



# CITY OF EMPORIA

## Request for Proposals

**Issue Date:** January 11, 2015

**Issued By:** City Manager  
City of Emporia  
201 South Main Street  
Emporia, VA 23847  
434-634-3332

**Commodity:** Professional Engineering Services for the Inspection of the East Atlantic Street Construction Project (VDOT Project U000-109-180 – UPC 93307)

**Location of Work:** Emporia, Virginia

Proposals are due no later than 2:00 p.m. on Thursday, February 19, 2015.

If you hand deliver your proposal, then please use the street address above. If you mail your proposal, then please use the following address:

City Manager's Office  
Post Office Box 511  
Emporia, Virginia 23847

If you mail the proposal, it is your responsibility to make sure that it arrives in the City Manager's Office by deadline above.

You must return this page with your proposal with the following information:

Name and Address of Respondent:

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_

\_\_\_\_\_ Printed Name: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Title: \_\_\_\_\_

FAX#: \_\_\_\_\_

# **Request for Proposal to Provide Professional Engineering Services**

## **Purpose**

The City of Emporia seeks professional engineering services for inspection of the East Atlantic Street Construction Project from the intersection with US 58 By-pass westward to the intersection with Southampton Street.

## **City's Right to Issue RFP's and Project Orders**

The City reserves the right, at its sole discretion, to issue RFP's for similar work, for other disciplines or types of work, and for other projects as need may occur. In addition, the City reserves the right to issue Project Orders to other engineering firms under term contracts with the City.

## **Scope of Services**

The following services shall be provided in accordance with all VDOT and FHWA requirements:

- a. Provide daily inspection of construction activities to confirm compliance with the contract, to include material testing, and permit requirements.
- b. Perform and/or verify performance of all required material testing. Document testing results and provide to the County upon request.
- c. Review all contractor submittals, including applicable EEO documentation.
- d. Submit daily diaries and weekly reports to the County and Engineer to document the progress of the work.
- e. Review construction change orders and verify material quantities contained therein.
- f. Review contractor's applications for payment.
- g. Prepare a punch list for final inspection. Verify that the project has been completed in accordance with the contract requirements.
- h. Provide other inspection-related services during the construction phase of the East Atlantic Street project as required by VDOT and/or FHWA, or requested by the City of Emporia
- i. Construction is estimated to cost \$ 1,178,202 and last up to six months duration.

## Evaluation of Proposals

All individuals proposed for this project must be certified inspectors approved by VDOT. Firms or individuals desiring to provide professional services must meet Department of Professional and Occupational Regulation (DPOR) requirements. The City will evaluate proposals using the following criteria:

1. Understanding of the work. (maximum value = 10 points)
2. Expertise, experience and past performance of the firm or individual in providing similar or related services. (maximum value = 20 points)
3. Qualifications and experience of the proposed inspectors. (maximum value = 30 points)
4. Qualifications and experience of any proposed special consultants. (maximum value = 10 points)
5. Overall suitability to provide the required services within time and budget constraints. (maximum value = 30 points)

The City will use the following procedure in the evaluation of proposals:

1. The City will engage in individual discussions with three or more respondents that it deems fully qualified, responsible, and suitable based on initial responses.
2. At the conclusion of discussions the City will rank in order of preference those respondents interviewed whose qualifications are deemed most meritorious using the evaluation criteria contained herein and any other information obtained.
3. The City will then begin negotiations with the first ranked firm or individual to obtain a contract acceptable to both parties.
4. If the City cannot successfully negotiate a contract with the first ranked firm or individual, it will formally terminate negotiations with that firm or individual and begin negotiations with the second ranked firm or individual. The City will continue to negotiate through the rank order of firms and individuals until an acceptable contract is obtained.

## Proposal Format Requirements

Proposals shall include the following:

1. A cover letter introducing the firm and or individual.
2. A concise delineation of the firm's or individual's capability and experience.
3. Personnel to be assigned to the project and their qualifications and experience.
4. Qualifications and experience of subconsultants or specialty firms
5. Team organizational chart
6. List of similar projects.
7. Responses to Items 8 thru 14 as follows
8. Furnish three copies of current GSA Forms 254 for each firm involved and three 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 Local Government.”**
9. 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.
10. 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 City of Emporia City 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.

