NOTICE OF AWARD OF CONTRACT

TO: QUALITY TRAFFIC DATA, LLC
4860 COX RD
STE 200
GLEN ALLEN, VA 23060

DATE ISSUED: 03/09/2015
CURRENT CONTRACT NO: 723-14
CONTRACT TITLE: Traffic Counts

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

Your firm is awarded the above referenced contract. The contract term covered by this Notice of Award is effective immediately and expires on 02/01/2020.

The contract documents consist of the terms and conditions of Arlington County Invitation to Bid No 723-14, including any exhibits, attached or amendments thereto, and the Contractor's Bid Form.

CONTRACT PRICING:
1. REFER TO CONTRACT (ATTACHED)
2. PRICE ADJUSTMENTS ONLY AT CONTRACTOR'S REQUEST AND NEGOTIATED UP TO CPI-U LIMIT

ATTACHMENTS:
1. ARLINGTON COUNTY ITB NO. 723-14
2. CONTRACTOR'S BID FORM

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

_VENDOR CONTACT: Danny Gouhari PHONE NO.: 877-852-4355
_EMAIL ADDRESS: danny.q@qualitytrafficdata.com

_COUNTY CONTACT: Amit Sidhaye PHONE NO.: 703-228-3730
_EMAIL ADDRESS: Asidhaye@arlingtonva.us

_Vendor DISTRIBUTION:
_VENDOR: 1
_BID FOLDER: 2

Richard D. Warren, Jr., CPPO Date
Purchasing Agent

Notice of Award 723-14
January 21st, 2015

Mr. Igor Scherbakov
Procurement Officer
ischerbakov@arlingtonva.us
Office of the Bid Clerk
Suite 511
2100 Clarendon Boulevard
Arlington, VA 22201

Re: INVITATION TO BID NO. 723-14

Dear Mr. Igor Scherbakov,

We have carefully reviewed the project requirements for ITB NO. 723-14. We are pleased to inform you that our firm is qualified, ready, and able to service your traffic data collection needs for this project.

Quality Traffic Data (QTD) has many years of experience providing local, State, and Federal agencies with professional data collection services. At QTD, we pride ourselves on a long history of client satisfaction. We work closely with our clients at every stage of active projects to ensure that every specification is met. In addition, we use the latest equipment, tools, and software to improve accuracy and productivity. QTD is also well known for its high regard to safety throughout each step of every project.

The attached bid submission form complies with the applicable bid requirements as indicated in your ITB. Please contact us directly if you wish to discuss the particulars of this bid, or to bind or negotiate its terms.

Sincerely,

Danny Gouhari
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT

INVITATION TO BID NO. 723-14

BID FORM

SUBMIT TWO (2) FULLY-COMPLETED AND SIGNED BID FORMS TO THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BLVD., ARLINGTON, VIRGINIA, 22201 (ONE FORM SHALL CONTAIN AN ORIGINAL LONGHAND SIGNATURE; THE OTHER SHALL BE A PHOTOCOPY OF THE SIGNED ORIGINAL)

BIDS WILL BE OPENED AT 3:00 P.M., ON January 22nd, 2015

FOR PROVIDING TRAFFIC AND PEDESTRIAN MOVEMENT COUNTS AND RELATED DATA COLLECTION SERVICES FOR APPROXIMATELY 280 INTERSECTIONS WITHIN ARLINGTON COUNTY PER THE TERMS, CONDITIONS AND SPECIFICATIONS OF THIS SOLICITATION:

YOU MUST ATTACH A COMPLETED EXHIBIT A "PRICING SHEET". YOU MUST PROVIDE A UNIT PRICE FOR EVERY LINE ITEM IN ORDER TO BE CONSIDERED RESPONSIVE. YOU MUST PROVIDE ONLY ONE UNIT PRICE FOR EVERY LINE ITEM.

MINIMUM QUALIFICATION REQUIREMENTS:

Mark a yes/no answer to all questions below and provide required documentation. BIDS SUBMITTED WITHOUT THE SUPPORTING DOCUMENTATION MAY BE CONSIDERED NONRESPONSIVE.

1. Does your company have three (3) years minimum experience administering pedestrian and vehicle traffic counts?

☐ Yes ☐ No

Bidders shall provide the following information:

☐ Number of years your company has been engaged in traffic counts business under your present name. Quality Traffic Data, LLC is been in business for 10 years

☐ State names and dates of previous business names, if any.

The undersigned understands and acknowledges the following:

The official, true, and complete copy of the solicitation documents, WHICH SHALL INCLUDE ALL AMENDMENTS THERETO, is the electronic copy of the solicitation documents provided at the County Purchasing Agent’s website (http://www.arlingtonva.us/purchasing).

Each bidder is responsible for determining the accuracy and completeness of ALL solicitation documents they receive, including documents obtained from the County, and documents obtained from all other sources.
CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES

Provide the name and address of the person designated by the Bidder to receive notices and other communications (Refer to section headed Notices in the Contract Terms and Conditions of this solicitation for further details):

Danny Gouhari

4860 COX ROAD, STE 200 GLEN ALLEN, CA 23060

THE PROPER LEGAL NAME OF THE FIRM OR ENTITY SUBMITTING THIS BID MUST BE WRITTEN IN THE SPACE PROVIDED BELOW. THIS BID FORM, AND ALL OTHER DOCUMENTS REQUIRED BY THE INVITATION TO BID TO BE SUBMITTED WITH THIS BID FORM, INCLUDING, BUT NOT LIMITED TO ALL ISSUED AMENDMENTS, MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BELOW BY A PERSON AUTHORIZED TO LEGALLY BIND THE BIDDER, OR THE BID MAY BE REJECTED:

AUTHORIZED SIGNATURE

PRINT NAME AND TITLE  Danny Gouhari - VP - Quality Traffic Data, LLC

INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID (I.E. PROJECT MANAGER):

NAME (PRINTED):  Danny Gouhari  TITLE:  VP

E-MAIL ADDRESS:  Danny.G@QualityTrafficData.com  TEL. NO.:  877-852-4355
## INSURANCE CHECKLIST

**COVERAGE REQUIRED**

<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>X</td>
<td>1. Workers' Compensation</td>
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<td>2. Employer's Liability</td>
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<tr>
<td>X</td>
<td>3. Commercial General Liability</td>
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<td></td>
<td>4. Premises/Operations</td>
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<td>X</td>
<td>5. Automobile Liability</td>
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<td>6. Owned/Hired/Non-Owned Vehicles</td>
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<td>7. Independent Contractors</td>
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<td>8. Products Liability</td>
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<td>9. Completed Operations</td>
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<td>10. Contractual Liability (Must be shown on Certificate)</td>
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<td>11. Personal and Advertising Injury Liability</td>
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<td>12. Umbrella Liability</td>
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<td>13. Per Project Aggregate</td>
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<td>X</td>
<td>14. Professional Liability</td>
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<td>a. Architects and Engineers</td>
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<td>b. Asbestos Removal Liability</td>
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<td>c. Medical Malpractice</td>
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<td>d. Medical Professional Liability</td>
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<td>15. Miscellaneous E&amp;O</td>
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<td>16. Motor Carrier Act End. (MCS-90)</td>
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<td>17. Motor Cargo Insurance</td>
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<td>18. Garage Liability</td>
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<td>19. Garagekeepers Liability</td>
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<td>20. Inland Marine-Bailee's Insurance</td>
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<td>21. Moving and Rigging Floater</td>
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<td>22. Crime and Employee Dishonesty Coverage</td>
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<td>23. Builder's Risk</td>
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<td>24. XCU Coverage</td>
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<td>25. USL&amp;H</td>
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<td></td>
<td>26. Carrier Rating shall be A.M. Best Co.'s Rating of A-VII or better or equivalent</td>
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<tr>
<td>X</td>
<td>27. Notice of Cancellation, nonrenewal or material change in coverage shall be provided to County at least 30 days prior to action.</td>
</tr>
<tr>
<td>X</td>
<td>28. The County shall be an Additional Insured on all policies except Workers Compensation and Auto and Professional Liability.</td>
</tr>
<tr>
<td>X</td>
<td>29. Certificate of Insurance shall show Bid Number and Bid Title.</td>
</tr>
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</table>

## OTHER INSURANCE REQUIRED:

**INSURANCE AGENT'S STATEMENT:**

I have reviewed the above requirements with the bidder named below and have advised the bidder of required coverages not provided through this agency.

**AGENCY NAME:** Thomas Herskovits Insurance Agency | **AUTH. SIGNATURE:** Thomas Herskovits

**BIDDER'S STATEMENT:**

If awarded the Contract, I will comply with all Contract insurance requirements.

**BIDDER NAME:** Quality Traffic Data, LLC | **AUTH. SIGNATURE:**
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

--DO NOT DETACH--

THIS INFORMATION MUST BE SUBMITTED WITH YOUR BID PROPOSAL IF YOUR BID DOES NOT MEET THE PROJECT DBE REQUIREMENTS, OR WHEN REQUESTED BY VDOT

If, at the time of submitting its bid, the bidder knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 exhibiting the DBE participation it commits to attain as a part of its bid documents. The bidder shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the bid opening.

CONTRACT I.D. NUMBER_ 509-14

PROJECT NUMBER_TSMO-000-719, M503 UPC 101689

FHWA NUMBER_ STP-5A01(513)

DISTRICT_ Arlington County, VA - 8th Congressional District

DATE BID SUBMITTED_ 1/21/2015

BIDDER'S NAME_ Quality Traffic Data, LLC

SIGNATURE_ 

TITLE_ VP

VENDOR NUMBER_ 134839

DBE GOAL FROM BID PROPOSAL_ 0%
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14  
DATE SUBMITTED 1/21/2015

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER: Quality Traffic Data, LLC  
SIGNATURE:

TITLE: VP

<table>
<thead>
<tr>
<th>DBE(s) CALLED</th>
<th>TELEPHONE NUMBER</th>
<th>DATE CALLED</th>
<th>TIME CALLED</th>
<th>CONTACT PERSON OR VOICE MAIL STATUS</th>
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<tbody>
<tr>
<td>None - 0% DBE Goal for this solicitation</td>
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NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED 1/21/2015

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER: Quality Traffic Data, LLC SIGNATURE:

TITLE: VP

ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS (Continued From Sheet 4)

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

<table>
<thead>
<tr>
<th>ITEM(S) OF WORK MADE AVAILABLE (CONT.)</th>
<th>NAME OF SELECTED FIRM AND VENDOR NUMBER</th>
<th>DBE OR NON-DBE</th>
<th>NAME OF REJECTED FIRM(S)</th>
<th>QUOTE IN DOLLARS</th>
<th>PRICE DIFFERENCE IN DOLLARS</th>
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<tr>
<td>None - 0% DBE Goal for this solicitation</td>
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NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH.
PROVIDE NAMES, ADDRESSES, AND TELEPHONE NUMBERS FOR THE FIRMS LISTED ABOVE.
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO.  500-14  
DATE SUBMITTED  1/21/2015

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER: Quality Traffic Data, LLC  
SIGNATURE

TITLE: VP

<table>
<thead>
<tr>
<th>NAME OF AGENCY</th>
<th>METHOD AND DATE OF CONTACT</th>
<th>RESULTS</th>
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<tbody>
<tr>
<td>None - 0% DBE Goal for this solicitation</td>
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</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED 1/21/2015

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER Quality Traffic Data, LLC SIGNATURE

TITLE VP

EFFORTS MADE TO ASSIST DBEs OBTAIN BONDING, LINES OF CREDIT, INSURANCE, ETC.
EFFORTS MADE TO PROVIDE INTERESTED DBEs IN OBTAINING BONDING, LINES OF CREDIT, INSURANCE, NECESSARY EQUIPMENT, SUPPLIES, MATERIALS, OR RELATED ASSISTANCE OR SERVICES, EXCLUDING SUPPLIES AND EQUIPMENT THE SUBCONTRACTOR PURCHASES OR LEASES FROM THE PRIME CONTRACTOR OR ITS AFFILIATES.

IDENTIFY THE DBEs ASSISTED, THE ASSISTANCE OFFERED, AND THE DATES OF SERVICES OFFERED AND PROVIDED. ATTACH COPIES OF SUPPORTING DOCUMENTS.

<table>
<thead>
<tr>
<th>DBEs ASSISTED</th>
<th>ASSISTANCE OFFERED</th>
<th>DATES SERVICES OFFERED AND/OR PROVIDED</th>
</tr>
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<tbody>
<tr>
<td>None - 0% DBE Goal for this solicitation</td>
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NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CERTIFICATION OF BINDING AGREEMENT
WITH
DISADVANTAGED BUSINESS ENTERPRISE FIRMS

Project No.: TSMO-000-719, M503, UPC 101689
Federal Project No.: STP-5A01 (513)

This form is to be submitted in accordance with the Department’s Special Provision for Section 107.15.

It is hereby certified by the below signed Contractors that there exists a written quote, acceptable to the parties involved preliminary to a binding subcontract agreement stating the details concerning the work to be performed and the price which will be paid for the aforementioned work. This document is not intended to, nor should it be construed to, contain the entire text of the agreement between the contracting parties. This document does not take the place of, nor may it be substituted for, an official subcontracting agreement in those situations that may require such an agreement. A copy of the fully executed subcontract agreement shall be submitted to the Engineer within fourteen (14) business days after contract execution.

It is further certified that the aforementioned mutually acceptable quote and fully executed subcontract agreement represent the entire agreement between the parties involved and that no conversations, verbal agreements, or other forms of non-written representations shall serve to add to, delete, or modify the terms as stated.

The prime Contractor further represents that the aforementioned mutually acceptable quote and fully executed subcontract agreement shall remain on file for a period of not less than one year following completion of the prime's contract with the Department or for such longer period as provisions of governing Federal or State law or regulations may require. For purposes of this form, the term Prime Contractor shall refer to any Contractor utilizing a DBE subcontractor, regardless of tier, in which they are claiming DBE credit toward the contract goal.

Contractors further jointly and severally represent that said binding agreement is for the performance of a "commercially useful function" as that term is employed in 49 C.F.R. Part 26.55 (c), (d).
COMMONWEALTH OF VIRGINIA  
VIRGINIA DEPARTMENT OF TRANSPORTATION  
MINIMUM DBE REQUIREMENTS  

PROJECT NO: TSMO-000-719, M503, UPC 101689  
FHWA NO: STP-5A01(513)  

***INSTRUCTIONS***  

This form can be used by the contractor to submit the names of DBE firms to be utilized on the project. The contractor shall indicate the description of the category (S, M, SP or H) and the type of work that each DBE will perform and the allowable credit per item(s). Additional sheets to show the allowable credit per item may be attached if necessary. Please note: The amount of allowable credit for a DBE supplier is 80% of the total cost of the materials or supplies obtained and 100% for a DBE manufacturer of the materials and supplies obtained. A contractor may count 100% of the fees paid to a DBE hauler for the delivery of materials and supplies to the project site, but not for the cost of the materials and supplies themselves.  

DBE REQUIREMENT  

<table>
<thead>
<tr>
<th>NO. OF DBE(s) TO BE USED</th>
<th>USED AS</th>
<th>TYPE OF WORK AND ITEM NO(S)</th>
<th>$ AMT. OF ALLOWABLE CREDIT PER ITEM</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>SUBLTR (S)</td>
<td>MFG. (M)</td>
<td>SUPPLIER (S)</td>
</tr>
</tbody>
</table>

None - 0% DBE Goal for this solicitation  

TOTAL: $  

Total Contract Value $ ____________________________ X Required DBE 0% = $ ____________________________  

I/we certify that the proposed DBE(s) submitted will be used on this contract as stated hereon and assure that during the life of the contract I/we will meet or exceed the participation established hereon by the department.  

Quality Traffic Data, LLC  
BIDDER  

By ________________ SIGNATURE ________________  

VP  
TITLE  

By ________________ DATE ________________  

1/21/2015
b) 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 offence 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 above;
and
d) Where the bidder is unable to certify to any of the statements in this certification, the bidder
shall show an explanation below.

Explanations will not necessarily result in denial of award, but will be considered in determining bidder
responsibility. For any explanation noted, indicate below to whom it applies, initiating agency, and dates of
action. Providing false information may result in federal criminal prosecution or administration sanctions. The
bidder shall provide immediate written notice to the Department if at any time the bidder learns that its
certification was erroneous when submitted or has become erroneous by reason of change circumstances.

The undersigned is duly authorized by the bidder to make the foregoing statements to be filed with
bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation
Board.

Signed at Los Angeles
Quality Traffic Data, LLC
(Name of Firm)

By: ____________________________

(Title (print))

STATE of California
COUNTY (CITY) of Los Angeles

I, Barbara Kimble
County(City) aforesaid, hereby certify that this day
personally appeared before me and made oath that he is duly authorized to make the above statements
and that such statements are true and correct.

Subscribed and sworn to before me this 21st day of January, 2015

Notary Public

[Notary Seal]
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

PROJECT: TSMO-000-719, M503, UPC 101689

FHWA: STP-5A01 (513)

This form must be completed, signed and returned with bid; and failure to do so may result in the rejection of your bid. **THE CONTRACTOR SHALL AFFIRM THE FOLLOWING STATEMENT EITHER BY SIGNING THE AFFIDAVIT AND HAVING IT NOTARIZED OR BY SIGNING THE UNSWORN DECLARATION UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES. A SEPARATE FORM MUST BE SUBMITTED BY EACH PRINCIPAL OF A JOINT VENTURE BID.**

**STATEMENT.** In preparation and submission of this bid, I, the firm, corporation or officers, agents or employees thereof did not, either directly or indirectly, enter into any combination or arrangement with any persons, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Article 1.1 or Chapter 12 of Title 18.2 (Virginia Governmental Frauds Act), Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.6 of the Code of Virginia.

**AFFIDAVIT**

The undersigned is duly authorized by the bidder to make the foregoing statement to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at Los Angeles, CA, this 21st day of January, 2015

Quality Traffic Data, LLC
(Name of Firm)

County (City), STATE

By: ________________________________
(Signature)

VP
Title (print)

STATE of California

COUNTY (CITY) of Los Angeles
To-wit:

I, Barbara Kimble, a Notary Public in and for the State and County(City) aforesaid, hereby certify that this day personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

Subscribed and sworn to before me this 21st day of January, 2015

My Commission expires June 7, 2017

Notary Public

BARBARA JOYCE KIMBLE
Commission # 2027719
Notary Public - California
Los Angeles County
My Comm. Expires Jun 7, 2017

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
INVITATION TO BID NO. 723-14

AMENDMENT NUMBER 1

Arlington County Invitation to Bid No. 723-14 (Traffic Counts) is amended as follows:

Summary of Scope on Page 1 of the ITB is revised as follows in order to better reflect the Scope of Work:

PROVISION OF TRAFFIC AND PEDESTRIAN MOVEMENT COUNTS AND RELATED DATA COLLECTION SERVICES FOR SIGNALIZED AND UNSIGNALIZED INTERSECTIONS WITHIN ARLINGTON COUNTY, VIRGINIA. THE DATA COLLECTION EFFORT WILL FOCUS ON ROADWAY AND PEDESTRIAN FACILITY VOLUMES AT ALL THE - INTERSECTIONS IN THE COUNTY. THE TRAFFIC COUNT DATA WILL BE USED FOR ALL COUNTY PROJECTS INCLUDING PHASE VII OF SIGNAL OPTIMIZATION OF THE TRAFFIC SIGNALS IN THE COUNTY.

The balance of the solicitation remains unchanged.

Arlington County, Virginia

Igor Scherbakov
Procurement Officer
ischerbakov@arlingtonva.us

RETURN THIS PAGE, FULLY COMPLETED AND SIGNED, WITH YOUR BID:

RECEIPT OF AMENDMENT NUMBER ( ) IS ACKNOWLEDGED.

FIRM NAME: Quality Traffic Data LLC

AUTHORIZED SIGNATURE: [Signature] DATE: 1/21/2015
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
INVITATION TO BID NO. 723-14

AMENDMENT NUMBER 2

Arlington County Invitation to Bid No. 723-14 (Traffic Counts) is amended as follows:

The following are the answers to questions received regarding this solicitations.

Question No. 1: It appears the QTY in the Exhibit A to ITB 723-14 PRICING SHEET are missing for all section 1 to section 9. Please revise the Exhibit A to ITB 723-14 PRICING SHEET accordingly and provide the excel sheet.

Answer: Only unit prices are required to be submitted by bidders. Estimated quantities will be unsealed by the County after bid opening and extended pricing will be calculated based on Bidder’s proposed unit pricing. Grand total sum will then be used for bid evaluation.

Question No. 2: In Exhibit A to ITB 723-14 PRICING SHEET, what does the department mean "unit" versus "unit price"; and "extended price"?

Answer: Unit price means all-inclusive price per one instance of service as described in line item description while complying with all Terms and Conditions. This price shall include all direct and indirect costs, overhead, and profit associated with this service. For example, unit price of "2-Hour weekday vehicular, bicyclist, and pedestrian turning movement volume (pedestrian volume by crosswalk)" means the all-inclusive lump sum cost for a 2 hour count performed during the weekday. This includes the costs of submitting the data from this particular count to the County. "Extended price" will be calculated by the County by multiplying Bidder’s Unit Cost by the estimated quantities found in a Sealed Bid Formula.

Question No. 3: In Exhibit A to ITB 723-14 PRICING SHEET, shall we multiply the "unit price" which is column I to "QTY" column H and input the total to column J and K "Extended price"? If so please input the formula into the excel and provide it to us.

Answer: Estimated quantities will be unsealed by the County after bid opening and extended pricing will be calculated by the County based on Bidder’s proposed unit pricing.

Question No. 4: On section 5 – Vehicular Volume Data Collection (Video Counts) does the department want the video files and the vendor/consultant to manually count the data? Another words the video files including the reports?

