level. That means we're working in events. We're
doing matchmaker events. We're doing roundtables.
We're working trade shows. We might do 18, 20
matchmakers in a given day.
We might see 50 suppliers in a roundtable session.

    We are active on board of directors. We --
I, myself, I chair the industry committee --
committee for the National Minority Supplier
Development Council. And then I have the advantage
-- I think it's an advantage. We are based in what
Fort Worth, Texas. Well, the Dallas/Fort Worth area,
as you might realize, it's a lot of large corporation
space here.

    So I probably -- I would say 40 peers in my
role across the Dallas/Fort Worth area, and we meet at a minimum every other month. We interact all of the time on best practices, how do each other -- each of us handle certain situations and do you know information about this supplier. So we -- We're very well connected.

And then we expect and have it contractually required that our prior suppliers meet our supplier diversity program and provide us feedback on how they're doing that. And overall, over the last three years, we've averaged 750 million in diversity. But, again, to narrow that down as to what state, that's very difficult because a company could be basing one statement of services provided in another.

It's just quite the challenge, but that's all I had to say. But I am interested in feedback and any questions you might have.

MR. SHEAHAN: Okay. We're going to get a presentation from Mr. Hutcherson and then we'll see if the Commission has any Q and A. So, thank you again, Ms. Baker.
MR. HUTCHERSON: Good morning. Union Pacific is participating in this hearing at the request of the ICC. Our purposes for participating of and participating in is to provide the Commission with information regarding supplier diversity.

Compliance with all laws, particularly with anti-trust laws, is a paramount policy at Union Pacific. It is undoubtedly the policy of all companies and entities represented at today's hearing. To insure compliance with anti-trust laws, Union Pacific will not discuss the following topics: Transportation terms and conditions on any carrier or any shipper, receiver, or passenger rail carrier; standardizing or stabilizing prices from or among competitors for transportation; equipment supply or equipment repairs; boycotts or refusals to deal with any particular entity, carriers, vendors, or shipper's pricing or marketing practices; modifications to carrier, vendor, or shipper's specific rates or changes; industry-wide guidelines, standards, procedures, or agreements that would restrict competition; any topic that might even give
the appearance of discussing the prohibited topics I just mentioned.

While the collective actions to support the development of the sound policy legislation and regulations enjoy quantify an anti-trust immunity, that immunity is always applied narrowly. So Union Pacific will be careful and we encourage all other companies and entities represented here to be similarly careful, even in this official government setting in avoiding inappropriate subjects and in carrying out our important obligations under Federal and State anti-trust laws. Union Pacific appreciates the opportunity to provide the Commission with information concerning Union Pacific’s supplier diversity program.

What I would like to do is now just give you a few highlights of some of the things that we have done at Union Pacific. For starters, again, I'm Wes Hutcherson. I'm the general director of strategic sourcing for Union Pacific.

My area is -- kind of think of it this way, I'm responsible for pretty much anything that rolls.
I'm responsible for all rolling stock, including locomotive freight cars, information, technology, some of our contractors that handle inner mobile and automotive ramp operations. I also manage our vehicle fleet as well as our supplier diversity program.

Union Pacific generates opportunities through the supply chain -- have established the diversity programs spending more than 7 billion across our network of more than 65,000 suppliers during 2017. In fact, Union Pacific was the first U.S. railroad to establish a supplier diversity program in 1982. Suppliers support -- supports our operations for fuel, engineering services, construction materials, other contractor services, and much more.

Our supply chain includes businesses that want in every one of our 23 states that we operate and this spending represents the significant portion of the economic impact our business generates. In 2017, Union Pacific purchased about 406 million in goods and services from more than 2,100 minority,
women, and veteran-owned businesses in 45 states. Our spending with diverse suppliers grew an average of 4 percent annually from 2009 to 2017. Approximately 48 percent of our critical suppliers, nearly 60 percent more than in 2016, reported purchasing goods and services from diverse suppliers demonstrating their support of our diversity initiative.

Union Pacific conducts annual performance reviews with our strategic suppliers. As part of this annual review, suppliers are evaluated based on their performance with diverse suppliers. Scoring is based on the following criteria: One, do you piece -- to these suppliers report to your two spending; and, two, do they have a formal supplier diversity program or policy.

Union Pacific works for local, regional, and national supplier diversity organizations. UP is interested in partnering with these organizations at a local state chambers to focus -- to host focus meetings with qualified vendors to help them gain supplier approval status in our system so that they
can receive and are able to bid on projects.  