11. 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.
12. *"It is the policy of the Virginia Department of Transportation and the City of Emporia that Disadvantaged Business Enterprises (DBEs) 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** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBEs 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 DBEs as potential subcontractors. The consultant is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE whereby the DBE 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.

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 three years.
- Has 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 three 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. Such other information as the respondent may deem appropriate.

The following should be noted by all firms and individuals wishing to submit a proposal:

1. 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 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 and Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (<http://www.state.va.us/dpor>). Board regulations require that all professional corporations and business entities that have branch offices located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. Registration involves completing the required application and submitting the required registration fee for each and every branch office location in the commonwealth. All branch offices 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 each branch. All firms involved that are to provide professional services must meet this criterion prior to submitting an EOI to the City of Emporia. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.

2. The City of Emporia 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.
3. Vendor fees will be negotiated after the City of Emporia completes the evaluation of proposals under the terms provided in this solicitation.
4. All firms submitting EOI (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 firms selected for a project (prime consultants, joint ventures and subconsultants) must submit their FAR audit data to the City of Emporia within ten work days of being notified of their selection. Should any firm on the consultant team fail to submit the required audit data within the ten workdays, negotiations will be terminated by the City of Emporia and the next most qualified team invited to submit a proposal.

#### **Title VI of the Civil Rights Act of 1964**

The City of Emporia 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 ten work days of notification of selection when requested by VDOT. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000.

The City of Emporia 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.

#### **City's Right to Reject Proposals**

The City reserves the sole right to reject any or all proposals received.

#### **Proposal Submission Deadline**

All respondents to this request for proposals must submit their sealed proposals to the City Manager's Office no later than 2:00 p.m. on Thursday, January 22<sup>nd</sup>. If the respondent mails his or her proposal, then the respondent must send the proposal to City Manager's Office, Post Office Box 511, Emporia, Virginia 23847. If proposals are hand delivered, then the respondent must deliver the proposal to the City Manager's Office, City Municipal Building, 201 South Main Street, Emporia, Virginia 23847. The City will not consider any proposal that it receives after **2:00 PM on February 19, 2015**.

Respondents must submit their proposals to the attention of Brian S. Thrower, City Manager. The proposal must be labeled **Engineering Services for Inspection of the East Atlantic Street construction project**.

#### **Please submit three (3) copies of your proposal.**

Interested parties should address all inquiries for information to Dr. Edwin Daley, Assistant City Manager. Dr. Daley's office is open Monday through Friday, 8:00 AM to 5:00 PM; the telephone number is (434) 634-3332.

**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 judgement 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.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**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.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**FIRM DATA SHEET**

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

Project No.:\_Va # U000-109-180\_\_\_\_\_

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 will result in the Expression of Interest not being considered.

Firm's Name and Address	Firm's DBE/SWAM Status *	Firm's Age	Firm's Annual Gross Receipts
BD Recyclers & Waste Removal	DBE	15	

N = DBE/SWAM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE/SWAM Status

\* YD = DBE Firm Certified by DMBE

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

## **GOOD FAITH EFFORT**

(Federally funded project with DBE Goal; **until further notice, DBE goals will not be assigned to consultant service contracts**)

The Department will accept what consultants submit in their EOI 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 five 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 judgment 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 judgment 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.

## **USDOT 1050.2 APPENDIX A**

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.

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE AND SWAM PAYMENT COMPLIANCE REPORT**

Page(s) \_\_\_\_\_ Of \_\_\_\_\_  
(1a) Report No. \_\_\_\_\_  
(1b) Period Ending \_\_\_\_\_

(2a) Federally Funded   
 (2b) State Funded   
 (2c) Order No. \_\_\_\_\_ (2d) Date of Execution \_\_\_\_\_  
 (2e) Contractor/Subcontractor \_\_\_\_\_  
 (2f) Route No. \_\_\_\_\_ (2g) Project No. \_\_\_\_\_ (2h) Contract Id. No. \_\_\_\_\_  
 (2i) FHWA No. \_\_\_\_\_ (2j) District \_\_\_\_\_