Ans. Please refer to "scope of services" (Page10) of the solicitation. Video file shall have actual raw video of traffic counts only.
Answer: Bids with modified or added line items will be subject to rejection for unresponsiveness. Bidder may submit a separate Alternate Bid as described in Paragraph 15 of Instructions to Bidders titled "Alternate Bids if Bidder feels that modification to the Scope of Work will lead to significant improvements to efficiency and savings. County will review the alternate bid, and if the proposed Scope of Work is determined to lead to significant savings, County may cancel the current solicitation and re-bid it with a modified Scope of Work.

The balance of the solicitation remains unchanged.

Arlington County, Virginia

Igor Scherbakov
Procurement Officer
ischerbakov@arlingtonva.us

RETURN THIS PAGE, FULLY COMPLETED AND SIGNED, WITH YOUR BID:

RECEIPT OF AMENDMENT NUMBER ( ) IS ACKNOWLEDGED.

FIRM NAME: Quality Traffic Data, L.C.  

AUTHORIZED SIGNATURE:  

DATE: 1/21/2015
### Exhibition A to ITB 723-14

**PRICING SHEET**

<table>
<thead>
<tr>
<th>Exhibit A to ITB 723-14</th>
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#### Section 1 - Signal Collection Fee Categories

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#### Section 2 - Extended Service Fee Categories

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#### Section 3 - Advanced Service Fee Categories

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#### Section 4 - Additional Service Fee Categories

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#### Section 5 - Additional Items Fee Categories

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#### Section 6 - Total Fee Calculation

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#### Section 7 - Total Extended Fee Calculation

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#### Section 12 - Total Advanced Fee Description

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#### Section 13 - Total Additional Fee Description

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<td>Item 2: Service Item 2</td>
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#### Section 14 - Total Fee Summary

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### Section 1 - Turning Movement Data Collection (Video Counts) [Signal Optimization Counts]

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit Price</th>
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<tbody>
<tr>
<td>1.1 2-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 72.00</td>
</tr>
<tr>
<td>volume (pedestrian volume by crosswalk)</td>
<td></td>
</tr>
<tr>
<td>1.2 3-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 160.00</td>
</tr>
<tr>
<td>volume (pedestrian volume by crosswalk)</td>
<td></td>
</tr>
<tr>
<td>1.3 8-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 352.00</td>
</tr>
<tr>
<td>volume (pedestrian volume by crosswalk)</td>
<td></td>
</tr>
<tr>
<td>1.4 12-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 410.00</td>
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<tr>
<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.5 3-Hour weekend vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 150.00</td>
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<tr>
<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.6 5-Hour weekend vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 240.00</td>
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<tr>
<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.7 7-Hour weekend vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 352.00</td>
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<tr>
<td>volume (pedestrian volume by crosswalk)</td>
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### Section 1A - Turning Movement Data Collection (Video Counts)

<table>
<thead>
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<tr>
<td>1.1 2-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
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<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.2 3-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
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<tr>
<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.3 8-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
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<td>1.4 12-Hour weekday vehicular, bicyclist, and pedestrian turning movement</td>
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<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.5 3-Hour weekend vehicular, bicyclist, and pedestrian turning movement</td>
<td>$ 160.00</td>
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<tr>
<td>volume (pedestrian volume by crosswalk)</td>
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<tr>
<td>1.6 5-Hour weekend vehicular, bicyclist, and pedestrian turning movement</td>
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<td>1.7 7-Hour weekend vehicular, bicyclist, and pedestrian turning movement</td>
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<td>volume (pedestrian volume by crosswalk)</td>
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### Section 2 - Vehicular Volume Data Collection (Tube Counts)

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<td>2.1 48-Hour weekday vehicular volume (bi-directional on two-lane roadway)</td>
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<tr>
<td>2.2 48-Hour weekday vehicular volume (bi-directional on four-lane roadway)</td>
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<td>2.3 48-Hour weekday vehicular volume (bi-directional on six-lane roadway)</td>
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<td>2.4 48-Hour weekday vehicular volume (One-lane OneWay)</td>
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<td>2.5 48-Hour weekday vehicular volume (Two-lane OneWay)</td>
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<td>2.6 48-Hour weekday vehicular volume (Three-lane OneWay)</td>
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<td>2.7 24-Hour weekend vehicular volume (bi-directional on two-lane roadway)</td>
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<td>2.8 24-Hour weekend vehicular volume (bi-directional on four-lane roadway)</td>
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<tr>
<td>2.9 24-Hour weekend vehicular volume (bi-directional on six-lane roadway)</td>
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<tr>
<td>2.10 24-Hour weekend vehicular volume (One-lane OneWay during a Saturday or Sunday)</td>
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<td>2.11 24-Hour weekend vehicular volume (Two-lane OneWay during a Saturday or Sunday)</td>
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<tr>
<td>2.12 24-Hour weekend vehicular volume (Three-lane OneWay during a Saturday or Sunday)</td>
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<td>2.13 24-Hour weekend vehicular volume (bi-directional on two-lane roadway)</td>
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<td>2.14 24-Hour weekend vehicular volume (bi-directional on four-lane roadway)</td>
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<tr>
<td>2.15 24-Hour weekend vehicular volume (bi-directional on six-lane roadway)</td>
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<td>2.16 24-Hour weekend vehicular volume (One-lane OneWay)</td>
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<td>2.17 24-Hour weekend vehicular volume (Two-lane OneWay)</td>
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### Section 3 - Vehicular Volume and Speed Data Collection (Tube Counts)

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<td>3.3 48-Hour weekday vehicular volume (bi-directional on six-lane roadway)</td>
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<tr>
<td>3.4 48-Hour weekday vehicular volume (One-lane OneWay)</td>
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<tr>
<td>3.5 48-Hour weekday vehicular volume (Two-lane OneWay)</td>
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<td>3.6 48-Hour weekday vehicular volume (Three-lane OneWay)</td>
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<td>3.7 48-Hour weekday vehicular volume (bi-directional on four-lane roadway)</td>
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<td>3.8 48-Hour weekday vehicular volume (bi-directional on six-lane roadway)</td>
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<td>3.9 24-Hour weekend vehicular volume (bi-directional on six-lane roadway)</td>
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<td>3.10 24-Hour weekend vehicular volume (One-lane OneWay during a Saturday or Sunday)</td>
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<td>3.18 24-Hour weekend vehicular volume (Three-lane OneWay)</td>
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### Section 4 - Vehicular Volume, Speed and Classification Data Collection (Tube Counts)

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<td>4.2 48-Hour weekday vehicular volume (bi-directional on four-lane roadway)</td>
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<tr>
<td>4.3 48-Hour weekday vehicular volume (bi-directional on six-lane roadway)</td>
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<td>4.4 48-Hour weekday vehicular volume (One-lane OneWay)</td>
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<tr>
<td>4.5 48-Hour weekday vehicular volume (Two-lane OneWay)</td>
<td>$ 55.00</td>
</tr>
<tr>
<td>4.6 48-Hour weekday vehicular volume (Three-lane OneWay)</td>
<td>$ 60.00</td>
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<td>4.7 24-Hour weekend vehicular volume (bi-directional on two-lane roadway)</td>
<td>$ 45.00</td>
</tr>
<tr>
<td>4.8 24-Hour weekend vehicular volume (bi-directional on four-lane roadway)</td>
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<td>4.11 24-Hour weekend vehicular volume (Two-lane OneWay during a Saturday or Sunday)</td>
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<tr>
<td>---------</td>
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<td>48-Hour weekend vehicular volume (bi-directional on six-lane roadway during)</td>
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<td>4.16</td>
<td>48-Hour weekend vehicular volume (One-lane One-way)</td>
</tr>
<tr>
<td>4.17</td>
<td>48-Hour weekend vehicular volume (Two-lane One-way)</td>
</tr>
<tr>
<td>4.18</td>
<td>48-Hour weekend vehicular volume (Three-lane One-way)</td>
</tr>
</tbody>
</table>

**Section 5 – Vehicular Volume Data Collection (Video Counts)**

<table>
<thead>
<tr>
<th>Section</th>
<th>Vehicular Volume Data Collection (Video Counts)</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1</td>
<td>48-Hour weekday vehicular volume (bi-directional on two-lane roadway)</td>
<td>$700.00</td>
</tr>
<tr>
<td>5.2</td>
<td>48-Hour weekday vehicular volume (bi-directional on four-lane roadway)</td>
<td>$720.00</td>
</tr>
<tr>
<td>5.3</td>
<td>48-Hour weekday vehicular volume (bi-directional on six-lane roadway)</td>
<td>$720.00</td>
</tr>
<tr>
<td>5.4</td>
<td>48-Hour weekday vehicular volume (One-lane One-way)</td>
<td>$325.00</td>
</tr>
<tr>
<td>5.5</td>
<td>48-Hour weekday vehicular volume (Two-lane One-way)</td>
<td>$335.00</td>
</tr>
<tr>
<td>5.6</td>
<td>48-Hour weekday vehicular volume (Three-lane One-way)</td>
<td>$350.00</td>
</tr>
<tr>
<td>5.7</td>
<td>24-Hour weekend vehicular volume (bi-directional on two-lane roadway during a Saturday or Sunday)</td>
<td>$265.00</td>
</tr>
<tr>
<td>5.8</td>
<td>24-Hour weekend vehicular volume (bi-directional on four-lane roadway during a Saturday or Sunday)</td>
<td>$270.00</td>
</tr>
<tr>
<td>5.9</td>
<td>24-Hour weekend vehicular volume (bi-directional on six-lane roadway during a Saturday or Sunday)</td>
<td>$300.00</td>
</tr>
<tr>
<td>5.10</td>
<td>24-Hour weekend vehicular volume (One-lane One-way during a Saturday or Sunday)</td>
<td>$300.00</td>
</tr>
<tr>
<td>5.11</td>
<td>24-Hour weekend vehicular volume (Two-lane One-way during a Saturday or Sunday)</td>
<td>$310.00</td>
</tr>
<tr>
<td>5.12</td>
<td>24-Hour weekend vehicular volume (Three-lane One-way during a Saturday or Sunday)</td>
<td>$325.00</td>
</tr>
<tr>
<td>5.13</td>
<td>48-Hour weekend vehicular volume (bi-directional on two-lane roadway)</td>
<td>$500.00</td>
</tr>
<tr>
<td>5.14</td>
<td>48-Hour weekend vehicular volume (bi-directional on four-lane roadway)</td>
<td>$525.00</td>
</tr>
<tr>
<td>5.15</td>
<td>48-Hour weekend vehicular volume (bi-directional on six-lane roadway during)</td>
<td>$550.00</td>
</tr>
<tr>
<td>5.16</td>
<td>48-Hour weekend vehicular volume (One-lane One-way)</td>
<td>$525.00</td>
</tr>
<tr>
<td>5.17</td>
<td>48-Hour weekend vehicular volume (Two-lane One-way)</td>
<td>$525.00</td>
</tr>
<tr>
<td>5.18</td>
<td>48-Hour weekend vehicular volume (Three-lane One-way)</td>
<td>$525.00</td>
</tr>
</tbody>
</table>

**Section 6 – Driveway Vehicular Volume Data Collection (Video Count)**

<table>
<thead>
<tr>
<th>Section</th>
<th>Driveway Vehicular Volume Data Collection (Video Count)</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1</td>
<td>3-Hour vehicular volume entering and exiting driveway</td>
<td>$150.00</td>
</tr>
<tr>
<td>6.2</td>
<td>Each Additional hour</td>
<td>$50.00</td>
</tr>
</tbody>
</table>

**Section 7 – Pedestrian and Bicyclist Volume at Mid-Block / Sidewalk / Multiuse trail (Video Counts)**

<table>
<thead>
<tr>
<th>Section</th>
<th>Pedestrian and Bicyclist Volume at Mid-Block / Sidewalk / Multiuse trail (Video Counts)</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.1</td>
<td>3-Hour bicyclist and pedestrian volume</td>
<td>$100.00</td>
</tr>
<tr>
<td>7.2</td>
<td>Each additional hour</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

**Section 8 – Vehicular Gap Acceptance Distribution Data Collection**

<table>
<thead>
<tr>
<th>Section</th>
<th>Vehicular Gap Acceptance Distribution Data Collection</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>3-Hour weekday gap distribution</td>
<td>$135.00</td>
</tr>
<tr>
<td>8.2</td>
<td>8-Hour weekday gap distribution</td>
<td>$325.00</td>
</tr>
<tr>
<td>8.3</td>
<td>12-Hour weekday gap distribution</td>
<td>$480.00</td>
</tr>
<tr>
<td>8.4</td>
<td>3-Hour weekend volume gap distribution (Saturday or Sunday)</td>
<td>$140.00</td>
</tr>
<tr>
<td>8.5</td>
<td>5-Hour weekend volume gap distribution (Saturday or Sunday)</td>
<td>$200.00</td>
</tr>
<tr>
<td>8.6</td>
<td>12-Hour weekend volume gap distribution (Saturday or Sunday)</td>
<td>$360.00</td>
</tr>
</tbody>
</table>

**Section 9 – Miscellaneous Counts**

<table>
<thead>
<tr>
<th>Section</th>
<th>Miscellaneous Counts</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.1</td>
<td>Manual 3 hour gap study</td>
<td>$150.00</td>
</tr>
<tr>
<td>9.2</td>
<td>Saturation Flow - Field counts (10 observations)</td>
<td>$45.00</td>
</tr>
</tbody>
</table>

**TOTAL**
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201
(703) 228-3410

INVITATION TO BID NO. 723-14
UPC 70625

SEALED BIDS WILL BE RECEIVED IN HAND IN THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BOULEVARD, ARLINGTON, VIRGINIA 22201, UNTIL 3:00 P.M. ON THE 22ND DAY OF JANUARY, 2015 FOR:

PROVISION OF TRAFFIC AND PEDESTRIAN MOVEMENT COUNTS AND RELATED DATA COLLECTION SERVICES FOR APPROXIMATELY 280 INTERSECTIONS WITHIN ARLINGTON COUNTY, VIRGINIA. THE DATA COLLECTION EFFORT WILL FOCUS ON ROADWAY AND PEDESTRIAN FACILITY VOLUMES AT ALL THE SIGNALIZED INTERSECTIONS IN THE COUNTY. THE TRAFFIC COUNT DATA WILL BE USED FOR PHASE VII OF SIGNAL OPTIMIZATION OF THE TRAFFIC SIGNALS IN THE COUNTY.

THIS IS FEDERALLY FUNDED PROJECT, SUBJECT TO COMPLIANCE WITH THE FEDERAL AND VDOT REGULATIONS CONTAINED IN THIS DOCUMENT OR ELSEWHERE. The County, VDOT’S CIVIL RIGHTS DIVISION OR OFFICE OF INSPECTOR GENERAL AUDITING DIVISION AND FHWA WILL PERFORM AUDITS AS NEEDED TO ENSURE COMPLIANCE WITH ALL APPLICABLE GUIDELINES CONTAINED IN THIS DOCUMENT OR ELSEWHERE.

At time, date and place above, bids will be publicly opened.

YOU MAY DOWNLOAD AN ELECTRONIC COPY OF THE SPECIFICATIONS, DRAWINGS AND CONSTRUCTION NOTES FOR THIS SOLICITATION AT NO COST USING THE FOLLOWING LINKS:

http://transportation.arlingtonva.us/streets/traffic-signals/

NOTICE: ANY BIDDER ORGANIZED AS A STOCK OR NONSTOCK CORPORATION, LIMITED LIABILITY COMPANY, BUSINESS TRUST, OR LIMITED PARTNERSHIP OR REGISTERED AS A LIMITED LIABILITY PARTNERSHIP MUST BE AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA PRIOR TO SUBMITTING A BID (REFER TO AUTHORITY TO TRANSACT BUSINESS SECTION IN THE SOLICITATION FOR FURTHER INFORMATION)

Arlington County reserves the right to reject any and all bids, cancel this solicitation, and to waive any informalities or irregularities in procedure.
Igor Scherbakov
Procurement Officer
ischerbakov@arlingtonva.us
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I. INSTRUCTIONS TO BIDDERS

1. ADDITIONAL INFORMATION

All questions relating to this solicitation shall be submitted in writing via email to Igor Scherbakov, Procurement Officer in the Office of the Purchasing Agent, at ischerbakov@arlingtonva.us. For a question to be considered, the subject line of the email must state the following: ITB No. 723-14 Questions. Questions should be succinct and must include the submitter’s name, title, company name, company address, and telephone number. Prior to the award of a contract resulting from this solicitation, bidders are prohibited from contacting County staff, other than the Office of the Purchasing Agent.

NO QUESTIONS WILL BE CONSIDERED IF THEY ARE SUBMITTED WITHIN THE SEVEN (7) CALENDAR DAYS IMMEDIATELY PRECEDING THE DEADLINE FOR RECEIPT OF BIDS.

If any questions or responses require revisions to this solicitation as it was originally published, such revisions will be by formal amendment only. Bidders are cautioned that any written, electronic, or oral representations made by any County representative or other person that appear to change materially any portion of the solicitation shall not be relied upon unless subsequently ratified by a written amendment to this solicitation issued by the Office of the Purchasing Agent.

2. COMPETITION INTENDED

It is the County's intent that this solicitation promotes competition. It shall be the bidder's responsibility to advise Arlington County if any language, requirements or specifications restrict or limit the purchase to a single source. Such notification must be received by the Arlington County Purchasing Agent not later than fifteen (15) calendar days prior to the date and time set for bid opening. A review of such notifications will be made and the bidder notified of the results of the review.

3. BID FORM SUBMISSION

The required Bid Form is provided in the solicitation. One (1) fully-completed Bid Form with an original longhand signature, and a photocopy of the signed original (two (2) copies total), shall be submitted by hand, in a sealed envelope or package, to the Office of the Bid Clerk, Suite 511, 2100 Clarendon Boulevard, Arlington, Virginia, 22201, no later than the date and time deadline specified in the Invitation to Bid above. Timely submission is solely the responsibility of the bidder. Bid Forms received after the specified date and time will be rejected. The exterior of the envelope or package shall indicate the name of the bidder, the scheduled bid opening date and time, and the number of the Invitation To Bid. Bids submitted by facsimile or electronically will not be accepted.

A bidder’s failure to submit a bid with a fully-completed Bid Form, using the Bid Form provided in this solicitation, shall be cause for rejection of that bidder’s bid. A bid will be rejected if its corresponding Bid Form is not signed in the designated space by a person authorized to legally bind the bidder.
Modification of or additions to the Bid Form may be cause for rejection of the bid; however, Arlington County reserves the right to decide, on a case by case basis, in its sole discretion, whether or not to reject such a bid as nonresponsive. As a precondition to bid acceptance, Arlington County may, in its sole discretion, request that the bidder withdraw or modify any such modifications or additions which do not affect quality, quantity, price, or delivery. Bids and all documents related to this solicitation submitted to Arlington County by a bidder or a prospective bidder shall, upon receipt by Arlington County, become the property of the County.

4. **BIDDER CERTIFICATION**
Submission of a signed Bid Form is certification by the respective bidder that it is registered with the Virginia State Corporation Commission, if applicable, it is the legal entity authorized to enter into an agreement with the County, and that it will accept any award made to it as a result of the submission.

5. **EXCEPTIONS**
Bidders taking exception to any part or section or term of this solicitation, including, by way of illustration and not limitation, the Scope of Services, the Special Conditions, and any attachments or references hereto or thereto, shall indicate such exceptions on the Bid Form. Failure to indicate any exceptions shall be interpreted as the bidder's intent to fully comply with the solicitation as written. However, conditional or qualified bids with such exceptions, unless specifically allowed in this solicitation, are subject to rejection in whole or in part as nonresponsive.

6. **NONCONFORMING TERMS AND CONDITIONS**
If a bidder submits with its bid alternate terms and conditions that do not conform to the terms and conditions in this solicitation, the bid will be subject to rejection for unresponsiveness. Arlington County reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid prior to a determination by the County of unresponsiveness as a result of the submission of nonconforming terms and conditions.

8. **ERRORS IN EXTENSION**
Where the unit price and the extension price are at variance, the unit price will prevail.

9. **DISCOUNTS**
Discounts contingent on payment of invoices by Arlington County within a stipulated period of time will be accepted as a component of a bid, but will not be considered by Arlington County when evaluating bid prices or when making an award.

10. **EXPENSES INCURRED IN PREPARING BID**
Arlington County accepts no responsibility for any expense incurred by any bidder in the preparation and presentation of a bid. All expenses related to a bid are the sole responsibility of the bidder.
11. **BIDDER INVESTIGATIONS**
Before submitting a bid, each bidder must make all investigations and examinations necessary to ascertain all conditions and requirements affecting the full performance of the contract and to verify any representations made by Arlington County that the bidder will rely upon. No pleas of ignorance of such conditions and requirements resulting from failure to make such investigations and examinations will relieve the successful bidder from its obligation to comply in every detail with all provisions and requirements of the contract documents or will be accepted as a basis for any claim whatsoever for any monetary consideration on the part of the successful bidder.

12. **INCOMPLETE DOCUMENTS**
Each bidder is responsible for having determined the accuracy and/or completeness of the solicitation documents upon which it relied in making its bid, and has an affirmative obligation to notify the Arlington County Purchasing Agent immediately upon discovery of an apparent or suspected inaccuracy, error in, or omission of any pages, drawings, sections, or addenda whose omission from the documents was apparent from a reference or page numbering or other indication in the solicitation documents.

If a potential bidder downloaded an electronic version of the solicitation documents, that potential bidder is responsible for determining the accuracy and/or completeness of the electronic documents.

If the successful bidder proceeds with any activity that may be affected by an inaccuracy, error in, or omission in the solicitation documents of which it is aware but has not notified the Arlington County Purchasing Agent, the bidder hereby agrees to perform any activity described in the missing or incomplete documents at bidder’s sole expense and at no additional cost to Arlington County.

