

**Report to the Board of Directors
Recommendation to Approve Dulles
Corridor Metrorail Project Phase 2
Disadvantaged Business Enterprise (DBE) Goal**

September 2012

Request for Action

To recommend approval of at least 25 percent overall DBE participation goal for the Dulles Corridor Metrorail Project Phase 2.

Background

- U.S. Department of Transportation (DOT) regulations require the Airports Authority to establish an overall project goal for DBE participation on the Dulles Corridor Metrorail Project Phase 2.
- Phase 2 financial plan anticipates an Airports Authority's application for approximately \$1 billion in Transportation Infrastructure Finance and Innovation Act (TIFIA) financing. The DBE goal must be reflected as a percentage of this Federal TIFIA assistance.

Background

- Based upon a potential TIFIA loan amount of \$1 billion, 25 percent will represent approximately \$250 million in potential DBE participation.
- As a part of the goal setting process, the DOT requires a Public Comment Period.

Public Comment Period

- Staff conducted a public comment process from July 22, 2012 – September 5, 2012
- Multiple ads were placed in the Washington Post, Richmond Times Dispatch, Baltimore Sun, Washington Afro-American and Washington Informer newspapers
- Notice placed on the Airports Authority website

Public Comment Period

- No written comments received during the Public Comment Period
- Solicited input from organizations knowledgeable about the availability of DBEs in the Airports Authority marketplace

Action Requested

With staff reporting that it has completed the Public Comment Period without objections, the Business Administration Committee recommends that the Board of Directors approve an overall DBE goal of 25 percent for Phase 2 of the project.

REPORT TO THE BOARD OF DIRECTORS

RECOMMENDATION TO APPROVE DULLES CORRIDOR METRORAIL

PROJECT PHASE 2 DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL

SEPTEMBER 2012

PURPOSE

To recommend approval on an overall DBE participation goal of at least 25 percent for the Dulles Corridor Metrorail Project Phase 2 (Phase 2 of the Project), and to report on the results of the public comment process undertaken by staff as part of the goal development.

BACKGROUND

The U.S. Department of Transportation (“DOT”) regulations that govern the federal Disadvantaged Business Enterprise¹ program require the Authority to submit an overall project DBE participation goal for the duration of Phase 2 of the Project. In developing that goal, the Airports Authority must apply procedures that include assessment of the relative availability of DBEs in the Airport Authority’s market that are ready, willing, and able to compete for Federally-funded contracts absent discrimination and solicit public comments on a proposed overall goal for a 45-day period.

On July 18, 2012, the Business Administration Committee concurred with staff’s recommendation and approved a goal of at least 25 percent overall DBE participation in Phase 2 of the Project for use in the 45-day public comment period. The Committee directed staff, upon completion of the 45-day comment period, to report its findings to the Board and recommend a final overall DBE project goal.

¹ A DBE is defined in federal regulations as a small business concern which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the individuals who own the business. In the case of any publicly owned business, at least 51 percent of the stock must be owned by socially and economically disadvantaged persons. “Socially and economically disadvantaged persons” are citizens or permanent residents who are African Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and women. The Authority may also determine, on a case-by-case basis, that other individuals are socially and economically disadvantaged.

DISCUSSION

The financial plan for Phase 2 of the Project involves an expectation that the Airports Authority will apply for loan assistance through the Federal Transportation Infrastructure Finance and Innovation Act (“TIFIA”) in the amount of approximately \$1 billion. The U.S. Department of Transportation requires the Airports Authority to develop a DBE program that includes an overall DBE participation goal for Phase 2 of the Project. Upon the direction of the FTA, the DBE goal is established as a percentage of the maximum Federal assistance. The Airports Authority applied goal-setting procedures that included an assessment of the relative availability of DBEs in the Airports Authority’s market that are ready, willing, and able to compete for Federally-funded contracts absent discrimination and the solicitation of public comments on its proposed overall goal for a 45-day period.

