NEW YORK STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSALS
SIGN INVENTORY DATA COLLECTION SERVICES FOR NYSDOT
Contract #C030797

November 27, 2012

To All Concerned:

Enclosed is a copy of the Non-Engineering Request for Proposals (RFP) referenced above. NYSDOT is seeking a responsive, responsible and qualified Consultant to collect, process and deliver sign inventory data and digital imagery on the State highway network in NYSDOT Region 8. The selected consultant shall also provide condition/retroreflectivity ratings. All information necessary for the submission of your proposal is contained in this Best Value solicitation.

Any questions regarding this project or proposal should be directed to Ms. Barbara Sonenberg, the designated contact for this solicitation, of NYSDOT Contract Management at (518) 457-2600 or e-mail via: Barbara.Sonenberg@dot.ny.gov

Please note the following dates and deadlines:
• December 14, 2012: Deadline for questions about the RFP is 12:00 Noon (Eastern Time)
• December 2012: Release of Responses to Consultant Questions
• January 17, 2013: Deadline for the submission of proposals is 12:00 Noon (Eastern Time)

If you are interested in developing a proposal in response to this solicitation, please complete the attached RFP Response Form.

A “Checklist for Proposal Submission” is included for reference purposes when submitting your proposal to NYSDOT. It also contains instructions for complying with the Procurement Lobbying Law so that your proposal may be considered for contract award. NOTE: Failure to submit the required PLL forms with your proposal will result in elimination from consideration for contract award.

The Department of Transportation estimates that work for the successful Consultant will commence in Spring 2013 and continue for a period of eighteen months.

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including disadvantaged, minority and women-owned business enterprises. Information on the availability of New York State subcontractors and suppliers is available from Empire State Development, Division for Small Business (518) 292-5224 or 1-800-STATE NY (1-800-782-8369). The applicable website is: http://www.nylovesmallbiz.com/home.asp
The New York State Department of Transportation (NYSDOT) encourages the participation of certified Minority Business Enterprises and certified Women-Owned Business Enterprises in this solicitation. A directory of certified Minority Business Enterprises (MBEs) and certified Women-Owned Business Enterprises (WBEs) is available from the following searchable database website: [http://nylovesmwbe.ny.gov](http://nylovesmwbe.ny.gov)

For this solicitation, the NYSDOT has set a combined M/WBE Participation Goal of 20%. Only certified MBE and WBE prime consultants and certified MBE and WBE subconsultants listed in Empire State Development’s MBE/WBE directory are eligible for participatory credit in this procurement. Please see the RFP for more information.

IRAN DIVESTMENT ACT: As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor is advised that once the list is posted on the OGS website, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to the solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should NYSDOT receive information that a person is in violation of the above-referenced certification, NYSDOT will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

NYSDOT reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Sincerely,

WILLIAM A. HOWE
Director, Contract Management Bureau

Enclosure
RFP RESPONSE FORM

RFP RESPONSE FORM: Sign Inventory Data Collection Services for NYSDOT
RFP #C030797

Please review this RFP. Please complete the following information and mail, e-mail or fax to the NYSDOT address shown below, by the earliest practical date. This RFP Response form must be submitted along with the two required Procurement Lobbying Law forms (see Attachment 3) before questions or other communications with the Department regarding this solicitation can be initiated.

______________ WE DO INTEND TO SUBMIT A PROPOSAL

______________ WE DO NOT INTEND TO SUBMIT A PROPOSAL FOR THE FOLLOWING REASONS:

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Name and Address of Organization (Include Zip Code):
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Signature: ___________________________ Date: __________________________

Types of Printed Name and Title: __________________________________________

Telephone: __________________________ Fax: __________________________

E-Mail Address: _______________________________________________________

Please send to:
* E-Mail: barbara.sonenberg@dot.ny.gov
* Regular Mail:
  New York State Department of Transportation
  Contract Management Bureau, 6th Floor
  50 Wolf Road
  Albany, New York 12232
  ATTN: Barbara Sonenberg, Contract #C030797
* Fax: 518-457-8475
Vendor Responsibility

___ All selected offerors of contracts valued at $100,000 or more will be required to provide vendor responsibility information through the Office of the State Comptroller website via http://www.osc.state.ny.us/vendrep/index.htm before negotiation of a contract. Interested parties are encouraged to become familiar with the state’s vendor responsibility requirements before being notified of selection for contract award. If you are a successful offeror, NYSDOT will not be able to begin negotiations with your firm if this questionnaire is not completed and electronically submitted as required.

Procurement Lobbying Law (*)

___ Go to NYSDOT Web site (https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions) to read NYSDOT Policy Summation Compliance Procurement Lobbying Law. Complete and file the two required forms (Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) and Offerer Disclosure of Prior Non-Responsibility Determinations) as instructed when submitting a proposal. This is mandatory in order to be considered for contract award. Note: Failure to submit the completed PLL forms with your proposal will result in elimination from consideration for contract award.

