



HAMPTON ROADS TRANSIT
DBE PROGRAM & POLICY
TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS

Objectives/Policy Statement (26.1, 26.23)


The **TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS (TDCHR)** has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. TDCHR has received Federal financial assistance from DOT. As a condition of receiving this assistance, TDCHR has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of TDCHR to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT assisted contracting opportunities. It is also our policy:


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

Brittany Sumpter has been delegated as the DBE & Grants Coordinator. In that capacity, the DBE & Grants Coordinator is responsible for executing the daily functions of the DBE Program. Keisha Branch has been delegated as the DBE Liaison Officer and provides oversight of the overall DBE Program and direct supervision of the DBE & Grants Coordinator. Implementation of the DBE Program is afforded the same priority as compliance with all other legal obligations incurred by TDCHR in its financial assistance agreements with DOT.

TDCHR has disseminated this policy statement to the TDCHR Board of Commissioners and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts.



Signature



Date

William E. Harrell
President and CEO, TDCHR

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757-222-6000 • gohrt.com

Revision 01-11-19

SUBPART A – GENERAL REQUIREMENTS

Section 26.1 - Objectives

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

Section 26.3 - Applicability

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

Section 26.5- Definitions

TDCHR will adopt the definitions contained in Section 26.5 for this program.

Section 26.7- Non-discrimination Requirements

TDCHR 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, TDCHR 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.

Section 26.11 - Record Keeping Requirements

26.11(a) Uniform Report of DBE Awards or Commitments and Payments

TDCHR will report DBE participation to FTA on a semi-annual basis using the Uniform Report of DBE Awards or Commitments and Payments located at 49 CFR Part 26, **Appendix B**.

26.11(c) Bidders List

TDCHR 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 include the firm's name, address, status as a DBE or non-DBE, age, and annual gross receipts.

TDCHR will retrieve this information through the collection of vendor profile forms submitted by firms wishing to do business with TDCHR. This form captures the firm's name, address, status as a DBE or non-DBE, age, and annual gross receipts. A copy of this form can be found in **Attachment 1**.

Section 26.13 - Assurances

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

26.13(a) Federal Financial Assistance Agreement

The following assurance will appear in any financial assistance agreement TDCHR signs with a DOT operating administration:

TDCHR 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. TDCHR 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. TDCHR'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 TDCHR 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.).

26.13(b) Contract Assurance

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

The contractor, sub recipient, 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.

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 - DBE Program Updates

Since TDCHR has received a grant of \$250,000 or more in FTA planning capital and operating assistance in a federal fiscal year, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.23 – Policy Statement

The Policy Statement is elaborated on the first page of this program.

Section 26.25 - DBE Liaison Officer (DBELO)

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

Keisha Branch
509 E. 18th Street, Bldg. #4
Norfolk, VA 23504
(757) 222-6000, extension 6173
kbranch@hrtransit.org

In that capacity, the DBELO provides oversight of the DBE Program and supervision of the DBE & Grants Coordinator.

TDCHR has designated the following individual as our DBE & Grants Coordinator:

Brittany Sumpter
509 E. 18th Street, Bldg. #4
Norfolk, VA 23504
(757) 222-6000, extension 6255
bsumpter@hrtransit.org

The DBE & Grants Coordinator 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. Develops overall agency goals and contract specific goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Determines contractor compliance with good faith efforts.
6. Analyzes TDCHR's progress toward DBE goal attainment and identifies ways to improve progress.
7. Performs commercially useful function reviews on active contracts.
8. Performs prompt payment reviews on active contracts.
9. Participates in pre-bid meetings.
10. Works to resolve disputes between prime contractors and DBEs.
11. Advises the Chief Executive Officer and governing body on DBE matters and achievements.
12. Organizes and participates in DBE and small business training seminars, workshops, and networking sessions.
13. Provides outreach to DBEs and community organizations on how to do business with TDCHR and to promote contracting opportunities.
14. Maintains TDCHR's Bidders List.

15. Responds to inquiries regarding the DBE certification process, provides assistance as needed with completing the DBE application, and refers firms to the Virginia Department of Small Business and Supplier Diversity (VDSBSD) to complete the certification process.

The DBELO and DBE & Grants Coordinator both have direct, independent, access to TDCHR's Chief Executive Officer concerning DBE Program matters. An organization chart displaying these positions in the organization can be found in **Attachment 2** to this program.

Section 26.27 - DBE Financial Institutions

It is the policy of TDCHR 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.

We obtain this information through the Federal Deposit Insurance Corporation's (FDIC) published historical data 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. TDCHR reviews the data annually.

As of Third Quarter 2018, there were no Minority Depository Institutions in the state of Virginia.

TDCHR will continue to monitor this database to identify financial institutions owned and controlled by socially and economically disadvantaged individuals and make reasonable efforts to use these institutions. Information on the availability of such institutions can be obtained from the DBE & Grants Coordinator.

Sections 26.29(a) and (b) – Prompt Payment Mechanisms/Retainage Clause

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

Contractor shall, within ten (10) days of receiving payments from the Commission, pay all amounts properly due to its Subcontractors and materialmen, and shall cause its Subcontractors of every tier to pay their Subcontractors and materialmen within an equivalent period after their receipt of payment. Contractor shall promptly notify the Commission of any circumstances in which payment is not so made. Failure to comply with the requirements of this paragraph may be deemed a material breach of this Contract. 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.

For those Contracts for which a DBE goal has been established, the failure to perform in accordance with the DBE Program detailed in **Appendix A** may result in partial or full suspension of payment and/or progress payments.

Should Contractor wish to withhold payment otherwise due to a Subcontractor hereunder, it shall notify the Commission's representative of such intention in writing, providing the reasons for such withholding. Approval of such withholding by the Commission is required.

Section 26.31 - Directory

The Virginia Department of Small Business and Supplier Diversity (VDSBSD) and Metropolitan Washington Airport Authority (MWAA) maintain a Unified Certification Program (UCP) directory

identifying all firms eligible to participate as DBEs on TDCHR awarded contracts. This UCP directory is made available to the public electronically as well as in print. The directory lists the firm's name, address, phone number, email, certification number, and the NAICS code/ description of service(s) the firm has been certified to perform as a DBE.

The Virginia UCP DBE Vendor Directory can be accessed using the link provided below:

<https://directory.sbsd.virginia.gov>

Section 26.33 - Overconcentration

TDCHR has not identified that overconcentration exists in the types of work that DBEs perform. TDCHR will re-evaluate overconcentration annually to determine if overconcentration exists. If overconcentration is found in certain work areas to the point of unduly burdening non-DBEs working in those areas, TDCHR will report such information and seek prior approval from FTA to develop appropriate corrective measures. Such measures may include:

1. Developing ways to assist DBEs to move into nontraditional areas of work;
2. Varying the use of DBE contract goals; and
3. Working with contractors to find and use DBEs in other industry areas.