Staff assessed the relative availability of DBEs within the Airports Authority’s marketplace that would be ready, willing, and able to compete for contract and subcontract opportunities on Phase 2 of the Project and determined that a DBE goal of at least 25 percent is attainable in the current market environment. In establishing the overall DBE goal of at least 25 percent, staff considered the scope and type of contracts, as well as the schedule for completion of work. Factors such as: availability in sub-trades, project size and prevailing capacity of DBE firms; competing demands for like skills, and the structure of the contract as design-build were also considered in establishing the goal. The Project contractors and Airports Authority staff will establish individual sub-contract goals when appropriate in order to achieve the overall goal for Phase 2 of the Project. It is anticipated that the 25 percent DBE goal will be achieved through 20 percent race-conscious and 5 percent race neutral efforts by the Airports Authority. Race conscious efforts consist of applying specific DBE goals to individual contracts and subcontracts. Race neutral efforts consist of measures that include: enhanced small business outreach; technical assistance; and/or training.

PUBLIC PARTICIPATION

Public comments have also been considered by staff in determining whether a 25 percent DBE goal is appropriate for Phase 2 of the Project. The public comment period conducted by the Airports Authority took place from July 22, 2012 through September 5, 2012. During the public comment period, notification of the public participation period was placed in major newspapers as well as with minority media. Staff completed the following specific actions:

- Multiple ads were placed in five local newspapers (*The Washington Post*, *The Richmond Times Dispatch*, *The Washington Afro-American*, *The Washington Informer*, and *The Baltimore Sun*), notifying the public that the proposed overall goal for Phase 2 of the Project was at least 25 percent and inviting comments.

- The public notice was placed on the Airports Authority's website notifying the public that the proposed overall goal for Phase 2 of the Project was at least 25 percent and inviting comments.
- The goal was announced at the Phase 2 Package A RFQI Pre-submittal Conference and Contractors Exhibit Hall held on July 25, 2012.
- Throughout the development of the DBE goal and during the public comment period, staff consulted with agencies focused on developing opportunities for minority and disadvantaged businesses, contractor organizations and other organizations knowledgeable about the availability of DBEs in the Airports Authority's marketplace to receive feedback on DBE availability and the Airports Authority's overall goal. Organizations that staff consulted with include: 1) The Washington DC Metropolitan Area Chapter of the National Association of Minority Contractors; 2) Virginia Minority Supplier Development Council; 3) Maryland/Washington Minority Contractors Association; 4) MD/DC Minority Supplier Development Council; 5) Virginia Department of Minority Business Enterprise; 6) Maryland Department of Transportation; 7) Virginia Department of Transportation; and 8) District Department of Transportation.

The Airports Authority received no written comments from contractors, individuals, or organizations during the comment period. Comments received from consultations with business organizations and agencies were favorable and concurred with the 25 percent DBE goal.

RECOMMENDATION

The Business Administration Committee reviewed the staff DBE goal recommendation in July 2012 and authorized staff to forward the recommendation to the Board of Directors upon completion of the public comment process. Staff has concluded the public comment process and received no opposition to the proposed goal. Based on the above, the Business Administration Committee is recommending approval of a DBE project goal of at least 25 percent for Phase 2 of the Project.

Prepared by:
Office of Business Administration
Equal Opportunity Programs
September 2012

Proposed Resolution

Establishment of Disadvantaged Business Enterprise Participation Goals For the Dulles Corridor Metrorail Project Phase 2

WHEREAS, The Airports Authority will apply for loan assistance to the Dulles Metrorail Project, Phase 2 under the Federal Transportation Infrastructure Finance and Innovation Act;

WHEREAS, U.S. Department of Transportation regulations require the Airports Authority to develop and submit a Disadvantaged Business Enterprise (DBE) program for the entire Phase 2 project that includes an overall DBE participation goal as a percentage of the maximum federal assistance to the project;

WHEREAS, The Business Administration Committee on July 18 approved the staff-proposed 25 percent participation rate for public comment, after which the staff sought such comment through a full participatory process, including publication of notices in relevant newspapers and invitation to comment on the Authority website;

WHEREAS, The staff consulted with the Virginia, District of Columbia and Maryland Departments of Transportation, as well as minority contractor associations in the region, all of which concurred in the proposed 25 percent rate; now, therefore, be it

RESOLVED, That a DBE participation goal for the Phase 2 Metrorail Project of at least 25 percent is hereby established.

*Recommended by the Business Administration Committee
For Consideration by the Board of Directors on September 19, 2012*