Union Pacific is a member of the Mountain Plains Minority Supplier Development Council and I serve as the board member. In fact, UP has had a board representation on this board for over ten years. Union Pacific is in the process of creating our own official formal supplier development program for diverse suppliers. Union Pacific serves as mentors for local companies who are interested in supplier diversity in the Omaha area.

In addition and separate from supplier diversity, Union Pacific employ diverse -- diversity -- excuse me -- Union Pacific employed diversity mirrors the community we operate in. That is why our employees not only work, but live in communities across Illinois and our 23-state network.

So in a nutshell, I just wanted to highlight for the commission that; one, Union Pacific has been active in supplier diversity since 1982. We were the first railroad to initiate a -- the supplier diversity policy initiative. We work closely with a lot of our customers and we really see this as a true
strategic initiative for our company because we see so much benefit in the supplier diversity arena.

That concludes my presentation.

MR. SHEAHAN: Thank you.

The record should reflect that Senator Sandoval has joined us. Senator Sandoval -- his legislations and has been a leader on supplier diversity issues. We certainly thank you for your leadership.

Sir, would you like to join us? Do you have -- Would you like to make some comments?

MR. SANDOVAL: I appreciate it, Chairman. I came here to listen to my --

MR. SHEAHAN: Thank you. Senator, we have heard from the Railroad Association, BNSF, and Union Pacific. So at this point in our program we're going to open it up to questions. Certainly, if you have any, feel free to join us.

MR. SANDOVAL: Thank you.

MR. SHEAHAN: Any questions?

MR. ROSALES: Thank you, Chairman.

Thank you, Senator Sandoval for being here
today. We appreciate the work you do on behalf of the State and especially on the diversity.

And speaking of that, Joe, I want it to be clear. And thank you all for being here. And I know the statute is voluntary. But I also want to be clear that the statute also mandates that we have this session every year, so I want to make sure that we're understanding each other. So I appreciate you being here, but we're going to have this every year and we're learning together and how we're going to work together.

And we will stipulate that the railroads are not utilities. It's how that's done in terms of the business I don't totally understand. But there has to be some type of documentation. We can't take this granted that the numbers you sent out, whether it's 7 billion or 750 million. Everything that you give to us, if there's no documentation behind it, we don't know where that's coming from.

And there has to -- at some point, there has to be some type of tracking system because you
don't know if you're doing well or you're not doing well. The numbers sound great, but if there's
nothing behind it, they really don't mean anything. So I want to be clear to you that as we move forward
-- and we want to work together -- but as we move forward, there has to be some type of documentation
that makes some accountability there. That's what we're looking for.

MR. CIACCIO: Commissioner, I appreciate those comments. And it would be pretty silly of us to show up at this hearing without having filed a report, so it is a work in progress, I understand. It's commitment from us that we're going to try to do better and try to see if we can come up with the figures state by state. I don't know how difficult that is, but we're committed to the process, sir.

MR. ROSALES: Okay. Start with Illinois. We're not concerned about the others. And I understand your responsibility is for 48, but, you know, this is the one we're looking at.

MR. CIACCIO: Yes, sir.
MR. ROSALES: Thank you.

MR. SHEAHAN: I wonder if all the railroads and perhaps the Association could identify some of the barriers that they see within increasing supplier diversity within the railroad industry.

MR. HUTCHERSON: I can take that. I can tell you that is an ongoing challenge for us. Really the number one issue that we've experienced is the fact that most of the suppliers don't understand our business. They just don't. And a lot of times, we've spent more time trying to educate them on how we run a railroad as opposed to hiring them to do -- to provide a service to us.

Give you an example. We have right-aways all over the City of Chicago. Most of the suppliers, for one, must be -- in order to do business with us and to do work at or near our rails, you need to be eRailsafe certified. That is just a normal, standard procedure. And quite frankly, many of our suppliers, not only diverse suppliers, but other suppliers tend to question why do they need to become eRailsafe certified.
Another example, when we think about material, if we buy a slack adjuster or some component from a -- from a supplier, a minority supplier, there is a vetting process. It's going to take us at least two to three years because, remember, safety is most important to us. So we're going to test it and beat it up and try to make sure that before we decide to start to purchase this product on an ongoing basis that it meets our standards.

