

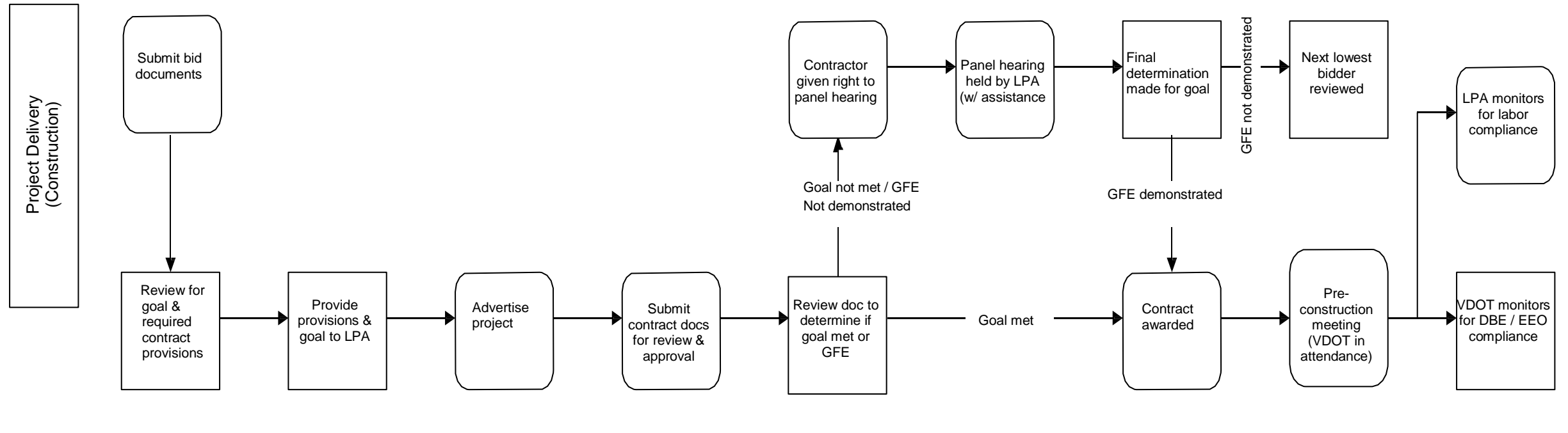
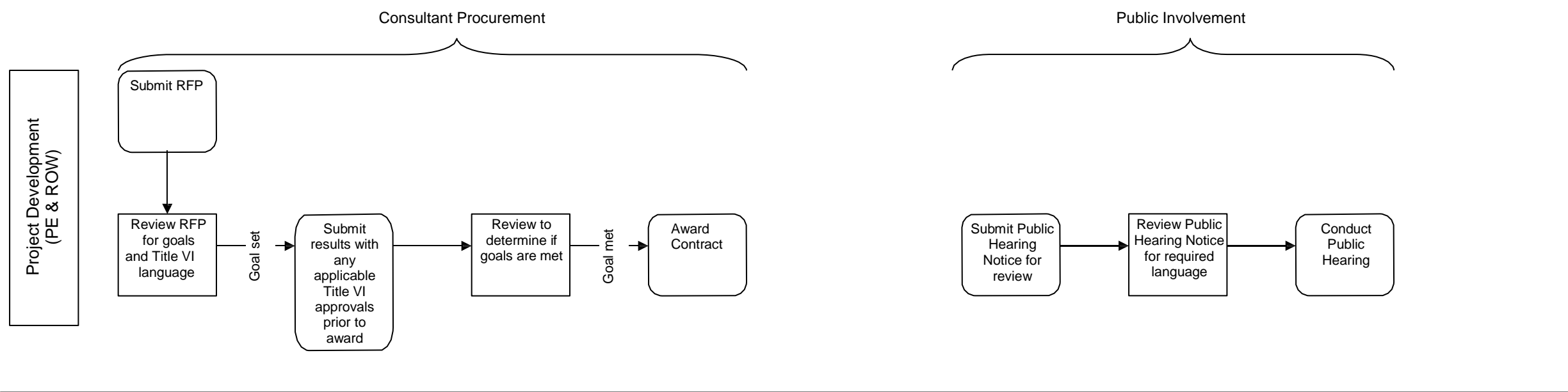
PART 3
Standards and
practices for LAP
Chapter 17
Civil Rights and DBE

Locally Administered Projects (LAP) Manual

Updated February 2018

CHAPTER 17 - CIVIL RIGHTS PROGRAM REQUIREMENTS

Civil Rights



Chapter 17

Civil Rights Requirements

- 17.1 [GENERAL CIVIL RIGHTS REQUIREMENTS](#)
- 17.2 [GENERAL TITLE VI REQUIREMENTS AND EXECUTIVE ORDERS](#)
- 17.3 [DBE REQUIREMENTS](#)
- 17.4 [ON THE JOB TRAINING \(OJT\) FOR CONSTRUCTION PROJECTS](#)
- 17.5 [REQUIRED CONTRACT PROVISIONS](#)
- 17.6 [COMPLIANCE AND REPORTING](#)

[Chapter 17 – Civil Rights Checklist](#)

APPENDICES

- 17 A - [Required Contract Provisions and Forms Matrix](#)
- 17 B - [EEO Bulleting Board Posters for Civil Rights](#)
- 17 C - [Civil Rights Requirements During Construction](#)
- 17 D - [Good Faith Efforts \(GFE\) Administrative Reconsideration Process](#)
- 17 E - [U.S. DOT 1050.2A – Appendix A, B, C, D and E](#)
 - Appendix A – [Contractor/Consultant/Supplier Agreement: U. S. DOT 1050.2A](#)
 - Appendix B – [Clauses for Deeds Transferring United States Property](#)
 - Appendix C – [Clauses for Transfer of Real Property, Acquired or Improved Under the Activity, Facility, or Program](#)
 - Appendix D – [Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program](#)
 - Appendix E – [Contractor/Consultant/Supplier Agreements: U. S. DOT 1050.2A](#)

17.1 GENERAL CIVIL RIGHTS REQUIREMENTS

17.1.1 [Introduction](#)

17.1.2 [Applicability](#)

17.1.3 [Tasks / Submittals](#)

17.1.4 [References](#)

17.1.1 Introduction

The LPA, as a sub-recipient of federal funds through VDOT from FHWA, are required to adopt and operate under VDOT's approved [DBE Program Plan](#). Federal-aid projects are subject to Disadvantaged Business Enterprise Program requirements in accordance with the regulatory policy in 49 CFR Part 26. These requirements are further outlined in [Section 17.3.1](#).

This chapter outlines the processes and responsibilities associated with Civil Rights compliance for federal-aid projects. These procedures support LPA compliance with Title VI of the Civil Rights Act of 1964, as amended and all other presidential executive orders, rules and regulations governing nondiscrimination, equal employment opportunity, the Disadvantaged Business Enterprise (DBE) and On the Job Training (OJT) Programs. This chapter contains checklists of civil rights requirements for contract provisions and civil rights goals and requirements to be monitored prior to and after award of a contract.

Civil Rights responsibilities exist throughout the life of the project. The following Civil Rights guidelines are intended to provide an easy reference to federal-aid and state construction program regulations, policies, and guidance. As a recipient of federal funds, LPA's are responsible for ensuring nondiscrimination in the administration of projects and must adhere to all Civil Rights requirements. VDOT's Civil Rights Office ensures that the Virginia Department of Transportation's (VDOT) policies related to Equal Employment Opportunity (EEO), Nondiscrimination, Training, and Disadvantaged Business Enterprises (DBE) and Small, Women, and Minority-owned (SWaM) businesses are carried out. VDOT's Civil Rights Office monitors compliance with contractual affirmative action requirements both prior to and after award of a contract.

17.1.2 Applicability

<i>Federal-aid</i>	<i>State-aid/VDOT</i>	<i>State-aid/LPA</i>
<i>X</i>	<i>Maintained</i> <i>*</i>	<i>Maintained</i> <i>*</i>

* State aid projects shall include the requirements outlined in the Virginia Public Procurement Act, other applicable laws, and provisions outlined in Chapter 5.2.

17.1.3 Tasks/Submittals Table

<i>Task/Submittal/File Documentation</i>	<i>Locality Responsibility</i>	<i>VDOT CR Responsibility</i>	<i>Submittal Timing/Recordkeeping Requirements</i>
Project Scope and applicable environmental documents	<ul style="list-style-type: none"> • Submit scoping documentation to PC 	Review to ensure compliance with Title VI	N/A
Consultant Procurement	<ul style="list-style-type: none"> • Submit RFP to PC for review and possible goal setting by CR • Include Title VI Notifications in solicitations 	Review RFP and establish goal(s) if appropriate and review for Title VI Notifications	Review complete within 10 business days
Public Hearing	<ul style="list-style-type: none"> • Post and send notice for public hearing to PC • Schedule Public hearing in accessible location 	Review public hearing notice. May attend meeting to ensure compliance with Title VI, ADA and Section 504 of Rehabilitation Act	N/A
Project estimate/ bid proposal	<ul style="list-style-type: none"> • Submit an estimate or task breakdown to PC for review and goal setting (DBE and OJT) by DCRO 	Review and establish goal(s) if appropriate	<p>Locality submittal required 60 business days prior to advertisement.</p> <p>CR review completed within 20 business days of receipt if all required information is received from Locality</p> <p>Appendix 17A lists required contract provisions</p>
Bid documents/ pre-award	<ul style="list-style-type: none"> • Submit low bidder information, C-111/C-49 (GFE) and C-48 to PC for review within 30 days of bid opening • Insert notification in bids and RFP's 	<p>Review documentation to determine goal or if Good Faith Efforts (GFE) Met</p> <p>Review for inclusion of Title VI Notifications</p>	Civil Rights review completed within 20 business days of receipt of documents

Title VI Evaluation Forms	<ul style="list-style-type: none"> Review and approval of the forms prior to contract award. 	Review documentation to ensure compliance.	<p>Locality submittal required prior to contract award.</p> <p>CR review completed within 10 business days of receipt of documents.</p>
Title VI Nondiscrimination Contract Provisions	<ul style="list-style-type: none"> Ensure consultants are including the required Title VI provisions in their sub-consultant's contracts/ agreements. 	CR will monitor compliance during Title VI reviews.	Locality to keep contract records
Preconstruction meeting	<ul style="list-style-type: none"> Invite the District Civil Rights Office to the preconstruction meeting Provide executed contracts to DCRO 	Attend preconstruction meeting to review CR requirements and forms With contractor	N/A
Construction	<ul style="list-style-type: none"> Administer CR Program areas (DBE,OJT, and EEO) during project 	<ul style="list-style-type: none"> Conduct DBE compliance review on each DBE on each project Conduct annual EEO Contractor review as required for contractors with executed contracts 	<p>DBE reviews required on each DBE at least once during the life of the project</p> <p>EEO review required if contractor has not had annual review and has executed contract</p>
Conduct Labor Compliance Review	<ul style="list-style-type: none"> Review and track contractor's certified payroll Davis-Bacon interviews with employees 	N/A	<p>Review first 4 weeks for compliance and then as needed.</p> <p>First 30 days of construction; and quarterly while project is active</p>

