



**REQUEST FOR PROPOSAL (RFP) – BID# 7594563**

**ON-CALL TRAFFIC DESIGN CONSULTANT SERVICES**

**SUBMISSION DEADLINE: Wednesday, June 27, 2018 at 11:30 AM (ET)**

**PRE-BID CONFERENCE:**     **NO**  
     **YES** \_\_\_\_\_

**Mandatory:**     **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. The representative must register at the pre-bid conference and disclose the identity of the vendor whom he/she represents. Because attendance at the pre-bid conference is mandatory, a vendor’s failure to attend and register at the pre-bid conference shall result in disqualification of the vendor’s bid proposal as non-responsive to the solicitation.

**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. Response to the submitted questions will also be posted under this link as an addendum as appropriate. Phone calls will not be accepted.

**SURETY REQUIRED:** NO

**BOND REQUIRED:** NO

**DISK BASED BID:**     **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](http://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**



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**RHODE ISLAND DEPARTMENT OF TRANSPORTATION**  
**Traffic Management and Highway Safety**

**SOLICITATION # 7594563**

**REQUEST FOR TECHNICAL PROPOSALS**

***ON-CALL TRAFFIC DESIGN CONSULTANT SERVICES***  
***(TWO CONTRACTS ANTICIPATED)***

**DBE GOAL: 10%**

This Request for Proposals (RFP) issued by the State of Rhode Island Division of Purchases on behalf of the Rhode Island Department of Transportation invites proposals from qualified engineering firms to provide “On-Call/As Needed” traffic design engineering services as set forth in the Scope of Work. The selected firms will work under the direction of the Chief Engineer and the RIDOT Traffic Design Section in conjunction with the Federal Highway Administration, applicable City and Town municipalities and other State Agencies as required.

**CONTRACT TYPE/TERM/VALUE:** This is an indefinite delivery/indefinite quantity (IDIQ) agreement utilized for the performance of services for multiple projects under task orders issued on an as-needed basis. To maintain the intent of the BROOKS ACT (40 U.S.C.1101-1104) in promoting open competition and selection for indefinite delivery/ indefinite quantity [IDIQ] type contracting, a maximum length of contract and maximum dollar amount of contract must be defined within the solicitation and contract provisions. Specifically, as defined under Proposed Rules cited under 23 CFR Parts 172.9(3) (i) (ii) published in the Federal Register dated September 4, 2012, any on-call solicitation (1) shall not exceed a maximum contract term of five (5) years, including the number and period of any allowable contract extensions; and 2) shall specify a maximum total contract amount which may be awarded under said contract.

Accordingly, under this solicitation for on-call services, RIDOT anticipates the award of two (2) contracts. The initial contract award amount for each contract will be **\$500,000.00** for services performed under a three (3) year contract term. In accordance with 23 CFR Parts 172.9 (3)(i)(ii), should the State, after expenditure of the initial contract sum, find further need to the Consultant’s services, such services may be extended annually for two (2) additional years; the maximum value of each contract may not exceed \$2,500,000.00.

<b>Action Item</b>	<b>Date</b>	<b>Time</b>
Solicitation posted on RIVIP	June 5, 2018	
Pre-proposal meeting	N/A	N/A
Deadline for Questions	June 18, 2018	12:00 noon
Proposal Due Date	June 27, 2018	11:30 am



## NOTIFICATIONS TO RESPONDENTS:

1. This is a Request for Proposals, not an Invitation to Bid. Evaluation will be based upon the merits of the proposal. There will be no public opening of responses by the Division of Purchases other than to publish the list of firms who responded.
2. Upon contract award, RIDOT will assign specific location sites to the selected Consultant; at that time the Consultant will negotiate proposed hours and fees for services requested with the RIDOT Office of Safety Section, which, pending acceptance by RIDOT, the final negotiated fees will “draw down” off of the initial contract amount. Negotiated costs must be in compliance with RIDOT salary cap (currently \$70/hr) and Indirect Cost Rates approved by the Office of Internal Audit (reference TAC 0305). All other project expenditures must conform to current RIDOT policies and accepted procedures. At the point of negotiation, RIDOT coordination and Consultant/ Sub-Consultant participation along with proposed work items and associated costs will be documented through the development of a work order/task implementation sheet.
3. The Fixed Fee for this Contract shall be ten percent (10%).
4. All Respondents MUST register online at the RIVIP’S Internet website at: [www.purchasing.ri.gov](http://www.purchasing.ri.gov). A fully completed, signed **RIVIP BIDDER CERTIFICATION COVER SHEET** – must be included in each Technical Proposal. This document must be downloaded off the RIVIP website. Failure to make a complete submission inclusive of this three-page document may result in disqualification. For assistance in registering and/or downloading documents, call (401) 574-8100 and request the RIVIP HELP DESK for technical assistance. Office Hours are 8:30 am – 4:00 pm.
5. 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 line 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.
6. 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 insure 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.
7. The selected Firm and sub-contractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. 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.