And many times there are entities, such as the AAR that they must meet their requirements as well. So the barriers that we run into a lot of time have to do with, one, once we get them educated on how we run our railroad, but, two, the vetting process, working with our internal customers, our mechanical departments, our engineer departments, working with those suppliers to insure that those products or their service meets our standards.

It sometimes gets a bit frustrating in many of our diverse suppliers either don't have the patience or decide to look for business elsewhere.
MR. SHEAHAN: Ms. Baker, do you have anything to add in terms of identifying barriers in your industry to using more diverse suppliers?

MS. BAKER: No. I think Wes did an excellent job of explaining that.

MR. ROSALES: Wes, is there a way -- or, Joe, that there could be a point that when diverse suppliers come to the railroads there's -- they actually could come to one focal point instead of going to each one?

And the reason I say that is because I've had a number of -- a number of suppliers come to the Commission that have railroad ties or whatever they have. And that's not something that we do. But I -- Even I have Alderman Venegas from City Hall come to me and say, I have a supplier in his ward that had railroad ties, where does he go. I wouldn't even know where to send him. I feel uncomfortable saying, you have to see the railroads. Well, where? Who in the railroads?

What is -- how do we -- How can we do that much better?
MR. HUTCHERSON: I'll answer. I know that Lynn probably has a similar response for BN. But for UP, simply go to UP.com. When you go onto the website, there is suppliers section. You click on it and it says, how do you -- apply to become a supplier. And then there's a registration process that you go through.

Now, I can tell you one of the things I'm doing on my team. We are starting to track from the time that a supplier, a diverse supplier, is -- has registered to the time that he actually is put on the bid. We're going to track that period of time to try to determine where we're losing a lot of these people.

Now, I can tell you, in many cases, especially when you think about material, it, again, naturally is going to take longer. If you're talking about a janitorial contract or asphalt/maintenance contract or -- Asphalt is asphalt, right? Striping is striping. If you're a commercial plumber, you pretty much can do any work. It doesn't matter the -- the
industry. But what we plan to do once they go out and they register, we're going to track that.

Now, if they have questions, we actually have a website supplier. We have an email, supplierdiversity@UP.com, and they can go in and put whatever information. I have one of the people on my staff that monitors those -- that email address and we'll respond to them on a timely basis. She meets with me weekly and we talk about supplier diversity. So we're going to make every effort we can because we believe it is a benefit to us. It's a benefit to us to find as many diverse suppliers as we can. We believe it gives us a competitive edge.

MR. SHEAHAN: Mr. Senator, you have a question?

MR. SANDOVAL: Mr. Chairman, I just couldn't resist by listening to my friends from the railroad. I appreciate once again the work of the Commission, yourself, your leadership on this particular matter.

But quite honestly, I've been a chairman of transportation since 2009. This has been -- This has
been part of my mantra to create opportunities for minorities, women, disabled, and veterans throughout my entire career as an elected official and chairman of Department of Transportation since 2009. This issue is not new to me and it's not new to the railroads.

I have met with every single railroad since 2009 and I have yet to meet a supplier that -- a supplier diversity officer from any of the railroads. I continue not to have met with any of them. This is the first nonhistoric moment I get to meet with Wes and the ICC.

Nonetheless, I believe -- I challenge the ICC to provide -- to ask for more accountability and leadership from the railroads. Obviously, the report is not -- what's written on today, I don't know that if the Illinois Railroad Association is considered a railroad in Illinois. There's submission by the -- although, voluntary the submission by the railroads was done by the Illinois Railroad Association.

I'm not aware of a railroad that bears the name Illinois Railroad Association. And so to my
extent and my assessment of the voluntary submission, consider it noncompliant, not in the spirit of the law, and quite honestly, just a thumb of the nose of the railroad industry to the people of the ICC and the people of Illinois.

To the extent that the reports indicate that, you know, by the way, we have a program, go check out my website, as indicated again by UP today, go check out my website, that's unacceptable. The railroad's been around since the turn of the century. It continues to remain a growth industry in Illinois and in this country. We are the hub of the country. We're the -- after corridor and it continues to grow. And they cannot find diverse suppliers in Illinois? I consider, once again, I believe that this -- their submission, I think the ICC should render a decision as not compliant within the spirit of the law, request a resubmission, and give them an opportunity to submit their program individually and to show some real numbers and some real investments per railroad, per our state. I appreciate your attention to this matter, Mr. Chairman.
MR. SHEAHAN: Thank you, Senator.

