



WILLIAMSBURG AREA TRANSIT AUTHORITY

MEMORANDUM

TO: The Board of Directors

DATE: September 9, 2020

SUBJECT: Adoption of the Updated Disadvantaged Business Enterprise Program (DBE), Resolution #R21-13

Attached is a resolution adopting an updated Disadvantaged Business Enterprise (DBE) Program for the Williamsburg Area Transit Authority (WATA). This program is required pursuant to Section 1101 (b) of Transportation Equity Act for the 21st Century and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." The DBE Program provides a vehicle for increasing participation in contracting opportunities by Disadvantaged Business Enterprises (DBEs) as defined by the FTA.

The DBE Program must be approved by the transit agency's governing board. The current DBE Program was approved at the January 16, 2013 board meeting.

Recommendation: That the WATA Board of Directors adopt the DBE Program Resolution #R21-13



Zach Trogdon
Executive Director

RESOLUTION #R21-13

**ADOPTION OF THE UPDATED WILLIAMSBURG AREA TRANSIT AUTHORITY
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**

WHEREAS, the Williamsburg Area Transit Authority (WATA) is a recipient of federal assistance in excess of \$250,000 annually and is required to meet federal regulatory requirements for Disadvantaged Business Enterprise (DBE) Program, established by 49 C.F.R. part 26; and

WHEREAS, the Federal Transit Administration (FTA) requires that WATA provide a DBE Program that ensures nondiscrimination in the award and administration of federally assisted transportation contracts and ensures small minority-owned businesses can fairly compete for such projects; and

WHEREAS, WATA has developed a detailed DBE Program based on FTA guidance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Williamsburg Area Transit Authority, hereby adopts the Disadvantaged Business Enterprise Program as presented.



Mark Bellamy
Chair

ATTEST:



Zach Trogon
Executive Director

Adopted by the Board of Directors of the Williamsburg Area Transit Authority this 16th day of September 2020.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
Williamsburg Area Transit Authority

Objectives/Policy Statement – (§26.1, §26.23)

The Williamsburg Area Transit Authority (WATA) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT) as included in the Code of Federal Regulations (CFR) at 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. WATA receives Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, WATA certifies and assures that it will comply with 49 CFR Part 26.

It is the intent of this Program and the policy of WATA to ensure that Disadvantaged Business Enterprises will have an equal opportunity to receive and participate in DOT-assisted contracts. It is also WATA 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 DBE;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To assist the development of small businesses that can compete successfully in the marketplace outside the DBE Program.

The Budget and Grants Administrator has been designated as the DBE Liaison Officer (DBELO) and shall have direct access to the Executive Director concerning DBE matters. The DBELO is responsible for implementing all aspects of the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by WATA in its financial assistance agreements with the Department of Transportation.

WATA has disseminated this policy statement to the Williamsburg Area Transit Authority Board of Directors and all the components of the organization. The policy and program are provided to DBE and non-DBE business communities through outreach events, WATA's website, and in all solicitations.


Mark Bellamy, Chair
Board of Directors

9/16/2020
Date

A. GENERAL REQUIREMENTS

1. Objectives (§26.1)

The objectives are found in the Policy Statement on the first page of this program.

2. Applicability (§26.3)

As WATA will be the recipient of financial assistance from the Federal Transit Administration of more than \$250,000 in planning, capital, or operating assistance in a federal fiscal year, it is a requirement to have a DBE Program. The Program applies to any contracts that utilize DOT financial assistance.

3. Definitions (§26.5)

Disadvantaged Business Enterprise or DBE means a for-profit small business concern:

- a) That is at least 51 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
- b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

For other terms, WATA adopts the definitions contained in 49 CFR Part 26, Subpart A, Section 26.5.

4. Non-discrimination Requirements (§26.7)

WATA 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 of race, color, sex, or national origin.

In administering our DBE Program, WATA will neither directly nor indirectly use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of our DBE Program with respect to individuals of a particular race, color, sex, or national origin.

5. Record Keeping Requirements (§26.11)

a) Uniform Report of DBE Awards or Commitments and Payments

WATA will report DBE participation to FTA on a semi-annual basis using the Uniform Report of DBE Awards or Commitments and Payments as required by 49 CFR Part 26.11(a). A sample of this form is included in **Attachment 1**.

b) Bidders List

As required by 49 CFR Part 26.11(c), WATA will create and maintain a bidders list consisting of information about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts. The bidders list will contain the following information:

- 1) Firm name;
- 2) Firm address;
- 3) Firm's status as DBE or non-DBE;
- 4) Age of the firm; and
- 5) Annual gross receipts, reported by bracket (e.g., less than \$500,000, \$500,000-\$1,000,000, etc.) and not to report an exact figure.

WATA will obtain this information from the DBE directory maintained by the Virginia Department of Supplier Diversity and from the eVA Vendor List maintained by the Commonwealth of Virginia Department of General Services. These lists are electronic and searchable by filter criteria. WATA will also contact peer transit agencies and regional local governments to inquire about bidder listings.

6. Assurances (§26.13)

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

- a) *WATA 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 Disadvantaged Business Enterprise (DBE) Program or the requirements of 49 CFR Part 26. WATA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in the award and administration of DOT assisted contracts. WATA'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 WATA of its failure to carry out its approved program, the Department may impose sanctions 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.).*

b) *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 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, which may include, but is not limited to:*

- 1) *Withholding monthly progress payments;*
- 2) *Assessing sanctions;*
- 3) *Liquidated damages; and/or*
- 4) *Disqualifying the contractor from future bidding as non-responsible.*

B. ADMINISTRATIVE REQUIREMENTS

1. DBE Program Updates (§26.21)

As the recipient of an award of \$250,000 or more in FTA planning, capital, and operating assistance in a federal fiscal year, WATA will continue to carry out this program until all DOT financial assistance has been expended. WATA will provide to updates to DOT of significant changes in the Program.

2. DBE Liaison Officer (DBELO) (§26.25)

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

Barbara Creel
7239 Pocahontas Trail
Williamsburg, VA 23185
(757) 220-5574
bcreel@gowata.org

The DBELO is responsible for overseeing all aspects of the DBE Program and ensuring that WATA complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to WATA's Chief Executive Officer concerning DBE matters. An organization chart can be found in **Attachment 2**.

The DBELO is responsible for developing, implementing and monitoring the daily aspects of the DBE Program, in coordination with other appropriate officials. 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 requisitions for compliance with this program.
- 3) Works with all Departments to set overall annual goals and contract specific goals.
- 4) Ensures that bid notices and requests for proposals are available to DBEs in a timely manner
- 5) Identifies procurements with DBE participation opportunities so that DBE goals are included in solicitations.
- 6) Analyzes WATA's progress toward achievement and identifies ways to improve progress.
- 7) Participates in pre-bid meetings.
- 8) Advises the Executive Director/governing body on DBE matters and achievement.
- 9) Plans and participates in DBE outreach.
- 10) Provides outreach to DBEs and community organizations to advise them of opportunities with WATA.
- 11) Maintains WATA's updated directory on certified DBEs.

3. DBE Financial Institutions (§26.27)

It is the policy of WATA 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 prime contractors on DOT-assisted contracts to make use of these institutions.

This information is obtained through historical data published by the Federal Deposit Insurance Corporation (FDIC) on Minority Depository Institutions (MDIs). FDIC defines MDIs as any depository institution where 51% or more of the stock is owned by one or more socially and economically disadvantaged individuals. FDIC provides this historical data on a year-by-year basis and makes quarterly revisions as well.

To date there are no such institutions identified within the Commonwealth of Virginia. WATA will continue to investigate the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals and make reasonable efforts to use these institutions.

4. Prompt Payment Mechanisms/Retainage Clause (§26.29(a) and (b))

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

The Prime Contractor shall, within ten (10) days of receiving payment from WATA, pay all amounts properly due to its Subcontractors and shall cause its Subcontractors of every tier to pay their Subcontractors within an equivalent period after their receipt of payment. The Contractor shall promptly notify WATA of any circumstances in which payment is not so made. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of WATA. Failure to comply with the requirements of this paragraph may be deemed a material breach of this Contract.

As required by CFR 49 Part 26.29, any retainage held at the completion of a Subcontractor's work shall be returned to the Subcontractor within thirty (30) days of the completion and acceptance of the Subcontractor's work. Failure to comply with the requirements of this paragraph may be deemed a material breach of this Contract.

This clause applies to both DBE and non-DBE subcontractors.

5. Directory of DBE Firms (§26.31)

The Virginia Unified Certification Program statewide DBE and ACDBE Directory is hosted by the Virginia Department of Small Business and Supplier Diversity on its website at <https://www.sbsd.virginia.gov/directory/>.

The Directory is made available to the public and is searchable according to a number of criteria.

6. Overconcentration (§26.33)

WATA has not identified that overconcentration exists in the types of work that DBEs perform. WATA will evaluate our DBE Program triennially to determine if overconcentration exists.

7. Business Development Programs (§26.35)

WATA has neither elected nor been required to establish a specific business development program as part of the DBE Program.