13. **QUALIFICATION OF BIDDERS**
Each bidder may be required, before the award of contract, to show to the complete satisfaction of the Purchasing Agent that it has the necessary facilities, ability, and financial resources to comply with the contract and furnish the service, material or goods specified herein in a satisfactory manner. Each bidder may also be required to provide past history and references which will enable the Purchasing Agent to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will result in bid rejection by Arlington County.

14. **DEBARMENT STATUS**
The bidder shall indicate in the space provided on the Bid Form, whether or not it, or any of its principals, is/are currently debarred from submitting bids to Arlington County, Virginia, or any other state or political subdivision, and whether or not it is an agent of any person or entity that is currently debarred from submitting bids to Arlington County, Virginia, or any other state or political subdivision. An affirmative response may be considered grounds for rejection of the bid.

15. **ALTERNATE BID**
Bidders who have other items they wish to offer in lieu of, or in addition to, what is required by this solicitation shall submit a separate bid clearly
marked “ALTERNATE BID”. Alternate bids will be automatically deemed nonresponsive and will not be considered for award. Such bids will, however, be examined prior to awarding the contract contemplated herein and may result in either cancellation of all bids in order to permit rewriting of the solicitation to include the alternate item in a rebid or the alternate item may be considered for future requirements.

16. INFORMALITIES
Arlington County reserves the right to waive minor defects or variations from the exact requirements of the solicitation in a bid insofar as those defects or variations do not affect the price, quality, quantity, or delivery schedule of the services being procured. If insufficient information is submitted for Arlington County to properly evaluate the bid by a bidder; Arlington County reserves the right to require such additional information as it may deem necessary after the bid opening time and date, provided that the information requested does not change the price, quality, quantity, or delivery schedule for the services being procured.

17. ARLINGTON COUNTY BUSINESS LICENSES
The successful bidder must comply with the provisions of Chapter 11 (“Licenses”) of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this solicitation, contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

18. AUTHORITY TO TRANSACT BUSINESS
Any bidder organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. The proper full and legal name of the firm or entity and the identification number issued to the bidder by the State Corporation Commission must be written in the space provided on the Bid Form. Any bidder that is not required to be authorized to transact business in Virginia shall include in its bid a statement describing why the bidder is not required to be so authorized. The County may require a firm to provide documentation prior to award which: 1) clearly identifies the complete name and legal form of the firm or entity (i.e. corporation, limited partnership, etc.), and 2) establishes that the firm or entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of a prospective and/or successful bidder to provide such documentation shall be grounds for rejection of the bid or cancellation of the award. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: www.scc.virginia.gov.

20. BID WITHDRAWAL PRIOR TO BID OPENING
No bid can be withdrawn after it is filed with the Bid Clerk unless the bidder makes a request in writing to the Purchasing Agent prior to the time set for the opening of bids.

21. WITHDRAWAL OF BID FROM CONSIDERATION AFTER BID OPENING
After the opening of a bid, a bidder may withdraw its bid from consideration if the price of the bid is substantially lower than other bids due solely to
a mistake therein, provided the bid is submitted in good faith, the mistake
is a clerical mistake as opposed to a judgment mistake, and is actually due
to an unintentional arithmetic error or an unintentional omission of a
quantity of work, labor or material made directly in the compilation of the
bid, which unintentional error or unintentional omission can be clearly shown
by objective evidence drawn from inspection of original work papers,
documents and materials used in the preparation of the bid sought to be
withdrawn. No partial withdrawals of bids will be permitted after the time
and date set for the bid opening. The bidder must give notice in writing to
the Arlington County Purchasing Agent of a claim of right to withdraw a bid
and provide all original work papers, documents and other materials used in
the preparation of the bid sought to be withdrawn, within two (2) business
days after the date of bid opening. A bid may also be withdrawn if the
Arlington County fails to award or issue a notice of intent to award the bid
within ninety (90) days after the date fixed for opening bids.

22. PARKING
At most Arlington County government facilities, parking for contractors’
vehicles is not provided by Arlington County. A contractor is responsible
for the payment of any parking charges or fines resulting from illegal
parking at any worksite(s).

23. REQUIREMENTS CONTRACT AND ACKNOWLEDGEMENT
Bidders acknowledge that the contract that will be entered into as a result
of this solicitation will be a requirements contract. Arlington County will
have no obligation to the successful bidder if no items or services are
required. Any quantities which are included in this solicitation are the
present expectations of those who are planning for Arlington County for the
period of the contract. The amount is only an estimate and each bidder
understands and agrees that Arlington County is under no obligation to the
successful bidder to buy any amount as a result of having provided this
estimate or of having had any normal or otherwise measurable requirement in
the past. Each bidder further understands that Arlington County may require
services in excess of the estimated annual contract amount and that such
excess shall not give rise to any claim for compensation other than at the
unit prices in the contract.

24. TRADE SECRETS OR PROPRIETARY INFORMATION
Trade secrets or proprietary information that is submitted by a bidder or
contractor in connection with a procurement transaction or prequalification
application submitted pursuant to subsection 4-101(2) of the Arlington County
Purchasing Resolution may be exempted from public disclosure under the
Virginia Freedom of Information Act (“VFOIA”). However, the bidder or
contractor must invoke the protection of this subsection prior to or upon
submission of the data or other materials, and must identify clearly and in
writing, on the Bid Form, the data or other materials to be protected and
state the reasons why protection is necessary or falls within the exception
to the VFOIA. It is the bidder’s sole responsibility to defend such
exemptions if challenged in a court of competent jurisdiction.

25. INTEREST IN MORE THAN ONE BID AND COLLUSION
Multiple bids received in response to this solicitation from an individual,
firm, partnership, corporation, affiliate, or association under the same or
different names will be rejected. Reasonable grounds for believing that a
bidder is interested in more than one (1) bid for a solicitation both as a
bidder and as a subcontractor for another bidder will result in rejection of
all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two (2) or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

25. **METHOD OF AWARD**

Arlington County will award this solicitation to the lowest responsive and responsible bidder. The lowest responsive and responsible bidders will be determined by a pre-determined, sealed formula based on the prices submitted on the Pricing Sheet. The formula will be unsealed at the bid opening, and become a public record at that time.

26. **INSURANCE REQUIREMENTS**

Each bidder must review the insurance requirements section carefully with its insurance agent or broker prior to submitting a bid to ensure they can provide the specific coverage requirements and limits applicable to this solicitation. If the bidder is not able to meet the insurance requirements of the solicitation, alternate insurance coverage satisfactory to Arlington County may be proposed by the bidder and considered by the County. Written requests for consideration of alternate coverage must be received by the County Purchasing Agent at least ten (10) working days prior to the date set for receipt of bids. If the County denies the request for alternate coverage, the coverage required by the Insurance Requirements section must be provided. If the County permits alternate coverage, an amendment to the Insurance Checklist will be issued prior to the time and date set for receipt of bids. The insurance requirements herein shall neither operate as a limitation of the Contractor’s liability to the County nor as a limitation of the Contractor’s duty of indemnification, as set forth in this solicitation and any resulting Contract.

29. **NOTICE OF DECISION TO AWARD**

When the County has made a decision to award a contract(s), an e-mail with a Notice of Decision to Award will be sent to all bidders, using the email address provided in the Bid Form.

28. **MINIMUM QUALIFICATION REQUIREMENTS**

Bidders shall have three (3) years minimum experience in administering pedestrian and vehicle traffic counts.
II. **SCOPE OF SERVICES**

Contractor shall, when directed by the County on as-needed basis, will perform traffic and pedestrian counts at various Arlington County locations using methods specified below, and furnish data to the County in accordance with all requirements listed in this section.

This is a federally funded project subject to compliance with the terms and regulations of Federal Highway Administration (FHWA) contained in this document or elsewhere.

1. The DBE goal for this solicitation is 0%.

2. In addition to the specification contained in this solicitation the work for this project shall be performed in accordance with:

   - The Virginia Work Area Protection Manual, dated May 1, 2005; and
   - The 2009 edition of the MUTCD.

**Section 1 - Turning Movement Data Collection (For Signal Optimization)**

**A. SIGNAL OPTIMIZATION COUNTS**

The counts conducted under section 1 will be used for County’s signal optimization project as per specifications mentioned below.

a. **TURNING MOVEMENT AND PEDESTRIAN COUNTS**

   i. **Traffic Movement Counts** including pedestrian activity for AM, Midday, PM, and Weekend. Counts shall be collected when schools are in session but not during the first two weeks that the schools and colleges are in session.

   ii. The Contractor shall obtain counts as indicated below unless otherwise agreed upon by the County and the Contractor.

   iii. All the traffic counts shall consist of vehicular, pedestrian, heavy vehicle (buses and trucks) and bicyclist through and turning movement counts. These counts shall include through and turning movements for vehicles, pedestrian volume at each crosswalk, and bicycle thorough and turning movements.

   iv. All the traffic counts shall be recorded by video and shall be counted manually from the video devices.

   v. The video logs shall be provided to the County on a DVD.

b. **REPORTING REQUIREMENTS**

   The contractor shall provide the report in electronic format including raw data files / video files from the counters and
PDF files. One (1) hard copy of the report shall be submitted upon request. A sample of the report (Exhibit A-1) is attached with this bid document. The reports shall include the following information:

- Location
- Type of Count
- Period of Count
- Duration
- Date/Day of Week
- Weather
- Peak Hour count and peak 15 min. count
- Intersection (Peak Hour Factor) PHF and approach PHF
- Traffic counts in 15 min. increments
- Comments regarding any relevant field observations
- Illustration of the count area with geometric conditions and traffic control devices
- Graphical identification of camera locations

B. QUALITY ASSURANCE

The Contractor shall conduct detail quality checks before submitting any count data to the County. The Contractor shall count all the intersections (up to 30 intersections) in the corridor on the same day to have uniform count data and the Contractor shall exercise due diligence in order to ensure that any detours, lane closures and other restrictions do not affect the study area. Under circumstances like harsh weather, major accidents in the study area, intersection(s) in “Flash” operation; equipment failure(s); detour(s) and closing(s) of road(s); the Contractor shall reschedule the traffic counts.

C. VALIDATION OF COUNTS

The Contractor shall conduct manual counts (not using video) of at least 10 percent of the intersections per phase as identified by the County. The count locations will not be pre-disclosed and they will be selected after the Contractor has submitted its counts to the County. The counts will be selected for each phase of intersections categorized by the County (Phase 1 Lee Highway, Phase 2 Rosslyn-Ballston, etc.). These manual counts should be done by field technicians using traffic counters. The manually counted intersections must validate the video counts; a difference of up to 8 percent will be acceptable. If the manual counts collected at the intersections do not match with the video counts and the difference is greater than 8 percent, the contractor will be required to collect the additional counts at each substandard intersection. If at least 30 percent of the manually counted intersections within a phase have more than 8 percent variations of traffic counts collected using video, 100 percent of the intersections within the phase will be counted again at no charge to the County.

D. TIMELINE
Within 2 weeks of Notice to Proceed, the Contractor shall provide a schedule of traffic counts. The Contractor shall submit a comprehensive schedule and receive prior approval from the County before proceeding with data collection. Counts will be scheduled in the following signal phases:

Phase 1: Lee Highway Corridor
Phase 2: Ballston-Rosslyn Corridor
Phase 3: Glebe Road Corridor
Phase 4: Route 50 Corridor
Phase 5: Columbia Pike Corridor
Phase 6: Pentagon City-Crystal City Corridor
E. TIME FOR COMPLETION

Work under this Agreement will be completed no later than 60 calendar days after the commencement date for each phase sequence given in a Notice to Proceed provided by the County to the Contractor, subject to any modifications made as provided for in the Contract Documents. This 60 day period, subject to any such modifications, shall be the Contract Term. The Contractor agrees that the time for completion of the Work as described in the Contract Documents shall govern unless specifically amended in writing by the County, and that no claims for early completion are allowed to be presented by the Contractor to the County. No Work shall be deemed complete until it is accepted by the Project Engineer.

Section 1A, 6 and 7 – Turning Movement Data Collection

A. REGULAR TRAFFIC COUNTS

The counts under section 1A, 6 and 7 will be counted as need basis based on County’s requirements.

a. TURNING MOVEMENT AND PEDESTRIAN COUNTS

i. Traffic Movement Counts including pedestrian activity for AM, Midday, PM, and Weekend. Counts shall be collected when schools are in session but not during the first two weeks that the schools and colleges are in session.

ii. The Contractor shall obtain counts as indicated below unless otherwise agreed upon by the County and the Contractor.

iii. All the traffic counts shall consist of vehicular, pedestrian, heavy vehicle (buses and trucks) and bicyclist through and turning movement counts. These counts shall include through and turning movements for vehicles, pedestrian volume at each crosswalk, and bicycle thorough and turning movements.

iv. All the traffic counts shall be recorded by video and shall be counted manually from the video devices.

v. The video logs shall be provided to the County on a DVD.

b. REPORTING REQUIREMENTS

The contractor shall provide the report in electronic format including raw data files / video files from the counters and PDF files. One (1) hard copy of the report shall be submitted upon request. A sample of the report (Exhibit A-1) is attached with this bid document. The reports shall include the following information:

• Location
• Type of Count
• Period of Count
• Duration
• Date/Day of Week
• Weather
• Peak Hour count and peak 15 min. count
• Intersection (Peak Hour Factor) PHF and approach PHF
• Traffic counts in 15 min. increments
• Comments regarding any relevant field observations
• Illustration of the count area with geometric conditions and traffic control devices
• Graphical identification of camera locations

Section 2, 3, 4 and 5 - Tube / Video Counts

a. Vehicular Volume, Vehicular Classification and Speed Profile Data Collection
   i. The traffic counts are collected as axle counts using a traffic counting device in association with pneumatic tubes stretched across the roadway or through video recording. The type of data collected include vehicular volumes, vehicle classification and speed.
   
   ii. These counts are collected for a continuous period of 48 hours on weekdays and 24 hours on weekend.
   
   iii. Axle based counts are to include all lanes and all directions of traffic. The County shall be bi-directional unless otherwise specified by the County.
   
   iv. For video counts all the traffic counts shall be recorded by video and shall be counted manually from the video devices.
   
   v. The video logs shall be provided to the County on a DVD.

b. REPORTING REQUIREMENTS

The contractor shall provide the report in electronic format including raw data files / video files from the tube counts and PDF report files. One (1) hard copy of the report/s shall be submitted upon request. The reports shall include the following information:

Volume Counts

• Type of Report/Count
• Location (Graphical representation)
• Direction
• Date/Day of Week
• Duration of the count
• Traffic Counts in 15 min. increments
• Average Daily Traffic
• AM/PM Peak Hour Volume
• AM/PM Peak Hour Factor
• Comments regarding any relevant field observations

Vehicle Classification Counts as FHWA

• Type of Report/Count
• Location (Graphical representation)
• Direction
• Date/Day of Week
• Duration of the count
• Traffic Counts in one hour increments across each vehicle class
• Average Daily Traffic
• AM/PM Peak Hour Volume
• AM/PM Peak Hour Factor
• Comments regarding any relevant field observations

Speed Data Counts

• Type of Report/Count
• Location (Graphical representation)
• Direction
• Date/Day of Week
• Duration of the count
• Traffic Counts in one hour increments by Speed Class
• Average Daily Traffic
• AM/PM Peak Hour Volume
• AM/PM Peak Hour Factor
• Pace Speed
• 85th Percentile, Mean, Median and Mode Speeds
• Comments regarding any relevant field observations

Section 8 - Vehicular Gap Acceptance Distribution Data Collection
The Contractor shall conduct the gap counts using tube counts /video counts. The contractor shall provide the report in electronic format including raw data files / video files from the tube counts and PDF report files.

Section 9 - Miscellaneous Counts

b. Saturation Flow – The Contractor shall conduct field saturation count for at least 10 observations. The Contractor
shall measure the time difference between 4th vehicle and 10th vehicles in the queue in order to measure saturation flow. The contractor shall submit all the calculations showing headway, saturation flow and average saturation flow.

Exhibit A-1
III. CONTRACT TERMS AND CONDITIONS

1. CONTRACT DOCUMENTS
The “Contract Documents” consist of the bid of the successful bidder (hereinafter “Contractor”) and Arlington County (hereinafter “County”) Invitation to Bid No. 723-14.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties’ agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein as the “Contract” or “Agreement”.

2. SCOPE OF WORK
The Contractor agrees to perform the services described in the Contract Documents (hereinafter “the Work”), more particularly described in the Scope of Services included with the Invitation to Bid. The primary purpose of the Work is to provide traffic and pedestrian movement counts and related data collection services for approximately 280 intersections within Arlington County. The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor’s responsibility, at the Contractor’s sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor’s responsibility to manage the details and execution of the Work.

3. CONTRACT TERM
The term of this Agreement will commence on the date of execution by the County, and shall be completed no later than FEBRUARY 1, 2020, subject to any written modifications as provided for in the Contract Documents.

4. CONTRACT AMOUNT
The Contract unit price(s) shall remain firm until February 1, 2018 (“Price Adjustment Date”). To request a price adjustment, the Contractor or the County must submit a written request to the other party not less than sixty (60) days prior to the Price Adjustment Date. Requests for adjustment(s) to unit price(s) shall not exceed the percentage of escalation / de-escalation in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas (“CPI-U”) for the twelve (12) month period ending on the August of each year of the Contract.

If the Contractor and the County do not agree on the requested adjustment using the procedure set forth above, by the thirtieth (30th) calendar day prior to the Price Adjustment Date, the County may in its sole discretion terminate the Contract. The contract unit price(s) that changed as a result of this procedure shall become effective the day after the Price Adjustment
Date and shall be binding on both parties for 12 months following the 
adjustment which shall be considered the new Price Adjustment Date.

6. **PROJECT OFFICER**
The performance of the Contractor is subject to the review and approval of 
the County Project Officer (“Project Officer”) who shall be appointed by the 
Director of the Arlington County department or agency requesting the work 
under the Contract. However, it shall be the responsibility of the 
Contractor to manage the details of the execution and performance of its work 
pursuant to the Contract Documents. 
Project Officer shall receive a copy of all submittals, forms, reports, and 
data furnished by the Contractor.

7. **PROJECT STAFF**
The Project Officer will, throughout the Initial Contract Term and Subsequent 
Contract Term, have the right of reasonable rejection and approval of staff 
or subcontractors assigned to the project by the Contractor. If the Project 
officer reasonably rejects staff or subcontractors pursuant to this section, 
the Contractor must provide replacement staff or subcontractors satisfactory 
to the County in a timely manner and at no additional cost to the County. 
The day-to-day supervision and control of the Contractor's employees, and 
employees of any of its subcontractors, shall be the sole responsibility of 
the Contractor.

9. **ADJUSTMENTS FOR CHANGE IN SCOPE**
The County may order changes in the Work within the general scope of the work 
consisting of additions, deletions or other revisions. No claim may be made 
by the Contractor that the scope of the project or of the Contractor's 
services has been changed requiring adjustments to the amount of compensation 
due the Contractor unless such adjustments have been made by a written 
amendment to the Contract signed by the County and the Contractor. If the 
Contractor believes that any particular work is not within the scope of the 
work or is a material change or otherwise will call for more compensation to 
the Contractor, the Contractor must notify the Project Officer immediately 
after the change or event occurs and within ten (10) calendar days thereafter 
must provide written notice to the Project Officer. The Contractor’s notice 
must provide to the Project Officer the amount of additional compensation 
claimed, together with the basis therefor and documentation supporting the 
claimed amount. The Contractor will not be compensated for performing any 
work unless a proposal complying with this paragraph has been submitted in 
the time specified above and a written Contract amendment has been signed by 
the County and the Contractor and a County Purchase Order is issued covering 
the cost of the services to be provided pursuant to the amendment.

10. **PAYMENT TERMS**
Payment terms will be recorded by the County as Net thirty (30) days. The 
County will pay the Contractor within thirty (30) calendar days after the 
date of receipt of a correct, as determined by the Project Office, invoice 
approved by the Project Officer describing completed work which is reasonable 
and allocable to the Contract, or the date of receipt of the entire order, or 
the date of acceptance of the work which meets the Contract requirements, 
whichever is later. Payments will be made by the County for services 
furnished, delivered, inspected, and accepted upon receipt of invoices 
submitted on the date delivery of service, subject to applicable payment 
terms. The number of the County Purchase Order pursuant to which authority 
services have been performed shall appear on all invoices. Invoices shall be
submitted in duplicate. Unless otherwise specified herein, payment shall not be made prior to delivery and acceptance of the entire Work by the County.

11. **PAYMENT OF SUBCONTRACTORS**
The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or

b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) calendar days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained herein with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

12. **NON-APPROPRIATION**
All funds for payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the services provided under this Contract or substitutes for such services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County's written notice.

13. **REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)**
During the Initial Contract Term or any Subsequent Contract Term, the Contractor will furnish all of the goods or services described in the Contract Documents if so requested by the County. The Contractor understands
and agrees that this is a requirements contract and the County will have no
obligation to the Contractor if no, or fewer, items or services are required
or requested by the County. Any quantities which are included in the
Contract Documents are the present expectations of those who are planning for
the County for the period of the Contract. The amount is only an estimate
and the Contractor understands and agrees that the County is under no
obligation to the Contractor to buy that amount, or any amount as a result of
having provided this estimate or of having had any normal or otherwise
measurable requirement in the past. The Contractor further understands that
the County may require goods and/or services in excess of the estimated
annual contract amount and that such excess shall not give rise to any claim
for compensation other than at the unit prices and/or rates set forth in this
Contract.

