

REQUEST FOR PROPOSAL

Hampton Roads District Major Project Office
Program Support Services

RFP No. HRD – 20170316



GENERAL

The Virginia Department of Transportation is seeking expressions of interest from consulting engineering firms who wish to be considered for providing professional engineering and support services on interstate, primary, urban and secondary road, bridge, structures and related infrastructure projects during the planning, development, pre-award, and the post-award phase for the Hampton Roads District Major Projects Office.

The estimated cost for this contract is \$30,000,000.00

The Department expects the selected firm to provide adequate resources for the successful delivery of the program on short notices. The Department anticipates that the work for this contract will be accomplished within seven (7) years.

In response to this Request for Proposals, firms submitting an Expression of Interest as a Prime Consultant shall not serve as a subconsultant on any other team that includes any of the same team member's firms in which they are the Prime.

ANTICIPATED PROCUREMENT SCHEDULE

- Optional Pre-Proposal Conference – 3/23/2017
- Expression of Interest Due Date and Time –4/19/2017 at 2:00 PM
- Short List Posted on the VDOT Website – 5/9/2017
- Interviews/Technical Presentations – 5/24/2017
- Final Consultant Selection –5/31/2017
- Scoping Meeting with Selected Consultant – 6/9/2017
- Selected Consultant Pre-Award Documents Due – 6/15/2017
- Completed Negotiations Agreement Due – 7/7/2017
- Consultant Contract Signed – 7/18/2017

An Optional Pre-Proposal Conference will be held at the Hampton Roads District Office Auditorium on March 23, 2017 beginning at 10:00 am. This is the only opportunity for questions and answers regarding the scope of services or the Expression of Interest submittal.

CONFLICT OF INTEREST

The scope of this contract anticipates providing numerous services to be provided by the consultants in the management roles to augment VDOT staffing needs for the Hampton Roads Major Projects Office. As such, it is difficult to determine project specific conflicts of interest at the contract level. VDOT anticipates determining the project specific conflicts at the time of work assignments consistent with the Department policy below:

<http://www.virginiadot.org/business/resources/LocDes/IIM-APD-2.pdf>

VDOT has decided to utilize the following approach during the procurement of this contract:

In consideration of the current design-build procurements, VDOT has decided to the focus only on conflicts with the firms pursuing this contract as Prime Consultant. The firms listed below that are

Lead Design firms for the I-64 Southside Widening and High Rise Bridge Project will not be allowed to participate as a Prime Consultant or as a Joint Venture due to a conflict of interest:

- Parsons Brinckerhoff, Inc.
- Parsons Transportation Group, Inc.
- STV Incorporated DBA STV Group, Inc.

In addition, any firm which participates in the I-64 Capacity Improvements - Segment III Design-Build Project as the Lead Design firm will also be considered to have a conflict of interest. Any Expressions of Interest submitted for the Hampton Roads Program Support Services contract wherein the Prime Firm is serving as the Lead Design firm for the I-64 Capacity Improvements - Segment III Design-Build will be considered in conflict and will not be permitted to pursue this contract as a Prime Consultant. All firms having conflicts of interest as Lead Design firm for the above referenced projects are still permitted to pursue the Hampton Roads District Office Program Support Services contract as a subconsultant.

VDOT reserves the right, in its sole discretion, to make determinations relative to potential conflicts of interest on a project specific basis.

Any employee of the selected team who will be co-located at a VDOT owned or shared facility must sign the Confidentiality Agreement for Embedded Consultant Employee at the time the assignment begins. (Attached for reference).

NEGOTIATION APPROACH

Consistent with 23 CFR172.11 requirements, VDOT will conduct negotiations with the selected firm. The objective is to negotiate a fair and reasonable fee for the services rendered. VDOT expects services to be provided from the office location nearest to the Hampton Roads District Office. The selected firm shall note following:

- Net fee for this Project will be **8%**
- The classification rates will be negotiated based on the Virginia fair market rates for the position and associated responsibilities.
- The individuals providing services from a VDOT location will be subject to their approved field office overhead rate.
- Once consultant personnel are assigned to a VDOT Office location, all consultant travel and associated expenses will be considered to originate and end at the assigned VDOT Office. Furthermore, for those consultant staff not assigned to a VDOT Office, reimbursable mileage and travel costs will be calculated from the firm's office within the VDOT Hampton Roads District boundary that is closest to the VDOT Office. For those firm's without an office located within the VDOT Hampton Roads District, reimbursable mileage and travel costs will be calculated from Prime Consultant's office that is closest to the VDOT Office.
- For each classification, VDOT will negotiate rates based on the prevailing fair market rates in Virginia. Rates will not be based solely upon employee salaries.
- Principals, partners, associates, CEO's, and those with similar titles are considered to be administrative and/or management functions whose costs have been included in the overhead markup of the rates for technical categories and shall not be listed separately. If a principal, etc.,

chooses to perform technical services on the project, they will be allowed comparable rate to the technical activity or function being performed.

- VDOT expects all individuals identified on the Organizational chart in the Expression of Interest to remain on the Consultant's Team for the duration of the procurement process and, if the consultant is awarded a contract, the duration of the contract.
- It should be noted that the purpose of Pre-Award Payroll package and Classification Rate negotiations is different and independent of each other.

PROJECT OFFICE

At the Department's discretion the consultant may be required to provide a leased office facility with all necessary furniture and appurtenances to support at least 40 individuals. If leased space is required, the final configuration of the space and staffing will be determined at that time.

SCOPE

The Hampton Roads District is currently administering a significant program of large (>\$100M) transportation projects and requires experienced professional and technical personnel to assist in the development and management of these large projects. The projects include design-build, design-bid-build, and potentially PPTA projects. The consultant selected under this procurement will provide program level support in assisting Department staff to manage and oversee the execution of the program ensuring that technical, fiscal, schedule, and quality goals are established and met.

The work consists of providing professional engineering and support services on interstate, primary, urban and secondary road, bridge, structures and related infrastructure projects during the planning, development, pre-award, and the post-award phase for projects to be procured and administered through the Hampton Roads District Major Projects Office. Key Personnel shall have appropriate depth of experience and capability as evidenced in their resume to meet the requirements as set forth in this RFP. Consultant staff will act as extensions of the District staff and will be long-term team members of the Major Projects program. In addition, the Consultant Program/Contract Manager shall have the capability to access additional resources from the submitted consultant team promptly as the specific need arises. The Key Personnel positions are:

- **Program/Contract Manager**
- **Engineering Task Manager**
- **Program Financial Support Manager**
- **Major Project Director**
- **Major Project Construction Manager**

The Department will not permit individual consultant personnel to charge more than an aggregate total of 40 hours per week on any current VDOT contracts without prior written authorization from the Department. Any such authorization will be granted only on a case-by-case basis for specific activities requiring this additional level of effort. Key Personnel will not be allowed to charge overtime.

A detailed outline for the scope of work and associated man-hours will be negotiated for each year of

the agreement. The scope will be developed through the use of Annual Work Plans (AWP). Costs for AWP will be based upon the fixed billable rates established in the Agreement.

The detailed scope of services under this contract includes but is not limited to the following:

- **Contract Administration**

- A Program/Contract Manager focused on providing resources to the Department's Project Managers and the VDOT Contract Administrator and administering the contract between the Department and the Consultant as well as their sub-consultants.
- Task tracking and weekly progress reporting including projecting work efforts two weeks in advance
- Contract records management; ensuring a current record of all contract related correspondence/billing/assignments is maintained and organized at the VDOT office site

- **Project Management**

- Project Managers and Task Managers for key disciplines to coordinate with the Department's Project Managers and/or Contract Administrator as appropriate.
- Oversight and implementation of Project Controls, including forensic scheduling, predictive scheduling, estimating, project documentation systems, and support for claim avoidance and review.
- Developing project cost/benefit studies and user cost analysis
- Schedule development and management support utilizing the VDOT iPM/Pool/PWA software applications
- Ensure appropriate consideration and incorporation of Common Sense Engineering Principles as outlined by the VDOT 2017 Business Plan
- Compliance with State and Federal regulations and policy

- **Program Financial Support**

- Support developing initial and annual updates to Project Financial plans in accordance with VDOT and FHWA guidelines as appropriate
- Support developing and maintaining monthly project VDOT invoicing to support external reimbursement requirements
- Provide expertise in meeting all FHWA requirements as applicable
- Develop and execute reporting formats and contexts to support management initiatives within the program

- **Traffic Planning, Forecasting, Design**

- Traffic engineering forecasting review and/or performing predictive traffic modeling
- Review and/or develop Interchange Modification/Justification Reports (IMR/IJR) including operational and traffic analysis
- Develop traditional and ITS solutions to traffic issues

- **Traffic Engineering and Traffic Management Plan (TMP)**

- Review and/or develop Traffic Management Plans
- Review and/or develop congestion mitigation strategies, oversight of congestion management activities, and maintenance of traffic
- Coordinate with First Responders and the Traffic Operations Center
- Review and conduct independent analysis of traffic operational and safety impacts of construction and incidents on freeways, signals, and surrounding local roads
- Develop traffic engineering plans, traffic engineering data, and associated analysis related to signs, signals, lighting, pavement markings/markers, and ITS

- Develop, update, maintain overall District perspective on construction impacts to travel on the Interstates and other primary routes, predict impacts of the integration of new projects into the forecast/perspective
- **Transit planning and coordination**
 - Operations planning to include market forecast and operating scenarios
 - Development or adoption of a program to evaluate effectiveness of transit in the District area of operations
 - Coordination with local transit providers
- **Tolling and Revenue Studies**
 - Architecture/engineering for toll and supporting facilities
 - Review test plans, coordinate and witness the testing and integration of all tolling and associated ITS equipment
 - Follow/trace the technical requirements for the Tolling and Traffic Management Systems and back office support systems
 - Provide technical expertise in the factory acceptance testing, systems acceptance testing, and user acceptance testing of equipment and software
 - Review and/or develop toll revenue forecasts
 - Conduct and/or review toll sensitivity analysis
 - Conduct and/or review analysis to support tax revenue forecasts, traffic and toll revenue forecasts, debt service coverage, credit ratings, coverage ratios, bond insurance rates, risk-adjusted payoffs for public and private parties, and optimal risk sharing arrangements among parties
- **Right of Way and Utility Services**
 - Acquisition and relocation oversight and coordination
 - Appraisal reviews
 - Utility relocation oversight
 - Developing Right of Way plans
 - Updating existing Right of Way plans
- **Intelligent Transportation Systems (ITS)**
 - Evaluation of technology, networking, system architecture alternatives
 - Design and develop specification of ITS
 - Review of ITS submittals
 - Oversight of equipment installation and testing
- **Construction Management**
 - Review/analyze formal time impact analyses submittals
 - Assess cost and schedule impacts
 - Prepare information and assist in negotiations
 - Review/assess monthly schedule updates
 - Monitor Major Project Program progress and report findings regularly
 - Conduct project audits
 - Provide claims support services
 - Provide construction engineering management service
 - Provide risk assessment support including facilitating risk management workshops, risk mitigation plans, and risk avoidance strategies
 - Provide project partnering facilitation and activities

- **Project Controls and Constructability**
 - Develop and analyze project schedules and cost estimates (design and construction)
 - Develop constructability assessments and recommendations
 - Perform and lead project risk assessments/evaluations and providing associated analysis and documentation
 - Develop and analyze claims predictions and avoidance measures
 - Document controls ensuring that project teams are maintaining appropriate consistent records
 - Operations and maintenance lifecycle costing
 - Maintenance requirements analyses
 - Perform contract time determination analyses

- **Design and Design Management Services**
 - Engineering disciplines such as roadway, interchange design, structures, bridges, hydraulics, drainage designs (including storm-water management, erosion and sediment control & scour analysis), utilities, geotechnical, landscaping, aesthetics treatments, and other types of infrastructure development
 - Development and/or review of specifications and special provisions
 - Design quality assurance reviews
 - Perform location, mapping, property lines, and utility surveys and develop supplemental survey data
 - Updating existing construction plans
 - Reviewing design submittals, project shop drawings and right of way and construction plan submittals
 - Ensure appropriate consideration and incorporation of Common Sense Engineering Principles as outlined by the VDOT 2017 Business Plan

- **Specialized Engineering Support**
 - Development and/or review of specifications, special provisions, engineering design and analysis of complex bridge, and movable structures
 - Perform constructability reviews
 - Develop potential means and methods including sequence of construction for these complex structures