Ms. Baker, I wanted to ask if you would also address this question about the process for diverse suppliers becoming more engaged with the railroad. Can you speak to what that process is at BNSF?

MS. BAKER: Yes, I can. The operating process is it can be lengthy because of the needs that we have and we have to have a lot of confidence and supply that we're bringing into our system. But I start as liaison, so when someone took information or submits information to our portal and to our database, I'm the liaison to make sure that gets to the right internal stakeholders into the correct buyers.

Also, when a buyer is going out to bid, they will reach out to me and say, hey, do you know the diverse supplier in this space? And I have been vet that it's diverse-owned suppliers. And I'm also working with the internal stakeholders to be a champion for them. The buyers are required to include a diverse-owned company in all of their
business whenever possible.

Now, if we're buying -- if we're buying -- oh -- locomotives, we're not going to find a diverse-owned supplier in that space. And then the buyers and myself, we work these events. And the main thing that a supplier can do, I mean, they can put their name in the database, and that is very, very, very effective, but they've got to be present at these events. It is incumbent on that supplier, if they want to do with business with us, they need to make theirselves [sic] known to us. They need to create confidence in them.

I'm not going to walk into a buyer's office and say, you need to utilize this supplier when I don't have really a lot of confidence in them. I haven't met them. They haven't made theirself known to me. They don't have a proven track record. So there's responsibility on the supplier's part to be -- to network and make theirselves known in a positive way.

MR. SHEAHAN: Thank you, Lynn.

And, Wes, I'm interested to hear from both
of you in terms of the categories of spend that --

have the biggest diversity spend. Can you --

MR. KIMBREL: I don't even know what the spend
categories are. They haven't been identified.

MR. SHEAHAN: Yeah. Can you speak to
the categories and what categories -- what spend
occurs?

MR. HUTCHERSON: Lynn, do you want go
first?

MS. BAKER: I can. It's everything
from, on the IT side, we have some contractors that
provide services.

We buy a lot of our telecom materials from a
minority-owned supplier. We have a construction
company that's both Native American and women-owned.

A lot of our lodging, we have over the locomotive and
railcars, we have a deaf-owned woman company.

Our staff augmentation, a lot of -- there
are a variety of companies that provide staff
augmentation under diverse-owned. Promotional items,
video production, law firms, inspection services,
engineering services. It's just across the board.
But it's not locomotives or rails.

MR. HUTCHERSON: And just pretty much the categories she mentioned, we too do business with diverse suppliers. But I would also add -- and I mentioned before, asphalt maintenance is one. Another, landscaping, demolition. In fact, some of the business that we do with suppliers are based out of the Illinois diverse suppliers -- that we do business with are based out of Illinois.

So there are a number of women-owned, veteran-owned diverse suppliers that we currently do business with in those categories.

MR. KIMBREL: Mr. Ciaccio, I think on the report that you submitted on page 2, the second-to-last paragraph, the last sentence, I think you identified 28 billion being the total suppliers spent. Is that accurate.

MR. CIACCIO: I believe it is.

MR. KIMBREL: And then on page 3, you identified the total annual diverse spent for the amount of the Class I being 1.5 billion.
MR. CIACCIO: I'd have to refresh my memory, Commissioner.

MR. KIMBREL: Towards the bottom of page 3. But I think that's what Senator Sandoval was speaking to. In addition to the fact that the Illinois railroads have not submitted and individual report, we also have the issue of 28 billion being spent and only diverse is being spent at 1.5 billion.

And, again, what the chairman just spoke to, we don't even know what the spend categories are, so there are little issues here.

MR. CIACCIO: I believe, Commissioner, the 28 billion represents total.

MR. ROSALES: Correct.

MR. CIACCIO: All suppliers.

MR. KIMBREL: Right. And then on page 3, the diverse spent is 1.5.

MR. CIACCIO: So you're talking about the relationship between the diverse spent and --

MR. KIMBREL: That's correct.

MR. CIACCIO: -- the 1.5 billion.
MR. KIMBREL: I think that's what the point is.

MR. CIACCIO: Those are the numbers we were working with, Commissioner. I don't want to make excuses here, but this is the first time out of the box for us. We don't do this in any other state. And as I said, you know, put this together, get it out there, and to take it from here. It's a work-in-progress. And I can't argue with the numbers that are there, the 28 billion and 1.5 billion diverse spent. And I can vouch for the accuracy of it. There it is.