Section 26.35 - Business Development Programs

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

Section 26.37 - Monitoring and Enforcement Mechanisms

TDCHR will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. Legal ramifications include remedies in contract law and equity to pursue specific performance, breach of contract, misappropriation, diminution of assets, fraud, nonfeasance, and other appropriate causes of action. We will also make referrals to appropriate federal, state and/or local authorities in instances of suspected fraud, misrepresentation and misappropriation of funds, theft of services, and other activities that warrant criminal referrals or other judicial action.
2. We will provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award or subsequently is actually performed by the DBEs to which the work was committed. This will be accomplished through site inspections and interviews with DBEs that are engaged in contracted work. We will also maintain a DBE Compliance Review Checklist for each active DBE contract which will include an official written certification that we have reviewed contracting records and monitored work sites for this purpose. **Attachments 3 and 4** contain our compliance monitoring procedure and a copy of the review checklist.
3. We will also keep a running tally of actual payments made to DBE firms for work committed to them at the time of contract award. This will be accomplished by having the prime contractor 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. Continuous review of these forms will allow us to compare and monitor attainments to commitments. **Attachment 5 and 6** contain our DBE monthly payment reporting procedure and a copy of **Forms E and E-2**.

Section 26.39 - Small Business Participation Plan

TDCHR has incorporated the following non-discriminatory elements to our DBE Program to facilitate competition on DOT-assisted contracts by small business concerns:

- When no DBE goal is established for a contract, procurement is provided with a list of vendors, found in the Virginia UCP DBE Directory, that may have the capability to bid the contract as a prime contractor. These vendors are added to Procurement's Plan Holder's List and notified of the contract opportunity.
- TDCHR partners 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.
- TDCHR will also offer assistance for small businesses seeking help in getting through the DBE certification process.

SUBPART C GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43-Set-asides or Quotas

TDCHR does not use quotas in any way in the administration of our DBE Program.

Section 26.45-Overall Goals

In accordance with Section 26.45(f), TDCHR will submit its overall goal to DOT on August 1 of each third year (triennially). In the event there are any changed circumstances, TDCHR may adjust the overall goal during the three-year period to which it applies as permitted in Section 26.45(f)(1)(ii).

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

Following this consultation, in accordance with Section 26.45(g)(1)(ii), TDCHR will publish a notice of the proposed overall goal on our official internet web site. In accordance with Section 26.45(g)(2), we may, at our discretion, inform the public that overall goal and its rationale will be available for inspection during normal business hours for a 30-day comment period. TDCHR usually issues this notice by June 1 of the reporting year. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

TDCHR's overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1 of each year where we submit a new DBE goal unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for DOT-assisted contract for the project.

Amount of Goal

TDCHR's overall goal for FY 2017-2019 is the following:

11% of the Federal financial assistance TDCHR will expend in DOT-assisted contracts (exclusive of FTA funds to be used for the purchase of transit vehicles).

Method

A description of the methodology used to establish TDCHR's overall goal can be found in Attachment 7.

Section 26.47-Goal Setting and Accountability

If the awards and commitments shown on TDCHR'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(s) 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.

Section 26.49 – Transit Vehicle Manufacturers

TDCHR 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. TDCHR will confirm that the TVM is eligible to bid by confirming their firm name exists on FTAs list of eligible TVMs. TDCHR will also print the list and store it in contract files as proof that conformation was done.

Alternatively, TDCHR may, with prior FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying with this element of the program. TDCHR will store documented approval from FTA and any correspondence from FTA in contract files as proof that approval was given to establish project-specific goals on transit vehicle procurement awards.

TDCHR will also submit to FTA, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract. TDCHR will use the online form to report the required information on transit vehicle procurement awards and save a printout of the submission as proof that submission was done timely.

Section 26.51 – Meeting Overall Goals/Contract Goals

26.51 (a-c) Breakout of Estimated Race-Neutral & Race Conscious Participation

TDCHR will meet the maximum feasible portion of our overall goal by using race-neutral means of facilitating race-neutral DBE participation. TDCHR will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (per 26.51(f)) and we 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:

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

TDCHR uses the following race-neutral means to increase DBE participation:

- 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.

Section 26.51 (d-g) Contract Goals

TDCHR will use contract goals to meet any portion of the overall goal TDCHR does not project being able to meet using race-neutral means. Contract goals are established so that, over the period covered by our overall goal, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met using race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. 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.

We will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

Section 26.53-Good Faith Efforts

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

In those instances where TDCHR has established a DBE goal in a procurement/solicitation, we will not award the contract to a bidder who does not either:

- (1) Meet the contract goal with verified, countable DBE participation; or
- (2) Documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

26.53(b) Information to be Submitted

TDCHR treats a bidder's/offeror's compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a DBE contract goal has been established will require bidders/offerors 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 will perform;
- (3) The dollar amount of the participation of each DBE firm participating;
- (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;
- (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; and
- (6) If the contract goal is not met, there must be written evidence of good faith efforts provided.

26.52(a) & (c) Evaluation of Good Faith Efforts

The DBE & Grants Coordinator 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. Examples of good faith efforts and guidance in determining the adequacy of a bidder's/offeror/s good faith efforts are found in **Appendix A** to Part 26.

TDCHR will ensure that all information is complete and accurate and adequately documents the bidder's/offeror's good faith efforts before we commit to the performance of the contract by

the bidder/offeror.

26.53(d) Administrative Reconsideration

Within 10 days of being informed by TDCHR 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:

Ray Amoruso, Chief Planning & Development Officer
TDCHR
509 E. 18th Street
Norfolk, VA 23504
(757) 222-6000, extension 6133
ramoruso@hrtransit.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.

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 our reconsideration official to discuss the issue as well. TDCHR will send the bidder/offeror 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>

26.53(f) Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with a DBE Goal.
TDCHR requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without TDCHR's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3).

Before transmitting to TDCHR its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to TDCHR prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise TDCHR of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, TDCHR will require the prime contractor to make good faith efforts to replace a DBE that is terminated.

TDCHR will require the prime contractor to notify the DBE & Grants Coordinator immediately of a DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, we will require the prime contractor to obtain prior approval 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, TDCHR's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default.

Section 26.55 - Counting DBE Participation

TDCHR will count only the value of the work actually performed by the DBE toward DBE goals.

SUBPARTS D & E - CERTIFICATION

Section 26.61-26.73 - Certification Process

TDCHR 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

Section 26.81 - Unified Certification Programs

TDCHR 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

Section 26.83-26.91 - Procedures for Certification Decisions

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

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
Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, DC 20590

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109-Information, Confidentiality, Cooperation, and Intimidation or Retaliation

Availability of Records

Notwithstanding any provision of federal or state law, TDCHR 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.

Confidentiality of information on complainants

TDCHR will keep the identity of complainants confidential, at their election.

Cooperation

TDCHR will cooperate fully and promptly with DOT requests for information.

Intimidation and Retaliation

TDCHR 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 part 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 part.

ATTACHMENTS

- 1. Vendor Profile Form**
- 2. TDCHR Organizational Chart**
- 3. DBE Program Compliance Monitoring Procedure**
- 4. DBE Compliance Review Checklist**
- 5. DBE Monthly Payment Monitoring Procedure**
- 6. DBE Monthly Payment Reporting Forms**
- 7. DBE Overall Goal Methodology: Fiscal Years 2017 - 2019**



ATTACHMENT 1

HAMPTON ROADS TRANSIT

Vendor Profile

3400 Victoria Blvd
Hampton, Virginia 23661
757-222-6000 222-6043 Fax

Form B

Date: _____

Please print clearly

Company/Remit to Name: _____

Owner(s) Name and Title: _____

Contact Person and Title: _____

Mailing Address: _____

City, State and Zip: _____

Telephone: _____ Fax: _____ Toll Free: _____

Website: _____ Email: _____

Type of Organization: Sole Proprietorship Partnership Corporation

Date Business Established: _____ Tax ID Number: _____

Dunn & Bradstreet Number: _____

North American Industrial Code System / NAICS code(s): _____

Check all that apply

Product/Service Description: Professional/Consultant Service Construction Supplies
 Equipment Other _____

Number of employees: _____

Average annual gross receipts over the past three years:

- \$0 - \$50,000 \$500,001 - \$1,000,000 \$10,000,001 - \$18,000,000
- \$50,001 - \$100,000 \$1,000,001 - \$5,000,000 Over \$18,000,000
- \$100,001 - \$500,000 \$5,000,001 - \$10,000,000

If your company is 51% owned, operated and controlled by a minority(s) or woman/women, please check the appropriate classification:

- African American Asian Indian American Non-minority Female
- Hispanic American Native American Male
- Asian Pacific American Minority Female Other

If you have been certified as a Disadvantaged Business Enterprise OR Small, Women and Minority (SWaM) Business, please complete the information below and attach a copy of your certification letter.