17.1.4 References

Title VI of the Civil Rights Act of 1964, as amended	29 CFR Part 1614
FHWA 1273	29 CFR Part 1625
Executive Order (EO) 11246 as amended by Executive Order 11375	41 CFR Part 50
USDOT 1050.2A – Appendix A, B, C, D and E	41 CFR Part 60
Executive Order 12898	49 CFR Parts 21, 23, 26, and 27
Executive Order 13166	Section 504 of the 1973 Rehabilitation Act
23 CFR Parts 200, 230, and 633	Restoration Act of 1987
29 CFR Part 3	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
29 CFR chapter V	The Federal Aid Highway Act of 1973
29 CFR Part 790.5	The 1975 Age Discrimination Act

Other Helpful References

[Davis-Bacon and Related Acts Guidance](#)

[2016 Virginia Department of Transportation Road and Bridge Specifications](#) (Sections, 107.13, 107.14, 107.15, 518 respectively)

[Special Provision for Section 107.15](#)

[DBE Program Plan](#)

[United States Department of Labor Poster Matrix](#)

[Virginia Construction Alliance OJT Trainee Classification Booklet](#)

[Code of Virginia Section 2.2-4201](#)

[Code of Virginia Section 2.2-4311](#)

[Code of Virginia Section 51.5-40](#)

[Code of Virginia Section 51.5-41](#)

[Code of Virginia Section 51.5-44](#)

[Virginia Department of Labor and Industry](#)

[Virginia Employment Commission](#)

[Virginia Workers Compensation Commission](#)

[Virginia Department of Small Business and Supplier Diversity](#)

[VDOT Civil Rights Division - DBE Information](#)

[Federal Aid Essentials for Local Public Agencies \(Civil Rights Program Requirements\)](#)

17.2 GENERAL TITLE VI REQUIREMENTS AND EXECUTIVE ORDERS

- 17.2.1 [Title VI Requirements](#)
- 17.2.2 [Sub-recipients \(Consultants and Sub-consultants Monitoring and Review\)](#)
- 17.2.3 [Title VI Language in Contracts](#)
 - 17.2.3.1 [Title VI Notifications in solicitations \(bids, RFPs and proposals\)](#)
 - 17.2.3.2 [Title VI Nondiscrimination Contract Provisions](#)
- 17.2.4 [Environmental Justice and the Public Involvement Process](#)
- 17.2.5 [Limited English Proficiency \(LEP\)](#)

Applicability		
<i>Federal-aid</i>	<i>State-aid/VDOT</i>	<i>State-aid/LPA</i>
	<i>Maintained</i>	<i>Maintained</i>
X	*	*

* All recipients of federal aid-funds are required to comply with the requirements of Title VI.

GLOSSARY OF TERMS

LPA: *Local Public Agency*

Title VI: *The sixth (6th) act of the Civil Rights Act of 1964. Title VI prohibits discrimination based upon race, color, and national origin.*

Title VI Program: *System of policies and procedures designed to monitor compliance, address complaints and eliminate discrimination when it is found to exist.*

Title VI Assurance: *Contract that obligates the sub-recipient to comply with Title VI statues and confirms the consequences of non-compliance.*

Title VI Program Plan: *Document that contains the agency’s Title VI Program*

17.2.1 Title VI - Requirements

As a sub-recipient of federal assistance, LPAs are required to comply with 23 CFR Part 200 as related to Title VI of the Civil Rights Act of 1964 and related statutes. The LPAs must ensure that no person shall intentionally or unintentionally because of race, color, national origin, sex, or disability be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity including, but not limited to the selection and retention of contractors, procurement of materials and leases of equipment.



Important Note: Earlier versions of the LAP Manual included expanded information regarding the Title VI program requirements. Much of this “programmatic” information has been removed with this edition due to the prior information being misinterpreted as a requirement for individual local projects instead of a requirement for the LPA’s Title VI program. The information included in this edition comprises only the Title VI requirements applicable to project administration.



Another Important Note: the removal of the programmatic information **does not eliminate** VDOT’s responsibilities and requirements for compliance with the Title VI program and regulations, and likewise **does not exempt** sub-recipients of federal funds (LPA’s) from these requirements. Title VI resources available to LPA’s are located at: [Title VI Program Resources](#).

In order to receive federal aid the LPA must have previously signed a Title VI Program Assurance, making a commitment to implement a system of procedures and actions which include at a minimum the identification of a Title VI Program coordinator, the submittal of a Title VI Program Plan, annual submittals of Title VI Program Reports and the inclusion of Title VI language in procurement and contractual documents. If the LPA does not have a signed Title VI Assurance, this must occur prior to receipt of federal aid through VDOT.

In conformance with Federal Title VI regulations, VDOT will conduct periodic reviews of LPA’s Title VI compliance. The review will focus on how effectively the local agency has implemented its Title VI Plan and it will consist of Desk (Pre-Site visit) Review and an On-Site Review. The LPA will be asked to gather and submit documentation such as record or contract files for the On-Site Review. Personnel with Title VI responsibilities and/or Project managers will be interviewed during the On-Site visit.

17.2.2 Title VI - Sub-recipients (Consultants and Sub-consultants) Monitoring and Reviews

The LPA has the responsibility to ensure that prime consultants and their sub-consultants comply with all nondiscrimination requirements. Project Managers must adhere to the procedure developed / adopted by its Agency (LPA) to monitor & review consultants and sub-consultants.

If the LPA has chosen to utilize a Title VI Evaluation form to conduct these reviews, the LPA shall take ownership of the review and approval of the form. Each consultant and sub-consultant will submit the Title VI Evaluation form to the LPA's staff/department the locality may designate to conduct the review and approvals of the form.

The LPA may have chosen to develop a different procedure to review and monitor its consultants and sub-consultants. This procedure shall be described in the locality's Title VI Implementation Plan and will have been approved by the VDOT's Civil Rights Office at the time of the Title VI Implementation Approval.

A sample of the Title VI Evaluation form that may be used is included in [Appendix 17E](#). Project Managers are responsible to ensure that consultants and sub-consultants have an approved Title VI Evaluation form on file prior to contract award and during the duration of the Contract.

17.2.3 Title VI Language in Contracts

17.2.3.1 Title VI Notifications in solicitations (bids, RFPs and proposals)

In accordance to the LPA's signed Title VI Assurances (Specific Assurance 2) the LPA will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The (LPA name) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this

invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

17.2.3.2 Title VI Nondiscrimination Contract Provisions

In accordance to the LPA's signed Title VI Assurances (Specific Assurance 3) the LPA will insert the clauses of Appendix A and E of the DOT Order 1050.2A in every consultant's contract or agreement subject to the Acts and the Regulations (see section [17.5.3](#))

The LPA must ensure that the required clauses/provisions are also inserted in the every sub-consultant's contract or agreement.

A copy of a blank template of Appendices A thru E of the Department of Transportation Order 1050.2A is provided in [Appendix 17E](#) of this manual as a reference. Note: The only clauses to be inserted in consultant agreements are Appendix A and Appendix E of the DOT Order.

17.2.4 Title VI – Environmental Justice and the Public Involvement Process

Environmental justice refers to the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to transportation programs, policies, or activities. Fair treatment means that no single group shall share a disproportionate burden or impact of a project due to racial, social or economic disadvantage. Executive Order 12898 (Appendix C) requires that all federal agencies and other entities receiving federal funds identify, and address disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low income populations. In application to transportation, environmental justice requires analysis of potential environmental impacts; full and fair public participation by identified populations in the transportation decision making process; and implementation of strategies to avoid, minimize or mitigate "significant and adverse environmental justice impacts; and procedures to prevent the denial, reduction or delay in benefits received by minority and low-income populations."

To ensure compliance with Title VI for environmental justice and public access the LPA is responsible for the following (Further guidance can be found in 23 CFR 450.206 through 23 CFR 450.214.)

- Reviewing the project scope and applicable environmental justice documents to ensure compliance with Title VI, as amended.
- Collecting and appropriately using demographic data to determine the equitable distribution of benefits and burden associated with transportation investments which adequately reflect community boundaries, racial and ethnic makeup, income, sex, age, disabilities, available community services, limited English proficiency population, and similar metrics.
- Complying with Public Information requirements outlined in Chapter 12.4
- Providing notice in foreign languages, as applicable, to impacted communities or persons if there is an LEP population according to the guidelines in 17.2.3.
- Scheduling meetings at locations that are accessible (location, time and via public transportation) to persons with disabilities as defined under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, and accessible via public transportation.
- Attending meetings and collecting demographic statistical data of participants (race, color, sex, and national origin) by use of a Survey at the public meetings ([Survey](#)) and forwarding any Title VI concerns or allegations to the District Civil Rights Office.

The Federal Highway Administration provides detailed legislation and guidance to ensure compliance with Title VI and Environmental Justice requirements on its [Environmental Justice Website](#).

VDOT Responsibilities:

- *The Project Coordinator will provide project scoping and environmental documents to Civil Rights for review to ensure compliance with Title VI.*
- *Civil Rights will review documents and provide comments (if needed) within 10 business days.*

17.2.5 Title VI - Limited English Proficiency (LEP) (EO 13166)

LPA's are required to ensure that LEP persons are provided adequate access to information and programs in order to effectively participate in transportation programs. An LEP person is a person who does not speak English as their primary language and has limited ability to read, speak, write or understand English. Executive Order 13166 instructs agencies and recipients of federal funds to examine their services, and develop and implement processes by which LEP persons can have meaningful access to services. Recipients and sub recipients of federal funding shall take reasonable steps to ensure that LEP persons are given adequate project information, are able to understand that information, and are able to participate effectively in recipient programs or activities, where appropriate. Reasonable steps may include providing interpreting and translation services.

To ensure compliance with Title VI, the LPA is responsible for the following:

- Providing notice in foreign languages to impacted communities or persons
- Facilitating interpreters at public meetings if a request for this service is placed by any member of the community and providing translated materials.