8. Monitoring and Enforcement Mechanisms (§26.37)

As the recipient of federal financial assistance, WATA is responsible for monitoring and

remediating noncompliance of contractors with 49 CFR Part 26 and this Program. The following mechanisms, among others, may be used to monitor and enforce compliance:

- a) Staff will conduct site inspections and interviews with DBEs that are engaged in contracted work and maintain a DBE Compliance Review Checklist for each active DBE contract. **Attachment 3** contains a sample of the Checklist.
- b) Staff will keep a running tally of actual payments made to DBE firms for work committed to them at the time of contract award. **Attachment 4** contains a copy of the DBE Monthly Payment Monitoring Procedure and a copy of **Forms E and E-2**. The prime contractor will submit Form E monthly identifying the participation of, and payments to, DBE subcontractors. Similarly, DBEs will be required to submit Form E-2 monthly verifying receipt of payment from the prime contractor.
- c) Every WATA contract that utilizes federal financial assistance includes a clause that the contractor will comply with DBE requirements. Failure to do so may result in the contractor being in default or breach of contract. WATA will consult with its legal counsel to determine the appropriate legal remedies that apply in such a circumstance. We will also make referrals to appropriate federal, state and/or local authorities in suspected instances of fraud, misrepresentation and misappropriation of funds, theft of services, and other activities that warrant criminal referrals or other judicial action.
- d) WATA will require prime contractors to maintain records and documents regarding DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of WATA or DOT. This reporting requirement also extends to any certified DBE subcontractor.
- e) WATA shall perform interim audits of contract payment 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 the DBE participation.

9. Fostering Small Business Participation (§26.39)

The requirements of 49 CFR Part 26.39 state that WATA's program must include elements to foster and facilitate participation by small businesses in contracting opportunities. WATA will take all reasonable steps to eliminate obstacles that may preclude small business participation in procurements as prime contractors or subcontractors. WATA will implement the small business participation elements on a race-neutral basis.

WATA has incorporated the following elements to the DBE Program with the intent of increasing participation by small businesses in DOT-assisted contracts:

- a) Avoid unnecessary or unjustified bundling of contract requirements that may

place a contract outside the size for participation by small businesses and structure a reasonable number of prime contracts to be of a size for small businesses, including DBEs, can perform;

- b) When no DBE goal is established for a contract, WATA encourages the prime contractor to utilize the DBE Directory as certified DBE's may exist for contracting opportunities;
- c) For large contracts, requiring the prime contract to specify elements that of the contract that are of a size that small businesses, including DBEs, can perform them;
- d) Partner with the Small Business Development Center, the local Chambers of Commerce, the Virginia Department of Small Business and Supplier Diversity, and other regional partners in an effort to provide technical assistance, classroom training, and mentoring opportunities to small and disadvantaged businesses.
- e) Assist small businesses seeking help in getting through the DBE certification process. This assistance will occur on a case-by-case basis.

C. GOALS, GOOD FAITH EFFORTS, AND COUNTING

1. Set-Asides or Quotas (§26.43)

- a) A quota is a simple numerical requirement that a contractor must meet, without consideration of other factors. USDOT does not permit use of quotas on DOT-assisted contracts and WATA does not use quotas in the administration of its DBE Program.
- b) A set-aside is a contracting practice that restricts eligibility for the competitive award of a contract solely to DBE firms. USDOT regulations only allow the use of set-asides in limited circumstances if they are absolutely necessary to address the effects of egregious discrimination. WATA would only consider the use of set-asides in such limited circumstances as well.

2. Overall Goals (§26.45)

- a) A description of the methodology used to calculate the overall goal and the goal calculations are included in **Attachment 5** to this Program. These goals will be updated annually.
- b) In accordance with CFR 49 Section 26.45(f), WATA will submit its overall goal to FTA by August 1 of each third year (triennially). WATA may adjust the three-year overall goal during the three-year period to which it applies in order to reflect changed

circumstances. Any adjustment must be submitted to the FTA for review and approval.

- c) In establishing the overall goal every three years, WATA will consult with the Virginia Department of Small Business and Supplier Diversity (VDSBSD), the Hampton Roads and Williamsburg Chambers of Commerce, and other agencies to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and WATA's efforts to establish a level playing field for the participation of DBEs.

Following consultation with stakeholders, WATA will publish a notice of the proposed overall goal informing the public that the overall goal and its rationale will be available for inspection on WATA's website or during normal business hours for a 30-day comment period. This notice is normally published by June 1 of the reporting year. The notice will include addresses to which comments may be sent and where the proposed overall goal is available for review. WATA's overall goal submission to FTA will include a summary of information and comments received during this public participation process and our responses.

- d) WATA will begin using the approved overall goal on October 1 of each year in which a new DBE goal is established, unless we have received other instructions from DOT. If a goal is established on a project basis, WATA will begin using the goal at the time of the first solicitation for any DOT-assisted contract for the project.

3. Meeting Overall Goals/Contract Goals (§26.51)

- a) Breakout of Estimated Race-Neutral & Race Conscious Participation

The breakout of estimated race-neutral and race-conscious participation is included in **Attachment 5 [§26.51 (a-c)]**. WATA must meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. A projection of the portion of the goal that is expected to be met through race-neutral means, and the basis for that projection, is submitted to FTA at the same time as the overall three-year goal.

Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal. Means to increase race-neutral DBE participation 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 DBE's and other small businesses.
- 2) Providing technical assistance and other services.

- 3) Carrying out information and communication programs on contracting procedures and specific contract opportunities.
- 4) 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.
- 5) Ensuring distribution of our DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

b) Contract Goals (§26.51 (d-g))

WATA must use contract goals to meet any portion of the overall goal that is not projected to be met using race-neutral means. Contract goals are established so that, over the period covered by the overall goal, they will cumulatively result in meeting any portion of that overall goal that is not projected to be met using race-neutral means. Contract goals are expressed as a percentage of the Federal share of a DOT-assisted contract.

The following provisions apply to the use of contract goals:

- 1) Contract goals are only used on those DOT-assisted contracts that have subcontracting possibilities;
- 2) The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract;
- 3) FTA approval of each contract goal is not required, but are subject to review if necessary;
- 4) Contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

c) Goal Setting and Accountability (§26.47)

If the awards and commitments shown on WATA's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

- 1) Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
- 2) Establish specific steps and milestones to correct the problems identified in the analysis; and;
- 3) Prepare a shortfall analysis and maintain it in our records. This analysis will be made available to FTA upon request.

4. Transit Vehicle Manufacturers (§26.49)

WATA will require each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, WATA may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

5. Good Faith Efforts Procedures (§26.53)

a) Award of Contracts with a DBE Contract Goal (§26.53 (a))

In those instances where WATA has established a DBE contract goal, the contract will only be awarded to a bidder who makes good faith efforts to meet it. A bidder will have demonstrated good faith efforts if it does either of the following things:

1. Documents that it has obtained enough DBE participation to meet the goal; or
2. Documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

b) Sample Bid Specification: A sample bid specification when including a contract goal can be found in **Attachment 6**.

c) Information to be Submitted (§26.53(b))

Each solicitation for which a DBE contract goal has been established will require bidders/offerors to submit the following information (appropriate forms noted in parentheses):

- 1) The names and addresses of DBE firms that will participate in the contract (Form A);
- 2) A description of the work that each DBE will perform (Form A);
- 3) The dollar amount of the participation of each DBE firm participating (Form A);
- 4) Written and signed documentation of the bidder's/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal (Form A);
- 5) Written and signed confirmation from the DBE that it is participating in the kind and amount of work provided in the prime contractor's commitment (Form B); and

- 6) If the contract goal is not met, there must be written evidence of good faith efforts provided (Form C).

The necessary forms, available in **Attachment 7**, are: **Form A**, *Schedule of DBE Participation*; **Form B**, *Intent to Perform as a Subcontractor*; and **Form C**, *Good Faith Effort Documentation*. WATA will ensure that all information is complete and accurate and adequately documents the bidder's/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

d) Evaluation of Good Faith Efforts (§26.53(a) & (c))

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. Guidance in determining the adequacy of a bidder's/offeror's good faith efforts are found in Appendix A to CFR 49 Part 26.

e) Administrative Reconsideration (§26.53(d))

- 1) Within 10 days of being informed by WATA that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative consideration. Bidders/offerors should make this request in writing to:

Zach Trogdon, Executive Director
7239 Pocahontas Trail
Williamsburg, VA 23185
ztrogdon@gowata.org

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make sufficient good faith efforts.

- 2) As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will be able to meet in person with the reconsideration official to discuss the issue. The bidder/offeror will be sent a written decision on reconsideration explaining the basis for finding that the bidder/offeror 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 DOT.
- f) Terminating a DBE Subcontractor on a Contract with a DBE Goal (§26.53(f))

A prime contractor will not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without WATA's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm. (§26.53(f)(3)).

