



REQUEST FOR PROPOSAL (RFP) – BID# 7593570
ON-CALL BRIDGE ENGINEERING TASK ORDER PROGRAM

SUBMISSION DEADLINE: Friday, June 22, 2018 at 11:30 AM (ET)

PRE-BID CONFERENCE: [] NO
[X] YES Monday, June 11, 2018 at 11:00 AM (ET)

Mandatory: [X] NO
[] YES: Any vendor who intends to submit a bid proposal in response to this solicitation must have its designated representative attend the mandatory pre-bid conference.

Location: RI DEPARTMENT OF ADMINISTRATION
CONFERENCE ROOM C (2ND FLOOR)
ONE CAPITOL HILL
PROVIDENCE, RI

[Handwritten signature]

Buyer Name: Lisa Hill
Title: Assistant Administrator

QUESTIONS Prospective bidders are hereby notified that all questions pertaining to this contract must be submitted to the Department of Transportation in writing through its website at http://www.dot.ri.gov/contracting/bids by accessing the questions & answers menu located within the 'contracting', then 'bidding opportunities' link.

SURETY REQUIRED: NO

BOND REQUIRED: NO

DISK BASED BID: [X] NO
[] YES: See attached Disk Based Bidding Information

NOTE TO VENDORS: Vendors must register on-line at the Rhode Island Division of Purchases website at www.purchasing.ri.gov. Offers received without the completed four-page Rhode Island Vendor Information Program (RIVIP) Generated Bidder Certification Cover Form attached may result in disqualification.

THIS IS NOT A BIDDER CERTIFICATION FORM



**ON-CALL BRIDGE PRESERVATION AND BRIDGE
RECONSTRUCTION (REHABILITATION AND REPLACEMENT)
ENGINEERING TASK ORDER PROGRAM**

**Rhode Island Department of Transportation
Providence, RI**

May 25, 2018



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Rhode Island Department of Transportation
Office of Project Management

Solicitation # 7593570

Request for Technical Proposals for
On-Call Bridge Preservation and Bridge Reconstruction Engineering
Task Order Program
Disadvantage Business Enterprise Goal 8%

I. PROJECT SCOPE

Request for Proposals (RFPs) are hereby solicited by the State of Rhode Island Department of Administration (RIDOA)/Division of Purchases on behalf of the Rhode Island Department of Transportation (RIDOT) to acquire Bridge Engineering services under the On-Call Transportation Engineering Services Task Order Program 2. The first program was solicited in January of 2016 under RFP # 7550214. As stipulated in that RFP, the Task Order program is being re-solicited within the established two-year time frame in an effort to provide continuity of services.

This procurement will result in multiple Indefinite Delivery/Indefinite Quantity (IDIQ) contracts with a not to exceed shared capacity of **\$128,000,000** for Bridge Preservation (Category 1) and Bridge Reconstruction (Category 2) consisting of statewide Bridge Rehabilitation and Bridge Reconstruction engineering services as defined below. These services will be procured in accordance with 40 U.S.C Chapter 11, Selection of Architects and Engineers, as implemented by FAR Subpart 36.6. The IDIQ contracts will be negotiated and awarded with a base period of three (3) years, and with two (2) one-year option periods that RIDOT reserves the right exercise. Task assignments will be assigned within the first 2 years of service. The final annual extensions will be utilized to complete the original engineering services. All services must be completed within the five-year contract term. It is anticipated that the contracts will be awarded in September of 2018. Firms responding to this request shall be of adequate size and sufficient staff and experience to perform a variety of Bridge Task Order assignments with varying complexities. Firms will be required to provide a Project Manager who will be available daily for the direct supervision of the staff performing the majority of the assignment and to act as the liaison between the firm and RIDOT for all Task Orders assigned to the firm. On-Call services under this selection shall be coordinated and managed under the direction of RIDOT'S Office of Project Management in conjunction with the Federal Highway Administration, applicable City and Town municipalities and other State Agencies as required.

For the purposes of this RFP the following definitions as described in the *Bridge Preservation Guide: Maintaining a State of Good Repair Using Cost Effective Investment Strategies* published by the U.S. Department of Transportation, Federal Highway Administration shall apply:

(Category 1) Bridge Preservation:

Bridge Preservation is defined as actions or strategies that prevent, delay, or reduce deterioration of bridges or bridge elements, restore the function of the existing bridge, keep bridges in a state of good repair, and/or extend their service life. The treatments that are considered preservation activities include but may not be limited to, bridge deck patching (partial and full depth); approach slab repair and replacement; joint repair, replacement, and elimination (link slab, deck over backwall, etc.); rigid bridge deck overlays (hydro demolition and structural concrete overlay using LMC, HP, etc.); spot coating and bridge painting; substructure patching, crack injection, and sealing; superstructure crack mitigation and

beam end repairs; erosion mitigation; debris removal and channel cleaning; bridge-length culvert lining; bridge wearing surface and waterproofing membrane removal and replacement; slope paving repair and replacement; bearing repair, replacement, and lubrication; scour mitigation; bridge deck crack sealing; railing repairs; upgrading end treatments, guardrail, railing, and attenuators; strengthening bridge elements to meet current design and legal loads (post tensioning, FRP wrapping, steel plating, etc.); environmental protection of exposed bridge elements (pier caps and columns, abutment seats, backwalls, abutment breast walls, etc.) through the use of wraps (steel, FRP, fiberglass, etc.) and sealers; and bridge deck replacement. Seismic retrofit is not typically considered for preservation projects.

(Category 2) Bridge Reconstruction:

Bridge Rehabilitation is defined as major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects. Bridge rehabilitation work can be done on one or multiple elements and/or components. These projects typically require significant engineering resources for design, a lengthy completion schedule and considerable costs. Most rehabilitation projects include repairs to several bridge components but can be limited to bridge deck replacement. Examples of bridge rehabilitation tasks include but are not limited to partial or complete deck replacement; superstructure replacement and/or strengthening.

Bridge Replacement is defined as the complete replacement of a structurally deficient or functionally obsolete bridge with a new structure constructed in the same general traffic pattern. A nominal amount of approach work, sufficient to connect the new structure to the existing roadway or to return the grade line to an attainable touchdown point in accordance with good design practice may be required as well. The replacement structure must meet the current geometric, construction and structural standards required for the types and volume of projected traffic on the structure over its design life. Similar to bridge rehabilitation, bridge replacement projects require engineering resources for design, a substantial and complex completion schedule and considerable costs.

RIDOT Bridge Inspection Reports will be made available to each Consultant for informational purposes only. Each Consultant will be responsible for conducting its own field observations/inspections & testing services to gather additional information as necessary. Existing Bridge Plans (when available) will be made available for use.

The Consultant will be responsible for conducting the necessary surveys, inspections, borings, permitting, analyses, design, investigations, reviews of pertinent existing reports, and any other tasks necessary to adequately detail the work necessary to determine if it is in the State's best interest to preserve, rehabilitate or replace the existing bridge structures. The work shall also include conducting the necessary engineering analysis and studies to safely detour and manage traffic through the proposed work zone.

PROJECT CATEGORY	ESTIMATED CONTRACTS	MAX VALUE PER CONTRACT
Bridge Preservation	Up to 8	\$8 Million
Bridge Reconstruction	Up to 8	\$8 Million

Task Order assignments will be made solely at RIDOT's discretion. There are no assurances or guarantees of Task Orders being assigned under each Contract and RIDOT reserves the right to revoke or cancel an assignment at any time. Assignments may consist of an individual bridge or a group of bridges which may be combined according to similarity of scope, location, permitting status, adjacent RIDOT projects, emergency situations and other factors. All work shall be prepared in accordance with RIDOT design policies and procedures, as well as the latest edition of the RIDOT Bridge Design Manual and AASHTO LRFD Bridge Design Specifications.

Task Order assignments may include but shall not be limited to the following: performing an in-depth inspection and/or testing and evaluation of the structure and its approaches to formulate the approximate limits and scope of improvements; gathering information concerning hydraulics, utilities, and alignment; conducting photogrammetric and field surveys (to establish benchmarks, reproduce property lines, etc.); conducting geotechnical investigations; conducting hydraulic studies, environmental data coordination and/or permitting for all applicable permitting agencies; historical data coordination and documentation; utility coordination and locating; preparation of Maintenance and Protection of Traffic Plans (MPT) and Traffic Management Plans (TMP); attendance at meetings; preparation of visual aids and presentations; preparation of contract plans, specifications, quantities, and estimates for the work required.

The development of the complete final design may be accomplished either through submission of a Bridge Type Study or Inspection/Testing/Evaluation Report followed by the 30%, 90%, PS&E and Advertising plan submissions, or as otherwise instructed by RIDOT at the time of the work assignment. Designs shall take into consideration constructability, sequencing, scheduling, phasing, and address issues such as construction cost and duration, alternatives, inconvenience to the public, and traffic maintenance.

Design plans may encompass multiple bridges to be completed under one construction contract or plans may be prepared based upon a single bridge structure completed under one construction contract. The Consultant shall be responsible for any cost associated with the purchase of software required to perform the requested services. Each Consultant will be responsible for the review of all shop drawings, Contractor submittals and, requests for information (RFI) as well as field reviews, site visits, meetings, and inspections as directed by RIDOT. The Consultant shall perform supplemental testing, data collection, survey, borings, etc., as required.

For bridges over railroads, the Consultant shall consider the most recent AREA Manual for applicable railroad clearances and any other specific requirements. Consultants may be required to obtain the necessary Railroad Insurance, safety training and enter into engineering agreements with AMTRAK, the Providence and Worcester Railroad Company, or any other rail road companies and the State of RI. The cost of railroad safety services will be covered directly by RIDOT. Cost for General liability insurance required by the Railroad shall be borne by each Consultant.

Submission of Monthly Progress Reports to RIDOT will be required. Monthly Progress Reports shall outline work-hours, costs expended, and a statement as to whether or not there are sufficient work- hours remaining to complete the effort as proposed. Payment invoices will be processed only if the required Monthly Progress Reports are current. Progress reports shall be submitted monthly in RIDOT's standard format per Design Policy Memo No. 230.05.