17.3 DBE REQUIREMENTS

17.3.1 [Disadvantaged Business Enterprises \(DBE\) Policy](#)

17.3.2 [DBE Goal Setting Process](#)

17.3.3 [Good Faith Efforts](#)

17.3.3.1 [Good Faith Efforts Activities](#)

17.3.3.2 [Administrative Review](#)

17.3.3.3 [Substitutions](#)

17.3.3.4 [Non-Compliance](#)

17.3.4 [Bidders' DBE Obligations during Procurement Process](#)

17.3.4.1 [Commitments](#)

17.3.4.2 [Sub-consultant/Sub-contractor Suppliers Solicitation and Utilization](#)

<i>Applicability</i>		
<i>Federal-aid</i>	<i>State-aid/VDOT</i>	<i>State-aid/LPA</i>
	<i>Maintained</i>	<i>Maintained</i>
X	*	*

* Except as noted otherwise, these requirements are **applicable only to Federal-aid projects**

17.3.1 Disadvantaged Business Enterprises (DBE) Policy / Certification

The LPA, as a sub-recipient of federal funds through VDOT from FHWA, are required to adopt and operate under VDOT's approved [DBE Program Plan](#). Federal-aid projects are subject to Disadvantaged Business Enterprise Program requirements in accordance with the regulatory policy in 49 CFR Part 26. LPA adoption of the [DBE Program Plan](#) obligates the Locality to:

- Submit required documentation as noted in Chapter 17, Section [17.3.2](#) of the LAP manual prior to advertisement for goal setting and contract language;
- Award the contract in accordance with the Good Faith Efforts Guidelines in Chapter 17, Section [17.3.3](#)
- Monitor project activity and notify the District Civil Rights Office immediately of any variation of the DBE Commitment information from the executed contract documents
- Submit the DBE Semi-Annual progress report, as provided in Chapter 17, Section [17.6.3.3](#)



A ratifying statement is incorporated into each locally administered project's Federal-aid project administration agreement stating that the LPA shall adopt and operate under VDOT's FHWA-approved DBE Program Plan.

Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, must have the maximum opportunity to participate in the performance of all federally funded contracts. The Virginia Department of Small Business and Supplier Diversity (SBSD) maintain a list of firms that have been certified by the SBSD and the Metropolitan Washington Airports Authority (MWAA) under the **DBE Directory of Certified Vendors**. Contractors/Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the contractor/consultant intends to subcontract a portion of the services on the project, the contractor/consultant is encouraged to seek out and consider DBEs as potential Sub-contractors/sub-consultants. The contractor/consultant is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a contractor/consultant and a DBE whereby the DBE promises not to provide services to other contractors/consultants is prohibited.



It should be noted that DBE compliance and SWAM compliance are different and compliance with one program does not necessarily mean there is compliance with the other.

A listing of DBE firms may be obtained on-line at [SBSD](#) under the DBE Directory of Certified Vendors or by contacting:

Virginia Department of Small Business and Supplier Diversity
1111 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 786-6585

49 CFR Part 26 requires VDOT to collect certain data about firms participating in VDOT contracts. This data must be provided on the [Form C-48](#) for construction projects and the Firm Data Sheet for professional/nonprofessional services.

VDOT is also required to capture prime and all Sub-contractor/sub-consultant payment information on all federally funded contracts. The successful prime contractor/consultant will be required to complete [Form C-63](#) on a quarterly basis throughout the life of the contract.

DBE firms must become certified (with the SBSD or MWAA) prior to the response being submitted. If a DBE is the prime contractor/consultant, the firm will receive full credit for planned involvement of its own forces, as well as the work that they commit to be performed by DBE Sub-contractors/sub-consultants. DBE prime contractors/consultants are encouraged to make the same outreach efforts as other contractors/consultants. DBE credit will be awarded only for work actually being performed by them. When a DBE prime contractor/consultant subcontracts work to another firm, the work counts toward DBE goals only if the other firm is itself a DBE. A DBE prime contractor/consultant must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own forces.

DBE certification entitles contractors/consultants to participate in VDOT's DBE programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

The following policy statement is to be placed in each federal-aid solicitation:

It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 must have the maximum opportunity to participate in the performance of federally funded contracts. A list of DBE firms certified by the SBSD and MWAA is maintained on SBSD's website (<http://www.SBSD.virginia.gov>) under the DBE Directory of Certified Vendors. Contractors/consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on contract, including participation in any subsequent supplement contracts. If the contractor/consultant intends to subcontract a portion of the services on the project, the contractor/consultant is encouraged to seek out and consider DBEs as potential Sub-contractors/sub-consultants. The contractor/Sub-contractor is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a contractor/consultant and a DBE whereby the DBE promises not to provide services to other contractors/consultants is prohibited.

[Include the following wording on federally funded projects with DBE goals:]

- *The DBE contract goal for this procurement is _____ %*

[Include the following wording on federally funded projects without DBE goals:]

- *DBE contract goals have not been established on this contract; however, contractors/consultants are still encouraged to employ reasonable means to obtain DBE participation.*

If portions of the services are subcontracted to a DBE, the following needs to be submitted with the bid:

- Written documents of the prime's commitment to the DBE to subcontract a portion of the services, a description of the services to be performed and the percent of participation. (See Section [17.3.4](#) for required forms)
- Written confirmation from the DBE that is participating, including a description of the services to be performed and the percent of participation. (See Section [17.3.4](#) for required forms)

17.3.2 DBE Goal Setting Process



The Goal Setting Process outlined below is applicable to both professional services (consultant) contracts and construction (contractor) contracts. Specific, separate guidance will be noted, as applicable.



The locality is to submit the estimate for the proposed project, which includes the work activities and their associated costs, and the final total cost assigned to the project to the Project Coordinator to be submitted to the District Civil Rights Office no later than 60 days prior to advertisement for DBE goal determination and to ensure proper contract language and documents/forms are included.

The District Civil Rights Office will provide comments and the Central Office Civil Rights analysts will establish the DBE goal within 20 business days if all required information is received from the locality for review.



Once a professional or non-professional services contract has been advertised and a firm has been selected, the locality will forward the DBE information regarding DBE participation commitment to the project coordinator for review and recommendations regarding award of the project.



Once a construction contract has been advertised and bids received, the locality will forward the DBE information regarding DBE participation commitment from the lowest responsive and responsible bidder to the appropriate District Civil Rights Office.

The award of all contracts must adhere to federal regulations, as promulgated in 49 CFR Part 26, Part 23 and the Department's Special Provision for Section 107.15 (of the Virginia Department of Transportation's Road and Bridge Specifications (Specifications) relative to 'good faith efforts' by consultants/contractors in attaining the required DBE participation.

Prior to award, consultants/contractors are required to achieve the established DBE goal or

demonstrate that a good faith effort has been made to achieve the goal. After award, the locality will submit a copy of the signed contract and supporting DBE information to the Project Coordinator.

VDOT Responsibilities:

- *The Project Coordinator will submit the LPA prepared project estimate and bid documents to Civil Rights for review and goal setting for both professional services contracts and construction contracts.*
- *Civil Rights will review documents and establish a DBE goal (if needed) within 20 business days of receipt.*

17.3.3 Good Faith Efforts

Whether as a consultant or contractor of a federally-assisted contract, good faith efforts are required to meet the contract goal. This applies even if the prime consultant/contractor is a DBE. When a locality has a contract goal on a Federal-aid project, consultants/contractors must, in order to be responsive and responsible, make good faith efforts to meet the goal.

The consultant/contractor can meet this requirement in either of two ways.

- First, the consultant/contractor can meet the goal by submitting the names of DBE firms to be utilized to meet the DBE goal requirement.
- Second, even if a consultant/contractor does not meet the goal, the consultant/contractor can document adequate good faith efforts. This means that the consultant/contractor must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of 49 CFR Part 26 which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

No locality shall require that a consultant/contractor meet a DBE goal in order to be awarded a contract. Title 49 CFR Part 26 specifically prohibits federal-aid recipients from ignoring bona fide good faith efforts.

In any situation where a DBE goal has been established and the DBE goal has not been met,

the use of good faith efforts must be demonstrated. Each LPA must make a fair and reasonable judgment whether a consultant/contractor that did not meet the goal made adequate good faith efforts. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that the consultant/contractor has made. The efforts employed by the consultant/contractor should be those that one could reasonably expect any consultant/contractor to take if the consultant/contractor were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal.

VDOT Responsibilities:

- *The Project Coordinator will provide the bid tabulation and documentation to meet the DBE goal to Civil Rights for review prior to contract award.*
- *Civil Rights will review documents and determine if the DBE goal has been met or if good faith efforts have been demonstrated within 20 business days of receipt.*
- *Civil Rights will review the Locality's determination regarding the contractor's good faith efforts to ensure the determination is in accordance with 49 CFR 26.53 and 49 CFR 26 Appendix A (What are the good faith efforts procedures recipients follow in situations where there are contract goals), and VDOT's Special Provision for 107.15 Use of Disadvantaged Business Enterprises (DBEs).*
- *Civil Rights will concur if the Locality's determination is in accordance with 49 CFR 26.53, 49 CFR 26 Appendix A, and VDOT Special Provision 107.15. Civil Rights will provide technical assistance to the Locality if the good faith efforts determination by the Locality is found not to be in compliance with 49 CFR Part 26 and 49 CFR 26 Appendix A, and VDOT Special Provision 107.15.*
- *Civil Rights will recommend non reimbursement of funds to any Locality that awards a contract not in accordance with good faith effort regulations.*

17.3.3.1 Good Faith Effort Activities

The following types of activities should be considered by a locality as part of the consultant/contractors good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The consultant/contractor must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The consultant/contractor must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime consultant/contractor might otherwise prefer to perform these work items with its own forces.
 - Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

 - Negotiating in good faith with interested DBEs. It is the consultant/contractor's responsibility to make a portion of the work available to DBE sub-consultants/sub-contractors and suppliers and to select those portions of the work or material needs consistent with the available DBE sub-consultants/sub-contractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached for DBEs to perform the work.

 - A consultant/contractor using good business judgment would consider a number of factors in negotiating with sub-consultants/sub-contractors, including DBE sub-consultants/Sub-contractors, and would take a firm's price and capabilities as well as the contract goals into consideration. However, the fact that there may be some

additional costs involved in finding and using DBEs is not in itself sufficient reason for a consultant/contractor's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime consultant/contractor to perform the work of a contract with its own organization does not relieve the consultant/contractor of the responsibility to make good faith efforts. Prime consultants/contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

- Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The consultant/contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids in the consultant/contractor's efforts to meet the project goal.
- Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or consultant/contractor.
- Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

17.3.3.2 Administrative Review

If an established DBE goal is not met, a consultant/contractor must, in order to be considered responsible and/or responsive, have demonstrated good faith efforts to meet the DBE goal by documenting commitments for participation by sufficient DBE firms, or document adequate good faith efforts to actively and aggressively obtain participation by a sufficient number of DBE

firms. An administrative review (see 49 CFR 26.53) of the good faith efforts must be made prior to award in each instance by the locality. If the locality determines that the apparent successful consultant/contractor has failed to meet the good faith requirements, the local agency must, before awarding the contract, provide the consultant/contractor an opportunity for administrative reconsideration in accordance with Section 49 CFR 26.53.

A locality must not use a “conclusive presumption” approach, in which the apparent successful consultant/contractor is summarily found to have failed to make good faith efforts simply because another consultant/contractor was able to meet the goal. However, the performance of other consultant/contractors in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way.

