

**Hampton Roads Transportation Planning  
Organization Disadvantaged Business Enterprise  
Program  
FY 2015- FY 2018**



**TITLE:**

Hampton Roads Transportation Planning Organization Disadvantaged Business Enterprise Program

**REPORT DATE:**

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**ORGANIZATION CONTACT INFORMATION:**

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## **ABSTRACT:**

The Disadvantaged Business Enterprise Program (DBE) is a legislatively mandated USDOT program that applies to Federal-aid highway dollars expended on federally-assisted contracts issued by USDOT recipients such as State Transportation Agencies (STAs). The U.S. Congress established the DBE program in 1982 to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- Help remove barriers to the participation of DBEs in DOT-assisted contracts, and
- Assist the development of firms that can compete successfully in the marketplace outside of the DBE program.

The DBE program ensures that federally assisted contracts for highway, transit and aviation projects are made available for small business concerns owned and controlled by socially and economically disadvantaged individuals. The DBE program was most recently reauthorized by MAP-21, Moving Ahead for Progress in the 21st Century Act (P.L. 112-141). The program is administered by the three modal administrations (i.e., FHWA, FTA, and FAA) with the Federal Highway Administration (FHWA) maintaining a significant stewardship role for the program. Implementation of the DBE program is guided by USDOT regulations found at 49 CFR Part 26.

The HRTPO Disadvantaged Business Enterprise Program will serve as the blueprint for HRTPO DBE activities and will be reviewed periodically. Whenever this plan is materially revised, it will undergo public review and HRTPO Board approval.

For any questions, please contact the HRTPO Principal Public Involvement and Title VI Administrator at (757) 420-8300 or at [kmiller@hrtpo.org](mailto:kmiller@hrtpo.org).

## **NON-DISCRIMINATION:**

The HRTPO assures that no person shall, on the ground of race, color, national origin, handicap, sex, age, or income status as provided by Title VI of the Civil Rights Act of HRTPO Title VI Plan provides this assurance, information about HRTPO responsibilities, and a Discrimination Complaint Form.

## **ACKNOWLEDGMENTS:**

This document was prepared by the Hampton Roads Transportation Planning Organization (HRTPO) in cooperation with the U.S. Department of Transportation (USDOT), Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA).

# HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION DISADVANTAGE BUSINESS ENTERPRISE PROGRAM

## DEFINITION OF TERMS

The terms used in this program have the meanings defined in [49 C.F.R. 26.5](#).

The Hampton Roads Transportation Planning Organization (HRTPO) is the metropolitan planning organization (MPO) for the Hampton Roads metropolitan planning area.

## OBJECTIVES/POLICY STATEMENT (26.1,26.3)

The HRTPO has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S Department of Transportation (DOT), [49 C.F.R. Part 26](#). The HRTPO anticipates that it will receive Federal financial assistance from the DOT, and as a condition of receiving this assistance, the HRTPO has signed an assurance that it will comply with [49 C.F.R. Part 26](#).

It is the policy of the HRTPO to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT assisted contracts. It is also our 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 C.F.R. Part 26](#) eligibility standards are permitted to participate as DBEs;
5. To remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Ms. Danetta Jankosky and Ms. Julia Hillegass have been delegated as the DBE Liaison Officers (DBELO) for the HRTPO. In their capacity, they are 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 the HRTPO in its financial assistance agreements with the DOT.

The HRTPO disseminates this policy statement to its Board 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. This policy statement is available on the HRTPO website, and is available in the HRTPO Publications Library.

## **NONDISCRIMINATION (26.7)**

The HRTPO 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 C.F.R. Part 26 on the basis of race, color, sex or national origin.

In administering its DBE Program, the HRTPO will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

## **DBE PROGRAM UPDATES (26.21)**

The HRTPO will continue to carry out this program until all funds from DOT financial assistance have been expended. The HRTPO will provide to DOT updates representing significant changes in the program.