14. COUNTY PURCHASE ORDER REQUIREMENT
County purchases are authorized only if a County Purchase Order is issued in
advance of the transaction, indicating that the ordering agency has
sufficient funds available to pay for the purchase. Such a Purchase Order is
to be provided to the Contractor by the ordering agency. The County will not
be liable for payment for any purchases made by its employees without
appropriate purchase authorization issued by the County Purchasing Agent. If
the Contractors provides services without a signed County Purchase Order, it
does so at its own risk and expense.

17. DAMAGE TO PROPERTY
Any damage, as determined by the Project Officer, to the real or personal
property, whether owned by the County or others, resulting from the Work
performed under this Contract shall be timely repaired or replaced to the
County's satisfaction at the Contractor’s expense. The County will perform
the repairs unless the County agrees that such repairs will be made by the
Contractor. Any such Contractor repairs will be made within ten (10) days of
the date of damage to the satisfaction of the County. All costs of the
repair performed by the County shall be deducted from the Contractor’s final
payment.

23. SAFETY
The Contractor shall comply with, and ensure that the Contractor's employees
and subcontractors comply with, all current applicable local, state and
federal policies, regulations and standards relating to safety and health,
including, by way of illustration and not limitation, the standards of the
Virginia Occupational Safety and Health program of the Department of Labor
and Industry for General Industry and for the Construction Industry, the
Federal Environmental Protection Agency standards and the applicable
standards of the Virginia Department of Environmental Quality.

The Contractor shall provide, or cause to be provided, all technical
expertise, qualified personnel, equipment, tools and material to safely
accomplish the work specified to be performed by the Contractor and
subcontractor(s).

The Contractor shall identify to the County Project Officer at least one on-
site person who is the Contractor's competent, qualified, and authorized
person on the worksite and who is, by training or experience, familiar with
and trained in policies, regulations and standards applicable to the work
being performed. The competent, qualified and authorized person must be
capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, shall be capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Contractor's personnel from the work site.

The Contractor shall provide to the County, at the County’s request, a copy of the Contractor’s written safety policies and safety procedures applicable to the scope of work. Failure to provide this information within seven (7) days of the County’s request may result in cancellation of the contract.

24. SUPERVISION BY CONTRACTOR
The Contractor shall at all times enforce strict discipline and good order among the employees and subcontractors performing under this Contract, and shall not employ on the Work any person not reasonably proficient in the work assigned.

25. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED
During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by federal or Virginia law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary or related to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that the Contractor is an Equal Opportunity Employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment, and mandates their full participation in both publicly and privately-provided services and activities.

e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over $10,000.00, so that these provisions will apply to each subcontractor or vendor.

26. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED
In accordance with § 2.2-4311.1 of the Code of Virginia, 1950, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.
27. **DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of marijuana or any other controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000.00 relating to this Contract, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor by Arlington County, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

29. **TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE**

The Contract shall remain in force for the Initial Contract Term or Subsequent Contract Term(s) and until the County determines that all of the following requirements and conditions have been satisfactorily met: the County has accepted the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Contract Documents, including warranty and guarantee periods. However, the County shall have the right to terminate this Contract sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor’s failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.
Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

Except as otherwise directed by the County in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontractors and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the contractor.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

30. TERMINATION FOR THE CONVENIENCE OF THE COUNTY
The performance of Work under this Contract may be terminated by the County Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in the County's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination and any other reasonable termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all designated work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to the County; and terminate all vendors and subcontractors and settle all outstanding liabilities and claims.

31. INDEMNIFICATION
The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, current and former employees, agents,
departments, agencies, boards, and commissions (collectively the “County” for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney’s fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor’s acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the work called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the county and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

32. INTELLECTUAL PROPERTY INDEMNIFICATION
The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask work and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify the County, and all of its officers, officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use by the County. If the Contractor, or any of its employees or subcontractors, uses any design, device, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the work hereunder. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after Notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the county and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

33. COPYRIGHT
The Contractor hereby irrevocably transfers, assigns, sets over and conveys to the County all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor further agrees to execute such documents as the County may request to effect such transfer or assignment.

Further, the Contractor agrees that the rights granted to the County by this paragraph are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or dispute over the
terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" paragraph.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Contract is prohibited unless the County approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this paragraph as part of any contract they enter into with the Contractor for work related to work pursuant to this Contract.

34. OWNERSHIP AND RETURN OF RECORDS
This Contract confers no ownership rights to the Contractor nor any rights or interests to use or to disclose the County’s data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of the County's request for services under this Contract, are the exclusive property of the County ("Record" or "Records"), and all such Records shall be provided to and/or returned to County upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of the County. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At the County's request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at the County's request, shall destroy all computer records created as a result of the County's request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section.

35. CONFIDENTIAL INFORMATION
The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a result of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, addresses, dates of birth, other contact information or medical information about a person, information
pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of, and abide by, this requirement.

36. ETHICS IN PUBLIC CONTRACTING
This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any Virginia or federal law related to ethics, conflicts of interest, or bribery, including, by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

37. COUNTY EMPLOYEES
No employee of the County shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

38. FORCE MAJEURE
The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond the control of the Contractor and outside the scope of the Contractor’s then-current, by industry standards, disaster plan that make performance impossible or illegal, unless otherwise specified in the Contract.

The County shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, acts of terrorism, or an act of God beyond the control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.

39. AUTHORITY TO TRANSACT BUSINESS
The Contractor shall, pursuant to Code of Virginia §§ 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without cost or expense, at the sole option of the County.

40. RELATION TO THE COUNTY
The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its
employees, servants or agents. The County will not withhold from payments to
the Contractor any federal or state unemployment taxes, federal or state
income taxes, Social Security tax, or any other amounts for benefits to the
Contractor or its employees, servants or agents. Furthermore, the County
will not provide to the Contractor any insurance coverage or other benefits,
including workers' compensation, normally provided by the County for its
employees.

41. **ANTITRUST**
By entering into this Contract, the Contractor conveys, sells, assigns and
transfers to the County all rights, title, and interest in and to all causes
of action the Contractor may now have or hereafter acquire under the
antitrust laws of the United States or the Commonwealth of Virginia, relating
to the services purchased or acquired by the County under this Contract.

42. **REPORT STANDARDS**
Reports or written material prepared by the Contractor in response to the
requirements of this Contract or a request of the Project Officer shall,
unless otherwise provided for in the Contract, meet standards of professional
writing established for the type of report or written material provided,
shall be thoroughly researched for accuracy of content, shall be
grammatically correct and not contain spelling errors, shall be submitted in
a format approved in advance by the Project Officer, and shall be submitted
for advance review and comment by the Project Officer. The cost of
correcting grammatical errors, correcting report data, or other revisions
required to bring the report or written material into compliance with these
requirements shall be borne by the Contractor.

When submitting documents to the County, the Contractor shall comply with the
following guidelines:

- All submittals and copies shall be printed on at least thirty percent
  (30%) recycled-content and/or tree-free paper;
- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled
  materials, and/or easily removable to allow for recycling of report pages
  (reports with glued bindings that meet all other requirements are
  acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not
  be submitted, and superfluous use of paper (e.g. separate title sheets or
  chapter dividers) should be avoided.

43. **AUDIT**
The Contractor agrees to retain all books, records and other documents
related to this Contract for at least five (5) years after final payment.
The County or its authorized agents shall have full access to and the right
to examine any of the above documents during this period and during the
Initial Contract Term or any Subsequent Contract Term. If the Contractor
wishes to destroy or dispose of records (including confidential records to
which the County does not have ready access) within five (5) years after
final payment, the Contractor shall notify the County at least thirty (30)
days prior to such disposal, and if the County objects, shall not dispose of
the records.

44. **ASSIGNMENT**
The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of the County.

45. **AMENDMENTS**

Unless otherwise specified herein, this Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.

46. **ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Notwithstanding any provision to the contrary herein, no provision of the Arlington County Purchasing Resolution or any applicable County policy is waived in whole or in part.

47. **DISPUTE RESOLUTION**

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, extra work or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, which is incorporated herein by reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending any decision of the Project Officer, County Manager, County Board, or a court of law.

48. **APPLICABLE LAW, FORUM, VENUE, AND JURISDICTION**

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect hereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing its work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

49. **ARBITRATION**

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and that any references to arbitration are expressly deleted from the Contract.

50. **NONEXCLUSIVITY OF REMEDIES**

All remedies available to the County under this Contract are cumulative, and no such remedy shall be exclusive of any other remedy available to the County at law or in equity.

51. **NO WAIVER**

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.
52. **SEVERABILITY**
The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

53. **NO WAIVER OF SOVEREIGN IMMUNITY**
Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

54. **SURVIVAL OF TERMS**
In addition to any numbered section in this Agreement which specifically state that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP AND RETURN OF RECORDS; AUDIT; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; WARRANTY; CONFIDENTIAL INFORMATION; AND DATA SECURITY.

55. **HEADINGS**
The section Headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes.

56. **AMBIGUITIES**
Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

57. **NOTICES**
Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

**TO THE CONTRACTOR:** REFER TO BID FORM OF CONTRACTOR

**TO THE COUNTY:**

The County Project Officer (refer to section headed Project Officer) under the Contract Terms and Conditions section (Contractor shall request address from Project Officer);

AND

Richard D. Warren, Jr., Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia  22201

58. **NON-DISCRIMINATION NOTICE**
Arlington County does not discriminate against faith-based organizations.

59. **ACCESSIBILITY OF WEB SITE**
If any work performed under this Contract results in design, development, maintenance or responsibility for content and/or format of any County websites, or the County’s presence on other party’s websites, the Contractor shall perform such work in compliance with the requirements set forth in the U.S. Department of Justice document entitled “Accessibility of State and Local Government Websites to People with Disabilities.” That document is located at: [http://www.ada.gov/websites2.htm](http://www.ada.gov/websites2.htm).

64. **INSURANCE REQUIREMENTS**
Prior to the execution of this Contract and upon any Contract extension thereafter, the Contractor shall provide to the County Purchasing Agent evidence indicating that the Contractor has in force the coverage and endorsements (collectively referred to hereinafter “coverage”, “coverages” or “insurance”) required below. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated below or in the Contract Documents.

All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia, with an A.M. Best rating of “A-VII”, and as acceptable to the County. The insurance requirements herein shall not operate as a limitation of the Contractor’s liability or as a limitation of the Contractor’s duty of indemnification, as set forth in this solicitation and any resulting contract. The Contractor is responsible for determining whether the minimum coverage below are adequate to protect its interest.

The Contractor shall secure and maintain (and ensure that its subcontractors, if any, secure and maintain) all insurance required by law or this Contract, including without limitation:

a. **Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage** including Virginia benefits and employers liability with limits of $100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.

b. **Commercial General Liability** - $1,000,000 combined single limit coverage with $2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract.

c. **Business Automobile Liability** - $1,000,000 Combined Single Limit (Owned, non-owned and hired).

d. **The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work under the Contract, in the amount of $1,000,000.**
e. Additional Insured - Arlington County, and its officers, elected and
appointed officials, employees, and agents shall be named as additional
insureds on all policies, except Workers Compensation, Auto, and
Professional Liability. A copy of the Additional Insured endorsement,
or an “Acord” certificate with the additional insured endorsement box
checked for all policies that include an additional insured
endorsement, must be provided by the Contractor to the County
Purchasing Agent prior to the execution of this Contract and any
Contract extension. Failure to provide such documentation shall result
in cancellation of the award or of the Contract.

f. Cancellation - If there is a material change or reduction in coverage,
nonrenewal of any insurance coverage or cancellation of any insurance
coverage required by this contract, the Contractor shall notify the
Purchasing Agent immediately. It is the Contractor’s responsibility to
notify the County upon receipt of a notice indicating that the policy
will not be renewed or will be materially changed. Any policy on which
the Contractor has received notification from an insurer that the
policy has or will be cancelled or materially changed or reduced must
be immediately replaced with another policy consistent with the terms
of this Contract and in such a manner that there is no lapse in
coverage, and the County immediately notified of the replacement. Not
having the required insurance throughout the Contract Term is
considered a material breach of this Contract and grounds for
termination. The Contractor shall also obtain an endorsement providing
to the County thirty (30) days advance notice of cancellation or
nonrenewal (ten days for nonpayment of premium. A copy of that
endorsement shall be provided to the County Purchasing Agent prior to
the execution of this Contract or any Contract extension thereafter.

g. Any insurance coverage that is placed as a “claims made” policy must
remain valid and in force, or the Contractor must obtain an extended
reporting endorsement consistent with the terms of this Contract, until
the applicable statute of limitations has expired, such date as
determined to begin running from the date of the Contractor’s receipt
of final payment.

h. Contract Identification – All documentation and copies of endorsements
required hereunder shall state this Contract's number and title.

i. Certificate Holder - The Certificate Holder must be identified as:

The County Board of Arlington County, VA
c/o The Purchasing Agent
2100 Clarendon Boulevard, Suite 500
Arlington, VA  22201

The Contractor must disclose the amount of any deductible or self- insurance
component applicable to the General Liability, Automobile Liability,
Professional Liability, Intellectual Property or any other policies required
herein, if any. The County reserves the right to request additional
information to determine if the Contractor has the financial capacity to meet
its obligations under a deductible. Thereafter, at its option, the County
may require a lower deductible, funds equal to the deductible be placed in
escrow, a certificate of self-insurance, collateral, or other mechanism in
the amount of the deductible to ensure additional protection for the County.

The Contractor shall require all subcontractors to maintain during the term of this contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation insurance in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' documentation of coverage and endorsements specified herein to the County Purchasing Agent immediately upon request by the County and/or prior to a subcontractor performing work related to this Contract.

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity, the alternative coverage(s) are submitted to and acceptable to the County and the terms additional endorsements required hereunder are met to the satisfaction of the County Purchasing Agent or Risk Manager. The Contractor must provide its most recent actuarial report and provide a copy of its self-insurance resolution to determine the adequacy and security of the insurance funding.
IV. FEDERAL AND STATE TERMS AND CONDITIONS

FEDERAL HIGHWAY ADMINISTRATION (FHWA) PROVISIONS & REQUIREMENTS

(c100112-0112) VDOT SUPPLEMENTAL SPECIFICATIONS (SSs), SPECIAL PROVISIONS (SPs) AND SPECIAL PROVISION COPIED NOTES (SPCNs)

Where Virginia Department of Transportation (VDOT) Supplemental Specifications, Special Provisions and Special Provision Copied Notes are used in this contract, the references therein to “the Specifications” shall refer to the Virginia Department of Transportation Road and Bridge Specifications, dated 2007 for both imperial and metric unit projects. References to the “Road and Bridge Standard(s)” shall refer to the Virginia Department of Transportation Road and Bridge Standards, dated 2008 for both imperial and metric unit projects. References to the “Virginia Work Area Protection Manual” shall refer to the 2011 edition of the Virginia Work Area Protection Manual for imperial and metric unit projects. References to the “MUTCD” shall refer to the 2009 edition of the MUTCD and the current Virginia Supplement to the MUTCD for imperial and metric unit projects.

Where the terms “Department”, “Engineer” and “Contract Engineer” appear in VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes used in this contract and the VDOT publication(s) that each references, the authority identified shall be in accordance with the definitions in Section 101.02 of the Virginia Department of Transportation Road and Bridge Specifications, dated 2007. Authority identified otherwise for this particular project will be stated elsewhere in this contract.

VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes used in this contract and the VDOT publication(s) that each reference are intended to be complementary to each other. In case of a discrepancy, the order of priority stated in Section 105.12 of the Virginia Department of Transportation Road and Bridge Specifications, dated 2007 shall apply.

VDOT Special Provision Copied Notes in this contract are designated with “(SPCN)” after the date of each document. VDOT SupplementalSpecifications and Special Provision Copied Notes in this contract are designated as such above the title of each document.

The information enclosed in parenthesis “( )” at the left of each VDOT Special Provision Copied Note in this contract is file reference information for VDOT use only. The information in the upper left corner above the
title of each VDOT Supplemental Specification and VDOT Special Provision in this contract is file reference information for VDOT use only.

The system of measurement to be used in this project is stated elsewhere in this contract. VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes containing imperial units of measure with accompanying expressions in metric units shall be referred to hereinafter as “dual unit measurement” documents. Such a “dual unit measurement” is typically expressed first in the imperial unit followed immediately to the right by the metric unit in parenthesis “( )” or brackets “[ ]” where parenthesis is used in the sentence to convey other information. Where a “dual unit measurement” appears in VDOT documents, the unit that applies shall be in accordance with the system of measurement as stated elsewhere in this contract. The unit shown that is not of the declared unit of measurement is not to be considered interchangeable and mathematically convertible to the declared unit and shall not be used as an alternate or conflicting measurement. Where VDOT Specifications are used for metric unit projects and only imperial units of measurement appear the document, the provision(s) in this contract for imperial unit to metric unit conversion shall apply.

12-1-11 (SPCN)
Section 103.09—Execution of Contract is amended to include the following:

According to Section 2.2-4308.2 of the Code of Virginia, any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of $50,000 with the Department to provide work or provide services pursuant to such contract shall register and participate in the U.S. Department of Homeland Security’s “E-Verify” system to verify information and work authorization of its newly hired employees performing work pursuant to such contract.

Contractors are not required to be enrolled with “E-Verify” at the time bids are submitted, however, prior to award, the lowest responsive and responsible bidder must be enrolled with “E-Verify”. Contractors may use the following website to enroll in “E-Verify”, http://www.uscis.gov/e-verify.

Contractors shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security’s “E-Verify” system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

Bidders or Contractors who fail to comply with the provisions of this section shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon registration and participation in the “E-Verify” program.
PERSONNEL REQUIREMENTS FOR WORK ZONE TRAFFIC CONTROL - Section 105 and 512 of the Specifications are amended as follows:

**Section 105.14—Maintenance During Construction** is amended to add the following:

The Contractor shall provide at least one person on the project site during all work operations who is currently verified either by the Department in Intermediate Work Zone Traffic Control, or by the American Traffic Safety Services Association (ATSSA) as a Traffic Control Supervisor (TCS). This person must have the verification card with them while on the project site. This person shall be responsible for the oversight of work zone traffic control within the project limits in compliance with the contract requirements involving the plans, specifications, the VWAPM, and the MUTCD. This person’s duties shall include the supervision of the installation, adjustment (if necessary), inspection, maintenance and removal when no longer required of all traffic control devices on the project.

If none of the Contractor’s on-site personnel responsible for the supervision of such work has the required verification with them or if they have an outdated verification card showing they are not currently verified either by the Department in Intermediate Work Zone Traffic Control, or by the American Traffic Safety Services Association (ATSSA) as a Traffic Control Supervisor (TCS) all work on the project will be suspended by the Engineer.

The Contractor shall provide at least one person on site who is, at a minimum, verified by the Department in Basic Work Zone Traffic Control for each construction and/or maintenance operation that involves installing, maintaining, or removing work zone traffic control devices. This person shall be responsible for the placement, maintenance and removal of work zone traffic control devices.

In the event none of the Contractor’s on-site personnel of any construction/maintenance operation has, at a minimum, the required verification by the Department in Basic Work Zone Traffic Control, that construction/maintenance operation will be suspended by the Engineer until that operation is appropriately staffed in accordance with the requirements herein.

**Section 512.03 Procedures** is amended to add (r) Work Zone Traffic Control as the following:

(r) **Work Zone Traffic Control**: The Contractor shall provide individuals trained in Work Zone Traffic Control in accordance with the requirements of Section 105.14 of the Specifications.

**Section 512.04 Measurement and Payment** is amended to add the following:

**Basic Work Zone Traffic Control** - Separate payment will not be made for providing a person to meet the requirements of Section 105.14 of the Specifications. The cost thereof shall be included in the price of other appropriate pay items.
Intermediate Work Zone Traffic Control - Separate payment will not be made for providing a person to meet the requirements of Section 105.14 of the Specifications. The cost thereof shall be included in the price of other appropriate pay items.

6-11-09a (SPCN)
SECTION 105.06 SUBCONTRACTING of the Specifications is amended to include the following:

Any distribution of work shall be evidenced by a written binding agreement on file at the project site. Where no field office exists, such agreement shall be readily available upon request to Department inspector(s) assigned to the project.

The provisions contained in Form FHWA-1273 specifically, and other federal provisions included with the prime Contract are generally applicable to all Federal-aid construction projects and must be made a part of, and physically incorporated into all contracts, as well as, appropriate subcontracts for work so as to be binding in those agreements.

