

# REQUEST FOR PROPOSAL

Analysis of Transportation Projects in Northern Virginia

REFERENCE NO: TMPD 13-03



## GENERAL

The Virginia Department of Transportation (VDOT) is seeking expressions of interest from innovative and dynamic consulting planning and/or engineering firms who wish to be considered to provide planning and engineering services for the northern Virginia District's transportation planning staff to fulfill a requirement in the Code of Virginia under year 2012 Chapters 768 and 825, [section 33.1-13.03:1](#). The Code requires that "VDOT, in ongoing coordination with the Commonwealth Transportation Board (CTB), the Department of Rail and Public Transportation (DRPT) and the Northern Virginia Transportation Authority (NVTA), shall evaluate at least 25 significant transportation projects, including highway, mass transit and technology projects, in and near the Northern Virginia Transportation district." The CTB, in ongoing coordination with the NVTA, is to consider the evaluative study findings in allocations of transportation funds. Further, in respect to certain timing of this work and study use, year [2013 Chapter 766 \(HB 2313\)](#) directs that the NVTA is to use certain regional transportation revenues: "*solely to fund (i) transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with § [15.2-4830](#) and that have been rated in accordance with § [33.1-13.03:1](#) or (ii) mass transit capital projects that increase capacity. For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with § [33.1-13.03:1](#) shall not apply*". For the purpose of this document CTB/CTB members, NoVA VA General Assembly members and the NVTA will be referred to as the primary stakeholders. VDOT intends to conduct this study consistent with the mandates of the VA code (especially year 2012 Chapters 768 and 825, [section 33.1-13.03:1](#)) utilizing the Department's policies and procedures, any applicable FHWA's guidelines and best practices in the conduct of transportation planning studies.

This Request for Proposal does not commit the Department to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The Department reserves the right to award contracts to more than one qualified firm, to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the Request for Proposal, if it is in the best interest of the Department to do so.

The Northern Virginia (NoVA) District's Transportation Planning Section has been tasked to manage this study. The Transportation Planning Section of VDOT NoVA District is responsible for promoting and advancing multimodal long and short-range transportation planning in the NOVA District. The Transportation Planning Section works with the NOVA localities and other public agencies to ensure multimodal solutions are identified, studied and implemented.

The estimated project cost is up to \$3,000,000.

## SCOPE OF WORK

The VA Code (Chapters 768 and 825; §33.1-13.03:1) assigns VDOT responsibility for evaluating at least 25 significant transportation projects, including highway, mass transit and technology projects, in and near the Northern Virginia Transportation district. The VA Code also states that "the evaluation shall provide an objective, quantitative rating for each project according to the degree to which the project is expected to reduce congestion and, to the extent feasible, the degree to which the project is expected to improve regional mobility in the event of a homeland security emergency". Per the requirement of the VA Code, the process of conducting this study will include coordination with the CTB, the DRPT and the NVTA.

The scope of the study, based on the mandates and/or guidance contained in the VA Code (Chapters 768 and 825), includes: (a) evaluating at a minimum 25 significant transportation projects; (b) selecting the projects for evaluation according to priorities determined by the CTB without regard for the funding source of the project, (c) the evaluation relying on analytical techniques and transportation modeling, (d) when available, using the results of transportation modeling performed for certain projects by other entities, and (e) evaluating projects included in but not limited to projects in the Constrained Long Range Plan (CLRP), the Transaction 2040 Plan; and other highway, transit and technology projects that could make a significant impact on mobility in the region. The VA Code also notes the following projects which may be evaluated in the study: additional Potomac River crossings west and south of Washington, D.C, extension of Metro Orange Line, Metro Yellow Line and Metro Blue Line; bus rapid transit on Interstate Route 66, vehicle capacity and mass transit improvements on the US Route 1 corridor and relevant portions of the Statewide Transportation Plan (presently VTrans2035 and its Surface Transportation Plan element).

Depending on the scope of the project to be evaluated and the estimate of time and money needed to implement the project, it is likely that projects evaluated and rated will fall into either a near-term or a long-term time frame.

VDOT anticipates the study process to include coordination with the primary stakeholders - CTB and/or members of the CTB, members of the northern Virginia delegation of the General Assembly and the NVTA - at important milestones as determined by the study management team in consultation with the selected consulting firm/team.