Certifying Agency: _____

Certification Number: _____ Expiration Date: _____

Prepared by: _____ Date: _____
Signature

Print name: _____ Title: _____

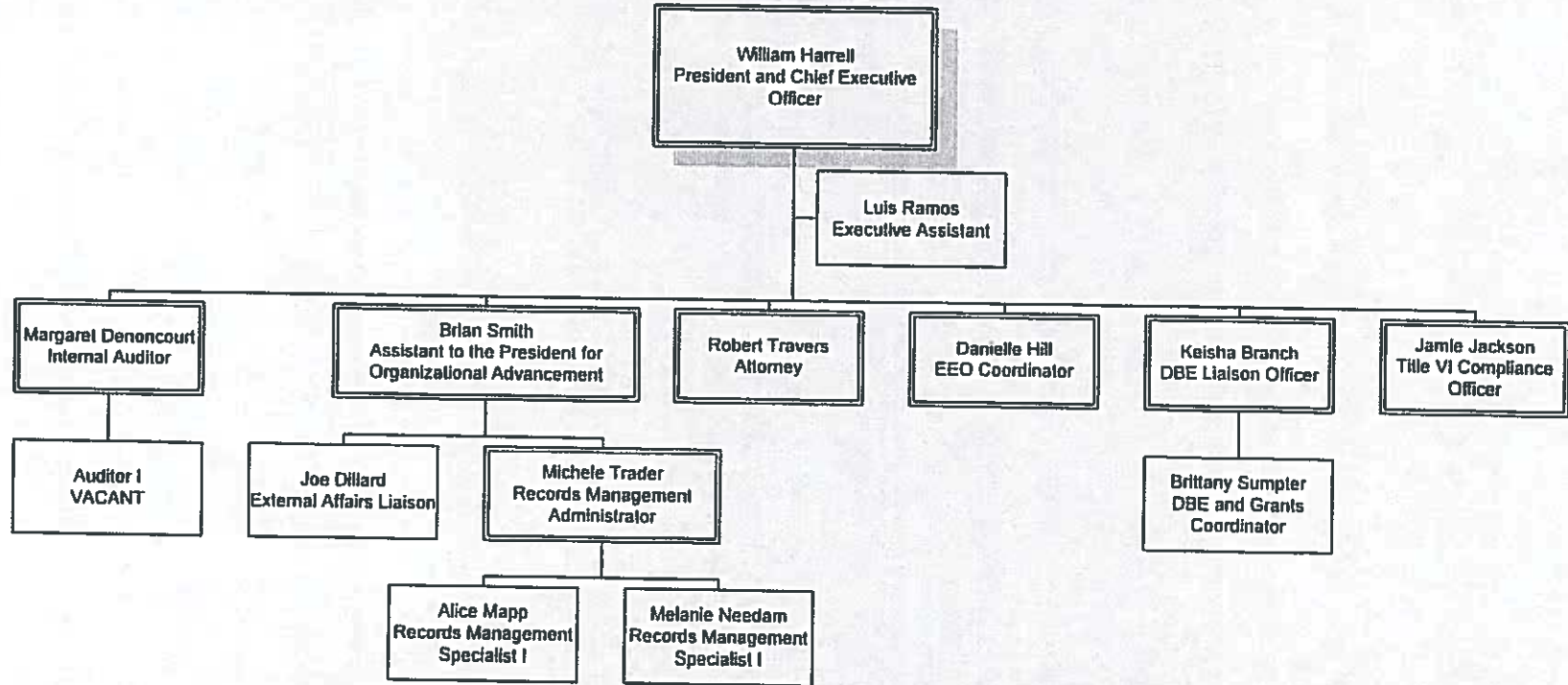
Phone: (757) 222-6000 x6094 Fax: 222-6114

Please mail or fax completed form to:

Attn: Avis Long
Procurement Office
3400 Victoria Blvd
Hampton, VA 23661

EXECUTIVE DEPARTMENT

Revision 01-11-19



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Note: The DBE Liaison Officer, EEO Coordinator and Title VI Compliance Officer report to the President and Chief Executive Officer for any compliance issues in their respective areas.

ATTACHMENT 3

DBE COMPLIANCE MONITORING PROCEDURE

The Transportation District Commission of Hampton Roads (hereinafter, Hampton Roads Transit or HRT) 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. HRT 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 HRT. 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, HRT 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.

HRT 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, HRT 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, HRT 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 HRT staff and shall provide all requested documents immediately upon request. HRT may consider failure to cooperate as a breach of contract, entitling HRT to apply penalties such as stoppage of payments or termination of contract.

ATTACHMENT 4
HAMPTON ROADS TRANSIT

DBE COMPLIANCE REVIEW CHECKLIST

Contract Number: _____ Award Date: _____ Expiration Date: _____
Prime Contractor: _____
DBE Firm: _____ DBE Certification Number: _____
DBE Contact: _____ Phone: _____ Email: _____

PRE-PROJECT

Appendix A Documents: Form A Form B Form C Form D

DBE Goal Determination Letter **DBE Goal:** _____

DURING PROJECT

Monitoring

Commercially Useful Function Review **Date of Inspection:** _____

Commitment/Attainment Review

- Contractor Monthly Report of DBE Participation (Form E)
- DBE Subcontractor Monthly Report (Form E-2)

Prompt Payment

Prompt Payment Verification Form(s)

Termination/ Substitution/ Reduction, if applicable

- Completed Termination/ Substitution Request Form
- Copy of written notice of intent to request termination/ substitution sent to DBE Firm
- Good Faith Efforts statement, if applicable
- Form B and D, if applicable
- Revised Form A

POST-PROJECT

Has DBE Goal been achieved?

- Yes. No. Collect Good Faith Effort statement explaining reason(s) shortfall took place.
- Final Form E

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: _____

ATTACHMENT 5

DBE MONTHLY PAYMENT MONITORING PROCEDURE

As stated in **Appendix A - Disadvantaged Business Enterprise Requirements** that is provided to contractors prior to bidding, the contractor is responsible for documenting to the Transportation District Commission of Hampton Roads (hereinafter, Hampton Roads Transit or HRT) the participation of, and payment to, DBE subcontractors as part of each invoice submittal on a monthly basis. This information is captured in the **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:

Brittany Sumpter, DBE & Grants Coordinator
509 E. 18th Street, Bldg. 4
Norfolk, VA 23504
P: 757-222-6000, extension 6255
F: (757) 222-6043
Bsumpter@hrtransit.org



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

CONTRACT INFORMATION:

Original Contract Value: _____
 Change Orders Values: _____
 Final 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 utilize employees(or former employees) of your firm or an affiliate? _____
 Did any DBE subcontract any portion of its work to a non-DBE since the last report firm? _____
 Has the scope of work or subcontract amount changed for any DBE since the last report? _____

Please ensure that only certified DBEs are listed below:

Name of Subcontractor	Project Task	DBE CERT #	Original Contract Amount	Original Contract +/- Amount C.O.	Payment This Month	Previous Payments	Total Payments	Pending C.O.'s Amount and Date	Overall Work Completed %	Contract P.O. Submitted
									#DIV/0!	
									#DIV/0!	
									#DIV/0!	
									#DIV/0!	
									#DIV/0!	
									#DIV/0!	
									#DIV/0!	
									#DIV/0!	
TOTAL			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!	