Good Cause includes the following circumstances when the listed DBE subcontractor:

- 1) Fails or refuses to execute a written contract;
- 2) Fails or refuses to perform the subcontracted work consistent with industry standards, unless the failure results from bad faith or discriminatory action on the part of the prime contractor;
- 3) Fails or refuses to meet the prime contractor's reasonable non-discriminatory bond requirements;
- 4) Becomes bankrupt, insolvent, or exhibits credit unworthiness;
- 5) Is ineligible to work on public works projects because of suspension or debarment under the Code of Federal Regulations for applicable state law;
- 6) Is determined to not be a responsible contractor;
- 7) Voluntarily withdraws from the project and provides written notice of withdrawal;
- 8) Ineligible to receive DBE credit for type of work required;
- 9) Owner dies or becomes disabled and the result is the DBE is unable to complete the work;
- 10) Other documented good cause, unless the prime contractor seeks to terminate a DBE it relied upon to obtain the contract in order to self-perform the work assigned to the DBE contractor or in order to substitute another DBE or non-DBE contractor after award.

Before transmitting to WATA its request to terminate, the prime contractor must give notice in writing to the DBE, with a copy to WATA, of its intent to do so, and the reason for the request. The DBE will then have five (5) days to respond and advise the prime contractor and WATA of why it objects to the proposed termination.

g) Good Faith Efforts to Replace a DBE on a Contract with a DBE Goal

In those instances where "good cause" exists to terminate a DBE, WATA will require the prime contractor to make good faith efforts to replace a DBE that is terminated with another certified DBE to the extent needed to meet the contract goal.

WATA will require the prime contractor to obtain prior approval from the DBELO of the substitute DBE and to provide copies of new or amended subcontracts or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, WATA may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, WATA may pursue termination for default.

6. Counting DBE Participation (§26.55)

WATA will count DBE participation toward overall and contract goals as provided in 49 CFR Part 26.55.

D. CERTIFICATION

1) Certification Process (§26.61-26.73)

WATA is not a certifying agency. For information about the certification process or to apply for certification, firms should contact:

Virginia Department of Small Business and Supplier Diversity
1111 East Main Street, Suite 300
Richmond, VA 23219
(804) 786-6585
sbsd@sbsd.virginia.gov

2) Unified Certification Programs (§26.81)

WATA is a member of the Virginia Unified Certification Program (UCP) which is administered by the Virginia Department of Small Business and Supplier Diversity. The UCP meets all of the requirements of this section.

Please contact the Virginia Department of Small Business and Supplier Diversity for information on Certification reciprocity and/or coordination mechanisms which exist with other recipients.

Virginia Department of Small Business and Supplier Diversity
1111 East Main Street, Suite 300
Richmond, VA 23219
(804) 786-6585
sbsd@sbsd.virginia.gov

3) Procedures for Certification Decisions (§26.83-26.91)

For information about the procedures for certification decisions firms should contact;

Virginia Department of Small Business and Supplier Diversity
1111 East Main Street, Suite 300
Richmond, VA 23219
(804) 786-6585
sbsd@sbsd.virginia.gov

4) Certification Appeals

Any firm that is denied certification or whose eligibility is removed by a recipient may appeal a Virginia Department of Small Business and Supplier Diversity's decision to DOT.

Such appeals should be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
External Civil Rights Program Division (S-33)
1200 New Jersey Ave., S.E.
Washington, DC 20590
Phone:(202) 366-4754
TTY: (202) 366-9696
Fax: (202) 366-5575

E. COMPLIANCE AND ENFORCEMENT (§26.109)

1. Noncompliance Complaints

Any person who believes that WATA has failed to comply with its obligations under this Program may file a written complaint with the FTA Office of Civil Rights. You must file a complaint no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing noncompliant course of conduct. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in § 26.109(b).

2. Information, Confidentiality, Cooperation, and Intimidation or Retaliation

a) Availability of Records

Notwithstanding any provision of federal or state law, WATA will not release any information that may reasonably be construed as confidential business information to any third party without consent of the firm that submitted the information. This does not apply to the transmittal of information to DOT in any certification appeal proceeding under Section 26.89 or to any other state to which the individual's firm has applied for certification under Section 26.85.

b) Cooperation

WATA will cooperate fully and promptly with DOT compliance reviews, certification reviews, investigations, and other requests for information.

c) Intimidation and Retaliation

WATA will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this Program or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Program.

3. Regulations (49 CFR Part 26)

This Program has been developed to implement 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. A copy of these regulations is available online at <https://ecfr.io/Title-49/Part-26> and can also be obtained by contacting WATA at 757-220-5493 or info@gowata.org.

ATTACHMENTS

- Attachment 1.** Uniform Report of DBE Commitments/Awards and Payments
- Attachment 2.** WATA Organizational Chart
- Attachment 3.** DBE Compliance Review Checklist
- Attachment 3.1 – Commercial Use Function Form
- Attachment 4.** DBE Monthly Payment Monitoring Procedure
- Attachment 4.1 – Contractor Monthly Report of DBE Participation (Form E)
- Attachment 4.2 – DBE Subcontractor Monthly Report (Form E-2)
- Attachment 5.** DBE Overall Goal Methodology: Fiscal Years 2019 – 2021
- Attachment 6.** Sample Bid Specifications
- Attachment 7.** Good Faith Efforts Reporting Forms
- Attachment 7.1 – Schedule of DBE Participation (Form A)
- Attachment 7.2 – Intent to Perform as a Subcontractor (Form B)
- Attachment 7.3 –DBE Good Faith Effort Documentation (Form C)
- Attachment 7.4- Prompt Payment (Form D)

Attachment 1 - WATA DBE Program

UNIFORM REPORT OF DBE COMMITMENTS/AWARDS AND PAYMENTS

Please refer to the instruction sheet for directions on filling out this form

1	Submitted to (check only one)	<input type="checkbox"/> FHWA	<input type="checkbox"/> FAA	<input checked="" type="checkbox"/> FTA - Recipient ID Number
2	AIP Numbers (FAA Recipients); Grant Number (FTA Recipients):			
3	Federal Fiscal year in which reporting period falls	FY 20XX	4. Date This Report Submitted:	
5	Reporting Period	<input checked="" type="checkbox"/> Report due June 1 (for period Oct 1-Mar 31)	<input type="checkbox"/> Report due Dec 1 (for period April 1-Sep 30)	<input type="checkbox"/> FAA annual report due Dec 1
6	Name and address of Recipient:			
7	Annual DBE Goal(s):	Race Conscious Projection:	Race Neutral Projection:	OVERALL Goal:

Awards/Commitments this Reporting Period

A	AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (Total contracts and subcontracts committed during this reporting period)	A	B	C	D	E	F	G	H	I
		Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs/Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
8	Prime contracts awarded this period	\$ -	0	\$ -	0			\$ -	0	
9	Subcontracts awarded/committed this period	\$ -	0	\$ -	0	\$ -	0	\$ -	0	
10	TOTAL			\$ -	0	\$ -	0	\$ -	0	

B	BREAKDOWN BY ETHNICITY & GENDER	A			B		
		Total to DBE (dollar amount)			Total to DBE (number)		
		Women	Men	Total	Women	Men	Total
		11	Black American	\$ -	\$ -	\$ -	0
12	Hispanic American	\$ -	\$ -	\$ -	0	0	0
13	Native American	\$ -	\$ -	\$ -	0	0	0
14	Asian-Pacific American	\$ -	\$ -	\$ -	0	0	0
15	Subcontinent Asian Americans	\$ -	\$ -	\$ -	0	0	0
16	Non-Minority	\$ -	\$ -	\$ -	0	0	0
17	TOTAL	\$ -	\$ -	\$ -	0	0	0