- **Procurement Support Services**
 - Assisting in Scope Validation Item analysis and resolution
 - Preparation and evaluation of procurement and solicitation documents consistent with current industry best practices and assist in evaluation of alternative delivery projects
 - Contract development (design-build, design-bid-build, and PPTA), review and analysis from a project constructability viewpoint
 - Development/preparation/review of Request for Qualifications (RFQ), Request for Proposals (RFP), Instructions to Offerors, and Technical Requirements
 - Development/preparation/review of RFQ/RFP plans
 - Technical support in the evaluation of Proposals/Expressions of Interest and Alternate Technical Concept submissions
 - Coordinate/perform/assure consistency of design after award design submission reviews by consultant or VDOT staff
 - Coordinate/assure consistency of contract management techniques and practices by VDOT staff

- **Materials Services**
 - Provide geotechnical and geophysical services to include field investigations and development of geotechnical data reports
 - Design bridge foundations, pile supported structures, pavements, embankments, retaining walls, etc.
 - Materials testing capabilities

- **Environmental Services**
 - Preparation of environmental documents to satisfy the National Environmental Policy Act (NEPA) and related studies/requirements, including—
 - Preparation of all levels of NEPA documentation
 - Preparation of all necessary technical reports, appendices, meeting minutes, and memoranda as required to achieve project clearance
 - Coordination with state and federal agencies, localities, Metropolitan Planning Organizations, Planning District Commissions, and transit operators
 - Permit determinations using standard VDOT documentation
 - Wetland delineation and mitigation services
 - Threatened and Endangered Species studies
 - Preparation and review of all necessary permit applications and subsequent presentation at Interagency Coordination Meetings
 - Cultural Resource services including Section 106 coordination
 - Performance of hazardous materials investigations
 - Preparation of air and noise impact analysis and abatement
 - Development and review of permit drawings
 - Monitoring and review of Construction Phase mitigation measures

- **Public Affairs/Outreach Services**
 - Coordinate with and support the District’s Communications staff in developing and conducting public outreach
 - Provide public affairs and communications expertise
 - Develop and implement public affairs strategies and tools, including web sites and social media postings
 - Develop, disseminate, and maintain information to communicate key construction and project development topics to stakeholders
 - Develop and implement public education strategies and programs
 - Prepare information, presentations and associated documentation (maps, mosaics, drawings, slides, etc.) related to public hearings/citizen information meetings to include on-site staff support at these meetings in accordance with VDOT’s Policy Manual for Public Participation in Transportation projects.

- **Disadvantaged Business Enterprise (DBE) and Small, Women, and Minority SWaM Owned Business Enterprise**
 - Provide administrative support for monitoring DBE and SWaM programs, information collection and reporting, workforce utilization and contractor compliance guidance, support services and training programs

- **Agency Coordination**
 - Coordination of the projects/program with key stakeholders
 - Coordination of the projects/program with federal agencies and local jurisdictions, including HRTAC

Below is a listing listing of anticipated position classifications and descriptions for this contract. Resumes are only required for the positions denoted with the “*” in the following table.

Projected Position Classifications and Descriptions

Position	Position Description	Preferred Qualifications
KEY PERSONNEL		
Program/Contract Manager * (Only One Individual)	Management and administrative lead for the consultant's contract. Holds the on-site leadership role in the management and delivery of support services to the Hampton Roads District Major Projects Program. Has full authority to commit consultant resources and is ultimately responsible for the timely, high quality execution of contract tasks and products.	<ul style="list-style-type: none"> - Typically would possess 25 years or more experience in transportation infrastructure development and construction. - Demonstrated experience as a consultant Lead for a Project Office consultant team supporting a program concurrent value in excess of \$500M. - Demonstrated leadership roles on past assignments for complex design-build or design-bid-build projects with a construction value over \$100million. - Demonstrated knowledge of public policy and business practices related to transportation issues. - Demonstrated skill in maneuvering through complex political situations with sensitivity to how people and organizations function, as well as negotiating and leading discussions to reach positive outcomes. - Demonstrated knowledge, skills, and experience to manage, coordinate, and oversee multiple project support efforts in order to meet on-time, on-budget, high quality business objectives. - Licensed Professional Engineer is required.

Position	Position Description	Preferred Qualifications
Engineering Task Manager * (Only One Individual)	Management and general administrative role for delivery of Engineering tasks and/or services. Has authority to commit consultant engineering resources and is ultimately responsible for the timely, high quality execution of tasks and products. Responsible for providing guidance and resources as necessary to ensure coordinated, consistent guidance across various project delivery methods across the Hampton Roads Major Projects Program. Individual shall review and assess the Integrated Project Teams performance on design-build projects and provide guidance, coaching, and support to enable successful delivery of design-build projects spanning the entire spectrum of project life from development to final acceptance.	<ul style="list-style-type: none"> - Typically would possess 15 years or more of experience in transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities as Engineering Task lead on complex transportation infrastructure projects/ programs. - Demonstrated experience with design-build project development and delivery - Demonstrated leadership roles on past assignments for complex major design-build projects for interstate construction with a contract value over \$100million. - DBIA Designated Design Build Professional preferred. - Licensed Professional Engineer in Virginia is required.
Major Project Director * (Only One Individual)	Serves in a leadership role providing management oversight for the development and construction of complex major project(s). Works through project scope, budgets, and schedule challenges. Provides insights and advice/guidance to Department staff with respect to proper management and execution of a large (>\$250M) design-build project. Ensures that all required and appropriate staff is in place and works to mitigate all risks and potential project challenges. Maintains the project team focus on delivering a high quality product, on-time and on-budget.	<ul style="list-style-type: none"> - Typically would possess 25 years of progressive experience in transportation infrastructure development and construction. - Demonstrated leadership roles on the delivery of complex major design-build projects over \$250M in value. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure projects for interstate construction and/or modifications with a contract value over \$250million - Demonstrated experience with design-build project development and delivery for significant projects over \$250M in value. - Demonstrated knowledge of public policy and business practices related to transportation issues. - Demonstrated skill in maneuvering through complex political situations with sensitivity to how people and organizations function, as well as negotiating and leading discussions to reach positive outcomes. - Licensed Professional Engineer is required.

Position	Position Description	Preferred Qualifications
<p>Major Project Construction Manager * (Only One Individual)</p>	<p>Serves in a construction leadership role providing expertise and management oversight for the construction of complex major project(s) (<\$100M). Works through project scope, budgets, and schedule challenges. Ensures appropriate construction staff is in place to effectively manage the construction contract. Serves as the contract expert for the owner ensuring that all contractual requirements are met and the work quality is maintained at an acceptable level.</p>	<ul style="list-style-type: none"> - Typically would possess 20 years of experience in transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure projects - Demonstrated experience with design-build project development and delivery for interstate construction with a contract value over \$100million - Demonstrated leadership roles on complex major design-build projects with a contract value over \$100million. - Demonstrated skill in interpreting contracts, special provisions, and specifications related to roadway design and construction. - Demonstrated experience with large bridge construction projects over navigable waterways. - Licensed Professional Engineer in Virginia is required. - Certified Construction Manager preferred.
<p>Program Financial Support Manager * (Only One Individual)</p>	<p>Serves as Financial Program Management expert. Provides insights, support, and execution of Project Financial Plans, monthly tracking of expenditures vs. budgets, overall program expenditures, expenditure forecasting based on past experience and program performance.</p>	<ul style="list-style-type: none"> - Typically would possess 10 years of experience in similar roles/responsibilities on complex major transportation infrastructure programs or projects - Demonstrated familiarity and experience with VDOT and FHWA financial policies and procedures including FHWA major project guidelines. - Demonstrated skill with Microsoft Office software suite
<p><i><u>ENGINEERING (Major Disciplines: Roadway, Bridges/Structures, Materials, Hydraulics, Geotechnical, Environmental, Tolls and Tolling, Traffic, ITS, Tunnels)</u></i></p>		
<p>Senior Engineer (Per Discipline)</p>	<p>Viewed as a senior engineering professional with leadership role in planning, organizing, and supervising the work of mid-level and junior professionals and technicians. Resolves problems or challenges of significant scope and impact and high complexity.</p>	<ul style="list-style-type: none"> - Typically would possess 15 years of experience in a relevant field of transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure programs / projects. - Licensed Professional Engineer in Virginia is required. - Professional certification in other specific areas preferred as applicable.

Position	Position Description	Preferred Qualifications
Engineer	Performs complex assignments, making independent decisions on problems and methods. Makes decisions on significant design engineering and procedures. May supervise a small staff of engineers and technicians.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure programs / projects. - Licensed Professional Engineer in Virginia is preferred. Professional registration/certification in other specific areas preferred as applicable.
Junior Engineer	Performs assignments exercising judgement in evaluation, selection, and modification of standard engineering techniques and procedures.	<ul style="list-style-type: none"> - Demonstrated experience in relevant areas of transportation infrastructure programs / projects. - Performs assignments exercising judgement in evaluation, selection and modification of standard engineering techniques and procedures.
Senior Traffic Modeler	Viewed as a senior professional in traffic modeling and forecasting with leadership role in planning, organizing, and supervising the work of professionals and technicians. Resolves problems or challenges of significant scope and impact and high complexity.	<ul style="list-style-type: none"> - Typically would possess 10 years of experience in a traffic modelling and forecasting within transportation. - Demonstrated experience in similar roles/responsibilities on complex transportation infrastructure program or projects.
Traffic Modeler	Performs assignments using acceptable traffic forecasting model. Makes decisions on planning issues and procedures. May supervise a small staff.	<ul style="list-style-type: none"> - Demonstrated experience in traffic modelling and forecasting on past assignments for transportation infrastructure programs or projects.
<i>SPECIALISTS: (Major Disciplines: Transit, Right of Way, Utilities Relocation, Survey, Planning, Public Affairs, Planning, CADD)</i>		
Senior Specialist	Viewed as a technical expert resolving problems of greater scope and complexity. May plan or develop project activities which have significant impacts on programs or projects. May plan, organize, and supervise a group of professionals and technicians.	<ul style="list-style-type: none"> - Typically would possess 15 years of experience in relevant area of expertise in the transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure programs or projects.
Specialist	Performs complex assignments, making independent decisions on problems and methods. Makes decisions on significant technical issues and procedures. May supervise a small staff of professionals and technicians.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities on past assignments for complex major transportation infrastructure programs or projects.

Position	Position Description	Preferred Qualifications
Junior Specialist	Performs assignments exercising judgement in evaluating and identifying problems on technical and procedural issues. Monitors activities and progress, prepares reports.	<ul style="list-style-type: none"> - Demonstrated experience in relevant areas of transportation infrastructure programs / projects.
Senior Planner	Viewed as a senior professional in planning resolving problems of greater scope and complexity. May plan or develop project activities which have significant impacts on programs or projects. May plan, organize, and supervise a group of professionals and technicians.	<ul style="list-style-type: none"> - Typically would possess 15 years of experience as a planner in the transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure programs or projects
Planner	Performs assignments, making independent decisions on problems and methods. Makes decisions on planning issues and procedures. May supervise a small group of professionals and technicians.	<ul style="list-style-type: none"> - Demonstrated experience as a planner on transportation infrastructure programs or projects.
Professional Land Surveyor	Provides technical expertise to the project in all areas of survey services including support for complex technical issues, performs field layout on complex and large sites, conducts research and renews client and Government records, and addresses more difficult site measurements.	<ul style="list-style-type: none"> - Typically would possess 15 years of experience in transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure program or project - Virginia Land Surveyor License
Survey Party Chief	Participates in supervising crews engaged in surveying, performs design and location surveys, including topography and contour. Performs construction surveys, including verifying rights-of-way for completion of projects.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities on transportation infrastructure projects

Position	Position Description	Preferred Qualifications
Senior Landscape Architect	Prepares detailed landscape plans including plant summaries, details, and required streetscape features along large scale transportation projects. Requires in-depth knowledge of appropriate types of plant species, plants native to the project area, and ability of plant species to survive the harsh roadside environment with low maintenance.	<ul style="list-style-type: none"> - Typically would possess 10 years of experience in transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure program or project - Virginia Landscape Architect License
CADD Technician	Prepares technical drawings and designs independently under broad direction from Engineer or Project Manager on various assignments. Requires extensive knowledge of CAD, design development construction documents, technical and engineering knowledge.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities on transportation infrastructure projects
<u>CONSTRUCTION:</u>		
Construction Engineer	Serves in a leadership role providing engineering expertise and management oversight for the development and delivery of complex large scale projects. Works through project scope, budgets, and schedule challenges and issues.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities on complex transportation infrastructure projects - Demonstrated experience with design-build project development and delivery - Certified Construction Manager preferred.