MR. ROSALES: Okay. Well, as we move forward, I think we can all agree on what we'll need for next time we meet is having a list of categories and we'd like to have it pretty universal so we can be apples to apples in terms of comparisons and we would really like to see that.

MR. CIACCIO: Just picking up on what Senator Sandoval said. I assume you want in the future individual files?

MR. SHEAHAN: Well, I think that --
MR. CIACCIO: Individual railroad filings, is that what you're asking for?

MR. ROSALES: Yes.

MR. SHEAHAN: I think we may want that for this period as well. That's not an issue that we've looked at, but I think it's a good point. And we're going to take a look at that and work with you on that and certainly let the Senator know what the result is.

MR. CIACCIO: That's fine.

MR. SHEAHAN: Commissioner Palivos?

MS. PALIVOS: We heard it from utilities last week about the different mentorship programs they have or invest in to get certain diverse suppliers certified in a special skill set or meet certain requirements for their organizations. I was wondering if the railroad organizations have these types of mentorship programs.

MS. BAKER: We do. I'm working with someone in California right now to -- I know he is -- makes the criteria, so I'm working with him. The buyers are really good at telling me when they think
someone could be certified. They just are not. And then I also looked at spent with suppliers that are not flagged as diverse. And sometimes I'll just look at that and I'll go, this doesn't feel right, or, I can look at the criteria and see that they're women-owned because of the reports that I get. And I'll just reach out to them and you work with them on -- connect them with accounts. You just work with them and try to convince them of the benefits of doing so. But in the end, it's their responsibility to do it.

MR. HUTCHERSON: Same with Union Pacific. We do work directly with suppliers and diverse suppliers in certain areas. Again, I think Lynn was correct when she says, I mean, there are -- certain categories have spent, quite frankly, we know there aren't any diverse suppliers with locomotive freight cars for the most part, manufacturing locomotives and freight cars. There's no one in that space. But there are plenty in areas such as landscaping, asphalt, maintenance construction.
And when we identify suppliers, diverse suppliers, again, that are competitive -- I want to make sure this is clear. They must be competitive. And in many cases, they're not. Okay? So those that are competitive, we will do what we can to work with them to bring them along. Again, it is in our best interest to do this. We believe that.

MR. KIMBREL: Do you have a legal-spent category?

MR. HUTCHERSON: Yes.

MR. KIMBREL: Do you have any diverse suppliers --

MR. HUTCHERSON: Yes.

MR. KIMBREL: -- for your --

MR. HUTCHERSON: Yes.

MR. KIMBREL: Do you happen to have that percentage?

MR. HUTCHERSON: I don't have it with me, sir.

MR. SHEAHAN: Any other questions?

MS. OLIVA: I have a quick question.

When you review the RFP responses and you see the
ones that aren't competitive because they may be just seeing one link, how do you provide --

MR. HUTCHERSON: I'm sorry. I didn't hear you.

MS. OLIVA: When you review the RPF responses from vendors --

MR. HUTCHERSON: Yes.

MS. OLIVA: -- and you determine that, well, maybe this one's not competitive for whatever reason --

MR. HUTCHERSON: Yes.

MS. OLIVA: Do you provide any feedback and tell them maybe what the missing criteria is or do you give them any response?

MR. HUTCHERSON: We are very careful about guidance that we provide to them because, remember, this is a live bid. We can't show one particular vendor -- give one particular vendor a competitive advantage as opposed to not sharing with everyone.

So we're very careful that we only share --

To answer your question, we do provide guidance. And
not just for diverse suppliers, we give it to pretty much all of them. Because right now, quite frankly, especially in the State of Illinois, there are certain categories where we're really looking for suppliers, diverse suppliers, any suppliers.

And, again, I don't want to keep harping on construction, striping, asphalt, maintenance, commercial plumbing, we're looking for suppliers in the State of Illinois to help us. And we will continue to move there. But to answer your question whether we provide guidance, we can't -- we can't give specifics, but we do give guidance.

MR. SHEAHAN: Lynn, do you want to address that as well?

MS. BAKER: I would agree with him. And then post the process, we will provide feedback as to -- and I know Union Pacific would do this too, we would provide feedback to anyone that didn't win the bid, diverse or nondiverse. We would provide them feedback regarding how, you know, how they stack up against the others.