For example, when the apparent successful consultant/contractor fails to meet the contract goal, but others meet it, the locality may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant/contractor could have met the goal. It does not, by itself, prove that the apparent successful consultant/contractor did not demonstrate good faith efforts to meet the DBE goal. On the other hand, if the apparent successful consultant/contractor fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants/contractors, the locality may view this, in conjunction with other factors, as evidence of the apparent successful consultant/contractor having made good faith efforts.

VDOT Responsibilities:

- *The Project Coordinator will advise Civil Rights if an Administrative Reconsideration Panel has been requested.*
- *Civil Rights will provide technical assistance with the Administrative Reconsideration Panel.*

17.3.3.3 Substitutions

After a contract has been executed with a DBE goal, adequate good faith efforts and Civil Rights approval are required for any substitution of DBE sub-consultants/sub-contractors to the extent necessary to meet the contract goal.

Localities must require that a prime consultant/contractor not terminate a DBE sub-consultant/sub-contractor for convenience and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the locality's prior written consent. When a DBE sub-consultant/Sub-contractor is terminated, or fails to complete its work on the contract for any reason, the locality must require the prime consultant/contractor to make good faith efforts to find another DBE sub-consultant/Sub-contractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal.

17.3.3.4 Non-Compliance

Local agencies must include a provision in each prime contract for appropriate administrative remedies that will be invoked if the prime consultant/contractor fails to comply with the good faith efforts requirements during the contract.

17.3.4 Consultant/Contractor DBE Obligations during Procurement Process

17.3.4.1 Commitments

Consultant/Contractors shall identify in their bid documents (on [Form C-111](#), Minimum DBE Requirements or Proposal, Appendix E), all of the DBEs who will participate on the project toward achieving the DBE goal.



The forms [C-111](#) and [C-112](#) (Appendix E) shall be completed and submitted in accordance with Special Provision 107.15 of the Specifications for construction contracts or Special Provision 107.15 for consultant contracts. DBE firms must be certified by either the SBSB or MWAA.

The Consultant/Contractor shall list on the [Form C-111](#) (Appendix E) the names of each DBE firm which the Consultant/Contractor intends to utilize for DBE participation credit towards the DBE goal. If the prime contractor or consultant is a DBE firm, the required documentation must reflect such. The following information must be listed on the [Form C-111](#):

- The complete legal business name as it appears on the Directory of Certified Vendors.

- The certification number;
- The type and item numbers of work or task description to be performed;
- Each DBE's participation in the contract, expressed as amount of allowable credit per item/task in dollars or percentages at the first submittal of a proposal;
- The percent of work for each DBE on the [Form C-111](#) (Appendix E). The percent allocated for each DBE must be in accordance with commercially useful function provisions;
- The total dollar and the total participation expressed as a percentage of the total bid price. These totals shall include the sum of the following:
 - The value of all proposed DBE subcontracts used for credit on the project; and
 - The dollar value of all materials and supplies to be provided by DBEs (to be credited as noted above).



The successful prime contractor on a construction contract is required to submit a fully executed [Form C-112](#) (Appendix E) within three (3) working days after the bids have been opened and the determination of apparent lowest bidder. The Firm Data Sheet is required for consultant contracts.

17.3.4.2 Sub-consultant/Sub-contractor Supplier Solicitation and Utilization



It is a requirement that all vendors, both primes and DBEs who intend to submit a bid as a prime consultant/contractor, submit a [Form C-48](#). The form must be completed by each prime bidder/offeror in detail, as the information is sent to the Federal Highway Administration to better track DBE outreach efforts.

17.4 ON THE JOB TRAINING (OJT) FOR CONSTRUCTION PROJECTS

<i>Applicability</i>		
<i>Federal-aid</i>	<i>State-aid/VDOT</i>	<i>State-aid/LPA</i>
	<i>Maintained</i>	<i>Maintained</i>
X	*	*

The contractor shall take all necessary and reasonable steps to ensure training and upgrading of minorities, women, veterans, and other disadvantaged persons toward achieving journeyman status within a given construction trade in accordance with Section 518 of the Specifications. The OJT program seeks to reduce overhead costs associated with training through a stipend reimbursement to the contractor while offering the opportunity to enhance short and long term workforce needs. The contractor will be reimbursed per hour per trainee.

The OJT program requires full utilization of all available training and skill-improvement opportunities to assure the increased participation of minority groups and disadvantaged persons and women in all phases of the highway construction industry. It is the intent that each contractor's workforce and construction site should reflect the same diversity as the community.

The DCRO will set a trainee goal for federal-aid construction projects prior to advertisement. The DCRO will approve all trainee enrollments to ensure disadvantaged persons are given opportunities for training utilizing [Form C-65](#) and subsequently recorded on [Form C-67](#).

Trainee work classifications and the requirements of each will follow those already developed by the Virginia Transportation Construction Alliance ("VTCA"). Copies of the OJT Trainee Classification Booklet may be obtained by contacting VTCA.

VDOT Responsibilities:

- *The Project Coordinator will provide the detail project estimate and bid proposal to Civil Rights for review.*
- *District Civil Rights Office will review documents and establish OJT goal, as needed.*

17.5 REQUIRED CONTRACT PROVISIONS

17.5.1 [Nondiscrimination Provision](#)

17.5.2 [FHWA 1273 for Construction Contracts](#)

17.5.3 [USDOT 1050.2A Title VI/Nondiscrimination Assurance](#)

17.5.4 [Equal Employment Opportunity \(Executive Order 11246\)](#)

17.5.5 [DBE Special Provision](#)

17.5.5.1 [DBE Special Provision for Construction Contracts](#)

17.5.5.2 [DBE Special Provision for Professional Services Contracts](#)

17.5.6 [Affirmative Action to Ensure Equal Employment Opportunity](#)

17.5.7 [Prevailing Wage Rates for Construction Projects](#)

Applicability		
<i>Federal-aid</i>	<i>State-aid/VDOT</i>	<i>State-aid/LPA</i>
	<i>Maintained</i>	<i>Maintained</i>
X	--	--

17.5.1 Nondiscrimination Provision

Construction contractors and consultants must abide by the provisions of Title VI of the Civil Rights Act of 1964 (42 USC 2000 d). Title VI of the Civil Rights Act of 1964 declares it to be the policy of the United States that discrimination on the grounds of race, color, or national origin and other related statues shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments, agencies, and sub-recipients to take action to carry out this policy. 49 CFR Parts 21, 23, 26, and 27 and 23 CFR Parts 200, 230, and 633 are incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds.

For state-funded projects, construction contractors and consultants must abide by Title 2.2, chapter 43 of the Code of Virginia (the Public Procurement Act) that declares it to be the policy of the Commonwealth of Virginia that discrimination on the grounds of race, color, or national origin shall not occur in connection with programs and activities receiving state financial assistance.

17.5.2 FHWA-1273 for Construction Contracts

FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," (Appendix B) contains contract provisions and proposal notices that are required by regulations promulgated by the FHWA or other Federal agencies. 23 CFR Section 633.102 requires that the contract provisions of the FHWA-1273 be physically incorporated in every federal-aid construction contract as well as any subcontract. The required contract provisions contained in FHWA-1273 shall apply to all work performed on the contract by the contractor's own organization and to all work performed on the contract by piecework, station work, or by subcontract.

The contractor shall insert in each subcontract except as excluded by law or regulation, the required contract provisions contained in FHWA-1273 and further require its inclusion in any lower tier subcontract that may in turn be made. The required contract provisions of FHWA-1273 shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any Sub-contractor or lower tier Sub-contractor with the requirements contained in the provisions of [FHWA-1273](#).

17.5.3 USDOT 1050.2A – Title VI/Nondiscrimination Assurance

USDOT 1050.2A Title VI/Nondiscrimination Assurance (Appendix A and Appendix E) contains contract provisions that are required by regulations promulgated by the FHWA and other Federal agencies. DOT Order 1050.2A (Specific Assurance 3) requires that the contract provisions of Appendix A and Appendix E be physically incorporated in every federal-aid consultant contract as well as any sub-consultant agreement.

The consultant shall insert in each sub-consultant agreement except as excluded by law or regulation, the required contract provisions contained in Appendix A and Appendix E of USDOT 1050.2A and further require its inclusion in any lower tier sub-consultant that may in turn be made. The required contract provisions of USDOT 1050.2A shall not be incorporated by reference. The prime consultant shall be responsible for compliance by any sub-consultant or lower tier sub-consultant with the requirements contained in the provisions of USDOT 1050.2A.

17.5.4 Equal Employment Opportunity (Executive Order 11246)

LPAs must ensure that all contractors comply with the applicable provisions of Presidential executive orders and the rules, regulations, and orders of the President's Committee on Equal Employment Opportunity (EEO). The contractor shall cooperate with the Department in carrying out EEO obligations and in the department's review of activities under the Contract. The contractor shall comply with the specific EEO requirements of this section and shall include Executive Order 11246 in every subcontract of \$10,000 or more with such modification of language as may be necessary to make them binding on the Sub-contractor.

17.5.5 DBE Special Provision

17.5.5.1 DBE Special Provision for Construction Contracts

Any contractor, Sub-contractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the USDOT DBE Program in accordance with Title 49 Code of Regulations (CFR) Part 26, the USDOT DBE Program regulations, VDOT's Road and Bridge Specifications, and the VDOT DBE Program rules and regulations. Special Provision for Section 107.15 of the Specifications (Appendix B) is to be physically included in every supply or work/service subcontract and/or purchase order that it makes or executes with a Sub-contractor having work for which it intends to claim credit.

17.5.5.2 DBE Special Provision for Professional Services Contracts

Any Consultant, sub-consultant, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (USDOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the USDOT DBE Program regulations, and the Virginia Department of Transportation's (VDOT or the Department) DBE Program rules and regulations in accordance with this Special Provision.

17.5.6 Affirmative Action to Ensure Equal Employment Opportunity

Executive Order 11246 (EO 11246) as amended by EO 11375 (Appendix B), prohibits federal contractors and federally-assisted construction contractors and sub-contractors, who perform over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. Except in contracts exempted by

the Secretary of Labor in accordance with Section 204 of this Order, all government contracting agencies shall include in every government contract provisions identified in executive order 11246 as amended by EO 11375.

The Executive Order also requires government contractors to take affirmative action to insure that equal opportunity is provided in all aspects of their employment. Such action shall include, but not be limited to the following; employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The EO 11246 is administered by the Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) within the U. S. Department of Labor.

17.5.7 Prevailing Wage Rates for Construction Contracts

The [Davis Bacon and Related Acts \(DBRA\)](#) (Appendix B) requires all contractors and sub-contractors performing work on federal construction contracts or federally assisted contracts in excess of \$2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The federal minimum wage rates are determined by the Secretary of Labor for inclusion in all federally funded construction contracts.