8. Once selected, the Consultant shall submit a Fee Proposal to RIDOT. On-call services will be completed on a cost plus fixed fee (10%) basis. Contractual arrangements will be established between the State and the selected Consultants in line with Departmental policy and State Purchasing regulations. The successful Consultants must be prepared to provide necessary pre-award requirements in line with all project requirements.
9. At any point during the review process, any proposal found to be substantially non-responsive will be dropped from further consideration.
10. Field notes, records, computations, work sheets, drawings, traffic data, correspondence, and all work product resulting from the operation of the On-Call Highway Safety Improvement Program Engineering Support Consultant will be the permanent property of RIDOT. The final payment by RIDOT to the On-Call Traffic Design Consultant will be withheld until the Consultant transfers all work product to RIDOT.
11. As the work progresses, the workload handled by RIDOT may increase or decrease. RIDOT reserves the right to add or withdraw individual projects, or portions thereof under this Contract, in keeping with its workload, without regard to the status of completion of the individual projects.
12. In the event that a project or task is removed from the scope of work under this Contract, the On-Call Traffic Design Consultant shall submit all work product to RIDOT will not further compensation for that task or project.
13. The Consultant will be authorized to proceed with a given design task only when written approval is granted by the Office of Safety Section.
14. Management and Point of Contact for these services will be under RIDOT'S Office of Safety Section who will be responsible for approval of all staff assigned to the project. RIDOT must be informed of any changes in personnel at any time during the contract term. RIDOT reserves the right to reject personnel and/or if in the event key personnel are no longer available, RIDOT reserves the right to terminate the contract.
15. The Consultant firm will be required to demonstrate its Commitment to Affirmative Action by submitting the firm's current Affirmative Action Plan to the State EEO Office for compliance review and approval.
16. In compliance with RIDOT TAC-0255, "Financial Statements for Professional Services Contracts", the selected Consultant 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.



17. The State may, at its sole option, elect to require presentation(s) by Respondents clearly in consideration for award. Other submissions, certifications, or affirmations may be required, as appropriate.
18. The State reserves the right to accept or reject any or all options, bids, proposals, and to act in its best interest.
19. The State reserves the right to solicit separately for selected initiatives within this Scope of Work.
20. 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.
21. 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.
22. 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.
23. 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.
24. The Technical Evaluation Committee may, at its discretion, contact the top-ranked firm(s) to be called for formal interviews. Such interviews will be factored into the final evaluation and ranking of candidates.
25. Upon approval from the Director of Transportation, the final selection recommendation will be presented to the State's Architectural / Engineering Consultant Services Selection Committee for approval.
26. Respondents must possess a working familiarity with the guidelines outlined in the *Rhode Island Standard Specifications for Road and Bridge Construction*, as amended August 2013, with all subsequent revisions, which is available on-line @ [www.dot.ri.gov](http://www.dot.ri.gov), as well as all applicable RIDOT Department Policy Memos (DPMS) and RIDOT Memorandums to All Consultants (TACS).
27. In accordance with RIGL §5-8 individuals or firms practicing architectural and/or engineering services in the State of Rhode Island must possess a proper registration and/or Certificate of Authorization



(COA) at the time of submission. A copy of the current Rhode Island COA for the firm *and* current Rhode Island license(s) for the engineers must be included in Technical Proposal.

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

28. In accordance with RI Gen. Laws 7-1.1-1401, no foreign corporation (a corporation established other than in Rhode Island) has the right to transact business in this State until it has procured a Certificate of Authority to do so from the Office of the Secretary of State <http://www.sos.ri.gov/> or (401) 222-2357.