The Prime Consultant shall disclose whether they will self-perform or acquire the services of a Sub-Consultant/Contractor to perform the following services. (If not self-performing, provide the qualifications and resumes for Sub-Consultants.

- Geotechnical Services
- Subsurface Investigation Services (i.e. Test Pits and Soil Borings)
- Survey
- Historical/Cultural Resources (i.e., Section 4 (f), Section 6 (f), Section 106)
- Environmental (i.e., Permitting, Hydraulic Studies and Reports, Hazmat, Soil Management, SWPPP, landscaping, etc.)
- Electrical (i.e., lighting, etc.)
- Maintenance & Protection of Traffic Control
- Traffic Data Collection
- Materials Testing (i.e. GPR, concrete cores, etc.)
- Utility Locating
- Landscape Architecture

Field evaluations shall provide sufficient data to enable the Consultant to determine the extent of work necessary. Areas of significant deterioration shall be documented by photographic means. Inspection observations shall be furnished to the State in summary form and shall include recommendations for work to be accomplished. Furnished data shall be sufficient to describe the areas involved and to outline the necessary work along with any other information required to adequately describe the work. The Consultant shall provide traffic control services as needed for field reviews, bridge inspection, and any other activities where it is needed in accordance with the MUTCD.

It is anticipated that some Right-of-Way taking or easement may be required, along with the development of Right-of-Way plans, descriptions, and Structure Disposition lists. When major reconstruction and/or alignment modifications are anticipated, a Public Workshop for the purpose of public participation and feedback shall be anticipated. Traffic and vehicular classification counts will either be provided by RIDOT or taken by the Consultant and coordinated with the RIDOT Traffic Management Center (TMC).

Utility locating services may be required to confirm the locations of utility services located within the project limits. Subsurface Investigations, i.e., soil borings and test pits when required, shall be obtained by Consultant. Compensation will be a direct pay item without profit. The Consultant will be responsible for the layout and coordination of the subsurface investigation program. The *AASHTO Subsurface Investigation Manual* shall be used as a guideline in development and layout of the subsurface investigation program. Geotechnical Data and Interpretive reports shall be prepared as a result of the subsurface investigation detailing the findings.

All Plans, Specifications, Reports, etc. are provided for reference use only. RIDOT makes no representations as to the accuracy or completeness of information contained in any documents not obtained from RIDOT, and will not be responsible in any way for a Consultant's reliance on or utilization of the contents of such documents.

Respondents are hereby notified that the following list of Standards shall be utilized and applied by the Consultant:

- The State of Rhode Island Standard Specifications for Road and Bridge Construction, as amended August 2013, with all subsequent revisions
- The Rhode Island Standard Details, 1998 Edition, with all subsequent revisions
- The Rhode Island Bridge Design Standard Details, 2015 Edition, with all subsequent revisions

- The Division of Purchases Procurement Regulations Adopted December 2010
- Bridge Design References and Resources

II. PROJECT MILESTONE SCHEDULE

RIDOT currently anticipates conducting this procurement in accordance with the following milestones. This schedule is subject to revision and RIDOT reserves the right to modify this schedule as it deems necessary and at its sole discretion.

Advertise RFP	May 25, 2018
Pre-Proposal Meeting	June 11, 2018 at 11:00 am
Deadline for Questions	June 13, 2018
Proposal Due Date	June 22, 2018
Anticipated Contract Award	September, 2018

III. ON-LINE PROPOSAL QUESTIONS

There will be NO point of contact at RIDOT who will directly answer questions either in person, through e-mail, or by telephone. Questions regarding this solicitation shall be posted at RIDOT'S "Bidding Opportunities" web page accessible at: www.dot.ri.gov. Follow the link to Doing Business with Us ▶ Bidding Opportunities ▶ View All New Projects Available for Bid. Select the question mark "?" next to the applicable project to submit questions. Responses to questions will also be posted at this site. Questions will not be accepted after noon on **June 13, 2018**. Upon the close of questions, all questions received and responses posted by RIDOT will be subsequently posted as an addendum at the RIVIP website at www.purchasing.ri.gov and will therefore be incorporated as part of this contract.

IV. ADMINISTRATIVE REQUIREMENTS AND NOTIFICATIONS

This is a Request for Technical Proposals, not an Invitation for Bid. The evaluation will be qualification based upon the merits of the submitted proposals. There will be no public opening of responses received by the Division of Purchases pursuant to this solicitation other than to list the firms that have responded. Proposers shall be responsible for thoroughly examining the RFP and addenda issued by the State in connection with it and for being cognizant of any conditions that may affect the Proposer's compilation of its Technical Proposal or its performance of Contract obligations in the event it is awarded a Task Order contract. The State shall not be liable for any consequences of a Proposer's failure to fulfill these responsibilities. The State reserves the right to make an award or multiple awards or to reject any or all proposals based on what it considers to be in its best interest.

The State may investigate the qualifications of any Proposer for as long as the Proposal is under evaluation, may require confirmation of information submitted by the Proposer and may require the Proposer to submit additional documentation regarding its qualifications to perform the tasks required in the RFP. The State may exercise, at its sole discretion any of the following rights:

- Reject any or all Proposals at any time prior to the execution of the Contract
- Consider any relevant information from any source in evaluating the proposal
- Amend, modify, cancel, withdraw or issue a new RFP
- Modify the RFP, including the right to extend submission deadlines as deemed

appropriate. It will be the responsibility of the Proposer to consult <http://www.purchasing.ri.gov> for date changes and addenda

- e. The RFP does not commit the State to enter in to a Contract, even after Notice of Tentative Award, nor does it obligate the State to reimburse a Proposer for any costs incurred in preparation and submission of a Proposal or in anticipation of an award or execution of the Contract.

The selected Consulting Firms and their sub-consultants will be required to submit a Statement of Indirect Costs and corresponding Indirect Cost Rate to the State Office of Internal Audit for approval.

The State does not require E-VERIFY compliance in any of its purchasing and/or hiring of services; however, Respondents are hereby advised that in compliance with the Federal Acquisition Regulations any federal contract based on the services requested may require that the State obtain evidence of E-VERIFY compliance from the successful Respondent.

RIDOT will not consider for award any Proposals submitted by any Respondents and will not consent to subcontracting any portions of the proposed Task Order Program to any subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986 (IRCA). IRCA prohibits employers from knowingly hiring, recruiting, or referring for a fee any individual who is unauthorized to work in the USA.

The Respondent shall provide evidence that the LEAD DESIGN ENGINEER is licensed to practice engineering in the State of Rhode Island in accordance with Chapter 5-8 of the Rhode Island General Laws. A copy of the current Rhode Island Certificate of Authorization (for the firm) and current Rhode Island registration(s) (for the individuals) who shall perform the specified engineering services required must be included with this submittal.

The State Board for Design Professionals:
1511 Pontiac Avenue, Building 68-2
Cranston, RI 02920
401-462-9592 or www.bdp.state.ri.us

Pursuant to Section 7-1.2-1401 of the Rhode Island General Laws, no Foreign Corporation has the right to transact business in this State until it has procured a Certificate of Authority from the Office of the Secretary of State (401) 222-2357 or <http://sos.ri.gov/divisions/Business-Portal>. **If applicable, a copy of Respondent's Certificate of Authority must be provided prior to the award of the contract.**

The Rhode Island Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d-4 and 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, age, or disability in consideration for an award.

The successful Respondent shall carry out applicable requirements of 49 C.F.R., Part 26, Participation of Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, in the award and administration of DOT-assisted contracts. Failure by the successful Respondent to carry

out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate

It is intended that an award pursuant to this RFP will be made to a Prime Consultant, who will assume responsibility for all aspects of the work. Joint venture(s) will not be considered, but sub-contract(s) are permitted provided the sub-consultant(s) proposed are clearly identified with the type of work to be performed in response to this RFP.

Firms responding as a PRIME Consultant in Bridge Preservation-Category 1 or Bridge Reconstruction-Category 2 may not respond as a Sub-consultant on another project team within that same category.

Submissions in response to this solicitation are considered to be irrevocable for a period of not less than one hundred twenty (120) days following the established due date and may not be withdrawn without the express written permission of the State Purchasing Agent.

Responses misdirected to other State locations or which otherwise are not received by the State Division of Purchases by the established due date for any cause will be determined to be late and will not be considered. The office clock, for the purpose of registering the arrival of a document, is in the reception area of the Department of Administration (DOA), Division of Purchases, One Capitol Hill, Providence, Rhode Island.

Respondents must possess a working familiarity with the *State of Rhode Island Standard Specifications for Road and Bridge Construction*, as amended August 2013 and all subsequent revisions, which is currently available on-line @ <http://www.dot.ri.gov/business/bluebook.php> as well as all applicable RIDOT Department Policy Memos (DPMS) and RIDOT Memorandums To All Consultants (TACS).

Respondents are advised that all materials submitted to the State for consideration will be considered to be public records as defined in RI Gen Laws 38-2, without exception, and will be released for inspection immediately upon request once an award is made.

All costs associated with developing or submitting documents in response to this solicitation and/or in providing oral or written clarification of its content shall be borne by the Respondent. The State assumes no responsibility for these costs.

There shall be no reference to price or cost included in the Technical Proposal. Upon contract award, all services shall be initiated through assigned Task Orders with the specific scope of work disseminated by the assigned DOT Project Manager to the Consultant Firm with all costs and fees negotiated in compliance with the approved financial documentation as cited in the Consultant's Fee Proposal. Only approved personnel shall be utilized on projects and any deviation in personnel status must be disclosed in writing to the Project PM for qualification approval. Any monetary increases in base rates are automatically accepted as long as they do not exceed the maximum established current market value base rate currently at \$70.00/HR.