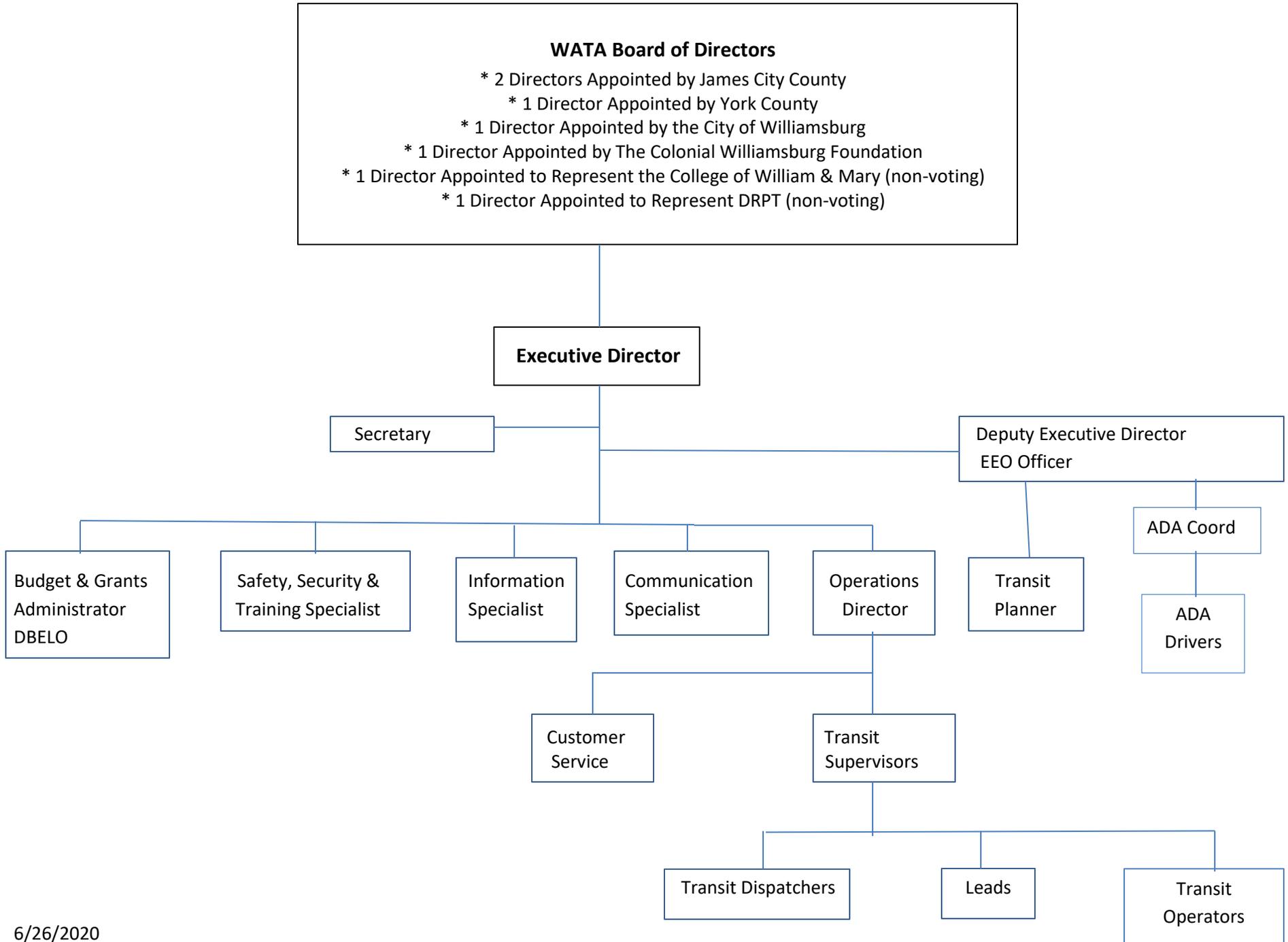
Payments Made this Period

C	PAYMENTS ON ONGOING CONTRACTS	A	B	C	D	E	F
		Total Number of Contracts	Total Dollars Paid	Total Number of Contracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs
18	Prime and subcontracts currently in progress	0	\$ -	0	\$ -	0	

D	TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	A	B	C	D	E
		Number of Contracts Completed	Total Dollar Value of Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percent to DBEs
19	Race Conscious	0	\$ -	\$ -	\$ -	
20	Race Neutral	0	\$ -		\$ -	
21	Totals	0	\$ -		\$ -	

22 Submitted by:	23. Signature:	24. Phone Number:
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Williamsburg Area Transit Authority (WATA) Organizational Chart



DBE COMPLIANCE MONITORING PROCEDURE

The Williamsburg Area Transit Authority (WATA) has implemented a DBE monitoring process to ensure compliance with 49 CFR Part 26.

MONITORING

Per 49 CFR Part 26.37(b), the DBE Program must include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.

WATA will comply with this provision by conducting random site inspections and interviews of contractors and DBE subcontractors. Interviews will be held either on-site, at our offices, or at any other location determined to be in the best interest of the WATA. A ***DBE Participation Commercially Useful Function Checklist*** will be maintained as records of having completed the on-site monitoring process.

COMMITMENT/ ATTAINMENT REVIEW

Per 49 CFR Part 26.37(c), the DBE Program must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. To monitor this process, WATA will require prime contractors to submit a monthly report of DBE participation (***Form E***) identifying their participation of, and payment to, DBEs for the previous month. Similarly, DBEs will be required to submit a monthly report (***Form E-2***) verifying the payments they received for services rendered in the previous month.

WATA will maintain these records and review them often to ensure that DBEs are being utilized and paid on time. These forms will also be used to monitor the prime contractor's progress toward achieving the DBE goal established for the contract.

When possible, WATA will engage our Project Managers to assist when needed in monitoring and documenting the contractor's utilization of DBEs on the contract to ensure DBE commitments have been achieved by the prime contractor, DBE firms are actually performing the work listed on bid documents, DBE firms are receiving the corresponding amount of payment agreed to, and payments are consistent with approved applicable change orders.

In accordance with 49 CFR Part 26.37(c), a ***DBE Compliance Review Checklist*** will be completed for each active DBE contract and will be maintained as the Official Written Certification of Monitoring.

To ensure that all DBE obligations under contracts awarded to DBEs are met, WATA will review the prime contractor's DBE participation efforts during the performance of the contract. If contracts are found to be out of compliance, a more comprehensive review, including on-site investigations, prompt payment verifications, and other DBE related compliance issues review processes, will be administered. Penalties will be assessed as needed to assist with bringing the contract back into compliance.

Both prime contractors and DBE subcontractors shall cooperate fully with WATA staff and shall provide all requested documents immediately upon request. WATA may consider failure to cooperate as a breach of contract, entitling WATA to apply penalties such as stoppage of payments or termination of contract.



DBE COMPLIANCE REVIEW CHECKLIST

Project Title: _____

Project Number: _____ Award Date: _____

Prime Contractor/Contact Person/
Email/Phone: _____

DBE Firm/Contact Person/
Email/Phone: _____

PRE-PROJECT

Good Faith Documents: A contractor must obtain the percentage of participation for a DBE subcontractor as indicated in the award, or document good faith efforts to obtain that participation. The reviewer will verify this information on the following forms.

DBE Goal: _____ %

- 1. Form A – Schedule of DBE Participation
- 2. Form B - Intent to Perform as a Subcontractor
- 3. Form C – DBE Good Faith Documentation (if applicable)

DURING PROJECT

1. Monitoring

Commercially Useful Function Review

Date of Inspection: _____

2. Commitment/Attainment Review

Contractor Monthly Report of DBE Participation (Form E)

DBE Subcontractor Monthly Report (Form E-2)

3. Prompt Payment

Prompt Payment Verification Form D

4. Termination/ Substitution/ Reduction, if applicable

Completed Termination/ Substitution Request Form

Written notice of intent to request termination/ substitution sent to DBE Firm

Good Faith Efforts statement, if applicable

POST-PROJECT

Has DBE Goal been achieved?

Yes

No Good Faith Effort statement explaining reason(s) shortfall took place.

OFFICIAL WRITTEN CERTIFICATION OF MONITORING

In accordance with 49 CFR 26.37, I, _____, hereby certify that the contracting records for the above referenced contract have been reviewed and the work sites in this state have been visited/monitored to ensure that the work committed to the DBE at contract award or subsequently was actually performed by the DBE to which the work was committed.

Signature: _____

Date: _____



COMMERCIALLY USEFUL FUNCTION REVIEW

Project Title: _____

Project Number: _____ Award Date: _____

Prime Contractor/Contact Person/
Email/Phone: _____

DBE Firm/Contact Person/
Email/Phone: _____

Per 49 CFR 26.55, “A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved... A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation...” To determine whether a DBE firm is performing a CUF, five elements must be considered: management, workforce, equipment, materials, and performance.

If a DBE firm is found to not be performing a CUF, no work performed by the DBE can count as eligible goal participation and, if a shortfall would occur, the prime contractor will be required to obtain another DBE or show adequate good faith effort.

Provide a brief description of the DBE’s scope of work:

Supervision:	Yes	No
Does the DBE have a superintendent/foreman on the project?		
Does the superintendent/foreman work exclusively for the DBE?		
Who does the superintendent/foreman report to?		
Employees:		
Does the DBE have employees on the job?		
Do they appear on DBE payrolls?		
Do they appear on the prime contractor’s payroll?		
Who assigns work to the DBE employees?		
Performance:		
Has any other contractor performed any of the DBE’s work?		
Equipment:		
Whose name appears on the equipment?		
Does the DBE lease or own the equipment?		
Does the DBE use the prime contractor’s equipment?		
Overall Review: Does it appear the DBE is performing a CUF?		

Comments:

Reviewer: _____ **Date:** _____

DBE MONTHLY PAYMENT MONITORING PROCEDURE

The contractor is responsible for documenting to the Williamsburg Area Transit Authority (WATA) the participation of, and payment to, DBE subcontractors as part of each invoice submittal on a monthly basis. This information is captured in **Form E - Contractor Monthly Report of DBE Participation**, which should be completed by the contractor no later than the 7th of each month. Each DBE subcontractor is responsible for completing the **Form E-2 - DBE Subcontractor Monthly Report**, which verifies receipt of payment from the contractor, and as such should be submitted by the 7th of each month following the start of work.

If reports are not received by the 7th of each month, a notice of non-compliance will be sent to the prime contractor and the contractor will have ten (10) days from the date of notice to submit the required forms. If reports are not received after ten (10) days from the date of notice of non-compliance, the prime contractor will receive a final notice (the project manager for the respective contract will be notified as well) and the contractor will have ten (10) days from the date of notice to bring the reporting requirements into compliance. If, after the final notice, the prime contractor remains in non-compliance with the DBE monthly reporting requirements, the contract will be flagged and actions will be taken to stop payments on submitted invoices until the contract is brought back into compliance.