VDOT also anticipates holding at least two public information meetings to brief the general public about the progress and findings of the study. While the milestone of these public informational meetings will be determined by the study management team in consultation with the consulting firm/team, likely milestones for sharing information could include (1) completion of the draft list of projects to evaluate and (2) completion of the draft results of the evaluation.

VDOT will be establishing a Peer Review Group to assist the study team with advisory inputs on the technical approach/ methodology to be used in the evaluation. The members of the Peer Review Group will be individual subject matter experts representing themselves/ educational institution/ transportation institutes from outside of the Commonwealth of Virginia. The scope will include meetings with the Peer Review Group at key stages determined by the Management team and the consulting firm/team, to discuss and finalize the technical approach to project evaluation.

The study scope includes developing a status report for publication on VDOT's web site every six months, developing interim and/ or technical documents at substantive milestones as determined by the study management team in consultation with the selected consulting firm/team and developing a detailed final report of the study. The final report will be prepared in hard copy as well as electronic copy for posting on the VDOT website, complete with illustrative and self explanatory maps.

The consultant will provide a project schedule or timeline to complete the study by VDOT's preferred date of December 31, 2014. This timeline will include the project milestones; public, peer review and stakeholder outreach; and the required six month progress reporting to the General Assembly.

## **STUDY MANAGEMENT**

The study structure will include a Management team composed of the Transportation Planning Director of VDOT's Northern Virginia District office, selected staff members of VDOT and DRPT

with expertise in transportation planning, modeling, traffic operations and project development and any other staff member of the coordination entities specified in the VA Code. The Management Team will be responsible for full oversight of the planning study. It will interact with the consulting firm/ team in all aspects of the study and provide input for the development of project parameters, review technical products, and assist in public outreach. Senior managers at VDOT and DRPT will serve as liaison to the General Assembly, the CTB, and the NVTAs members. Members of the study management team, with assistance from the members of the consulting firm/ team, will keep senior managers apprised of the study progress, particularly prior to the public information meetings and assist them in their liaising activities as needed.

Additionally VDOT will establish a Peer Review Group consisting of independent, out of state subject matter experts. The primary purpose of the Peer Review Group will be to ensure that the technical analysis of project evaluation is conducted objectively using established/sound analytical methods and/ or tools. The members of the Peer Review Group will be individual subject matter experts representing themselves/educational institutions/ transportation institutes/ research centers from within the USA but outside of the Commonwealth of Virginia. The Group will review the proposed technical process and analysis methods and provide input to the consultant and technical team at key stages of the project. The Management team and members of the consulting firm/ team will meet with the Peer Review Group at certain study junctures, to be mutually determined.

## **PROPOSAL**

Consultants will develop a proposal which responds to the mandates of Virginia Code Chapters 768 and 825, section 33.1-13.03:1 and the scope framework as described above. The proposal in response to this solicitation will include an overall description of a general approach to all aspects of the study such as: (a) establishing a process and criteria to identify 25 to 30 significant multimodal projects to reduce congestion in Northern Virginia; (b) establishing a set of multimodal measures of effectiveness (MOEs) to assess each project's ability to reduce congestion; (c) development of mode appropriate and project specific modeling/analyses methodology for each project to generate the MOEs; (e) development and application of an appropriate and objective system of rating each project's ability to reduce congestion and the degree to which the project is expected to improve regional mobility in the event of a homeland security emergency.

The proposal will identify discrete tasks in a logical sequence that will provide a technically sound and efficient approach for performing an objective evaluation and rating for at least 25 significant highway, mass transit and technology projects in northern Virginia. The proposal will include a schedule and specific deliverables from each task. VDOT believes that an effective approach to conduct the study would include aspects of the following tasks.