29. 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.

#### **SCOPE OF WORK:**

RIDOT is seeking to acquire consultant services to provide “on call/ as needed” traffic design engineering services as delineated in the Technical Requirements and Deliverables listed below. The selected firms will work under the direction of the Chief Engineer and the RIDOT Office of Safety Section in conjunction with the Federal Highway Administration, applicable City and Town municipalities and other State Agencies as required.

Respondents must demonstrate a minimum of FIVE (5) YEARS traffic engineering experience and possess a working knowledge of all State and Federal transportation laws as well as RIDOT’S design and construction policies, procedures and standard specifications. As stated herein, in accordance with RI General Laws, the selected firm must maintain the required registration in the State of Rhode Island as a Professional Engineer for the defined contract term.

#### **TECHNICAL REQUIREMENTS AND DELIVERABLES:**

1. To act as the selected On-Call Traffic Design Consultant at the direction of the Chief Engineer and the Managing Engineer of the Office of Safety Section within RIDOT in conjunction with the Federal Highway Administration, applicable City and Town Municipalities and other State Agencies as required.
2. Upon request by RIDOT for a project specific, as directed by the Chief Engineer and the Managing Engineer of the Office of Safety Section, to perform the following:
  - Complete traffic counts
  - Complete speed studies
  - Complete accident analysis
  - Complete delay studies



- Complete capacity analysis
  - Perform signal timing adjustments in both a coordinated signal system and isolated intersections (“fine tuning”)
  - Perform signal inspections
  - Perform troubleshooting of a malfunctioning signal(s) (isolated and coordinated signal systems)
  - Perform system maintenance of the Department’s closed loop system
  - Perform peer reviews of contracts plans and specifications prepared by design consultants for RIDOT projects
  - Prepare work orders for installation of signs and/or pavement markings on templates to be provided by RIDOT
  - Prepare grant applications including all associated documentation when needed
3. To prepare contract plans and specifications when required by RIDOT, as directed by the Chief Engineer and the Managing Engineer of the Office of Safety Section within RIDOT, and as such to either perform or procure the services of a qualified Sub-Consultant to perform the following:
- Complete soil borings, sampling, or testing
  - Complete property, topographic, or highway baseline surveys
  - Complete wetland flagging and permit applications
  - Complete ROW plans, plats, SD lists, and descriptions
  - Complete historic documentation
  - Complete traffic signal plans for proposed and existing signal systems
  - Complete signing and striping plans
  - Complete maintenance and protection of traffic plans
  - Identify and locate existing utilities
  - Test. Identify and locate hazardous waste sites or material
  - Complete engineering estimates, specifications, DOQ, and contract disks necessary for advertising
4. To perform other and similar services, in addition to or in amendment of the above, as shall be mutually agreed upon by the On-Call Traffic Design Consultant and RIDOT.
5. To 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.
6. To 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 fields of traffic engineering, as applicable, 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.





7. To establish and maintain throughout the life of this Contract an office in or near Providence, Rhode Island, for the purpose of performing the work required, and also to assume all costs thereof, including all costs incidental to moving personnel to said office.
8. Upon request, the On-Call Traffic Design Consultant will furnish RIDOT with 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.
9. To keep separate accounts on an individual design project basis of all costs for engineering services under the terms of this Contract as performed by the On-Call Traffic Design Consultant, and to submit to RIDOT certified copies of payrolls and vouchers to be subject to audit by examination of the original records of the On-Call Traffic Design Consultant by RIDOT.
10. The requirements for drafting, plan materials, plats, etc. will be in accordance with the requirements of RIDOT'S Design Policy Memos.
11. The field notes, records, computations, work sheets, drawings, traffic data, correspondence, and all other property resulting from the operation of the On-Call Traffic Design Consultant will be the permanent property of RIDOT; the final payment by RIDOT to the On-Call Traffic Design Consultant will be withheld until the On-Call Traffic Design Consultant transfers all property to RIDOT.
12. That in any case total payments by RIDOT to the On-Call Traffic Design Consultant, under the terms of this Contract will not exceed Five Hundred Thousand and 00/100 Dollars (\$500,000.00) and if RIDOT, after the expenditure of this sum, finds further need for the On-Call Traffic Design Consultant's services, such services may be authorized under conditions to be set forth in a supplemental agreement. The maximum contract term/value may not exceed established thresholds assigned this on-call Contract.
13. The On-Call Traffic Design Consultant will maintain the required registration in the State of Rhode Island as a Professional Engineer for the lifetime of this Contract.
14. As the work progresses, the workload handled by RIDOT may increase or decrease. RIDOT reserves the right to add or withdraw individual projects, or portions thereof under this Contract, in keeping with its workload, without regard to the status of completion of the individual projects.
15. When an individual project is removed from the work under this Contract, the On-Call Traffic Design Consultant will turn over to RIDOT all materials and records incidental thereto and will receive no further compensation for that project.
16. This initial Contract will have a completion date of THREE (3) YEARS after the date of authorization to commence work. RIDOT reserves the right to extend services annually for two additional years.