COMMENTS: _____

Prime Contractor
 Compliance Officer: _____
 Signature: _____

Telephone: _____
 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:
 Hampton Roads Transit - CAO DBE & Grants Coordinator
 509 E. 18th St, Bldg 4, Norfolk, VA 23504
 at (757) 222-6000 Ext. 6255 or by Fax at (757) 222-6043



**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:
 Hampton Roads Transit - C/O DBE & Grants Coordinator
 509 E. 18th St, Bldg 4, Norfolk, VA 23504
 (757) 222-6000 Ext. 6255

**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.*



HAMPTON ROADS TRANSIT

ATTACHMENT 7

**Federal Transit Administration (FTA)
Overall Disadvantaged Business Enterprise (DBE)
Goal Setting Methodology
Federal Fiscal Years (FFY) 2017-2019**

August 1, 2016

**Submitted in fulfillment of:
Title 49 Code of Federal Regulations Part 26**

DBE Overall Goal Methodology for Fiscal Federal Years 2017 through 2019

I. Introduction

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 26, the Transportation District Commission of Hampton Roads (TDCHR) presents its overall Disadvantaged Business Enterprise (DBE) goal and goal methodology for federal fiscal years 2017 through 2019. The purpose of the DBE goal-setting process is to level the playing field so that DBE firms can fairly compete for contracts with funding assistance from the Department of Transportation while ensuring that the program is narrowly tailored in accordance with applicable law.

II. Background

The TDCHR has received U. S. Department of Transportation (USDOT), Federal Transit Administration (FTA) financial assistance. As a condition of receiving this assistance, TDCHR has signed an assurance that it will comply with 49 CFR Part 26 DBE program requirements. The previous FTA DBE goal for TDCHR was developed in 2013 for federal fiscal years 2014 through 2016 (12% DBE goal). After utilizing resources of guidance provided by the USDOT, TDCHR proposes a three-year overall goal of 11% percent for federal fiscal years 2017 through 2019 on federally-assisted contracts. TDCHR estimates that, in meeting its overall goal of 11%, it will obtain 7% from race-conscious measures and 4% through race-neutral participation.

The overall goal is developed by a two-step method set forth within the federal regulations as defined in 49 CFR Part 26.45.

The base figure was determined by forecasting projected projects using federal funds. Over the next three years TDCHR will continue to invest in the maintenance of its facilities and vehicles, including the rehabilitation of the Hampton Administrative and Maintenance Facility, while also targeting IT security, ADA improvements, and addressing safety and security concerns. The base figure for the next three years consists generally on these capital investment projects.

III. FFY 2017-2019 FTA-Assisted Contracts

The information provided in Table 1 displays the TDCHR's FTA-assisted contracts considered in preparation of the goal methodology. These contracts are anticipated to be awarded during federal fiscal years 2017-2019 and obtained through the agency's 2016-2022 transit development plan. The project name and estimated project costs are included in this table. Professional services, construction, transit vehicle repairs, and material/supplies contracting opportunities exist during this period.

Project Name	Estimated Project Cost			
	2017	2018	2019	Total
Financial Services Software	\$ 1,131,000.00	\$ -	\$ -	\$ 1,131,000.00
Bus Stop Signage Update: Real Time Flag	\$ 230,000.00	\$ 234,000.00		\$ 464,000.00
Mobile Vault System	\$ 332,000.00	\$ 338,000.00		\$ 670,000.00
Transit Bus Overhaul Project	\$ 2,743,000.00	\$ 767,000.00	\$ 8,084,000.00	\$ 11,594,000.00
Transit Bus Mid-Life Repower Project	\$ 1,801,000.00	\$ 1,202,000.00	\$ 930,000.00	\$ 3,933,000.00
Bus Stop Amenity Program	\$ 349,000.00		\$ 233,000.00	\$ 582,000.00
ADA Bus Stop Access Upgrades	\$ 350,000.00	\$ 452,000.00	\$ 350,000.00	\$ 1,152,000.00
Newport News Transit Center Upgrades		\$ 630,000.00		\$ 630,000.00
Hampton Transit Center Upgrades		\$ 630,000.00		\$ 630,000.00
Victory Crossing Safety Upgrades		\$ 420,000.00		\$ 420,000.00
HRT Paving Program		\$ 357,000.00		\$ 357,000.00
Mobile Camera Units for Transfer Centers			\$ 108,000.00	\$ 108,000.00
SGR Rolling Stock			\$ 1,910,000.00	\$ 1,910,000.00
IT Network Security			\$ 127,000.00	\$ 127,000.00
Total FTA-Assisted Contract Funds	\$ 6,936,000.00	\$ 5,030,000.00	\$ 11,742,000.00	\$ 23,708,000.00

The information provided in Table 2 displays a summary of the work categories and their respective cost breakdowns. The information for the categories of work and related North American Industry Classification System, or NAICS, codes are provided for purposes of weighting the categories of work based on staff estimates.

Work Categories	NAICS Code	Estimated FTA Dollars Per NAICS	Estimated % of Total FTA Dollars Per NAICS
Custom Computer Programming Services	541511	\$ 1,131,000.00	4.8%
Sign Manufacturing	339950	\$ 464,000.00	2.0%
Office Equipment Merchant Wholesalers	423420	\$ 670,000.00	2.8%
Automotive Repairs/Preventative Maintenance	811111	\$ 15,527,000.00	65.5%
Commercial and Institutional Building Construction	236220	\$ 1,842,000.00	7.8%
Security Systems Equipment	423610	\$ 528,000.00	2.2%
Highway, Street, & Bridge Construction	237310	\$ 1,509,000.00	6.4%
Support Activities for Rail Transportation	488210	\$ 1,910,000.00	8.1%
Computer Systems Design Services	541512	\$ 127,000.00	0.5%
Totals		\$ 23,708,000.00	100.0%

scroll

IV. Goal Setting Methodology

Step 1: Establishing Base Figure (49 CFR Part 26.45)

Step one consists of determining the relative availability of DBEs (both prime contractors and subcontractors) to perform the types of contracts that TDCHR intends to let. The prescribed federal methodology was followed to determine the relative availability. The

following points were considered when calculating the Transportation District Commission of Hampton Road's goals:

- TDCHR's local market area for contracts (state of Virginia) includes a geographic area with boundaries that were established:
 - where a substantial number of prime contractors and subcontractors are located with the availability to submit bids or quotes, and
 - where a large majority of contracting dollars are expended.

