



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 8, 2007**

DATE: September 4, 2007

SUBJECT: Approve the Disadvantaged Business Enterprise (DBE) program and authorize its submission to the Federal Transit Administration (FTA) and approve Arlington County's FTA Implementation staffing requirements.

C. M. RECOMMENDATIONS:

1. Approve the Arlington County DBE Program (Appendix A) and authorize its submission to FTA as required for Grantees.
2. Approve 2 FTE permanent grant-funded positions in the Department of Environmental Services (101.4) and .5 FTE in the Office of Human Rights required to implement the FTA grantee requirements to enable Arlington County to apply directly to FTA for federal funds.

ISSUES: Whether to add staffing and implementation procedures to ensure Arlington County's compliance with FTA grantee requirements.

SUMMARY: FTA has approved Arlington County's application to be a direct grantee subject to satisfaction of all grantee requirements. Staff has evaluated the 23 areas of compliance required by FTA, determined which requirements can be met by existing staff and support systems, and recommends two actions at this time to enable the County to meet all but one of the requirements. The final element, the Department of Labor 13c agreement, which is a labor protection law required for all transit projects, is being developed and will go to the County Board in the near future. The requirement for ensuring that Disadvantaged Business Enterprises (DBE) have an equal opportunity to participate in transit contracts can be met with the submission of the attached DBE Program (Appendix A) and addition of 0.5 FTE to monitor the program. Another 2.0 FTE is needed to meet financial/accounting and contracting requirements for the anticipated millions of dollars of grant funds that the County previously received indirectly and is likely to receive in the future.

BACKGROUND: On February 24, 2007, the Arlington County Board adopted a resolution initiating the process for securing FTA Grantee status to enable the County to apply directly to, and receive federal funds from, the Federal Transit Administration (FTA). Arlington County

County Manager: _____

County Attorney: _____

Staff: Steve Del Giudice, Transit Bureau Chief, DES Transportation

received Grantee Status from FTA in June 2007. Since then staff has prepared an FTA Grantee Implementation Plan to show how the County will comply with FTA grant requirements. The FTA Grantee Implementation Plan identifies 23 areas of compliance and the responsibilities, resources, and financial impact associated with each area of compliance. The summary of the requirements and staffing needed to meet each are described in Appendix B.

DISCUSSION: In order to implement the Grantee Implementation Plan, the County must adopt a Disadvantage Business Enterprise (DBE), Program and provide sufficient staffing to carry out and monitor the DBE Program, as well provide sufficient administrative support to meet the numerous financial, contracting, recordkeeping and reporting requirements.

DBE Program. One major area of compliance for which the County does not currently have some structure or procedures in place is the requirement that in awarding contracts funded by federal transit monies the grantee must take appropriate steps to achieve goals that Disadvantage Business Enterprises (DBE) have an equal opportunity to receive and participate in these contracts. Grantees must develop and implement a DBE Program to create a “level playing field” for minority-owned and women-owned businesses meeting established federal criteria. The County’s DBE Program is described in Appendix A. Because a DBE Program is a requirement of the U.S. Department of Transportation, fulfilling the FTA requirement also enables the County to meet the Federal Highway Administration (FHWA) requirement.

In order to meet the FTA grantee requirements a Disadvantaged Business Enterprise Program (DBE) and additional staff are required. Each grantee develops and implements a DBE program to create a “level playing field” for minority- and women-owned businesses meeting established federal criteria.

A DBE Program requires all firms claiming DBE status to be certified as DBE. There are two options for certification: 1) the grantee certifies all firms; or 2) the grantee utilizes an approved Unified Certification Program and/or State certified lists. The County staff has determined the most efficient and effective option is for Arlington to become part of the Unified Certification Program with the District of Columbia Department of Transportation (DDOT) and Washington Metropolitan Area Transit Authority (WMATA) and use that certified DBE list along with the businesses certified by the Virginia Department of Transportation (VDOT).

A letter was sent by the County to WMATA and DDOT to participate in the Unified Program. Through the Human Rights Office, Arlington County’s responsibility is to monitor those contractors claiming use of DBE firms, and to track and handle any complaints from contractors and subcontractors working on capital projects. Firms requesting DBE status under Arlington’s Program will be referred to VDOT or the Unified Program.

In accordance with FTA formulas and recommendations, Arlington County’s goal for DBE participation is 7 percent of contracting opportunities (Appendix A, Attachment 4). The formula is dictated by law and is based on an estimate of available DBEs in the market. There are no longer penalties for not obtaining the goal nor preferential scoring for companies that use DBE’s in bids. DBE quotas or set-asides are not permitted.

Staffing Requirements. There are a number of other requirements to implement the FTA grantee status. The majority of the FTA requirements will be handled by existing staff. The new staffing requirements are for two and half positions to perform the additional requirements in Human Rights (DBE and Title VI), procurement, grants administration and grants management (see Appendix B). Two full-time positions can be funded by grants for up to 80 percent of the cost. The remaining 20 percent of the cost will be offset by charging portions of existing staff time to grants. The full cost of the half-time position will be funded by grant funds. An initial percentage of the cost can be recovered through three grants applied for through the Northern Virginia Transportation Commission (NVTC). The percentage of cost reimbursement will increase as Arlington County applies for more grant funds directly once all certifications, assurances and plans are submitted to FTA. Positions required are as follows:

1. A Grants Accountant in the DES-Division of Transportation (DOT) will enable the County to meet the intensive accounting and reporting requirements, such as quarterly milestone reports (MPRs) and the quarterly financial status reports (FSRs) in the FTA TEAM system, expensing to the proper grants specified line items and drawing down funds through the Federal System called ECHO-WEB.
2. A Contract Specialist in the DES-DOT will assist in meeting the numerous procurement regulations including developing FTA solicitation documents (different types of contracts have specific FTA clauses); working with project managers on other compliance issues such as evaluation criteria for solicitation and oversight of contractors and sub-contractors to ensure that projects are completed in accordance with FTA requirements.
3. A half-time staff person in the Human Rights Office, will perform oversight and monitoring duties for the DBE and Title VI programs (the Title VI program is an environmental justice, discrimination regulation protecting minority and low income persons and businesses). If there should be a complaint on DBE or Title VI issues relating to FTA funds, the Human Rights Office will follow the present EEO process in conjunction with the County Attorney's Office and report to the County Manager. The complaint and investigation process will not involve the Human Rights Commission.

FISCAL IMPACT: The total cost for salaries and benefits for FY 2008 is \$87,409 and \$128,526 for FY2009. The cost for these positions will be offset by an increase in departmental charges to capital projects as a result of the new grants received by the County. In future years, additional federal grants and the infusion of new funds through NVTA (State and Regional funds) due to HB 3202 will provide additional avenues to charge staff time. There will be no increase in net tax support.