V. DISADVANTAGED BUSINESS ENTERPRISES

Each contract has been assigned an eight percent (8%) Disadvantaged Business Enterprise (DBE) Goal. The goal applies to the total contract value, i.e., it shall include Contract Change Orders. Firms will receive credit toward the DBE goal only when a DBE performs a Commercially Useful Function (CUF). A DBE

performs a Commercially Useful Function when it is responsible for execution of the contract work or a distinct element of the work by actually performing, managing and supervising the work involved. In addition, DBE firms must perform those services for which the firm has been approved for based upon the Primary North American Industry Classification System (NAICS).

A list of current Rhode Island State certified DBE firms may be obtained at the Rhode Island Office of Diversity, Equity & Opportunity website <http://odeo.ri.gov/>. DBE firms must be certified at the time the Proposal is submitted. A detailed disclosure of RI certified DBE firm(s) and proposed task assignment(s) to be performed must be included in the Technical Proposal along with a copy of current state certification letter(s). Questions regarding the program may be directed to Melissa Francisco, RIDOT Office of Civil Rights at 401-222-3260 ext 4925.

The Prime Consultant will be required to submit a Monthly DBE Utilization Report utilizing RIDOT's Civil Rights software, currently PRISM. There is no cost for the software. If your firm or Sub-Consultants require training on this software please contact Nathan Shapiro at 401-222-3260 ext 4410.

VI. INSURANCE

The Consultant shall procure at their own expense and maintain for the contract term Professional Liability Insurance (\$5 million) Valuable Papers Insurance (\$150,000) and Workers Compensation Insurance (Coverage B - \$100,000); Railroad Protective Liability Insurance-as required.
Each policy shall name RIDOT as an additional insured and waive subrogation against the State.

VII. WITHDRAWAL OF PROPOSALS

A proposal may be withdrawn at any time prior to the Proposal Due Date by means of a written request signed by the authorized representative of the Proposer. Such written request shall be delivered to the RI Department of Administration at the address cited below. The withdrawal of a Proposal will not prejudice the right of a Proposer to file a new Proposal provided that it is received before the time due on the Proposal Due Date.

VIII. DUE DATE, TIME AND LOCATION

Technical Proposals shall be submitted as follows:

Six (6) hard copies that are GBC or spiral bound. **Do not submit three ring binders.** Each hard copy shall include the complete proposal in pdf format submitted on CD-ROM attached to the inside cover of the proposal. The CD shall be clearly labeled with the solicitation number and project name.

Proposals may be submitted utilizing U.S. Mail, express delivery service, or hand delivery and shall be in a sealed package marked: **BID #7593570– On-Call Bridge Preservation, Bridge Rehabilitation, and Bridge Replacement Engineering Task Order Program by June 22, 2018 by 11:30 a.m. to:**

RI Department of Administration
Division of Purchases (2nd fl)
One Capitol Hill
Providence, RI 02908-5855

Proposals received after the above referenced due date and time will not be considered

A completed and signed RIVIP Bidder Certification Sheet must be included in each proposal. Respondents must create an account in order to download the required bidder certifications cover form required for all solicitations. The RFP is available for download at: <http://www.purchasing.ri.gov>. Failure to submit a complete proposal submission inclusive of this document may result in disqualification. Assistance in registering and/or downloading the document may be obtained by calling (401) 574-8100 and requesting the RIVIP help desk for technical assistance. Office Hours are 8:30 am – 4:00 pm, Monday through Friday.

In addition to the RIVIP Bidder Certification Form, RIDOT also requires that the following six (6) Forms be submitted by each Respondent and included in the Technical Proposal package.

One copy of the W-9 must be signed by an authorized agent of the Prime Consultant only.

REQUIRED FORMS		
Required Forms (except for W-9) are attached	PRIME CONSULTANT	SUB-CONSULTANT(S)
W-9 Form available @ www.purchasing.ri.gov	✓	
Debarment Form	✓	✓
Lobbying Form	✓	✓
Conflicts Disclosure Form-for Board of Directors, key personnel and anyone who has a potential conflict to disclose	✓	✓
Certification for Title VI Assurance	✓	
DBE Special Provision	✓	

IX. PROPOSAL FORMAT

Proposals shall follow the requirements, format and organization described below. Submittals that do not follow the format prescribed below may be considered non-responsive and may be eliminated from further consideration.

- Proposals shall be printed on 8½"x11" white paper.
- Drawings, charts, exhibits or graphical information may be submitted on 11"x17" paper (folded to 8½"x11") and will not be included in the page limitation.
- The Proposal shall adhere to a maximum page limit of 30 pages.
- Tabs shall separate sections with the sections corresponding to the order set forth in below.

X. PROPOSAL ORGANIZATION

The Technical Proposal shall be organized as follows:

SECTION 1 (PRIME)	Included in 30 Page Limit
RIVIP Form	No
Transmittal Letter	No
Table of Contents	No
Certificate of Authorization	No
P.E. Licenses/Certifications	No
Required Forms - Lobbying, Debarment, Conflicts Disclosure, Title VI Assurance, DBE Special Provision	No

SECTION 2 (PRIME)	Included in 30 Page Limit
Resumes or SF 330 Section E for key personnel	Yes
Organizational Chart (including Sub-Consultants and the services they will provide)	Yes
Current Workload - List ALL current RIDOT projects, including Task Order projects, value, and estimated completion dates or projects of similar scope and value for new Firms not currently doing business with RIDOT	Yes
Quality Assurance/Quality Control Procedures	Yes
List of Projects or SF 330 Section F which best illustrate Proposed Team's qualifications for this project	Yes

SECTION 3 (SUB-CONSULTANTS/DBEs)	Included in 30 Page Limit
Transmittal Letter from the Sub to the Prime describing proposed services to be provided	No
Resumes or SF 330 for key personnel	Yes
Current Workload - List ALL current RIDOT projects, including Task Order projects, value, and estimated completion dates or projects of similar scope and value for new Firms not currently doing business with RIDOT	Yes
Certificate of Authorization	No
P.E. Licenses/Certifications	No
Lobbying, Debarment & Conflicts Disclosure forms	No
DBE Certification Letter from State Office of Diversity, Equity & Opportunity	No

XI. TRANSMITTAL LETTER

Respondents shall include a Transmittal Letter on their firm's letterhead and signed by an authorized representative of the firm. This person shall be the contact point for all communications from RIDOT related to this RFP. Prime Consultants must specify the specific bridge engineering services for which they are applying (Preservation and/or Reconstruction). Consideration will be given to only those specified categories requested in the transmittal letter.

- Provide the name of each company comprising the Consultant Team, including Sub-Contractors and proposed DBE Firms, identify the services each firm will provide and identify the *Lead*

Engineer and Project Manager who shall be responsible for the delivery of Task Orders assignments on time, on budget, and in accordance with the contract provisions.

- Provide the name, title, address, telephone and electronic mail address of the Consultant Team's Principal Contacts. The proposed team must remain constant throughout the life of the Task Order Program. RIDOT must be informed of any changes in personnel and/or if in the event key personnel are no longer available, RIDOT reserves the right to terminate this agreement.

XII. QUALIFICATIONS OF PROJECT TEAM

FIRM QUALIFICATIONS

In accordance with RI General Laws, the selected consulting firms must maintain a license to practice Professional Engineering in the State of Rhode Island for the defined contract term. This requirement shall apply to both the Prime Consultant and applicable Subconsultants.

- ✓ Firms must demonstrate a minimum of 5 years of bridge engineering experience or principals (at least three (3) in managerial roles) within the firm must demonstrate ten (10) years of bridge engineering experience and possess a working knowledge of all applicable State and Federal transportation laws as well as RIDOT'S design and construction policies, procedures and standard specifications.
- ✓ Provide at least 5 Projects with a minimum **construction** cost of \$5 million completed by the Primary Consultant within the past ten (10) year. Firms that have not been in existence for 5 years, must have principals within the firm (at least 3 in managerial roles) that have served as the lead design engineer on at least five (5) projects with a minimum construction cost of \$5 million completed within the past ten (10) years. For each project, provide the project name, owner's name, address, principal contact with current phone number and email address, dates of design/construction, construction value and description of the work involved. Demonstrated expertise and success on projects utilizing innovative bridge technologies shall be scored higher.
- ✓ Provide the firm's current projects and indicate if they are on schedule; list upcoming projects and their anticipated start and completion dates; demonstrate your capacity to take on additional work.
- ✓ List the firm's office locations, where key personnel will be located, and how the coordination (with an emphasis on QA/QC) among the team and subcontractors will be managed and integrated.

RIDOT will assess each Consultant's technical capacity and relative size in relationship to the specific project category. Given the on-call nature of these services and the workload anticipated, consulting firms selected must possess the capability and capacity to manage numerous Task Orders with varying degrees of complexity simultaneously.

STAFF QUALIFICATIONS

- ✓ Provide resumes (or Standard Form 330) for each Key Team Member showing relevant education, training and license(s), intended contract role, and both past and recent experience (within the

last five years) particularly with respect to comparable experience in similar Bridge projects, with a focus on the ability to deliver such projects on time and on budget.

Key Personnel: At a minimum, the following key personnel performing the functions described below shall be identified and resumes provided:

- **Project Manager** – This individual shall be responsible for contract management and the coordination and direct supervision of the staff performing the Task Order assignments. He/she will also act as the liaison between the firm and RIDOT for all Task Orders assigned to the firm.
- **Lead Design Manager** - This individual will be responsible for coordinating the individual design disciplines and ensuring the overall Project design is in conformance with the Contract Documents and applicable design standards. This individual must be a registered, licensed, Professional Engineer in the State of Rhode Island. Provide P.E. license registration(s), certification(s) and training for this individual.

Sub-Consultant Qualifications: Provide a Cover Letter from the Sub-Consultant to the Prime prefacing each separately tabbed sub-consultant proposal outlining the services to be provided. Include resumes of key personnel including identification of the Project Manager to be assigned per Project Category; include P.E. licenses and Certificate of Authorization.