Table 3 below provided the results of the base figure calculation. The base figure percentage is calculated by using the most refined data available for:

- Dividing the number of DBE firms identified for each NAICS work category who are "ready, willing, and able" to bid for the types of work TDCHR will fund during FFY 2017-2019 by the number of all firms (DBEs and non-DBEs) also "ready, willing, and able" to bid for TDCHR projects (relative availability),
 - The various categories of business for this analysis are based on the North American Industry Classification System (NAICS). The source of data for the number of DBE firms identified for each NAICS work category who are "ready, willing, and able" to bid is the Commonwealth of Virginia Unified Certification Program (VUCP) DBE directory. The source of data for the number of DBE and non-DBE firms identified for each NAICS work category who are "ready, willing, and able" to bid is the United States Census Bureau County Business Patterns database for the Virginia MSA.
- Weighting the relative availability for each work category based on the work category weight taken from Table 2 that corresponds with the estimated percentage of total FTA dollars per NAICS, and
- Determining the sum of the weighted ratio figures.

Work Categories	NAICS Code	Category Weight	Total # of DBE Firms	Total # of DBE & Non-DBE Firms	Weighted Ratio
Custom Computer Programming Services	541511	4.8%	222	3433	0.003084941
Sign Manufacturing	339950	2.0%	9	117	0.001505496
Office Equipment Merchant Wholesalers	423420	2.8%	5	212	0.000666521
Automotive Repairs/Preventative Maintenance	811111	65.5%	4	2325	0.001126755
Commercial and Institutional Building Construction	236220	7.8%	209	964	0.016844726
Security Systems Equipment	423610	2.2%	48	281	0.003804293
Highway, Street, & Bridge Construction	237310	6.4%	260	341	0.048530335
Support Activities for Rail Transportation	488210	8.1%	8	18	0.03580601
Computer Systems Design Services	541512	0.5%	245	3784	0.000346836
Base Figure (Sum of Weighted Ratio for Work Categories)		100.0%	1010	11475	0.111715914

The result of the Base Figure calculation for TDCHR is 11% as shown in Table 3 above.

Step 2: Adjusting Base Figure

In order to determine if an adjustment to the base figure is necessary, TDCHR reviewed and assessed other known information that could potentially impact the relative availability of DBEs within the market area. Information considered in making adjustments to the Base Figure included:

Past DBE Goal Attainment

TDCHR's past DBE goal attainment for FFY 2014-2016 is shown in Table 4 below:

THREE YEAR ACHIEVEMENT FOR TDCHR	
FY	DBE % ACHIEVED
2014	15%
2015	7%
2016	11%
MEDIAN VALUE	11%

The results of the three year DBE goal attainment for FFY 2014-2016 reflect a median value of eleven percent (11%), equaling the Base Figure calculation from Table 3. A disparity study has been conducted in 2011 for the TDCHR local market area. However, based on the median value calculation, information from the Commonwealth of Virginia (CoVA) disparity study will not be applied to a Base Figure goal adjustment. After the determination of the median value of eleven percent (11%), an adjustment of the Base Figure will not be made because the median value of eleven (11) percent equals the Base Figure calculation of eleven percent (11%) as shown in Table 3.

V. Overall DBE Goal Proposal

For TDCHR's FTA assisted contracts for FFY 2017-2019, the final proposed overall DBE goal is 11%. As a part of the prescribed goal-setting methodology, TDCHR must determine the percentages of the proposed overall DBE goal that can be met using race-neutral and race-conscious measures with the maximum feasible amount going towards race-neutral measures.

Calculation of Race-Neutral and Race-Conscious Split (26.51)

The previous DBE goal established for FFY 2014-2016 was 12 percent with a race-neutral goal of 3% and a race-conscious goal of 9%. However, this goal was adjusted during the three year period from an initial goal of 16.5% with 13% race conscious and 3.5% race neutral split. FTA program guidance indicates that the calculation to determine the race-conscious/race neutral split may be based in part on the amount that DBE goals were exceeded during the previous fiscal years.

Table 5 breaks down the past DBE goals and achievements for race-conscious and race-neutral splits during the previous triennial goal period of FFY 2014-2016. This information provides the foundation for calculating the race-neutral goal for FFY 2017-2019.

TABLE 5: DBE GOALS & ACHIEVEMENTS			
YEAR	FFY14	FFY15	FFY16
GOAL	16.5%	12%	12%
(RC/RN)*	(13/3.5)	(9/3)	(9/3)
ACHIEVEMENT	15%	7%	11%
(RN)	14.2%	5.2%	4.6%
DIFFERENCE (+/-)	-1.5%	-5%	-1%
RC=Race-Conscious, RN=Race-Neutral			
*(RC/RN) = Race-Conscious Goal/Race-Neutral Goal			

Additionally, FTA guidance suggests that the calculation of the extent that each goal was, or could have been, achieved by race-neutral means can be determined by adding the race – neutral goal in a year and the amount by which the total goal was exceeded. The sum is then divided by the total achievement in each year, resulting in the percentage of total achievement that was, or could have been, achieved by race neutral means.

Table 6 provides the results in the first step of determining the DBE race-neutral participation split for FFY 2017-2019. The RN, Difference (+/-), and Achievement data were obtained from Table 5 above. The process of the first step is to add the race-neutral participation to the difference of the overall goal and actual achievement (Difference (+/-) column) and, afterwards, divide this total by the achievement percentage. The results will reflect the past DBE race-neutral participation for the related fiscal year. Repeat this process for the remaining fiscal years to and use the calculated data to determine the median past DBE race-neutral participation.

TABLE 6: CALCULATION TO FIND MEDIAN FOR PAST DBE RACE-NEUTRAL PARTICIPATION					
FFY	RN	DIFFERENCE (+/-)	RN+DIFFERENCE (+/-)	ACHIEVEMENT	RN+DIFFERENCE (+/-)/ACHIEVEMENT
2014	14.2%	-1.5%	12.7%	15%	84.7%
2015	5.2%	-5%	0.2%	7%	2.9%
2016	4.6%	-1%	3.6%	11%	32.3%

Due to having an odd number of data for calculating the median, the median of 84.7%, 2.9%, and 32.3% is 32.3%.

Step two in the process of determining the DBE race-neutral split for FFY 2017-2019 is multiplying the median from step one, 32.3%, to the current established overall DBE goal, 11%.

$$0.323 \times 0.11 = 0.35, \text{ or } 4\%$$

As a result of completing the calculation for race-neutral participation, the proposed overall goal of 11% will consist of a race-neutral/race-conscious split of 4% and 7% respectively. The race-conscious split is based on a calculation of 11% (proposed overall goal) minus 4% (race-neutral split).

VI. Public Notice and Meaningful Consultation

The Transportation District Commission of Hampton Roads has determined that the proposed overall Disadvantaged Business Enterprises goal for federal fiscal years 2017 through 2019 will be 11% percent. The goal is based upon the availability of ready, willing, and able DBEs and non-DBE businesses in the Virginia Beach MSAs and our service area. In order to comply with 49 CFR Part 26.45 requirements for meaningful consultation and public notification, the proposed overall DBE goal has been posted on the agency's website. Comments will be accepted for a period of thirty (30) days beginning June 27, 2016 and ending on July 27, 2016 while the public notice will remain on the website for FFY 2017-2019. Meaningful consultation will be performed during this period, including the opportunity for a meeting with face-to-face interaction and reaching out to all applicable community organizations, minority, women's, and general contractor groups, and other officials or organizations in the local area for comments that could impact the established DBE goal. **Attachment A** will provide the timetable for the meaningful consultation goal.