- Examination of data/ forecasts to establish baseline/ bench mark congestion levels
- Establishing CTB priorities for the Study
- Defining framework to assist stakeholders in nominating projects for evaluation
- Developing an effective outreach plan including coordination with the primary stakeholders
- Screening nominated projects to identify about 25 to 30 “significant” multimodal projects for evaluation/ rating in the study
- Establishing multimodal Measures of Effectiveness (MOEs) and technical approach to evaluate significant multimodal projects
- Performing technical analyses and Ratings of multimodal projects

Establishing baseline conditions: VDOT believes it is necessary to establish baseline travel/ congestion levels on both highway and mass transit modes. The projects to be evaluated will focus on reducing congestion including those to address operational bottlenecks causing congestion. As such, along with establishing locations and levels of congestion it is also necessary to consider identifying operational issues on both the highway and transit systems. Additionally, while establishing future baseline travel/ congestion levels, it is necessary to recognize that some of the projects to be evaluated will focus on near-term while others on longer-term. VDOT expects the proposals to include a description of how existing congestion levels on the highway and mass transit systems will be documented, identifying the data that will be gathered from existing sources and/ or collected for the study. VDOT will work with all identified agencies to request and secure any available data needed for the study.

VDOT has acquired the assistance of the Transportation Planning Board (TPB) staff to analyze the results of the forecasts from the air quality conformity analysis for the 2012 CLRP. The purpose of this analysis is to document traffic patterns and congestion levels for existing and future years based on the inputs to the 2012 CLRP. TPB staff will also be compiling the data and results from existing sources such as INRIX, SKYCOMP aerial surveys of regional freeways, MWCOG cooperative forecasts, and recent transportation studies and master plans prepared by state and local transportation agencies within the Northern Virginia District (e.g., WMATA, Fairfax County DOT's Consolidated Transportation Impact Analyses for Tyson's Corner from the Fairfax County Comprehensive Plan).

Framework to nominate projects: The first significant task of the study is the identification of about 25 to 30 "significant" highway, mass transit and technology projects that will reduce existing and/ or forecast congestion levels in northern Virginia. A requirement in the legislation is that the projects to be evaluated shall be selected "according to priorities determined by the Commonwealth Transportation Board, in ongoing coordination with the Northern Virginia Transportation Authority." The consultant shall assist in the clarification and interpretation of the CTB priorities through consultations with CTB members and review of CTB publications such as VTrans2035 and the Surface Transportation Plan. As noted earlier, projects considered for evaluation could come from the existing CLRP, VTrans2035/ Surface Transportation Plan, TransAction 2040, plans/ studies by other entities such as the MPO, local jurisdictions and other entities, and from the primary stakeholders (defined earlier). VDOT believes that a framework that uses the CTB priorities and the baseline congestion levels/ corridors will be helpful for stakeholders and others to nominate projects to be considered for evaluation.

Outreach/Communications: The consultant will identify an approach and format to reach out to the primary stakeholders (CTB/CTB members, NoVA VA General Assembly members and the NVTA) and to the public for their input at key junctures of the study. The consultant will help the Management team determine the appropriate points during the study process to obtain this input as well as potential methods to obtain and incorporate feedback.

Identifying projects for evaluation: VDOT envisions this task to be one of the early tasks and key components of the study. As a first step the consultant will help compile a list of projects to be considered for evaluation in this study. Project nominations for this initial and potentially large list of projects will come in response to a solicitation from the study team to the primary stakeholders (CTB/ General Assembly members of NoVA, the NVTA) and the study management team. The source of projects considered in the nomination process, as noted earlier, will include the current CLRP, TransAction 2040 Plan, VTrans2035, and the Surface Transportation Plan element of VTrans2035. The next step will be the selection of about 25 to 30 projects to be evaluated and rated by this Study. Projects selected have to comply with the mandate of the VA Code – significant

projects that reduce congestion and are consistent with the CTB's priorities. To assist in this nomination and selection of significant highway, mass transit and technology projects that address congestion the consultant will develop a set of objective criteria using the CTB's priorities and the analyses done in previous tasks to identify baseline locations and levels of congestion. This document will be shared with the stakeholders and those nominating the projects to help assist in developing projects to address congestion and also to ensure that the stakeholders are aware of the proposed basis of project selection. The projects selected should address previously identified congested conditions either existing and/ or forecasts for the future, both on the highway and transit systems.

Project evaluation and rating: The consultant will recommend Measures of Effectiveness (MOEs) which will be used to evaluate and rate all 25+ projects. In developing the MOEs, the consultant will consider measures available from the regional model and sketch model outputs, and may also consider secondary measures derived from model outputs via post processing of results. MOEs should depict a clear picture of the projects' impact on highway and/ or transit congestion, both in the immediate vicinity of the project and at a subarea level/ sub-regional level. It is possible that a benefit-cost analysis from the perspective of congestion reduction would be needed to inform the MOE matrix and as such the proposal should anticipate developing planning level costs estimates for the projects evaluated (including updating any prior estimates).