Failure to submit these monthly reports may result in delay or suspension of payments to the contractor or such other remedies as HRT deems appropriate. If HRT has reason to believe that any person or firm has willfully and knowingly failed to submit any required forms, provided incorrect information, or made false statements, it may utilize remedies provided by the contract, up to and including termination for default. It may also refer the matter to the Department of Transportation (DOT) for further action.

Please send all forms and questions to:

Barbara Creel, Budget & Grants Administrator
7239 Pocahontas Trail
Williamsburg, VA 23185
P: 757-220-5574
F: 757-220-6268
bcreel@gowata.org



**PRIME CONTRACTOR MONTHLY REPORT OF DBE PARTICIPATION
Form E Report**

CONTRACT INFORMATION:

Original Contract Value: \$ -
 Change Orders Values: \$ -
 Current Contract Value: \$ -
 Total Payments Received To Date: \$ -
 Payments Received This Month: \$ -
 Start Date: _____
 Completion Date: _____

Contract Duration: _____
 Project Ref. No.: _____
 Report for Month of: _____
 Name and Location of Project: _____
 Name and Address of Prime Contractor: _____

Respond "Yes" or "No" to the Questions Below:

Did your firm or an affiliate rent or lease equipment to a DBE? _____
 Did any DBE/SBE utilize employees(or former employees) of your firm or an affiliate? _____
 Did any DBE/SBE subcontract any portion of its work to a non-DBE/SBE since the last report firm? _____
 Has the scope of work or subcontract amount changed for any DBE/SBE since the last report? _____

Name of Subcontractor	Project Task	DBE Cert.#	Original Contract Amount	Original Contract +/- Amount C.O.	Payment This Month	Billed This Month	Previous Payments	Total Payments	Pending C.O.'s Amount and Date	Overall Work Completed %	Contract P.O. Submitted
TOTAL			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		

COMMENTS: _____

Prime Contractor Compliance Officer: _____

Telephone: _____

Signature: _____

Date: _____

By signing this form, I personally and on behalf of the contractor affirm that the information presented in this document is truthful, accurate, complete and not misleading.

SEND COMPLETED FORM TO: Williamsburg Area Transit Authority
 Attn: DBELO
 7239 Pocahontas Trail
 Williamsburg, VA 23185
 Email: bcreel@gowata.org
 Fax: 757-220-6238
 Phone: 757-220-5574



**DBE SUBCONTRACTOR MONTHLY REPORT
FORM E-2**

PRIME CONTRACTOR:

Name of Firm: _____
 Address: _____
 Contact Person: _____
 Telephone: _____

CONTRACT INFORMATION:

Report for Month of: _____
 Contract Reference #: _____
 Contract Name: _____
 Date Executed: _____

Did you subcontract any portion of your contract with the Prime? _____ Is yes, was the subcontractor a CERTIFIED DBE? _____

SUBCONTRACT INFORMATION:

Services Purchase Order No. Task Order No.	Original Subcontract Amount	TOTAL SPENT ON MATERIALS/SUPPLIES THIS MONTH	Change Order Amount (+/-)	Change Order Date	Current Subcontract Amount	Payments Received This Month	Total Payments Received	% Work Complete

INVOICES PAST DUE:

Invoice Date	Reference No.	No. Days Past Due	Amount

DBE/SBE SUBCONTRACTOR

Name of Firm: _____
 Address: _____
 Contact Person: _____
 Title: _____
 Telephone: _____
 Email Address: _____
 Certification #: _____
 Signature: _____

COMMENTS:

SEND COMPLETED FORM TO:
 Williamsburg Area Transit Authority- Budget & Grants Administrator
 7239 Pocahontas Trail Williamsburg, VA 23185
 (757) 220-5574
 Fax (757) 220-6268

**Please state if you leased/rented any equipment, or utilized employees of the prime and/or an affiliate firm during this reporting period. Failure to respond will lead to further investigation and possible compliance audits.*



November 20, 2019

Lynn Bailey | Region III Civil Rights Officer
Federal Transit Administration | U.S. Department of Transportation
1760 Market Street
Suite 500
Philadelphia, PA 19103-4124

Re: Disadvantaged Business Enterprise (DBE) Participation Goal

Dear Ms. Bailey:

Enclosed is Williamsburg Area Transit Authority's (WATA) updated statement of its proposed overall goal for Disadvantaged Business Enterprise (DBE) participation for Federal Fiscal Years 2019, 2020 and 2021. This update addresses the DBE Goal Review Assessment notice dated May 9, 2019 and further guidance provided in the May 2019 presentation. Included is a summary of the methodology used to calculate the proposed DBE goal and the breakdown of estimated participation for the goal. WATA anticipates the overall goal will accrue to be six percent (6%).

WATA participated in two public business outreach events in Norfolk and Newport News. WATA hosted a business community event in the Williamsburg area to discuss the DBE goals and how DBE vendors can do business with WATA. Flyers, copies of the sign in sheets, and feedback notes from the outreach events are attached at the end of the document. The goal was published in the local newspaper, posted on social media and on WATA's website. The link to WATA's website: <http://www.gowata.org/184/Procurement>

Based on feedback from the outreach events, past project delays, upcoming projects, and using the methodology provided in the May 2019 DBE presentation, of the 6% overall goal WATA will strive for, 1.4 percent to be a race-conscious measure and 4.6 percent of be a race-neutral measure. Upon reviewing the May 2019 presentation, the RN/RC Split is adjusted slightly from the original submission. We have reviewed the goal development process and believe it represents a fair assessment of available DBE participation that can be achieved during the triennium.

If you have any additional questions, please contact me at (757) 220-5574 or by email at bcreel@gowata.org.

Sincerely,

Barbara Creel
Budget and Grants Administrator
DBE Liaison Officer

Enclosures
Cc: Zach Trogdon

Overall Goals (§26.45)

Goal Amount

WATA's overall goal for FY 2019-2021 is six (6) percent of the federal financial assistance expended in DOT-assisted contracts. This goal excludes FTA funds to be used for the purchase of transit vehicles.

Method

The method used to calculate the relative availability of DBEs "base figure" for Step 1 of the process was taken from Example 1 of §26.45, which suggests the use of DBE Directories and Census Bureau Data.

f First, WATA staff determined the number of ready, willing and able DBEs from the State's DBE Directory.

f Second, WATA staff examined lists of other MBE/WBE (Minority Business Enterprise/Women Business Enterprise) organizations in the region to ascertain the availability of additional firms that might be certified as ready, willing and able DBEs if they were alerted to the benefits of the program. In making this determination, WATA considered two scenarios. The first scenario assumed that one third (1/3) of those available DBEs would be eligible or qualify for Virginia's DBE certification. The second scenario considered all the MBEs as available DBEs.

f Third, using the U.S. Census Bureau under America Fact Finder, WATA staff determined the number of businesses available in the state of Virginia market that could provide the goods and services that WATA projected for purchase in FY19-21. Staff realizes that not all DBE's across the State will participate in all purchases in Williamsburg; however, we wanted to be liberal in our assumptions.

f Finally, a base figure for each of the scenarios was derived by dividing the number of DBEs and available DBEs by the number of all regional businesses in the appropriate business sectors. To tailor the data to WATA's contracting program for FY19-21, the relative availability of DBEs was weighted. This calculation method gave more weight to the categories of work in which WATA anticipates expending more money.

Step 1: Determining a Base Figure for the Overall Goal

- a. Link to determine the correct NAICS code: <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>
- b. Link to determine the number of vendors who can provide the service based in the state of Virginia: <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>
- c. Link to Virginia DBE search: <http://publicsearch.virginiainteractive.org/MBE/DBE/Search/SearchCodeResult?searchKey=541620&searchType>

≡C

The final rule making, Section 26.45 of 49 CFR Part 26, suggested five methodologies and provided examples for recipients to use as guidelines to set overall goals. The WATA transit system opted to use method number one, which was used for the last triennial period. This method allows the use of DBE Directories and Census Bureau Data and makes use of the following formula:

- Ready, willing and able DBEs
- Step One Base Figure = DBE firms ready, willing and able/all firms ready, willing and able (including DBEs and non-DBEs)

WATA staff was careful to address the issue of determining a percentage as accurately as possible, by using the same scope of businesses for both the numerator and the denominator. Staff took into account the Census Bureau's Business Pattern (CBP) data available and the area from which WATA draws contractors and subcontractors. Staff also opted to use Virginia as the boundaries for its local market, based on scope of contracting opportunities.