Contractor Tax Certification

___ All vendors selected for contracts in excess of $100,000 for the sale of goods or services must complete and submit two NYS Tax Department forms: Form ST-220-TD (Contractor Certification) and Form ST-220-CA (Contractor Certification to Covered Agency) during negotiation of a contract with State agencies. You should make yourself familiar with these forms by visiting the following Web sites:

http://www.tax.state.ny.us/pdf/publications/sales/pub223_507.pdf (FAQ’s)
http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf (Form ST-220-CA)

Insurance Requirements of this Project

___ Please carefully read the Terms and Conditions of the draft Contract appended as Attachment 1 of this RFP. Your attention is drawn to the insurance requirements for this Project that are contained in Article 11 of the draft Contract. These insurances are mandatory for the firm(s) selected as a result of this solicitation and will not be waived. LIKewise, COMPLETION OF INSURANCE FORM C218M IS REQUIRED BEFORE WORK ON A CONTRACT MAY BEGIN. ACORD FORMS WILL NOT BE ACCEPTED.

Consultant Employment Disclosure Requirements of this Project
Go to OSC’s Web site (http://www.osc.state.ny.us/agencies/gbull/g-226.htm or http://www.osc.state.ny.us/procurement/consultantdisclosure.doc) to become familiar with Consultant Employment Disclosure requirements, which went into effect June 19, 2006. The Consultant selected for this solicitation shall be required to complete ‘State Consultant Services – Contractor’s Planned Employment’ (Form A, Attachment 5) and submit when the contract is signed. For each contract year thereafter, the Consultant shall complete the “State Consultant Services Contractor’s Annual Employment Report” (Form B, Attachment 5) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May 15th of each year the contract is in effect.

Consultant Responsibility When Proposing to Use a Former NYSDOT Employee

It is the Consultant’s responsibility to ensure they propose staff that is eligible to work on the subject project. Under the attached procedures, before the consultant proposes a former NYSDOT employee, the individual must obtain an opinion from the New York State Ethics Commission that approves their participation in the subject project. For an outline of the procedure that applies to this situation, see Attachment 6.

Registration with NYSDOT

Should this solicitation lead to a designation, it is the Consultant’s responsibility to electronically register their firm using the NYSDOT Consultant Selection System web application (CSSWeb).

All Non-Architectural/Engineering consultant firms are required to create and register an account to: 1) Create and assign Consultant Identification Numbers (CINs) for each office registered by the firm; and 2) Provide general firm information including, but not limited to, legal firm name, Federal Identification Number (FEIN), ownership type, D/W/MBE status, firm principals and office(s) address information. All consultant firms participating in a potential agreement (negotiations) must be registered electronically with NYSDOT prior to that agreement being forwarded to the Office of the State Comptroller for approval. Registered firms are responsible for verifying and updating their registration information for the duration of the agreement. Section VI of this RFP provides more information.
NEW YORK STATE DEPARTMENT OF TRANSPORTATION

REQUEST FOR PROPOSALS

SIGN INVENTORY DATA COLLECTION SERVICES FOR NYSDOT

November 27, 2012

Proposal Due Date: January 17, 2013

Proposal Delivery Location and Additional Information:

Director, Contract Management Bureau
NYS Department of Transportation
50 Wolf Road, 6th Floor
Albany, NY 12232
Attention: Barbara Sonenberg, #C030797
REQUEST FOR PROPOSALS
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
SIGN INVENTORY DATA COLLECTION SERVICES FOR NYSDOT