12-19-08 (SPCN)


General Decision Number: VA140135 01/24/2014 VA135

Superseded General Decision Number: VA20130146
State: Virginia
Construction Type: Highway

*INDEPENDENT CITIES

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

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SUVA2013-010 09/20/2013

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PLUMBER..........................$ 25.00

POWER EQUIPMENT OPERATOR:
  Air Compressor..............$ 13.50
  Asphalt Distributor.........$ 18.64
  Asphalt Paver...............$ 19.35
  Backhoe........................$ 20.59
  Boom/Auger...................$ 20.29
  Bulldozer (Utility).........$ 15.50
  Bulldozer....................$ 20.40
  Concrete Finish Machine Operator..............$ 18.54
  Concrete Finisher Machine Screed Operator (Bridge)....$ 14.60
  Concrete Paving Machine Operator...............$ 20.75
  Concrete Pump Operator.......$ 33.00
  Concrete Saw Operator.......$ 16.00
  Crane, Derrick, Dragline (1 cm & under)...........$ 24.53
  Crane, Derrick, Dragline (over 1 cm)..............$ 25.00
  Crusher Tender...............$ 14.25
  Drill Operator...............$ 15.70
  Excavator (Gradall)...........$ 19.32
  Front End Loader (2 cm & under)..................$ 19.00
  Front End Loader (over 2 cm)....................$ 20.42
  Hydro Seeder..................$ 17.13
  Log Skidder Operator...........$ 18.50
  Mechanic.....................$ 21.75
  Mobile Mixer..................$ 17.00
  Motor Grader (Fine Grade)...$ 27.25
  Motor Grader (Rough Grade)..$ 13.58
  Oiler, Greaser...............$ 14.00
  Pavement Marking Operator...$ 17.00
  Pavement Marking Truck Operator..................$ 16.72
  Pavement Planing Groundman..$ 19.75
  Pavement Planing Operator...$ 19.25
  Pile Driver Operator.........$ 20.35
  Pile Driver, Leadsman........$ 21.32
  Pipe Boring/Jacking Machine Operator.............$ 16.00
  Plant Operator...............$ 14.88
  Roller (Finish)...............$ 17.94
  Roller (Rough)...............$ 17.06
  Scraper Pan Operator.........$ 13.00
  Shot Blast Machine Operator.$ 16.02
  Shovel Operator (2 yds and under)...................$ 16.00
  Shovel Operator (over 2 yds)........................$ 25.00
  Slip-Form Paver................$ 21.00
  Slurry Seal Paver Machine Operator..................$ 13.75
  Slurry Seal Paver Truck
Operator.................... $ 10.32
Stabilizer Operator....... $ 15.70
Stone-Spreader............ $ 13.35
Subgrade Machine Operator...$ 19.00
Tractor Operator, Crawlers.. $12.47
Tractor Operator, Utility...$ 12.25
Trenching Machine.......... $ 29.87
Vacuum Machine............. $ 18.20

TRAFFIC SIGNALIZATION:
Traffic Signal Installation... $ 21.16

TRUCK DRIVER
Fuel & Lubricant Service
Truck Driver................ $ 17.73
Transit Mix Truck Driver.... $ 15.00
Truck Driver (Multi-Rear
Axle)......................... $ 16.69
Truck Driver (Single Rear
Axle).......................... $ 17.50
Truck Driver (Tandem Rear
Axle)......................... $ 16.91
Truck Driver, Heavy Duty.... $ 17.29

WELDER........................ $ 18.15

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination.

The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.
Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

END OF GENERAL DECISION.
This case is before the Department of Labor pursuant to a request for a wage predetermination as required by law applicable to the work described.

A study has been made of wage conditions in the locality and based on information available to the Department of Labor the wage rates and fringe payments listed are hereby determined by the Secretary of Labor as prevailing for the described classes for labor in accordance with applicable law.

This wage determination decision and any modifications thereof during the period prior to the stated expiration date shall be made a part of every contract for performance of the described work as provided by applicable law and regulations of the Secretary of Labor, and the wage rates and fringe payments contained in this decision, including modifications, shall be the minimums to be paid under any such contract and subcontractors on the work.

The contracting officer shall require that any class of laborers and mechanics which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination, and a report of the action taken shall be sent by the Federal agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the contracting officer shall be referred to the Secretary for determination.

Before using apprentices on the job the contractor shall present to the contracting officer written evidence of registration of such employees in a program of a State apprenticeship and training agency approved and recognized by the U.S. Bureau of Apprenticeship and Training. In the absence of such a State agency, the contractor shall submit evidence of approval and registration by the U.S. Bureau of Apprenticeship and Training.

The contractor shall submit to the contracting officer written evidence of the established apprentice-journeyman ratios and wage in the project area, which will be the basis for establishing such ratios and rates for the project under the applicable contract provisions.

Fringe payments include medical and hospital care, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, disability and sickness insurance, accident insurance (all designated as health and welfare), pensions, vacation and holiday pay, apprenticeship or other similar programs and other bona fide fringe benefits.

By direction of the Secretary of Labor

E. Irving Manger, Associate Administrator
Division of Wage Determinations
Wage and Labor Standards Administration
The following Form FHWA-1273 titled REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS shall apply to this contract:

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS
   A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

   The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

   Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

   Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

   a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

   b. The contractor will accept as its operating policy the following statement: "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or
transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer**: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy**: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

   a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

   b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

   c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

   d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

   e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment**: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

   a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

   b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

   c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT’s U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor 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 contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.
a. The records kept by the contractor shall document the following:

1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

   a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages
and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed
at rates not less than those contained in the wage determination of the Secretary of Labor
which is attached hereto and made a part hereof, regardless of any contractual relationship
which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under
section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered
wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this
section; also, regular contributions made or costs incurred for more than a weekly period (but
not less often than quarterly) under plans, funds, or programs which cover the particular
weekly period, are deemed to be constructively made or incurred during such weekly period.
Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on
the wage determination for the classification of work actually performed, without regard to
skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more
than one classification may be compensated at the rate specified for each classification for
the time actually worked therein: Provided, That the employer's payroll records accurately set
forth the time spent in each classification in which work is performed. The wage
determination (including any additional classification and wage rates conformed under
paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all
times by the contractor and its subcontractors at the site of the work in a prominent and
accessible place where it can be easily seen by the workers.

b. 1) The contracting officer shall require that any class of laborers or mechanics, including
helpers, which is not listed in the wage determination and which is to be employed under
the contract shall be classified in conformance with the wage determination. The
contracting officer shall approve an additional classification and wage rate and fringe
benefits therefore only when the following criteria have been met:

i. The work to be performed by the classification requested is not performed by a
classification in the wage determination; and

ii. The classification is utilized in the area by the construction industry; and

iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable
relationship to the wage rates contained in the wage determination.

2) If the contractor and the laborers and mechanics to be employed in the classification (if
known), or their representatives, and the contracting officer agree on the classification
and wage rate (including the amount designated for fringe benefits where appropriate), a
report of the action taken shall be sent by the contracting officer to the Administrator of
the Wage and Hour Division, Employment Standards Administration, U.S. Department of
Labor, Washington, DC 20210. The Administrator, or an authorized representative, will
approve, modify, or disapprove every additional classification action within 30 days of
receipt and so advise the contracting officer or will notify the contracting officer within the
30-day period that additional time is necessary.

3) In the event the contractor, the laborers or mechanics to be employed in the classification
or their representatives, and the contracting officer do not agree on the proposed
classification and wage rate (including the amount designated for fringe benefits, where
appropriate), the contracting officer shall refer the questions, including the views of all
interested parties and the recommendation of the contracting officer, to the Wage and
Hour Administrator for determination. The Wage and Hour Administrator, or an
authorized representative, will issue a determination within 30 days of receipt and so
advise the contracting officer or will notify the contracting officer within the 30-day period
that additional time is necessary.
4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
b. 1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

i. That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

ii. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

iii. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(2) of this section.

4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
4. **Apprentices and trainees**

   a. **Apprentices (programs of the USDOL).**

   Apprentices will be permitted to work at least at the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

   The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

   Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

   In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

   b. **Trainees (programs of the USDOL).**

   Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

   The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

   Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate
specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. **Certification of eligibility.**
a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.
1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

   a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

      1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

      2) the prime contractor remains responsible for the quality of the work of the leased employees;

      3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

      4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

   b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION
This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."
IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:
   
a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

   c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

   d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

   e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First
Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first 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 entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epis.gov/), which is compiled by the General Services Administration.

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

j. Except for transactions authorized under paragraph (f) 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 may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

   a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

      1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

      2) 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;

3) 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 (a)(2) of this certification; and

4) 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.

b. Where the prospective participant is unable to certify to any of the statements in this
certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior
FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

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

b. 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.

c. 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 by reason of changed circumstances.

"principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180
and 1200. You may contact the person to which this proposal is submitted for assistance in
obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered
transaction between a grantee or subgrantee of Federal funds and a participant (such as the
prime or general contract). "Lower Tier Covered Transactions" refers to any covered
transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier
Participant" refers to the participant who has entered into a covered transaction with a
grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier
Participant" refers any participant who has entered into a covered transaction with a First Tier
Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. 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.

f. 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 exceeding the
$25,000 threshold.
g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. 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 participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e 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 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 participating in covered transactions 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.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. 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.

b. 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,
agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. 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 31 U.S.C. 1352. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.
Effective immediately, Divisions and/or our State Transportation Agency (STA) partners will no longer be required to submit data to HIPA-10 that is collected as it relates to:

The FHWA-45, Bid Price Data,

The FHWA-47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds; and

The FHWA-810, Bid Tabulation Data.

For several years, STAs have commented that the reports generated from the data collection efforts were of little utility and that there were statistical limitations, statistical significance, and accuracy issues with the data which were felt could result in misleading information. There was also a noted reporting burden on States and contractors. The suggestions have often been to eliminate the reporting requirements all together.

In 2003, the GAO conducted a review of the States' highway construction costs. As part of its review, the GAO reviewed FHWA's cost data collection requirements. In its discussions, the GAO also identified similar issues and concerns with the data series as discussed above. In a December 2003 report GAO made recommendations to FHWA to review the usefulness and accuracy and/or under reporting of the data collected.

As a result, FHWA has determined that it is appropriate to discontinue the reporting requirements for the FHWA 45, 47 and 810 as collection of this data for needed reports such as the "Highway Statistics" publication can be collected through other means. The main reasons for
this decision are the strong disinterest in the data collection activities and comments provided to
us by our STA partners suggesting that we are not collecting the data extensively enough to be of
utility. We will also be going through an abridged regulatory update as appropriate to reflect this
action.
Please contact Bob Wright, at 202-366-4630, to answer any questions and/or for additional
information on this matter.

The FHWA 45, Bid Price Data, was collected on NHS projects over $500,000. The FHWA 45
served as a means to compute the highway construction bid price index, which is published in
the document "Price Trends for Federal-aid Highway Construction. The data was used in our
"Highway Statistics" publication and by other outside sources, including its use by congressional
committees in their deliberations on pending new highway legislation.

The FHWA 47, Statement of Materials and Labor Used by Contractors on Highway Construction
Involving Federal Funds, was collected on all NHS projects over $1,000,000. The FHWA 47
served as a means to collect data related to the quantities of materials, supplies and labor used for
various types of highway construction. The data reported on this form was used primarily to
compute usage factors for these various materials, supplies, and labor. These factors were used to
determine the economic impacts of cuts or increases in the cost of Federal-aid highway
construction.

FHWA 810, Bid Tabulation Data was collected on all NHS projects. The needs for the FHWA
810 have been to compute national summaries on the largest contract awards and contract size
statistics. The data was also used to produce state-by-state summaries on contracts awards,
number of bids and average number of bids.
1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals for female and minority participation, expressed in percentage terms of the Contractor's aggregate work force in each trade on all construction works in the covered area, are as follows:

   Females- 6.9%
   Minorities - See Attachment "A"

The goals are applicable to all the Contractor's construction work performed in the covered area, whether or not it is Federal or federally assisted. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications, set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established herein. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executives Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 workings days the award of any construction subcontract in excess of $10,000 at any tier for construction works under this contract. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As, used in this provision:
   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
   b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
   c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941;
   d. "Minority" includes:
      (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
      (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
      (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors and Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the coverer area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

   a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, shall assign two or more women to each construction project. The Contractor shall specifically ensure that all foreman, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.

   b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

   c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such
individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents and General Foremen prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including in any news media advertisement that the Contractor is "An Equal Opportunity Employer" for minority and female, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Directs its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training or other means.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. Goals for women have been established. However, the Contractor IS required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner, that is even thought the Contractor has achieved its goals for women, the Contractor
may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or nation origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director will proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate and make known to the Department a responsible official as the EEO Officer to monitor all employment related activity, to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors will not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
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<tr>
<th>Economic Area</th>
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<tr>
<td>VA Botetourt; VA Craig; VA Roanoke; VA Roanoke City; VA Salem</td>
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<td>Non-SMSA Counties</td>
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<td>VA Alleghany; VA Augusta; VA Bath; VA Bedford; VA Bland; VA Carroll; VA Floyd; VA Franklin; VA Giles; VA Grayson; VA Henry; VA Highland; VA Montgomery; VA Nelson; VA Patrick; VA Pittsylvania; VA Pulaski; VA Rockbridge; VA Rockingham; VA Wythe; VA Bedford City; VA Buena Vista: VA Clifton Forge; VA Covington; VA Danville; VA Galax; VA Harrisonburg; VA Lexington; VA Martinsville; VA Radford; VA Staunton; VA Waynesboro; WV Pendleton.</td>
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<td>022 Richmond, VA</td>
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Lancaster; VA Louisa; VA Lunenburg; VA Madison; VA Mecklenburg; VA Northumberland; VA Nottoway; VA Orange; VA Prince Edward; VA Richmond VA Sussex; VA CharlottesviIle; VA Emporia; VA South Boston

023 Norfolk - Virginia Beach - Newport News VA:
SMSA Counties:
5680 Newport News- Hampton, VA 27.1

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VA Gloucester; VA James City; VA York; VA Hampton; VA Newport News; VA Williamsburg.
5720 Norfolk - Virginia Beach - Portsmouth, VA - NC 26.6

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NC Currituck; VA Chesapeake; VA Norfolk; VA Portsmouth; VA Suffolk; VA Virginia Beach.
Non-SMSA Counties 29.7

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NC Bertie; NC Camden; NC Chowan; NC Gates; NC Hertford; NC Pasquotank; NC Perquimans; VA Isle of Wight; VA Matthews; VA Middlesex; VA Southampton; VA Surry; VA Franklin.

Washington, DC:
020 Washington, DC.
SMSA Counties:
8840 Washington, DC - MD - VA 28.0

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DC District of Columbia; MD Charles; MD Montgomery MD Prince Georges; VA Arlington; VA Fairfax; VA Loudoun; VA Prince William VA Alexandria; VA Fairfax City; VA Falls Church.
Non-SMSA Counties 25.2

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MD Calvert; MD Frederick; MD St. Marys; MD Washington; VA Clarke; VA Culpeper; VA Fauquier; VA Frederick; VA King George; VA Page; VA Rappahannock; VA Shenandoah; VA Spotsylvania; VA Stafford; VA Warren: VA Westmoreland; VA Fredericksburg; VA Winchester WV Berkeley; WV Grant; WV Hampshire; WV Hardy; WV Jefferson; WV Morgan.

Tennessee:
052 Johnson City - Kingsport - Bristol, TN - VA
SMSA Counties:
3630 Johnson City - Kingsport -Bristol, TN-VA 2.6

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TN Carter; TN Hawkins; TN Sullivan; TN Washington; VA Scott: VA Washington; VA Bristol.
Non-SMSA Counties

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TN Greene; TN Johnson; VA Buchanan; VA Dickenson; VA Lee; VA Russell; VA Smyth; VA Tazewell; VA Wise; VA Norton; WV McDowell; WV Mercer.

Maryland:

019 Baltimore MD

Non-SMSA Counties

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MD Caroline; MD Dorchester; MD Kent; MD Queen Annes; MD Somerset; MD Talbot; MD Wicomico; MD Worchester; VA Accomack; VA Northampton.
Section 107.15 of the Specifications is replaced by the following:

Section 107.15—Use of Disadvantaged Business Enterprises (DBEs)

A. Disadvantaged Business Enterprise (DBE) Program Requirements

Any Contractor, subcontractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (USDOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the USDOT DBE Program regulations; and the Virginia Department of Transportation’s (VDOT or the Department) Road and Bridge Specifications and DBE Program rules and regulations.

For the purposes of this provision, Contractor is defined as the Prime Contractor of the contract; and sub-contractor is defined as any DBE supplier, manufacturer, or subcontractor performing work or furnishing material, supplies or services to the contract. The Contractor shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subcontractor having work for which it intends to claim credit.

In accordance with 49 CFR Part 26 and VDOT’s DBE Program requirements, the Contractor, for itself and for its subcontractors and suppliers, whether certified DBE firms or not, shall commit to complying fully with the auditing, record keeping, confidentiality, cooperation, and anti-intimidation or retaliation provisions contained in those federal and state DBE Program regulations. By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations and to bind the Contractor’s subcontractors contractually to the same at the Contractor’s expense.

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

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

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

B. DBE Certification

The only DBE firms eligible to perform work on a federal-aid contract for DBE contract goal credit are firms certified as Disadvantaged Business Enterprises by the Virginia Department of Minority Business Enterprise (DMBE) or the Metropolitan Washington Airports Authority (MWAA) in accordance with federal and VDOT guidelines. DBE firms must be certified in the specific work listed for DBE contract goal credit. A directory listing of certified DBE firms can be obtained from the Virginia Department of Minority Business Enterprise and the Metropolitan Washington Airports Authority Internet websites: http://www.dmbe.virginia.gov/; http://mwaa.com/362.htm

C. Bank Services

The Contractor and each subcontractor are encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals. Such banking services and the fees charged for services typically will not be eligible for DBE Program contract goal credit. Such information is available from the VDOT’s Internet Civil Rights Division website: http://insidevdot/C7/Civil%20Rights/default.aspx

D. DBE Program-Related Certifications Made by Bidders/Contractors

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

1. That the management and bidding officers of its firm agree to comply with the bidding and project construction and administration obligations of the USDOT DBE Program requirements and regulations of 49 CFR Part 26 as amended, and VDOT’s Road and Bridge Specifications and DBE Program requirements and regulations.

2. Under penalty of perjury and other applicable penal law that it has complied with the DBE Program requirements in submitting the bid, and shall comply fully with these requirements in the bidding, award, and execution of the contract.
3. To ensure that DBE firms have been given full and fair opportunity to participate in the performance of the contract. The bidder certifies that all reasonable steps were, and will be, taken to ensure that DBE firms had, and will have, an opportunity to compete for and perform work on the contract. The bidder further certifies that the bidder shall not discriminate on the basis of race, color, age, national origin, or sex in the performance of the contract or in the award of any subcontract. Any agreement between a bidder and a DBE whereby the DBE promises not to provide quotations for performance of work to other bidders is prohibited.

4. As a bidder, good faith efforts were made to obtain DBE participation in the proposed contract at or above the goal for DBE participation established by VDOT. It has submitted as a part of its bid true, accurate, complete, and detailed documentation of the good faith efforts it performed to meet the contract goal for DBE participation. The bidder, by signing and submitting its bid, certifies the DBE participation information submitted within the stated time thereafter is true, correct, and complete, and that the information provided includes the names of all DBE firms that will participate in the contract, the specific line item(s) that each listed DBE firm will perform, and the creditable dollar amounts of the participation of each listed DBE. The specific line item must reference the VDOT line number and item number contained in the proposal.

5. The bidder further certifies, by signing its bid, it has committed to use each DBE firm listed for the specific work item shown to meet the contract goal for DBE participation. Award of the contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents. By signing the bid, the bidder certifies on work that it proposes to sublet; it has made good faith efforts to seek out and consider DBEs as potential subcontractors. The bidder shall contact DBEs to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain on file proper documentation to substantiate its good faith efforts. Award of the contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents.

6. Once awarded the contract, the Contractor shall make good faith efforts to utilize DBE firms to perform work designated to be performed by DBEs at or above the amount or percentage of the dollar value specified in the bidding documents. Further, the Contractor understands it shall not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract in whole or in part with another DBE, any non-DBE firm, or with the Contractor's own forces or those of an affiliate of the Contractor without the prior written consent of VDOT as set out within the requirements of this provision.

7. Once awarded the contract, the Contractor shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive DBE program as required by 49 CFR Part
The designation and identity of this officer need be submitted only once by the Contractor during any twelve (12) month period at the preconstruction conference for the first contract the Contractor has been awarded during that reporting period. The Department will post such information for informational and administrative purposes at VDOT’s Internet Civil Rights Division website.

8. Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each DBE firm participating in the contract shall fully perform the designated work items with the DBE’s own forces and equipment under the DBE’s direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract regulations and/or requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the contract in the event of such a contract breach.

9. In the event a bond surety assumes the completion of work, if for any reason VDOT has terminated the prime Contractor, the surety shall be obligated to meet the same DBE contract terms and requirements as were required of the original prime Contractor in accordance with the requirements of this specification.

E. Disqualification of Bidder

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the contract specifications, and VDOT Road and Bridge Specifications.

F. Bidding Procedures

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

1. **Contract Goal, Good Faith Efforts Specified:** All bidders evidencing the attainment of DBE goal commitment equal to or greater than the required DBE goal established for the project must submit completed Form C-111, Minimum DBE Requirements, and Form C-48, Subcontractor/Supplier Solicitation and Utilization, as a part of the bid documents.

Form C-111 may be submitted electronically or may be faxed to the Department, but in no case shall the bidder’s Form C-111 be received later than 10:00 a.m. the next business day after the time stated in the bid proposal for the receipt of bids. Form C-48 must be received within ten (10) business days after the bid opening.
If, at the time of submitting its bid, the bidder knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 exhibiting the DBE participation it commits to attain as a part of its bid documents. The bidder shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the bid opening.

The lowest responsive and responsible bidder must submit its properly executed Form C-112, Certification of Binding Agreement, within three (3) business days after the bids are received. DBEs bidding as prime contractors are not required to submit Form C-112 unless they are utilizing other DBEs as subcontractors.

If, after review of the apparent lowest bid, VDOT determines the DBE requirements have not been met, the apparent lowest successful bidder must submit Form C-49, DBE Good Faith Efforts Documentation, which must be received by the Contract Engineer within two (2) business days after official notification of such failure to meet the aforementioned DBE requirements.

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

Instructions for submitting Form C-111 can be obtained from the VDOT website at: [http://www.virginiadot.org/business/resources/const/Exp_DBE_Commitments.pdf](http://www.virginiadot.org/business/resources/const/Exp_DBE_Commitments.pdf)

2. **Bid Rejection:** The failure of a bidder to submit the required documentation within the timeframes specified in the Contract Goal, Good Faith Efforts Specified section of this Special Provision may be cause for rejection of that bidder’s bid.

If the lowest bidder is rejected for failure to submit the required documentation in the specified time frames, the Department may award the work to the next lowest bidder, or re-advertise the proposed work at a later date or proceed otherwise as determined by the Commonwealth.