(3) DBE and SWAM Firm Name, Certification No.	(4) Tax I.D. No.	(5) DBE and SWAM Category	(6) Allowable Credit of Contract or Agreement	(7) Allowable Credit		(8) Disallowed Credit (VDOT Use Only)		(9) Type of Work (Indicate Item Numbers & Work Description)
				(7a) This Quarter	(7b) To Date	(8a) This Quarter	(8b) To Date	
		DBE/MBE						
		DBE/MBE						
		DBE/MBE						
		DBE/MBE						
		DBE/MBE						
		DBE/MBE						
Total Dollar Amount Paid by Quarter and To Date by DBE and SWAM Category			DMBE					
			DWBE					
			SBE					
			WBE					
			MBE					

**All "amounts paid" to certified DBE and SWAM firms are to be reported and submitted by VDOT's quarterly submittal schedule. See Instructions.**

I/WE certify under penalty of law that the information provided herein is accurate, current, and complete to the best of my/our Knowledge.

Signature and Title of Company Official \_\_\_\_\_ Date \_\_\_\_\_

Print Name and Phone Number of Individual

Completing Report \_\_\_\_\_

**VIRGINIA DEPARTMENT OF  
TRANSPORTATION INSTRUCTIONS FOR  
DBE/SWAM PAYMENT COMPLIANCE REPORT – C63**

The Prime Contractor is required to submit a DBE Payment Compliance Report and requested to submit payments made to Small, Women-owned, and Minority-owned (SWAM) Business Enterprises for the designated quarterly reporting period. All amounts paid to **certified** DBE and SWAM businesses are subject to monitoring and enforcement mechanisms. It is the responsibility of the prime contractor to provide evidence of DBE and SWAM payments in response to monitoring and enforcement compliance reviews.

The instructions below correspond to each item on the report. Please follow the instructions.

1a. **Report No**

Indicate the number of the report you are sending in sequence. For example: If this is the second report you are submitting, enter Report No. 2.

1b. **Period Ending**

Indicate the reporting period based on the Reporting Schedule listed in these instructions.

2a. **Federally Funded**

Indicate if contract is federally funded.

2b. **State Funded**

Indicate if contract is state funded.

2c. **Order No.**

Enter the “Call Order” number assigned to your project by VDOT

2d. **Date of Execution**

Enter the date the contract was executed by VDOT.

2e. **Contractor/Subcontractor**

Enter your company’s name.

2f. **Route No.**

Enter the highway route number shown in your contract.

2g. **Project No.**

Enter the project number assigned to your project by VDOT.

2h. **Contract Id. No.**

Enter the contract identification number assigned to your project by VDOT.

2i. **FHWA No.**

Enter the FHWA number assigned to your project.

2j. **District**

Enter the District where the project under contract is located.

3. **DBE and SWAM Firm Name, Certification No.**

Enter all DBE/SWAM subcontractors utilized and their certification number.

4. **Tax I.D. No.**  
Indicate the Federal Employer Identification No.
5. **DBE and SWAM Category (As certified by the Virginia Department of Minority Business Enterprise)**  
Designate type of DBE/SWAM business:
- DBE:                   DMBE – Disadvantaged Minority-owned Business  
                              DWBE – Disadvantaged Woman-owned Business
- SWAM:                SBE –Small Business  
                              MBE – Minority-Owned Business  
                              WBE – Woman-Owned Business
6. **Allowable Credit of Contract or Agreement**  
Dollar value of contract or agreement to be performed by the DBE and SWAM during the contract or agreement which is allowable for participation credit.
- 7a. **Allowable Credit This Quarter**  
Dollar amount that can be credited for work performed in reporting quarter.
- 7b. **Allowable Credit To Date**  
Dollar amount that can be credited for work performed since work commenced.
- 8a. **Disallowed Credit This Quarter**  
Dollar amount of payment paid to DBE and SWAM that is NOT allowable for participation credit in reporting quarter.
- 8b. **Disallowed Credit To Date**  
Dollar amount of payment that is NOT allowable for participation credit since work commenced.
9. **Type of Work (Indicate Item Numbers)**  
State work item(s) performed and give description.

Effective July 1, 2007, All Form C-63s for a particular reporting period shall be submitted in an electronic format to the respective person in responsible charge in each District by the following dates of each calendar year.