It is also necessary for the consultant to propose a methodology to assess the projects' ability to improve regional mobility in the event of a homeland security emergency. This could be either a qualitative or quantitative assessment, and will be performed independent of the congestion relief assessment. To the extent feasible, MOEs to capture the projects' contribution to improving mobility during homeland security emergencies will be examined. VDOT envisions consulting the Peer Review Group on the methodology and any proposed MOEs to assess and rate this aspect of a project's performance.

According to the legislation, the evaluation "shall rely on analytical techniques and transportation modeling, including those that employ computer simulations currently and customarily employed in transportation planning." For the bulk of the projects, whenever possible, it is envisioned that the TPB's regional Travel Demand Model (with modifications as needed) will be used to generate the MOE's. Where it is not prudent to do so OR beneficial to apply other models/modeling approach (such as for ITS/ TDM projects), the consultant will recommend an alternative approach for project evaluation, including sketch models developed for such purpose.

The consultant will recommend a technical approach to quantitatively rate each of the 25 (but not more than 30) multimodal projects. To determine a rating for each project, MOE's may be assigned a weighting factor, which will be derived in cooperation with the Management team. The rating methodology will also be reviewed by the Peer Review Group. Also as mandated by the legislation, *the quantitative rating assigned for each project will be according to the degree to which the project is expected to reduce congestion and, to the extent feasible, the degree to which the project is expected to improve regional mobility in the event of a homeland security emergency.* The rating approach should appropriately reflect and normalize the variations, if any, in the distribution of its benefit/costs over space and time for each mode and across modes if applicable.

Consulting firm(s) must have experience in the following areas:

- Multimodal transportation planning analysis
- Travel demand model development and execution, with particular expertise in multimodal forecasting and tolling

- Traffic operational models and analysis
- Project prioritization techniques
- Public outreach
- Technical report writing
- Research
- Working with regional entities/ stakeholders/ elected officials

All procurement related questions or information should be directed to Kanti Srikanth at 703.269.2220 or kanti.srikanth@VDOT.Virginia.gov.

At this time, VDOT is not considering this project to be delivered through a design-build option. If VDOT decides to deliver the project through design-build option, the successful consultant and any of its team members may not be allowed to participate in ANY subsequent design-build contracts. Furthermore, VDOT will notify the successful consultant regarding the change in its intent of delivery method in advance. The Conflict of Interest determination will be made on a case by case basis at such time.

#### EXPRESSION OF INTEREST (EOI)

1. The Expression of Interest shall be organized in the following order:
  - Transmittal letter
  - Table of Contents
  - Understanding of Scope of Work
  - Response to RFP Expression of Interest Items 2-15
  - Present Workload with Department form
  - Team Organization Chart
  - GSA Form 255 – one combined for the project team
  - GSA Form 254 – one for each firm
  - A table or matrix containing the requested information in item 15
  - Full size copies of SCC and DPOR supporting registration/licensing documentation for each firm (including that of each pertinent branch office)
  - Full size copies of DPOR registration certificate for the Key Personnel
  - Firm Data Sheet
  - Certification Regarding Debarment form
  - DBE Commitment and Confirmation Letter (if applicable)
  
2. Furnish six copies of current GSA Forms 254 for each firm involved and six copies of one combined GSA Form 255 for the project team. The GSA Form 255 must specify the number of personnel by discipline for each office where the work is to be performed. In Section 4 of GSA Form 255, list only the full time employees assigned to the office(s) at the time of this submission. Section 8 of GSA Form 255 is limited to one page with not more than 10 projects total (prime and subconsultants combined) on the one page and should primarily list experience of offices where the work will be performed and of the people shown in the organizational chart. If the experience shown is for a branch office other than where the work will be performed, it should be clearly indicated as such. More detailed descriptions for Section 8b may be expanded into Section 10. In Section 9 of GSA Form 255, references to “Federal agencies” are to be replaced by “Virginia Department of Transportation or transportation agencies of other states.”