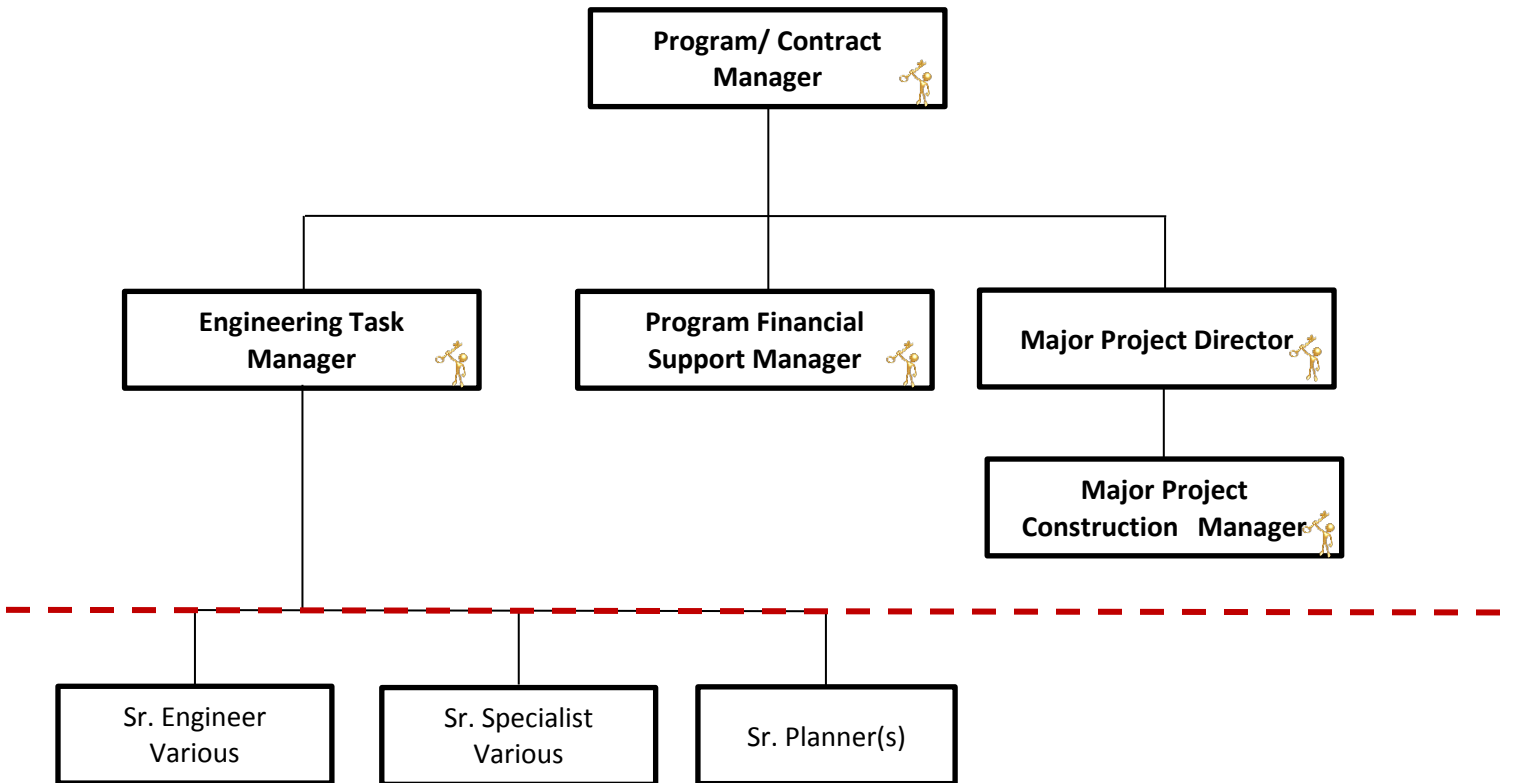
Position	Position Description	Preferred Qualifications
<i><u>PROJECT CONTROLS:</u></i>		
Program Controls Manager * (Only One Individual)	Focuses on ensuring sufficient resources are in place to develop, manage, analyze, and advise on project schedules and construction contractor schedule performance. Supports the contractor payment process including invoice analysis, prepares and analyzes cost estimates for various design and construction applications, supports change/work order management and tracking, supports and leads teams in analyzing and responding to claims, disputes, and other similar activities. Interfaces with the project development processes providing construction duration, constructability review, and other similar support type applications.	<ul style="list-style-type: none"> - Typically would possess 15 years of experience of Project Controls experience in transportation infrastructure development and construction. - Demonstrated experience in similar roles/responsibilities as a project controls manager on transportation infrastructure program - Demonstrated experience with design-build and design-bid-build project development and delivery - Demonstrated leadership roles on complex major projects and/or programs with contract values of approximately \$100M. - Licensed Professional Engineer in Virginia
Claims Specialist	Intimate knowledge and thorough understanding of construction contracts, applicable codes, schedule and familiarity with materials, methods, and processes of construction. Negotiation and contract interpretation skills. Responsible for obtaining, verifying, processing, documenting, and maintaining records relevant to a project including claims, change proposals and change orders, requests for information, correspondence, payment application, contract documents, and other related documentation.	<ul style="list-style-type: none"> - Typically would possess 15 years of experience in transportation infrastructure development and construction industry. - Demonstrated experience in similar roles/responsibilities as a claims analyst on major complex transportation infrastructure program

Position	Position Description	Preferred Qualifications
Risk Specialist *	Assist VDOT in the pursuit, execution, and administration of integrated alternate delivery and construction services including participating in the development of pursuit partners, negotiating teaming agreements and contracts, counsel project personnel on project administration matters, negotiate project closeout and claim issues. Develop and participate in internal training programs, coordinate with outside counsel on project related disputes.	<ul style="list-style-type: none"> - Typically would possess 20 years of experience in the transportation infrastructure development and construction industry. - Demonstrated experience as Risk Specialist on complex major transportation infrastructure program/projects
Estimator *	Prepares conceptual design level, and final construction estimates for complex major transportation projects. Requires knowledge of quantity computations, unit price analyses including labor, material, equipment, overhead, and profit computations, and application of appropriate contingencies based on risk assessments.	<ul style="list-style-type: none"> - Typically would possess 15 years of experience as an Estimator in transportation infrastructure development and construction industry. - Experience in preparing Design-Build, Design-Bid Build project estimates. - Experience in preparing Operations and Maintenance estimates - Requires demonstrated familiarity with VDOT's TRNS*PORT estimating system. - Demonstrated experience in similar roles/responsibilities on complex major transportation infrastructure program
Scheduler	Prepares and/or reviews construction schedules for major complex major transportation projects. Develops construction schedules including cost loading and resource loading features. Develops and advises on contract time determinations for projects in development.	<ul style="list-style-type: none"> - Typically would possess 10 years of experience as a Scheduler in transportation infrastructure development and construction industry. - Demonstrated experience in similar roles/responsibilities as a Scheduler on complex major transportation infrastructure projects - Demonstrated capability/experience with Primavera P6 - Demonstrated capability/experience analyzing construction baseline and monthly schedule updates - Demonstrated ability to analyze and assess Time Impact Analyses

Position	Position Description	Preferred Qualifications
<u>ADMINISTRATIVE:</u>		
Administrative Assistant	Provides general office support as necessary, including but not limited to, consolidating reports, monitoring incoming./outgoing correspondence, finalizing written documentation, monitoring status of periodic activities and reports, hardcopy/electronic filing, and other office administration type functions.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities - Demonstrated skill with Microsoft Office software suite
Accounting Specialist	Works in accounts payable and receivable entering vendor invoices, reviewing and entering appropriate information, processing vendor payments, reviewing payment activities, preparation of invoices for the consultant as well as VDOT for HRTAC projects.	<ul style="list-style-type: none"> - Demonstrated experience in similar roles/responsibilities on transportation infrastructure program/project - Demonstrated skill with Microsoft Office software suite

Organizational Chart

The Consultants should not change the organizational chart above the referenced dashed line. However, the Consultants are allowed to expand the organizational chart below the dashed line. Should the Consultants introduce new positions or modify the organizational chart above the dashed line the changes will not be considered for evaluation.



This work is to be accomplished utilizing computerized design and drafting systems compatible with the Department’s automated design and drafting systems. The Department’s roadway design system is GEOPAK Civil Design Software and the drafting system is MicroStation. This project will be developed utilizing the Department’s policies and procedures and FHWA’s guidelines. This Request for Proposal does not commit the Department to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services.

All procurement related questions or information should be directed to Jeff Rodgers at (804) 786-2552 or email Jeff.Rodgers @VDOT.Virginia.gov.

EXPRESSIONS OF INTEREST; VOLUMES I AND II

1. The Expression of Interest must be submitted in two separate volumes. Each volume shall be submitted by the required due date and time as outlined in this RFP under the Administrative heading, Section 7. Only one cover letter is required to be submitted for both volumes. Each volume must contain the following information as shown in the table below.

Volume I - Technical Qualifications Submittal	Volume II - Administrative Requirements Submittal
Table of Contents	Table of Contents
Transmittal Letter (1 page or less)	Response to RFP Item No. 10
Understanding of the Scope of Work (2 pages or less)	Present Workload with Department form (RFP Item No. 9)
Present Workload with Department form (RFP Item No. 9)	Table Matrix containing information in RFP Item No. 17
Standard Form (SF) 330 Part I – one combined for the project team	Full size copies of VA. SCC and DPOR
Standard Form (SF) 330 Part II – one for each firm.	Full size copies of VA. DPOR for key staff
Response to RFP Item No. 11 (Omitted)	Firm Data Sheet
Response to RFP Item No. 12	Certification Regarding Debarment (RFP Item No. 15)
Response to RFP Item No. 13	DBE Commitment Letter
Response to RFP Item No. 14 (Omitted)	DBE Submittals C-48 or C-49
Response to RFP Item No. 16	Full size copies of FAR Approval letter by VDOT (Item No. 18)
	Full size copies of Title VI Certification letter by VDOT (Item No. 19)

(All items shall be on 8 1/2” X 11” and printed on one side with single-spaced type no smaller than 10 point where applicable.)

2. Furnish current SF 330 Part II for each firm involved, and one (1) combined SF 330 Part I for the project team. Please follow the instructions included on the form, unless indicated otherwise within this RFP. (Vol. I)

3. As referenced in SF 330 Part I, Section D (Organizational Chart of Proposed Team), a one page organizational chart showing all firms involved and key personnel assignments and responsibilities is required to be included. (Vol. I, included in SF330)
4. Indicate KEY PERSONNEL ONLY resumes in SF 330 Part I, Section E (Resumes of Key Personnel Proposed for This Contract). Key personnel are defined as those to whom the contract will be assigned and who will be performing the actual management of the work and be responsible for inspection, administrative and design services. Each resume shall be limited to one page per person with a font no less than 10 point. (Vol. I, included in SF330)

Furthermore, all individuals identified as Key Personnel in the EOI shall remain on the Consultant's Team for the duration of the procurement process and, if the consultant is awarded a contract, the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the Department's Project Manager for approval, who, at his/her sole discretion, will determine whether to authorize a change. Unauthorized changes to the Consultant's Team at any time during the procurement process may result in elimination of the Consultant's Team from further consideration.

5. In SF 330 Part I, Section F (Example Projects Which Best Illustrate Proposed Team's Qualifications for This Contract), limit example projects to no more than ten (10). Each project example shall not exceed one (1) page. (Vol. I, included in SF330)
6. In SF 330 Part I, Section G (Key Personnel Participation in Example Projects), limit example projects to no more than ten (10). The example projects listed in Section G (#29) should match the example project list provided in Section F. (Vol. I, included in SF330)
7. In SF 330 Part I, Section H (Additional Information), the consultant should detail the plan to assure the Department that the staff submitted for evaluation will be available for the services requested by the RFP. Section H of SF 330 Part I is limited to a maximum of ten (10) pages with a font no less than 10 point. This section should describe the organization of the proposed project staff indicating the role of each by individual. If subconsultants are proposed, the role of each subconsultant should be discussed. It should also include statements that are responsive to the attached Consultant Short List Score Sheet that will be used to evaluate your submission. This is the ONLY section of the submission which may include pictures or graphics (included in the ten page limit). List any computer and CADD equipment and any specialized computer software packages that you will use on this VDOT project. (Vol. I, included in SF330)
8. It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded contracts. A list of certified DBE firms is maintained on the Department of Small Business and Supplier Diversity's web site (www.sbsd.virginia.gov) under the **DBE Directory of Certified Vendors**. 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 consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The consultant is encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited.