## **QUOTAS (26.43)**

We do not use quotas in any way in the administration of this DBE Program.

## **DBE LIAISON OFFICER (DBELO) (26.25)**

The HRTPO has designated the following individuals as the DBE Liaison Officers (DBELO): Ms. Danetta Jankosky and Ms. Julia Hillegass, HRTPO, 723 Woodlake Drive, Chesapeake, VA 23320, Phone: (757) 420-8300, Fax: (757)523-4881, Email: [djankosky@hrtpo.org](mailto:djankosky@hrtpo.org) and [jhillegass@hrpdcva.gov](mailto:jhillegass@hrpdcva.gov).

In their capacity, the DBELOs are responsible for implementing all aspects of the DBE Program and ensuring that the HRTPO complies with all provisions of 49 C.F.R. Part 26. The DBELOs have direct independent access to the HRTPO Deputy Executive Director concerning DBE Program matters. An organization chart displaying the DBELO's positions in the organization is found in Attachment B to this program.

The DBELO is responsible for developing and monitoring the DBE Program, in coordination with other appropriate officials. 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.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.

5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes the HRTPO's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the HRTPO Executive Director on DBE matters and achievement.
9. Participates in pre-bid meetings.
10. Certifies DBEs according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in the Commonwealth of Virginia.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.
12. Maintains the HRTPO's updated directory on certified DBEs.

### **FEDERAL FINANCIAL ASSISTANCE AGREEMENT ASSURANCE (26.13)**

The HRTPO has signed the following assurance, applicable to all DOT assisted contracts and their administration:

*The HRTPO 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 DBE Program or the requirements of 49 C.F.R. Part 26 as approved by DOT, as 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 the HRTPO 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.).*

### **DBE FINANCIAL INSTITUTIONS (26.27)**

It is the policy of the HRTPO 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 consultants on DOT assisted contracts to make use of these institutions.

## **DIRECTORY (26.31)**

The HRTPO does not maintain its own list of DBEs. The HRTPO accepts firms listed in the DBE directory of Virginia's Uniform Certification Program (UCP), as maintained by the Virginia Department of Transportation (VDOT). The list is updated every 24 hours. The directory lists a firm's name, address, phone number, date of most recent certification and the type of work the firm has been certified to perform as a DBE. For DBE requirement calculating purposes, the Consultants' directory was last viewed November 2, 2014. The directory is available online at:

[http://www.dmb.virginia.gov/swam\\_reports/dbe\\_listing.htm.gz](http://www.dmb.virginia.gov/swam_reports/dbe_listing.htm.gz).

The directory does not subdivide firms into subspecialties, such as prime contractors, for specific types of transportation projects and studies. It should therefore be assumed that the number of available firms, represented by the base number in 26.45, Step 1-B, will be higher than the actual number of ready and available firms appropriate for HRTPO's projects.

## **OVER-CONCENTRATION (26.33)**

The HRTPO has not identified over-concentration as a problem in Hampton Roads.

## **BUSINESS DEVELOPMENT PROGRAMS (26.35)**

The HRTPO does not currently propose a Business Development component of its DBE Plan.

## **REQUIRED CONTRACT CLAUSES (26.13, 26.29)**

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

*"The consultant or sub-consultant shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The consultant shall carry out applicable requirements of 49 C.F.R Part 26 in the award and administration of DOT assisted contracts. Failure by the consultant 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."*

## **Prompt Payment**

The HRTPO will include the following clause in each DOT assisted prime contract:

*"The prime consultant agrees to pay each sub-consultant under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime consultant receives from the HRTPO. The prime consultant agrees further to return retainage payments to each sub-consultant within 30 days after the sub-consultant's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced timeframe may occur only for good cause, following written approval of the HRTPO. This clause applies to both DBE and non-DBE sub-consultants."*

## **MONITORING AND ENFORCEMENT MECHANISMS (26.37)**

The HRTPO will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in Part 26.109. The HRTPO shall also consider similar action under its own legal authorities, including responsibility determinations in future contracts.