The Numerator

To determine the number of ready, willing and able DBEs, WATA staff used the Virginia Department of Minority Business Development's (DMBE) DBE Directory [DMBE is the DBE certifying agent for the state of Virginia and WATA utilizes the State's DBE Directory as its own directory]. As suggested in the "Tips for Goal Setting" released by the *Office of Small and Disadvantaged Business Utilization (OSDBU)*, WATA staff consulted relevant data sources to supplement the data with available DBEs for the purpose of goal setting only. In doing so, the following MBE/WBE (Minority Business Enterprise/Women Business Enterprise) directories were carefully examined: *Office of Minority Business Enterprise (MBE) City of Richmond Directory, VA Department of Minority Business Enterprise (Virginia DMBE) Directory, Virginia Minority Supplier Development Council (VMSDC) Directory and the Metropolitan Business League (MBL)*.

The total number of available DBEs became the numerator.

The Denominator

WATA staff derived the denominator from the 2010 Census Bureau's Business Pattern (CBP) database.

Again, the CBP database was sorted to reflect only those fields in which WATA intends to contract during FY19-21. To do this NAICS codes were carefully examined and matched with the categories of work determined to most likely occur in WATA's federal contracting program for FY19-21. The DBE vendor geographic area used was the entire state of Virginia.

Weighting

To tailor the data to WATA's contracting program for FY19-21, the relative availability of DBEs was weighted, giving more weight to the categories of work in which WATA projects expending more money. In performing weighting by category, WATA staff accounted for total projected federal expenditures for FY19-21, and then calculated percentages to be spent per project. These percentages were applied to the ratios obtained when comparing the number of DBEs and available DBEs to the availability of CBP businesses in each of the business sectors.

The results of Step 1 were: **Base Figure 1 844/14708 = 6%**

Step 2: Adjusting the Base Figure

Justification

In accordance with the guidance on DBE goal setting, adjustment to the Step 1 Base Figure was considered, but not required, in order to make it as precise as possible. To determine whether an adjustment is needed or not, WATA reviewed the projects from the last triennial goal calculations and resolved that many of the projects from the previous triennial goal were not completed; therefore, they carry forward into this triennial DBE goal. However, a major construction project is expected to be implemented within the next year or two. The current projects included in this year's projections reduced our DBE Goal by 4 percent, as vendors have qualified for DBE certification and additional federal funds are anticipated to be utilized.

This led WATA to the assumption that our previous anticipated rate of DBE participation was over estimated due to projects not starting or being completed in FY16-18. The median between FY 16 thru FY 18 was 3%. Adding this to the base figure of 6%, then dividing this by 2 equals 4.5%. In one year during the last triennial cycle, WATA was able to exceed the goal set in that triennial period due to a construction project for bus stop improvements. Considering most of the construction projects listed in the prior DBE goal were not implemented or procured, we looked at future participation to only be the number of ready/willing/able vendors who could perform the tasks associated with our projects. It was determined to not adjust the base rate.

To provide public participation in the goal-setting process, WATA worked in concert with the Virginia Department of Small Business Supplier Diversity (SBSD) to solicit and receive public comments. Historically, DBE vendors who submitted proposals on solicitations failed to respond responsibly. To mitigate this issue WATA has coordinated with the SBSBD to assist DBE vendors to submit proposals and bids as well as assist vendors become DBE certified. With this network to assist small business vendors WATA believes that reaching this goal in the next three years is feasible.

Based on feedback from the outreach events and anticipated solicitations for the next three years, WATA believes that allocating a portion of the established goal should be by race conscious means. Vendors who attended the outreach events expressed they may not have the resources to bid as a prime contractor, however, could possibly sub-contract for goods and/or services under a prime. Solicitations for construction projects are anticipated to be released within the next three years and there are several ready willing and able DBE vendors under these related NACIS codes that could potentially sub-contract with a WATA prime contractor.

Base Figure(s) Adjustment

WATA staff did not adjust the base figure that represented WATA’s DBE goal. WATA decided to allocate a portion of the base figure to race-conscious, which was zero in the last triennial goal period. The race-neutral rate of 4.8 percent and race-conscious rate of 1.2 percent was derived by dividing the amount of federal dollars for upcoming projects with the percentage of DBE ready and willing vendors for each of our upcoming projects.

The final step was to determine the number that would represent the new goal. WATA will use the weighed base figure as the goal.

Weighted	Base	Figure	6%
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The types of projects for FY19-21 are similar to the types of projects led in FY16 and a portion of FY18, however, it is WATA’s expectation to begin the construction for a new facility, which leads us to believe obtaining more participation through sub-contractors is a realistic goal. This also leads WATA to the assumption that a portion of the 6% of DBE participation should be allocated to race conscious. DBE capacity in projects in FY19-21 projects once implemented; staff proposes a total DBE goal of 6 percent, the base figure and not adjust it.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

WATA will meet the maximum feasible portion of its overall goal by using race-neutral and race-conscious means of facilitating DBE participation and will employ all appropriate means described in section 26.51(b) to encourage DBE participation.

WATA estimates that in meeting the overall goal of 6 percent, we will obtain 4.6 percent participation employing race-neutral means and 1.4 percent by race conscious means. We reviewed the past DBE performance from the last three years, to analyze a race-neutral vs. race-conscious split the FY 2019-2021 DBE goal. Based on RN attainment in the last triennial 7.7% divided by the 10% overall goal using RN means would equal 77%. The next step in the breakout is .77 times the newly developed goal of 6% equaling 4.6% for the new RN Goal, therefore applying a 1.4 percent towards race conscious.

RN/RC Split	
Step 1	
Average RN Attainment FY16-18	7.7%
/Overall Goal %	10%
Relative RN Attainment	77%
Step 2	
Relative RN Attainment	77%
x Proposed Overall Goal %	6%
Step 3	
RC Spit	4.6%
RN	1.4%

To ensure that WATA's DBE program will be narrowly tailored to overcome the effects of discrimination, the use of contract goals will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see section 26.51(f)) and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

WATA will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

Recommendation

The following is a summary of the basis of WATA's estimated breakout of race-neutral DBE participation in accordance with §26.45, WATA staff recommend. WATA reviewed the estimated breakout of race-neutral participation as needed to reflect actual DBE participation (§ 26.51 (f)) and will track and report race-neutral participation. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through prime contract a DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
- DBE participation on a prime contract exceeding a contract goal; and
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

WATA estimates that in meeting the overall goal of 6 percent, it will obtain 4.6 percent race-neutral participation and 1.4 percent through race-conscious measures.

WATA utilizes the Virginia DMBE database and researches available DBE's specific to each Request for Proposals (RFPs) released. WATA then includes these vendors on the RFP distribution list.

Per the rule for submission of DBE goals and goal-setting methodology, WATA will continue to set its overall goal on a triennial basis. WATA will continue to review the DBE opportunities semi-annually to determine if any changes to the goal would be needed.

WATA uses the following means to increase DBE participation:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small businesses' participation.

2. Ensuring availability of the State's DBE directory (WATA's DBE Directory) both internally and to interested parties by advertising to any DBEs listed in the State's list for all RFPs and IFBs.
3. WATA provides a link on the website to the Virginia Department of Rail and Public Transportation (VDRPT). The VDRPT has developed a presentation that outlines how to do business in Virginia; to include information on how to register as a SWAM and/or DBE vendor.
4. WATA will continue to consult with community organizations, chamber of commerce, small businesses, women's groups and minority groups to get their feedback. These groups can act as a resource to help determine the availability of DBEs that meet WATA's service needs.

Best Practices Strategies

Ensure the DBE Goal Setting Process is a Forethought not an Afterthought

- Ensure DBE goal setting process is part of the construction procurement process check list
- Obtain preliminary estimate and items of work areas as soon as possible
- Identify necessary reference documents related to meeting the DBE goal or demonstration of good faith efforts to meet the DBE goal
- Review all aspects of work and potential NACIS codes aligned with project and identify DBE's ready, willing, and able to perform identified areas of work

Proposers Information Day

- Schedule meeting with proposers to discuss project scope, status of NEPA study, procurement schedule, and DBE Program
- Discuss DBE Goals
- Discuss Design & Construction
- Discuss Good Faith Effort Monitoring
- Discus DBE Program Requirements

Monitoring DBE Participation

- Monitor good faith efforts documentation quarterly to determine progress
- Total contract value
- DBE goal and DBE goal amount
- DBE subcontracts and subcontract value
- Payments made to DBE firms quarterly

FY19-21 DBE Goal Setting: Data & Calculations

Step 1 - Determine the weight of each type of work by NAICS Code:

* Enter all the FTA-assisted projects below. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1	236220	Construction - Facilities	\$2,912,000.00	0.6417
2	541330	A&E/NEPA/Survey	\$200,000.00	0.0441
3	237990	Project Management	\$200,000.00	0.0441
4	811213	Vehicle Maintenance	\$720,000.00	0.1587
5	561720	Bus Shelter Cleaning	\$36,000.00	0.0079
6	541110	Legal Services	\$30,000.00	0.0066
7	237310	Construction Management	\$360,000.00	0.0793
8	541614	Consulting Services	\$80,000.00	0.0176
	Total FTA-Assisted Contract Funds		\$4,538,000.00	1.0000

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability	
1	236220	Construction - Facilities	206	3020	0.0682	VA/NC/M D
2	541330	A&E/NEPA/Survey	285	5480	0.0520	VA/NC/M D
3	237990	Project Management	91	1238	0.0735	VA/NC/M D
4	811213	Vehicle Maintenance	4	1817	0.0022	USA