The DBE contract goal for this procurement is 13%.

In accordance with the Governor's Executive Order No. 20, the Virginia Department of Transportation also requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Small Business and Supplier Diversity (DSBSD) certified SWaM firms is maintained on the DSBSD web site (<http://www.dmbv.virginia.gov/>) under the **SWaM Vendor Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider SWaM firms as potential subconsultants. The consultant is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited.

The SWaM Goal for this procurement is 29%.

If portions of the services are to be subcontracted to a DBE or SWaM, the following needs to be submitted with your EOI and both must reference the project number(s) for the services:

- Written documentation of the prime's commitment to the DBE or SWaM firm to subcontract a portion of the services, a description of the services to be performed and the percent of participation.
- Written confirmation from the DBE or SWaM firm that it is participating, including a description of the services to be performed and the percent of participation.

49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts. This data must be provided on the enclosed Firm Data Sheet.

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on quarterly basis.

Any DBE or SWaM firm must become certified (with the Virginia Department of Small Business and Supplier Diversity) prior to your response being submitted. If DBE or SWaM firm is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWaM subconsultants. DBE or SWaM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SWaM credit will be awarded only for work actually being performed by them. When a DBE or SWaM prime consultant subcontracts work to another firm, the work counts toward DBE or SWaM goals only if the other firm is itself a DBE or SWaM. A DBE or SWaM prime consultant must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM 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.

Business Opportunity and Workforce Development (BOWD) Center - The BOWD Center is a VDOT developmental supportive services program and partnering initiative funded by FHWA

for selected DBE firms of various skill and competence levels interested in entering, enhancing or expanding highway contracting opportunities with prime consultants. The partnering initiative between prime consultants and BOWD DBE firms provides the opportunity for the further development of DBE firms through performance on contracts and guidance from prime consultants. The intent of this partnering initiative is to increase capacity by perfecting existing skills and knowledge, expanding into new work areas, and prime consultant joint venturing with DBE firms.

The prime consultants are encouraged to achieve all or a percentage of the required DBE participation/goals determined for this project by the utilization of BOWD approved firms. To assist consultants in taking advantage of this opportunity for utilization of approved BOWD firms, please contact the BOWD Center for additional information, details, resources and support. The BOWD Center can be contacted at (804) 662-9555 or via email to BOWDCenter@vdot.virginia.gov. (Vol. II)

9. If any firms involved with this submission currently have work with the Department, indicate the projects, the division managing the projects, the amount of outstanding fee remaining, and the estimated date of completion. For limited services term contracts, include only the amount of all tasks orders executed or under negotiation. Also, include your estimated fees for pending supplemental agreements and any projects for which the firms have been selected, but have not executed an agreement. Work of affiliated and/or subsidiary companies is to be included. The outstanding workload of any Virginia Department of Small Business and Supplier Diversity certified DBE or SWaM prime or subconsultant may be reduced up to \$4 million and the remainder (>\$0) shall be added to the team's total workload. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM may be reduced up to \$4 million for the next three years. All new work obtained after graduating from the program will be counted. Work being performed under the Public Private Transportation Act (PPTA) shall not be included. Work being performed as a prime, joint venture, or subconsultant on a VDOT Design-Build project shall be included. The outstanding fee remaining is the maximum total compensation payable less the amount previously paid to date. Only Category **A & B** work will be counted in the scoring criteria. This information shall be submitted using the attached Present Workload with Department form. Please carefully read the instructions on the Present Workload with Department form. (Vol.I and Vol. II)
10. Give names and detailed addresses of all affiliated and/or subsidiary companies. Indicate which companies are subsidiaries. If a situation arises in responding to this questionnaire where you are unsure whether another firm is or is not an affiliate, doubt should be resolved in favor of affiliation and the firm should be listed accordingly. (Vol.II)

Affiliate - Any business entity which is closely associated to another business entity so that one entity controls or has the power to control the other entity either directly or indirectly; or, when a third party has the power to control or controls both; or where one business entity has been so closely allied with another business entity through an established course of dealings, including but not limited to the lending of financial wherewithal, engaging in joint ventures, etc. as to cause a public perception that the two firms are one entity. Firms which are owned by a holding company or a third party, but otherwise meet the above conditions and do not have interlocking directorships or joint officers serving are not considered affiliates.

A firm (prime) shall not submit more than one Expression of Interest (EOI) in response to this Request for Proposals (RFP). If more than one EOI is submitted by an individual, partnership, Corporation, or any party of a Joint Venture, then all EOIs submitted by that individual,

partnership, Corporation, or any party of a Joint Venture shall be disqualified. If more than one EOIs are submitted by an affiliate, or subsidiary company of an individual, partnership, Corporation, or any party of a Joint Venture, then all EOIs submitted by that individual, partnership, Corporation, or Joint Venture shall be disqualified.

11. Omitted

12. In five (5) page(s) or less, please emphasize your qualifications in the following areas: (Vol.I)

1. Contract Administration
2. Project Management
3. Program Financial Support
4. Traffic Planning, Forecasting, Design
5. Traffic Engineering and Traffic Management Plan (TMP)
6. Transit planning and coordination
7. Tolling and Revenue Studies
8. Right of Way and Utility Services
9. Intelligent Transportation Systems (ITS)
10. Construction Management
11. Project Controls and Constructability
12. Design and Design Management Services
13. Specialized Engineering Support
14. Procurement Services
15. Materials Services
16. Environmental Services
17. Public Affairs/Outreach Services
18. Disadvantaged Business Enterprise (DBE) and Small, Women and Minority (SWaM) owned business enterprises
19. Agency Coordination.

13. In two (2) pages or less, provide a narrative detailing how the proposed organization, resources, and capabilities will support the needs of and enhance the success of the Hampton Roads Major Projects Program. Describe any notable processes or tools proposed for use. Address staffing, cost control, and schedule management. (Vol.1)

14. Omitted

15. Please indicate, by executing and returning the attached Certification Regarding Debarment forms, if your firm, subconsultant, subcontractor, or any person associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of Federal or State funds:

- Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.
- Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years.
- Does have a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

Any of the above conditions will not necessarily result in denial of award, but it will be considered in determining offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in Federal criminal prosecution or administrative sanctions. (Vol. II)

16. If the prime consultant or subconsultant does not have the in-house capability to provide non-professional services, each with an estimated cost of \$5,000 or greater, such as diving services, soil drilling, sampling services or laboratory testing, these services must be subcontracted in accordance with State procurement procedures once a contract is executed, with no DBE or SWaM credit in the selection of the most qualified firm or team. Clearly indicate these services in the EOI. (Vol. I)
17. Each business entity (prime and subconsultants) on the proposed team who is practicing or offering to practice professional services in Virginia, including, but not limited to, those practicing or offering to practice engineering, surveying, hydrologic and hydraulic analysis, geotechnical analysis and landscape architecture, should provide evidence including full size copies of appropriate commercial professional registrations and licenses for all main and branch offices proposed for this Project, as well as providing full size copies of appropriate individual registrations/licenses for those professional occupations per the requirements listed below. The EOI should convey the requested information for each regulant by the use of a concise table or matrix. (All full size copies of the Commonwealth of Virginia State Corporation Commission (SCC) and Department of Professional and Occupational Regulation (DPOR) supporting registration documentations should be included in the EOI and will not be counted towards page restriction):

.1 The Commonwealth of Virginia SCC registration detailing the name, registration number, type of corporation and status of the business entity.

.2 For this Project/Contract, the Commonwealth of Virginia DPOR registration information for each office practicing or offering to practice any professional services in Virginia: Provide the business name, address, registration type, registration number, expiration date.

.3 For this Project/Contract, the Commonwealth of Virginia DPOR license, or other state as applicable, information for each of your Key Personnel practicing or offering to practice professional services in Virginia: Provide the name, the address, type, the registration number, and the expiration date. Provide the office location where each of the Key Personnel is offering to practice professional services.

.4 For this Project/Contract, the Commonwealth of Virginia DPOR license information for those services not regulated by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (e.g. real estate appraisal): the business name, the address, the registration type, the registration number, and the expiration date.

Failure to comply with the law with regard to those requirements in Virginia (whether federal or state) at the time of the EOI submittal regarding your organizational structure, any required registration with governmental agencies and/or entities, and any required governmental licensure, whether business, individual, or professional in nature may render your EOI submittal(s), in the sole and reasonable discretion of the Department, non-responsive and in that event your EOI submittal(s) may be returned without any consideration or evaluation. (Vol. II)

18. The prime and all subconsultants are required to include in their Expression of Interest the FAR Approval letter from VDOT for the current year. This requirement is not factored into consideration for responsiveness. If no audited home office overhead rate is available, a provisional overhead rate (overhead plus payroll burden) of 110% will be used. If no audited field office overhead rate is available, an overhead rate (overhead plus payroll burden) of 75% will be used. (Vol. II)
20. The prime and all subconsultants are required include in their Expression of Interest their Title VI Certification letter from VDOT for the current year. This requirement is not factored into consideration for responsiveness. If any members of the team do not have a VDOT Title VI Certification Letter at the time of the EOI submittal, they will be required to submit the VDOT Title VI Certification Letter by the pre-award documentation due date or VDOT may begin negotiating with the next ranked firm upon receiving approval from the Civil Rights Division. (Vol. II)

ADMINISTRATIVE

1. Omitted
2. Prior to the time of submittal of the EOI, all business entities, except for sole proprietorships, are required to register with the Virginia State Corporation Commission. Information about entity formation can be found at <https://www.scc.virginia.gov/default.aspx>. Foreign Professional corporations and Foreign Professional Limited Liability Companies (i.e., organized or existing under the laws of a state or jurisdiction other than Virginia) must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorships that do not employ other individuals for which licensing is required must be registered in the Commonwealth of Virginia with the Department of Professional & Occupational Regulation <http://www.dpor.virginia.gov/>, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (Board). Board regulations require that all branch offices of professional corporations and business entities located in Virginia, which offer or render any professional services relating to the professions regulated by the Board shall be registered as separate branch office with the Board. All offices, including branches, which offer or render any professional service, must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at that office. All firms involved that are to provide professional services must meet these criteria prior to submitting an Expression of Interest to the Department. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.
3. The Department will not consider for award any cost proposals submitted by any consultants and will not consent to subcontracting any portions of the contract to any subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
4. Based upon the procurement and contract schedule, the approved escalation rate for this contract is 1%; 0.5% for year 1 and 1% for all subsequent years.

The method of payment will be actual costs for each project assignment based on fixed billable rates. For purpose of determining the fixed billable rates, an overhead rate shall be established in

compliance with cost principles contained in the Federal Acquisition Regulations (FAR) of Part 31 of Title 48 of the Code of Federal Regulations. The overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm.

5. All firms submitting Expressions of Interest (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet Federal requirements for accounting. These systems must comply with requirements of 48CFR31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23CFR172, "Administration of Negotiated Contracts." All architectural or engineering firms selected for a project (prime consultants, joint ventures and subconsultants) must submit their FAR audit data along with a Contractor Cost Certification for indirect cost rates required by FHWA order 4470.1A dated October 27, 2010 to the Department within 10 work days of being notified of their selection, whereby an official of an architectural or engineering firm shall certify that the indirect cost rate submitted does not include any costs which are expressly unallowable and that the indirect cost rate was established only with allowable costs in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of 48CFR31. A sample Contractor Cost Certification is available for architectural or engineering firm's use on VDOT website at <http://www.virginiadot.org/business/gmpms.asp>. Should any firm on the consultant team fail to submit the required audit data and certification within the 10 work days, negotiations may be terminated by the Department and the next most qualified team invited to submit a proposal.
6. Records Exclusion from Public Disclosure: Pursuant to the provisions of §2.2-3705.6 (22) of the Code of Virginia, trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Inspector General of the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Inspector General's Office in accordance with law may, subject to a determination by the Inspector General as described herein, be withheld from public disclosure under the Virginia Freedom of Information Act (FOIA). To enable the Inspector General to identify data or records that may be subject to this exclusion from disclosure under FOIA the private or nongovernmental entity shall, in accord with procedures adopted by the Inspector General, make a written request to the Inspector General of the Virginia Department of Transportation:
 - invoking such exclusion upon submission of the data or other materials for which protection is sought;
 - identifying with specificity the data or other materials for which protection is sought; and
 - stating the reasons why protection is necessary.