## **Sanctions for Non-Compliance**

In the event of the consultant's non-compliance with DOT's policy, or failure to meet the prescribed DBE goal or expectancy set forth in this contract, or to establish a good faith effort to do so, the HRTPO shall impose such contract sanctions as we, the FTA or both, may determine to be appropriate, including, but not limited to:

- a) Withholding of payments to the consultant under the contract until the consultant complies; and /or
- b) Cancellation, termination or suspension of the contract in whole or in part; and/or
- c) Suspension or debarment of consultant from eligibility to contract with the HRTPO in the future or to receive bid packages or request for proposal (RFP) packages.

## **OVERALL GOALS (26.45)**

Pursuant to Section 49 Code of Federal Regulations Part 26, the HRTPO has proposed an overall goal of 6% for the participation of disadvantaged Business Enterprises (DBEs) in its Transportation Department contracts funded by the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), effective for 2015 (July 1, 2014 through June 30, 2015).



The following history is provided for this decision:

In FY 2015, the HRTPO received a one year FHWA award in the amount of \$2,350,903.00 and FTA 5303 funding in the amount of \$361,907.00. These funds expire on June 30, 2015 (unless funds are carried-over or transferred to the following fiscal year). During the entire 12 month period allocated for these projects, HRTPO not expect to reach a DBE goal of (6%) during FY 2015 with DBE firms.

## **METHODOLOGY**

This section includes a summary of the methods we used to calculate HRTPO's goal of 6%:

The HRTPO will implement a DBE Program that uses a combination of race-neutral and race-conscious participation, as defined in the appropriate section of this document.

Step 1-A: Developing a rationale, including assessment of impediments as a recipient of federal funding from the FTA, the Board is required to establish annual and project-specific goals for public transportation-related contracting with DBEs. In effect, the annual goal becomes a performance standard of measuring progress toward achieving the anticipated level of DBE participation, and a partial means of assessing compliance with FTA and FHWA DBE regulations.

The HRTPO has a strong commitment to minority inclusion in all contracts. However it is difficult to use standard formulas to arrive at a basis for the DBE for these reasons:

- During FY's 2011 – 2014, The HRTPO had only 1 contract with 1 primary consultant. This experience did not provide adequate historical precedence for calculations.
- The HRTPO's own consulting needs are for planning only. Unlike transit organizations, MPOs do not build or purchase, lease or maintain equipment, terminals or garages. In addition, the HRTPO does not directly contract for staff to perform operations/maintenance. HRTPO employees perform administrative functions.
- The HRTPO occasionally uses consulting firms for contracts.
- The HRTPO's consulting needs are limited to transportation planning firms or specialty firms within a few highly specific subspecialties. As a result, the pool of qualified consulting firms is severely limited.

For the above reasons, it is extremely difficult to obtain a clear idea of the number of qualified ready, willing and able DBEs from DOT or transit agency lists, or to obtain an accurate idea of available firms from the U.S. Census (Census data does not break down firms by subspecialties).

## Assumptions

In defining the criteria for firms that may be appropriate for use by the HRTPO, the following assumptions were made:

The HRTPO defined the term "Local Market Area" to include the Hampton Roads area and its surroundings. Preference is given to consultants that have offices within the Hampton Roads area as this gives the HRTPO greater access to their services.

The HRTPO defined appropriate specialties to include (Parentheses indicates VDOT Specialty Area Code/NAICS Specialty Code): (300/54133) Consultants - Selected firms with transportation engineering, land acquisition, environmental consulting and engineering specialties. (968/54182 & 54191) - selected all firms.

Based on limited information about sub-specialties, the HRTPO selected firms believed to be possibly appropriate for HRTPO purposes.