MR. SHEAHAN: Senator?
MR. SANDOVAL: Mr. Chairman, you've obviously heard from two -- two of the railroads. I believe was it

Ms. Baker? Lynn Baker?

MR. SHEAHAN: Lynn Baker.

MR. SANDOVAL: Lynn Baker, who is calling in from?

MR. SHEAHAN: She's on the phone. She's with BNSF.

MR. SANDOVAL: Coming in from Nebraska?

MR. HUTCHERSON: Fort Worth.

MR. SANDOVAL: Fort Worth, Texas?

Fort Worth, Texas?

MS. BAKER: I can't hear the Senator.

MR. SHEAHAN: Ms. Baker, the Senator is wondering where you physically are right now.

MS. BAKER: I'm at corporate headquarters in Fort Worth. I'm preparing to go to an event.

MR. SANDOVAL: It's very apparent that from the testimony from a couple of the railroads
that they've demonstrated obviously in their testimony this morning that there's very little interest in mentoring their supply chain. The responses are, we can only deal with folks who are competitive. Those should ring some alarms, folks, at the ICC.

I'm quite offended that they would limit the supply chain to construction and asphalt favors and landscapers. Minorities, women, and disabled, and veterans do more than just landscaping and demolition and asphalt paving. We are attorneys. We are IT engineers. We are civil engineers. We are marketing specialists. We are advertising specialists. We understand logistics.

We -- If we look at the diversity of the professional service arena in Chicago, I don't know what it is in Fort Worth, Texas. I don't know what it is in Nebraska, nor necessarily do I care. And nor do I think that the Illinois Commerce Commission cares about the diversity of their region of their corporate headquarters. This is Illinois.

I, once again, appreciate the challenge
that the ICC has put forth to challenge the railroads
to disclose the Illinois strategy. What is their
Illinois strategy for sourcing, developing minority
suppliers? There is none. Otherwise, they would
share it with us.

Again, I'm really disappointed in my
friends in the railroads that, you know, it's --
they've been around since the turn of the century,
since the beginning of this country. And to date, in
2018, they cannot disclose to us their supplier
diversity strategy in Illinois. It isn't enough for
them to say we give out a few contracts and
opportunities to minorities in this country.

What -- What is their performance record in
Illinois? What is their footprint in Illinois?
Ms. Baker said that she needs to -- the supplier need
to demonstrate confidence and ability to her. I
don't know of many suppliers who have ever met her.
I don't know of anyone -- I don't know of any
advertisement or public information that would
indicate to any supplier in Chicago that there is an
individual in Fort Worth, Texas.
I don't know how a firm in Chicago or in Illinois understands any of the opportunities that are being posted in Fort Worth, Texas. I don't know how many times the railroads have supplier diversity seminars, symposiums, developmental, you know, conferences. I'm not aware of any.

Where is the Illinois strategy? What is their critical mass on supplier diversity in Illinois? Do they staff people to do supplier diversity in Illinois? How many times -- And if they don't, then how many times do they -- are they available of Illinois so that Illinois suppliers can meet with them?

And the list goes on and on and on of the kind of accountability that they can demonstrate to us so that you would insure and the legislature can insure that every effort, best efforts are being done by the railroads in Illinois. Not in Texas. Not in Nebraska. Not in Kansas City. In Illinois. Thanks.

MR. SHEAHAN: Thank you, Senator.

MR. HUTCHERSON: Is it okay if I respond to part of his comment?
MR. SHEAHAN: You may.

MR. HUTCHERSON: Senator, when I gave the areas for opportunities, I was speaking immediate opportunities.

I understand that there are other crafts that minority diverse suppliers can perform. When I mentioned -- When I mentioned commercial plumbing, asphalt, maintenance, striping, those are immediate needs that we're looking for people right now. I didn't -- I just went to my team and I asked them before this meeting, what are our immediate needs?

I'm not simply saying we do business with attorneys, we do business with engineering firms. I was trying to address what our immediate needs were and that's what I happened to address with this commission today to say that there are immediate opportunities today if there are -- if there are vendors out there that have the capacity to do the work. That's all I was simply saying.

I know that there are other areas. In fact, we have hired -- we have used vendors in other areas that have done other types of work, everything
from many of the areas that Lynn mentioned from IT, here in Illinois I'm talking about. So I just want to be clear that when I mentioned those areas, those were immediate needs that we're looking for today.