Organizational Chart: Provide an organizational chart for the entire proposed team including Sub-Consultants and the services they will provide. The chart shall also delineate the “chain of command” and identify the major functions to be performed and their reporting relationships in managing Task Orders. The chart shall identify the Project Manager and the Design Manager

Quality Assurance & Quality Control (QA/QC): Submit the Firm’s Quality Assurance & Quality Control (QA/QC) procedures. Provide a brief narrative explaining the Quality Control Plan process and the approach to implementing Design QC, a description of how the Quality Control function will be organized, including the name of the QC manager and a description of how the QC Plan will operate, including how it will interface with Sub-Consultants and RIDOT.

Past Performance: RIDOT will consider each firm’s performance evaluations for previous work on comparable projects within the Department, including the Task Order program. If the Firm has not previously provided Consultant services to RIDOT, submit a list of comparable work performed within the past five years (preferably for other State Departments of Transportation or municipalities). Include the client name, project contacts who can verify the information presented, original contract value for design, final contract value for design, construction cost, and project duration.

Current Workload: List all contracts the firm currently has with RIDOT, including Task Orders, the contract/Task Order amount, the anticipated completion dates, and list of projects on backlog. Firms that do not currently have contracts with RIDOT should include a list of contracts, contract amount and anticipated completion dates with emphasis on other State Departments of Transportation and/or municipalities and similar scopes of work.

Disadvantaged Business Enterprise (DBE goal 8%):

Provide a letter from the DBE to the Prime Consultant listing the services the DBE firm will provide; provide the qualifications for the Firm and for the individuals as delineated above and the DBE certification letter

from the State Office of Diversity and Equal Opportunity.

XIII. TECHNICAL EVALUATION COMMITTEE

A Technical Evaluation Committee (TEC), the majority of which must be currently employed by the State of Rhode Island, will be convened by RIDOT. The TEC will be comprised of a Chairperson and RIDOT technical personnel (Voting Members) assigned to evaluate and score all proposals. All members of the TEC will be required to execute a Conflicts Disclosure Statement prior to the Division of Purchases release of the Proposals. The Final Selection Recommendations will be presented to the State Architectural/Engineering Consultant Services Selection Committee for final approval. RIDOT reserves the right to use any appropriate technical resources to provide assistance in evaluating the submittals. Technical resources will act in an advisory capacity only and will not review or score any documentation.

XIV. EVALUATION PROCESS FOR PROPOSALS

RIDOT, at its sole discretion, may conduct interviews, ask written questions of the Respondents, seek written clarifications and conduct discussions on the Proposals during the evaluation and selection process. RIDOT retains the option to determine which teams, if any, will be invited to make oral presentations. Respondents shall be aware that RIDOT reserves the right to conduct an independent investigation of any information, including prior experience, identified in a Proposal by contacting Project references, accessing public information, contacting independent parties, or by any other means.

XV. TECHNICAL PROPOSAL EVALUATION CRITERIA

Technical Proposals will be evaluated qualitatively based upon the following selection criteria. The selection criteria below are intended to be informational, and all information required under the identified Sections will be evaluated.

Technical Proposal Selection Criteria	
<p>Qualifications of the Team</p> <p>The Lead Design Manager is a RI licensed Professional Engineer and has more than 20 years of similar project experience; the majority of the proposed staff are RI licensed Professional Engineers; the PM has more than 20 years of Project Management experience; All of the Sub-consultants have demonstrated exceptional depth of experience and knowledge with similar bridge projects and the specific support services they will provide is clearly delineated in the proposal. The DBEs are all certified in RI and certificates provided.</p> <p>The Lead Design Manager is a RI licensed P.E. and has more than 15 years of similar project experience; some of the proposed staff are RI Licensed Professional Engineers; The PM has more than 15 years of project management experience; most of Sub-consultants have demonstrated very good depth of experience and knowledge with similar bridge projects and the specific support services they will provide is included in the proposal. The DBEs are all certified in RI and the certificates provided.</p> <p>The Lead Design Manager is a RI licensed P.E. and has more than 10 years of similar project experience; several of the proposed staff are RI Licensed Professional Engineers; The PM has more than 10 years of Project Management experience, and some of Sub-consultants have demonstrated good depth of experience and knowledge with similar bridge projects. The DBEs are all certified in RI but not all the certificates were provided</p> <p>The Lead Design Manager is a RI licensed P.E. and has 5 years of project experience but not in bridge design; one or two members of the proposed staff are RI Licensed Professional Engineers; The PM is not identified in the proposal or has very little Project Management experience; the Sub-consultants have demonstrated limited experience and knowledge with similar bridge projects. Some of the proposed DBEs are certified in RI but the certificates weren't provided</p> <p>The Lead Design Manager is not a RI licensed P.E. and has little or no similar project experience; one or two members of the proposed staff are RI Licensed Professional Engineers; The PM is not identified in the proposal; the Sub-consultants have not demonstrated experience and knowledge with similar bridge projects. The DBEs were not provided</p>	<p>25 EXCEPTIONAL</p> <p>20 VERY GOOD</p> <p>15 SATISFACTORY</p> <p>10 MARGINAL</p> <p>5 UNSATISFACTORY</p>

<p>Relevant Work Experience</p> <p>Firm (or at least 3 principals in managerial roles within the firm) have more than 20 years of project experience in complex bridge design</p> <p>Firm (or at least 3 principals in managerial roles within the firm) have > 15 years but < than 20 years of similar project experience</p> <p>Firm (or at least 3 principals in managerial roles within the firm) have > 10 years but < 15 years of project experience but not in bridge design</p> <p>Firm (or at least 3 principals in managerial roles within the firm) have met the minimum of 5 years of similar project experience</p> <p>Firm has less than 5 years of similar project experience</p>	<p>25 EXCEPTIONAL</p> <p>20 VERY GOOD</p> <p>15 SATISFACTORY</p> <p>10 MARGINAL</p> <p>5 UNSATISFACTORY</p>
<p>Past Performance – <i>evaluated through RIDOT performance evaluations or self-reported for firms with no performance history at RIDOT. Self-reported performance may be verified by RIDOT through project references</i></p> <p>Performance consistently exceeds most contractual requirements, i.e., most projects/Task Orders were completed ahead of schedule, under budget and with no major design issues or concerns</p> <p>Performance exceeds some contractual requirements, i.e., some projects/Task Orders were completed ahead of schedule and under budget and with few major design issues or concerns for which the Consultant’s corrective actions were highly effective</p> <p>Performance meets most contractual requirements, i.e., there were minor issues with projects/Task Orders being completed on-time and on-budget and with some design issues or concerns for which corrective actions taken by the Consultant were effective</p> <p>Performance meets some contractual requirements, i.e., there were significant problems or issues with projects being completed on-time and on-budget and with significant design issues or concerns for which corrective actions taken by the Consultant were only somewhat effective</p> <p>Performance does not meet contractual requirements, i.e., there were serious problems and issues with projects being completed on-time and on-budget and with serious design issues or concerns for which corrective actions taken by the Consultant were ineffective</p>	<p>25 EXCEPTIONAL</p> <p>20 VERY GOOD</p> <p>15 SATISFACTORY</p> <p>10 MARGINAL</p> <p>5 UNSATISFACTORY</p>

Current Workload and Capacity	
The Firm manages its current workload highly effectively, its projects are on schedule and it has the capacity to undertake additional projects	25
The Firm manages its current workload effectively, has a minimal number of projects behind schedule, and has some capacity to undertake new work	20
The Firm manages its current workload somewhat effectively, has considerable difficulty keeping projects on schedule and limited capacity to undertake new work	15
The Firm is ineffective at managing its current workload, a significant number of its projects are behind schedule, and it has minimal capacity to undertake new work	10
The Firm is ineffective at managing its current workload, most of its projects are behind schedule and it has no capacity to undertake new work	5
TOTAL	100 points

XVI. TASK ORDER SELECTION

All Consultant firms shall be provided a fair opportunity to be considered for Task Orders pursuant to the procedures outlined below. Task Orders for new work will be assigned during the first two (2) years with the stipulation that assignments initiated during the term of the contract will continue to completion of work. No new Task Orders will be assigned after two years from the start of the contract since it is unlikely that the work will be completed within the five-year contract term.

The RIDOT Office of Project Management will first examine the existing information already in its possession such as an awardee's original Technical Proposal, proposals submitted in response to previous Task Order Requests and current and past performance records. RIDOT's examination of existing information will be conducted in light of the specialized and/or technical areas of the Task Order requirements and will be utilized to determine which awardees will be requested to submit a proposal for the Task Order.

Prior to assigning each Task Order, the Department will evaluate each selected firm to determine which firm is most qualified to perform the specific Task Order. Proposals will be evaluated on a "best value" basis utilizing the evaluation criteria outlined below. Work will be issued by negotiated firm-fixed price Task Orders. When determining which firm will be selected to negotiate a Task Order RIDOT will consider the following: 1. The Consultant's adherence to Task Order schedules, including administrative aspects of performance. 2. The Consultant's ability to adhere to Task Order budgets. 3. Unique/specialized experience and 4. Quality of performance under previous Task Orders. The total number of assignments for each firm may vary depending on the Department's needs. Once RIDOT determines which firm will be awarded a Task Order, the Office of Project Management may contact Consultants to identify resource availability.