**Step 1: Calculating a Percentage** - The HRTPO declares its Fiscal Year 2014 goal of six (6%) percent for the DBE Program. This figure is based on a denominator of # ("Engineering Services" firms, & Public Opinion" firms) in the Local Market Area. It should be noted that as a result of statewide governmental budget reductions, DBE contracting opportunities has been greatly impacted. Many firms have not recertified or have opted out of the DBE program.

### # of Engineering Service, and Public Opinion Firms

# of DBE Firms in the Local Market Area

Therefore we have determined our non-adjusted base figure to be approximately 6.1%.

**Step 2: Weighting** - The HRTPO saw no need for this process.

**Step 3: Making Adjustments** - The HRTPO examined past DBE activity and future contracting opportunities and determined that an adjustment should be made. The following factors were considered in setting our goal at 6% for the 2011-2013 fiscal years:

- As previously mentioned, the HRTPO has had little opportunity to develop a historical precedent or basis for its DBE goals. This would be the HRTPOs first year setting goals.
- The HRTPO reviewed its DBE activity for the past three years and found that the 6% expended was the highest goal attained.

Based upon this examination of current and similar future contracting opportunities, the HRTPO believes that a 6% goal is achievable

## **Process**

The HRTPO shall submit its overall goal to DOT by August 1 of each year. Before establishing the overall goal, the HRTPO shall consult with community organizations, minority and women's consultant groups, as well as general consultant groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the HRTPO's efforts to establish a level playing field for the participation of DBEs.

The HRTPO published a notice of the Draft DBE Plan and proposed overall goal, informing the public that the proposed goal and its rationale was available for public comment for 45 days beginning January 15, 2015 and informing the public that the HRTPO and DOT would accept comments on the goals for 45 days from the date of the notice. The notice included addresses where comments may be sent and where proposals may be reviewed (including offices and websites).

Our overall goal submissions to DOT shall include a summary of information and comments received during this public participation process and our responses.

The HRTPO has consulted with the appropriate agencies concerning the availability of disadvantaged and non-disadvantaged businesses, and have concluded that the goal of 6% is reasonable. The HRTPO shall adopt this goal unless other instructions are received from DOT.

## **Breakout of Estimated Race-Neutral and Race-Conscious Participation**

Race neutral, under the consultant or professional program, would be defined as not assigning race or gender-specific goals on individual projects, but counting all participation of DBE sub-consultants utilized by consultants on projects. Arranging solicitations, times for the presentation of bids, quantities, specifications and delivery schedules in ways that facilitate DBE and other small business participation.

Requiring consultants to subcontract portions of work that they might otherwise perform with their own staff or an outside consulting firm. Providing the name, phone number and email address for additional information concerning a contract.

The HRTPO has established its FY 2015 goal at 6%. Assuming this represents a reasonable expectation for the future, the HRTPO estimates that of the 6% overall DBE goal for FY 2015, approximately half will be acquired from race-neutral participation, and the remainder through race-conscious measures.

The HRTPO shall adjust the estimated breakout of race-neutral and race conscious participation as needed to reflect actual DBE participation (see 26.51 (f)) and shall 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 a DBE obtains 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 consultant that did not consider a firm's DBE status in making the award.

### **CONTRACT GOALS (26.51)**

The HRTPO shall use contract goals to meet any portion of the overall DBE goal that the HRTPO does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall DBE goal that is not projected to be met through the use of race-neutral means.

The HRTPO shall establish contract goals only on DOT assisted contracts that have subcontracting possibilities. The HRTPO need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The HRTPO shall express its contract goals as a percentage of 4% of the Federal share of DOT assisted contracts.