17. Submit Monthly DBE utilization reports via RIDOT’s Civil Rights Software, currently PRISM. Failure to do so may delay payments.

**QUESTIONS:**

There will be no point of contact at RIDOT who will directly answer questions either in person, via email or by telephone. Questions regarding this solicitation shall be posted at RIDOT’S “*Bidding Opportunities*” web page accessible at: [www.dot.ri.gov](http://www.dot.ri.gov). Follow the link to “Doing Business with Us” and ‘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. The Q & A Forum will disable nine (9) calendar days prior to the due date for this project. Therefore, questions will not be accepted **after noon on June 18, 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 and therefore incorporated as part of this contract.

**DUE DATE, TIME AND LOCATION:**

Submit **SIX (6) copies** of the **Technical Proposal** to the Division of Purchases by **June 27, 2018 at 11:30 am** at the address listed below. Each Proposal shall also include an electronic (pdf) version clearly labeled on a CD-R and attached to the inside cover of each Proposal.

Proposals may be mailed or delivered in a sealed envelope marked: “*RFP 7594563 On-Call Traffic Design Consultant*”

**BY COURIER OR MAIL:**

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

**REQUIRED FORMS:**

In addition to the *RIVIP Bidder Certification Cover Sheet* the following six (6) forms shall be completed and included in the Technical Proposal. All Forms except for IRS W-9- must be completed and submitted in each proposal submission. Submit one unbound copy of IRS W-9 Form.

REQUIRED FORMS		
Required Forms (except for W-9) are attached	PRIME CONSULTANT	SUB-CONSULTANT(S)
W-9 Form available @ <a href="http://www.purchasing.ri.gov">www.purchasing.ri.gov</a>	✓	
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	✓	



## INSTRUCTIONS FOR PROPOSALS:

- **Letter of Transmittal:** A Letter of Transmittal must accompany each response signed by an owner, officer, or other authorized agent of the firm.
- **RIVIP BIDDER CERTIFICATION FORM:** All three (3) pages **MUST** accompany each response submitted.
- **Proposal Format:** Technical Proposals shall be GBC or spiral bound in a single volume and printed on 8½" x 11" paper printed on both sides. Pages shall be sequentially numbered and shall not exceed 25 pages, not including exhibits. Proposals shall include and Table of Contents and Tabs that cross reference each requirement.
- **RIDOT Scope of Work and Addenda:** Include RIDOT'S original RFP and Addenda as an Appendix.

### RELEVANT EXPERIENCE/ PAST PERFORMANCE/ CURRENT WORKLOAD

- **Company Introduction:** Include a description of the firm, its organizational structure and expertise specific to traffic engineering services requested.
- **Relevant Firm Experience:** Include a listing of the firm's recent projects similar in scope to the tasks being proposed. Respondents must demonstrate a minimum of FIVE (5) YEARS traffic engineering within the last ten years.
- **Client References:** Provide the contact information of at least three (3) previous clients to whom your firm provided similar traffic engineering services. This information is also required for key sub-consultants to be assigned to project. By so listing, permission is granted to RIDOT to contact said individuals to inquire about the firm's performance and delivery of services as well as the performance of proposed team members.
- **Current Workload:** List current projects your firm is under contract to perform (including RIDOT projects) and their anticipated completion dates. Include only those projects related Traffic and Highway Safety.
- **Performance Record:** RIDOT will evaluate the Firm's past performance in terms of Project Delivery, timeliness of submissions, problem responsiveness, quality of deliverables, cost control, and technical support.