The Inspector General of the Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it. Notwithstanding the foregoing, Contractor's failure to comply with the requirements stated herein and procedures established by the Inspector General for seeking an exclusion pursuant to §2.2-3705.6 (22) of the Code of Virginia shall result in a denial of the exclusion. Requests for exclusion that are submitted after data or other materials for which protection is sought have been submitted will be denied.

If litigation directly or indirectly results from or arises out of a granted exemption, the contractor

will be responsible for all litigation costs incurred by contractor and/or VDOT associated with such litigation. In no event shall the Virginia Department of Transportation or its officers, employees or agents be liable to the contractor as a result of any disclosure of records or data collected by the Department, its officers, employees or agents, pursuant to an audit, special investigation, or any study requested by the Inspector General's Office, whether or not the Inspector General has determined that the requested exclusion from disclosure under FOIA is necessary to protect the trade secrets or financial records of the private entity, and in no event shall the Virginia Department of Transportation, or its officers, employees, or agents be liable to the contractor for any damages or other claims arising directly or indirectly from a determination that the exclusion from public disclosure will not be granted.

- 7. Electronic EOI submittals are encouraged for this EOI.** Submittals shall be prepared simply and economically, providing a straightforward, concise description of the firm's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective proposal are neither required nor desired. Please do not duplicate information furnished in the SF 330 Part I and Part II elsewhere in the submittal. **All information must be submitted either electronically through VDOT's Falcon system or by mail (one hard copy) and received no later than 2:00 PM (local time prevailing) on 4/19/2017. Responses received after this time will not be considered. Please note that electronic submittals are time stamped at the moment that a file *completes* uploading. The uploading process is sensitive to connection speed and file size – a 25 MB file may take 15 minutes to load. Please plan accordingly, so that the time stamp occurs prior to 2:00 PM, 4/19/2017. An offeror choosing to submit the EOI through hard copy delivery must include one CD-ROM containing the entire submittal in a single cohesive PDF file.** All text in the PDF file shall be searchable using Adobe Acrobat software except within illustrations and scanned registration documents.

- A. Requests for new logins and passwords to the Falcon system must be submitted to CADD Support at least 5 business days prior to the due date.
- B. Java version 8 (32-bit) must to be loaded and working on the user's computer. If an older version is loaded, update the computer to Java 8 and verify that Java is functioning correctly using this link. (www.java.com/verify) Java 8 will require a couple of configuration changes after it is loaded. Use the instructions in this link to make the changes. [Instructions for Java 8](#)
- C. When submitting the Expression of Interest electronically, upload a test file at least 2 business days prior to the due date to insure that your computer software is compatible and working correctly. Contact the CADD Support Helpdesk to confirm the upload was successful. The test file will be deleted at that time. We recommend using Internet Explorer version **10 or 11**. The Falcon system does not work with Firefox, Chrome, or Safari web browsers.
- D. The file name field is limited to a maximum of 80 characters. File names cannot contain special characters such as an ampersand (&) or apostrophe (').

File names should follow the format: Vol I_RFPNo_Firm Name.pdf.
For Example: **VOL I_HRD-20170126_Jones Construction.pdf**
VOL II_HRD-20170126_Jones Construction.pdf

E. Do not wait until the last minute to upload the EOI. The time required for the upload to complete has several variables, including the load on the system with multiple concurrent uploads. If steps A and B are completed at least 5 business days and step C is completed at least 2 days prior to the due date, it will help to eliminate any last minute issues.

All hard-copy deliveries shall be made to the following VDOT address:

Commonwealth of Virginia
Department of Transportation (VDOT)
Central Office Mail Center
Loading Dock Entrance
1401 E. Broad Street
Richmond, Virginia 23219
Attention:

All electronic deliveries shall be made to the following VDOT Web address:
<http://falcon.virginiadot.org/falcon/>.

Any offeror needing access to submit an Expression of Interest to the Professional Services Procurement area on the Falcon Web Site must email the VDOT CADD Support Helpdesk at CADDSupport@VDOT.virginia.gov at least 7 business days prior to the submission date to request a Falcon login and password or to request that an existing Falcon account be given access.

The VDOT CADD Support Helpdesk phone numbers are:

LOCAL: (804) 786-1280

TOLL FREE: (888) 683-0345

HOURS: 7:30AM – 4:30PM Monday – Friday (Closed on State Holidays)

8. The Department assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within 10 work days of notification of selection when requested by the Department.
9. The Offeror shall be in compliance with Commonwealth of Virginia Executive Order 61 Ensuring Equal Opportunity and Access for all Virginians in state contracting and public services. The Offeror shall maintain a non-discrimination policy, which prohibits discrimination by the Offeror on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status. This policy shall be followed in all employment practices, subcontracting practices, and delivery of goods or services. The Offeror shall also include this requirement in all subcontracts valued over \$10,000.
10. Any offeror who desires to protest the award of a contract shall submit such protest in writing to the Department no later than ten days after the announcement of the award. Public announcement of the award shall be posted on the Department's Business Center Internet site.
11. eVA Business-to-Government Vendor Registration: The eVA Internet electronic procurement solution, web site portal (<http://www.eva.state.va.us>), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or

services to the Commonwealth shall participate in the eVA Internet e-procurement solution through either eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. For more detail information regarding eVA, registrations, fee schedule, and transaction fee, use the website link: <http://www.eva.state.va.us>. All bidders or offerors must register in eVA; failure to register may result in the bid/proposal/expression of interest being rejected.

12. The required services will involve the handling of Critical Infrastructure Information/Sensitive Security Information (CII/SSI) material. Firm(s) handling CII/SSI material will be required to sign non-disclosure agreements. Individuals with the firm(s) that handle CII/SSI material will be required to sign non-disclosure agreements. Once negotiations have been completed and prior to executing a contract, personnel handling CII/SSI material, visiting Critical Infrastructure (CI) facilities or performing bridge/tunnel inspections may be required to pass a fingerprint-based Criminal History Background Check (CHBC). An individual employee's failure to successfully pass the fingerprint-based CHBC will not negate the selection and offerors will be allowed to replace those individuals. However, if key personnel fail the fingerprint-based CHBC, the selection may be cancelled and negotiations begun with the next ranked offeror. VDOT reserves the right to conduct fingerprint-based CHBC on all employees of the prime consultant, on any employees of subconsultants or on any proposed replacements during the term of the contract who will be involved in this project. All costs associated with the fingerprint-based CHBC are the responsibility of the prime consultant. A VDOT issued photo-identification badge is required for each employee of the prime consultant or any subconsultant who will need access to VDOT CI facilities or who will be performing bridge/tunnel inspections. Based upon the results of the fingerprint-based CHBC, VDOT reserves the right to deny issuance of a VDOT security clearance or a VDOT issued photo-identification badge.

13. The consultant shall not be responsible for correcting any product(s) (e.g., hardware, software, firmware) which were not provided under the agreement or for correcting any previously owned Department products that are used in combination with the Department's product(s). However, if this solicitation identifies any product or sources of data to be used in combination with the product(s) delivered under the resulting agreement, the consultant shall be responsible for providing all necessary interface(s) or other appropriate means for assuring that data output from such other product(s) or source(s) is automatically corrected before being processed by the product(s) or system provided under this agreement.

PRESENT WORKLOAD WITH DEPARTMENT (Vol. I)

(List Amount of Each With VDOT by Division)

PROJECT NUMBER* AND CARDINAL CONTRACT ID NUMBER	CAT.	LEAD DIVISION	DATE OF ORIGINAL AGREEMENT	AMOUNT OF CONTRACT /TASK ORDERS ** (\$)	LESS DBE/SWAM CREDIT	LESS SUB'S AMOUNT (\$)	SUBTOTAL (\$)	LESS FIRM'S APPROVED PAYMENT (\$)	PLUS PENDING SUPPLEMENT or CONTRACT *** (\$)	TOTAL REMAINING WORKLOAD (\$)	SCHEDULED COMPLETION DATE
PRIME CONSULTANT											
TOTAL OF PRIME'S CONTRACTS											
SUBCONSULTANTS†											
TOTAL OF SUB'S CONTRACTS											
TOTAL REMAINING WORKLOAD											

* Projects include contracts under negotiation. For limited services term contracts, include the amount of all task orders executed or under negotiation. Please list only those VDOT projects for the Category applicable to this procurement as specified in the RFP. Please include the Category Letter and all other pertinent information on the form. Only those projects in Category A & B are to be totaled and counted for Present Workload for this procurement.

- Category A: Term Surveying and Utility Designation/Location Contracts.
- Category B: Preliminary Engineering Contracts - includes transportation planning and environmental studies, utility relocation and design, and roadway and bridge design.
- Category C: Construction Engineering Contracts - includes construction inspection, preparation of final estimates..
- Category D: Operation and maintenance Contracts - includes operation and maintenance of traffic management systems.
- Category E: Bridge Safety Inspection Contracts – includes bridge and traffic structure safety inspection.

** Amount of contract includes contingency and non-salary direct cost and all executed supplemental agreements.

*** Excluding Sub-consultants

Work being performed under the Public Private Transportation Act (PPTA) shall not be included. Professional services work being performed as a prime, joint venture, or sub-consultant on a VDOT Design-Build project shall be included.

† The outstanding workload in Category A & B of each DBE/SWAM prime and sub-consultant may be reduced up to \$4M and the remainder (>\$0) added to the team’s total workload. When DBE/SWAM firms graduate from the program, their workload incurred while a DBW/SWAM may be reduced up to \$4M for the next three years. Any work obtained after graduating from the program will be counted.

Firm Registration Information (Vol. II)

Offerors shall complete the table and include the required state registration and licensure information. By completing this table, Offerors certify that their team complies with the requirements set forth in the RFP and that all businesses and individuals listed are active and in good standing.

SCC & DPOR INFORMATION FOR BUSINESSES							
Business Name	SCC Information			DPOR Information			
	SCC Number	SCC Type of Corporation	SCC Status	DPOR Registered Address	DPOR Registration Type	DPOR Registration Number	DPOR Expiration Date

Key Personnel Registration Information (Vol. II)

DPOR INFORMATION FOR INDIVIDUALS						
Business Name	Individual's Name	Office Location Where Professional Services will be Provided (City/State)	Individual's DPOR Address	DPOR Type	DPOR Registration Number	DPOR Expiration Date

FIRM DATA SHEET (Vol. II)

Funding: ___ (S=State F=Federal) Project No.: _____
 Division: _____
 EOI Due Date: _____

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data may result in the Expression of Interest not being considered.

Firm's Name, Address and DBE and/or SWAM Certification Number	Firm's DBE or SWaM Status *	Firm's Age	Firm's Annual Gross Receipts

* YD = DBE Firm Certified by DMBE = DBE or SWaM Firm Not Certified by DMBE
 NA = Firm Not Claiming DBE or SWaM Status
 YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.
 DMBE is the Virginia Department of Small Business and Supplier Diversity

CERTIFICATION REGARDING DEBARMENT
PRIMARY COVERED TRANSACTIONS
(To be completed by a Prime Consultant)
Vol. II

Project: _____

- 1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and
 - d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature

Date

Title

Name of Firm

CERTIFICATION REGARDING DEBARMENT
LOWER TIER COVERED TRANSACTIONS
(To be completed by a Sub-consultant)
Vol. II

Project: _____

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature	Date	Title
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Name of Firm

CONSULTANT SHORT LIST SCORE SHEET – FEDERALLY / STATE FUNDED PROJECT
(FOR PROFESSIONAL SERVICES)

DIVISION: _____ EOI NO.: _____
 PROJECT: _____ FIRM: _____
 DESCRIPTION: _____ SUBS: _____
 DATE: _____

		NUMERICAL VALUE				AVG.	WEIGHT	WEIGHTED EVALUATION
FIRM/TEAM'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)		1-10					25%	
PERSONNEL'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)		1-10					35%	
QUALIFICATIONS OF PROGRAM /CONTRACT MANAGER (Expertise, experience and qualifications in project management as related to the scope of services) (1=least, 10=most)		1-10					10%	
ORGANIZATIONAL CAPABILITY (Ability to complete work in a timely manner, size of firm(s) relative to size of project, proposed project staff resources, proposed use of sub-consultants) (1=least, 10=most)		1-10					20%	
PRESENT WORKLOAD WITH DEPARTMENT (Dollar value of present outstanding fee including estimated pending contracts under negotiation. For limited services term contracts, include the amount of all task orders executed or under negotiation. Work being performed under the Public Private Transportation Act (PPTA) shall not be included. Work being performed as a prime, joint venture or sub-consultant on a Design-Build project shall be included.) † (Only Category A & B workload is counted on this selection*)	Above \$20,000,000	0					10%	
	18,000,001-20,000,000	1						
	16,000,001-18,000,000	2						
	14,000,001-16,000,000	3						
	12,000,001-14,000,000	4						
	10,000,001-12,000,000	5						
	8,000,001-10,000,000	6						
	6,000,001-8,000,000	7						
	4,000,001-6,000,000	8						
	2,000,001-4,000,000	9						
0-2,000,000	10							
							TOTAL	

*CATEGORIES OF WORKLOAD:

A - TERM SURVEYING AND UTILITY DESIGNATION/LOCATION CONTRACTS

B - PRELIMINARY ENGINEERING CONTRACTS - includes transportation planning and environmental studies, utility relocation and design, and roadway and bridge design.