Task Order Selection Criteria	Possible points	Points Awarded	Percentage Weight Factor	Total Points
1. Past Performance (5%)				
a. Ability to complete projects on-time and on-budget with RIDOT and/or references	0-10	10	5.0%	5.0
2. Approach to Project (35%)				
a. Level of understanding of project	0-10	10	17.5%	17.5
b. Innovative approach to project design and/or execution	0-10	10	17.5%	17.5
3. Project Schedule (30%)				
a. Demonstrated ability to meet or exceed RIDOT's timeline by providing milestones and associated dates.	0-10	10	15%	15.0
b. Identification of task(s)/issue(s) that could potentially impact the critical path for the project and propose mitigation alternatives	0-10	10	15%	15.0
4. Project Manager / Project Team (25%) (including sub-consultants)				
a. Ability to manage Project based on expertise, complexity, and type	0-10	10	7.5%	7.5
b. Identify team personnel and sub-consultant(s) describing their role in the project.	0-10	10	10%	10.0
c. Ability of Team/Sub-consultants to perform the project on time and on-budget	0-10	10	7.5%	7.5
5. Capacity of Team to do Work (5%)				
a. Provide current RIDOT workload of the team (including Task order and Non-Task order projects)	0-10	10	5.0%	5.0
TOTAL SCORE				100.0

XVII. METHOD OF PAYMENT

All services shall be initiated through assigned Task Orders with the specific scope of work distributed by the RIDOT Office of Project Management. The method of payment shall be Lump Sum. Hourly rates shall be fully inclusive, i.e., include hourly rate, Indirect Cost Rate (ICR) and fixed fee (10%). Indirect Cost Rates (ICR) shall be approved by the Office of Internal Audit (TAC-0295). Fixed Fee is 10% and will remain at 10% for the lifetime of the contract.

Hourly rate increases for personnel over the course of the contract term will be accepted provided they do not exceed the maximum hourly base rate currently at \$70.00/HR. Cost proposals for Task Orders shall utilize the RIDOT Work Breakdown Structure (WBS).

XVIII. RESERVATION OF RIGHTS

RIDOT reserves to itself all rights (which rights shall be exercisable by RIDOT in its sole discretion) available to it under applicable law, including without limitation, the following, with or without cause and with or without notice:

- The right to cancel, withdraw, postpone or extend this RFP in whole or in part at any time prior to the execution by RIDOT of the Task Order Program contracts, without incurring any obligations or liabilities.
- The right to issue a new RFP.
- The right to reject any and all submittals, responses and proposals received at any time.
- The right to modify all dates set or projected in this RFP.
- The right to terminate evaluations of responses received at any time.
- The right to suspend and terminate the procurement process for the Project, at any time.
- The right to revise and modify, at any time prior to the Proposal Submittal Date, factors it will consider in evaluating responses to this RFP and to otherwise revise its evaluation methodology.
- The right to waive or permit corrections to data submitted with any response to this RFP until such time as RIDOT declares in writing that a particular stage or phase of its review of the responses to this RFP has been completed and closed.
- The right to issue addenda, supplements, and modifications to this RFP, including but not limited to modifications of evaluation criteria or methodology and weighting of evaluation criteria.
- The right to permit submittal of addenda and supplements to data previously provided with any response to this RFP until such time as RIDOT declares in writing that a particular stage or phase of its review of the responses to this RFP has been completed and closed.
- The right to hold meetings and conduct discussions and correspondence with one or more of the Respondents responding to this RFP to seek an improved understanding and evaluation of the responses to this RFP.
- The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the RFP, including the right to seek clarifications from Respondents.
- The right to permit Respondents to add or delete firms and/or key personnel until such time as RIDOT declares in writing that a particular stage or phase of its review has been completed and closed.
- The right to add or delete Respondent responsibilities from the information contained in this RFP.

- The right to appoint and change appointees of the Evaluation Team.
- The right to use assistance of outside technical and legal experts and consultants in the evaluation process.
- The right to waive deficiencies, informalities and irregularities in a Proposal, review and accept a non-conforming Proposal or seek clarifications or supplements to a Proposal.
- The right to disqualify any Respondent that changes its submittal without RIDOT approval.
- The right to disqualify any Consultant firm that violates any Federal and/or State laws and/or regulations.
- The right to change the method of award or the evaluation criteria and scoring at any time prior to submission of the Proposals.
- The right to respond to all, some, or none of the inquiries, questions and/or request for clarifications received relative to the RFP.
- The right to negotiate the allocation of prices identified for specific portions of the work depicted within a Fee Proposal.

XIX. RESPONDENT RESPONSIBLE FOR ALL COSTS OF RFP

There will be no stipend offered to Respondents who are not selected to provide the requested services. All costs associated with developing or submitting documents in response to this solicitation and/or in providing oral or written clarification of its content shall be borne by the Respondent. All materials received in response to this RFP shall become the property of the State and shall not be returned.

XX. RHODE ISLAND ACCESS TO PUBLIC RECORDS ACT (APRA)

All Proposals submitted to RIDOT become the property of RIDOT and are subject to the disclosure requirements of the Rhode Island Access to Public Records Act (APRA). Respondents are advised to familiarize themselves with the provisions of this Act to ensure that documents identified as confidential will not be subject to disclosure under APRA. In no event shall the State, the Director, or RIDOT be liable to a Respondent for the disclosure of all or a portion of a Proposal submitted pursuant to this request not properly identified as confidential.

XXI. CONFLICT OF INTEREST

Each Respondent shall require its proposed team members to identify potential conflicts of interest or a real or perceived competitive advantage relative to this procurement. Respondents are notified that prior or existing contractual obligations between a company and a federal or state agency relative to the Project may present a conflict of interest or a competitive advantage. RIDOT, in its sole discretion, will make a determination relative to potential organizational conflicts of interest or a real or perceived competitive

advantage, and its ability to mitigate such a conflict. Failure to abide by RIDOT's determination in this matter may result in a proposal being declared non-responsive.

Conflicts of interest and a real or perceived competitive advantage are described in state and federal law, and, for example, may include, but are not limited to the following situations:

- An organization or individual hired by RIDOT to provide assistance in the development of RFPs.
- An organization or individual with a present or former contract with RIDOT to prepare planning, environmental, engineering, or technical work product for the Project, and has a potential competitive advantage because such work product is not available to all potential Respondents in a timely manner prior to the procurement process.

XXII. ETHICS IN PUBLIC CONTRACTING ACT

RIDOT may, in its sole discretion, disqualify the Respondent from further consideration for the award of Task Order Program contract if it is found after due notice and examination by RIDOT that there is a violation of the RI Code of Ethics, Chapter 36-14.1 of the Rhode Island General Laws or any other statute involving the Respondent in the procurement of the contract.

XXIII. REQUIREMENT TO KEEP TEAM INTACT

The team proposed by the Respondent, including but not limited to the Lead Consultant firm, the Lead Designer, and other individuals identified as Key Personnel shall remain on the Respondent's team for the duration of the procurement process and, if the Respondent is awarded a Task Order Program contract, the duration of the Contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to RIDOT. The Department will determine whether to authorize a change. Unauthorized changes to the Respondent's team at any time during the procurement process may result in the elimination of the Respondent from further consideration.

XXIV. INTERNAL CONTROL SYSTEMS

All Respondents must have internal control systems in place that meet federal requirements for accounting. These systems must comply with requirements of 48 CFR 31, "*Federal Acquisition Regulations, Contract Cost Principles and Procedures*," and 23 CFR 172, "*Administration of Engineering and Design Related Service Contracts*."

XXV. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and US DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31 apply to its actions pertaining to the Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or cause to be made, pertaining to the underlying contract or the FHWA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Respondent to the extent the Federal Government deems appropriate.

The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement,, submission, or d certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FHWA under the authority of 49 U. S. C. Chapter 53, the Government reserves the right to impose the penalties of 18 U S C § 1001 and 49 U S C § 5323(I) on the Consultant, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal Assistance provided by FHWA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

XXVI. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

The Consultant acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or ward of the underlying Contract, absent the express written consent of the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Consultant or any other party (whether or not a party to that Contract) pertaining to any matters resulting from the underlying Contract. The Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal Assistance provided by FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

XXVII. ADA

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, the Consultant agrees that it will not discriminate against individuals on the basis of disability. In addition, the Consultant agrees to comply with any implementing requirements FHWA may issue.

XXVIII. FEDERAL EQUAL EMPLOYMENT OPPORTUNITY (EEO) REQUIREMENTS

These include but are not limited to:

- a. Nondiscrimination in Federal Public Transportation Programs:
41 CFR 60-4.3 prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
- b. Prohibition against Employment Discrimination: Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246 "Equal Employment Opportunity", September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex or national origin.

XXIX. TERMINATION FOR CAUSE AND CONVENIENCE

As outlined in The State of Rhode Island Standard Specifications for Road and Bridge Construction, as amended August 2013, with all subsequent revisions. Reasons for Termination:

The State may terminate the entire Contract, or any portion thereof, when the Consultant is prevented from proceeding with the prescribed work for any of the following reasons:

1. An Executive Order of the President of the United States with respect to the prosecution of war; in the interest of national defense; or any civil emergency or natural disaster.
2. An Executive Order of the Governor of the State with respect to a natural disaster or civil emergency.
3. Court orders relating to energy consumption, and orders or injunctions obtained by third party action resulting from national or local environmental protection laws.
4. Discovery of unanticipated archaeological artifacts of a significant nature that would require extensive and time-consuming delays in the work for the purposes of identification, evaluation, and possibly recovery.
5. Occurrence of an unanticipated environmental situation of a significant nature that would require extensive and time-consuming delays in the work for the purposes of identification, evaluation, and possibly mitigation.
6. Any other circumstances beyond the control of either the Department or the Consultant that precludes the orderly prosecution or completion of the work and that is in the public interest. The Department shall terminate the Contract by delivering to the Consultant a Notice of Termination which shall specify the extent of the termination, the reasons therefore, and the effective date thereof.

XXX. TERMS AND CONDITIONS

1. Consultant firms shall permit RIDOT to review, at any time, all work performed under the terms of this Contract at any stage of the work, and to conform to all instructions and directives that may be issued by RIDOT.
2. In its Statement of Qualifications, each Proposer shall identify Key Personnel that will be assigned to the project. Those identifications will be deemed a binding commitment that if the Proposer should receive a Contract, those Team Members identified will in fact fulfill the designated role. Proposers are precluded from substituting, replacing, or removing any of the Key Personnel without the written consent of RIDOT to do so. This applies for entire contract term.
3. Consultant firms shall be responsible for the proper performance of the functions, duties, and services under this Contract, to furnish in such numbers at such time, and in such manner as RIDOT shall require, the services of personnel experienced in the pertinent technical fields described in the Scope of Work together with administrative and clerical

personnel. Any person who, in RIDOT's opinion, is considered to be inexperienced, uncooperative, or whose services are not needed, or whose separation from the work would be in RIDOT's best interest, shall be removed from the project payroll immediately upon RIDOT request.