In addition to the Davis Bacon Act itself, Congress added Davis-Bacon prevailing wage provisions to approximately 60 laws—"related Acts"—under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. Examples of the related Acts are the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act. Generally, the application of prevailing wage requirements to projects receiving federal assistance under any particular "related" Act depends on the provisions of that law.

VDOT Responsibilities:

- *The Project Coordinator will provide the detail project estimate and bid proposal to Civil Rights for review at least 60 days prior to advertisement.*
- *Civil Rights will provide the proper contract language within 20 days of receipt.*

17.6 CONTRACT/CONTRACTOR COMPLIANCE AND REPORTING

17.6.1 [Compliance Reviews](#)

17.6.1.1 [Equal Employment Opportunity \(EEO\) Contractor Compliance](#)

17.6.1.2 [DBE Compliance Review](#)

17.6.1.3 [Labor Compliance](#)

17.6.2 [Posters \(Construction and Professional Services\)](#)

17.6.3 [Reporting](#)

17.6.3.1 [Annual Employment Report](#)

17.6.3.2 [Trainee Information](#)

17.6.3.3 [Uniform Report](#)

Applicability		
<i>Federal-aid</i>	<i>State-aid/VDOT</i>	<i>State-aid/LPA</i>
	<i>Maintained</i>	<i>Maintained</i>
<i>X</i>	<i>--</i>	<i>--</i>

17.6.1 Contract/Contractor Compliance Reviews

Activities on construction projects are monitored through compliance reviews conducted by VDOT to ensure contractors comply with contract requirements and must be coordinated with the Construction Project Monitor (ACE).

VDOT Responsibilities:

- *The Project Coordinator will ensure that Civil Rights is provided with a copy of the executed contract and is invited to the Preconstruction Meeting.*
- *Civil Rights will attend the Preconstruction Meeting.*

17.6.1.1 Equal Employment Opportunity (EEO) Contractor Compliance

EEO compliance reviews are conducted by the VDOT to ensure that all contractors and sub-contractors awarded work meet contractual Equal Opportunity (“EO”) requirements under

Executive Order 011246, as amended, 23 U.S.C. Section 140, FHWA 1273 (23 CFR Part 633), Specifications Section 107.14 and Title VI of the Civil Rights Act of 1964, as amended.



All contractors and sub-contractors will submit to the DCRO the required information such as EEO Policy, EEO Officer, EEO meeting minutes, company employment (Form [C-64](#)) and monthly project site employment reports (Form [C-57](#)) as indicated in Section 107.14 of the 2007 VDOT Road and Bridge Specifications.

VDOT Responsibilities:

- *Civil Rights will perform EEO review of the contractor at least once during the life of the project.*

17.6.1.2 DBE Compliance Review

The contractor must take every reasonable step to ensure that DBEs committed to perform work under contract perform a commercially useful function (“CUF”). It is the VDOT’s responsibility to determine compliance with the commercially useful function requirement that is described in 49 CFR Part 26.55. The DCRO will monitor construction activity to ensure that DBE firms are performing work in accordance with federal regulations. The DCRO will conduct DBE Compliance Reviews on each DBE firm performing work for goal attainment on each project. Compliance monitoring includes: site visits, review of documents such as material tickets, subcontracts, lease agreements, etc. and any other information needed to render a compliance determination.

VDOT Responsibilities:

- *Civil Rights will perform a DBE Compliance Review of the contractor at least once during the life of the project.*

17.6.1.3 Labor Compliance

The locality must take every reasonable step to ensure that employees are paid in accordance with Davis-Bacon and Related Acts. Under the provisions of the Act, contractors or their sub-contractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. It is the contractor’s responsibility to determine compliance with prevailing wage rates as described in

29 CFR Part 1, Part 3, and Part 5. The locality is responsible for conducting all Labor Compliance Reviews to verify certified payrolls ([WH347](#)). However, oversight responsibility rests with VDOT. Projects with a contract value greater than \$2,000, except for those off the right of way, on urban and rural local roads, or rural collector roads will be reviewed to determine compliance with the Davis-Bacon Act.

VDOT Responsibilities:

- *Civil Rights will review documentation of the locality's review and provide comments as needed.*

17.6.2 Posters (Construction Projects and Professional Services)

Virginia and federal laws require bulletin board posters to be posted in the workplace for the benefit of employers and employees. Each poster must be displayed in a conspicuous place where employees and applicants for employment can see it. Two bulletin boards must be displayed at all locations even if there are no eligible employees. Appendix 17-B lists all required posters.

17.6.3 Reporting

17.6.3.1 Annual Employment Report

All contractors and Sub-contractors having a contract or subcontract of at least \$10,000 or more are required to submit an annual employment report (Form [C-57](#)) to the DCRO in accordance with 23 CFR Part 230.121. The report reflects all employees on site during the last pay period of July during which work is performed. This information will be submitted to the DCRO on [Form C-57](#) indicating number of the employees in each work classification, by race and gender. All employees on site must be accounted for by race and gender for journeymen level, trainees and apprentices.

The annual employment report will be submitted to the DCRO via the locality by the contractor for each federally assisted project no later than the second week of August.

17.6.3.2 Trainee Information

VDOT requires that the contractor maintain records and documents of trainee enrollments to include: name of trainee, race, gender, trainee work classification, hourly wage rates, start date, completion date and wage increments as training progresses. This information will include reason(s) trainees do not complete the training program and number of dropouts and terminations prior to completion of the training program.



WEEKLY trainee records will be submitted to the DCRO via the locality's inspector on [Form C-67*](#). Information on the Form C-67 is utilized as documentation to support reimbursement for hours of training provided during the estimated period. **(*Form C-67 is applicable only to federal-aid projects.)**

The DCRO will maintain records and documents supporting the reimbursements to contractors for each trainee hour achieved via the OJT program. These records will include: contractor's name, project number, location of project, name of trainee(s), trainee(s) work classifications, and number of hours completed by each trainee(s). The Civil Rights Certificate of Achievement will be presented to each trainee completing the OJT program. Copies of these certificates will be part of the OJT trainee records.

If the Contract has a stipulation or requirement for trainees, the contractor shall submit to the locality semiannual training reports in accordance with the instructions shown on the forms furnished by the department. If the contractor fails to submit such reports in accordance with the instructions, his monthly process estimate for payment may be delayed.

17.6.3.3 Uniform Report

Sub-recipients of FHWA federal funds through VDOT are expected to keep accurate data regarding the contracting opportunities available to firms paid for with federal funds. Failure to submit contracting data relative to the DBE Program will result in noncompliance with 49 CFR Part 26. All dollar values listed on the [LPA Uniform Report](#) should represent the federal funds share attributable to VDOT to which this report will be submitted.



The DBE Uniform Report is due semi-annually on May 1 (for the period October 1 – March 30) and November 1 (for the period April 1 - September 30). The report is submitted to the District Civil Rights Office via the Project Coordinator. One report is due per Locality to cover any and all projects during the reporting period.




The Uniform Report template and instructions are available at the links below:

- [DBE Uniform Report](#) Template
- DBE Uniform Report [Instructions](#)

CH 17 – Civil Rights Checklist

CH 17 - Civil Rights

LPA's are responsible for complying with processes and responsibilities associated with Civil Rights for federal-aid projects. These procedures are intended to support LPA compliance with Title VI of the Civil Rights Act of 1964, as amended and all other presidential executive orders, rules and regulations governing nondiscrimination, equal employment opportunity, the Disadvantaged Business Enterprise (DBE) and On the Job Training (OJT) Programs.

<i>REQ'd</i>	<i>COMPL</i>	<i>F</i>	<i>S-V</i>	<i>S-L</i>	<i>T-A</i>	<i>UCI</i>	<i>Requirement</i>	<i>Chapter / Section</i>
	<input type="checkbox"/>	X					Submit scoping documentation. Review for Title VI Compliance	17.2
	<input type="checkbox"/>	X					Submit IFB for review and possible goal setting. Determine required Contract Provisions have been included	17.3
	<input type="checkbox"/>	X					Submit a detail estimate or task breakdown to DCRO for insertion of proper contract language and goal review (DBE and OJT)DBE Requirements	17.4 17.5
<input type="checkbox"/>	<input type="checkbox"/>	X					Compliance Reporting & Reviews	17.6

See Appendices 17A, 17B and 17C for specific requirements.

Appendix 17A - Required Contract Provisions and Forms Matrix

Document	Applicable with Funding Source		Construction		Professional Services		Required in contract
	Federal	State	With Goal	W/O Goal	With Goal	W/O Goal	
FHWA 1273	•		•	•			•
EO 11246	•		•	•			•
USDOT 1050.2A Title VI Assurance Appendix A & E	•				•	•	•
Form C-48 - Sub-contractor/Supplier Solicitation and Utilization Form	•		•	•			•
Form C-49 - DBE Good Faith Efforts Documentation	•		•		•		•
Form C-111 - Minimum DBE	•		•	•			•
Form C-112 Certification of Binding	•		•	•			•
Firm Data Sheet	•				•	•	•
Davis-Bacon Prevailing Wage Rates	•		•	•			•
Special Provision for Section 107.15	•		•		•		•
Section 107.15 Use of SWaM firms		•					•
DBE Policy Statement	•		•	•	•	•	•
Special Copied Note for 105.06 for State Funded Projects		•			•		•
(WH-347) Certified Payroll	•		•	•			
Form C-56 (WH-348) - Statement of Compliance	•		•	•			
Form C-61 – SWAM Reporting		•					
Title VI Evaluation Form (if adopted by LPA)	•				•	•	
Section 107.13 - Labor and Wages of the 2016 Virginia Road and Bridge Specifications	•		•	•			
Section 518 of the Specifications Trainees on Construction Projects of the 2016 Virginia Road and Bridge Specifications	•		•	•			

Appendix 17B - EEO Bulletin Board Posters for Civil Rights Requirements

Poster	Federal Project	State Project
EEOC-P/E-1 (Equal Opportunity is the Law)	•	•
Contractor's EEO Policy Statement & EEO Officer for project	•	•
Actual Davis Bacon Wage Rates (Prevailing Wages)	•	
FHWA 1022 ("NOTICE" Federal Aid Projects) (Form C-58)	•	
FHWA 1495 (Wage Rate Information)	•	
FHWA 1495A (Wage Rate Information-Spanish Version – if applicable*)	•	
USDOT 1321 ("Notice to Employees" on federally funded projects) (Form C-59)	•	
WHD 1088 (Federal Minimum Wage Rate)		•
Non-Discrimination Notice (C-60)	•	
Pay Transparency	•	
OSHA 3165-04R – Job Safety	•	•
USERRA – Servicemen Protection	•	
1420 – Family and Medical Leave Act	•	
1462 – Polygraph	•	