5	561720	Bus Shelter Cleaning	68	1392	0.0489	VA VA/NC/M D
6	541110	Legal Services	5	284	0.0176	
7	237310	Construction Management	78	834	0.0935	
8	541614	Consulting Services	107	643	0.1664	
Combined Totals			844	14708	0.0574	Overall availability of DBEs

Step 3 - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	236220	Construction - Facilities	0.6416 9	x	0.06821	0.0438
2	541330	A&E/NEPA/Survey	0.0440 7	x	0.05201	0.0023
3	237990	Project Management	0.0440 7	x	0.07351	0.0032
4	811213	Vehicle Maintenance	0.1586 6	x	0.00220	0.0003
5	561720	Bus Shelter Cleaning	0.0079 3	x	0.04885	0.0004
6	541110	Legal Services	0.0066 1	x	0.01761	0.0001
7	237310	Construction Management	0.0793 3	x	0.09353	0.0074
8	541614	Consulting Services	0.0176 3	x	0.16641	0.0029
Total						0.0605
Expressed as a % (*100)						6.05%
Rounded, Weighted Base Figure:						6%



The VA Department of Small Business & Supplier Diversity
presents:

DOING BUSINESS WITH TRANSIT AGENCIES

March 19, 2018 | 10 a.m. to 12 p.m.
2ND FLOOR BOARDROOM
509 EAST 18th Street | Norfolk, VA 23504

NO FEE. RSVP REQUIRED.

Please visit www.sbsd.virginia.gov to register.

QUESTIONS? Please contact Nina Britton at Nina.britton@sbsd.virginia.gov.



Feedback – Public Outreach

March 2018 DBE event at HRT in Norfolk

DBE vendors at this event commented about wanting potential companies they may work with to understand they were viable, responsible options for contracts big and small. They wanted to be looked at like other vendors, and provided with feedback on their work before, during and after contracts. Matter of fact, the need for better communications with companies hiring DBE vendors seemed to be overall theme from this group of DBE vendors. Tasked with navigating world of requisitions and forms, some asked for more support in completing all aspects of contracts, not just for DBE vendors, but for all smaller businesses. Most of the DBE vendor proposals were unresponsive to solicitations and SBSB offered to assist these vendors to prepare responsive bids and proposals.

While they appreciated outreach efforts, some asked for more targeted workshops and what kind of support/help was available for those going after large contracts for first time or competing in bid process for first time. The group provided a wide range of services, and cautioned companies not to just look for DBE vendors for services like housekeeping, grounds work, sewage, cleaning vehicles, landscaping, etc. when they also provide printing, engineering, site planning, legal and other services.

In sum, DBE vendors really wanted to be seen and dealt with as individuals and not a monolith with more feedback and communications as well as not just looked at for certain jobs and services.



BUSINESS COMMUNITY OUTREACH SESSION

DATE: Monday May 7, 2018

TIME: 10:00 am to 11:30 am

LOCATION: Quarterpath Recreation Center
202 Quarterphath Road
Williamsburg, VA 23185



Learn more about Williamsburg Area Transit Authority's contracting opportunities through a discussion of the agency's proposed Disadvantaged Business Enterprise (DBE) utilization for Fiscal Years 2017-2019. For more information, contact Barbara Creel, Budget & Grants Manager, at bcreel@goWATA.org or call 757-220-5574.



BUSINESS COMMUNITY OUTREACH

DISADVANTAGE BUSINESS ENTERPRISE (DBE) GOAL

May 7, 2018 10:00 AM – 11:30 AM

AGENDA

- Welcome
- Introductions
- Virginia Department of Small Business and Supplier Diversity (SBSD)
- Doing Business with WATA – DBE
- Questions - Feedback



Business Community Outreach Session Sign-In

DATE: 5/7/18

Name	Business & Job Title	Email	Phone
Dana Staley	HHSBDC Education Program Coord	staleyd@hcc.edu	757-865-3128
JAVAN CRAIN	LIBERTY EAGLE INTERNATIONAL	JAVAN.CRAIN@ LIBERTYEAGLEINTERNATIONAL.com	757-392-6491
Nina Britton	SOSD	nina.britton@sbsd.virginia	757-287-1197
Natalie Robertson, PhD	360 VIRTUAL ASSISTANCE Executive Creative Director	sales@360virtual assistance.com	757 927 8006
Debra Kemelek	Coffee News Publisher	debra@yourcoffee news.com	(757) 903-5885
NAYMOND SUNKINS	VDOT DBE ADVOCATE	naymond.sunkins@vdot	757 409 1521
Beth Shumaker	Taylorred Printing Sales	beth@taylorredprinting.com	804-840-7748
Link Shaw	Director of Marketing - CDIS	lshaw@cdiscorp.com	757-696-0002
Luca Sore	DPC Eng & Prof Service	dpceng.prof services	804 543 0462

WATA

Williamsburg Area Transit Authority



BUSINESS COMMUNITY OUTREACH

*May 7, 2018 - Quarterpath Recreation Center
10:00 am to 11:30 pm*



DOING BUSINESS WITH WATA

WATA is a political subdivision of the Commonwealth of Virginia that provides sustainable, accessible, community-focused transportation bus, trolley and paratransit options. WATA is innovative, environmentally responsible and the authority promotes the vitality of our region.

This regional transit authority provides services in:

- James City County
- City of Williamsburg
- York County
- Section of Newport News
- Section of Surry County
- College of William and Mary

WATA builds partnerships to deliver transportation solutions to meet the evolving mobility needs of the Williamsburg Area.

WHAT ARE WATA PROCUREMENT AND CONTRACT NEEDS?

Full range of goods, supplies and services. Examples include, but aren't limited to:

- Professional Services Consultants: Engineers, Designers, Architect and other.
- Construction contracting for bus shelters
- Printing services – brochures, rack cards, postcards
- Procurement of operational goods and services, anywhere from office supplies to buses.
- Marketing, brand materials – logo merchandise for events, job fairs, public transportation initiatives

2017-2018 ACTIVE CONTRACTS

- Vehicle maintenance services
- Bus shelter cleaning services
- Interior bus cleaning services
- Bus stop sign and pole installations
- Consulting services
- Engineering and Design – Bus Shelters
- Legal services

FY 2019-2021 PROCUREMENT OPPORTUNITIES

- Vehicle maintenance services
- Bus shelter cleaning services
- Interior bus cleaning
- Bus stop sign and pole installation
- Architectural and engineering services
- Printing brochures, rack cards, etc.
- Marketing, brand and logo items
- Construction
- Construction Management
- Legal services
- Consulting services

DEVELOPMENT OF DBE GOAL FISCAL YEARS 2019-2021

- Preliminary goal for this three period is 6%
 - Review the number of ready, willing and able DBEs divided all firms ready willing and able
 - Review past DBE participation

PROCUREMENT THRESHOLDS

- Micro Purchase- Under \$2,500
- Small Purchase- \$2,500 to \$50,000
- Request for Proposals (RFP)/Invitation for Bid (IFB)

PROCUREMENT AND CONTRACTING METHODS

Invitation for Bids (IFB)

- Conduct technical evaluations of the proposals received and to determine the advantageous offer
- Awards are made to responsible proposers whose proposal is most advantageous to WATA with price and other factors considered

Negotiated Procurements (RFP)

- RFP is used for contracting whereby WATA and potential contractor negotiate on both price and technical requirements after submission of proposals
- Award is made to the contractor whose final proposal is most advantageous to WATA

SOLICITATIONS

WATA IFBs and RFPs are advertised on James City County's Procurement web site. The basic details of the solicitations can be viewed on the site at the following link:

<https://www.jamescitycountyva.gov/467/Bids-Requests-For-Bids-Requests-For-Proposals>

QUESTIONS AND FEEDBACK

Doing Business

- What challenges do you have?
- What information would help you?

Feedback

We'd like to hear from you about today's seminar.

- Email your feedback on WATA seminar to bcreel@gowata.org

Feedback – Public Outreach

DBE Event May 2018

This DBE event was smaller and focused on our service area in Williamsburg and surrounding counties. Still, a number of vendor echoed sentiments expressed by DBE vendors at Norfolk seminar in regards to better communication through bid/application process as well as assistance in navigating paperwork. They also asked for communications after contract with information on how they could improve their pitches for future contracts. Those new to the process also asked what resources were available to help them fill out and complete all needed, required forms for contracts. SBSB offered their services to help DBE vendors prepare better.

Some felt they had good grasp of process only to not be selected for contracts or not even considered because of filing errors. Details on the errors and how to correct them were what these DBE vendors said they wanted and needed to be successful and competitive in market with larger vendors who employ full staffs that work on getting contracts.

They also expressed wanting to be considered for contracts other than service ones – networking and IT, printing services, recruiting services, legal representation as well as engineering and environmental studies.