The entities that were solicited to provide feedback on the proposed DBE goal during the meaningful consultation period are listed in bold.

Hampton Roads Chamber of Commerce
Virginia Peninsula Chamber of Commerce
Associated General Contractors of Virginia, Inc.
Hampton Roads Transportation Planning Organization
Virginia Department of Small Business and Supplier Diversity
SEVA-CI (Southeastern Virginia Contractors Institute)
Old Dominion University Enterprise Gateway's Women Business Center
Security Fence Company, Inc.
Alliant Business Systems, LLC
G I Industrial Marine, LLC
Premier Decking

Following the conclusion of the 30-day period, the next steps include the following: make adjustments if needed, updating the DBE goal methodology with the results, and submit the Agency's DBE Goal for fiscal years 2017 through 2019 no later than August 1, 2016 to the USDOT's Federal Transit Administration.

Feedback that was provided by these entities during the comment period included the following:

- Consider doing a qualified pool of consultants using references of past performance.
 - Can graduate from the DBE pool after having made a certain amount of money.
- Consider doing DBE/small business set-aside types of projects.
 - Will help to see if there are DBE's out there that can perform the work. If after an initial period of time ends and no DBE responses then repost these set-asides as full procurements.
 - Can categorize projects based on risk levels.
- Take task-order based contracts and procure each task.
- Determine the procurement office's flexibility for DBE participation on unsolicited

proposals.

- See what prevents the procurement office from establishing DBE set-aside or DBE sole source contracts.
- Promote a teaming approach for projects with the bulk of the federal dollars.
- See if unsolicited proposals can be done against what's to come in HRT's six-year transit development plan.
- The 11% goal is a good goal based on the region and the number of available firms.
- Discussed services that can be offered to DBE firms in order to improve the financial stability of the DBE firms.
 - Learn how to grow their business credit scores.
- Independent from personal credit scores.
 - Learn how to obtain bonding.
 - Learn lending institution recommendations for obtaining loans, lines of credit, credit cards, etc. based on recommended credit score targets.
- The 11% goal is a very solid goal and is an achievable goal for the next 3 years.
- Consider setting aside money in the budget if possible to host a DBE boot camp that would last two or three days.
 - Can solicit SWaM certified firms (will assist with the vetting process).
 - At the end of the boot camp, firms will have developed a one page capabilities statement for who they are and what they can do.
 - Can be walked through the DBE certification process.
 - Can look into partnering with the Virginia SBDC that's associated with the Hampton Roads Chamber of Commerce.
 - Stated that they have a proven success rate (89% success rate for turnaround from certification to getting a contract award and a 100% success rate for compliance of small business firms on contracts that are awarded to these firms).
 - Can do it once a year and tie it into the fiscal year budget cycle for the agency.
 - Could do a prequalification to screen out firms that may not be ready, willing, and able.
 - Can hold the boot camp after work hours (6pm-8pm as an example).
 - Would have to make sure to manage expectations (don't guarantee contracts will come out of this).
 - SBDC will donate rooms within the Hampton Roads Chamber of Commerce location if available.

In conclusion, as a result of the information provided during the goal methodology process (along with incorporating feedback provided during the meaningful consultation period that does not provide evidence to dispute the proposed DBE goal), the Transportation District Commission of Hampton Roads (TDCHR) proposes an overall Disadvantaged Business Enterprise (DBE) goal of 11% for federal fiscal years 2017 through 2019 with an achievement goal based on 4% race-neutral and 7% race-conscious measures.

VII. Proof of Public Notice

The proposed DBE goal was posted on the agency's website on June 27, 2016 and will remain throughout the three-year triennial goal cycle. **Attachment B** will provide the proof of public notice that reflects the agency goal having been posted on DBE Program website of Hampton

Roads Transit for a period of at least 30 days as well as being currently posted at of August 1st in order to follow FTA guidelines of the goal being posted on the website for the three-year triennial goal period of FFY 2017-2019. This attachment will also include a copy of the flyer that was distributed to the various.

ATTACHMENT A

FFY 2017-2019 HRT DBE Triennial Goal Meaningful Consultation Timetable

Initial Dates of Communication are in Bold

July 5, 2016 – Reached out to Carleen to reserve the Norfolk board room for Monday, July 18, 2016 from 10:30am til 12pm for the face to face interaction with business owners.

July 5, 2016 – Reached out to the Hampton Roads Chamber of Commerce through their Contact Us page on their website to notify her of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016. I left phone number and email address. Website address is <http://www.hamptonroadschamber.com/>.

**July 6, 2016* – received follow up email with invitation from James Carroll to come in and discuss goal. Sent email reply with willingness to sit down or either accept feedback response via email.

**July 21, 2016* – sent a follow up email to James Carroll in order to see if he would like to provide input prior to the report being submitted to FTA. To date, there has been no further response.

**July 27, 2016* – James Carroll sent a follow up email apologizing for not having gotten back to me and extended an invite to meet with him sometime next week (week of August 1st). Mr. Carroll requested a phone call to discuss further. Due to me being out of the office on July 27, I did not receive the email until July 28th.

**July 28, 2016* – Received email reply sent by James Carroll on July 27th in order to call and discuss setting up a face to face meeting to discuss the triennial goal methodology. I called today to set up the meeting but voicemail indicated that he is out of the office today and will return message on tomorrow, July 29th. I left a voicemail as well as sent an email reply to indicate a preference for meeting with him on Monday August 1st to be able to include the information within the report to be submitted to the FTA on August 1st. If not available, I still offered to meet with him another day to discuss the methodology.

**August 1, 2016*. I met with James Carroll at the Hampton Roads Chamber of Commerce to discuss HRT's proposed DBE goal. Mr. Carroll stated that he feels the DBE goal of 11% is achievable based on his knowledge of the small minority and women owned business capacity in the area. Suggested ideas for increasing the opportunities for SWaM certified firms to get more exposure to the DBE certification program and offered a partnership opportunity with the Virginia SBDC with outreach initiatives.

July 5, 2016 – Reached out to the Virginia Peninsula Chamber of Commerce by email to info@vpcc.org to notify her of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016. I left phone number and email address. Website address is <http://www.virginiapeninsulachamber.com/>.

**July 28, 2016* – sent a follow up email to the Virginia Peninsula Chamber of Commerce in order to see if they would like to provide input prior to the report being submitted to FTA. To date, there has been no response.

July 5, 2016 – Reached out to the Associated General Contractors of Virginia, Inc. by email to Sheila Collins, Sheila@agcva.org to notify her of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016. I left phone number and email address. Website address is <http://agcva.org/>

**Received an auto reply email stating that Sheila will be out of the office until July 6th*

***July 28, 2016** – sent a follow up email to Sheila Collins in order to see if she would like to provide input prior to the report being submitted to FTA. To date, there has been no response.

July 5, 2016 – Reached out to the Hampton Roads Transportation Planning Organization by email to Joe Paulus, jpaulus@hrtpo.org, to notify her of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016. I left phone number and email address. Website address is <http://www.hrtpo.org/>

***Joe referred me to Tara Walker, DBE Program Manager via email. Tara called approx 2:45pm on July 5. She will provide input after July 18's DBE training (will gather input from VDOT and FTA representatives also).**

***July 28, 2016** – sent a follow up email to Tara Walker in order to see if she would like to provide input and submit any input that came out of the DBE training as discussed prior to the report being submitted to FTA. I received an email from Tara Walker with questions regarding our goal setting process in comparison to their agency's goal setting process. Tara did not have specific comments from the VDOT and FTA representatives related to procedures having been followed incorrectly or direct feedback from the session. I replied with an email to answer the questions asked to provide an overview of HRT's DBE overall goal methodology process.