Table of Contents

<table>
<thead>
<tr>
<th>I. INTRODUCTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Purpose</td>
<td>9</td>
</tr>
<tr>
<td>B. Background</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. PROJECT AND CONTRACT OBJECTIVES</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Project Objectives</td>
<td>9</td>
</tr>
<tr>
<td>B. Contract Objectives including M/WBE Participation</td>
<td>9</td>
</tr>
<tr>
<td>C. Minimum RFP Responsiveness Requirements</td>
<td>11</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>III. SCOPE OF SERVICES</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. General Information</td>
<td>12</td>
</tr>
<tr>
<td>B. Tasks and Deliverables</td>
<td>13</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>IV. PROPOSAL FORMAT AND CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. General</td>
<td>17</td>
</tr>
<tr>
<td>B. Part I: Technical and Management Submittal</td>
<td>18</td>
</tr>
<tr>
<td>C. Part II: Cost and Contract Submittal</td>
<td>22</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>V. CRITERIA FOR EVALUATION OF PROPOSALS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. General Information including Participation in M/WBE Goal</td>
<td>25</td>
</tr>
<tr>
<td>B. Pre-Screening of Proposals</td>
<td>27</td>
</tr>
<tr>
<td>C. Technical and Management</td>
<td>27</td>
</tr>
<tr>
<td>D. Cost and Contract</td>
<td>29</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VI. ADMINISTRATIVE SPECIFICATIONS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Proposal Submission</td>
<td>29</td>
</tr>
<tr>
<td>B. State’s Rights to Proposals</td>
<td>30</td>
</tr>
<tr>
<td>C. Vendor Responsibility</td>
<td>31</td>
</tr>
<tr>
<td>D. Registration with NYSDOT</td>
<td>31</td>
</tr>
<tr>
<td>E. Contractor Tax Certification</td>
<td>31</td>
</tr>
<tr>
<td>F. Inquiries and Information</td>
<td>32</td>
</tr>
<tr>
<td>G. Protest Procedure</td>
<td>32</td>
</tr>
<tr>
<td>H. Schedule of Key Events</td>
<td>32</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VII. ATTACHMENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Draft Contract, including Appendix A</td>
<td>34</td>
</tr>
<tr>
<td>2. Consultant Information and Certification Form</td>
<td>73</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>3.</td>
<td>Procurement Lobbying Law Compliance</td>
</tr>
<tr>
<td>5.</td>
<td>Use of Former NYSDOT Employee Information</td>
</tr>
<tr>
<td>6.</td>
<td>M/WBE Participation Information Form</td>
</tr>
<tr>
<td>7.</td>
<td>M/WBE Participation Solicitation Log</td>
</tr>
<tr>
<td>8.</td>
<td>Cost Proposal</td>
</tr>
<tr>
<td>9.</td>
<td>Sign Inventory</td>
</tr>
<tr>
<td>10.</td>
<td>Intersection Nodes</td>
</tr>
<tr>
<td>11.</td>
<td>NYSDOT GIS Shapefiles and Map</td>
</tr>
<tr>
<td>12.</td>
<td>List of Firms Officially Expressing Interest</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td></td>
</tr>
<tr>
<td>79</td>
<td></td>
</tr>
<tr>
<td>81</td>
<td></td>
</tr>
<tr>
<td>82</td>
<td></td>
</tr>
<tr>
<td>83</td>
<td></td>
</tr>
<tr>
<td>87</td>
<td></td>
</tr>
<tr>
<td>On-line</td>
<td></td>
</tr>
<tr>
<td>On-line</td>
<td></td>
</tr>
<tr>
<td>On-line</td>
<td></td>
</tr>
<tr>
<td>On-line</td>
<td></td>
</tr>
</tbody>
</table>
REQUEST FOR PROPOSALS
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
SIGN INVENTORY DATA COLLECTION SERVICES FOR NYSDOT

I. INTRODUCTION

A. Purpose

The New York State Department of Transportation (“Department”) is releasing this Request for Proposals (RFP) to solicit proposals and award Contract #C030797 for Sign Inventory Data Collection services to a responsive and responsible Consultant. The selected Consultant shall collect, process and deliver sign inventory data and digital imagery on the State highway network in NYSDOT Region 8. The selected consultant shall also provide condition/retroreflectivity ratings.

B. Background

The FHWA has mandated that the Department have a management method in place to maintain traffic sign retroreflectivity at or above the established minimum levels. To comply with this mandate and have sign attributes stored in the Department’s GIS asset management system, this RFP was developed. This contract is a pilot limited to Region 8. Should the pilot prove successful, the Department intends to issue another RFP for additional regions of New York State.

II. PROJECT AND CONTRACT OBJECTIVES

A. Project Objectives

The objectives of this project are to collect, process and deliver digital images and inventory data for State owned signs on the State highway network and adjacent local roads in NYSDOT Region 8; to evaluate sign condition including retroreflectivity; to provide the Department with the ability to maintain the sign inventory geodatabase.

Further, The Department has made a good faith effort to estimate a budget for this project. Estimated costs were developed using historical information for similar data collection equipment and efforts in New York using typical cost per lane mile averages. Given the constraint that this project must remain within budget, if cost proposals exceed the available budget, some components of the project may be scaled back during contract negotiations with the selected Consultant.

B. Contract Objectives including M/WBE Participation

Contract Award: A single contract award shall be made under this RFP solicitation. Contract #C030797 is being used to record this procurement.

Subconsulting: Subconsulting is allowed. Joint ventures are not allowed. Contract Term: The term of the agreement shall be 18 months, which includes six months to provide a contingency in case of unforeseen circumstances. All work for this contract is to
be completed within twelve months from date the Notice to Proceed is given. NYSDOT estimates that the work for the selected consultant will commence Spring 2013. There are not any optional extensions for this contract.

Consultant Selection Method: The method being used to select the consultant is Best Value. NYSDOT calls these types of contracts non-Architecture/non-Engineering contracts.

Method Of Payment: The contract method of payment shall be lump-sum amounts for each accepted scheduled deliverable. Direct non-salary expenses must be incorporated into proposed lump sum costs.

Fair and equitable treatment of all firms participating in the competitive consultant selection process.

M/WBE Goals: Via this solicitation, to provide a participation opportunity for certified Minority Business Enterprises (MBEs) and certified Women-Owned Business Enterprises (WBEs) to meet the 20% combined goal.

While not indicative of a proposer’s individual merit (technical excellence, proposer’s ability, experience, etc.), the NYSDOT encourages the participation of certified Minority Business Enterprises and Women-Owned Business Enterprises in this solicitation. The level of Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) participation will be relevant to the process of selecting proposals that will best achieve the overall goals of the Department. A directory of certified MBEs and certified WBEs is available from Empire State Development’s searchable database website:  http://nylovesmwbe.ny.gov

Please be aware that proposers must make good faith efforts to meet the goals in order to be considered responsive. This includes the responsibility of consultants to make a portion of the work available to M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with available M/WBE subcontractors and suppliers so as to facilitate M/WBE participation. Furthermore, the desire or ability of a prime consultant to perform the work with its own organization does not relieve the proposer of the responsibility to make good faith efforts and include M/WBE subconsultants in their proposal. A prime consultant that is an M/WBE must make good faith effort to include M/WBE subconsultants in their proposal.