MR. SANDOVAL: Mr. Chairman, Mr. Hutcherson, you know, you also made some comments to you cannot and you will not speak to any vendors, suppliers due to the -- to the -- the universe of which the bidding takes place, right? And so to the respect to the procurement process that --

MR. HUTCHERSON: Right.

MR. SANDOVAL: Right. I've been in Federal procurement for 15 years of my life. I understand procurement. If there is not procurement, nothing stops you. If there's no IFB, there's no RFP, there's no RFCU, there's no RFI, you know, nothing precludes any of the railroads to speak to any supplier any given day of the year. Nothing.

MR. HUTCHERSON: Right.

MR. SANDOVAL: Nothing. You can state to, unless you have an RFP out there for legal services or you have an RFB out there for engineering
services, nothing precludes you to meet with every
single minority engineering from in Chicago today.

Today. Right?

And outside of an IVB process, which is low
bid, nothing precludes you from meeting with anybody
at any point in time unless there is an invitation
that is posted, so I think it's a little ingenuous to
say that you're limited to speak to any supplier to
the -- of the procurement process. If there is no
procurement that is posted, you can talk to anyone at
any time, anywhere. Welcome to Chicago.

MR. HUTCHERSON: Senator, I totally
agree with you. I was in reference to the
Commissioner's question. It dealt strictly when it
was an open bid. That's what I was referring to.

You're absolutely right. We can come. We could set
up a -- We could get a hotel room and invite as many
-- We can put an invitation out there for all of them
and we can talk about our business.

But that changes when there is a formal bid
and we can only send that formal bid to those diverse
suppliers who have registered and that are considered
quality -- qualified in our system. And that means that they would have to go through the rigorous process of basically going through and registering in our system.

So you're right. If there's no open bid, we can talk all day. But I think it would only be to their best interest that -- I would think they would only want to talk to us when they have business opportunities. Maybe they don't. We can look into that. We can look into opportunities.

I'm working with the folks we have here, the UP officials here in Chicago. We're talking now about how can we broaden our scope and get more diverse suppliers in the State of Illinois.

MR. SANDOVAL: Why would anyone want to talk to you when there's an opportunity because then they're limited talking to you?

MR. HUTCHERSON: Excuse me?

MR. SANDOVAL: Why would any supplier want to wait -- Why would you want to wait when there's an opportunity to talk to suppliers when that would
limit your ability to speak to them?

MR. HUTCHERSON: Many times when we --
what you're referring to I kind of -- what you're
describing is very similar to what we consider -- We
call it a supplier diversity fair where we invite all
diverse suppliers to come in and talk to us. And I
can't speak for Illinois, but I think speak in other
states participation has been down. It's been down
because -- And we've reached out to some and said,
why won't you come to these information sessions to
learn more about the railroad?

Because, remember, the biggest barrier we
have is them understanding how we do business. And a
lot of them have said, again, not in the State of
Illinois, but in other states they've said, they just
didn't have the time. We're willing to try it. I
mean, we think -- we believe that there -- that would
provide us with new diverse suppliers. We're more
than happy to try it.

MR. SANDOVAL: Again, there is no --
there is no Illinois strategy that has been
implemented by any of the railroads that relates to
supplier diversity. That is an issue for all of us.

MR. SHEAHAN: Thank you, Senator.

Any closing comments?

MR. ROSALES: Just -- I would encourage Wes to do it in Illinois. I see the number of gentlemen that are representing diverse suppliers here in the audience and that has never come across that we have a lack of participation at those type of events. So I would encourage you to do so and I appreciate you bringing that up.

MR. HUTCHERSON: Will do.

MR. SHEAHAN: Any additional questions? Any closing comments from commissioners?

(No response.)

MR. SHEAHAN: Well, in closing, I would thank the Senator for being here. Thank you, Senator. Thank you for your leadership.

I would I think just note for the railroads that as a result of the Government's leadership and the Senator's leadership, you're looking at the most diverse commission in the United States.

And just to give you an idea of kind of
what our baseline is, Illinois utilities last year spent $2 billion on diverse suppliers just in Illinois. Just Illinois utilities. So a national figure of 1.5 is certainly not in line I think with what our expectations and our hopes are.

I do want to thank you for being here. This is a voluntary process for you. We look forward to working with you and the Senator to make sure that your reports meet the legislature's expectations. And so with that, we're adjourned. Thank you.

(WHEREUPON, the meeting was adjourned.)