

**Disadvantaged Business Enterprise (DBE)
Program**

Prepared by:

Blacksburg Transit

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TABLE OF CONTENTS

	<u>Page</u>
Objectives/Policy Statement	
Subpart A – General Requirements	1
A-1. Applicability	1
A-2. Definitions	1
A-3. Non-discrimination Requirements	1
A-4 Record Keeping Requirements	1
A-5 Assurances	2
Subpart B – Administrative Requirements	2
B-1. DBE Program Updates	2
B-2. DBE Liaison Officer	3
B-3. DBE Financial Institutions	3
B-4. Prompt Payment Mechanisms	4
B-5. Directory	4
B-6. Overconcentration	5
B-7. Business Development Program	5
B-8 Monitoring and Enforcement Mechanisms	5
B-9 Small Business Participation	6
Subpart C – Goals, Good Faith Efforts, and Counting	6
C-1. Set-asides or Quotas	6
C-2. Overall Goal	7
C-3. Goal Setting and Accountability	8
C-4. Transit Vehicle Manufactures Goals	8
C-5. Meeting Overall Goals/Contract Goals	8
C-6. Good Faith Efforts Procedures	9
C-7. Counting DBE Participation	11
Subpart D – Certification Standards	12
D-1. Unified Certification Program	12
D-2. Certification Appeals	12
D-3. Recertification	13
D-4. “No Change” Affidavits and Notices of Changes	13
Subpart E – Compliance and Enforcement	13
E-1. Information, Confidentiality, Cooperation	13

ATTACHMENTS

- Attachment 1 Blacksburg Transit Organizational Chart
- Attachment 2 Monitoring and Enforcement
- Attachment 3 DBE Participation Forms
- Attachment 4 Virginia UCP Agreement
- Attachment 5 Regulations: 49 CFR Part 26

BLACKSBURG TRANSIT DBE PROGRAM

Objectives/Policy Statement

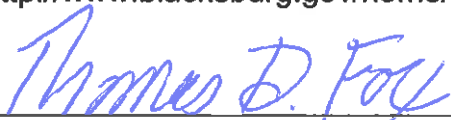
Blacksburg Transit has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Blacksburg Transit has received Federal financial assistance from the Department of Transportation (DOT), and as a condition of receiving this assistance, Blacksburg Transit has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Blacksburg Transit to ensure that DBE's as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

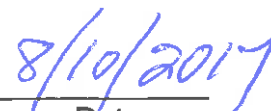
1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms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

The Regulatory Manager has been delegated as the DBE Liaison Officer. In that capacity, the Regulatory Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Blacksburg Transit in its financial assistance agreements with the DOT.

Blacksburg Transit has disseminated this policy statement to the Blacksburg Town Council and all of the components of our organization. The policy is also posted on the Town of Blacksburg website at <http://www.blacksburg.gov/home/showdocument?id=153>.



Thomas D. Fox, Transit Director



Date

SUBPART A – GENERAL REQUIREMENTS

A-1. Applicability

Blacksburg Transit is the recipient of federal transit funds authorized by Public Law 114-94, Fixing America's Surface Transportation (FAST) Act, enacted into law on December 4, 2015 and by Federal transit laws in Title 49, Code of Federal Regulations (CFR). The federal Disadvantaged Business Enterprise (DBE) program is described in 49 CFR Part 26.

A-2. Definitions

Blacksburg Transit will adopt the definitions contained in 49 CFR, Part 26, Section 26.5 for this program.

A-3. Non-discrimination Requirements

Blacksburg Transit 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 its DBE program, Blacksburg Transit 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.

A-4. Record Keeping Requirements

A. Uniform Report of DBE Awards or Commitments and Payments:

Blacksburg Transit will report DBE participation to FTA using the "Uniform Report of DBE Commitments/Awards and Payments" form, found in Appendix B to the DBE regulation.

B. Unified Certification Program:

Blacksburg Transit will utilize the Virginia Commonwealth's Unified Certification Program (UCP) to create a list consisting of information about all DBE firms that could respond to DOT-assisted contracts. This list will be used when calculating overall goals.

A-5. Assurances

Blacksburg Transit has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

A. Federal Financial Assistance Agreement Assurance:

Blacksburg Transit 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 CFR Part 26. Blacksburg Transit shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. Blacksburg Transit'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 Blacksburg Transit of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR 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.*).