Title VI Assurance

The New York State Department of Transportation (NYSDOT), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, as amended, issued pursuant to such Act, hereby notifies all who respond to a written NYSDOT solicitation, request for
proposal or invitation for bid that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for an award.

Training Special Provisions: On-the-job training opportunities are specified within this solicitation. There is an opportunity to train vehicle operators and another to train technical data collection processors. The New York State Department of Transportation is promoting this opportunity to train minorities, women and/or economically disadvantaged persons as a means to foster the industry and upgrade the proficiencies of these persons while assisting the Department to meet its federal requirements.

C. Minimum RFP Responsiveness Requirements:

Any firm that does not provide all components of Part I and Part II by the RFP deadline may be determined to be non-responsive. Any firm deemed non responsive shall have its proposal removed from further consideration prior to the technical evaluation of proposals. NYSDOT will not accept facsimile or e-mailed proposals in response to this RFP. Consultants that plan to hand deliver their proposals should contact the designated NYSDOT contract person 48 hours ahead of time to arrange for delivery and a receipt. Late and incomplete proposals will not be considered. Note that the deadline is for receipt of the proposal at the New York State Department of Transportation at Wolf Road, Albany, New York; not for the mailing or entrusting the proposal to a delivery service. Complete instructions on the preparation of the proposal can be found in RFP Section 4.


2. Separate and complete Part II Proposal ‘Cost and Contract’ submission (3) Hard Copies in a three-ring binder with labeled section tabs, and 2 CD/DVD soft copies in a format compatible with MS Office 2007).

3. If the proposing entity is a corporation doing business in New York State, it shall certify that it is registered with the Department of State (see RFP Section 4). In your Part II Cost Proposal, provide a copy of the New York State Department of State registration (web site printout).
III. SCOPE OF SERVICES

A. General Information

The purpose of this contract is to create an MUTCD sign asset inventory for NYSDOT Region 8. This will be an initial data collection of all signs, including their locations and images and each sign panel’s type, dimensions, overall condition, retroreflectivity and related attributes. The collected inventory will be delivered as ESRI ArcGIS 10 file geodatabase linked to a catalog of sign images. This inventory will be used for a sign asset management practice to maintain the required MUTCD standards.

In addition to the inventory, the Consultant will provide hands-on training during a two-day workshop in the use of mobile GPS units and the procedures for updating the geodatabase. The purpose of the training is to enable internal NYSDOT staff to maintain the inventory. Note: It is understood by the Department that this manual field data collection training will most likely differ from the method used by the Consultant to collect the initial inventory data.

All proposals must include both the data collection and the sign data extraction portions of the contract and satisfy all critical requirements.

The scope of the inventory will be all State owned signs on the State highway network and adjacent local road in NYSDOT Region 8. The Region has approximately 2025 centerline miles of State owned highway and approximately 95,000 State owned signs. There are seven counties within the region, Columbia, Dutchess, Orange, Putnam, Rockland, Ulster and Westchester. The information summarized in the chart below is an order of magnitude estimate based upon a good faith effort, using the best available information, to quantify the number of intersections and centerline miles.

<table>
<thead>
<tr>
<th></th>
<th>Intersections</th>
<th>Center Line Miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Columbia</td>
<td>1016</td>
<td>265</td>
</tr>
<tr>
<td>Dutchess</td>
<td>2030</td>
<td>371</td>
</tr>
<tr>
<td>Orange</td>
<td>2305</td>
<td>409</td>
</tr>
<tr>
<td>Putnam</td>
<td>743</td>
<td>133</td>
</tr>
<tr>
<td>Rockland</td>
<td>916</td>
<td>121</td>
</tr>
<tr>
<td>Ulster</td>
<td>1598</td>
<td>283</td>
</tr>
<tr>
<td>Westchester</td>
<td>3329</td>
<td>443</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>11937</strong></td>
<td><strong>2025</strong></td>
</tr>
</tbody>
</table>

B. Tasks And Deliverables
The scope of services for this RFP has been organized into two separate items of work:

**TASK 1 - Sign Inventory Geodatabase**
**TASK 2 - Two Day Training Class: Sign Inventory Field Data Collection And Management**

The requirements for each specific task are detailed below.

1. **TASK 1: Sign Inventory Geodatabase**
   a. **Schema**

   The template for the ESRI ArcGIS 10 geodatabase for the sign inventory is provided via (Attachment 9). A sign is comprised of a mount and one or more panels and the geodatabase design supports that asset definition. The mount feature class contains the location of the mount and its attributes. The related sign panel table contains the sign panel attributes, condition and retroreflectivity ratings for each panel on a given mount. Documentation of the geodatabase tables and fields is in Attachment 10.