C - CONSTRUCTION ENGINEERING CONTRACTS - includes construction inspection, preparation of final estimates..

D - OPERATION AND MAINTENANCE CONTRACTS - includes operation and maintenance of traffic management systems.

E - BRIDGE SAFETY INSPECTION CONTRACTS - includes bridge and traffic structure safety inspection.

† The outstanding workload of any certified DBE or SWaM prime and sub-consultant may be reduced up to \$4M and the remainder (>\$0) added to the team's total workload. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM may be reduced up to \$4M for the next three years. Any new work obtained after graduating from the program will be counted.

In determining the final short list, the top ranked firms and their sub-consultants will have their VDOT Consultant Performance Reports reviewed and/or references checked.

ATTACHMENT A**VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR CONSULTANT PROJECTS****Use of Disadvantaged Business Enterprises (DBEs) for Project Specific Consultant Projects****A. Disadvantaged Business Enterprise (DBE) Program Requirements**

Any Consultant, subconsultant, 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.

For the purposes of this provision, Consultant is defined as any individual, partnership, corporation, or Joint Venture that formally submits a Statement of Qualification or Proposal for the work contemplated there under; Consultant is defined as any individual, partnership, or Joint Venture that contracts with the Department to perform the Work; and subconsultant is defined as any supplier, manufacturer, or subconsultant performing work or furnishing material, supplies or services to the contract. The Consultant shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subconsultant having work for which it intends to claim credit.

In accordance with 49 CFR Part 26 and VDOT's DBE Program requirements as outlined in this Special Provision, the Consultant, for itself and for its subconsultants and suppliers, whether certified DBE firms or not, shall commit to complying fully with the auditing, record keeping, confidentiality, cooperation, and anti-intimidation or retaliation provisions contained in those federal DBE Program and State legal requirements. By submitting a Proposal on this contract, and by accepting and executing this contract, the Consultant agrees to assume these contractual obligations and to bind the Consultant's subconsultants contractually to the same at the Consultant's expense.

The Consultant and each subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Consultant to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Consultant exercises the right of appeal within the required timeframe(s) specified herein. Appeal requirements, processes, and procedures shall be in accordance with guidelines stated in F of this provision and current at the time of the proceedings. Where applicable, the Department will notify the Consultant of any changes to the appeal requirements, processes, and procedures after receiving notification of the Consultant's desire to appeal.

All time frames referenced in this provision are expressed in business days unless otherwise indicated. Should the expiration of any deadline fall on a weekend or holiday, such deadline will automatically be extended to the next normal business day.

B. DBE Certification

The only DBE firms eligible to perform work on a federal-aid contract for DBE contract goal credit are firms certified as Disadvantaged Business Enterprises by the Virginia Department of Small Business and Supplier Diversity (SBSD) or the Metropolitan Washington Airports Authority (MWAA) in accordance with federal and VDOT guidelines. DBE firms must be certified in the specific work listed for DBE contract goal credit. A directory listing of certified DBE firms can be obtained from the Virginia Department of Small Business and Supplier Diversity's website: <http://www.sbsd.virginia.gov>.

C. DBE Program-Related Certifications Made by Offerors/Consultants

By submitting a Proposal and by entering into any contract on the basis of that Proposal, the Offeror/Consultant certifies to each of the following DBE Program-related conditions and assurances:

1. That the Offeror/Consultant agrees to comply with the project construction and administration obligations of the USDOT DBE Program, 49 CFR Part 26 as amended, and the Standard Specifications setting forth the Department's DBE Program requirements.
2. Consultant shall comply fully with the DBE Program requirements in the execution and performance of the contract. Consultant acknowledges that failure to fulfill the DBE subcontracting commitments made may result in sanctions being invoked for noncompliance.
3. To ensure that DBE firms have been given full and fair opportunity to participate in the performance of the contract. The Consultant certifies that all reasonable steps were, and will be, taken to ensure that DBE firms had, and will have, an opportunity to compete for and perform work on the contract. The Consultant further certifies that the Consultant shall not discriminate on the basis of race, color, age, national origin, or sex in the performance of the contract or in the award of any subcontract. Any agreement between a Consultant and a DBE whereby the DBE promises not to provide quotations for performance of work to other Consultants are prohibited.
4. Consultant shall make good faith efforts to obtain DBE participation in the proposed contract at or above the goal. The Offeror shall submit a written statement as a part of its Statement of Qualifications and/or Proposal indicating the Offeror's commitment to achieve the minimum requirement related to DBE goal indicated in Request for Qualification (RFQ) and/or Request for Proposal (RFP) for the entire value of the contract. The Offeror, by signing and submitting its Proposal, certifies the DBE participation information that will be submitted within the required time thereafter is true, correct, and complete, and that the information to be provided includes the names of all DBE firms that will participate in the contract, the specific work that each listed DBE firm will perform, and the creditable dollar amounts of the participation of each listed DBE.
5. Offeror further certifies, by signing its Proposal, it has committed to use each DBE firm listed for the work specified to meet the contract goal for DBE participation. Award of the contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents. By signing the Proposal, the Offeror certifies that good faith efforts will be made on work that it proposes to subcontract; and that it will seek out and consider DBE firms as potential subconsultants. The Consultant shall, as a continuing obligation, contact DBE firms to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain on file proper documentation to substantiate its good faith efforts.
6. Once awarded the contract, the Consultant shall make good faith efforts to utilize DBE firms to perform work designated to be performed by DBE firms at or above the amount or percentage of the dollar value specified in the proposal documents. Further the Consultant understands it shall not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract in whole or in part with another DBE, any non-DBE firm, or with the Consultant's own forces or those of an affiliate of the Consultant without the prior written consent of Department as set out within the requirements of this Special Provision.
7. Once awarded the contract, the Consultant shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive DBE program as required by 49 CFR Part 26 for DBE firms. The designation and identity of this officer needs to be submitted only once by the Consultant during any 12 month period.
8. Once awarded the contract, the Consultant shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each DBE firm participating in the contract shall fully perform the designated work with the DBE firm's own forces and equipment under the DBE firm's direct supervision, control, and management. Where a contract exists and where the Consultant, DBE firm, or any other firm retained by the Consultant has failed to comply with federal or Department DBE Program requirements, the Department has the authority and discretion to determine the extent to which the DBE contract regulations have not been met, and will assess against the Consultant any remedies available at law or provided in the contract.
9. In the event a bond surety assumes the completion of work, if for any reason VDOT has terminated the Consultant, the surety shall be obligated to meet the same DBE contract terms and requirements as were required of the original Consultant in accordance with the requirements of this specification.

D. DBE Program Compliance Procedures

The following procedures shall apply to the contract for DBE Program compliance purposes:

1. **DBE Goal, Good Faith Efforts Specified:** At the time of the submittal of the Expression of Interest, the Offeror will include form C-48 PSC. This form represents the Consultants solicitation of subconsultants to be used for the contract to meet the DBE goal.

If, at the time of submitting the Expression of Interest, the offeror knowingly cannot meet or demonstrate good faith efforts in meeting the required DBE contract goal, form C-49 PSC shall be submitted.

Upon completion of negotiation, Form C-111 shall be submitted electronically or may be faxed to the Department, but in no case shall the offeror's Form C-111 be received later than two business days after the negotiated contract value has been determined. A revised Form C-48 must be received within ten (10) business days after the negotiated contract value has been determined.

If, at the time of submitting its offer, the offeror knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 PSC exhibiting the DBE participation it commits to attain. The offeror shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the negotiated contract value.

The top-ranked offeror must submit its properly executed Form C-112, Certification of Binding Agreement, with the C-111 two business days after the negotiated contract value has been determined. DBE offerors responding as prime contractors are not required to submit Form C-112 unless they are utilizing other DBE firms as subconsultants.

If, after review of the selected Offeror, the Department determines the DBE requirements have not been met, the selected Offeror must submit Form C-49, DBE Good Faith Efforts Documentation, which must be received by the Department within two (2) business days after official notification of such failure to meet the aforementioned DBE requirements.

Forms C-48, C-49, C-111, and C-112 can be obtained from the VDOT website at:
<http://vdotforms.vdot.virginia.gov/>

If the most highly qualified (top-ranked) firm does not meet the goal or demonstrate a good faith effort, the Department may terminate negotiations and initiate negotiations with the number two-ranked firm.

2. **Good Faith Efforts Described:** Department will determine if Consultant demonstrated adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE firm participation sufficient to meet the DBE Program requirements and DBE Goal.

Good faith efforts may be determined through use of the following list of the types of actions the Consultant 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:

- (a) Soliciting through reasonable and available means, such as but not limited to, ~~at~~ pre-proposal meetings, advertising, and written notices to DBE firms who have the capability to perform the work of the contract. Examples include: advertising in at least one daily/weekly/monthly newspaper 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. DBE firms shall have no less than five (5) business days to reasonably respond to the solicitation. Consultant shall determine with certainty if the DBE firms are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49, DBE Good Faith Efforts Documentation.
- (b) Selecting portions of the work to be performed by DBE firms in order to increase the likelihood that the DBE Goal will be achieved. This includes, where appropriate, breaking out work items into economically feasible units to facilitate DBE firm participation, even when the Consultant might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces;

- (c) Providing interested DBE firms with adequate information about the scope and requirements of the contract in a timely manner, which will assist the DBE firms in responding to a solicitation;
- (d) Negotiating for participation in good faith with interested DBE firms;
 1. Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBE firms that were considered; dates DBE firms were contacted; a description of the information provided regarding the scope and requirements of the contract for the work selected for subconsulting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBE firms to perform the work;
 2. Consultant should, using good business judgment, consider a number of factors in negotiating with subconsultants, and should take a DBE firm's price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBE firms is not sufficient reason for a Consultant's failure to meet the DBE goal as long as such costs are reasonable and comparable to costs customarily appropriate to the type of work under consideration. Also, the ability or desire of a Consultant to perform the work with its own organization does not relieve the Consultant of the responsibility to make diligent good faith efforts. Consultants are not, however, required to accept higher quotes from DBE firms if the price difference can be shown by the Consultant to be excessive, unreasonable, or greater than would normally be expected by industry standards;
- (e) A Consultant cannot reject a DBE firm as being unqualified without sound reasons based on a thorough investigation of the DBE firm's capabilities. The DBE firm's standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations, are not legitimate causes for the rejection or non-solicitation of bids in the Consultant's efforts to meet the contract goal for DBE participation;
- (f) Making efforts to assist interested DBE firms in obtaining or related assistance or services subject to the restrictions contained in this Special Provision;
- (g) Effectively using the services of appropriate personnel from VDOT and from SBSB; available minority/women community or minority organizations; 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 utilization of qualified DBEs.

E. Documentation and Administrative Reconsideration of Good Faith Efforts

During Proposal Submission:

In the Expression of Interest, the Offeror is expected to identify those firms whose participation in the contract will achieve the DBE contract goal requirements.

During Negotiation: If the Department changes the scope of services in such a fashion as to affect the ability of the firm to meet the DBE contract goal requirements, the Civil Rights Division will re-consider the goal and inform the Offeror of the revised goal.

If a DBE, through no fault of the Consultant, is unable or unwilling to fulfill his agreement with the Consultant, the Consultant shall immediately notify the Department and provide all relevant facts.

In order to award a contract to a Offeror that has failed to meet DBE contract goal requirements, the Department will determine if the Offeror's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE participation sufficient to meet the DBE Program and contract goal requirements.