### REPORTING SCHEDULE

Quarter	Reporting Period	Date Due To Responsible VDOT Residency
1st	July 1 – September 30	Five (5) working days after the reporting period
2nd	October 1 – December 31	Five (5) working days after the reporting period
3rd	January 1 – March 31	Five (5) working days after the reporting period
4th	April 1 – June 30	Five (5) working days after the reporting period

If the submittal date falls on a weekend/holiday, the forms shall be submitted to the VDOT Responsible Charge District Office on the following business day.

## INSTRUCTIONS FOR SAVING FORM C-63 DATA IN PDF FORMAT

Please be advised that the information that you have placed on the Form C-63 (PDF format) will not save to the file when you close the file. **To save your information while using the PDF format, you must use the correct procedures outlined below.**

\*\* The following steps will describe the correct procedure for saving the data that you have placed on the PDF version of the Form C-63:

- Step #1**      CLICK ON “File”
- Step #2**      CLICK ON “Save A Copy”
- Step #3**      CLICK ON “Save A Blank Copy”
- Step #4**      ENTER your “Firm Name” as the File Name
- Step #5**      ENTER the “Order Number” (see line 2c on Form C-63)
- Step #6**      ENTER Underscore ( \_ )
- Step #7**      ENTER “Report Number” (see line 1a on Form C-63)
- Step #8**      ENTER “Quarter Ending” (see line 1b on Form C-63)
- Step #9**      ENTER the “Year” (last two digits only)
- Step #10**     ENTER “.pdf” as the appropriate file ending

### EXAMPLE:

Firm Name:	VDOT Construction Co.
Order No.:	A01
Report No.:	5
Quarter Ending:	1st Quarter (Jul.1 – Sept. 30)
Year:	07

Using the information in the example, your file would be saved as: **vdotA01\_050107.pdf**

## VDOT TITLE VI EVALUATION FORM

This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review. VDOT is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre- award review assists VDOT in determining whether applicants operate in a nondiscriminatory manner. Pre-award reviews can also be used to require applicants to take preventive measures to ensure that discrimination will not occur in their services as a condition of receiving contracts. Pre-award reviews represent a frontline approach to eliminating and preventing discrimination before it occurs.

Post-Award Reviews are generally conducted after a contractor begins the scope of work. However to minimize the burden on VDOT's contractors, VDOT has developed a form that serves as both a pre-award and post- award compliance tool.

VDOT must also conduct on-site reviews of prime contractors periodically to ensure that the contractor remains in compliance with Title VI and to verify that the contractor has preventive measures to ensure nondiscrimination by their sub-contractors.

Name of Preparer:		Preparer's Title:	
Phone #:		Email Address:	
Name of Organization:		Address of Organization:	
Address of Virginia location where project will be done:			
Type of Contractor/Organization:			
<input type="checkbox"/> Private Organization <input type="checkbox"/> Governmental Agency		<input type="checkbox"/> Supplier <input type="checkbox"/> Other	
Workforce for Virginia Location(s)			
Total	% Minority	% Female	
Business Ownership/Control			
Minority    Yes    No Female         Yes         No		DBE Certified    Yes    No SWAM Certified         Yes         No	
Does your organization currently have contracts or subcontracts with VDOT?		Yes    No	
What is your organization's most recent date of Title VI approval?			
Status of Project(s):		Value of current Contract(s):	
What does your organization have in place to ensure nondiscrimination in your VDOT scope of work and your programs and services?			

## Virginia Workforce

### CONSULTANT EQUAL EMPLOYMENT OPPORTUNITY WORKFORCE ANALYSIS

Employment at this establishment – Report all permanent full and part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

Job Categories	Number of Employees (Report employees in only one category)														
	Race/Ethnicity														
	Hispanic or Latino		Not Hispanic or Latino												Total Col A-N
	Male	Female	Male						Female						
White			Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian Or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races		
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Executive/Sir. Level Officials & Managers (1.1)															
First/Mid-Level Officials & Managers (1.2)															
Professionals (2)															
Technicians (3)															
Sales Workers (4)															
Administrative Support Workers (5)															
Craft Workers (6)															
Operatives (7)															
Laborers & Helpers (8)															
Service Workers (9)															
<b>TOTAL (10)</b>															
PREVIOUS YEAR TOTAL (11)															

**Organization, Staffing, & Training**

1. What type of services will your organization provide VDOT?
2. Identify the person responsible for the administration of Title VI policies and procedures (a Title VI Coordinator). Provide the name, position, title, and contact information.