   The inventory shall document regulatory, guide and warning signs as defined by the Federal Highway Administration’s [Manual on Uniform Traffic Control Devices, 2009 edition (MUTCD)](https://www.fhwa.dot.gov/publications/mutcd/2009/mutcd2009.pdf), and the NYS Supplement. The inventory will collect the required data for each of the sign’s attributes. The project will inventory all Department signs within the State Right of Way, including stop signs and other Department signs on side roads at their intersection with the State Highways. The contract will also document other standard MUTCD signs located on side roads facing the travel direction approaching the state route. Street name signs shall be included in the inventory.

   Project routes that are found to be under major reconstruction, widening and/or relocation (directly affecting the route signing and/or mile post) during the term of this contract will be documented as such and omitted. Temporary Traffic Control Signs (i.e., work zone signs) will be excluded from the inventory. Reference Marker signs will not be collected. Signs on state roads not in NYSDOT jurisdiction will not be collected.
b. **Spatial Accuracy**

The contractor is required to collect either a point, or polyline for each asset identified, using the New York State CORS network and Differential GPS techniques resulting in an error in horizontal accuracy, with a confidence of 95%, of one (1) meter or less.

- GPS — minimum of mapping grade
  
  With specifications as follows:

<table>
<thead>
<tr>
<th>Specification</th>
</tr>
</thead>
<tbody>
<tr>
<td>PDOP &lt;= 7</td>
</tr>
<tr>
<td>Elevation Mask = 12</td>
</tr>
<tr>
<td>Datum = NAD 83/96</td>
</tr>
<tr>
<td>UTM Zone 18 North</td>
</tr>
</tbody>
</table>

- Conventional Survey = field book file and the final coordinate description output

Any points not established these two ways require exceptions approved by engineer in charge.

c. **Images**

The database is designed to hold a link to the image file location for each sign. Digital images of the signs shall be a portrait of the sign and its surroundings.

- Multiple signs may share the same portrait. Each sign must be legible.
- All digital images must be in a JPEG format.
- All digital images must have the Date Stamp, GPS coordinates and direction of orientation included as part of the metadata attached to each individual JPEG’s EXIF file.

d. **Project Initiation Meeting**

The selected Consultant shall schedule and attend a project initiation meeting at NYSDOT’s Region 8 office in Poughkeepsie, New York, with the NYSDOT project manager and other Department representatives as soon as practical after the contract is approved by the Office of the State Comptroller and notification is given to begin work. At the meeting, the project details, requirements and schedule will be reviewed, and the Consultant should request any additional information required to perform the work. With the likelihood that DOT staff time will be needed to assist in adapting an interface between the Consultant’s inventory collection methods and the required geodatabase format, a time estimate should be provided.

e. **Data Collection Schedule and Quality Assurance Practice**

The Consultant shall prepare and submit to the NYSDOT Project Manager within thirty (30) calendar days after the initiation meeting a data collection routing strategy and project schedule. Specifically, the selected Consultant will use the supplied GIS shape files detailing the routes to be collected to document the proposed program. The GIS RIS_LaneMiles20120710.shp will be used to track the field collection and to
display monthly progress. The Intersection_Nodes_20110713.shp is provided in Attachment 10 to identify intersections on State Roads. The strategy plan and schedule must meet the data collection requirements of the RFP. The plan shall be comprehensive and must be approved by NYSDOT before data collection begins.

The Department will conduct Quality Assurance through periodic reviews of the partial geodatabase as it is being populated. The Consultant will note in the schedule when these inventory portions will be available for review.

f. General Condition Assessment

The Department uses a 9 point rating scale for both sign mounts and sign panels. Only the condition rating of the sign panels is required to be assessed. The condition of the sign mount is not to be done. The results of the contractor’s data collection for condition assessment will be quality checked for rating consistency.

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Condition and/or existence unknown</td>
</tr>
<tr>
<td>8</td>
<td>Does Not Apply/Under Construction</td>
</tr>
<tr>
<td>7</td>
<td>New Condition, no apparent problems</td>
</tr>
<tr>
<td>6</td>
<td>Used to shade between rating 5 and 7</td>
</tr>
<tr>
<td>5</td>
<td>Minor deterioration but functioning as originally designed</td>
</tr>
<tr>
<td>4</td>
<td>Used to shade between rating 3 and 5</td>
</tr>
<tr>
<td>3</td>
<td>Serious deterioration, or not functioning as originally designed</td>
</tr>
<tr>
<td>2</td>
<td>Used to shade between rating 1 and 3</td>
</tr>
<tr>
<td>1</td>
<td>Totally deteriorated or in failed condition</td>
</tr>
</tbody>
</table>

g. Retroreflectivity Assessment

The selected Consultant shall use one of the approved methods to assess retroreflectivity stated in the 2009 MUTCD. The Consultant shall conduct a field review of sign Retroreflectivity in accordance with FHWA standards and best practices. The Consultant Staff will assess a sign’s retroreflectivity by the methodology as defined in the FHWA’s publications including Methods for Maintaining Traffic Sign Retroreflectivity, 2007. The choice of method(s) should be declared in the contract submittal.