As described in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision, if the Offeror knowingly cannot meet or exceed the required DBE contract goal, the Offeror must submit Form C-49, DBE Good Faith Efforts Documentation. The Offeror shall attach additional pages to the certification, if necessary, in order to fully detail specific good faith efforts made to obtain the DBE firm's participation in the proposed work.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Consultant may request an appearance before the Department's Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The Administrative Reconsideration Panel will be made up of Department Division Administrators or their designees, none of whom took part in the initial determination that the Consultant failed to make the DBE goal or make adequate good faith efforts to do so. After reconsideration, Department shall notify the Consultant in writing of its decision and explain the basis for finding that the Consultant did or did not meet the DBE goal or make adequate good faith efforts to do so. The decision of the Administrative Reconsideration Panel shall be administratively final.

During the Contract: If a DBE, through no fault of the Consultant, is unable or unwilling to fulfill his agreement with the Consultant, the Consultant shall immediately notify the Department and provide all relevant facts. If a Consultant relieves a DBE subconsultant of the responsibility to perform work under their subcontract, the Consultant is encouraged to take the appropriate steps to obtain another DBE firm to perform the remaining subcontracted work for the amount that would have been paid to the original DBE firm. In such instances, Consultant is expected to seek DBE participation towards meeting the goal during the performance of the contract.

Before the Consultant transmits to the Department its request to terminate and/or substitute a DBE subconsultant, the prime consultant must give notice in writing to the DBE subconsultant, with a copy to the Department, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime consultant must give the DBE firm five days to respond to the prime consultant's notice. The DBE firm may respond to the Department and the prime consultant the reasons, if any, why it objects to the proposed termination of its subcontract and why the Department should not approve the prime consultant's action.

If at any point during the execution and performance of the contract it becomes evident that the remaining dollar value of allowable DBE goal credit for performing the subcontracted work is insufficient to obtain the DBE contract goal, and the Consultant has not taken the preceding actions, the Consultant and any aforementioned affiliates may be subject to disallowance of DBE credit until such time as sufficient progress toward achievement of the DBE goal is achieved or evidenced.

Project Completion: If, at final completion, the Consultant fails to meet the DBE goal, and fails to adequately document that it made good faith efforts to achieve sufficient DBE goal, then Consultant and any prime contractual affiliates, as in the case of a joint venture, may be subject to sanctions being invoked for noncompliance.

Prior to such sanctions being invoked, the Consultant may submit documentation to the Department's designee to substantiate that failure was due solely to the elimination of the scope of work subcontracted to DBEs, or to circumstances beyond the Consultant's control and that all feasible means had been used to achieve the DBE goal. The Department's designee, upon verification of such documentation shall determine whether Consultant has met the requirements of the contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Consultant may request an appearance before the Department's Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The Administrative Reconsideration Panel will be made up of Department Division Administrators or their designees, none of who took part in the initial determination that the Consultant failed to make the DBE goal or make adequate good faith efforts to do so. After reconsideration, Department shall notify the Consultant in writing of its decision and explain the basis for finding that the Consultant did or did not meet the DBE goal or make adequate good faith efforts to do so.

The decision of the Administrative Reconsideration Panel shall be administratively final. If the decision is made to invoke sanctions for failure to perform any or all of the responsibilities contained herein, the Department may declare the Consultant to be non-responsive with respect to renewal and future contracts to include enjoinder from responding or participating on Department procurement opportunities for a period of 180 days.

F. DBE Participation for Contract Goal Credit

DBE participation on the contract will count toward meeting the DBE contract goal in accordance with the following criteria:

1. The applicable percentage of the total dollar value of the contract or subcontract awarded to the DBE firm will be counted toward meeting the DBE goal in accordance with the **DBE Program-Related Certifications Made by**

Offerors/Consultant's section of this Special Provision for the value of the work, goods, or services that are actually performed or provided by the DBE firm itself.

2. When a DBE performs work as a participant in a joint venture with a non-DBE firm, the Consultant may count toward the DBE goal only that portion of the total dollar value of the subcontract equal to the distinctly defined portion of the work that the DBE firm has performed with the DBE firm's own forces or in accordance with the provisions of this Section. The Department shall be contacted in advance regarding any joint venture involving both a DBE firm and a non-DBE firm to coordinate Department review and approval of the joint venture's organizational structure and proposed operation where the Consultant seeks to claim the goal credit.
3. When a DBE firm subcontracts part of the work to another firm, the value of that subcontracted work may be counted toward the DBE contract goal only if the DBE firm's subconsultant is a DBE firm. Work that a DBE firm subcontracts to a non-DBE firm, or to a firm that may be eligible to be a DBE firm, but has not yet been certified as a DBE firm, will not count toward the DBE. The cost of supplies and equipment a DBE subconsultant purchases or leases from the Consultant or prime contractual affiliates, as in the case of a joint venture, will not count toward the DBE goal.
4. The Consultant may count expenditures to a DBE subconsultant toward the DBE goal only if the DBE performs a Commercially Useful Function (CUF) on that subcontract, as such term is defined in subparagraph G below.

G. Performing a Commercially Useful Function (CUF)

No credit toward the DBE goal will be allowed for payments or reimbursement of expenditures to a DBE firm if that DBE firm does not perform a CUF on that contract. A DBE firm performs a CUF when the DBE is solely responsible for execution of a distinct element of the work and the DBE firm actually performs, manages, and supervises such work with the DBE firm's own forces or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. To perform a CUF the DBE firm alone must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force. The amount the DBE firm is to be paid under the subcontract shall be commensurate with the work the DBE actually performs and the DBE goal credit claimed for the DBE firm's performance.

Monitoring CUF Performance: It shall be the Consultant's responsibility to confirm that all DBE firms selected for subcontract work on the contract, for which he seeks to claim credit toward the DBE goal, perform a CUF. Further, the Consultant is responsible for and shall confirm that each DBE firm fully performs the DBE firm's designated tasks in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. For the purposes of this Special Provision the DBE firm's equipment will mean either equipment directly owned by the DBE as evidenced by title, bill of sale or other such documentation, or leased by the DBE firm, and over which the DBE has control as evidenced by the leasing agreement from a firm not owned in whole or part by the Consultant or an affiliate of the Consultant.

Department will monitor Consultant's DBE involvement during the performance of the contract. However, Department is under no obligation to warn the Consultant that a DBE firm's participation will not count toward the goal.

DBE Firms Must Perform a Useful and Necessary Role in Contract Completion: A DBE firm does not perform a CUF if the DBE firm's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE firm participation.

DBE Firms Must Perform The Contract Work With Their Own Workforces: If a DBE firm does not perform and exercise responsibility for at least thirty (30) percent of the total cost of the DBE firm's contract with the DBE firm's own work force, or the DBE firm subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involve, Department will presume that the DBE firm is not performing a CUF and such participation will not be counted toward the DBE goal.

Department Makes Final Determination On Whether a CUF Is Performed: Department has the final authority to determine, in its sole discretion, whether a DBE firm has performed a CUF on the contract. To determine whether a DBE is performing or has performed a CUF, Department will evaluate the amount of work subcontracted by that DBE firm or performed by other firms and the extent of the involvement of other firms' forces and equipment. Any DBE work performed by the Consultant or by employees or equipment of the Consultant shall be subject to disallowance under the DBE Program, unless the independent validity and need for such an arrangement and work is

demonstrated. When a DBE firm is presumed not to be performing a commercially useful function the DBE may present evidence to rebut the Department's finding. Department has the final authority to determine, in its sole discretion, whether a DBE firm has performed a CUF on the contract.

H. Verification of DBE Participation and Imposed Damages

Within fourteen (14) days after subcontract execution between Consultant and DBE subconsultants, the Consultant shall submit to the Department's Civil Rights Office (CRO), a copy of the fully executed subcontract agreement for each DBE firm used to claim credit in accordance with the requirements stated on Form C-111. The subcontract shall be executed by both parties stating the work to be performed, the details or specifics concerning such work, and the price which will be paid to the DBE subconsultant.

The Consultant shall also furnish, and shall require each subconsultant to furnish, information relative to all DBE involvement on the project for each quarter during the life of the contract in which participation occurs and verification is available. The information shall be indicated on Form C-63, DBE and SWAM Payment Compliance Report. The Department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations. Failure to provide Form C-63 to the CRO within five (5) business days after the reporting period may result in delay of approval of the Consultant's scheduled payment. The names and certification numbers of DBE firms provided by the Consultant on the various forms indicated in this Special Provision shall be exactly as shown on SBSDD's latest list of certified DBEs. Signatures on all forms indicated herein shall be those of authorized representatives of the Consultant. If DBE firms are used which have not been previously documented with the Consultant's minimum DBE requirements documentation and for which the Consultant now desires to claim credit toward the contract goal, the Consultant shall be responsible for submitting necessary documentation in accordance with the procedures stipulated in this Special Provision to cover such work prior to the DBE firm beginning work. Form C-63 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

Prior to beginning any major component of the work to be performed by a DBE firm not previously submitted, Consultant shall furnish a revised Form C-111 showing the name(s) and certification number(s) of any such DBEs for which Consultant seeks DBE goal credit. Consultant shall obtain the prior approval of the Department for any assistance it may provide to the DBE firm beyond its existing resources in executing its commitment to perform the work in accordance with the requirements listed in the **Good Faith Efforts Described** section of this Special Provision. If Consultant is aware of any assistance beyond a DBE firm's existing resources that Consultant, or another subconsultant, may be contemplating or may deem necessary and that have not been previously approved, Consultant shall submit a new or revised narrative statement for Department's approval prior to assistance being rendered.

If the Consultant fails to correctly complete and any of the required documentation requested by this Special Provision within the specified time frames, the Department will withhold payment until such time as the required submissions are received by Department. Where such failures to provide required submittals or documentation are repeated, Department will move to enjoin the Consultant and any prime contractual affiliates, as in the case of a joint venture, from responding or participating Department projects until such submissions are received.

I. Documentation Required for Semi-final Payment

Consultant must submit Form C-63 to the CRO sixty (60) days prior to date of final completion, set forth on the Baseline Schedule (as updated from time to time in accordance with the contract). The form must include each DBE firm used on the contract and the work performed by each DBE firm. The form shall include the actual dollar amount paid to each DBE firm for the accepted creditable work. The form shall be certified under penalty of perjury, or other applicable legal requirements, to be accurate and complete. Department will use this certification and other information available to determine applicable DBE credit allowed to date by Department and the extent to which the DBE firms were fully paid for that work. The Consultant acknowledges by the act of filing the form that the information is supplied to obtain payment regarding the contract as a federal participation contract. A letter of certification, signed by both the Consultant and appropriate DBE firms, will accompany the form, indicating the amount that remains to be paid to the DBE firm(s).

J. Documentation Required for Final Payment

In anticipation of final payment, Consultant shall submit a final Form C-63 marked "Final" to the CRO, within thirty (30) days of the anticipated date of final completion, as set forth on the Baseline Schedule (as updated from time to time in accordance with the contract). The form must include each DBE firm used on the contract and the work performed by each DBE firm. The form shall include the actual dollar amount paid to each DBE firm for the

creditable work. Department will use this form and other information available to determine if Consultant and DBE firms have satisfied the DBE goal and the extent to which credit was allowed. Consultant acknowledges by the act of signing and filing the form that the information is supplied to obtain payment regarding the contract as a federal participation contract.

K. Prompt Payment Requirements

In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4347 through 2.2-4356 of the Code of Virginia (1950), as amended), the Consultant shall make payment to all subcontractors within seven (7) days after receipt of payment from the Department, or shall notify the Department and subcontractor in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment. Invoices shall be submitted no more frequently than once every 30 calendar days and not less than every 60 calendar days. Sub-consultant invoices must be submitted within 60 calendar days of receipt by the Consultant.

For purposes of this Special Provision, a subconsultant's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted as required by the contract documents by Department. If Department has made partial acceptance of a portion of the contract, then Department will consider the work of any subconsultant covered by that partial acceptance to be satisfactorily completed.

Upon Department's payment of the subconsultant's portion of the work as shown on the application for payment and the receipt of payment by Consultant for such work, the Consultant shall make compensation in full to the subconsultant for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subconsultant's portion of the work shall mean the Consultant has issued payment in full, to the subconsultant for that portion of the subconsultant's work that Department paid to Consultant pursuant to the applicable application for payment.