### STAFF QUALIFICATIONS / PROJECT TEAM

- **Staff Qualifications:** Respondents are to include: 1) a listing of experienced personnel currently on staff, 2) resumes of proposed personnel to be assigned to this project, including identification of any pertinent or applicable certifications/licenses available; and 3) the approximate percentage of each



employee's time to be expended on this project. Include current office location of the personnel cited.

The firm selected must designate a **Project Manager** with the authority and expertise to assign personnel to specific tasks and ensure completion of tasks as required. The Project Manager must be flexible in his/her approach to this contract. The Project Manager must be a registered Professional Engineer.

- **Organizational Chart** of the proposed project team must be included. The Respondent shall describe how the project team, including sub-consultants, will address the full scope of this project. Identify the Project Managers assigned to each organization.
- **Engineer Qualifications:**  
Include GSA SF 330 for the Prime Consultant only. The form is available for download at <http://www.gsa.gov/portal/forms/download/116486>. If qualifications of key personnel are included on GSA SF 330, it is not necessary to also include resumes.

**Sub-Consultant(s):** List the firms, delineate the type of services they will provide, and the work arrangements established between the Prime and proposed Sub-Consultant firm(s). Include a Cover Letter from each Sub-Consultant to the Prime Consultant prefacing each sub-consultant proposal. Full disclosure of the proposed project team requires 1) Listing by NAME/TITLE of experienced personnel currently on staff, 2) resumes of proposed personnel to be assigned to this project, including identification of the key Project Manager, and 3) the approximate percentage of each employee's time to be expended on this project.

#### PROJECT APPROACH AND WORK PLAN AND PROJECT SCHEDULE

- **Project Approach:** Respondents shall provide a description of the strategies and plan for achieving the project tasks. Proposed approach shall demonstrate a solid grasp of Traffic Design programs and requirements along with a feasible and achievable technical approach to accomplishing the tasks.
- **Work Plan and Project Schedule:** Discuss your firm's ability to respond in a timely manner and the process for responding to on-call requests for the services associated with a broad range of likely assignments as described in the Scope of Work.

#### FIRM'S SUITABILITY TO PROJECT

- **Firm's Suitability to Project Needs:** RIDOT will assess each firm's technical capacity and relative firm size in relationship to the level of task complexity and scope.

#### DISADVANTAGED BUSINESS ENTERPRISE GOAL:

**This contract has been assigned a 10% Disadvantaged Business Enterprise (DBE) Goal.** In order to comply with this requirement, a detailed disclosure of RI certified DBE firm(s) and proposed task



assignment(s) to be performed must be included along with a copy of current state certification letter(s). DBEs must be certified at the time of proposal submission. Be advised that this requirement will apply for the lifetime of each Contract, i.e. shall include change orders. The selected Prime Consultant will be responsible to submit a Monthly DBE Utilization Reports utilizing RIDOT's Civil Rights software, currently PRISM.

A list of current Rhode Island State certified DBE firms may be obtained through the State's Office of Diversity, Equity & Opportunity website @ [www.odeo.ri.gov](http://www.odeo.ri.gov). Any questions should be directed to:

**RIDOT Office of Business and Community Resources**  
**Room 110, Two Capitol Hill**  
**Providence, RI 02903**  
**(401) 222-3260**

- **Supplemental Technical Information:** Respondents are encouraged to submit any other technical information that may be deemed useful to RIDOT to evaluate the firm's potential to perform the requested services.

**EVALUATION AND SELECTION:**

Technical Proposals will be evaluated by a Technical Evaluation Committee (TEC) comprised of members of the RIDOT section responsible for the project under consideration. A written evaluation and ranking of each proposal will be prepared by the TEC incorporating factors based on the following **TECHNICAL SELECTION CRITERIA** and **MAXIMUM POINTS** assigned.