Payment for Work Completed – TASK 1

Payment for work will be based on completed state route centerline miles in seven (7) payments. For a state route centerline mile to be complete, all sign mounts and their panels along the state road in both directions and state signs on intersecting local roads must have completed entries, attributes and valid image links in the geodatabase. There are six (6) equal payments; an individual payment will be for each of six (6) groups of 300 completed centerline miles with the final seventh (7th) payment for the remaining mileage.
The Department verifies the data and images for completeness, accuracy of location, data and image quality, and that all other contract requirements for the data submission have been satisfied. Payment will be rendered after NYSDOT accepts each group.

It shall be the responsibility of the Consultant to plan the most efficient data collection routing plan to effectively complete the contract requirements.

After contract approval and the notice to proceed has been given, the Consultant will encounter situations beyond their control when it will not be possible to collect the sign data on a specific route as planned.

NYSDOT recognizes the following type of exceptions as legitimate reasons for not collecting 100% of the mileage in a given group:

a. Road impassable due to landslides or other catastrophic events
b. NYSDOT road crews performing maintenance
c. Temporary road blocks and re-routing for traffic control situations
d. Long term construction
e. Road no longer exists or has been re-assigned to non State jurisdiction
f. If data cannot be recorded from a highway section due to temporary obstacles such as a road crew performing maintenance or road closure.

There might be additional reasons for incomplete data collection (the above list will be added to as agreed-upon between NYSDOT and the Consultant). Other extenuating circumstances (not listed above) shall be brought to the attention of the NYSDOT Project Manager as it relates to a collection issue. The NYSDOT Manager will then review the request in the context of the Contract with Department officials to determine if any relief is warranted. In general, only the items noted above are acceptable for not collecting all data. Weather is not a valid exception for not collecting data. If the additional reason is deemed valid, the above list shall be modified via Project Side Letter.

For payment purposes, a centerline mile group is complete when all of the following conditions have been met:

a) All the data for the centerline mile group as detailed in the Consultant work plan and approved by the NYSDOT Project Manager have been collected.

b) The Consultant has identified Routes where the exceptions noted above have been documented and the exceptions have been approved as not collectable by the NYSDOT Project Manager.

c) The Consultant’s Project Manager and the NYSDOT Project Manager complete and agree upon a review the non-collected mileage to determine if it can be collected later in the collection cycle when the obstruction is gone.
2. TASK 2: Two Day Training Class: Sign Inventory Field Data Collection And Management

Deliver Field Collection Device Training To Maintain The Sign Inventory. ArcGIS – ArcPad Environment. Start to Finish Instructions on updating the geodatabase using the ArcPAD Check in and Check out feature. The Department will be using ArcGIS 10.0, ArcPad 10.0 and Trimble 6000’s and GeoXT’s.

- The training class will meet in NYSDOT Region 8, Poughkeepsie.
- Field exercises will take place Region 8.
- Each class day may last up to 8 hours, exclusive of lunch and two fifteen minute breaks.
- NYSDOT intends that the two training days will be consecutive (subject to change).
- NYSDOT may record the training session for those who are absent or for reference.
- Training manual(s) and materials should be delivered in electronic format.
- Support for follow-up questions will be provided via e-mail:
  - NYSDOT’s personnel will review and approve the training material prior to scheduling the training class.
  - Class performance evaluation survey (to gather participant feedback).

TASK 2 Deliverables

1. Two Day Training Class
2. Electronic Training Manuals
3. Post-training support – Consultant will be available via e-mail and phone to answer user questions throughout the contract term.

Payment for Work Completed – TASK 2

The first payment for Task 2 will be made after both days of training sessions have been completed and all training materials are received and accepted by NYSDOT. The second payment for Task 2 will be made after 30 days of completion of both training classes. The payment will be divided into two equal amounts.

IV. PROPOSAL FORMAT AND CONTENTS

A. General

Part I and Part II submissions must be received before the proposal due date/time. Proposals must be delivered in two sealed packages and labeled: Sign Inventory Data Collection Services For NYSDOT, Contract #C030797. One package shall contain the technical proposals and one package shall contain the cost proposals.

For the purposes of evaluation, Part I (Technical and Management Submission) and Part II (Cost and Contract Submission) must be separately submitted in two (2) parts. Each part of the proposal must be **bound and complete in itself** in order that the evaluation of both parts can be accomplished independently and concurrently, and the Technical and Management
submittal can be evaluated strictly on the basis of its merits. Cost information is **not** to be included in the Part I submittal. Technical information is **not** to be included in the Part II submittal. The cover of each submittal must be clearly labeled as Part I Technical and Management Submittal and Part II Cost Submittal.

In order to promote uniformity of preparation and to facilitate review, proposals should be printed on standard 8-1/2 by 11-inch white paper and be organized in accordance with the format set forth in this RFP. Proposal text should be 11 point font or larger, except where necessitated for readability of tables, figures, schedules, or special graphics. 12 point fonts are preferred. Please avoid printing schedules using fonts smaller than 9 point. Illustrations that support the text must be simple and direct and be either sized to fit on 8 ½ by 11-inch paper or printed on 11 inch by 17 inch paper as long as the pages are folded to the 8 ½ by 11-inch size. Illustrations and photographs must be reproducible in black and white without obscuring their distinctive information. Double sided printing is allowed. Color printing is allowed.