### **GOOD FAITH EFFORTS (26.63)**

The HRTPO treats bidders/offeror' s compliance with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established shall require the bidders/offerors to submit, at the discretion of the HRTPO, at least 24 hours before commitment to the performance of the contract by the bidder/ offeror, 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;
4. Written and signed documentation of commitment to use a DBE sub-consultant whose participation it submits to meet a contract goal;

5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime consultant's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

## **Demonstration of Good Faith-Efforts**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. The HRTPO shall utilize the following criteria to determine the consultant's good faith effort to subcontract and negotiate with DBEs:

1. Whether the consultant attended any pre-solicitation or pre-bid meetings that were scheduled by the HRTPO to inform DBEs of consulting and sub-consulting opportunities;
2. Whether the consultant or supplier provided notice in general circulation, trade association and minority and female focus media concerning the sub-consulting opportunities;
3. Whether the consultant provided written notice to a reasonable number of specific DBEs that their interest in the contract was solicited in sufficient time to allow the DBEs to effectively participate;
4. Whether the consultant followed up the initial solicitation of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
5. Whether the consultant selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal including, where appropriate, segmenting contracts into economically feasible units to facilitate DBE participation;
6. Whether the consultant provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
7. Whether the consultant negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
8. Whether the consultant made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance required by the HRTPO or the consultant; and
9. Whether the consultant effectively used the services of available minority and female community organizations, minority and female professional groups, local, State and Federal minority and female business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBEs.

The HRTPO may, upon written notice to the consultant, meet with its officials to discuss or provide written evidence of good faith efforts to subcontract and negotiate with DBEs and DBE/Non- DBE/Joint Venture and its ability to achieve the established goal. Failure of a consultant to meet or provide the requested written information at a stipulated time and place, without a demonstration of good cause, shall be cause for rejection.

## **Administrative Reconsideration**

Within two days of being informed by the HRTPO that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. The bidder/offeror should make the request in writing to the following reconsideration official: HRTPO Executive Director, 723 Woodlake Drive, Chesapeake, VA 23320, Phone: (757) 420-8300, Fax: (757) 523-5881. The reconsideration official will not have played any role in the original determination that the bidder/ offeror did not document 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 have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The HRTPO shall send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

## **Good Faith Efforts When a DBE is Replaced on a Contract**

Where goal or preference points have been assigned to projects, the HRTPO will require a consultant to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The HRTPO shall require the prime consultant to notify the DBE Liaison Officers immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the HRTPO shall require the prime consultant 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 consultant fails or refuses to comply in the time specified, the HRTPO office or the office of the prime consultant will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the consultant still fails to comply, the contracting officer may issue a termination for default proceeding.

## **COUNTING DBE PARTICIPATION (26.55)**

The HRTPO shall count DBE participation toward overall and contract goals, as provided in 49 C.F.R. 26.55.

## **CERTIFICATION (26.21- 26.91)**

The HRTPO will accept, as accurate and current, the certification status of all DBE firms listed on Virginia's Uniform Certification Program/Department of Transportation website.

### **Process**

The HRTPO's certification application form and documentation requirements are those defined by Virginia's Uniform Certification Program. Interested persons are instructed to download DBE documents from the website at: [www.dot.state.va.us/egualopportunityoffice](http://www.dot.state.va.us/egualopportunityoffice) . Upon request, the HRTPO will reproduce and mail copies of the documents. Requests may be directed to: Ms. Danetta Jankosky and Ms. Julia Hillegass, HRTPO, 723 Woodlake Drive, Chesapeake, VA 23320, Phone: (757) 420-8300, Email: [djankosky@hrtpo.org](mailto:djankosky@hrtpo.org) and [jhillegas@hrpdcva.gov](mailto:jhillegas@hrpdcva.gov) . The HRTPO shall yield to the Unified Certification Program's decisions and practices concerning decertification and appeal of decertification status.

### **Uniform Certification Program**

The State of Virginia is currently developing and using certification process for DBE providers. Forms, procedures, and a list of certified DBE firms are listed on the website at as mentioned in the "Process" section above: <http://www.dmbv.virginia.gov/>.

### **Certification Appeals**

Any firm or complainant may appeal the HRTPO's decision in a certification matter to DOT. Such appeals may be sent to: Department of Transportation, Office of Civil Rights Certification Appeals, Branch 400, 7th Street SW, Room 2104, Washington, DC 20590. The HRTPO shall promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for DOT assisted contracts (e.g., certify a firm if DOT has determined that the HRTPOs denial of the application was erroneous).