A takeaway for those looking to hire DBE vendors is to look at building relationships with DBE vendors by keeping local database on potential DBE vendors and using them for work that may not require contract process under certain dollar amounts. Those looking for DBE vendors are also able to provide guidance with better communication and feedback throughout the contract process or even after. One vendor even suggested businesses send all who applied for contract response on whether they were selected with small note on why or why not. It would help them grow as businesses and those seeking vendors hone communication skills with all vendors.

Note: Based on feedback from the outreach events and anticipated solicitations for the next three years, WATA believes that allocating a portion of the established goal should be by race conscious means. Vendors who attended expressed they may not have the resources to bid as a prime contractor, however, could be hired by a prime to subcontract on a WATA contract. Solicitations for construction projects are anticipated to be released within the next three years and there are several ready willing and able DBE vendors under these related NACIS codes that could potentially sub-contract with a WATA prime contractor.



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION 3
Delaware, Maryland,
Pennsylvania, Virginia,
West Virginia, and the
District of Columbia

1835 Market Street
Suite 1910
Philadelphia, PA 19103-2968

November 26, 2019

Ms. Barbara Creel, Administrator/DBELO
Budgets & Grants Department
Williamsburg Area Transit Authority (WATA)
7239 Pocahontas Trail
Williamsburg, VA 23185

Re: FFY 2019-2021 Triennial DBE Goal Submission (Revision), Recipient ID: 5719

Dear Ms. Creel,

The Federal Transit Administration (FTA) has received and reviewed the Williamsburg Area Transit Authority's *revised* Disadvantaged Business Enterprise (DBE) triennial goal setting methodology received on November 22, 2019. This DBE goal will be effective October 1, 2018 through September 30, 2021. This submission is required by the Department of Transportation DBE regulations found at 49 C.F.R. Part 26. Your proposed overall goal is 6.0% and is proposed to be achieved using race-neutral and race-conscious measures, 4.6% and 1.4%, respectively.

Our review considered all elements required by the Department of Transportation regulations found at 49 C.F.R. § 26.45, including the descriptions of the evidence and methods used to calculate, adjust and establish the overall goal. While your goal status is now *Concur*, you are expected to make a good faith effort to meet your goal each year during the three-year period for which it is in effect. You must document your DBE attainment on FTA-funded contracts and purchases by submitting a semi-annual report via TrAMS on June 1 and December 1 of each year. If you fall short of your overall DBE goal in any given year, you must develop a shortfall analysis and corrective action plan following the guidance in 49 C.F.R. § 26.47(c). Transit vehicles must be purchased from a DBE-certified transit vehicle manufacturer (TVM) and reported to FTA within 30 days of purchase. The current list of DBE-certified TVMs and the online reporting tool can be found on the DBE portion of FTA's website at www.transit.dot.gov. Finally, any mid-cycle adjustment to your goal to reflect changed circumstances must be submitted to FTA.

FTA is committed to providing technical assistance to help to implement your DBE program consistent with the regulations and guidance. We are issuing this letter electronically only and it is attached to your profile in TrAMS. Please do not hesitate to contact me directly at 215-656-7121 or via email (Lynn.Bailey@dot.gov) if you have any questions.

Sincerely,

Lynn A. Bailey
Civil Rights Officer, Region 3

cc: TrAMS Profile #5719

Sample Bid Specification

The following is a sample bid specification to use when establishing a contract goal:

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 Williamsburg Area Transit Authority 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/offerors, including those who qualify as a DBE.

A DBE contract goal of ____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), 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 participating; (4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4) and (5) above if the contract goal is not met, evidence of good faith efforts



Form A
Schedule of DBE Participation

Project Title: _____

Project Number: _____

DBE Firm Name & Address	DBE Certification #	Work / Supplies Committed	Estimated Start Date	Percent of Total Project	Dollar Value of Subcontracts
1					
2					
3					
4					
5					
Totals (Dollar Value; Percent of Total Project)					

The undersigned, as a duly authorized representative of the prime contractor, agrees to enter into a formal subcontract agreement with above named DBE firm(s) within thirty (30) days of a contract award between the prime contractor and WATA.

Prime Contractor: _____

Contact Person/ Title: _____

Mailing Address: _____

Email Address: _____

Phone: _____

Signature: _____

Questions or completed form can be sent to:

Barbara Creel, DBELO
7239 Pocahontas Trail
Williamsburg, VA 23185

Email: bcreel@gowata.org
Phone: 757-220-5574
Fax: 757-220-6238



Form B

Intent to Perform as a Subcontractor

Project Title: _____

Project Number: _____

Is Intended Subcontractor a Certified DBE? _____ DBE Certification #: _____

Statement of Intent:

1. The undersigned certified DBE intends to enter into a formal agreement with (*Name of prime offeror/bidder*) to perform work on this project
2. The undersigned certified DBE is prepared to perform the following work (specify particular work to be performed)

3. At the following price: _____

4. Of the above price, \$ _____ (_____ %) will be further sublet and/or awarded to non-DBE contractors or suppliers.

The DBE status of the undersigned is confirmed on the attached DBE identification. (DBE shall provide documentation of its DBE status.)

DBE Name: _____

DBE Firm: _____

Address: _____

Contact Person: _____ Title: _____

Signature: _____ Date: _____



DBE GOOD FAITH EFFORT DOCUMENTATION

All information submitted on this form is subject to review/audit by the WATA

Date Submitted: _____

Contractor Name: _____

Address: _____

Contact Person: _____ Phone: _____

Email Address: _____

I certify that the information contained in this good faith effort documentation form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and/or prosecution under applicable State and Federal laws.

Authorized Representative Signature: _____

Title: _____

Date: _____

DBE GOOD FAITH EFFORT DOCUMENTATION

Project Title:		Description of Work or Material:		
DBE Firm Name:		DBE Certification #: (Virginia):		
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				\$0.00
2.				\$0.00
3.				\$0.00
Comments:				
Project Title:		Description of Work or Material:		
DBE Firm Name:		DBE Certification #: (Virginia)		
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				\$0.00
2.				\$0.00
3.				\$0.00
Comments:				

EXAMPLES OF GOOD FAITH EFFORT DOCUMENTATION

The following is a list of types of actions a bidder should take when documenting good faith efforts. This list is not intended to be exclusive or exhaustive, nor are all the actions mandatory. Other factors or types of efforts may be relevant in appropriate cases.

SOLICITATION/ADVERTISEMENT EFFORTS – should include your efforts to solicit quotes, through all reasonable and available means, the interest of all certified firms who have the capability to perform the work of the contract. The contractor should ensure that the requests are made within sufficient time to allow DBE firms to respond. The contractor should take the initiative to contact firms which have indicated an interest in participating as a subcontractor/supplier.

NEGOTIATION EFFORTS – should include your efforts to make a portion of the project work available consistent with the availability and capabilities of our DBE firms in order to facilitate DBE participation. You are encouraged to break out contract work items into smaller economically feasible subcontracts to ensure DBE participation. As a part of your negotiation you should make plans/specifications available to the DBE firms which have shown an interest in participating. When negotiating with DBE firms a contractor should use good business judgement by considering price and capability, as well as, project goals. A contractor is not expected to accept a price that is not reasonable and is excessive. Comparison figures should accompany your good faith effort submittal which supports the price differential.

ASSISTANCE EFFORTS – should include your efforts to assist DBE firms in obtaining bonding, lines of credit, insurance, equipment, materials, supplies or other project related assistance. Contractors are encouraged to assist firms with independently securing/obtaining these resources. A contractor may not provide these resources to the DBE firm. The level of assistance should be limited to referral sources, introductions, and making initial contacts with industry representatives on the DBE firm’s behalf.

ADDITIONAL EFFORTS – could include any additional efforts to utilize the services of minority/women organizations, groups; local, state and federal business offices which provides assistance in the recruitment and placement of DBE firms. Utilizing the services offered by WATA’s DBE supportive services consultant for assistance with advertisement and recruitment efforts. Contractors are encouraged to undertake and document any other efforts taken in their attempt to fulfill the project goal.



Prompt Payment Verification - Form D

1. The Prime Contractor shall, within ten (10) days of receiving payment from WATA, pay all amounts properly due to its Subcontractors and shall cause its Subcontractors of every tier to pay their Subcontractors within an equivalent period after their receipt of payment. The Contractor shall promptly notify WATA of any circumstances in which payment is not so made. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of WATA. Failure to comply with the requirements of this paragraph may be deemed a material breach of this Contract.

2. As required by CFR 49 Part 26.29, any retainage held at the completion of a Subcontractor's work shall be returned to the Subcontractor within thirty (30) days of the completion and acceptance of the Subcontractor's work. Failure to comply with the requirements of this paragraph may be deemed a material breach of this Contract.

Payments to Subcontractors from Contractor

Please list <u>all</u> payments made to <u>all</u> subcontractors during the preceding month on the following project:				
Project Name and Number	Name of Subcontractor	Amount Paid	Date Paid	Final Payment

I declare that the statements made in this document are true and complete to the best of my knowledge:

Contractor Name

Authorized Signature

Date

This report must be submitted no later than the 10th of each month, to reflect all payments to subcontractors for the preceding month. Please e-mail to: bcreel@gowata.org

Please contact Barbara Creel with any questions: 757-220-5574