4. Consultant firms, upon request by RIDOT, shall furnish statements as to the experience record of any person employed under this Contract and the anticipated or actual duties to be performed by that person.
5. All field notes, records, computations, work sheets, drawings, bridge data, correspondence, and all other property resulting from the Consultant's services under this Contract will be the permanent property of RIDOT. RIDOT reserves the right to withhold the final payment to the Consultant until all property is transferred to RIDOT.
6. Consultant firms and their engineering sub-consultants shall maintain the required registration in the State of Rhode Island as a Professional Engineer for the lifetime of this Contract. Any non-engineering sub-consultants or sub-contractors shall also possess any required registrations pertaining to their type of business in the State of Rhode Island for the lifetime of the Contract
7. As the work progresses, the workload handled by RIDOT may increase or decrease. RIDOT reserves the right to add or withdraw individual Task Order projects, or portions thereof under each Contract, in keeping with its workload, without regard to the status of completion of the individual projects
8. When an individual project is removed from the work under this Contract, the Consultant shall turn over to RIDOT all materials and records incidental thereto and will receive no further compensation for that project.
9. Monthly progress reports will be required in accordance with Design Section Policy. Briefly, progress reports must outline work accomplished; hours and costs expended; outstanding questions which require resolution. Payment invoices will be processed only if the required progress reports are current.
10. Each Consultant shall provide written notification to the appropriate RIDOT Managing Section of any change in personnel and/or assignment regarding both Prime and Sub-Consultant(s) services for the lifetime of the Contract. The date of RIDOT's response shall serve as the effective date of service for any new personnel or re-assignment proposed.
11. Firms awarded contracts under this solicitation will be required to submit an EEO Certificate of Compliance and a Contract Compliance Report to the State EEO Office for approval.
12. In conformance with RIDOT TAC-0255, "Financial Statements for Professional Services Contracts", the selected Consultants will be required to submit a Financial Review Report to RIDOT for review. All financial documentation submitted will be kept confidential and on permanent file in the Contract Administration Office.

Bridge Design References and Resources for this Project

The latest revisions of the following references and resources are to be utilized in performing engineering services under this project:

1. A Policy on Geometric Design of Highways and Streets
2. Highway Capacity Manual
3. Manual on Uniform Traffic Control Devices
4. Rhode Island Standard Specifications for Road and Bridge Construction
5. Rhode Island Standard Details
6. RIDOT *Design Policy Memos* and "*To All Consultants*" letters
7. Rhode Island LRF Bridge Design Manual
8. AASHTO LRF Bridge Design Specifications
9. Federal-Aid Policy Guide (FAPG) 625, Design Standards for Highways
10. Federal-Aid Policy Guide (FAPG) 626, Pavement Policy
11. Rhode Island Department of Transportation Design Procedures for Pavement Design
12. Bridge Welding Code AASHTO/AWS-D1.5m/D1.5
13. AASHTO Manual for Bridge Evaluation
14. AASHTO Roadside Design Guide
15. Guide Design & Construction Specifications for Bridge Temporary Works
16. Guide Specifications for Fatigue Evaluation of Existing Steel Bridges
17. RIDOT Guidelines for Load and Resistance Factor (LRF) Rating of Highway Bridges
18. AASHTO Guide Specs for LRF Seismic Bridge Design
19. NCHRP Report 350 Recommended Procedures for the Safety Performance Evaluation of Highway Features
20. RIDOT Traffic Design Manual
21. AASHTO Policy on Design Standards-Interstate System
22. RIDOT CAD Standards Manual
23. 23 CFR part 650, Bridges, Structures, and Hydraulics
24. 3R Policies for Collector Streets and Highways on the Federal Aid System in RI
25. AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals
26. AASHTO Subsurface Investigation Manual

Data to be Supplied by RIDOT: (*Electronic or Hard Copy*)

- 1) Copies of all available bridge and highway plans, right-of-way plans, bridge ratings and design calculations for most bridges are available at the Department of Transportation
- 2) RIDOT may provide all necessary pavement cores on this project, subject to crew availability
- 3) RIDOT Bridge Inspection Reports and photos and Bridge Load Rating Reports
- 4) Geotechnical Data if available
- 5) Traffic counts if available
- 6) Material test data if available
- 7) Historical photographs if available

Reference: *Bridge Preservation Guide: Maintaining a State of Good Repair Using Cost Effective Investment Strategies* published by the U.S. Department of Transportation, Federal Highway Administration
<https://www.fhwa.dot.gov/bridge/preservation/guide/guide.pdf>

CONSULTANTS

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS
PRIMARY COVERED TRANSACTIONS FOR PRIME CONSULTANTS
AND LOWER TIER PARTICIPANTS (SUBCONSULTANTS ETC.)**

Appendix B - - certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

INSTRUCTIONS FOR CERTIFICATION:

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion - - Lower Tier Covered Participants

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.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS
PRIMARY COVERED TRANSACTIONS**

In accordance with the code of Federal Regulations, Part 49 CFR Section 29.510, the prospective primary participant _____ (name of Authorized Agent),

_____ (Title), being duly sworn (or under penalty of perjury under

the laws of the United States), certifies to the best of his/her knowledge and belief, that 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; violation 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;
- 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.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall list exceptions below.

Exceptions will not necessarily result in denial of award, but, will be considered in determining contractor responsibility. For any exception noted, indicate below to whom it applies, the initiating agency, and the dates of the action. Providing false information may result in criminal prosecution or administrative sanctions. If an exception is noted the contractor must contact the Department to discuss the exception prior to award of the contract.

Signature of Authorized Agent

Date

Certification for Federal-Aid Construction/Consultant Contracts

IN ACCORDANCE WITH PUBLIC LAW 101-1210 SECTION 319 (DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES) THE PROSPECTIVE PARTICIPANT CERTIFIES, BY SIGNING AND SUBMITTING THIS BID OR PROPOSAL, TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF, THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

(R.I.D.O.T. APPENDIX C)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31, U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (03-48-00-46), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 - 0348-0046
(see reverse for public burden disclosure)

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change</p> <p>For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Report Entity:</p> <p><input checked="" type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier ____, if known: Congressional District, if known:</p>		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p>
<p>6. Federal Department Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$ _____</p>	
<p>10. a. Name and Address of Lobbying Entity:</p> <p>(if individual, last name, first name, mi):</p>	<p>10. b. Individuals Performing Services (including address if different from No. 10a)</p> <p>(last name, first name, mi):</p>	
<p>11. Amount of Payment (check all that apply)</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment (check all that apply):</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify: _____</p>	
<p>12. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contracted, for Payment indicated in Item 11 (Attach Continuation Sheet(s) SF-LLL-A, if necessary):</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> yes <input checked="" type="checkbox"/> no</p>		
<p>16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		<p>Signature: _____ Print Name: _____ Title: _____ Telephone No: _____ Date: _____</p>
<p>For Federal use Only:</p>		<p>Authorized for Local Reproduction Standard Form - LLL-A</p>

DISCLOSURE OF LOBBYING ACTIVITIES

CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

CONFLICTS DISCLOSURE POLICY

To ensure that the Rhode Island Department of Transportation (RIDOT) maintains the continued confidence and trust of the people of Rhode Island in carrying out its mission, prospective vendors must disclose any family (or other personal) relationships, associations or connections that the vendor, its affiliates, or employees, may currently have with any RIDOT employee. A Conflicts Disclosure Statement shall be submitted to RIDOT from the following:

- ❖ Owners;
- ❖ Directors;
- ❖ Principals;
- ❖ Officers, board members, or individuals with corporate authority;
- ❖ If the vendor is a partnership, the applicant's partners;
- ❖ If the vendor is a limited liability company, its members and managers;
- ❖ Employees with decision-making authority, including executive directors, managers or individuals in a similar position with corporate authority; and
- ❖ Shareholders with a controlling interest.



**USDOT Standard Title VI/Nondiscrimination
Assurances for Contractors
DOT Order 1050.2A**

I, _____, _____, a duly
authorized representative of _____
do hereby certify that the organization affirmatively agrees to the provisions set forth by *U.S. DOT
Order 1050.2A, DOT Standard Title VI Assurances and Non-Discrimination Provisions (April 11, 2013)*

Signature

Date

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on

- the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Last Update: November 2017

DBE SPECIAL PROVISION

**DISADVANTAGED BUSINESS ENTERPRISE AFFIRMATIVE ACTION CERTIFICATION FOR
CONTRACTORS AND CONSULTANTS**

With respect to the above numbered project, I hereby certify that I am the _____
and duly authorized representative of _____ whose address is _____
_____.

I do hereby certify that it is the intention of the above organization to affirmatively seek out and consider Disadvantaged Business Enterprises to participate in this contract as contractors, subcontractors and/or suppliers of materials and services. I agree to comply with the requirements of the U.S. Department of Transportation's regulations 49 CFR Part 26.

I understand and agree that any and all contracting in connection with this contract, whether undertaken prior to or subsequently to award of contract, will be in accordance with this provision. I also understand and agree that no contracting will be approved until the State Department of Transportation has reviewed and approved the affirmative actions taken by the above organization.

DEFINITIONS:

A "Broker," for purposes of this provision, is a DBE that has entered into a legally binding relationship to provide goods or services delivered or performed by a third party.

A "DBE Contractor" or "DBE Subcontractor," for purposes of this provision, is a DBE that has entered into a legally binding relationship with an obligation to furnish services, including the materials necessary to complete such services.

"Disadvantaged Business Enterprise" or "DBE," for purposes of this provision, means a for-profit small business concern certified by the Rhode Island Department of Administration, under U.S. Department of Transportation certification guidelines (a) that is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any corporation, in which 51 percent of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

A "Joint Venture," for purposes of this provision, is an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

A "Manufacturer," for purposes of this provision, is a DBE that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications.