This language will appear in financial assistance agreements with sub-recipients.

B. Contract Assurance:

Blacksburg Transit 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 Blacksburg Transit deems appropriate.

SUBPART B - ADMINISTRATIVE REQUIREMENTS

B-1. DBE Program Updates

Since Blacksburg Transit has received a grant of \$250,000 or more in FTA planning, capital, and/or 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.

B-2. DBE Liaison Officer (DBELO)

Blacksburg Transit has designated the following position as the DBE Liaison Officer:

Regulatory Manager
2800 Commerce St.
Blacksburg, VA 24060
540-443-1513

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that Blacksburg Transit complies with all provisions of 49 CFR Part 26. The DBELO has direct, independent access to the Transit Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO enlists the finance and purchasing departments to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT;
2. Reviews third party contracts and purchase requisitions for compliance with this program;
3. Works with all departments to set overall triennial goals;
4. Analyzes Blacksburg Transit's progress toward goal attainment and identifies ways to improve progress;
5. Participates in pre-bid meetings;
6. Advises the Transit Director on DBE matters and achievement;
7. Participates in DBE training seminars;
8. Provides firms with information on becoming certified DBE's in accordance with the Uniform Certification Process in Virginia;
9. Provides outreach to DBE's and community organizations to advise them of opportunities;
10. Utilizes the Virginia Unified Certification Program to find new DBE's and verify continuing qualification of existing DBE's.

B-3. DBE Financial Institutions

It is the policy of Blacksburg Transit 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. Blacksburg Transit has made the following efforts to identify and use such institutions:

- The availability of minority and other socially disadvantaged financial institutions has been researched through the Commonwealth of Virginia's Unified Certification Program's List of Certified Vendors and other appropriate sources. There are no such institutions identified to date.

We will re-evaluate the availability of DBE financial institutions every three years.

B-4. Prompt Payment Mechanisms

Blacksburg Transit will include the following clauses in each DOT-assisted prime contract:

A. Prompt Payment:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 7 days from the receipt of each payment the prime contractor receives from Blacksburg Transit. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Blacksburg Transit. This clause applies to both DBE and non-DBE subcontracts.

B. Retainage:

The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Blacksburg Transit. This clause applies to both DBE and non-DBE subcontracts.

C. Monitoring and Enforcement:

Blacksburg Transit has established mechanisms, such as on-site interviews and review of payments, to monitor and enforce that prompt payment and return of retainage is in fact occurring (see Attachment 2).

B-5. Directory

As part of the Virginia Commonwealth's Unified Certification Program (UCP), the Virginia Department of Small Business and Supplier Diversity (SBSD) (formerly the Virginia Department of Minority Business Enterprise) (DMBE) is identified as having full responsibility for certifying any and all DBE firms. SBSD maintains a directory of companies that are certified under the Commonwealth's DOT-DBE program. This directory is available on SBSD's website at <https://directory.sbsd.virginia.gov/#/>.

Blacksburg Transit will check for companies that have been debarred or are excluded from federal procurement programs on the System for Awards Management at sam.gov.

B-6. Overconcentration

Blacksburg Transit has not identified that overconcentration exists in the types of work that DBE's perform. The potential for overconcentration will be evaluated every three years.

B-7. Business Development Program

Blacksburg Transit has not established a business development program. We will re-evaluate the need for such a program every 3 years.

B-8. Monitoring and Enforcement Mechanisms

Blacksburg Transit will use the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26:

1. We 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 49 CFR 26.109.
2. We will consider similar action under the laws of Virginia (including but not limited to the Code of VA Title 8.01 "Civil Remedies & Procedures" and Title 11 "Contracts"). Such actions may also include consideration of debarment and responsibility determinations relating to future contracts. Blacksburg Transit will include the DBE status as a condition of the contract and in the case of non-compliance with the DBE requirements of a specific contract, we will consider pursuing remedies for breach of contract, including termination of the contract.
3. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBE's at contract award is actually performed by the DBE's. This mechanism will provide for a running tally of actual payments made to DBE firms, including a means of comparing these attainments to commitments. This will be accomplished through the utilization of forms submitted with the offer and forms confirming that payments have been made (see Attachment 3). These will be monitored and recorded as part of the Construction Management or Contract Management phases of each project for which DBE participation has been included. Contractors will be required to maintain and furnish records of payments to DBE's as requested by Blacksburg Transit or its assigned designee. Interim audits of such payments will be performed as appropriate.