Appendix 17 C – Civil Rights Requirements During Construction

Form	Purpose / Description	Frequency	Prepared by	Signed by	Verified by (also signs form prior to submission)	Document Preparer to submit original form to	Document Preparer to submit copy of form to	Reviewed by	Provision (Reference for Requirement)
All Subcontractor Agreement(s)									
C-65	Trainee Enrollment Form	Prior to trainee beginning work	VDOT Civil Rights ³	Trainee, Contractor, Local Government Construction Inspector, VDOT Civil Rights	VDOT Civil Rights ⁴	Local Government	VDOT – Civil Rights ⁵	VDOT - Civil Rights	FHWA 1273 IV (4)(b)(3) 2007 VDOT Rd. & Br. Specs §518.02 (b)
C-67	Weekly Training Report	Weekly when training provided	Contractor or sub-contractor who hired trainee	Contractor or Subcontractor	Local Government	Local Government (Contractor should submit to Co, then Co verify and submit to VDOT)	VDOT – Civil Rights ⁷	VDOT - Civil Rights	2002 VDOT Rd. & Br. Specs §518.03
DBE (Disadvantaged Business Enterprise)									
C-111	Minimum DBE Requirements	Once - received with bid proposal	Contractor	Contractor	n/a	Local Government	VDOT – Civil Rights	VDOT - Civil Rights	49 CFR Part 26,
C-112	Certificate of Binding Agreement	Once - received with bid proposal	Contractor	Contractor	n/a	Local Government	VDOT – Civil Rights	VDOT - Civil Rights	49 CFR Part 26,
All Subcontractor Agreement(s)	Ensure consistency with C-112. This is a subcontract between the prime and the subcontractor. All subcontract agreements must have FHWA-1273 attached.	Before work begins	Contractor	n/a	n/a	Local Government	VDOT – Civil Rights	VDOT - Civil Rights ⁸	FWHA-1273
Schedule B	DBE Compliance Program	As needed when significant change in work patterns, crews, equipment, etc.	Locality Inspector	Locality Inspector	n/a	VDOT - Civil Rights	Local Government	VDOT - Civil Rights	DBE Compliance Instructional Guide
DBE Liaison Designation	Point of contact	Every six (6) months	Contractor	n/a	n/a	Local Government	VDOT – Civil Rights	VDOT - Civil Rights	2007 VDOT Rd. & Br. Specs §107.14
DBE Activity Narrative	Document DBE activity	Within 30 days after NTP and prior to 1st estimate	Contractor	Contractor	n/a	Local Government	VDOT – Civil Rights ¹⁰	VDOT - Civil Rights	2007 VDOT Rd. & Br. Specs §107.14
C-63	DBE Payment Compliance Report	Quarterly, five days after quarter ends: October 5, January 5, April 5, and July 5.	Contractor	Contractor	n/a	Local Government	VDOT – Civil Rights	VDOT - Civil Rights	49 CFR Part 26, 2007 VDOT Rd. & Br. Specs §107.15
Uniform Report	Report of DBE Awards and Commitments	Semi-Annually, June 1 st (covering October 1 to March 31) and December 1 st (covering April 1 to September 30)	Locality	Locality	VDOT Civil Rights	VDOT Civil Rights		VDOT Civil Rights	49 CFR Part 26, Appendix B
Contractor/Subcontractor Responsibilities - EEO (Equal Opportunity)									
C-64	Contractor /Subcontractor Equal Employment Opportunity Information Request	Posted to CRD Portal per Contractor; submitted to CO CRD every six months as long as contractor has active contract	Contractor or Subcontractor ¹¹	Contractor or Subcontractor ¹¹	n/a	Local Government	VDOT Civil Rights Central Office CO	VDOT - Civil Rights	2007 VDOT Rd. & Br. Specs §107.15
Company EEO Meeting Minutes	Document meetings where contractor reviews and explains EEO policies to employees	Posted to CRD Portal per Contractor; submitted to CO CRD every six months as long as contractor has active contract	Contractor or Subcontractor ¹¹	Contractor or Subcontractor ¹¹	n/a	Local Government	VDOT – Civil Rights ^{13 14} Central Office CO	VDOT - Civil Rights	FHWA-1273, 2007 VDOT Rd. & Br. Specs §107.14
Equal Opportunity Officer Designation	Contractor designates an employee to promote and implement the contractor's EEO Program	Posted to CRD Portal per Contractor; submitted to CO CRD every six months as long as contractor has active contract	Contractor or Subcontractor ¹¹	n/a	n/a	Local Government	VDOT - Civil Rights Central Office CO	VDOT - Civil Rights	FHWA-1273, 2007 VDOT Rd. & Br. Specs §107.14
C-57	Total Project Employment	Monthly during 1 st three (3) months of project activity and annually by August 15 for last payroll period preceding July month end	Contractor or Subcontractor ¹¹	Contractor or Subcontractor ¹¹	VDOT Civil Rights ¹⁵	Local Government	VDOT - Civil Rights – local District office	VDOT - Civil Rights	FHWA-1273, 2007 VDOT Rd. & Br. Specs §107.14
Labor Compliance									
Davis Bacon Worksheets	These worksheets are to make sure employees are earning the amount listed on the payroll. This excludes superintendents, foremen and clerical.	One random interview per quarter that may include prime and/or subcontractors ¹⁷	Local Government	Local Government	n/a	Local Government	Kept on-site	VDOT - Civil Rights	FHWA-1273
Certified Payrolls	Payrolls must agree with the predetermined wage rates that are contained in the contract.	Within two (2) weeks after workweek.	Contractor and Subcontractors	Contractor and Subcontractor ¹⁶	n/a	Local Government	Kept on-site	VDOT - Civil Rights	FHWA-1273
C-56/WH-348	Statement of Compliance	Review first payroll of prime and subs thoroughly, then as needed to ensure that conformance with wage provisions of the contract are attained. Payrolls to be sent to District Civil Rights Manager's offices	Contractor and subcontractors	Contractor and Subcontractor ¹⁶	n/a	Local Government	Kept on-site	VDOT - Civil Rights	FHWA – 1273 (V)(3), Copeland "Anti-Kickback) Act, Davis Bacon Act
Items Contractor to Post on Project Bulletin Board									

1) Federal Minimum Wage Poster; 2) Job Safety & Health Protection; 3) Your Rights under FMLA Poster; 4) Employee Polygraph Protection Act Poster; 5) C-58 Poster; 6) C-59 Poster; 7) C-60 Poster; 8) Pre-determined wage rates (General Provisions pp. 91-94); 9) EEO Officer / DBE Liaison; 10) EEO Policy; 11) EEO is the Law Poster; 12) FHWA 1022; 13) FHWA 1495 & 1495a; 14) USDOT 1321

Appendix 17 D – Good Faith Efforts (GFE) Administrative Review Process

Virginia Department of Transportation Good Faith Efforts (GFE) Guidelines

Good Faith efforts may be determined through use of the following list of the types of actions the Consultant/Contractor may make to obtain DBE participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

- Include the following completed forms:
 - Form C-111 - Minimum DBE Requirements
 - Form C-112 - Certification of Binding Agreement
 - Form C-48 - Contractor/Supplier Solicitation and Utilization Form
 - Form C-49 - Summary of GFE Documentation
 - Copy of the Request for Bid Solicitation to DBEs
- Solicit through reasonable and available means, such as but not limited to, attendance at pre-bid meetings, advertising, and written notices to certified DBEs who have the capability to perform the work of the contract. Examples include: advertising in at least one daily/weekly/monthly newspapers of general circulation as applicable; phone contact with a completely documented telephone log, including the date and time called, contact person, or voice mail status; and internet contacts with supporting documentation, including dates advertised.
- Solicit DBEs no less than five (5) business days before the bids are due so that the solicited DBEs have enough time to reasonably respond to the solicitation.
- Follow up initial solicitations as evidenced by documenting such efforts on Department standard DBE good faith documentation form, C-49.
- Select portions of the work to be performed by certified DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to perform these work items completely or with its own forces.
- Provide interested certified DBES with adequate information about the plans, specifications, and requirements of the contract in a timely manner, which will assist the DBEs in responding to a solicitation.
- Provide evidence of names, addresses, and telephone numbers of DBEs that were considered for the solicitation; dates DBEs were contacted, a description of the information provided regarding the plans, specifications, and requirements of the contract for the work selected for subcontracting, and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBEs to perform the work.

- For DBE bids declared noncompetitive, include copies of DBE and non-DBE bid quotes. DBE quotes may be rejected as noncompetitive if the DBE sub's quote is more than 10% higher than the non-DBE's quote, as verified by supporting documentation. The prime must contract with the non-DBE sub when declaring a DBE firm non-competitive.
- Offer assistance to DBEs in obtaining bonding, lines of credit, or insurance.
- Offer assistance to DBEs with information about securing equipment, supplies, materials, or related assistance/services.
- Effectively utilize the services of appropriate personnel from VDOT, the Virginia Department of Small Business and Supplier Diversity, the Metropolitan Washington Airports Authority, and other organizations in the recruitment and utilization of qualified DBEs.

Good Faith Efforts Administrative Reconsideration Panel Hearing File

The Panel Hearing File should consist of bid documents received at the time of bid or in accordance with Special Provision 107.15 Use of Disadvantaged Business Enterprises. Panel Hearing File should consist of the following required documents:

- Form C-111 Minimum DBE Requirements
- Form C-112 Certification of Binding Agreement
- Form C-48 Sub-contractor/Supplier Solicitation and Utilization Form
- Form C-49 Summary of GFE Documentation
- Copy of the Request for Bid Solicitation to DBEs

The Panel Hearing File should be distributed to the Administrative Reconsideration Panel Hearing Members and the Virginia Department of Transportation Civil Rights Division for review before the hearing.

Administrative Reconsideration Panel Hearing Check List

Name of Contractor:

Address:

City, State, Zip

Telephone:

Email:

Project No.

Hearing Information

Date:

Location:

Time:

Member(s) of Panel Hearing:

Court Reporter:

Telephone No:

Schedule VDOT District Civil Rights Office: Yes No

Name of Representative:

Date Hearing confirmed with Contractor regarding date, time and location:

**Good Faith Efforts
Administrative Reconsideration Panel Hearing Proceedings
Easy Reference Guide**

1) Call proceedings to order

2) Brief statement of reason for hearing:

This Administrative Reconsideration Hearing is being held at the request of XYZ Company as a result of their failure to meet the DBE requirements at the award stage on project number XYZ.

3) Introduce panel members, resource person(s), and observers.

4) Explain proceedings:

- This is an informal administrative hearing
- The only real formality is the presence of a court reporter, and the swearing in of those asking questions and/or making statements
- The contractor will be given an opportunity to present an overview and any additional facts that may justify good faith efforts that he/she has made
- The panel and resource person(s) will have an opportunity to question the contractor
- The contractor will make closing remarks, if he/she wishes to
- Ask if there are any questions

5) Ask the court reporter to swear in those persons asking questions and/or making statements.