**NOTE:** NYSDOT will protect confidential and proprietary information from disclosure to the extent permitted by the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law. If an offerer believes information included in their proposal is confidential and proprietary, they should identify those page(s) of their proposal which contain such information as “confidential and proprietary”. **Labeling all pages as “confidential and proprietary”** is unacceptable - such proposals will not be accepted unless the proposer relabels their proposal to only identify what specific material to shield from public scrutiny.

All offerors shall explain the material and substantive reason(s) why this information should be considered exempt from public disclosure under FOIL. The identification of pages and the reasons for exemption should be included in the Executive Summary of your proposal (see B.4 below).

Your proposal, which must be bound in three-ring binders with labeled tabs separating sections, should follow the format listed below:

**B. Part I: Technical and Management Submittal**

**Required Part I - Technical and Management Submittal**

<table>
<thead>
<tr>
<th>Part I - Technical and Management Submittal</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ (5) Bound Hard Copies of Part I with tabs for each section and 2 soft copies on CD/DVD, in a format compatible with MS Office 2007. Font size must be at least 11.</td>
</tr>
<tr>
<td>□ Securely sealed and clearly labeled with the offeror’s name, address, e-mail address and telephone number and the words “NYS Department of Transportation, Sign Inventory Data Collection Services for NYSDOT RFP Part I — Technical and Management Proposal (Contract C030797)”</td>
</tr>
<tr>
<td>□ Name of person(s) who prepared proposal</td>
</tr>
<tr>
<td>□ Contact person(s), email addresses and telephone numbers</td>
</tr>
<tr>
<td>□ Signed Cover Letter on official business letterhead</td>
</tr>
</tbody>
</table>
ABSOLUTELY NO COST PROPOSAL INFORMATION SHOULD BE INCLUDED IN THE TECHNICAL AND MANAGEMENT PROPOSAL. Cost information is not to be included in the Part I submittal, and Technical and Management information is not to be included in Part II Cost and Contract submittal. NO EXCEPTIONS TO THE CONTRACT TERMS AND CONDITIONS WILL BE ENTERTAINED.

1. Title Page. Indicate the name, mailing and e-mail addresses and phone number of the proposer, including a contact person, and name of the person(s) who prepared the proposal. Title shall be: Sign Inventory Data Collection Services For NYSDOT, Contract #C030797. Part I: Technical & Management Submittal.

2. Cover Letter. The Cover Letter submission must include the following:
   • Present a Signed Cover Letter on official business letterhead.
   • Identify and address any confidential and proprietary information in this section.
   • The signature of an official authorized to bind the offeror to all of the RFP’s provisions.
   • A statement that the offered named key personnel will be provided once NYSDOT issues a notice to proceed. NYSDOT does not allow unapproved substitutes.
   • Name of offeror’s official representative(s), including: Title, Name of company, mailing address, telephone number, FAX number; and E-mail address of the offeror’s representative(s).
   • If there are multiple offices of the Consultant, indicate which one will be primarily responsible for the contract. Indicate which other offices are also involved.
   • The legal names of all Subconsultants involved in the offeror’s response.

3. A Table of Contents (for each Part). Part I and Part II sections shall be divided by labeled tabs.

4. Executive Summary. Provide a brief description of the proposed approach and work effort. Confidential and proprietary information should also be identified and addressed in this section.

5. Narrative Description. Provide a discussion on the important issues involved in the Project. Include enough substantive discussion to demonstrate an understanding of NYSDOT’s contract objectives and familiarity with applicable laws, rules, etc.

6. Approach, Scope of Services and Schedule. Briefly describe the history of the company, including number of employees, general services offered, general regions where the company operates, and annual gross sales. Provide a general overview of your understanding of collection of digital images, retroreflectivity, data extraction from digital images, data reporting and quality assurance procedures. Include enough
substantive discussion to indicate your understanding of the Data Collection Protocols as well as your understanding of the Department’s objectives for use of the data.

Describe in detail your firm’s approach for performing the work and accomplishing the RFP’s project objectives. Provide a detailed scope of services which describes by task and subtask what will be done, by whom (detailing hours) and schedule. Describe your proposed billing approach/procedure. A general scope of services is outlined under Section III. You may base your scope of services on these tasks, or suggest alternative tasks which could improve the ability of the project to meet its objectives. NYSDOT wants to allow maximum flexibility for the inclusion and consideration of ideas, initiative and creativity of the proposer. Alternative tasks and suggestions are encouraged and will be reviewed with interest within the framework of the stated objectives and scope of services for the project. Include the methodology for determining the most efficient collection method.

If subconsultants are to be used, explain the specific need for the expertise, describe the arrangements and indicate prior collaborative efforts, if any. Describe the level of interaction contemplated with NYSDOT.

Provide an organizational chart for the contract showing the names of the proposed Project Manager and key personnel including any subconsultants. Include the resumes of the Project Manager and key personnel as well as the resumes of subconsultants. In your Attachment 8B submission, label all persons assigned from the prime firm and subconsultant firms (if any).

Provide the overall staffing and organizational structure for technical support and any system updating for both field operations and office applications. Indicate the key person(s) that would be responsible for technical support and any system upgrades.