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

Good faith efforts may be determined through use of the following list of the types of actions the bidder may make to obtain DBE participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or
exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

(a) Soliciting through reasonable and available means, such as but not limited to, attendance at pre-bid meetings, advertising, and written notices to DBEs who have the capability to perform the work of the contract. Examples include: advertising in at least one daily/weekly/monthly newspaper of general circulation, as applicable; phone contact with a completely documented telephone log, including the date and time called, contact person, or voice mail status; and internet contacts with supporting documentation, including dates advertised. The bidder shall solicit this interest no less than five (5) business days before the bids are due so that the solicited DBEs have enough time to reasonably respond to the solicitation. The bidder shall determine with certainty if the DBEs are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49, DBE Good Faith Efforts Documentation.

(b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces;

(c) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner, which will assist the DBEs in responding to a solicitation;

(d) Negotiating for participation in good faith with interested DBEs;

1. Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBEs that were considered; dates DBEs were contacted; a description of the information provided regarding the plans, specifications, and requirements of the contract for the work selected for subcontracting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBEs to perform the work;

2. A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and should take a firm’s price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not sufficient reason for a bidder’s failure to meet the contract goal for DBE participation, as long as such costs are reasonable and comparable to costs customarily appropriate to the type of work under consideration. Also, the
ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make diligent good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference can be shown by the bidder to be excessive, unreasonable, or greater than would normally be expected by industry standards;

(e) A bidder cannot reject a DBE as being unqualified without sound reasons based on a thorough investigation of the DBE’s capabilities. The DBE’s standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations, and union vs. non-union employee status are not legitimate causes for the rejection or non-solicitation of bids in the bidder’s efforts to meet the project goal for DBE participation;

(f) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by VDOT or by the bidder/Contractor;

(g) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services subject to the restrictions contained in these provisions;

(h) Effectively using the services of appropriate personnel from VDOT and from DMBE; available minority/women community or minority organizations; contractors’ groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and utilization of qualified DBEs.

G. Documentation and Administrative Reconsideration of Good Faith Efforts

**During Bidding:** As described in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision, the bidder must provide Form C-49, DBE Good Faith Efforts Documentation, of its efforts made to meet the DBE contract goal as proposed by VDOT within the time frame specified in this provision. The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. The bidder shall attach additional pages to the certification, if necessary, in order to fully detail specific good faith efforts made to obtain the DBE firms participation in the proposed contract work.

However, regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed forms C-111, C-112, C-48, and C-49, as aforementioned, or face potential bid rejection.

If a bidder does not submit its completed and executed forms C-111, or C-112, when required by this Special Provision, the bidder’s bid will be considered non-responsive and may be rejected.
Where the Department upon initial review of the bid results determines the apparent low bidder has failed or appears to have failed to meet the requirements of the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision and has failed to adequately document that it made a good faith effort to achieve sufficient DBE participation as specified in the bid proposal, that firm upon notification of the Department’s initial determination will be offered the opportunity for administrative reconsideration before VDOT rejects that bid as non-responsive. The bidder shall address such request for reconsideration in writing to the Contract Engineer within five (5) business days of receipt of notification by the Department and shall be given the opportunity to discuss the issue and present its evidence in person to the Administrative Reconsideration Panel. The Administrative Reconsideration Panel will be made up of VDOT Division Administrators or their designees, none of who took part in the initial determination that the bidder failed to make the goal or make adequate good faith efforts to do so. After reconsideration, VDOT shall notify the bidder in writing of its decision and explain the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder’s bid will be rejected.

If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the contract and reduce the DBE requirement to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is still encouraged to seek additional DBE participation during the life of the contract.

However, such action will not relieve the Contractor of its responsibility for complying with the reduced DBE requirement during the life of the contract or any administrative sanctions as may be appropriate.

**During the Contract:** If a DBE, through no fault of the Contractor, is unable or unwilling to fulfill his agreement with the Contractor, the Contractor shall immediately notify the Department and provide all relevant facts. If a Contractor relieves a DBE subcontractor of the responsibility to perform work under their subcontract, the Contractor is encouraged to take the appropriate steps to obtain a DBE to perform an equal dollar value of the remaining subcontracted work. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the performance of the contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, and the Contractor has not taken the preceding actions, the
Contractor and any aforementioned affiliates may be subject to disallowance of DBE credit until such time as conformance with the schedule of DBE participation is achieved.

Project Completion: If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinment from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s), elimination of items subcontracted to DBEs, or to circumstances beyond their control, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. If the decision is made to enjoin the Contractor from bidding on other VDOT work as described herein, the enjoinment period will begin upon the Contractor’s failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel’s decision to enjoin, as applicable.

H. DBE Participation for Contract Goal Credit

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

1. Cost-plus subcontracts will not be considered to be in accordance with normal industry practice and will not normally be allowed for credit.

2. The applicable percentage of the total dollar value of the contract or subcontract awarded to the DBE will be counted toward meeting the contract goal for DBE participation in accordance with the DBE Program-Related Certifications Made by Bidders\Contractors section of this Special Provision for the value of the work, goods, or services that are actually performed or provided by the DBE firm itself or subcontracted by the DBE to other DBE firms.

3. When a DBE performs work as a participant in a joint venture with a non-DBE firm, the Contractor may count toward the DBE goal only that portion of the total dollar value of the contract equal to the distinctly defined portion of the contract.
work that the DBE has performed with the DBE’s own forces or in accordance with the provisions of this Section. The Department shall be contacted in advance regarding any joint venture involving both a DBE firm and a non-DBE firm to coordinate Department review and approval of the joint venture’s organizational structure and proposed operation where the Contractor seeks to claim the DBE’s credit toward the DBE contract goal.

4. When a DBE subcontracts part of the work of the contract to another firm, the value of that subcontracted work may be counted toward the DBE contract goal only if the DBE’s subcontractor at a lower tier is a certified DBE. Work that a DBE subcontracts to either a non-DBE firm or to a non-certified DBE firm will not count toward the DBE contract goal. The cost of supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or the prime’s affiliated firms will not count toward the contract goal for DBE participation.

5. The Contractor may count expenditures to a DBE subcontractor toward the DBE contract goal only if the DBE performs a Commercially Useful Function (CUF) on that contract.

6. A Contractor may not count the participation of a DBE subcontractor toward the Contractor's final compliance with the DBE contract goal obligations until the amount being counted has actually been paid to the DBE. A Contractor may count sixty (60) percent of its expenditures actually paid for materials and supplies obtained from a DBE certified as a regular dealer, and one hundred (100) percent of such expenditures actually paid for materials and supplies obtained from a certified DBE manufacturer.

(a) For the purposes of this Special Provision, a regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required and used under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the DBE firm shall be an established business that regularly engages, as its principal business and under its own name, in the purchase and sale or lease of the products or equipment in question. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions will not be considered regular dealers.

(b) A DBE firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business where it keeps such items in stock if the DBE both owns and operates distribution equipment for the products it sells and provides for the contract work. Any supplementation of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis to be eligible for credit to meet the DBE contract goal.
(c) If a DBE regular dealer is used for DBE contract goal credit, no additional credit will be given for hauling or delivery to the project site goods or materials sold by that DBE regular dealer. Those delivery costs shall be deemed included in the price charged for the goods or materials by the DBE regular dealer, who shall be responsible for their distribution.

(d) For the purposes of this Special Provision, a manufacturer will be defined as a firm 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 project specifications. A manufacturer shall include firms that produce finished goods or products from raw or unfinished material, or purchase and substantially alter goods and materials to make them suitable for construction use before reselling them.

(g) A Contractor may count toward the DBE contract goal the following expenditures to DBE firms that are not regular dealers or manufacturers for DBE program purposes:

1. 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 the federal-aid contract, if the fee is reasonable and not excessive or greater than would normally be expected by industry standards for the same or similar services.

2. The entire amount of that portion of the construction contract that is performed by the DBE's own forces and equipment under the DBE's supervision. This includes the cost of supplies and materials ordered and paid for by the DBE for contract work, including supplies purchased or equipment leased by the DBE, except supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or its affiliates.

(h) A Contractor may count toward the DBE contract goal one hundred (100) percent of the fees paid to a DBE trucker or hauler for the delivery of material and supplies required on the project job site, but not for the cost of those materials or supplies themselves, provided that the trucking or hauling fee is determined by VDOT to be reasonable, as compared with fees customarily charged by non-DBE firms for similar services. A Contractor shall not count costs for the removal or relocation of excess material from or on the job site when the DBE trucking company is not the manufacturer of or a regular dealer in those materials and supplies. The DBE trucking firm shall also perform a Commercially Useful Function (CUF) on the project and not operate merely as a pass through for the purposes of gaining credit toward the DBE contract goal. Prior to submitting a bid, the Contractor shall determine,
or contact the VDOT Civil Rights Division or its district Offices for assistance in determining, whether a DBE trucking firm will meet the criteria for performing a CUF on the project. See section on **Miscellaneous DBE Program Requirements; Factors used to Determine if a DBE Trucking Firm is Performing a CUF.**

(i) The Contractor will receive DBE contract goal credit for the fees or commissions charged by and paid to a DBE broker who arranges or expedites sales, leases, or other project work or service arrangements provided that those fees are determined by VDOT to be reasonable and not excessive as compared with fees customarily charged by non-DBE firms for similar services. For the purposes of this Special Provision, a broker is defined as a person or firm that regularly engages in arranging for delivery of material, supplies, and equipment, or regularly arranges for the providing of project services as a course of routine business but does not own or operate the delivery equipment necessary to transport materials, supplies, or equipment to or from a job site.

### I. Performing a Commercially Useful Function (CUF)

No credit toward the DBE contract goal will be allowed for contract payments or expenditures to a DBE firm if that DBE firm does not perform a CUF on that contract. A DBE performs a CUF when the DBE is solely responsible for execution of a distinct element of the contract work and the DBE actually performs, manages, and supervises the work involved with the firm’s own forces or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. To perform a CUF the DBE alone shall be responsible and bear the risk for the material and supplies used on the contract, selecting a supplier or dealer from those available, negotiating price, determining quality and quantity, ordering the material and supplies, installing those materials with the DBE’s own forces and equipment, and paying for those materials and supplies. The amount the DBE firm is to be paid under the contract shall be commensurate with the work the DBE actually performs and the DBE credit claimed for the DBE’s performance.

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

VDOT will monitor the Contractor’s DBE involvement during the performance of the contract. However, VDOT is under no obligation to warn the Contractor that a DBE’s participation will not count toward the goal.

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

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

**VDOT Makes Final Determination On Whether a CUF Is Performed:** VDOT has the final authority to determine whether a DBE firm has performed a CUF on a federal-aid contract. To determine whether a DBE is performing or has performed a CUF, VDOT will evaluate the amount of work subcontracted by that DBE firm or performed by other firms and the extent of the involvement of other firms’ forces and equipment. Any DBE work performed by the Contractor or by employees or equipment of the Contractor shall be subject to disallowance under the DBE Program, unless the independent validity and need for such an arrangement and work is demonstrated.

**J. Verification of DBE Participation and Imposed Damages**

Within fourteen days after contract execution, the Contractor shall submit to the Responsible Engineer, with a copy to the District Civil Rights Office (DCRO), a fully executed subcontract agreement for each DBE used to claim credit in accordance with the requirements stated on Form C-112. The subcontract agreement shall be executed by both parties stating the work to be performed, the details or specifics concerning such work, and the price which will be paid to the DBE subcontractor. Because of the commercial damage that the Contractor and its DBE subcontractor could suffer if their subcontract pricing, terms, and conditions were known to competitors, the Department staff will treat subcontract agreements as proprietary Contractor trade secrets with regard to Freedom of Information Act requests. In lieu of subcontract agreements, purchase orders may be submitted for haulers, suppliers, and manufacturers. These too, will be treated confidentially and protected. Such purchase orders must contain, as a minimum, the following information: authorized signatures...
of both parties; description of the scope of work to include contract item numbers, quantities, and prices; and required federal contract provisions.

The Contractor shall also furnish, and shall require each subcontractor to furnish, information relative to all DBE involvement on the project for each quarter during the life of the contract in which participation occurs and verification is available. The information shall be indicated on Form C-63, DBE and SWAM Payment Compliance Report. The department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations. Failure to provide Form C-63 to the District Civil Rights Office (DCRO) within five (5) business days after the reporting period may result in delay of approval of the Contractor’s monthly progress estimate for payment. The names and certification numbers of DBE firms provided by the Contractor on the various forms indicated in this Special Provision shall be exactly as shown on the DMBE’s or MWAA’s latest list of certified DBEs. Signatures on all forms indicated herein shall be those of authorized representatives of the Contractor as shown on the Prequalification Application, Form C-32 or the Prequalification/Certification Renewal Application, Form C-32A, or authorized by letter from the Contractor. If DBE firms are used which have not been previously documented with the Contractor’s bid and for which the Contractor now desires to claim credit toward the project goal, the Contractor shall be responsible for submitting necessary documentation in accordance with the procedures stipulated in this Special Provision to cover such work prior to the DBE beginning work.

Form C-63 can be obtained from the VDOT website at:

http://vdotforms.vdot.virginia.gov/

The Contractor shall submit to the Responsible Engineer its progress schedule with a copy to the DCRO, as required by Section 108.03 of the Specifications or other such specific contract scheduling specification that may include contractual milestones, i.e., monthly or VDOT requested updates. The Contractor shall include a narrative of applicable DBE activities relative to work activities of the Contractor’s progress schedule, including the approximate start times and durations of all DBE participation to be claimed for credit that shall result in full achievement of the DBE goal required in the contract.

On contracts awarded on the basis of good faith efforts, narratives or other agreeable format of schedule information requirements and subsequent progress determination shall be based on the commitment information shown on the latest Form C-111 as compared with the appropriate Form C-63.

Prior to beginning any major component or quarter of the work, as applicable, in which DBE work is to be performed, the Contractor shall furnish a revised Form C-111 showing the name(s) and certification number(s) of any current DBEs not previously submitted who will perform the work during that major component or quarter for which the Contractor seeks to claim credit toward the contract DBE goal. The Contractor shall obtain the prior approval of the Department for any assistance it
may provide to the DBE beyond its existing resources in executing its commitment to
the work in accordance with the requirements listed in the Good Faith Efforts
Described section of this Special Provision. If the Contractor is aware of any
assistance beyond a DBE’s existing resources that the Contractor, or another
subcontractor, may be contemplating or may deem necessary and that have not been
previously approved, the Contractor shall submit a new or revised narrative statement
for VDOT’s approval prior to assistance being rendered.

If the Contractor fails to comply with correctly completing and submitting any of the
required documentation requested by this provision within the specified time frames,
the Department will withhold payment of the monthly progress estimate until such
time as the required submissions are received VDOT. Where such failures to provide
required submittals or documentation are repeated the Department will move to
enjoin the Contractor and any prime contractual affiliates, as in the case of a joint
venture, from bidding as a prime Contractor, or participating as a subcontractor on
VDOT projects until such submissions are received.

K. Documentation Required for Semi-final Payment

On those projects nearing completion, the Contractor must submit Form C-63 marked
“Semi-Final” within twenty (20) days after the submission of the last regular monthly
progress estimate to the DCRO. The form must include each DBE used on the
contract work and the work performed by each DBE. The form shall include the
actual dollar amount paid to each DBE for the accepted creditable work on the
contract. The form shall be certified under penalty of perjury, or other applicable law,
to be accurate and complete. VDOT will use this certification and other information
available to determine applicable DBE credit allowed to date by VDOT and the
extent to which the DBEs were fully paid for that work. The Contractor shall
acknowledge by the act of filing the form that the information is supplied to obtain
payment regarding a federal participation contract. A letter of certification, signed by
both the prime Contractor and appropriate DBEs, will accompany the form,
indicating the amount, including any retainage, if present, that remains to be paid to
the DBE(s).

L. Documentation Required for Final Payment

On those projects that are complete, the Contractor shall submit a final Form C-63
marked “Final” to the DCRO, within thirty (30) days of the final estimate. The form
must include each DBE used on the contract and the work performed by each DBE.
The form shall include the actual dollar amount paid to each DBE for the creditable
work on the contract. VDOT will use this form and other information available to
determine if the Contractor and DBEs have satisfied the DBE contract goal
percentage specified in the contract and the extent to which credit was allowed. The
Contractor shall acknowledge by the act of signing and filing the form that the
information is supplied to obtain payment regarding a federal participation contract.
M. Prompt Payment Requirements

The Contractor shall make prompt and full payment to the subcontractor(s) of any retainage held by the prime Contractor after the subcontractor’s work is satisfactorily completed.

For purposes of this Special Provision, a subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted as required by the contract documents by VDOT. When VDOT has made partial acceptance of a portion of the prime contract, the Department will consider the work of any subcontractor covered by that partial acceptance to be satisfactorily completed. Payment will be made in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

Upon VDOT’s payment of the subcontractor’s portion of the work as shown on the monthly progress estimate and the receipt of payment by the Contractor for such work, the Contractor shall make compensation in full to the subcontractor for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subcontractor’s portion of the work shall mean the Contractor has issued payment in full, less agreed upon retainage, if any, to the subcontractor for that portion of the subcontractor’s work that VDOT paid to the Contractor on the monthly progress estimate.

The Contractor shall make payment of the subcontractor’s portion of the work within seven (7) days of the receipt of payment from VDOT in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

If the Contractor fails to make payment for the subcontractor’s portion of the work within the time frame specified herein, the subcontractor shall contact the Responsible Engineer and the Contractor’s bonding company in writing. The bonding company and VDOT will investigate the cause for non-payment and, barring mitigating circumstances that would make the subcontractor ineligible for payment, ensure payment in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations, and to bind the Contractor’s subcontractors contractually to those prompt payment requirements.

Nothing contained herein shall preclude the Contractor from withholding payment to the subcontractor in accordance with the terms of the subcontract in order to protect the Contractor from loss or cost of damage due to a breach of agreement by the subcontractor.
N. Miscellaneous DBE Program Requirements

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

1. When a Bidder/Contractor has made a commitment to use a DBE firm that is not currently certified, thereby making the Contractor ineligible to receive DBE participation credit for work performed, and a subcontract has not been executed, the ineligible DBE firm does not count toward either the contract goal or overall goal. The Contractor shall meet the contract goal with a DBE firm that is eligible to receive DBE credit for work performed, or must demonstrate to the Contract Engineer that it has made good faith efforts to do so.

2. When a Bidder/Contractor has executed a subcontract with a certified DBE firm prior to official notification of the DBE firm’s loss of eligibility, the Contractor may continue to use the firm on the contract and shall continue to receive DBE credit toward its DBE goal for the subcontractor’s work.

3. When VDOT has executed a prime contract with a DBE firm that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible firm’s performance on the contract before VDOT has issued the notice of its ineligibility shall count toward the contract goal.

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

The Contractor, as aforementioned in DBE Program-Related Certifications Made by Bidders/Contractors, shall notify VDOT in writing before terminating and/or replacing the DBE that was committed as a condition of contract award or that is otherwise being used or represented to fulfill DBE contract obligations during the contract performance period. Written consent from the Department for terminating the performance of any DBE shall be granted only when the Contractor can demonstrate that the DBE is unable, unwilling, or ineligible to perform its obligations for which the Contractor sought credit toward the contract DBE goal. Such written consent by the Department to terminate any DBE shall concurrently constitute written consent to substitute or replace the terminated DBE with another DBE. Consent to terminate a DBE shall not be based on the Contractor’s ability to negotiate a more advantageous contract with another subcontractor whether that subcontractor is, or is not, a certified DBE.

1. All Contractor requests to terminate, substitute, or replace a certified DBE shall be in writing, and shall include the following information:
(a) The date the Contractor determined the DBE to be unwilling, unable, or ineligible to perform.

(b) The projected date that the Contractor shall require a substitution or replacement DBE to commence work if consent is granted to the request.

(c) A brief statement of facts describing and citing specific actions or inaction by the DBE giving rise to the Contractor’s assertion that the DBE is unwilling, unable, or ineligible to perform;

(d) A brief statement of the affected DBE’s capacity and ability to perform the work as determined by the Contractor;

(e) A brief statement of facts regarding actions taken by the Contractor which are believed to constitute good faith efforts toward enabling the DBE to perform;

(f) The current percentage of work completed on each bid item by the DBE;

(g) The total dollar amount currently paid per bid item for work performed by the DBE;

(h) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and with which the Contractor has no dispute;

(i) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and over which the Contractor and/or the DBE have a dispute.

2. Contractor’s Written Notice to DBE of Pending Request to Terminate and Substitute with another DBE.

The Contractor shall send a copy of the “request to terminate and substitute” letter to the affected committed DBE firm, in conjunction with submitting the request to the DCRO. The affected DBE firm may submit a response letter to the Department within two (2) business days of receiving the notice to terminate from the Contractor. The affected DBE firm shall explain its position concerning performance on the committed work. The Department will consider both the Contractor’s request and the DBE’s response and explanation before approving the Contractor’s termination and substitution request, or determining if any action should be taken against the Contractor.

If, after making its best efforts to deliver a copy of the “request to terminate and substitute” letter, the Contractor is unsuccessful in notifying the affected DBE firm, the Department will verify that the affected, committed DBE firm is unable
or unwilling to continue the contract. The Department will immediately approve the Contractor’s request for a substitution.

3. Proposed Substitution of Another Certified DBE

Upon termination of a DBE, the Contractor shall use reasonable good faith efforts to replace the terminated DBE. The termination of such DBE shall not relieve the Contractor of its obligations pursuant to this section, and the unpaid portion of the terminated DBE’s contract will not be counted toward the contract goal.