6) Ask the contractor to give any opening statements he/she wishes to make.

7) Mark any new exhibits received, ask panel members if they will accept new information.

8) Following opening statements from the contractor, ask each panel member if he/she has questions.

9) Ask resource person(s) if they have questions or would like to make a statement.

10) Ask the contractor for closing remarks.

11) Thank the contractor for his/her statements.

12) Explain to the contractor that he/she will be advised within seven (7) days of the panel's decision and that the panel will now go into executive session.

Panel goes into executive session to discuss the panel hearing file, statements from the contractors, answers given to questions, and additional new information provided by the contractor.

- 13)** Panel renders a decision as to whether good faith efforts have been demonstrated. Civil Rights will concur if the Locality's determination is in accordance with 49 CFR 26.53, 49 CFR 26 Appendix A, and VDOT Special Provision 107.15. Civil Rights will provide technical assistance to the Locality if the good faith efforts determination by the Locality is found not to be in compliance with 49 CFR Part 26 and 49 CFR 26 Appendix A, and VDOT Special Provision 107.15.
- 14)** Write the decision and disseminate to the VDOT Civil Rights District Office and notify the contractor of the panel's decision.

GOOD FAITH EFFORTS PANEL HEARINGS

Procedures for Good Faith Efforts Reconsideration Hearings Held Pursuant to VDOT
Special Provision for Section 107.15 of the 2008 Road and Bridge Specifications and Amendments - Use of
Disadvantaged Business Enterprises

Preface

The Department of Transportation, in its procurement activities, owes its primary responsibility to the general public and citizens of Virginia. The Department also desires to afford to Contractors (hereinafter termed "respondents") fair and reasonable procedures in the hearing of Good Faith Efforts (GFE) reconsideration matters, while insuring its vital procurement activities involving road construction, maintenance, and repair are conducted with dispatch. This is because there is a direct relationship between the safety of all highway users and the modernity and good repair of the roads upon which they must travel.

It is intended that GFE reconsideration hearings shall be of an informal nature in order that all necessary facts and procurement documents may be reviewed in a comfortable and fair atmosphere.

GENERAL Panel

Organization

This panel is to be a standing body, appointed by the LPA, and shall consist of a presiding officer and three (3) voting members, one of which will be a representative from the VDOT Civil Rights Division. Counsel for the LPA may be present for panel hearings and its deliberations, but will not have any voting rights.

Time Limits

The following time limits are established for the DBE Reconsideration Panel procedures found herein with regard to specific issues listed below:

- A. Failure to show, during the award process, how DBE goal will be achieved.
 - (1) The apparent Consultant/Contractor must submit a request for a panel hearing to the project engineer, in writing. Such request must be received within five (5) days of notification from the Local Public Agency (LPA) that initial good faith efforts were not demonstrated. Written requests may be submitted to the project engineer electronically by email.
 - (2) The panel will notify the apparent Consultant/Contractor as to the time, date, and place of the panel hearing.
 - (3) The panel will render its decision within seven (7) days of the close of the hearing; and such decision is administratively final.

- B. Failure to conform to the approved DBE progress schedule, or failure to obtain the required participation at project completion.
- (1) The Contractor must submit a written request for a panel hearing to the project engineer in writing; such request must be received within 14 days of the date of the letter notifying the Contractor that he/she may be enjoined from bidding, or the letter advising them of a negative administrative review determination, as applicable. Written requests may be submitted to the project engineer electronically by email.
 - (2) The panel will notify the Contractor as to the time, date, and place of the hearing.
 - (3) The panel will render its decision within seven (7) days of the close of the hearing; such decision being administratively final.

Continuances

Postponements should be granted only for the most compelling of reasons. While respondents may secure the assistance of counsel at these hearings, the unavailability of a particular attorney of the respondent's choosing will not be permitted to delay or postpone these hearings. This particular circumstance is all too common, and unless the postponements were ruled out on such a ground, it is believed that the substantial and costly delay would be "built in," so to speak, to the hearings ab initio.

Subpoenas and Evidentiary Rules

There is no provision of law that grants to the Department subpoena power. Similarly, the formal rules of evidence do not apply. The hearing is an administrative hearing rather than a judicial one. However, where it appears from the circumstances that the quality of evidence produced by either VDOT or the respondent is inferior to that which may have been reasonably available to them, the panel may, in weighing an item of evidence, consider that with the exercise of reasonable diligence, VDOT or the respondent could have produced a more authoritative or original source for testimony or evidence offered. Each party, both VDOT and the respondent bear their own burden or persuasion with the administrative reconsideration panel.

The panel may elect to take notice of any general or well established matter that has come before any member of the panel in the ordinary course of their official duties including, of course, their specific duties as a panel member. However, such matter may not be used as a basis for decision until and unless the respondent is first confronted with the matter and given an opportunity to respond thereto.

Documentary Evidence

Any document a respondent wishes to have considered by the reconsideration panel should be forwarded to the Department along with their request for hearing. Documents not forwarded at the time of panel request will potentially be subject to exclusion at the panel Chairman's discretion.

Hearing Procedure

1. **The Chairman shall call the hearing to order** – VDOT will furnish the reconsideration panel sufficient documents prior to the hearing to
 - (1) support and illuminate their initial decision which is being reconsidered, and
 - (2) allow the reconsideration panel an opportunity to review the matter generally before the actual hearing date, including all those relevant documents previously submitted by the respondent
2. A respondent may, but need not, be represented by counsel of his choosing.
3. The panel shall consist of at least three voting panel members and a Chairman. The decision of the panel shall be determined by majority vote of such members. In the event of a tie vote, the Chairman shall cast the tie breaking vote. Except to break a tie vote, the Chairman shall not vote.
4. **Opening Statements** – The respondent or their counsel may, if they desire, make an opening statement. The respondent shall be required to swear to the best of their knowledge and belief to the truth of the averments stated in the attorney’s statement or, in lieu thereof, to state which, if any, are not true while swearing to the truth of the remainder in the aforementioned manner. Where a respondent is not represented by counsel, or where they may otherwise so choose, they may make their own opening statement. In that event, such opening statement shall be preceded by an oath administered by the court stenographer to the effect that the statement to be made and all responses to questions thereafter propounded by members of the panel shall be true and correct to the best of the respondent’s knowledge and belief. The opening statement shall contain all of the matters which the respondent believes are worthy of the panel’s consideration in deciding whether the Contractor has employed those good faith efforts called for by the VDOT Road and Bridge Section 107.15 Use of Disadvantaged Business Enterprises (DBEs) and 49 CFR Part 26.

The respondent and/or their counsel may, if they choose, offer a written opening statement in lieu of an oral one, or offer written remarks supplementary to an oral opening statement.

Before such written statement(s) may be accepted by the panel, the respondent shall swear that to the best of their knowledge and belief the averments contained therein are true. If an opening statement is presented to the panel, it will be read by the Chairman and entered into record.

The opening statement of the respondent should identify any person(s) present at the hearing that can verify or corroborate any claim of the respondent made therein.

5. **Exclusion of witnesses** - The panel Chairman may, on his own motion or motion of a panel member, exclude witnesses from the hearing room before commencing with questions to a witness, or may do so upon any motions at any stage of the proceedings where he believes that any exclusion will be of assistance in determining the truth of any matter.
6. **Questioning of Witnesses by Panel** - Immediately following the opening statement of counsel or the respondent, the respondent or the panel may question the respondent and their witnesses in any order they choose. Upon the recall of a witness, neither the respondent nor counsel for the respondent may propound questions to the respondent or other witnesses recalled without the consent of the panel Chairman.
7. **Re-Direct Examination by Respondent** - Upon conclusion of the examination of a respondent or each of his witnesses by members of the panel, counsel for the respondent may re-direct additional questions to the

respondent or each witness for the purpose of clarifying any matter covered by the examination by the panel, or any matter, while not covered by the panel, that was covered in the opening statement. Questions will not be permitted which exceed the scope of the opening statement and/or the panel's direct examination.

The panel may, if it so chooses, hear evidence from persons other than those produced by the respondent. The panel will not hear evidence from any person that is not first sworn.

8. **Suspension of Proceedings** – By a majority vote, panel members may suspend and continue the hearing proceedings on their own motion or on motion of the respondent, but they are cautioned to exercise this power sparingly and only for the most compelling reasons so that the Department's vital procurement activities are not unduly hindered or delayed.
9. **Burden of Persuasion of the Respondent** – Because the proceeding is administrative and not adversarial or judicial in nature, and because, further, by the practical circumstances, most evidence bearing on the issues before the panel generally will be solely within knowledge of the respondent, the burden of persuasion shall be on the respondent to show that they have used reasonable good faith efforts to meet the DBE goal by a clear and decisive preponderance of the evidence.
10. **Executive Sessions** – The panel may, if it so chooses, in its deliberation and deciding of the issues, meet in executive session to consider the facts provided in the hearing.
11. **The Panel Decision** – The panel shall render its decision within seven (7) days.
12. **Written Opinions** – The panel will provide to the respondent a written opinion regarding the basis for its decision within 10 days of the panel decision.

**Sample Notification Letter to Consultant/Contractor Regarding
Panel Decision of Failure to Demonstrate Good Faith Efforts**

(DATE)

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Mr. John Doe, President
ABC, Inc.
12345 ABC Highway
Anywhere, Virginia XXXXX

PANEL RECOMMENDATION AT AWARD

Project No.
FHWA No.:
County:

Dear Mr. Doe:

On (date) the Virginia Department of Transportation's Administrative Reconsideration Panel was convened at your request as a result of your firm's failure to meet the DBE requirements and to establish good faith efforts in attempting to achieve the required participation at the award stage of the above captioned project. The purpose of this hearing was to give your firm an opportunity to discuss the issue and present your evidence to establish good faith efforts in attempting to achieve the required participation.

(Reason for failure to demonstrate GFE)

A review of the documents which you provided to the Panel indicated that you had obtained a sufficient number of reasonable quotes from DBE firms to attain the goal of 8% established for this project prior to your bid, and that your low bid was submitted with only 4.79% DBE participation. Your failure to submit a bid meeting the established DBE goal for this project in light of the reasonable DBE quotes that you received prior to your bid resulted in the Panel determining that your firm failed to show good faith efforts at the award stage.

Additionally, we found that you failed to timely supply the required C-48 VDOT form and, under the RFP terms, this would render your bid non-responsive.

The aforementioned resulted in the Panel determining that you failed to produce sufficient evidence to the DBE Administrative Reconsideration Panel to show that the initial determination made by VDOT should be overturned; and that you also failed to produce sufficient evidence to the DBE Administrative Reconsideration Panel to show that you submitted the required C-48 VDOT Form in a timely manner. As a result, the Reconsideration Panel found: (1) that your firm failed to show good faith efforts to meet the established DBE goal at the award stage, and (2) that you failed to submit your C-48 VDOT Form in a timely manner as required by the Bid Specifications.