3. If more than one firm will participate in the contract, state the type of arrangement between the firms, the names and addresses of all firms, description of the work that each firm will perform, and the percentage of work to be performed by each in Section 5 and 6 of GSA Form 255. Indicate office locations at which the work will be performed. A one page organizational chart showing all firms involved and key personnel assignments and responsibilities is required to be included.
4. In Section 7 of GSA Form 255, indicate **KEY PERSONNEL ONLY** who will be assigned to this project and give the experience record of each. Key personnel are defined as those to whom the project will be assigned and who will be performing the actual design/services. The project manager shall have a minimum of five years experience in managing similar type and size projects. In Section 7c, indicate the location of the office where the person is currently working if different from where work is to be performed. In Section 7c, part time personnel, personnel not employed on the date of the form, or personnel used on an “as needed basis” must have their status clearly indicated. Section 7g may be expanded to provide a total of a one page resume per individual.

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

5. Section 10 of GSA Form 255 is limited to a maximum of ten pages. This section should describe the organization of the proposed project staff indicating the role of each by individual. If subconsultants are proposed, the role of each subconsultant should be discussed. It should also include statements that are responsive to the attached Consultant Short List Score Sheet that will be used to evaluate your submission. This is the **ONLY** section of the submission which may include pictures or graphics (included in the ten page limit). List any computer and CADD equipment and any specialized computer software packages that you will use on this VDOT project.
6. It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (<http://www.dmb.state.va.us/>) under the **DBE Directory of Certified Vendors**. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. The consultant is encouraged to contact DBE firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited. The Department believes that these services support 10% DBE participation.

In accordance with the Governor’s Executive Order No. 33, the Virginia Department of Transportation also requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Minority Business Enterprise (DMBE) certified SWaM firms is maintained on the DMBE web site (<http://www.dmb.state.va.us/>) under the **SWaM Vendor Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum

opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider SWaM firms as potential subconsultants. The consultant is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited.

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

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

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

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

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

DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

Business Opportunity and Workforce Development (BOWD) Center - The BOWD Center is a VDOT developmental supportive services program and partnering initiative funded by FHWA for selected DBE firms of various skill and competence levels interested in entering, enhancing or expanding highway contracting opportunities with prime consultants. The partnering initiative between prime consultants and BOWD DBE firms provides the opportunity for the further development of DBE firms through performance on contracts and guidance from prime consultants. The intent of this partnering initiative is to increase capacity by perfecting existing skills and knowledge, expanding into new work areas, and prime consultant joint venturing with DBE firms. The prime consultants are encouraged to achieve all or a percentage of the required DBE participation/goals determined for this project by the utilization of BOWD approved firms. To assist consultants in taking advantage of this opportunity for utilization of approved BOWD firms, please contact the BOWD Center for additional information, details, resources and support. For further information on the BOWD Center and to view the DBE profiles, go to

[www.virginiadot.org/business/BOWD.asp](http://www.virginiadot.org/business/BOWD.asp). The BOWD Center can be contacted at (804) 662-9555 or via email to [BOWDCenter@vdot.virginia.gov](mailto:BOWDCenter@vdot.virginia.gov).

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

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

9. In 5 page(s) or less, provide information that will indicate your firm's ability to meet the time schedule for this project. The schedule is as follows: Study completion by December 2014.
10. In 15 page(s) or less, please emphasize your qualifications in the following areas:
  - Multimodal transportation planning analysis
  - Travel demand model development and execution, with particular expertise in multimodal forecasting and tolling
  - Traffic operational models and analysis
  - Project prioritization techniques
  - Public outreach
  - Technical report writing
  - Research
  - Working with regional entities/stakeholders/elected officials

11. A project approach discussion is required for this project and shall be limited to a maximum of 10 page(s).
12. In addition to the page restrictions listed above, a maximum of 20 additional pages may be included in the Expression of Interest. All pages are to be 8 1/2" X 11" and printed on one side with single-spaced type no smaller than 12 pitch.
13. Please indicate, by executing and returning the attached Certification Regarding Debarment forms, if your firm, subconsultant, subcontractor, or any person associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of Federal or State funds:
  - Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.
  - Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years.
  - Does have a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