By accepting and executing this contract, the Consultant agrees to assume these obligations, and to bind the Consultant's subconsultants contractually to these obligations.

Nothing contained herein shall preclude Consultant from withholding payment to the subconsultant in accordance with the terms of the subcontract in order to protect the Consultant from loss or cost of damage due to a breach of the subcontract by the subconsultant.

L. Miscellaneous DBE Program Requirements

Loss of DBE Eligibility: When a DBE firm has been removed from eligibility as a certified DBE firm, the following actions will be taken:

1. When a Consultant has made a commitment to use a DBE firm that is not currently certified, thereby making the Consultant ineligible to receive DBE goal credit for work performed, the ineligible DBE firm's work does not count toward the DBE goal. Consultant shall meet the DBE goal with a DBE firm that is eligible to receive DBE credit for work performed, or must demonstrate to the CRO that it has made good faith efforts to do so.
2. When a Consultant has executed a subcontract with a DBE firm prior to official notification of the DBE firm's loss of eligibility, Consultant may continue to use the firm on the contract and shall continue to receive DBE credit toward DBE goal for the subconsultant's work.
3. When Department has executed a prime contract with a DBE firm that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after VDOT issued the notice of its ineligibility shall be counted toward the contract goal.

Termination of DBE: If a DBE subconsultant is terminated, or fails, refuses, or is unable to complete the work on the contract for any reason, Consultant must promptly request approval to substitute or replace that DBE firm in accordance with this section of this Special Provision.

Consultant, shall notify DCRO in writing before terminating and/or replacing the DBE firm that is being used or represented to fulfill DBE-related contract obligations during the term of the contract. Written consent from the DCRO for terminating the performance of any DBE firm shall be granted only when the Consultant can demonstrate that the DBE firm is unable, unwilling, or ineligible to perform its obligations for which the Consultant sought credit toward the DBE goal. Such written consent by the Department to terminate any DBE

shall concurrently constitute written consent to substitute or replace the terminated DBE with another DBE. Consent to terminate a DBE firm shall not be based on the Consultant's ability to negotiate a more advantageous contract with another subconsultant whether that subconsultant is, or is not, a DBE firm.

1. All Consultant requests to terminate, substitute, or replace a DBE firm shall be in writing, and shall include the following information:
 - (a) The date the Consultant determined the DBE to be unwilling, unable, or ineligible to perform.
 - (b) The projected date that the Consultant shall require a substitution or replacement DBE to commence work if consent is granted to the request.
 - (c) A brief statement of facts describing and citing specific actions or inaction by the DBE firm giving rise to Consultant's assertion that the DBE firm is unwilling, unable, or ineligible to perform;
 - (d) A brief statement of the DBE firm's capacity and ability to perform the work as determined by the Consultant;
 - (e) A brief statement of facts regarding actions taken by the Consultant, that Consultant believes constitute good faith efforts toward enabling the DBE firm to perform;
 - (f) The current percentage of work completed by the DBE firm;
 - (g) The total dollar amount currently paid for work performed by the DBE firm;
 - (h) The total dollar amount remaining to be paid to the DBE firm for work completed, but for which the DBE firm has not received payment, and with which the Consultant has no dispute;
 - (i) The total dollar amount remaining to be paid to the DBE firm for work completed, but for which the DBE firm has not received payment, and over which the Consultant and/or the DBE firm have a dispute.
2. Consultant's Written Notice to DBE of Pending Request to Terminate and Substitute with another DBE.

Consultant shall send a copy of the "request to terminate and substitute" letter to the affected DBE firm and make best efforts to ensure its receipt by the DBE firm, in conjunction with submitting the request to the DCRO. The DBE firm may submit a response letter to the DCRO and Department within two (2) business days of receiving the notice to terminate from the Consultant. If the DBE firm submits a response letter, then Consultant shall, as part of its subcontract, obligate the DBE firm to explain its position concerning performance on the committed work. The Department will consider both the Consultant's request and the DBE firm's response and explanation before approving the Consultant's termination and substitution request.

If, after making its best efforts to deliver a copy of the "request to terminate and substitute" letter, the Consultant is unsuccessful in notifying the affected DBE firm, the Department will verify that the DBE firm is unable or unwilling to continue performing its subcontract let with respect to the contract. Department will timely approve the Consultant's request for a substitution.

3. Proposed Substitution of Another Certified DBE

Upon termination of a DBE firm, Consultant shall use reasonable good faith efforts to replace the terminated DBE firm. The termination of such DBE firm shall not relieve Consultant of its obligations under this Special Provision, and the unpaid portion of the terminated DBE firm's subcontract will not be counted toward the DBE goal.

When a DBE substitution is necessary, the Consultant shall submit an amended Form C-111 to the DCRO for approval with the name of another DBE firm, the proposed work to be performed by that DBE firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the original DBE firm.

Should Consultant be unable to commit the remaining required dollar value to the substitute DBE firm, the Consultant shall provide written evidence of good faith efforts made to obtain the substitute value requirement. Department will review the quality, thoroughness, and intensity of those efforts. Efforts that

are viewed by Department as merely superficial or pro-forma will not be considered good faith efforts to meet the DBE goal. Consultant must document the steps taken that demonstrated its good faith efforts to obtain participation as set forth in the **Good Faith Efforts Described** section of this Special Provision.

M. Suspect Evidence of Criminal Behavior

Failure of Consultant or any subconsultant to comply with the Standard Specifications, this Special Provision, or any other contract document wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution.

Suspected DBE Fraud

In appropriate cases, Department will bring to the attention of the United States Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or "Program Fraud and Civil Penalties" rules provided in 49 CFR Part 31.

N. Availability of Records

Requests for information concerning any aspect of the DBE Program, the Department complies with provisions of the Federal and Virginia Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a) and Code of Virginia § 2.2 -3700.

CONFIDENTIALITY AGREEMENT FOR EMBEDDED CONSULTANT EMPLOYEE

Professional Services Contract for _____
Contract ID Number: _____

This CONFIDENTIALITY AGREEMENT (this "Agreement") is made and entered into as of _____, 20__ (the "Effective Date"), by and between the VIRGINIA DEPARTMENT OF TRANSPORTATION, an Agency of the Commonwealth of Virginia (VDOT), whose address is 1401 East Broad Street, Richmond, Virginia 23219 and _____ ("Recipient") [Company Name], whose office address is _____.

Explanatory Statement

A. In the course of executing duties or tasks assigned under Contract No. _____, the Recipient may have access to information VDOT has prepared, or will prepare, or cause to prepare certain studies, assessments, reports or other records, and;

Recipient has been and may continue to be a regular employee of [Company Name] and simultaneously an embedded VDOT employee under the terms and conditions of Contract No. _____ between VDOT and [Company Name].

For the purposes of this agreement, Embedded VDOT Employee is defined as any consultant providing services to VDOT while being co-located with VDOT staff regardless of the time of co-location.

B. The Recipient shall not disclose any Records or Information available to the Recipient while executing its duties as an Embedded VDOT Employee.

C. The purpose of this Agreement is to prevent the Recipient from seeking to obtain Records and to prevent the unauthorized disclosure of such Records by Recipient.

D. In the event of any inadvertent disclosure of any Records, the Recipient shall immediately disengage from reviewing the Records and shall not disclose any of the Records or any information regarding the same to anyone other than VDOT. The purpose of this Agreement is to prevent the unauthorized disclosure of such Records.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. **Records.**

- (a) The Recipient shall not disclose any Records or Information available to the Recipient while performing its duties as an Embedded VDOT Employee.

- (b) In the event of any inadvertent disclosure of any Records, the Recipient shall not disclose any of the Records or any information regarding the same to anyone other than VDOT.
- (c) The purpose of this Agreement is to prevent the unauthorized disclosure of such Records .

Records may include information disclosed or submitted orally, in writing, or by any other media, by VDOT and/or its consultants. In the event of any uncertainty as to the status of a Record, as confidential or exempt, or any inadvertent disclosure of Records by VDOT, the Recipient shall promptly request appropriate clarification from VDOT, but shall otherwise hold the Record in confidence pursuant to this Agreement unless and until advised otherwise by VDOT.

2. Recipient's Obligations.

- (a) Recipient agrees that Records are to be considered confidential and proprietary, that VDOT is the custodian of those records and Recipient shall hold the same in confidence, shall not use the Records other than for the purposes of Recipient's services for, or business with, VDOT, and shall disclose it to no one. Recipient will not disclose, publish or otherwise reveal any of the Records to any other party whatsoever, except by court order or with the specific prior written authorization of VDOT.
- (b) All Records are and remain the property of VDOT. Records furnished in tangible form inadvertently to Recipient shall be returned promptly to VDOT and shall not be duplicated or divulged (other than to VDOT) by Recipient.
- (c) Since the Recipient is an Embedded VDOT Employee from a consultant firm potentially pursuing the projects with VDOT, the Recipient shall not review any such project Record nor indulge in any project related communication for which the Recipient's firm is pursuing a contract with VDOT.
- (d) In the event of any inadvertent disclosure of any Records, the Recipient shall immediately disengage from reviewing the Records and shall not disclose any of the Records or any information regarding the same to anyone other than VDOT.

3. Term of Agreement and Termination Requirements.

The obligations of Recipient under this Agreement shall begin on the Effective Date of this Agreement, and shall remain in effect until terminated by a written instrument executed by both parties.

4. Governing Law and Equitable Relief.

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia. Any litigation between the parties arising out of or pertaining to this Agreement, or its breach shall be filed, heard, and decided in the Circuit Court of the City of Richmond, Virginia, which shall be the exclusive jurisdiction and venue for any such civil actions brought by either party against the other. Recipient consents to the exclusive jurisdiction of the Circuit Court of the City of Richmond, and agrees that, in the event of any

breach or threatened breach by Recipient, VDOT may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect VDOT against any such breach of confidentiality or threatened breach.

5. **Limitations on Confidentiality.**

(a) Nothing in this Agreement shall be interpreted as placing any obligation of confidentiality or nonuse by Recipient with respect to any information that:

1. is or becomes publicly available to Recipient, without breach of this Agreement, or is rightfully received by Recipient without an obligation or breach of confidentiality;
2. can be demonstrated to have been in the public domain as of the Effective Date of this Agreement, or legitimately comes into the public domain thereafter through no fault of the Recipient;
3. can be demonstrated to have been known to the Recipient prior to execution of this Agreement, and was not acquired, directly or indirectly, from VDOT or from a third party under a continuing obligation of confidentiality;
4. is required to be disclosed pursuant to law or court order; provided that Recipient provides prior notice to VDOT and provides sufficient time to VDOT to assert any exclusions or privileges that may be available by law; or
5. is developed by Recipient without breach of this Agreement.

(b) The Recipient will forward all written or oral requests for disclosure of Records to VDOT immediately upon receiving said request.

6. **Entire Agreement.**

This Agreement sets forth the parties' entire understanding as to its subject matter, and terminates and supersedes all prior understandings or agreements, oral or written, between VDOT and Recipient, relating solely to the subject matter (Records) of this Agreement, but shall neither nullify nor otherwise affect any other existing agreements between VDOT and [Company Name], or future confidentiality, or nondisclosure agreements between the Recipient and either the Commonwealth of Virginia or VDOT.

7. **Amendments.**

This Agreement may not be changed, modified, or discharged, released, abandoned, or otherwise terminated in whole or in part, except by an instrument in writing signed by authorized representatives of VDOT and Recipient, except as indicated herein (Part 3 above.)

8. **Assignment**

Recipient may not sell, assign, or transfer, either voluntarily or by operation of law

Contract Name:
Contract No.
Confidentiality Agreement for Embedded Consultant Employee

this Agreement, or any interest herein, without VDOT's express prior written consent. This Agreement shall inure to the benefit of and shall be binding upon VDOT and Recipient, and VDOT's and Recipient's respective successors and permitted assigns.

9. **Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, to the extent possible will remain in full force and effect as if such invalid or unenforceable term had never been included.

10. **Notices.**

Any notice required by this Agreement, or given in connection with it, shall be in writing and shall be given to VDOT by delivery to the designated VDOT POC named below, and to Recipient by their designated representative named below, by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

Contract Name:
Contract No.
Confidentiality Agreement for Embedded Consultant Employee

IN WITNESS WHEREOF, the parties have executed this Confidentiality Agreement as of the Effective Date stated above.

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: _____

RECIPIENT

By: _____

Name: _____

Title: _____

CONSULTANT FIRM'S AUTHORIZED REPRESENTATIVE

By: _____

Name: _____

Title: _____