When a DBE substitution is necessary, the Contractor shall submit an amended Form C-111 with the name of another DBE firm, the proposed work to be performed by that firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the originally committed DBE firm. The Contractor shall furnish all pertinent information including the contract I.D. number, project number, bid item, item description, bid unit and bid quantity, unit price, and total price. In addition, the Contractor shall submit documentation for the requested substitute DBE as described in this section of this Special Provision.

Should the Contractor be unable to commit the remaining required dollar value to the substitute DBE, the Contractor shall provide written evidence of good faith efforts made to obtain the substitute value requirement. The Department will review the quality, thoroughness, and intensity of those efforts. Efforts that are viewed by VDOT as merely superficial or pro-forma will not be considered good faith efforts to meet the contract goal for DBE participation. The Contractor must document the steps taken that demonstrated its good faith efforts to obtain participation as set forth in the Good Faith Efforts Described section of this Special Provision.

Factors Used to determine if a DBE Trucking Firm is performing a CUF:

The following factors will be used to determine whether a DBE trucking company is performing a CUF:

1. To perform a CUF the DBE trucking firm shall be completely responsible for the management and supervision of the entire trucking operation for which the DBE is responsible by subcontract on a particular contract. There shall not be a contrived arrangement, including, but not limited to, any arrangement that would not customarily and legally exist under regular construction project subcontracting practices for the purpose of meeting the DBE contract goal;

2. The DBE must own and operate at least one fully licensed, insured, and operational truck used in the performance of the contract work. This does not include a supervisor’s pickup truck or a similar vehicle that is not suitable for and customarily used in hauling the necessary materials or supplies;
3. The DBE receives full contract goal credit for the total reasonable amount the 
DBE is paid for the transportation services provided on the contract using trucks 
the DBE owns, insures, and operates using drivers that the DBE employs and 
manages;

4. The DBE may lease trucks from another certified DBE firm, including from an 
owner-operator who is certified as a DBE. The DBE firm that leases trucks from 
another DBE will receive credit for the total fair market value actually paid for 
transportation services the lessee DBE firm provides on the contract;

5. The DBE may also lease trucks from a non-DBE firm, including an owner-
operator. The DBE who leases trucks from a non-DBE is entitled to credit for the 
total value of the transportation services provided by non-DBE lessees, not to 
exceed the value of transportation services provided by DBE-owned trucks on the 
contract. For additional participation by non-DBE lessees, the DBE will only 
receive credit for the fee or commission it receives as a result of the lease 
arrangement.

EXAMPLE
DBE Firm X uses two (2) of its own trucks on a contract. The firm 
leases two (2) trucks from DBE Firm Y and six (6) trucks from 
non-DBE Firm Z.

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<thead>
<tr>
<th>Firm</th>
<th>Value of Trans. Serv.</th>
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<tr>
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<tr>
<td>Firm X</td>
<td></td>
</tr>
<tr>
<td>Truck 1</td>
<td>Owned by DBE $100 per day</td>
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<tr>
<td>Truck 2</td>
<td>Owned by DBE $100 per day</td>
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<tr>
<td>Firm Y</td>
<td></td>
</tr>
<tr>
<td>Truck 1</td>
<td>Leased from DBE $110 per day</td>
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<tr>
<td>Truck 2</td>
<td>Leased from DBE $110 per day</td>
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<td>Firm Z</td>
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<tr>
<td>Truck 1</td>
<td>Leased from Non DBE $125 per day</td>
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<tr>
<td>Truck 2</td>
<td>Leased from Non DBE $125 per day</td>
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<td>Truck 5</td>
<td>Leased from Non DBE $125 per day</td>
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<tr>
<td>Truck 6</td>
<td>Leased from Non-DBE</td>
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</tbody>
</table>

DBE credit would be awarded for the total transportation services provided by DBE Firm X and DBE Firm Y, and may also be awarded for the total value of transportation services by four (4) of the six (6) trucks provided by non-DBE Firm Z (not to exceed the value of transportation services provided by DBE-owned trucks).

**Credit = 8 Trucks**  
**Total Value of Transportation Services = $820**

In all, full DBE credit would be allowed for the participation of eight (8) trucks (twice the number of DBE trucks owned and leased) and the dollar value attributable to the Value of Transportation Services provided by the 8 trucks.

* With respect to the other two trucks provided by non-DBE Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks that DBE Firm X receives as a result of the lease with non-DBE Firm Z.

6. For purposes of this section, the lease must indicate that the DBE firm leasing the truck has exclusive use of and control over the truck. This will not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, provided the lease gives the DBE absolute priority for and control over the use of the leased truck. Leased trucks must display the name and identification number of the DBE firm that has leased the truck at all times during the life of the lease.

**Data Collection:** In accordance with 49CFR Section 26.11, all firms bidding on prime contracts and bidding or quoting subcontracts on federal-aid projects shall provide the following information to the Contract Engineer annually.

- Firm name
- Firm address
- Firm’s status as a DBE or non-DBE
- The age of the firm and
- The annual gross receipts of the firm

The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. However, the above information can be submitted by
means of the Annual Gross Receipts Survey as required in the Prequalification/Certification application.

All bidders, including DBE prime Contractor bidders, shall complete and submit to the Contract Engineer the Subcontractor/Supplier Solicitation and Utilization Form C-48 for each bid submitted; to be received within ten (10) business days after the bid opening. Failure of bidders to submit this form in the time frame specified may be cause for disqualification of the bidder and rejection of their bid in accordance with the requirements of this Special Provision, the contract specifications, and VDOT Road and Bridge specifications.

O. Suspect Evidence of Criminal Behavior

Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted, prosecution.

Suspected DBE Fraud

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

P. Summary of Remedies for Non-Compliance with DBE Program Requirements

Failure of any bidder/Contractor to comply with the requirements of this Special Provision for Section 107.15 of the Virginia Road and Bridge Specifications, which is deemed to be a condition of bidding, or where a contract exists, is deemed to constitute a breach of contract shall be remedied in accordance with the following:

1. Disadvantaged Business Enterprise (DBE) Program Requirements

   The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

   All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein.
2. DBE Program-Related Certifications Made by Bidders/Contractors

Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each certified DBE firm participating in the contract shall fully perform the designated work items with the DBE’s own forces and equipment under the DBE’s direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the contract in the event of such a contract breach.

3. Disqualification of Bidder

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the contract specifications, and VDOT Road and Bridge Specifications.

4. Bidding Procedures

The failure of a bidder to submit the required documentation within the timeframes specified in the Contract Goal, Good Faith Efforts Specified section of this Special Provision may be cause for rejection of that bidder’s bid. If the lowest bidder is rejected for failure to submit required documentation in the specified time frames, the Department may either award the work to the next lowest bidder, or re-advertise and construct the work under contract or otherwise as determined by the Commonwealth.

In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder’s efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were to the extent a bidder actively and aggressively seeking to meet the requirements would make. Regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed Forms C-111, C-112, C-48, and Form C-49, as aforementioned, or face potential bid rejection. If a bidder does not submit it’s completed and executed C-111, or C-112, when required by this Special Provision, the bidder’s bid will be considered non-responsive and may be rejected. If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder’s bid will be rejected. If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the contract and reduce the DBE requirement.
to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is encouraged to seek additional participation during the life of the contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, the Contractor and any aforementioned affiliates may be enjoined from bidding for 60 days or until such time as conformance with the schedule of DBE participation is achieved. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the prosecution of the contract.

If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinment from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s) or elimination of items subcontracted to DBEs, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. The enjoinment period will begin upon the Contractor’s failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel’s decision to enjoin, as applicable.

5. Verification of DBE Participation and Imposed Damages

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received by VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or
participating as a subcontractor on VDOT projects until such submissions are received.

In addition to the remedies described heretofore in this provision VDOT also exercises its rights with respect to the following remedies:

**Suspect Evidence of Criminal Behavior**

Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution.

In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (USDOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.
SECTION 102.05 PREPARATION OF BID of the Specifications is amended to include the following:

In accordance with the provisions of Section 635.410(b) of Title 23 CFR, hereinafter referred to as “Buy America”, except as otherwise specified, all iron and steel products (including miscellaneous steel items such as fasteners, nuts, bolts and washers) to be permanently incorporated for use on federal aid projects shall be produced in the United States of America regardless of the percentage they exist in the manufactured product or final form they take. Therefore, "Domestically produced in the United States of America" means all manufacturing processes must occur in the United States of America, to mean, in one of the 50 States, the District of Columbia, Puerto Rico or in the territories and possessions of the United States. Manufacturing processes are defined as any process which alters or modifies the chemical content, physical size or shape or final finish of iron or steel material) such as rolling, extruding, bending, machining, fabrication, grinding, drilling, finishing, or coating whereby a raw material or a reduced iron ore material is changed, altered or transformed into a steel or iron item or product which, because of the process, is different from the original material. For the purposes of satisfying this requirement “coating” is defined as the application of epoxy, galvanizing, painting or any other such process that protects or enhances the value of the material. Materials used in the coating process need not be domestic materials.

For the purposes herein the manufacturing process is considered complete when the resultant product is ready for use as an item in the project (e.g. fencing, posts, girders, pipe, manhole covers, etc.) or is incorporated as a component of a more complex product by means of further manufacturing. Final assembly of a product may occur outside of the United States of America provided no further manufacturing process takes place.

Raw materials such as iron ore, pig iron, processed, pelletized and reduced iron ore, waste products (including scrap, that is, steel or iron no longer useful in its present form from old automobiles, machinery, pipe, railroad rail, or the like and steel trimmings from mills or product manufacturing) and other raw materials used in the production of steel and/or iron products may, however, be imported. Extracting, handling, or crushing the raw materials which are inherent to the transporting the materials for later use in the manufacturing process are exempt from Buy America. The use of foreign source steel or iron billet is not acceptable under the provisions of Buy America. For the purposes of this provision all steel or iron material not meeting the criteria as domestically produced in the United States of America.
America will be considered as “foreign” material. All iron and steel items will be classified hereinafter as "domestic" or "foreign", identified by and subject to the provisions herein.

Domestically produced iron or steel ingots or billets shipped outside the United States of America for any manufacturing process and returned for permanent use in a project would not comply with “Buy America” requirements.

Buy America provisions do not apply to iron or steel products used temporarily in the construction of a project such as temporary sheet piling, temporary bridges, steel scaffolding, falsework or such temporary material or product or material that remains in place for the Contractor’s convenience.

Section 635.410(b) of Title 23 CFR permits a minimal amount of steel or iron material to be incorporated in the permanent work on a federal-aid contract. The cost of such materials or products must not exceed one-tenth of one percent of the contract amount or $2,500, whichever is greater. The cost of the foreign iron or steel material is defined as its monetary value delivered to the job site and supported by invoices or bill of sale to the Contractor. This delivered to site cost must include transportation, assembly, installation and testing.

In the event the total cost of all "foreign" iron and steel product or material does not exceed one-tenth of one percent of the total contract cost or $2,500, whichever is greater, the use of such material meeting the limitations herein will not be restricted by the domestic requirements herein. However, by signing the bid, the Bidder certifies that such cost does not exceed the limits established herein.

**Waivers:**

With prior concurrence from Federal Highway Administration (FHWA) headquarters, the Federal Highway Division Administrator may grant a waiver to specific projects provided it can be demonstrated:

1. that the use of domestic steel or iron materials would be inconsistent with the public interest; or
2. materials or products requested for use are not produced in the United States in sufficient or reasonably available quantities and are of satisfactory quality for use in the permanent work.

The waiver request shall be submitted with supportive information to include:

1. Project number\description, project cost, waiver item, item cost, country of origin for the product, reason for the waiver, and
2. Analysis of redesign of the project using alternative or approved equal domestic products
In order to grant such a waiver the request for the waiver must be published in the Federal Register for a period not less than 15 days or greater than 60 days prior to waiving such requirement. An initial 15 day comment period to the waiver will be available to the public by means of the FHWA website: http://www.fhwa.dot.gov/construction/contracts/waivers.cfm. Following that initial 15 day period of review and comment the request for waiver will be published by the FHWA in the Federal Register. The effective date of the FHWA finding, either to approve or deny the waiver request, will be 15 days following publication in the Federal Register.

Only the FHWA Administrator may grant nationwide waivers which still are subject to the public rulemaking and review process.

**Alternative Bidding Procedures:**

An alternative bidding procedure may be employed to justify the use of foreign iron and/or steel. To qualify under this procedure the total project is bid using two alternatives, one based on the use of domestic products and the other, the use of corresponding foreign source steel and/or iron materials.

In accordance with the provisions of Section 103.02 the Contract will be awarded to the lowest responsive and responsible bidder who submits the lowest total bid based on furnishing domestic iron or steel unless such total exceeds the lowest total bid based on furnishing foreign iron and/or steel by more than 25 percent, in which case the award will be made to the lowest responsive and responsible bidder furnishing foreign iron and/or steel based upon furnishing verifiable supportive data. The bidder shall submit a bid based on permanently incorporating only domestic iron and/or steel in the construction of the project. The bidder may also submit a bid for the same proposed contract based on being allowed to permanently incorporate corresponding foreign iron and/or steel materials meeting the other contract requirements into the work on the contract. If he chooses to submit such a bid, that alternate bid shall clearly indicate which foreign iron and/or steel items will be permanently installed in the work as well as contain prices for all other items listed in the corresponding domestic proposal to complete a total “Foreign” bid.

In the event the contract is awarded to the bidder furnishing foreign iron and/or steel materials or items the provision for price adjustment of steel items will be permitted, however, price fluctuations shall use the U.S. index as stated in the Special Provision for Price Adjustment For Steel. The Contractor must indicate which corresponding eligible steel items he chooses price adjustment to apply. In the event the contract is awarded to a bidder furnishing foreign iron and/or steel items and during the life of that contract the Contractor discovers he can not furnish foreign iron and/or steel material as originally anticipated and agreed upon, he shall be responsible to honor the total bid price and furnish such iron and/or steel materials meeting the contract requirements from other sources as necessary to complete the work.

In the event the Contractor proposes to furnish "foreign" iron and steel and can verify a savings in excess of 25 percent of the overall project cost if bid using domestic materials, the
Contractor shall submit a second complete paper bid proposal clearly marked “Foreign” including Form C-7 and supportive data supplement on all sheets. Supportive data shall list, but not be limited to, origin of material, best price offer, quantity and complete description of material, mill analysis, evidence or certification of conformance to contract requirements, etc. The “Foreign” bid shall be completed using the best price offer for each corresponding bid item supplying foreign material in the alternative bid and submit the same with the Contractor’s “Domestic” bid. The Contractor shall write the word “Foreign” by the bid total shown on Form C-7 as well as last page of Schedule of Items showing the total bid amount. The bidder shall also contact the State Contract Engineer to inform him that he is also submitting an alternate “Foreign” paper bid.

The information listed on the supportive data sheet(s) will be used to provide the basis for verification of the required cost savings. In the event comparison of the prices given, or corrected as provided in Section 103.01 of the Specifications, shows that use of "foreign" iron and steel items does not represent a cost savings exceeding the aforementioned 25 percent, "domestic" iron and/or steel and prices given there for shall be used and the "100 percent Domestic Items Total" shall be the Contractor's bid.

Certification of Compliance:

Where domestic material is supplied, prior to incorporation into the Work, the Contractor shall furnish to the Department a certificate of compliance (such as may be furnished by steel mill test reports) that all steel and/or iron products supplied to the project except as may be permitted (one-tenth of one percent of the total contract cost or $2,500, whichever is greater) and permanently incorporated into the work satisfies the domestic requirements herein. This certification shall contain a definitive statement about the origin of all products covered under the provisions of Buy America as stated herein.

In lieu of the Contractor providing personal certification, the Contractor may furnish a stepped certification in which each handler of the product, such as supplier, fabricator, manufacturer, processor, etc. furnishes an individual certification that their step in the process was domestically performed.
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT

INVITATION TO BID NO. 723-14

BID FORM

SUBMIT TWO (2) FULLY-COMPLETED AND SIGNED BID FORMS TO THE OFFICE OF THE BID CLERK, SUITE 511, 2100 CLARENDON BLVD., ARLINGTON, VIRGINIA, 22201 (ONE FORM SHALL CONTAIN AN ORIGINAL LONGHAND SIGNATURE; THE OTHER SHALL BE A PHOTOCOPY OF THE SIGNED ORIGINAL)

BIDS WILL BE OPENED AT 3:00 P.M., ON January 22nd, 2015

FOR PROVIDING TRAFFIC AND PEDESTRIAN MOVEMENT COUNTS AND RELATED DATA COLLECTION SERVICES FOR APPROXIMATELY 280 INTERSECTIONS WITHIN ARLINGTON COUNTY PER THE TERMS, CONDITIONS AND SPECIFICATIONS OF THIS SOLICITATION:

YOU MUST ATTACH A COMPLETED EXHIBIT A “PRICING SHEET”. YOU MUST PROVIDE A UNIT PRICE FOR EVERY LINE ITEM IN ORDER TO BE CONSIDERED RESPONSIVE. YOU MUST PROVIDE ONLY ONE UNIT PRICE FOR EVERY LINE ITEM.

MINIMUM QUALIFICATION REQUIREMENTS:

Mark a yes/no answer to all questions below and provide required documentation. BIDS SUBMITTED WITHOUT THE SUPPORTING DOCUMENTATION MAY BE CONSIDERED NONRESPONSIVE.

1. Does your company have three (3) years minimum experience administering pedestrian and vehicle traffic counts?

□ Yes □ No

Bidders shall provide the following information:

□ Number of years your company has been engaged in traffic counts business under your present name

□ State names and dates of previous business names, if any.

The undersigned understands and acknowledges the following:

The official, true, and complete copy of the solicitation documents, WHICH SHALL INCLUDE ALL AMENDMENTS THERETO, is the electronic copy of the solicitation documents provided at the County Purchasing Agent’s website (http://www.arlingtonva.us/purchasing).

Each bidder is responsible for determining the accuracy and completeness of ALL solicitation documents they receive, including documents obtained from the County, and documents obtained from all other sources.
TRADE SECRETS OR PROPRIETARY INFORMATION:
Trade secrets or proprietary information submitted by a bidder in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, Section 4-111 of the Arlington County Purchasing Resolution states that the bidder must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

Please mark one:

( ) No, the bid I have submitted does not contain any trade secrets and/or proprietary information.

( ) Yes, the bid I have submitted does contain trade secrets and/or proprietary information.

If Yes, you must clearly identify below the exact data or other materials to be protected and list all applicable page numbers of the bid containing such data or materials:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

State the specific reason(s) why protection is necessary:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

If you fail to identify the data or other materials to be protected and state the reasons why protection is necessary in the space provided above, you will not have invoked the protection of Section 4-111 of the Purchasing Resolution. Accordingly, effective upon the award of contract, the bid will be open for public inspection consistent with applicable law.