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

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

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

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

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

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

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

## ADMINISTRATIVE

1. The following services marked with an X will **NOT** be required:

Surveying <u>_x_</u>	Specifications <u>_x_</u>
Bridge and Structure Plans <u>_x_</u>	Materials Analysis <u>_x_</u>
Permit Drawings <u>_x_</u>	Environmental <u>_x_</u>
Hydraulic and Hydrologic Analysis <u>_x_</u>	Road Plans <u>_x_</u>
Traffic Data <u>___</u>	Traffic Analysis <u>___</u>
Signs and Signals Plans <u>_x_</u>	Lighting Plans <u>_x_</u>
Scour Analysis <u>_x_</u>	Geotechnical Borings and Analysis <u>_x_</u>
Utility Plans <u>_x_</u>	Landscape Plans <u>_x_</u>

2. All business entities, except for sole proprietorships, are required to register with the Virginia State Corporation Commission (A Business Registration Guide is available on the Internet at <http://www.state.va.us/scc/division/clk/brg.htm>). Foreign Professional corporations and Foreign Professional Limited Liability Companies (i.e., organized or existing under the laws of a state or jurisdiction other than Virginia) must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorships that do not employ other individuals for which licensing is required must be registered in the Commonwealth of Virginia with the Department of Professional & Occupational Regulation (<http://www.state.va.us/dpor>), Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (Board). Board regulations require that all branch offices of professional corporations and business entities located in Virginia, which offer or render any professional services relating to the professions regulated by the Board shall be registered as separate branch office with the Board. All offices, including branches, which offer or render any professional service, must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at that office. All firms involved that are to provide professional services must meet these criteria prior to submitting an Expression of Interest to the Department. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.
3. The Department will not consider for award any cost proposals submitted by any consultants and will not consent to subcontracting any portions of the contract to any subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
4. The method of payment for this contract will be fixed billable rates. This contract shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulations (FAR) of Part 31 of Title 48 of the Code of Federal Regulations. The overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm. Subconsultant contracts may be lump sum if they are for \$2 Million or less, have a clearly defined scope of work, and will take 2 years or less to complete.

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

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

If litigation directly or indirectly results from or arises out of a granted exemption, the contractor will be responsible for all litigation costs incurred by contractor and/or VDOT associated with such litigation. In no event shall the Virginia Department of Transportation or its officers, employees or agents be liable to the contractor as a result of any disclosure of records or data collected by the Department, its officers, employees or agents, pursuant to an audit, special investigation, or any

study requested by the Inspector General's Office, whether or not the Inspector General has determined that the requested exclusion from disclosure under FOIA is necessary to protect the trade secrets or financial records of the private entity, and in no event shall the Virginia Department of Transportation, or its officers, employees, or agents be liable to the contractor for any damages or other claims arising directly or indirectly from a determination that the exclusion from public disclosure will not be granted.

7. Submittals shall be prepared simply and economically, providing a straightforward, concise description of the firm's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective proposal are neither required nor desired. Please do not duplicate information furnished in the GSA Form 254 or 255 elsewhere in the submittal. All information (6 copies) must be submitted and received no later than 4:00 p.m. on May 20, 2013. Responses received after this time will not be considered.

US Postal Service Regular Mail, send to:

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

Hand delivery, US Postal Service express mail, or private delivery service (FEDEX, UPS, etc.), send to:

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

8. The Department assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within 10 work days of notification of selection when requested by the Department. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000.
9. The Department does not discriminate against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.
10. Any offeror who desires to protest the award of a contract shall submit such protest in writing to the Department no later than ten days after the announcement of the award. Public announcement of the award shall be posted on the Department's Business Center Internet site.
11. eVA Business-to-Government Vendor Registration: The eVA Internet electronic procurement

solution, web site portal (<http://www.eva.state.va.us>), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution through either eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. For more detail information regarding eVA, registrations, fee schedule, and transaction fee, use the website link: <http://www.eva.state.va.us>. All bidders or offerors must register in eVA; failure to register may result in the bid/proposal/expression of interest being rejected.