### **Recertification**

DOT administers the recertification process as well as the annual affidavit process.

### **No Change Affidavits and Notices of Change**

The HRTPO requires all potential DBE firms to comply with the DBE certification requirements of their issuing authority. For example, DBE firms must inform DOT, in a written affidavit, of any change in their circumstances affecting the DBE's ability to meet size, disadvantaged status, ownership or control criteria of 49 C.F.R. Part 26 or of any material changes in the information provided. The HRTPO also requires all owners of DBEs



to comply with their issuing authorities' annual recertification process, which meet the requirements of 26.83 U). (DOT notifies DBE firms concerning recertification requirements, etc.).

## **Personal Net Worth**

The HRTPO requires all disadvantaged owners of applicants and of currently certified DBEs to comply with their issuing authorities' Personal Net Worth requirement. The personal net worth form and the documentation used by Virginia Department of Transportation may be found online at: [www.dot.state.va.us/equalopportunityoffice](http://www.dot.state.va.us/equalopportunityoffice).

## **INFORMATION COLLECTING AND REPORTING**

### **Bidders List**

The HRTPO shall not maintain its own bidders list. In order to permit DBE firms to have maximum opportunities throughout the region, to support the development of one unified list, and to eliminate redundancy in application filing requirements, the HRTPO encourages all applicants to become DBE certified with Virginia's Uniform Certification Program. The following website provides all forms and describes procedures: [www.dot.state.va.us/equalopportunityoffice](http://www.dot.state.va.us/equalopportunityoffice).

### **Monitoring Payments to DBEs**

The HRTPO shall require prime consultants to maintain records and documents of payments to DBEs for three years following the performance of the contract. Any authorized representative of the HRTPO or DOT will make these records available for inspection upon request. This reporting requirement also extends to any certified DBE sub-consultant.

The HRTPO shall keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. The HRTPO shall perform interim audits of contract payments to DBEs. The audit will review payments to DBE sub-consultants to ensure that the actual amount paid to DBE sub-consultants equal or exceed the dollar amounts stated in the schedule of DBE participation.

### **Reporting to DOT**

The HRTPO shall report DBE participation as follows:

The HRTPO shall report DBE participation on June 1 and December 1 using the "Uniform Report of DBE Awards or Commitments and Payments" form. These reports will reflect payments actually made to DBEs on DOT assisted contracts.



## **Confidentiality**

The HRTPO shall safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information consistent with Federal, State and local law. The HRTPO shall require all DBE firms to complete the Release of Confidential Information form that is a component of the Virginia Department of Transportation's submission process: [www.dot.state.va.us/equalopportunityoffice/DBEprogram.htm](http://www.dot.state.va.us/equalopportunityoffice/DBEprogram.htm).

Notwithstanding any contrary provisions of State or local law, the HRTPO will not release personal financial information submitted in response to the personal net worth requirement of a third party (other than DOT), without the written consent of the submitter.

## **ATTACHMENT LIST**

Attachment A - DBE Advertisement

Attachment B – HRTPO Organizational Chart

## **ATTACHMENT A**

### **PUBLIC NOTICE CONCERNING THE HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL FOR FISCAL YEARS 2015**

In accordance with the requirements of the U.S. Department of Transportation as set forth in 49 C.F.R. Part 26, as amended, the Hampton Roads Transportation Planning Organization (HRTPO) hereby notifies the public that it is recommending a Disadvantage Business Enterprise (DBE) goal, whereby 6% of all applicable professional services and procurement contracts during Fiscal Years 2015 beginning July 1, 2014 and ending June 30, 2015 involve DBE firms. The DBE Program is a federal program designed for business owners deemed socially and economically disadvantaged.

Attachment B:

# Hampton Roads Transportation Planning Organization