B-9. Small Business Participation

Blacksburg Transit will take all reasonable steps to eliminate obstacles to the participation of small businesses, including unnecessary and unjustified bundling of contract requirements than may preclude small business participation in procurements as prime contractors or subcontractors.

The definition of small business can be found in 49 CFR 26.5 of the Federal Register: Small business concern means, with respect to firms seeking to participate as DBE's in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR 26.65(b).

The steps to implement this element include but are not limited to:

1. In multi-year design-build contracts or other large contracts (e.g. for "megaprojects") requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBE's, can reasonably perform.
2. On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBE's, can reasonably perform, rather than self-performing all the work involved.
3. Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBE's, to compete for and perform prime contracts.
4. Ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBE's, can reasonably perform.

To ensure that a firm is a small business concern, and to minimize fraud and abuse, Blacksburg Transit will take steps to verify eligibility of a firm to participate in the program. Firms may go to the SBSD web page to access information on SBSD's small business eligibility process.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

C-1. Set-asides or Quotas

Blacksburg Transit does not use quotas in any way in the administration of this DBE program.

C-2. Overall Goals

In accordance with 49 CFR 26.45, Blacksburg Transit will submit its triennial overall DBE goal to FTA on August 1 of the year specified by FTA (Group 1).

The process generally used by Blacksburg Transit to establish triennial overall DBE goals is as follows: Step 1 – Determine the base figure for the relative availability of DBE's in Blacksburg Transit's market area: By utilizing the Virginia Unified Certification Program's DBE Directory, Blacksburg Transit determines the number of businesses that are ready, willing and able to submit offers for the types of work we will be contracting. We use the Virginia UCP Directory and the US Census Bureau's County Business Patterns Database within BT's market area, defined as Botetourt, Craig, Floyd, Giles, Montgomery [including Blacksburg], Pulaski and Roanoke counties and cities of Radford, Roanoke and Salem to determine the number of DBE's that could be willing or able to meet our contracting needs. For larger capital projects the market area may be extended. We divide the number of DBE's by the number of all businesses from the County Business Patterns database to determine the Base Percentage for the Relative Availability of DBE's in our market area. Step 2 - Adjusting the Base Figure Percentage from Step 1 so it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination: Upon establishing the Base Figure, BT reviews and assesses other known evidence potentially impacting the relative availability of DBE's within the market area, in accordance with prescribed narrow tailoring provisions set forth under 49 CFR Part 26.45: *Step 2; DBE Goal Adjustment guidelines*.

Blacksburg Transit will consult with groups such as the Central Virginia Small Business Development Center (CV SBDC), The Virginia Department of Small Business and Supplier Diversity (DSBSD), The Virginia Department of Labor and Industry, the Virginia Department of Business Assistance, the Virginia Economic Development Partnership, and the New River Valley Chamber of Commerce and others as appropriate to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's, and Blacksburg Transit's efforts to establish a level playing field for the participation of DBE's.

Blacksburg Transit will post a notice of the proposed triennial overall goals on our official website before submission to the FTA on August 1 of the specified year.

Blacksburg Transit's overall goal submission to FTA will include: the goal; a copy of the methodology, worksheets used to develop the goal; a summary of information and comments received during this public participation process and Blacksburg Transit's responses; and proof of posting of the goal on our official website.

Blacksburg Transit will begin using the overall goal on October 1 of the specified year, unless other instructions have been received from FTA.

C-3. Goal Setting and Accountability

If the awards and commitments shown on Blacksburg Transit'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 reasons 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. Maintain information and records regarding the analysis and efforts made.
4. Complete the Shortfall Analysis by December 29.

C-4. Transit Vehicle Manufacturers Goals

Blacksburg Transit 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 FTA's DBE requirements and are on FTA's list of TVMs. FTA defines a TVM as any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Producers of vehicles that receive post-production alternations or retrofitting to be used for public transportation purposes are also considered TVMs. Businesses that manufacture mass-produced, or distribute vehicles solely for personal use and for sale "off the lot" are not considered TVMs.