The decision is administratively final. The Panel has declared the bid to be non-responsive, and the project should be awarded to the next lowest responsive and responsible Consultant/Contractor.

Sincerely,

**Sample Notification Letter to Consultant/Contractor Regarding
Panel Decision that Good Faith Efforts were Demonstrated**

(DATE)

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Mr. John Doe
President, ABC Company, Inc.
1234 ABCD Street
Anywhere, Virginia XXXXX

PANEL RECOMMENDATION

Project No.:
FHWA No.:
Order No.:
ABC County

Dear Mr. Doe:

On (Date), the Virginia Department of Transportation's Administrative Reconsideration Panel was convened at your request as a result of your firm's failure to meet the DBE requirements. The Panel met specifically to reconsider whether you exhibited good faith efforts in attempting to achieve the required DBE participation goal at the bid stage of the above captioned project. The purpose of the reconsideration hearing was to give your firm an opportunity to provide written documents and/or argument concerning the issue of whether you met the DBE goal or made adequate good faith efforts to do so. The Panel allowed you the opportunity to provide any written documents or argument which you desired in an effort to establish exhibited good faith efforts in attempting to achieve the required DBE participation goal.

I am pleased to inform you that you and your firm carried the burden of persuasion and produced sufficient evidence to the DBE Administrative Reconsideration Panel to show that the initial determination made by VDOT should be overturned.

The decision is administratively final. The Panel has declared that you exhibited the requisite good faith efforts to meet the DBE goal in submitting your bid, that the contract DBE goal for this project appears capable of being met as ABC Company, Inc. has performed this work on similar VDOT contracts and has been given prior DBE credit for said work, that your bid was therefore responsive, and accordingly that the contract for this project be awarded to your firm at the DBE established goal of x percent.

Sincerely,

Appendix 17 E – U.S. DOT 1050.2A Appendices

APPENDIX A

Contractor/ Consultant/Supplier Agreement: U.S. DOT 1050.2A -- Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally- assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Sub-contractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential Sub-contractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non• discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a Sub-contractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B
CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Enter name of Local Public Agency will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Enter name of Local Public Agency all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the Enter name of Local Public Agency and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Enter name of Local Public Agency, its successors and assigns.

The Enter name of Local Public Agency in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Enter name of Local Public Agency will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above- mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER
THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Enter name of Local Public Agency pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the Enter name of Local Public Agency will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the Enter name of Local Public Agency will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Enter name of Local Public Agency and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER
THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Enter name of Local Public Agency pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the Enter name of Local Public Agency will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the Enter name of Local Public Agency will there upon revert to and vest in and become the absolute property of the Enter name of Local Public Agency and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

Contractor/Consultant/Supplier Agreements: U.S. DOT 1050.2A- Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non- discrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1975, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibited discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Part 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq*)

Title VI Evaluation Form Template

Insert LPA logo here

Consultant Title VI Evaluation Form

Introduction

*Locality name here*_____ is a recipient of federal financial assistance. As a recipient, *Locality name here*_____ is required to comply with Title VI of the Civil Rights Act of 1964, as amended and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, and other directives prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the grounds of race, color, national origin, sex, age, disability, or low-income. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49 Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable orders and authorities provide guidelines, actions, and responsibilities for *Locality name here*_____’s implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- **The 1970 Uniform Act (42 USC 4601)** – prohibits unfair treatment of displacees
- **Section 504 of the 1973 Rehabilitation Act (29 USC 790)** – prohibits discrimination based on disability
- **The Federal-Aid Highway Act 1973 (23 USC 324)** – prohibits discrimination based on gender
- **The 1975 Age Discrimination Act (42 USC 6101)** – prohibits age discrimination (any age)
- **The Civil Rights Restoration Act of 1987** – clarified the original intent of nondiscrimination organization-wide
- **Executive Order 12898 on Environmental Justice (EJ)** addresses disproportionately high and adverse human health and environmental effects on minority and low-income populations
- **Executive Order 13166 on Limited English Proficiency (LEP)** - ensures people who are limited English proficient (LEP) have meaningful access to services

In brief, these laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act states that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected

to discrimination under any program or activity receiving federal financial assistance.”

By contracting with LPA name here_____, a consultant is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the LPA name here_____ and the consultant. LPA name here_____’s Civil Rights Division monitors an organization’s compliance with the non-discrimination provisions.

To monitor compliance, each consultant and all sub-consultants are required to submit a Title VI Evaluation Form. This requirement is applicable for all consultants.

The Title VI Evaluation Form provides documentation that a consultant has procedures in place to prevent discrimination in programs and services based on Title VI.

LPA name here_____ will request a Title VI Evaluation Form within ten (10) days of notification of selection for new contractors or contractors that do not have a current assessment on file with LPA name here_____. The Assessment Form should be submitted to the Program Manager in the division that is negotiating the contract. These are the divisions we currently receive Title VI Evaluation Forms from:

- Planning Division**
- Design/Project Division**
- Right of Way Division**
- Environmental Division**
- Construction/Maintenance Division**
- Education/Training**

Once the Title VI Evaluation Form is provided to LPA name here_____, the Title VI Coordinator reviews the information and may request additional information and/or recommend corrective actions. The Title VI coordinator may schedule an on-site review within the review time frame to confirm information provided in this evaluation form.

If the report is approved, a letter will be sent out with an expiration date for one year from the date of the approval letter. Typically the letter remains current and on file with LPA name here_____ for a period of one year. An updated report is required annually for contractors who continue to perform under a contract with LPA name here_____. The Title VI Coordinator may randomly schedule on site compliance reviews at the consultant’s office. It should be noted that if LPA name here_____ conducts an on-site compliance review the contractor can still be found to be out of compliance during the one year period.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part.

Should you have any questions about LPA name here _____'s Title VI Program or the Evaluation Form, contact name of LPA's representative here _____ at phone number or e-mail address _____.

TITLE VI EVALUATION FORM

This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review. LPA name here _____ is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre-award review assists in determining whether applicants operate in a nondiscriminatory manner. Pre-award reviews can also be used to require applicants to take preventive measures to ensure that discrimination will not occur in their services as a condition of receiving contracts. Pre-award reviews represent a frontline approach to eliminating and preventing discrimination before it occurs.

Post-Award Reviews are generally conducted after a contractor begins the scope of work. However to minimize the burden on LPA name here _____'s consultants, LPA name here _____ has developed a form that serves as both a pre-award and post-award compliance tool.

____ LPA name here _____ must also conduct on-site reviews of prime contractors periodically to ensure that the contractor remains in compliance with Title VI and to verify that the contractor has preventive measures to ensure nondiscrimination by their sub-contractors.

Name of Preparer:
[Click here to enter text.](#)

Preparer's Title:
[Click here to enter text.](#)

Phone #:
[Click here to enter text.](#)

Email Address:
[Click here to enter text.](#)

Name of Organization:
[Click here to enter text.](#)

Address of Organization:
[Click here to enter text.](#)

Address of Virginia location where project will be done:
[Click here to enter text.](#)

Type of Contractor/Organization:

- Private Organization Supplier
 Governmental Agency Other

Workforce for Virginia Location(s)

Total
[Click here to enter text.](#)

% Minority
[Click here to enter text.](#)

% Female
[Click here to enter text.](#)

Business Ownership/Control

- Minority Female

DBE Certified

SWaM Certified

Does your organization currently have contracts or subcontracts with _____?

- Yes No

What is your organization's most recent date of Title VI approval? [Click here to enter text.](#)

Status of Project(s):
[Click here to enter text.](#)

Value of current Contract(s):
[Click here to enter text.](#)

What does your organization have in place to ensure nondiscrimination in your _____ scope of work and your programs and services?

[Click here to enter text.](#)

Virginia Workforce

CONSULTANT EQUAL EMPLOYMENT OPPORTUNITY WORKFORCE ANALYSIS

Employment at this establishment – Report all permanent full and part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

Job Categories	Number of Employees (Report employees in only one category)														
	Race/Ethnicity														
	Hispanic or Latino		Not Hispanic or Latino												Total Col A-N
	Male	Female	Male						Female						
White			Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races		
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Executive/Sir. Level Officials & Managers (1.1)															
First/Mid-Level Officials & Managers (1.2)															
Professionals (2)															
Technicians (3)															
Sales Workers (4)															
Administrative Support Workers (5)															
Craft Workers (6)															
Operatives (7)															
Laborers & Helpers (8)															
Service Workers (9)															
TOTAL (10)															
PREVIOUS YEAR TOTAL (11)															

Organization, Staffing, & Training

1. What type of services will your organization provide _____?
Click here to enter text.
2. Identify the person responsible for the administration of Title VI policies and procedures (a Title VI Coordinator). Provide the name, position, title, and contact information. **Click here to enter text.**

Title VI/Nondiscrimination

1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21 and the Federal Highway Administration's 23 Code of Federal Regulations 200? Please explain how they are made aware. **Click here to enter text.**
2. What procurement procedures does your organization have in place to ensure nondiscrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment? * **Please note N/A is not an acceptable response, please provide a complete answer**
Click here to enter text.
3. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability and low income populations? * **Please note N/A is not an acceptable response, please provide a complete answer**
Click here to enter text.
4. Are facilities and meeting areas fully accessible to persons with disabilities? **Click here to enter text.**
5. Does your organization have a system in place to accommodate persons with disabilities? If yes, how does your organization notify the public? If no, please explain. * **Please note N/A is not an acceptable response; please provide a complete answer**
Click here to enter text.
6. How are limited English proficient persons made aware that they can receive translation services for access to services? * **Please note N/A is not an acceptable response; please provide a complete answer**
Click here to enter text.
7. Has your organization been reviewed by any governmental agencies for compliance with Title VI and other laws and regulations? If yes, provide a copy of the letter identifying the review findings? **Click here to enter text.**

8. Does your organization receive federal assistance (grants, loans, donations of property, or detail of personnel) from any Federal government entity? **Click here to enter text.**
9. List any discrimination complaints and/or lawsuits received in Virginia during the reporting period. Include the basis for the complaint (ethnicity, gender, etc.) and summarize the outcome or resolution. If applicable, include a copy of the investigation report. **Click here to enter text.**

Disadvantaged Business Enterprises (DBE)

1. Did your organization award any contracts/subcontracts related to _____ work to DBEs during the reporting period?
 Yes No
 If yes, provide the following:
 1. The DBE's name and amount awarded **Click here to enter text.**
 2. Total # of contracts awarded to DBEs **Click here to enter text.**
 3. Total dollar amount of contracts awarded to DBEs **Click here to enter text.**

I certify that the data given in this report is correct to the best of my knowledge. (Report has be submitted with original signature, not a photocopy.)

Signature:

(Authorized Officer)

(Title)

(Date)