**Title VI/Nondiscrimination**

1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21 and the Federal Highway Administration's 23 Code of Federal Regulations 200? Please explain how they are made aware.
2. What procurement procedures does your organization have in place to ensure nondiscrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment?
3. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability and low income populations?
4. Are facilities and meeting areas fully accessible to persons with disabilities?
5. Does your organization have a system in place to accommodate persons with disabilities? If yes, how does your organization notify the public? If no, please explain.
6. How are limited English proficient persons made aware that they can receive translation services for access to services?
7. Has your organization been reviewed by any governmental agencies for compliance with Title VI and other laws and regulations? If yes, provide a copy of the letter identifying the review findings?



## Appendix A

VDOT is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964, as amended and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, and other directives prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the grounds of race, color, national origin, sex, age, disability, or low-income. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49) Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable orders and authorities provide guidelines, actions, and responsibilities for VDOT's implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- **The 1970 Uniform Act (42 USC 4601)** – prohibits unfair treatment of displacees
- **Section 504 of the 1973 Rehabilitation Act (29 USC 790)** – prohibits discrimination based on disability
- **The Federal-Aid Highway Act 1973 (23 USC 324)** – prohibits discrimination based on gender
- **The 1975 Age Discrimination Act (42 USC 6101)** – prohibits age discrimination (any age)
- **The Civil Rights Restoration Act of 1987** – clarified the original intent of nondiscrimination organization-wide
- **Executive Order 12898 on Environmental Justice (EJ)** addresses disproportionately high and adverse human health and environmental effects on minority and low-income populations
- **Executive Order 13166 on Limited English Proficiency (LEP)** - ensures people who are limited English proficient (LEP) have meaningful access to services

In brief, these laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act states that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”*

By contracting with VDOT, a contractor is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the Department and the contractor. VDOT's Civil Rights Division with the assistance from each applicable division's Program Manager, monitors an organization's compliance with the non-discrimination provisions.

To monitor compliance, each contractor and all sub-contractors are required to submit a Title VI Evaluation Form. This requirement is applicable for all contractors.

The Title VI Evaluation Form provides documentation that a contractor has procedures in place to prevent discrimination in programs and services based on Title VI.

VDOT will request a Title VI Evaluation Form within ten (10) days of notification of selection for new contractors or contractors that do not have a current assessment on file with VDOT. The Assessment Form should be submitted to the Program Manager in the division that is negotiating the contract. These are the divisions we currently receive Title VI Evaluation Forms from:

**Right of Way & Utilities Division  
Location & Design  
Division Environmental Division  
Structure & Bridge  
Innovative Project Delivery  
Materials Division  
Transportation & Mobility  
Planning Division**

Once the Title VI Evaluation Form is provided to VDOT, the Title VI Coordinator in the Civil Rights Division reviews the information and issues a pre-award letter within fifteen (15) days of receiving documentation or may schedule an on-site review within the same time frame to confirm information provided in the Assessment Form. VDOT Program Managers have access to a Title VI Log that is updated monthly on the Civil Rights Website. The Title VI Coordinator may request additional information and/or recommend corrective actions. The Title VI Coordinator may randomly schedule on site compliance reviews at the contractor's office.

If the report is approved for award, a letter is sent out with an expiration date for one year from the date of the approval letter. Typically the letter remains current and on file with VDOT for a period of one year. An updated report is required annually for contractors who continue to perform under a contract with VDOT. It should be noted that if VDOT conducts an on site compliance review the contractor can still be found to be out of compliance during the one year period.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part.

Should you have any questions about VDOT's Title VI Program or the Title VI Evaluation Form, you may directly contact the Title VI Coordinator in VDOT's Civil Rights Division at 804-786-2085 or at [robin.underwood@vdot.virginia.gov](mailto:robin.underwood@vdot.virginia.gov).