C-5. Meeting Overall Goals/Contract Goals

Blacksburg Transit will meet the maximum feasible portion of its overall DBE goal by using a race-neutral means of facilitating DBE participation. For projects that are best suited for an Invitation for Bid type of procurement, Blacksburg Transit uses strict low bid contract awards to the lowest responsive and responsible bidder in accordance with the Virginia Public Procurement Act and the Code of VA. For projects that are best suited for a Request for Proposal type of procurement, Blacksburg Transit uses evaluation criteria to determine the award. To enhance the level of DBE participation, Blacksburg Transit will attempt to direct interested DBE's to the various organizations within the Commonwealth that provide services and assistance to small, disadvantaged and minority-owned businesses. DBE contractors will be encouraged to apply on all solicitations.

Blacksburg Transit will adjust the estimated breakout of *race-neutral* and *race-conscious* participation as needed to reflect actual DBE participation (49 CFR 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 limited to DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract

exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Blacksburg Transit will use contract (i.e., race conscious) goals to meet any portion of the overall goal that Blacksburg Transit 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 goal that is not projected to be met through the use of race-neutral means. We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We 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 DBE's to perform the particular type of work.) The contract goals will be expressed as a percentage of the Federal share of a DOT-assisted contract.

C-6. Good Faith Efforts Procedures

A. Award of Contracts with a DBE Contract Goal

In those instances where a contract DBE goal is included in a procurement/ solicitation, Blacksburg Transit will not award the contract to an offeror who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) document 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 offeror to demonstrate it has made sufficient good faith efforts.

B. Evaluation of Good Faith Efforts

The Regulatory Manager is responsible for determining whether an offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

The process used to determine whether good faith efforts have been made by an offeror are found in Appendix A to 49 CFR Part 26.

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

C. Information to be submitted

Blacksburg Transit treats offerors' compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the 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 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 contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

D. Administrative reconsideration

Within 10 calendar days of being informed by Blacksburg Transit that it is not responsible because it has not documented sufficient good faith efforts, an offeror may request administrative reconsideration. Offerors should make this request in writing to the following reconsideration official: Transit Director, Blacksburg Transit, 2800 Commerce St., Blacksburg, VA 24060; Phone: 540-443-1500. The reconsideration official will not have played any role in the original determination that the offeror did not document sufficient good faith efforts.

As part of this reconsideration, the 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. This process is governed by Town Code § 16-503 and Virginia Code § 2.2-4360, and is not administratively appealable to the Department of Transportation.

E. Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals

Blacksburg Transit requires that prime contractors not terminate a DBE subcontractor listed on an offer or contract with a DBE contract goal without Blacksburg Transit'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 49 CFR 26.53(f)(3) of the DBE regulation.

Before transmitting to Blacksburg Transit 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 Blacksburg Transit prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise Blacksburg Transit of why it objects to the proposed termination.

In those instances where "good cause" exists to terminate a DBE's contract, Blacksburg Transit will require the prime contractor 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. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our 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, BT's project manager 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 Town may issue a termination for default proceeding.

F. Sample DBE Clause:

Blacksburg Transit will include the following clause in each DOT-assisted prime solicitation/contract that has a contract goal:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of Blacksburg Transit to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit offers. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all offerors, including those who qualify as a DBE. A DBE contract goal of ____ percent has been established for this contract. The offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. Blacksburg Transit will include forms such as those shown in Attachment 3 for each solicitation that has a contract goal.

C-7. Counting DBE Participation

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

SUBPART D – CERTIFICATION STANDARDS

D-1. Unified Certification Program

Blacksburg Transit is a member of a Unified Certification Program (UCP) administered by the Commonwealth of Virginia. The UCP will meet all of the requirements of this section. Blacksburg Transit will use and count for DBE credit only those DBE firms certified by the Commonwealth of Virginia's UCP.

A. Unified Certification Program (UCP)

The Commonwealth of Virginia Established a Unified Certification Program (UCP) in 2003. Under coordination and agreement with the U.S. Department of Transportation, the Virginia Department of Small Business and Supplier Diversity (SBSD) is identified as having full responsibility for certifying any and all DBE firms within the Commonwealth.

B. Process

Information and application forms for becoming a certified DBE within the Commonwealth of Virginia can be found on the SBSB website at <https://www.sbsd.virginia.gov/certification-division/>. To be certified as a DBE, a firm must meet all certification eligibility standards and successfully complete the SBSB certification process. For additional information about the certification process or to apply for certification, firms should visit the SBSB website listed above.