**FIRM DATA SHEET**

Funding: \_\_\_\_ (S=State F=Federal)

Project No.: \_\_\_\_\_

Division: \_\_\_\_\_

EOI Due Date: \_\_\_\_\_

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

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

\* YD = DBE Firm Certified by DMBE

N = DBE or SWaM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE or SWaM Status

YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

DMBE is the Virginia Department of Minority Business Enterprise

**CERTIFICATION REGARDING DEBARMENT**

PRIMARY COVERED TRANSACTIONS

(To be completed by a Prime Consultant)

Project: \_\_\_\_\_

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

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

\_\_\_\_\_  
Signature                                      Date                                      Title

\_\_\_\_\_  
Name of Firm

**CERTIFICATION REGARDING DEBARMENT**

**LOWER TIER COVERED TRANSACTIONS**

(To be completed by a Sub-consultant)

Project: \_\_\_\_\_

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  
- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm

PROJECT: \_\_\_\_\_ FIRM: \_\_\_\_\_

DESCRIPTION: \_\_\_\_\_ SUBS: \_\_\_\_\_

DATE: \_\_\_\_\_

	NUMERICAL VALUE				AVG.	WEIGHT	WEIGHTED EVALUATION
FIRM/TEAM'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)	1-10					25%	
PERSONNEL'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)	1-10					40%	
QUALIFICATIONS OF PROJECT MANAGER (Expertise, experience and qualifications in project management as related to the scope of services) (1=least, 10=most)	1-10					15%	
ORGANIZATIONAL CAPABILITY (Ability to complete work in a timely manner, size of firm(s) relative to size of project, proposed project staff resources, proposed use of subconsultants) (1=least, 10=most)	1-10					10%	
PRESENT WORKLOAD WITH DEPARTMENT ** (Dollar value of present outstanding fee including estimated pending contracts under negotiation. For limited services term contracts, include the amount of all task orders executed or under negotiation. Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included.) † (Only Category ___ workload is counted on this selection*)	Above \$8,000,000	0				10%	
	7,000,001-8,000,000	1					
	6,000,001-7,000,000	2					
	5,000,001-6,000,000	3					
	4,000,001-5,000,000	4					
	3,000,001-4,000,000	5					
	2,000,001-3,000,000	6					
	1,500,001-2,000,000	7					
	1,000,001-1,500,000	8					
	500,001-1,000,000	9					
0-500,000	10						
						TOTAL	

\*CATEGORIES OF WORKLOAD:

- A - TERM SURVEYING AND UTILITY DESIGNATION/LOCATION CONTRACTS
- B - PRELIMINARY ENGINEERING CONTRACTS - includes transportation planning and environmental studies, utility relocation and design, and roadway and bridge design.
- C - CONSTRUCTION ENGINEERING CONTRACTS - includes construction inspection, preparation of final estimates, and bridge and traffic structure safety inspection.
- D - OPERATION AND MAINTENANCE CONTRACTS - includes operation and maintenance of traffic management systems.

\*\*When determining total Present Workload with Department, the outstanding workload of each DBE/SWaM subconsultant will not be counted.

† The outstanding workload of any certified DBE or SWaM prime and subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any work obtained after graduating from the program will be counted.

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

## GOOD FAITH EFFORT (Federally Funded Project with DBE Goal)

The Department will be accepting what consultants submit in their Expressions of Interest regarding good faith efforts. If a firm that has submitted good faith effort documentation makes the short list, the procuring Division Administrator (cannot be delegated unless he/she will be out of the office for more than 5 work days) along with a representative of the EO Division will determine if the good faith effort is acceptable.

When there is a contract goal, a consultant must make good faith efforts to meet it. The consultant can do so either through obtaining enough DBE participation to meet the goal or documenting the good faith efforts it made to do so. These means of meeting contract goal requirements are fully equivalent. 49 CFR Part 26 (the Rule) explicitly provides that the Department must not disregard showings of good faith efforts, and it gives consultants the right to have the Department reconsider a decision that their good faith efforts were insufficient. The Department is prohibited from denying a contract to a consultant simply because it did not obtain enough DBE participation to meet the goal. The Department must seriously consider consultants' documentation of good faith efforts. To make certain that consultants' showings are taken seriously, the Rule requires the Department to offer administrative reconsideration to consultants whose good faith efforts showings are initially rejected.

The Rule also ensures flexibility for consultants by requiring that any contract goal be waived entirely for a prime consultant that demonstrates that it made good faith efforts but was still unable to meet the goal.

