



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

1401 EAST BROAD STREET
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Stephen C. Brich, P.E.
COMMISSIONER

Emailed on 11-1-17

Re: Future Locally Administered Projects Manual changes regarding Civil Rights Division updates and retainage on construction contracts

County Administrators/City and Town Managers

I want to provide you with an update on several items that the Local Assistance Division (LAD) is working on that will likely impact your processes related to professional services and construction contracting on locally administered projects.

Civil Rights Updates including DBE Goal Setting on Professional Services contracts-

LAD has been working with VDOT's Civil Rights Division to update several areas in the Locally Administered Projects (LAP) Manual Chapter 17 (Civil Rights Requirements). Of primary significance is the addition of DBE goal setting for professional services contracts. While similar to DBE goal setting for construction contracts, there are some differences and requirements specific to professional services contracts. LAD is currently working with the Civil Rights Division to finalize the details for these changes to publish in the LAP Manual. After the LAP Manual updates are published, the Civil Rights Division will communicate the new requirements and process through a formal announcement that will direct all to information in the LAP Manual for more details. The announcement will include an effective date for implementing the goal setting on professional services contracts which will follow a brief transitional period as well as the effective date for other changes that will be outlined. The Civil Rights Division will also offer training opportunities to local governments prior to the effective date of these changes.

Retainage on Construction contracts-

LAD has also been engaged in discussions with VDOT's Construction Division regarding retainage on locally administered construction contracts. This was the result of concerns raised on whether current practices met some of the prompt pay requirements established as part of the DBE program for all federal aid contracts. Federal and state regulations may allow retainage to be used in limited situations, but specific rules and restrictions must be followed. The LAP Manual is currently silent on the use of retainage. LAD is working with the Construction Division to research the requirements and develop language consistent with federal and state law regarding retainage that will be incorporated into the LAP Manual. This is a heads up since we do anticipate, based on discussions with our Construction Division, that some localities will need to modify current retainage practices.

These updates to the LAP Manual will be coming soon, and an announcement will be forthcoming with more detailed information once the appropriate Chapters of the LAP Manual are updated. This is simply an advance heads up.

Julie R. Brown

Director, Local Assistance Division

Virginia Department of Transportation