In the event that a contractor's DBE certification is removed (i.e. debarred), or if Blacksburg Transit recommends to SBSB that a contractor's certification be removed, SBSB will follow procedures consistent with 49 CFR 26.87. Any such debarment action will be managed by SBSB.

D-2. Certification Appeals

Any firm or complainant may appeal SBSB's recommendations in a certification matter to the Director, Virginia Department of Small Business and Supplier Diversity within 30 calendar days of receipt of the denial letter.

Any firm or complainant may appeal the Virginia Department of Small Business and Supplier Diversity's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

D-3. Recertification

Any and all recertification procedures for DBE eligibility within the Commonwealth will be managed and performed by SBSB. The recertification process includes a review of the DBE owner's personal net worth and any other changes to the information on file.

D-4. "No Change" Affidavits and Notices of Change

All DBE's are required to inform SBSB, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26, or of any material changes in the information provided with the DBE's proof of certification.

SUBPART E – COMPLIANCE AND ENFORCEMENT

E-1. Information, Confidentiality, Cooperation

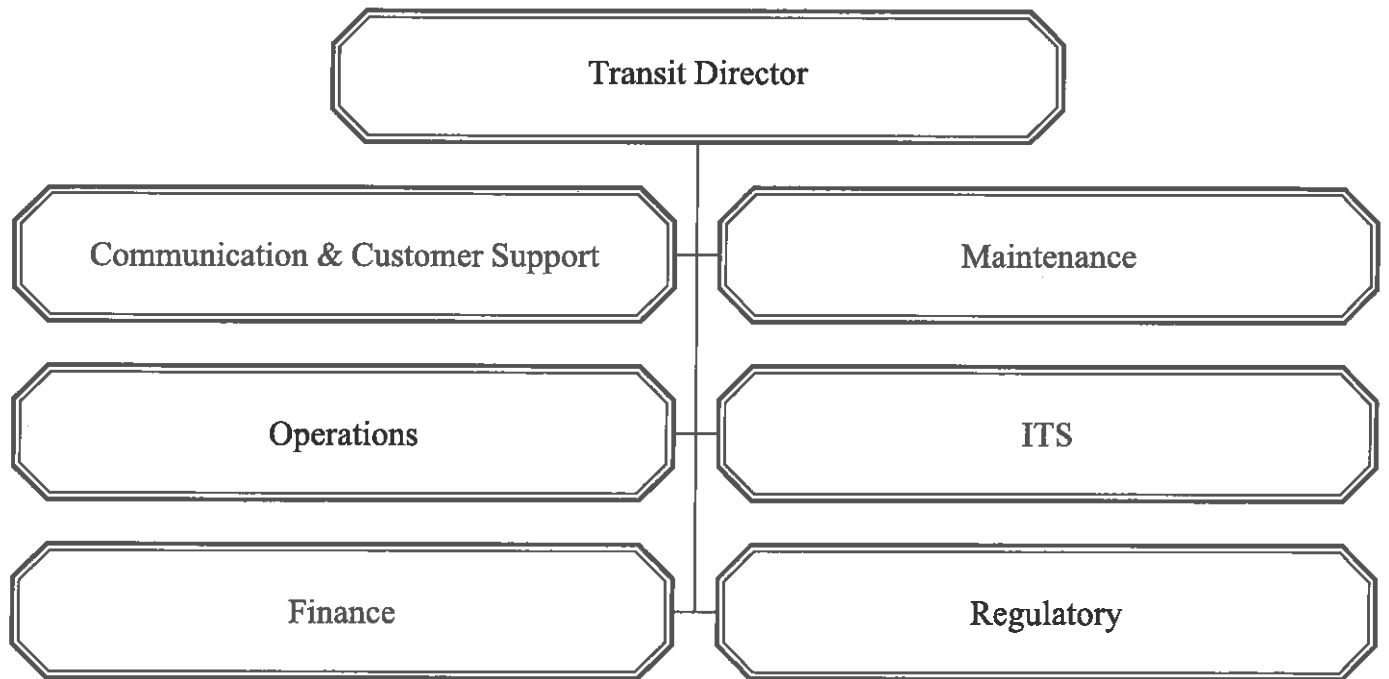
Blacksburg Transit will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. The Virginia Freedom of Information Act (Virginia Code § 2.2-3700, *et seq.*) provides that public records are generally available for inspection and copying. However, Virginia Code § 2.2-4342 provides that "trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction" are not subject to the Virginia Freedom of Information Act. The bidder, offeror or contractor must (i) invoke these protections prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

Except as required by the Virginia Freedom of Information Act or other law, Blacksburg Transit will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than SBSB) without the written consent of the submitter.