CERTIFICATION OF NON-COLLUSION: The undersigned certifies that this bid is not the result of, or affected by, any act of collusion with another person (as defined in the Code of Virginia § 59.1-68.6 et seq.), engaged in the same line of business or commerce; or any act of fraud punishable under the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.).
CONTACT PERSON AND MAILING ADDRESS FOR DELIVERY OF NOTICES

Provide the name and address of the person designated by the Bidder to receive notices and other communications (Refer to section headed Notices in the Contract Terms and Conditions of this solicitation for further details):

___________________________________________________________
___________________________________________________________
___________________________________________________________

THE PROPER LEGAL NAME OF THE FIRM OR ENTITY SUBMITTING THIS BID MUST BE WRITTEN IN THE SPACE PROVIDED BELOW. THIS BID FORM, AND ALL OTHER DOCUMENTS REQUIRED BY THE INVITATION TO BID TO BE SUBMITTED WITH THIS BID FORM, INCLUDING, BUT NOT LIMITED TO ALL ISSUED AMENDMENTS, MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BELOW BY A PERSON AUTHORIZED TO LEGALLY BIND THE BIDDER, OR THE BID MAY BE REJECTED:

AUTHORIZED SIGNATURE ________________________________

PRINT NAME AND TITLE ________________________________

INDICATE THE NAME AND CONTACT INFORMATION OF THE PERSON WHO CAN RESPOND AUTHORITATIVELY TO ANY QUESTIONS REGARDING THIS BID (I.E. PROJECT MANAGER):

NAME (PRINTED): ___________________________ TITLE: ___________________________

E-MAIL ADDRESS: ___________________________ TEL. NO.: ___________________________
| **SUBMITTED BY:** (LEGAL NAME OF ENTITY) |
| **ADDRESS:** |  |
| **CITY/STATE/ZIP:** |  |
| **TELEPHONE NO:** | **FACSIMILE NO.:** |  |

<table>
<thead>
<tr>
<th>THIS FIRM IS A: • INSERT NAME OF STATE</th>
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<tbody>
<tr>
<td>___ CORPORATION, ___ GENERAL PARTNERSHIP, ___ LIMITED PARTNERSHIP,</td>
</tr>
<tr>
<td>___ UNINCORPORATED ASSOCIATION, ___ LIMITED LIABILITY COMPANY,</td>
</tr>
<tr>
<td>___ SOLE PROPRIETORSHIP</td>
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<table>
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<tr>
<th>IS FIRM AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VA?</th>
</tr>
</thead>
<tbody>
<tr>
<td>IDENTIFICATION NO. ISSUED TO THE FIRM BY THE SCC:</td>
</tr>
</tbody>
</table>

| ANY BIDDER EXEMPT FROM SCC AUTHORIZATION REQUIREMENT SHALL INCLUDE A STATEMENT WITH ITS BID WHY THEY ARE NOT REQUIRED TO BE SO AUTHORIZED |

<table>
<thead>
<tr>
<th>IS YOUR FIRM OR ANY OF ITS PRINCIPALS CURRENTLY DEBARRED FROM SUBMITTING BIDS TO ARLINGTON COUNTY, VIRGINIA, OR ANY OTHER STATE OR POLITICAL SUBDIVISION?</th>
</tr>
</thead>
</table>

| BIDDER STATUS: | MINORITY OWNED: | WOMAN OWNED: | NEITHER: |
## INSURANCE CHECKLIST

**NOTE:** CERTIFICATE OF INSURANCE MUST SHOW ALL COVERAGE AND ENDORSEMENTS MARKED "X".

<table>
<thead>
<tr>
<th>Coverages Required</th>
<th>Coverage Minimum(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>X 1. Workers' Compensation ..........</td>
<td>$100,000 accident, $100,000 disease, $500,000 disease policy limit</td>
</tr>
<tr>
<td>X 2. Employer's Liability ...........</td>
<td>$1,000,000 CSL BI/PD each occurrence, $2 Million annual aggregate</td>
</tr>
<tr>
<td>X 3. Commercial General Liability ...</td>
<td>$500,000 CSL BI/PD each occurrence, $1 Million annual aggregate</td>
</tr>
<tr>
<td>X 4. Premises/Operations .............</td>
<td>$500,000 CSL BI/PD each occurrence, $1 Million annual aggregate</td>
</tr>
<tr>
<td>X 5. Automobile Liability ...........</td>
<td>$1 Million BI/PD each accident, Uninsured Motorist</td>
</tr>
<tr>
<td>X 6. Owned/Hired/Non-Owned Vehicles</td>
<td>$1 Million BI/PD each accident, Uninsured Motorist</td>
</tr>
<tr>
<td>X 7. Independent Contractors .......</td>
<td>$500,000 CSL BI/PD each occurrence, $1 Million annual aggregate</td>
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<tr>
<td>X 8. Products Liability ..............</td>
<td>$500,000 CSL BI/PD each occurrence, $1 Million annual aggregate</td>
</tr>
<tr>
<td>X 9. Completed Operations ............</td>
<td>$500,000 CSL BI/PD each occurrence, $1 Million annual aggregate</td>
</tr>
<tr>
<td>X 10. Contractual Liability ..........</td>
<td>$500,000 CSL BI/PD each occurrence, $1 Million annual aggregate</td>
</tr>
<tr>
<td>X 11. Personal and Advertising Injury Liability</td>
<td>$1 Million each offense, $1 Million annual aggregate</td>
</tr>
<tr>
<td>X 12. Umbrella Liability .............</td>
<td>$1 Million Bodily Injury, Property Damage and Personal Injury</td>
</tr>
<tr>
<td>X 13. Per Project Aggregate ..........</td>
<td>$1 Million per occurrence/claim</td>
</tr>
<tr>
<td>X 14. Professional Liability .......</td>
<td>$1 Million per occurrence/claim</td>
</tr>
<tr>
<td>X 15. Miscellaneous E&amp;O ................</td>
<td>$1 Million per occurrence/claim</td>
</tr>
<tr>
<td>X 16. Motor Carrier Act End. (MCS-90)</td>
<td>$1 Million BI/PD each accident, Uninsured Motorist</td>
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<tr>
<td>X 17. Motor Cargo Insurance ..........</td>
<td></td>
</tr>
<tr>
<td>X 18. Garage Liability ..............</td>
<td>$1 Million Bodily Injury, Property Damage per occurrence</td>
</tr>
<tr>
<td>X 19. Garagekeepers Liability .......</td>
<td>$500,000 Comprehensive, $500,000 Collision</td>
</tr>
<tr>
<td>X 20. Inland Marine-Bailee's Insurance</td>
<td>$</td>
</tr>
<tr>
<td>X 21. Moving and Rigging Floater ..........</td>
<td>Endorsement to CGL</td>
</tr>
<tr>
<td>X 22. Crime and Employee Dishonesty Coverage</td>
<td>$</td>
</tr>
<tr>
<td>X 23. Builder's Risk ...............</td>
<td>Provide Coverage in the full amount of Contract, including any amendments</td>
</tr>
<tr>
<td>X 24. XCU Coverage .....................</td>
<td>Endorsement to CGL</td>
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<tr>
<td>X 25. USL&amp;H .............................</td>
<td>Federal Statutory Limits</td>
</tr>
<tr>
<td>X 26. Carrier Rating shall be A.M. Best Co.'s Rating of A-VII or better or equivalent</td>
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<tr>
<td>X 27. Notice of Cancellation, nonrenewal or material change in coverage shall be provided to County at least 30 days prior to action.</td>
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<tr>
<td>X 28. The County shall be an Additional Insured on all policies except Workers Compensation and Auto and Professional Liability.</td>
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<tr>
<td>X 29. Certificate of Insurance shall show Bid Number and Bid Title.</td>
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<tr>
<td>X 30. OTHER INSURANCE REQUIRED:</td>
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### INSURANCE AGENT'S STATEMENT:
I have reviewed the above requirements with the bidder named below and have advised the bidder of required coverages not provided through this agency.

**AGENCY NAME:** ___________________________  **AUTH. SIGNATURE:** ___________________________

### BIDDER'S STATEMENT:
If awarded the Contract, I will comply with all Contract insurance requirements.

**BIDDER NAME:** ___________________________  **AUTH. SIGNATURE:** ___________________________
All bidders, including DBEs bidding as Prime Contractors, shall complete and submit the following information as requested in this form within ten (10) business days after the opening of bids. The bidder certifies this form accurately represents its solicitation and utilization or non-utilization, as indicated, of the firms listed below for performance of work on this contract. The bidder also certifies he/she has had direct contact with the named firms regarding participation on this project.

BIDDER_____________________________ SIGNATURE_____________________

TITLE___________________________________________________________

SUBCONTRACTOR/SUPPLIER SOLICITATION AND UTILIZATION (ALL)

<table>
<thead>
<tr>
<th>VENDOR NUMBER</th>
<th>NAME OF SUBCONTRACTOR/SUPPLIER</th>
<th>TELEPHONE NUMBER</th>
<th>DBE OR NON-DBE</th>
<th>UTILIZED (Y/N)</th>
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</table>

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY. BIDDER MUST SIGN EACH ADDITIONAL SHEET TO CERTIFY ITS CONTENT AND COMPLETION OF FORM.
If, at the time of submitting its bid, the bidder knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 exhibiting the DBE participation it commits to attain as a part of its bid documents. The bidder shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the bid opening.

**CONTRACT I.D. NUMBER** __________________________

**PROJECT NUMBER**_____________

**FHWA NUMBER**_____________

**DISTRICT** __________________________________________________________________________

**DATE BID SUBMITTED** __________________________________________________________________

**BIDDER’S NAME** _______________________________________________________________________

**SIGNATURE** __________________________________________________________________________

**TITLE** ______________________________________________________________________________

**VENDOR NUMBER** _______________________________________________________________________

**DBE GOAL FROM BID PROPOSAL** ___________________________________________________________
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14  DATE SUBMITTED________

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER_________________ SIGNATURE______________________________

TITLE________________________________________________________

NAMES OF CERTIFIED DBEs AND THE DATES ON WHICH THEY WERE SOLICITED TO BID ON THIS PROJECT

INCLUDE THE ITEMS OF WORK OFFERED AND THE DATES AND METHODS USED FOR FOLLOWING UP INITIAL SOLICITATIONS TO DETERMINE WHETHER OR NOT DBEs WERE INTERESTED.

<table>
<thead>
<tr>
<th>NAMES AND VENDOR NUMBERS OF DBEs SOLICITED</th>
<th>DATE OF INITIAL SOLICITATION</th>
<th>ITEM(S) OF WORK</th>
<th>FOLLOW-UP METHODS AND DATES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY ATTACH COPIES OF SOLICITATIONS, TELEPHONE RECORDS, FAX CONFIRMATIONS, ELECTRONIC INFORMATION, ETC.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED____________________

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER___________________ SIGNATURE__________________________

TITLE__________________________

### TELEPHONE LOG

<table>
<thead>
<tr>
<th>DBE(s) CALLED</th>
<th>TELEPHONE NUMBER</th>
<th>DATE CALLED</th>
<th>TIME CALLED</th>
<th>CONTACT PERSON OR VOICE MAIL STATUS</th>
</tr>
</thead>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO.  500-14  
DATE SUBMITTED ________________

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER  SIGNATURE  
TITLE  

ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS IDENTIFY THOSE ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS OR THOSE ITEM(S) THE BIDDER IDENTIFIED AND DETERMINED TO SUBDIVIDE INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE DBE PARTICIPATION. FOR EACH ITEM LISTED, SHOW THE DOLLAR VALUE AND PERCENTAGE OF THE TOTAL CONTRACT AMOUNT. IT IS THE BIDDER’S RESPONSIBILITY TO DEMONSTRATE THAT SUFFICIENT WORK TO MEET THE GOAL WAS MADE AVAILABLE TO DBE FIRMS.

<table>
<thead>
<tr>
<th>ITEM(S) OF WORK AVAILABLE</th>
<th>BIDDER NORMALLY PERFORMS ITEM(S) (Y/N)</th>
<th>ITEM(S) BROKEN DOWN TO FACILITATE PARTICIPATION (Y/N)</th>
<th>AMOUNT IN DOLLARS</th>
<th>PERCENTAGE OF CONTRACT</th>
</tr>
</thead>
</table>

NOTE: INFORMATION REQUIRED FOR THIS SECTION CONTINUED ON SHEET 5
ATTACH ADDITIONAL PAGES IF NECESSARY.
# COMMONWEALTH OF VIRGINIA
## DEPARTMENT OF TRANSPORTATION
### DBE GOOD FAITH EFFORTS DOCUMENTATION

**CONTRACT I.D. NO.** 500-14  
**DATE SUBMITTED**______________

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

**BIDDER**________________________  **SIGNATURE**____________________________________

**TITLE**_______________________________________________________________________

ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS *(Continued From Sheet 4)*

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

<table>
<thead>
<tr>
<th>ITEM(S) OF WORK MADE AVAILABLE (CONT.)</th>
<th>NAME OF SELECTED FIRM AND VENDOR NUMBER</th>
<th>DBE OR NON-DBE</th>
<th>NAME OF REJECTED FIRM(S)</th>
<th>QUOTE IN DOLLARS</th>
<th>PRICE DIFFERENCE IN DOLLARS</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

**NOTE:** ATTACH ADDITIONAL PAGES IF NECESSARY.  
IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH. PROVIDE NAMES, ADDRESSES, AND TELEPHONE NUMBERS FOR THE FIRMS LISTED ABOVE.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED ______________

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER ___________________ SIGNATURE _________________________________

TITLE ________________________________________________________________

ADVERTISEMENTS OR PROOFS OF PUBLICATION

NAMES AND DATES OF EACH PUBLICATION IN WHICH A REQUEST FOR DBE PARTICIPATION FOR THE PROJECT WAS PLACED BY THE BIDDER. ATTACH COPIES OF PUBLISHED ADVERTISEMENTS OR PROOFS OF PUBLICATION.

<table>
<thead>
<tr>
<th>PUBLICATIONS</th>
<th>DATES OF ADVERTISEMENT</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER ___________________ SIGNATURE ________________________________

TITLE ________________________________

NAMES OF AGENCIES CONTACTED TO PROVIDE ASSISTANCE

NAMES OF AGENCIES (SEE SPECIAL PROVISION FOR 110.04) AND THE DATES THESE AGENCIES WERE CONTACTED TO PROVIDE ASSISTANCE IN CONTACTING, RECRUITING, AND USING DBE FIRMS. IF THE AGENCIES WERE CONTACTED IN WRITING, ATTACH COPIES OF SUPPORTING DOCUMENTS.

<table>
<thead>
<tr>
<th>NAME OF AGENCY</th>
<th>METHOD AND DATE OF CONTACT</th>
<th>RESULTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED__________________

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER____________________ SIGNATURE________________________________

TITLE__________________________________________________________________

TECHNICAL ASSISTANCE AND INFORMATION PROVIDED TO DBEs

EFFORTS MADE TO PROVIDE INTERESTED DBEs WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE BID DOCUMENTS TO ASSIST THE DBEs IN RESPONDING TO A SOLICITATION.

IDENTIFY THE DBEs ASSISTED, THE INFORMATION PROVIDED, AND THE DATE OF CONTACT. ATTACH COPIES OF SUPPORTING DOCUMENTS.

<table>
<thead>
<tr>
<th>DBEs ASSISTED</th>
<th>INFORMATION PROVIDED</th>
<th>DATE OF CONTACT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14   DATE SUBMITTED __________________

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER____________________ SIGNATURE_____________________________

TITLE______________________________________________________________

EFFORTS MADE TO ASSIST DBEs OBTAIN BONDING, LINES OF CREDIT, INSURANCE, ETC.
EFFORTS MADE TO PROVIDE INTERESTED DBEs IN OBTAINING BONDING, LINES OF CREDIT, INSURANCE, NECESSARY EQUIPMENT, SUPPLIES, MATERIALS, OR RELATED ASSISTANCE OR SERVICES, EXCLUDING SUPPLIES AND EQUIPMENT THE SUBCONTRACTOR PURCHASES OR LEASES FROM THE PRIME CONTRACTOR OR ITS AFFILIATES.

IDENTIFY THE DBEs ASSISTED, THE ASSISTANCE OFFERED, AND THE DATES OF SERVICES OFFERED AND PROVIDED. ATTACH COPIES OF SUPPORTING DOCUMENTS.

<table>
<thead>
<tr>
<th>DBEs ASSISTED</th>
<th>ASSISTANCE OFFERED</th>
<th>DATES SERVICES OFFERED AND/OR PROVIDED</th>
</tr>
</thead>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. 500-14 DATE SUBMITTED______________

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER_________________ SIGNATURE_________________________________________

TITLE__________________________________________________________

<table>
<thead>
<tr>
<th>ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS</th>
</tr>
</thead>
</table>

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CERTIFICATION OF BINDING AGREEMENT
WITH
DISADVANTAGED BUSINESS ENTERPRISE FIRMS

Project No.: TSMO-000-719, M503, UPC 101689
Federal Project No.: STP-5A01(513)

This form is to be submitted in accordance with the Department’s Special Provision for Section 107.15.

It is hereby certified by the below signed Contractors that there exists a written quote, acceptable to the parties involved preliminary to a binding subcontract agreement stating the details concerning the work to be performed and the price which will be paid for the aforementioned work. This document is not intended to, nor should it be construed to, contain the entire text of the agreement between the contracting parties. This document does not take the place of, nor may it be substituted for, an official subcontracting agreement in those situations that may require such an agreement. A copy of the fully executed subcontract agreement shall be submitted to the Engineer within fourteen (14) business days after contract execution.

It is further certified that the aforementioned mutually acceptable quote and fully executed subcontract agreement represent the entire agreement between the parties involved and that no conversations, verbal agreements, or other forms of non-written representations shall serve to add to, delete, or modify the terms as stated.

The prime Contractor further represents that the aforementioned mutually acceptable quote and fully executed subcontract agreement shall remain on file for a period of not less than one year following completion of the prime's contract with the Department or for such longer period as provisions of governing Federal or State law or regulations may require. For purposes of this form, the term Prime Contractor shall refer to any Contractor utilizing a DBE subcontractor, regardless of tier, in which they are claiming DBE credit toward the contract goal.

Contractors further jointly and severally represent that said binding agreement is for the performance of a "commercially useful function" as that term is employed in 49 C.F.R. Part 26.55 (c), (d).
TO BE SIGNED BY THE SUBCONTRACTOR TO THE PRIME CONTRACTOR, AND ANY LOWER TIER SUBCONTRACTORS HAVING A CONTRACT WITH THE BELOW NAMED DBE FIRM

Prime Contractor

By: ___________________________     ___________________________
    Signature                     Title
    Date: _________________________

First Tier Subcontractor if Applicable

By: ___________________________     ___________________________
    Signature                     Title
    Date: _________________________

Second Tier Subcontractor if Applicable

By: ___________________________     ___________________________
    Signature                     Title
    Date: _________________________

Third Tier Subcontractor if Applicable

By: ___________________________     ___________________________
    Signature                     Title
    Date: _________________________

DBE Contractor

By: ___________________________     ___________________________
    Signature                     Title
    Date: _________________________
COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF TRANSPORTATION
MINIMUM DBE REQUIREMENTS

PROJECT NO: TSMO-000-719, M503, UPC 101689
FHWA NO: STP-5A01(513)

***INSTRUCTIONS***

THIS FORM CAN BE USED BY THE CONTRACTOR TO SUBMIT THE NAMES OF DBE FIRMS TO BE UTILIZED ON THE PROJECT. THE CONTRACTOR SHALL INDICATE THE DESCRIPTION OF THE CATEGORY (S, M, SP or H) AND THE TYPE OF WORK THAT EACH DBE WILL PERFORM AND THE ALLOWABLE CREDIT PER ITEM(S). ADDITIONAL SHEETS TO SHOW THE ALLOWABLE CREDIT PER ITEM MAY BE ATTACHED IF NECESSARY. PLEASE NOTE: THE AMOUNT OF ALLOWABLE CREDIT FOR A DBE SUPPLIER IS 60% OF THE TOTAL COST OF THE MATERIALS OR SUPPLIES OBTAINED AND 100% FOR A DBE MANUFACTURER OF THE MATERIALS AND SUPPLIES OBTAINED. A CONTRACTOR MAY COUNT 100% OF THE FEES PAID TO A DBE HAULER FOR THE DELIVERY OF MATERIALS AND SUPPLIES TO THE PROJECT SITE, BUT NOT FOR THE COST OF THE MATERIALS AND SUPPLIES THEMSELVES.

<table>
<thead>
<tr>
<th>DBE REQUIREMENT</th>
<th>0 %</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERCENT ATTAINED BY BIDDER</td>
<td>%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME(s) AND CERTIFICATION NO. OF DBE(s) TO BE USED</th>
<th>USED AS</th>
<th>TYPE OF WORK AND ITEM NO(S)</th>
<th>$ AMT. OF ALLOWABLE CREDIT PER ITEM</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SUBCONTR (S)</td>
<td>MFG. (M)</td>
<td>SUPPLIER (SP)</td>
</tr>
</tbody>
</table>

TOTAL: $ ________________

Total Contract Value $ ________________ X Required DBE _______ % = $ ________________

I/WE CERTIFY THAT THE PROPOSED DBE (S) SUBMITTED WILL BE USED ON THIS CONTRACT AS STATED HEREON AND ASSURE THAT DURING THE LIFE OF THE CONTRACT, I/WE WILL MEET OR EXCEED THE PARTICIPATION ESTABLISHED HEREON BY THE DEPARTMENT.

By ____________________
BIDDER

By ____________________
TITLE

By ____________________
SIGNATURE

By ____________________
DATE
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
AFFIDAVIT

PROJECT NO: TSMO-000-719, M503, UPC 101689

FHWA NO: STP-5A01(513)

This form must be completed, signed, notarized and returned with bid; and failure to do so, may result in the rejection of your bid. A separate form must be submitted by each principal of a joint venture bid.

1. I, the firm, corporation or officers, agents or employees thereof have neither directly nor indirectly entered into any combination or arrangement with any person, firm or corporation or entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract, the effect of which is to prevent competition or increase the cost of construction or maintenance of roads or bridges.

During the preceding twelve months, I (we) have been a member of the following Highway Contractor's Associations, as defined in Section 33.1-336 of the Code of Virginia (1970). (If none, so state).

<table>
<thead>
<tr>
<th>NAME</th>
<th>Location of Principal Office</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

2. I (we) have _____, have not _____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that I/We have _____, have not _____, filed with the joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

**Note:** The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor [41 CFR 60-1.7(b)(1)], and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contract or subcontracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contract and subcontract unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

3. The bidder certifies to the best of its knowledge and belief, that it and its principals:

   a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
b) e 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 offence 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 above; and

d) Where the bidder is unable to certify to any of the statements in this certification, the bidder shall show an explanation below.

Explanations will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any explanation noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administration sanctions. The bidder shall provide immediate written notice to the Department if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of change circumstances.

The undersigned is duly authorized by the bidder to make the foregoing statements to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at _____________________________, this ___ day of _____________________________, 20 ___

County (City), STATE

_______________________________________ By: ________________________________

(Name of Firm) (Signature) Title (print)

STATE of _____________________________ COUNTY (CITY) of _____________________________

To-wit: ________________________________, a Notary Public in and for the State and County(City) aforesaid, hereby certify that this day ________________________________, personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

Subscribed and sworn to before me this _____________________________ day of _____________________________, 20 ___

_______________________________________ My Commission expires _____________________________

Notary Public
COMMUNWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

PROJECT: TSMO-000-719, M503, UPC 101689

FHWA: STP-5A01(513)

This form must be completed, signed and returned with bid; and failure to do so may result in the rejection of your bid. THE CONTRACTOR SHALL AFFIRM THE FOLLOWING STATEMENT EITHER BY SIGNING THE AFFIDAVIT AND HAVING IT NOTARIZED OR BY SIGNING THE UNSWORN DECLARATION UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES. A SEPARATE FORM MUST BE SUBMITTED BY EACH PRINCIPAL OF A JOINT VENTURE BID.

STATEMENT. In preparation and submission of this bid, I, the firm, corporation or officers, agents or employees thereof did not, either directly or indirectly, enter into any combination or arrangement with any persons, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Article 1.1 or Chapter 12 of Title 18.2 (Virginia Governmental Frauds Act), Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

AFFIDAVIT

The undersigned is duly authorized by the bidder to make the foregoing statement to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at _____________________________, this ____ day of ______________, 20____, County (City), STATE
______________________________
(Name of Firm) By: ____________________________
(Signature) Title (print)

STATE of _____________________________ COUNTY (CITY) of _____________________________

I _____________________________, a Notary Public in and for the State and County(City) aforesaid, hereby certify that this day _____________________________ personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

Subscribed and sworn to before me this __________ day of _____________________________, 20____

______________________________ My Commission expires _____________________________
Notary Public OR