A "Regular Dealer" is a DBE that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the

Rev.09/26/2017

public in the usual course of business. In the sale of bulk items, such as cement, asphalt, steel and stone, a DBE firm may be considered a "regular dealer" if it owns and operates the distribution equipment used to deliver its products. Any additional equipment used by a regular dealer shall be through long-term lease agreements rather than on an ad hoc or contract-by-contract basis.

"Race conscious" measures (goals) or programs are those that are focused specifically on assisting DBEs.

"Race neutral" measures (goals) or programs are those that are, or can be, used to assist all small businesses, including DBEs.

"Small Business Concern" means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121), and that does not also exceed the cap on average annual gross receipts specified in 49 CFR 26.65(b).

"Socially and economically disadvantaged individual" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of a group and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South America, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian Tribe¹, Alaska Natives, or Native Hawaiians;
 - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - e. "Subcontinent Asian Americans," this includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
 - f. Women; and
 - g. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such as time as the SBA designation becomes effective.
3. Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

¹ A "tribally-owned concern" means any concern at least 51 percent (51%) owned by an Indian tribe as defined in 49 CFR 26.5.

I. GENERAL REQUIREMENTS AND SANCTIONS:

- A. Failure by the Contractor to demonstrate every good faith effort in fulfilling its DBE commitment during the construction period will result in the reduction in contract payments by the amount determined by multiplying the awarded contract value by the established DBE percentage (listed in Section II. A. below), and subtracting the dollar value of the work actually performed by DBE contractors. This action will not preclude RIDOT from imposing sanctions or other remedies available as specified in paragraphs below.
- B. Contractors and subcontractors are advised that failure to carry out the requirements of this provision shall constitute a breach of contract and, after notification by the Department, may result in termination of the agreement or contract by the Department, or such remedy as the Department deems appropriate. Greater detail of the rules and regulations regarding DBE utilization can be found in the Rules and Regulations for RIDOT DBE Program.
- C. Brokering of work by DBEs is not allowed and is a contract violation unless DBE is a certified DBE broker. A DBE firm involved in brokering of work may have their certification removed or suspended and shall be subject to the sanctions stated herein. Any firm that engages in willful falsification, distortion or misrepresentation with respect to any facts related to the project shall be subject to sanctions described in paragraph (B) above and referred to the U.S. Department of Transportation's Office of the Inspector General for prosecution under Title 18, USC Section 1001.
- D. The Disadvantaged Business Enterprises Directory or other available resources may be obtained at the Rhode Island Department of Transportation Office of Civil Rights (OCR), 2 Capitol Hill, Providence, RI 02903, or at <http://odeo.ri.gov/>.
- E. The utilization of Disadvantaged Business Enterprises is in addition to all other equal opportunity requirements of this contract. The Contractor shall keep such records as are necessary to determine compliance with its Disadvantaged Business Enterprises Utilization obligations. The records kept by the Contractor shall include:
 - 1. The number of DBE contractors, subcontractors and suppliers; and the type of work, materials or services being performed on or incorporated in this project.
 - 2. The progress and efforts being made in seeking out DBE contractor organizations and individual DBE contractors for work on this project.
 - 3. Documentation of all correspondence, contacts, telephone calls, etc. necessary to obtain the services of DBEs on this project.
 - 4. Copies of canceled checks or other documentation that substantiates payments to DBE firms.
 - 5. All such records must be maintained for a period of three (3) years following acceptance of final payment and will be available for inspection by RIDOT and the Federal Highway Administration.
- F. A contractor for a construction contract will not be eligible for award of contract under this invitation for bids unless such contractor has submitted, at the time of the Bid Opening, this Certification. A Consultant will be required to sign this Certification at the time of the contract execution or the award of contract will be nullified.

II. PRE-AWARD REQUIREMENTS:

- A. Prior to contract award and within five (5) days from the opening of bids, the contractor/consultant shall, at a minimum, take the following actions to meet the race-conscious goal established by OCR, hereinafter referred to as the 'contract goal,':
 - 1. Appoint an EEO Officer to administer the Contractor's DBE obligations.
 - 2. Submit to the RIDOT Construction Section for approval any subcontractor and/or supplier, and submit executed subcontract agreement(s)/purchase orders, including a detailed description of the

- work and price, between the contractor and the qualified DBE to be utilized during the performance of work. In the case of consultant contracts, the consultant shall submit the above DBE obligation as stated in the Scope of Work. This DBE obligation shall be included in the proposal submission to the Design Section, and include the name of the DBE, scope of work, and the actual dollar value.
3. Each construction subcontract submitted shall be accompanied by a completed "DBE Utilization Plan" that specifies the items of work to be performed and the contractor's commitment to complete each subcontract entered into with a DBE pursuant to meeting the contract goal stated herein.
 4. Any subcontract for materials or supplies provided by a DBE broker, or for other services not provided directly by a DBE firm, shall be accompanied by the RIDOT Broker Affidavit form.
- B. In the event that the cumulative percentages submitted do not equal or exceed the contract goal, RIDOT will conduct a good faith effort (GFE) review to determine the extent of the prime contractor's efforts to seek out DBEs and afford adequate subcontracting opportunities to meet the contract goal. Evidence in support of the prime's actions must be submitted using RIDOT's Good Faith Effort Form (GFEF). This form contains examples of the types of evidence set forth in 49 CFR Part 26, Appendix A. RIDOT will consider this and other relevant evidence in making its GFE determination.
1. Where RIDOT has determined that the prime contractor made every good faith effort to meet the contract goal, the contract shall be awarded.
 2. Where RIDOT has determined that the prime contractor failed to make every good faith effort in meeting the contract goal, the contract shall not be awarded, and an opportunity for administrative reconsideration shall be provided.

III. CONSTRUCTION PERIOD REQUIREMENTS:

A. Counting of Participation and Commercially Useful Function (CUF)

The total dollar value of a prime contract awarded to a DBE will be counted toward the DBE requirement. Likewise, all subcontract work performed by a DBE will count toward the DBE requirement.

The allowable value of a subcontract with DBE participation will be treated as the commitment of the prime contractor toward meeting the contract goal. The specific rules for crediting DBE participation toward contract goals are as follows:

1. When a DBE participates in a contract, RIDOT will consider only the value of the work actually performed by the DBE toward DBE goals. RIDOT includes the entire amount of that portion of a construction contract (or other contract not covered by paragraph (3) of this section) that is performed by the DBE's own forces. RIDOT credits the cost of supplies and materials purchased or leased by the DBE subcontractor for the work of the contract. However, supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate are not counted toward participation.
2. RIDOT credits the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, provided the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
4. When a DBE performs as a participant in a *joint venture*, RIDOT will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

RIDOT will count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function (CUF) on that contract.

1. A DBE performs a CUF when it is responsible for execution of the work of the contract, and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, RIDOT evaluates the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors. Even if a DBE is performing pursuant to normal industry practices, if those practices, in fact, erode the ability of the DBE to control its work and remain independent, the practice may affect how much can be credited toward the DBE goal and may raise questions about the DBE eligibility.
2. Suppliers: A supplier is considered to perform a CUF when it packages, i.e. takes quotes from several manufacturers, and/or sells from its own inventory in order to provide one or more items to a contractor. A supplier may own a franchise and/or may be a factory representative to one or more manufacturers. Consistent with a contractor's probable needs, a supplier, not a contractor, may place orders for production with manufacturers.
3. "Pass through" supply operations occur when the contractor decides what items shall be bought from what sources and/or agrees directly with the manufacturer, or other non-DBE party, to schedule delivery and/or directs adjustments and/or routes payments and purchase orders through the DBE. Pass through operations are not commercially useful functions and will not be counted toward contract goals.
4. Management: The DBE must manage the work that has been contracted to its firm. The DBE owner must supervise daily operations, either personally, or with a full-time, skilled and knowledgeable superintendent employed by and paid wages by the DBE. The superintendent must be present on the job site and under the DBE owner's direct supervision. The DBE owner must make all operational and managerial decisions for the firm. Mere performance of administrative duties is not considered supervision of daily operations.
5. Workforce: In order to be considered an independent business, a DBE must keep a regular workforce. DBEs cannot "share" employees with non-DBE contractors, particularly the prime contractor. The DBE shall perform its work with employees normally employed by and under the DBE's control, see paragraph 9 of this section. The DBE must be responsible for payroll and labor compliance requirements for all employees performing on the contract and is expected to prepare and finance the payrolls. Direct or indirect payments by any other contractor are not allowed.
6. Trucking: RIDOT will consider the following factors in determining whether a DBE trucking company is performing a CUF. The DBE must manage and supervise the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
 - a. The DBE itself must own and operate at least one fully licensed, insured, and operational vehicle being used on the contract.
 - b. The DBE must receive compensation for the total value of the services it provides on the contract using vehicles it owns, insures, and which are operated by drivers it employs.
 - c. The DBE may lease vehicles from another DBE firm, including an owner-operator who is certified as a DBE. The DBE which leases vehicles from another DBE shall receive credit for the total value of the services the lessee DBE provides on the contract.
 - d. The DBE may also lease vehicles from a non-DBE firm, including from an owner-operator. The DBE which leases vehicles from a non-DBE is entitled to credit for the total value of

services provided by non-DBE lessees not to exceed the value of services provided by DBE-owned vehicles on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.

Example to this subsection (6) (d): DBE firm X uses two of its own trucks on a contract. It leases two trucks from DBE firm Y and six trucks from non-DBE firm Z. DBE credit would be awarded for the total value of transportation services provided by firm X and firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by firm Z, DBE credit could be awarded only for the fees or commission pertaining to those trucks firm X receives as a result of the lease with firm Z.