We will require prime contractors to maintain records and documents of payments to DBE's for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Blacksburg Transit or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. As deemed necessary, we will perform interim audits of contract payments to DBE's. These audits will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

ATTACHMENT 1



ATTACHMENT 2

Town of Blacksburg

Monitoring and Enforcement Mechanisms and Legal Remedies

The Town of Blacksburg has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Withholding payment until compliance with DBE requirements is demonstrated, then a breach of contract action, pursuant to the terms of the contract.
2. Debarment of the contractor for future contracts, as permitted by Virginia Code § 2.2-4321, if DBE requirements are not met or misrepresented.
3. With contracts funded in any part by funds from the Commonwealth of Virginia, the Virginia Fraud Against Taxpayers Act (Virginia Code § 8.01-216.1) may be used against the contractor if false statements are made with regard to DBE requirements.

In addition, the federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001

ATTACHMENT 3

**TOWN OF BLACKSBURG, VIRGINIA
BLACKSBURG TRANSIT
MINIMUM DBE REQUIREMENTS**

PROJECT NO. _____

FTA NO. _____

***** INSTRUCTIONS *****

THIS FORM CAN BE USED BY THE CONTRACTOR TO SUBMIT THE NAMES OF DBE FIRMS TO BE UTILIZED ON THE PROJECT. THE CONTRACTOR SHALL INDICATE THE DESCRIPTION OF THE CATEGORY (S, M, SP or H) AND THE TYPE OF WORK THAT EACH DBE WILL PERFORM AND THE ALLOWABLE CREDIT PER ITEM(S). ADDITIONAL SHEETS TO SHOW THE ALLOWABLE CREDIT PER ITEM MAY BE ATTACHED IF NECESSARY. PLEASE NOTE: THE AMOUNT OF ALLOWABLE CREDIT FOR A DBE SUPPLIER IS 60% OF THE TOTAL COST OF THE MATERIALS OR SUPPLIES OBTAINED AND 100% FOR A DBE MANUFACTURER OF THE MATERIALS AND SUPPLIES OBTAINED. A CONTRACTOR MAY COUNT 100% OF THE FEES PAID TO A DBE HAULER FOR THE DELIVERY OF MATERIALS AND SUPPLIES TO THE PROJECT SITE, BUT NOT FOR THE COST OF THE MATERIALS AND SUPPLIES THEMSELVES.

DBE REQUIREMENT _____ %

PERCENT ATTAINED BY BIDDER _____ %

NAMES(S) AND CERTIFICATION NO. OF DBE(S) TO BE USED	USED AS SUBCONTR. (S) MFG. (M) SUPPLIER (SP) HAULER (H)	TYPE OF WORK AND ITEM NO(S)	\$ AMOUNT OF ALLOWABLE CREDIT PER ITEM
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL \$ _____

TOTAL CONTRACT VALUE \$ _____ x REQUIRED DBE _____ % = \$ _____

I/WE CERTIFY THAT THE PROPOSED DBE(S) SUBMITTED WILL BE USED ON THIS CONTRACT AS STATED HEREON AND ASSURE THAT DURING THE LIFE OF THE CONTRACT. I/WE WILL MEET OR EXCEED THE PARTICIPATION ESTABLISHED HEREON BY THE DEPARTMENT.

_____ BY _____
BIDDER SIGNATURE

_____ BY _____
TITLE DATE

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR/SUPPLIER

PROJECT _____ PROJECT NO. _____

TO: _____
(NAME OF PRIME OR GENERAL BIDDER)

A. The undersigned intends to perform work in connection with the above project in the following capacity (check one):

_____ An individual
_____ A partnership

_____ A corporation
_____ A joint venture

B. The DBE status of the undersigned is confirmed by certification in the Virginia Unified Certification Program. Yes No

C. The undersigned is prepared to perform the following work in connection with the above project: _____

D. The undersigned states that the total bid price for the work described above is : \$ _____

E. The undersigned will sublet and/or award _____% of this subcontract to non-DBE contractors and/or non- DBE suppliers.

The undersigned will enter into a formal agreement for the above described work with the Prime or General Bidder cited above conditioned upon the execution of a contract for the project cited herein between the Prime or General Bidder and the Town of Blacksburg.