When the Department sets a contract goal, the basic obligation of consultants is to make good faith efforts to meet it. They can demonstrate these efforts in either of two ways, which are equally valid. First, they can meet the goal, by documenting that they have obtained commitments for enough DBE participation to meet the goal. Second, even though they have not met the goal, they can document that they have made good faith efforts to do so. A refusal by the Department to accept valid showings of good faith is not acceptable under the Rule.

The Rule makes clear that the Department is not to use a "conclusive presumption" approach, in which the apparent successful consultant is summarily found to have failed to make good faith efforts simply because another consultant was able to meet the goal. However, the performance of other consultants in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way. For example, when the apparent successful consultant fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant could have met the goal. It does not, by itself, prove that the apparent successful consultant did not make a good faith effort to get DBE participation, however. On the other hand, if the apparent successful consultant fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants, the Department may view this, in conjunction with other factors, as evidence of the apparent successful consultant having made good faith efforts.

The fact that some additional costs may be involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet a DBE contract goal, as long as such costs are reasonable.

If the Department determines that the apparent successful consultant has failed to meet the requirements of a good faith effort, the Department must, before awarding the contract, provide the consultant an opportunity for administrative reconsideration. The Department intends that the process be informal and timely. The Department will ensure that the process is completed within a brief period (e.g., 5-10 days) to minimize any potential delay in procurements. The consultant will have an opportunity to meet with the reconsideration official, but a formal hearing is not required. As part of this reconsideration, the consultant must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Department's decision on reconsideration will be made by an official who did not take part in the original determination that the consultant failed to meet the goal or make adequate good faith efforts to do so. The consultant must have the opportunity to meet in person with the reconsideration official to discuss the issues of whether it met the goal or made adequate good faith efforts to do so. The Department will send the consultant a written decision on reconsideration, explaining the basis for finding that the consultant did or did not meet the goal or make adequate good faith efforts to do so. The Department's reconsideration personnel consists of the Commissioner's DBE Review Panel.

It is up to the Department to make a fair and reasonable judgement whether a consultant that did not meet the goal made adequate good faith efforts. It is important for the Department to consider the quality, quantity, and intensity of the different kinds of efforts that the consultant has made. The efforts employed by the consultant should be those that one could reasonably expect a consultant to take if the consultant were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. The Department's determination concerning the sufficiency of the firm's good faith efforts is a

judgement call: meeting quantitative formulas is not required.

If DBE is prime, they will be allowed to count toward goals the work they commit to performing with their own forces, as well as the work that they commit to be performed by DBE subcontractors. DBE consultants on prime contracts will be expected to make the same outreach efforts as other consultants.

When a DBE participates in a contract, the Department will count only the value of the work actually performed by the DBE toward DBE goals. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its 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 involved, you must presume that it is not performing a commercially useful function. If a DBE firm loses certification, its work no longer counts toward the DBE goal.

All consultants will be required to submit the following information to the Department with the EOI:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The percentage amount of the participation of each DBE firm participating;
- Written documentation of the prime consultant's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts.

The Department has prepared a list based on Federal Regulations of some of the kinds of efforts that consultants may make in obtaining DBE participation. It is not intended to be a mandatory checklist. The Department does not require that a consultant do any one, or particular combination, of the things on the list, nor is the list intended to be exclusive or exhaustive; it merely offers examples. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a consultant has made good faith efforts, it will usually be important for the Department to look not only at the different kinds of efforts that the Consultant has made, but also of the timeliness, quantity, and intensity of these efforts.

The Department offers the following examples of efforts that may be considered:

A. Soliciting through all reasonable and available means (e.g., attendance at project showings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The consultant must solicit this interest within sufficient time to allow the DBEs to participate effectively. The consultant must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

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 prime consultant might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract.

D. (1) Negotiating in good faith with interested DBEs. It is the consultant's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

D. (2) A consultant using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's costs, 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 in itself sufficient reason for a consultant's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime consultant to perform the work of a contract with its own organization does not relieve the consultant of the responsibility to make good faith efforts. Prime consultants are not, however, required to

accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations {for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority community organizations; minority contractors' groups; local, state, and Federal minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

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

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Virginia Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Virginia Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Virginia Department of Transportation shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract. or procurement as the Virginia Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Virginia Department of Transportation to enter into such litigation to protect the interests of the Virginia Department of Transportation, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.