July 5, 2016 – Reached out to the Virginia Department of Small Business and Supplier Diversity by email to Calvin Thweatt: Calvin.Thweatt@sbsd.virginia.gov, to notify them of HRT's DBE triennial goal and solicit input no later than 3pm on July 29, 2016. I left phone number and email address. Website address is <http://www.dmbv.virginia.gov/index.html>.

***July 28, 2016** – sent a follow up email to Calvin Thweatt in order to see if he would like to provide input prior to the report being submitted to FTA. To date, there has been no response.

***August 1, 2016** – received an email from Mr. Thweatt providing feedback for the goal prior to submitting to FTA. This timeline will provide the direct reply as it does not demonstrate a need to adjust the DBE goal.

From: [Thweatt, Calvin \(DSBSD\)](#)
To: [Erick D. Wilkes](#)
Subject: RE: Hampton Roads Transit Request for Input-Overall Disadvantaged Business Enterprise 2017-2019 Triennial Goal
Date: Monday, August 01, 2016 3:56:04 PM

Hello Mr. Wilkes,

Congratulations on your proposed Overall Disadvantaged Business Enterprise 2017-2019 Triennial Goal. I believe the proposed goal of 11% certainly supports the policy of TDCHR to initiate actions to ensure that ready, willing, and able DBEs have an equal opportunity to participate in the performance of contracts fully or partially funded by the federal government. The Department of Small Business and Supplier Diversity (DSBSD) is one of the Virginia Unified Certification Program certifying members and support all efforts to maximize the utilization of DBE's in Virginia.

As a certifying member, DSBSD is committed to assist TDCHR with the certification of potential DBE's who wish to participate in the performance of contracts initiated by TDCHR.

DSBSD wishes TDCHR much success in the submittal of the Agency's DBE Goal for fiscal years 2017 through 2019, to the USDOT's Federal Transit Administration. Please feel free to contact us should you need further assistance or input.

Sincerely,

Calvin M. Thweatt
Certification and Technical Service Manager
Commonwealth of Virginia
Department of Small Business and Supplier Diversity
Ph: 804-786-3109
Calvin.Thweatt@sbsd.virginia.gov

July 6, 2016 – Reached out to SEVA-CI (Southeastern Virginia Contractors Institute) by email to Tim Goodrich, tim.goodrich@timitron.com, to notify her of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016.

***July 7, 2016** – Received phone call from Tim Goodrich with questions regarding intent of outreach meeting in order to help with identifying firms to help meet the goal and begin getting them prepared for getting registered with HRT's Procurement Office. Also requested HRT's capital improvement plan and I emailed link to him on July 7th.

***July 18, 2016** – Mr. Goodrich attended the public outreach session held in the boardroom of HRT's Norfolk location. Feedback was provided in the DBE goal methodology along with other methods for consideration in increasing DBE participation on contracting opportunities. Mr. Goodrich also requested a slide presentation to forward along to members of SEVA in order to solicit additional feedback.

***July 28, 2016** – sent a follow up email to Tim Goodrich in order to see if he would like to provide input from SEVA members prior to the report being submitted to FTA. To date, there has been no response.

July 6, 2016 – Reached out to Old Dominion University Enterprise Gateway's Women Business Center by email to Erika Small-Sisco, esmallsi@oduledu, to notify her of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016.

***July 21, 2016** – Received email reply from Erika notifying me that she has shared the information with

her team. I replied back to again invite her to provide comments as well.

July 15, 2016 – Reached out to **G I Industrial Marine, LLC** by email to Roland Carpenter, roland@giindustrial-marine.com to notify him of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016.

***July 18, 2016** – Sent a copy of PowerPoint presentation that was provided to participants of the outreach session to provide the additional opportunity for feedback. I was notified by Mr. Carpenter via email that his firm was unable to attend due to working on a project at the FLETC federal training facility in South Carolina.

July 15, 2016 – Reached out to **Premier Decking** by email to Reginald Mack, mackreggie718@gmail.com, to notify him of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016.

***July 18, 2016** – Received phone call apologizing for not being able to attend due to prior obligation but requested to receive an electronic copy of the PowerPoint Presentation in order to review. I sent a copy via email with reminder to submit no later than 3pm on July 29, 2016.

July 15, 2016 – Reached out to **Security Fencing Company, Inc.** by email to Orlandus Branch, branchoa@comcast.net, to notify him of the scheduled outreach session, as well as HRT's DBE triennial goal, and solicit input no later than 3pm on July 29, 2016.

***July 15, 2016** – Received email reply from Mr. Branch notifying me that he would be willing to meet with me on Wednesday, July 20th in Hampton, VA to discuss the proposed DBE goal and may have a representative with him from Alliant Business Systems, LLC as well to provide feedback and ideas for helping DBE firms be better prepared for contracting opportunities.

***July 20, 2016** – Met with Security Fencing Company, Inc. and Alliant Business Systems, LLC for lunch meeting in Hampton, VA to present the proposed DBE goal and obtain feedback. Feedback was gained for the goal and suggestions provided for how to help DBE's grow from the standpoint of financial capacity.

July 18, 2016 – Held outreach meeting in Norfolk boardroom location to gather feedback from the small business community regarding the proposed overall agency DBE goal. One firm attended and thorough feedback was received during the session.

ATTACHMENT B

Proof of Public Notice

From: [Erick D. Wilkes](#)
To: [webhelp](#)
Subject: Assistance Needed to Post HRT's DBE 3-Yr Goal on Website
Date: Monday, June 27, 2016 8:50:00 AM
Attachments: [DBE-Web-Public-Notice-2017-2019.docx](#)

Good morning!

I am sending this email in order to request assistance as quickly as possible in order to post the agency's established federal DBE goal on the DBE Program website in order to get as much feedback as I possibly can for the next 30 days based on federal regulations for agencies receiving federal dollars to fund various operations.

The DBE program website for HRT is accessible through the following address:
<http://gohrt.com/about/procurement/dbe-program/>

I would like for the contents of the banner to state: [PUBLIC NOTICE: DISADVANTAGED BUSINESS ENTERPRISE GOAL FOR FFYs 2017-2019](#) with the ability to click on it to read the public notice attachment that I have included in this email as a MS Word document as done previously with the ferry boat public notice banner. If you would please place this banner above the public notice for the ferry boat project. If there is an issue with opening the attachment and/or if there are any questions regarding this request please do not hesitate to reach out to me and I will answer back as quickly as possible if I am away from my desk.

Thank you very much in advance for your assistance and have a great day!

Erick Wilkes, MBA, MPA
DBE Program Manager
Hampton Roads Transit
509 E. 18th Street, Bldg. 4
Norfolk, VA 23504
p: (757) 222-6000 x6257
www.gohrt.com

From: helpdesk@hcrtransit.org
To: [Erick D. Wilkes](#)
Subject: Work Order 82019 Closed, Assistance Needed to Post HRT's DBE 3-Yr Goal on Website
Date: Monday, June 27, 2016 11:39:41 AM
Attachments: [DBE-Web-Public-Notice-2017-2019.docx](#)

***** Reply to this email to append information to [\[\[WO#82019\]\]](#) *****

Your work order request for " Assistance Needed to Post HRT's DBE 3-Yr Goal on Website " has been completed.