<p>1. PROJECT APPROACH</p> <ul style="list-style-type: none"> <li>• Did the technical approach provide a full understanding of the project scope and potential tasks and services requested?</li> <li>• Did the Consultant address their response time and turnaround capabilities?</li> </ul>	<p>0 - 20 POINTS MAX</p>
<p>2. STAFF QUALIFICATIONS</p> <ul style="list-style-type: none"> <li>• Does the proposed team possess the academic credentials, professional experience, subject matter expertise, and technical competence to effectively assist RIDOT with On-Call Traffic Design program?</li> <li>• Did the proposed key Sub-Consultants provide the similar requirements and contact information?</li> <li>• Was an organizational chart provided? Were all anticipated technical services represented?</li> </ul>	<p>0 - 25 POINTS MAX</p>
<p>3. PAST PERFORMANCE</p> <ul style="list-style-type: none"> <li>• With regard to the similar projects presented and contacts listed, how was the Consultant's performance rated in terms of quality of work, timeliness of submissions, adherence to project schedule, and coordination with stakeholders during the design phase?</li> </ul>	<p>0 - 20 POINTS MAX</p>



<p>4. CURRENT WORKLOAD</p> <ul style="list-style-type: none"> <li>Was a current listing of active projects provided along with their anticipated completion dates?</li> </ul>	<p>0 - 20 POINTS MAX</p>
<p>5. PAST / RELEVANT EXPERIENCE</p> <ul style="list-style-type: none"> <li>Does the team demonstrate recent successful experience in Traffic Design?</li> <li>Was project experience similar in nature to services anticipated in Scope?</li> <li>Was sub-consultant experience relevant?</li> </ul>	<p>0 - 10 POINTS MAX</p>
<p>6. DBE PARTICIPATION</p> <ul style="list-style-type: none"> <li>Are DBE firms certified in the particular area of proposed work as defined by NAICS Code?</li> <li>Is the PRIME a RI Certified DBE Firm?</li> </ul>	<p>0 - 5 POINTS MAX</p>
<p><b>MAXIMUM SCORE</b></p>	<p><b>100 POINTS MAX</b></p>

The following applicable design criteria are to be utilized in the development of all alternate solutions and the final detail design.

- 1) A Policy on Geometric Design of Highways and Streets, 6<sup>th</sup> Edition. American Association of State Highway and Transportation Officials, 2011.
- 2) AASHTO'S Policy on Design Standards – Interstate System, 6<sup>th</sup> edition, published 2016.
- 3) Highway Capacity Manual Transportation Research Board, 2010.
- 4) Manual on Uniform Traffic Control Devices. Federal Highway Administration, 2009.
- 5) Rhode Island Standard Specifications for Road and Bridge Construction, amended August 2013, with latest revisions
- 6) Rhode Island Standard Details, 2015 and the Bridge Design Standard Details, 2003 both with latest revisions.
- 7) Design Policy Memos, with latest revisions.
- 8) Rhode Island Bridge Design Manual
- 9) Rhode Island Traffic Design Manual
- 10) RIDOT CAD Standard Manual (2007)
- 11) 2008 RIDOT Highway Design Manual



- 12) Manual of Transportation Engineering Studies, 2<sup>nd</sup> Edition. Institute of Transportation Engineers, 2010.
- 13) Traffic Engineering Handbook, 7<sup>th</sup> Edition, published January 2016. Institute of Transportation Engineers, 2009.
- 14) Roundabouts: An Informational Guide. FHWA-RD-00-067, Federal Highway Administration, 2000.
- 15) AASHTO Standard Specifications for Highway Bridges, 17th Edition 2002, including latest interim specifications.
- 16) Rhode Island Department of Transportation Action Plan.
- 17) RI Department of Transportation Design Procedures for Pavement Design, with latest revisions.
- 18) Federal Aid Policy Guide Part 626.5, Pavement Design, July 2017.
- 19) ANSI/AASHTO/AWS D 1.5-2002 Bridge Welding Code.
- 20) AASHTO Manual for Maintenance Inspection of Bridges 1983, including latest interim specifications.
- 21) Federal Aid Policy Guide, part 625, Design Standards for Highways, July 2017.
- 22) 23 CFR part 650, "Bridges, Structures, and Hydraulics," 2009.

**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.

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\_\_\_\_\_  
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:</p> <p>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: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No: _____ Date: _____</p>
<p><b>For Federal use Only:</b></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 Tribe<sup>1</sup>, 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.

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<sup>1</sup> 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.

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Signature of Contractor or Consultant

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Date