- e. For purposes of this subsection, a lease must indicate that the DBE has exclusive use of and control over vehicles used on the project. This does not preclude vehicles from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for the use of the leased vehicle. Leased vehicles must display the name and identification number of the DBE.
7. All expenditures with manufacturers and suppliers must be properly documented in writing in order to count toward a DBE obligation. RIDOT will count expenditures with DBEs for materials or supplies toward DBE goals as follows:
- a. For a DBE contractor (furnish and install) to receive credit for supplying materials, the DBE must perform the following four functions: (1) negotiate price; (2) determine quality and quantity; (3) order the materials; and (4) pay for the material itself. If the DBE does not perform all of these functions, it has not performed a CUF with respect to obtaining the materials, and the cost of the materials may not be counted toward the DBE goal. Invoices for the material should show the payor as the DBE.
 - b. If the materials or supplies are purchased from a DBE manufacturer, RIDOT will count 100 percent of the cost of the materials or supplies.
 - c. If the materials or supplies are purchased from a DBE regular dealer, RIDOT will count 60 percent of the cost of the materials or supplies toward DBE goals.
 - d. With respect to flaggers, when flaggers are provided, RIDOT will count 60 percent of the labor. When traffic signs are included with flaggers, the work will be counted as 100 percent.
 - e. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, RIDOT will count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials and supplies required on a job site, toward DBE goals, provided RIDOT determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. The fees will be evaluated by RIDOT after receiving the Broker's Affidavit Form from the DBE. RIDOT will not count any portion of the cost of the materials and supplies themselves toward DBE goals.
8. Subcontractor: A subcontractor arrangement exists when a person or firm has a contractual obligation to perform a defined portion of the contract work and the following conditions are present:
- a. Compensation is determined by the amount of work accomplished, rather than being paid on an hourly basis.
 - b. The subcontractor exercises control over work methods (except as limited by project specifications), while furnishing and managing its own labor and equipment with only minimal, general supervision being exercised by the prime contractor.

- c. The personnel involved in the DBE subcontractor's portion of the project are both under the subcontractor's direct supervision and identified on its payroll records. When warranted by unique circumstances of a project, a DBE subcontractor may be permitted to employ on a limited basis specialty trades personnel who are not normally employed by the DBE subcontractor.
 - d. Second tier DBE subcontracting will be approved only in accordance with normal industry practice and when the type of work differs from work which the DBE usually performs.
9. All factors pertaining to the unique conditions of a project shall be considered in determining whether a DBE subcontractor relationship actually exists on the project. A DBE subcontractor may need to lease/rent equipment, other than over-the-road trucks, and/or augment its workforce with additional skilled personnel in order to perform certain project-related work. The DBE subcontractor is required to arrange for the necessary equipment through rental/leasing agreements, as necessary. (Off-the-road equipment, such as "Euclids," may be rented/leased from the prime contractor even though the CUF guidelines prohibit rental/lease of over-the-road trucks from the prime contractor.) Likewise, in limited instances, the prime contractor may provide some, but not all, personnel to the DBE subcontractor when the following conditions are present:
- a. A DBE must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force.
 - b. The DBE must not subcontract 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 involved.
 - c. The personnel must have a specialized expertise which has not been mastered by the DBE's own skilled/supervising/managerial personnel.
 - d. Such personnel must be placed on the DBE's payroll and come under the direct supervision of the DBE for the performance of the particular subcontract work.
 - e. The deployment of such personnel must be accomplished within the framework of a mentor-protégé agreement; or for emergency purposes, by contract change order. All instances of combining personnel must be for developmental purposes in which teaching/demonstration/consulting to the DBE must occur.
 - f. Long term, continual (e.g. from one contract to another) or chronic use by a DBE firm, of personnel normally employed by another specific firm, lacking a mentor-protégé agreement which is being carried out in good faith, is not consistent with the CUF guidelines.
 - g. To place entire work crews on DBE's payrolls when such personnel are normally employed by another specific firm is not consistent with the CUF guidelines.
 - h. A DBE may need to lease/rent equipment, except for over-the-road trucks, in order to be properly equipped to execute the work of a mentor-protégé agreement. In such cases where the DBE has investigated several possible sources of such equipment within a reasonable geographical area to the project, the DBE may find the best offer was made by the prime contractor or another subcontractor on the project. In such cases, the DBE may rent/lease such equipment from the prime or another subcontractor, provided that the use of such equipment is material to demonstrating/teaching objectives set forth in the mentor-protégé agreement. Thus, the DBE's regular employees, not those temporarily furnished by the prime contractor, or another subcontractor, shall operate such equipment for the majority of the time during which the equipment is used in the work of the DBE subcontractor under the mentor-protégé agreement.
 - i. A DBE's use of equipment owned by a prime contractor or another subcontractor or without an appropriate mentor/protégé program is inconsistent with the CUF guidelines and will result in noncompliance.
10. If a contractor or subcontractor is not certified as a DBE by the Minority Business Enterprise Compliance Office under the specific NAICS code of line items identified in the contract, at the

time of the execution of the contract or issuance of the purchase order, RIDOT will not count that firm's participation toward any DBE goals, except as provided in 49 CFR 26.87(i).

11. RIDOT will not count toward the contract goal the dollar value of work performed by a contractor or subcontractor after it has ceased to be a certified DBE.
12. RIDOT will not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until all payments being credited have been fully paid to the DBE.

B. DBE Replacement and Termination:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains RIDOT's written consent as provided in this section; and unless RIDOT's consent is provided under this paragraph, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

1. Good Cause for Replacement or Termination

The prime contractor must provide the Department's OCR with a copy of its "Intent to Substitute /Terminate" notice to the DBE setting forth the reasons for the request. This notice must advise the DBE that it has five (5) days to respond (to prime and State) with objections and why the State should not approve the prime's proposed action.

After adequate notice by the Contractor, if any DBE is unable to perform work committed toward the goal, the DBE shall provide to the OCR a signed statement stating why it is unable to complete the work. The Contractor shall document its efforts to have another DBE perform the item or to have a DBE perform other items to replace the original DBE commitment amounts. In the event the Contractor is not able to find replacement DBE work, the Contractor must provide the OCR with documentation clearly evidencing its good faith efforts. Contractors are prohibited from terminating for convenience any DBE firm used to fulfill a commitment pursuant to meeting the contract goal stated herein.

Prior to substitution or termination of a DBE subcontractor, the contractor shall demonstrate good cause and obtain written approval from the OCR.

In accordance with 49 CFR Part 26.53 good cause includes the following circumstances:

- a. The listed DBE subcontractor fails or refuses to execute a written contract;
- b. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- c. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
- d. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- e. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law;
- f. RIDOT determines that the listed DBE subcontractor is not a responsible contractor;
- g. The listed DBE subcontractor voluntarily withdraws from the project and provides to RIDOT written notice of its withdrawal;
- h. The listed DBE is ineligible to receive DBE credit for the type of work required;

- i. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- j. Other documented good cause that RIDOT determines compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies that RIDOT deems appropriate.

2. Good Faith Efforts to Replace

When a DBE subcontractor is terminated as provided in paragraph (1) of this section, or fails to complete its work on the contract for any reason, RIDOT requires the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal RIDOT established for the procurement. The good faith efforts shall be documented by the contractor. If RIDOT requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and RIDOT shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated. The determination shall be made by the DBELO, under the criteria established below.

If there is a change order to a contract on which there is a DBE contract goal, then that contract goal applies to the change order as well as to the original contract. In the event of significant change orders, good faith efforts are required dependent upon the type of change order; RIDOT determines on a case-by-case basis what constitutes good faith efforts in the context of a particular change order. This could include modifying the contract goal amount applicable to the change order if circumstances warrant. When a change order decreases work, i.e. RIDOT determines specific line items are no longer necessary on a contract or there is a quantity change on an item, no good faith effort must be shown. However, when an increase of work occurs or there is a termination of a DBE, good faith efforts must be shown in accordance with the preceding requirements.

C. Monthly Payment Certifications:

All contractors on RIDOT projects are required to certify their payments to subcontractors by use of RIDOT's contractor compliance software on a minimum of a monthly basis (which, at time of publishing, is Prism). A project may not proceed to finalization without the input of this information. RIDOT's Prompt Payment Clause applies to both DBE and non-DBE subcontracts. The Contractor is responsible for the subcontractors' compliance with the submission of their payment reporting by way of this software.

D. Joint Check Procedure for DBEs:

A prime contractor must receive written approval by the Department's DBELO before using a joint check for materials/supplies called for under a subcontract with a DBE. Joint check requests shall be submitted by the prime contractor to the Department's OCR in writing along with a Joint Check Affidavit and the subcontract agreement. The following are general conditions that must be met regarding joint check use:

1. The use of the joint check shall only be allowed by exception and shall not compromise the independence of the DBE;
2. The second party (typically the prime contractor) acts solely as a guarantor;
3. The DBE must release the check to the supplier;
4. The subcontract agreement must reflect the total contract value, including the cost of materials and installation; actual payments for work performed by the DBE may reflect labor only; and
5. The DBE remains responsible for negotiation of price, determining quality and quantity, ordering materials and installing (where applicable) and paying for the material itself.

IV. FINAL SUBCONTRACTOR PAYMENTS AND RELEASE OF RETAINAGE

Prior to receiving final payment, the Contractor shall provide to the Resident Engineer certification of the dollars paid to each DBE firm using Form "DBE Request for Verification Payment." The certification shall be dated and signed by a responsible officer of the Contractor and by the DBE. Falsification of this certification will result in sanctions listed in Sections I. of this provision.

If this contract contains a DBE goal, the Contract Compliance Officer with the OCR will verify that the Contractor has attained the DBE goal specified on said project or has provided adequate documentation justifying a lesser amount. The final estimate will not be paid to the Contractor until proper certifications have been made.

When a subcontractor's work is satisfactorily complete (i.e., all the tasks called for in the subcontract have been accomplished and documented), and the Department has partially accepted the work and all payments have been certified by the Contractor and subcontractor on the "Certification of Progress Payment" form, the Prime Contractor shall release all retainage held by the Prime Contractor within thirty (30) days of satisfactory completion of the subcontractor's work. The subcontractor shall submit to the Prime Contractor the final executed form within ten (10) days of receipt of payment.

Signature of Contractor or Consultant

Date