Resolution : Monday, June 27, 2016 11:36:38 AM by jcominoli
Data Update

Assigned Technician: Jay Cominoli
Date Assigned: Monday, June 27, 2016 11:36:29 AM
Date Completed: Monday, June 27, 2016 11:36:31 AM
ID: 82019
Requestor: Erick Wilkes

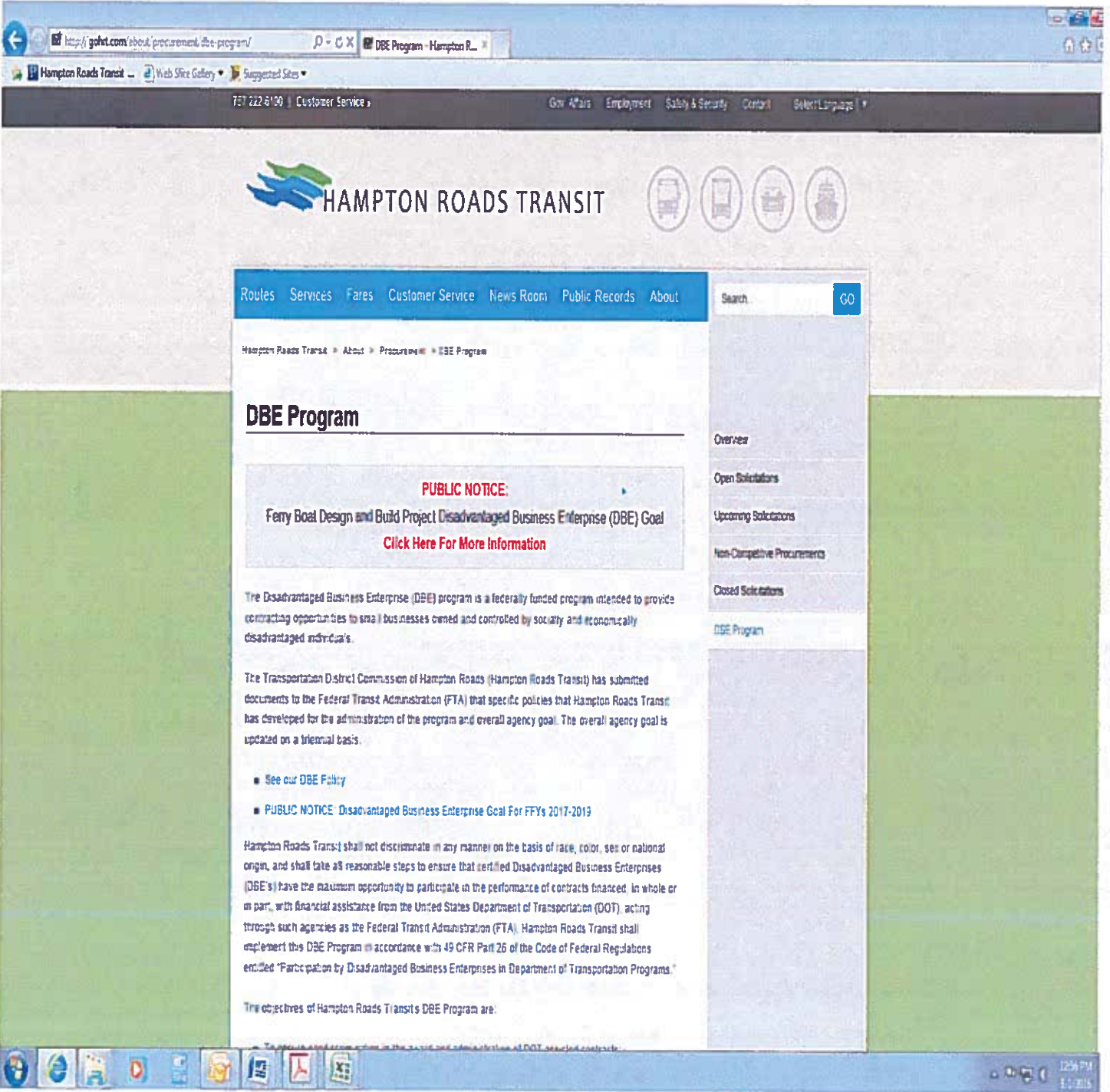
If you have further questions regarding this issue, please contact the Technology Helpdesk at extension 6321.

For Facilities Maintenance related work orders questions please contact Eva Capehart at extension 6709.

[Click on this link to submit additional information related to this Work Order.](#)

[Click on this link to request an updated status for this Work Order.](#)

[Click on this link to request an updated status for all of your recent Work Orders.](#)



DBE Program

PUBLIC NOTICE:

Ferry Boat Design and Build Project Disadvantaged Business Enterprise (DBE) Goal
[Click Here For More Information](#)

The Disadvantaged Business Enterprise (DBE) program is a federally funded program intended to provide contracting opportunities to small businesses owned and controlled by socially and economically disadvantaged individuals.

The Transportation District Commission of Hampton Roads (Hampton Roads Transit) has submitted documents to the Federal Transit Administration (FTA) that specify policies that Hampton Roads Transit has developed for the administration of the program and overall agency goal. The overall agency goal is updated on a triennial basis.

- [See our DBE Policy](#)
- **PUBLIC NOTICE: Disadvantaged Business Enterprise Goal For FFYs 2017-2019**

Hampton Roads Transit shall not discriminate in any manner on the basis of race, color, sex or national origin, and shall take all reasonable steps to ensure that certified Disadvantaged Business Enterprises (DBE's) have the maximum opportunity to participate in the performance of contracts financed, in whole or in part, with financial assistance from the United States Department of Transportation (DOT), acting through such agencies as the Federal Transit Administration (FTA). Hampton Roads Transit shall implement this DBE Program in accordance with 49 CFR Part 26 of the Code of Federal Regulations entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs."

The objectives of Hampton Roads Transits DBE Program are:

- Overview
- Open Solicitations
- Upcoming Solicitations
- Non-Competitive Procurements
- Closed Solicitations

DBE Program

To request more information on the Transit and Administration of DOT, contact us at:



BUSINESS COMMUNITY OUTREACH SESSION



DATE: MONDAY, JULY 18, 2016

TIME: 11AM - 11:45AM

**LOCATION: HAMPTON ROADS TRANSIT BOARDROOM
509 E. 18TH STREET, BUILDING 4
NORFOLK, VA 23504**



**LEARN MORE ABOUT
HAMPTON ROADS
TRANSIT'S
CONTRACTING
OPPORTUNITIES
THROUGH A**

**DISCUSSION OF THE AGENCY'S PROPOSED DBE UTILIZATION
GOAL FOR FISCAL YEARS 2017-2019. FOR MORE
INFORMATION CONTACT ERICK WILKES, DBE PROGRAM
MANAGER, AT EWILKES@HRTRANSIT.ORG OR (757) 222-6257.**

Record of Attendance

Hampton Roads Transit DBE Triennial Goal Outreach Meeting

Monday, July 18, 2016

11:00am

Name	Company Name	Address	Phone Number	Email Address	DBE: Yes / No
Erick Wilcox	HRT	5016 18th St, Siding Y	(757) 222-6000 x 6257	ewilcox@ hrt hrttransit.org	N/A
Tim Goodrich	TIMITECH CORP	2011 QUEEN ST PORTSMOUTH VA	877-398-3877, 101	tim.goodrich@ timitech.com	YES