(DBE Contractor Firm Name)

Date: _____

By: _____
(Signature of Authorized Representative)

TOWN OF BLACKSBURG
CERTIFICATION OF PAYMENT TO DBE FIRMS

The undersigned, having contracted as the prime contractor on Project No. _____ hereby certifies that full payment has been made to the firm indicated. Payments made or pending to a DBE firm for materials and/or work performed under this project's contract are as follows:

The DBE firm of _____ was paid the amount of \$ _____ .

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years from the project acceptance date. In the event the DBE was not paid in accordance with affidavits submitted by the prime contractor, all documentation supporting the contractor's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Prime Contractor Representative

By: _____
(Print name and title)

Date: _____

The undersigned DBE subcontractor/supplier/manufacturer hereby certifies that a contract was entered into with the above named prime contractor to perform work or provide materials on the project cited in this document. I further certify that payments were received and/or justification submitted by the prime contractor for failure to make such payments in accordance with previous affidavits is correct.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Subcontractor Representative

By: _____ Date: _____
(Print name and title)

Page _____ of _____
Month Ending _____

TOWN OF BLACKSBURG
BLACKSBURG TRANSIT
DBE/WBE
PAYMENT CERTIFICATION

Order No.: _____

Contract Id. No.: _____

Contractor/Subcontractor _____ Vendor No. _____

Project No.: _____

This is to certify that I/we received payment of \$ _____
for the following work service performed (indicate type of work and
item nos.) _____
during the month of _____ on the above captioned
project. This makes a total of \$ _____ received
for work/service performed as indicated above.

DBE/WBE Subcontractor _____ Vendor No. _____

Signed: _____

Title: _____

Date _____

ATTACHMENT 4



Mark R. Warner
Governor

COMMONWEALTH of VIRGINIA

Edward L. Hamm, Jr.
Director

Department Of Minority Business Enterprise
200-202 N. Ninth Street, 11th Floor
Richmond, Virginia 23219

Michael J. Schewel
Secretary of Commerce and Trade

December 13, 2004

Dear Town Manager:

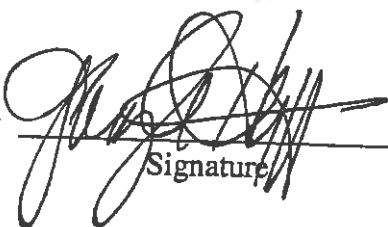
In 1999, the United States Department of Transportation implemented regulation (49 CFR Part 26.81) requiring all DOT funding recipients to participate in a Unified Certification Program (UCP). The UCP is responsible for making all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program. As a result, your local governing body was notified in 2003 of this requirement and requested to sign an agreement concurring with the decisions made by the Virginia Department of Transportation (VDOT) and/or Washington Metropolitan Airport Authority. Since that time, as part of the Governor's initiative on Small, Women and Minority (SWAM) procurement, the Disadvantaged Business Enterprise (DBE) certification program that was housed at VDOT has moved to the Virginia Department of Minority Business Enterprise (VDMBE) where all certifications, excluding Washington Metropolitan Airport Authority, will be performed. The VDOT will maintain oversight of the DBE certification process, but the actual certifications will be handled by VDMBE. Thus, the original UCP Agreement is being modified to reflect these changes.

If you are, have been, or plan to be a recipient of federal Department of Transportation funds, you are requested to sign in the space provided, acknowledging and concurring with this change. A copy of the UCP Agreement will be forwarded to you after final approval by the United States Department of Transportation.

Please sign and return by December 30, 2004. If you have questions concerning this request or the UCP process, please contact Doretha W. Davis at (804) 786-1718.

Sincerely,

Edward L. Hamm, Jr.
Edward L. Hamm, Jr., Director
VDMBE

Concur: 
Signature

GARY A. HUFF, TOWN MGR.
Printed Name & Title

12/17/04
Date

ATTACHMENT 5

49 CFR Part 26:

<https://www.ecfr.gov/cgi-bin/text-idx?SID=53cd5c89e0e9bdcfc93bae3ae3efb10c&mc=true&node=pt49.1.26&rgn=div5>