## PART IV

### UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES AND SMALL BUSINESS CONCERNS

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SECTION I

DISADVANTAGED BUSINESS ENTERPRISES POLICY

I.1 DISADVANTAGED BUSINESS ENTERPRISES (DBE)

A. VRE is committed to an active effort to involve Disadvantaged Business Enterprises (DBE) in contracting opportunities and encourages participation in procurement activities. Where it is practicable for any portion of the awarded Contract to be subcontracted to other suppliers, the prospective Contractor is encouraged to offer such business to minority and/or women-owned businesses.

B. Disadvantaged Business Enterprise or DBE means a for-profit small business concern:

1. That is at least fifty-one percent (51%) percent owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, in which fifty-one percent (51%) percent of the stock is owned by one or more such individuals; and

2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

C. Bidders must state any plans to utilize such businesses and the manner in which they may be utilized under the resultant Contract.

I.2 DBE CERTIFICATION

A. All DBEs proposed must be certified by one of the following:

1. U.S. Department of Transportation (DOT)

2. Another Federal agency using essentially the same definition and ownership and control criteria as DOT

3. Another recipient of DOT funds

4. Washington Metropolitan Area Transit Authority
5. Virginia Department of Minority Business Enterprise

6. Metropolitan Washington Airports Authority

B. Each prospective Contractor is required to submit to VRE along with the Bid, the Disadvantaged Business Enterprise (DBE) form in ATTACHMENT W.9 – REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS/BIDDERS included in this solicitation. The DBE certification must be attached to the DBE statement. This submission does not necessarily require the prospective Contractor to utilize DBEs in the performance of the Contract.

C. If the prospective Contractor is not itself, nor plans to utilize an authorized DBE, the prospective Contractor shall write "NO DBEs" on the DBE Form and submit the form.

D. The prospective Contractor and its Subcontractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 C.F.R. Part 26 have a level playing field on which DBE’s can compete fairly and participate fully in contracts and subcontracts financed in whole or in part with Federal funds provided under Contract. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 26 to ensure that Disadvantaged Business Enterprises have a level playing field to compete for and perform contracts.

E. The prospective Contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts. Failure by the Contractor and his/her Subcontractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as VRE deems appropriate.

F. The prospective Contractor will be required to submit a schedule of DBE use and payments made to DBE’s on a biannual basis as determined by VRE. The Contractor is required to maintain records and documents of payments to DBE’s for three years following the performance of the Contract and will make these records available to VRE upon request.

G. The prospective Contractor, its agents, employees, assignees or successors, any persons, firms, or agency of whatever nature with whom it may contract or make agreement, in connection with the Contract shall cooperate with VRE in meeting its commitment and goals with regard to the creation of a level playing field of Disadvantaged Business Enterprises. The prospective Contractor shall use best efforts to ensure that Disadvantaged Business Enterprises shall have a level playing field to compete for subcontract work under this Contract. Reference: Federal Regulations Sec. 49 C.F.R. 26.49.
SECTION J

SMALL BUSINESS CONCERNS POLICY

J.1 GENERAL

A. It is the policy of VRE that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by VRE, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems.

B. It is further the policy of VRE that its Prime Contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

C. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the Federal Transit Administration or VRE as may be necessary to determine the extent of the Contractor’s compliance with this clause.

D. Definitions as used in this Contract:

1. “HUBZone small business concern” means a small business concern:

That appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

2. “Service-disabled veteran-owned business concern” means a small business concerns:

a. Not less than fifty-one percent (51%) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one percent (51%) percent of the stock of which is owned by one or more service-disabled veterans.
b. The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

c. “Service-disabled veteran means:

A veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

d. “Small business concern” means:

A small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

3. “Small disadvantaged business concern” means a small business concern that represents, as part of its offer that:

a. It has received certification as a small disadvantaged business concern consistent with 13 C.F.R. part 124, Subpart B;

b. No material change in disadvantaged ownership and control has occurred since its certification;

c. Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 C.F.R. 124.104(c)(2); and

d. It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

4. “Veteran-owned small business concern” means a small business concern:

a. Not less than fifty-one percent (51%) percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publically owned business, not less than fifty-one percent (51%) of the stock of which is owned by one or more veterans; and

b. The management and daily business operations of which are controlled by one or more veterans.
5. “Women-owned small business concern” means a small business concern:

a. That is at least fifty-one percent (51%) owned by one or more women, or, in the case of any publically owned business, at least fifty one percent (51%) of the stock of which is owned by one or more women; and

b. Whose management and daily business operations are controlled by one or more women.

E. The Contractors acting in good faith may rely on written representations by their Subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.