Provide a discussion of how your firm responds to unknowns, evolutionary aspects of projects; discuss two or three projects where this occurred.

Include a detailed schedule for completion of the project showing the duration of each task and all major milestones and deliverables. Indicate any anticipated events or risks that may impact the project schedule.

Work Activity, Quality Assurance: Provide a detailed description of the data and image file flow, from field collection to final product delivery. Describe the process for office processing, quality assurance and delivery of the final product. Demonstrate understanding of the data file formats to be provided.

Demonstrate understanding of the materials to be provided by the Department to identify routes to be collected, the data required for each mount and panel subtype, and method for associating imagery to each asset.

Describe the process to assure the quality of data and images provided to the Department. Discuss the type of errors commonly committed, how they are identified and resolved.
Include an overview of procedures for equipment operation during sign data collection, accurate location referencing, post processing and office review of final products.

Training: Describe the overall approach and schedule of training to NYSDOT personnel for collection operations and data processing of the system(s) being provided. Identify training staff and describe their experience with the materials to be covered in the training program and familiarity with the consultant’s products. Provide a general outline or agenda for the training program(s). Discuss how the training will be supported after the two day sessions. Ensure that costs associated with providing training are included in your Part II cost proposal.

Note: Training: The Proposer will have access to the Department’s computer training room in Poughkeepsie for the desktop portion of the training. 12 stations with ArcGIS 10 will be installed for classroom use. Trimble handheld GPS units for field data collection training will need to be provided for training class if NYSDOT does not own units at this point.

Indicate the firm’s fleet size and capabilities, number of operators and data processing staff. State the number of vehicles to be used for this project (full or part time), number of personnel assigned to operate vehicle(s), the number of personnel who will process the collected data, etc. Indicate any anticipated changes to current staff levels and/or fleet size/configuration needed to adequately complete this project.

Describe work for other clients expected to be in progress concurrently with this project. Indicate the nature, extent and resource requirements of the concurrent work and any potential for advantages or risks to the firm’s capacity. Describe how field and office staff may be affected by other work.

7. Experience and Expertise

The qualifications and prior relevant experience of proposing firms and offered key personnel are of great importance to the State. The Consultant should demonstrate competency with field collection of data intended for asset management, including; digital images, retroreflectivity measurement, attribute collection and condition assessments. A sample of a GIS deliverable previously collected by the proposer is desirable. Please include mention of any additional deliverables, created during the contract, that may be of benefit to the Department.

Provide a list with descriptions of all recent projects completed by your firm within the last three years which are relevant to this effort. Provide the experience and qualifications of your firm. Provide names, addresses, e-mail addresses and telephone numbers of a contact person for each listed client as well as the titles and dates corresponding to each project cited. Indicate proposed consultant personnel who have worked on such projects and who will be assigned to this project. The Department reserves the right to request information from any source so named as well as seek its own references. It is the proposer’s responsibility to ensure that all e-mail addresses and
telephone numbers of contacts are current. Failure to successfully contact given references may lead to downgrading of a firm’s offered proposal. C. Part II: Cost and Contract Submittal

| □ | (3) Bound Hard Copies with tabs for each section and 2 soft copies on CD, in a format compatible with MS Office 2007 |
| □ | Required cost information (complete and submit Attachment # 8) |
| □ | Name, title, e-mail address, mailing address and telephone number of person(s) with authority to negotiate, and who may be contacted during proposal evaluation |
| □ | Complete and submit Attachment 2 Consultant Information and Certifications (sign both Sections II and III) |
| □ | Complete and submit Attachment 3 Procurement Lobbying Law Compliance Forms (see below *) – These forms are required to be submitted with the Proposal as well as with the RFP Response Form. |
| □ | Submit Department of State Certificate (conditional) See RFP Section IV. e |
| □ | Complete and submit Attachment 6 MBE and WBE Participation Information Form |
| □ | Complete and submit (if applicable) Attachment 7 MBE and WBE Participation Solicitation Log AND Letter of Explanation of Non or Partial MBE Goal and/or WBE Goal Attainment |
| □ | Submit Department of State Certificate (conditional) See RFP Section IV. f |

Part II of the proposal consists of two sections:

1. **Cost Proposal Section.** All Proposed costs shall include all fees and total cost for performing all of the work specified in the scope of services.

Each cost proposal should be complete, accurate and well-documented, since it will be evaluated to determine the reasonableness of the cost for the total project to be delivered (Best Value and will be the basis for any future negotiations with the selected consultant.

Cost Proposal Instructions

Use Attachment #8 to complete the Cost Proposal response forms. This attachment contains instructions to guide completion of this form. Should any questions arise pertaining to this form and its instructions, please submit them to the designated NYSDOT contact person before the Question & Answer deadline. The Department will do its best to address questions submitted after this deadline has passed but there is no guarantee that they will be answered.

The last and final payment will become due and payable within thirty (30) days after delivery of the final deliverable(s) and a NYS FIN 421 payment request forms. Requests for milestone and final payments shall be made by the designated
consultant on the basis of NYS FIN 421 payment request forms prepared and submitted by the consultant contractor together with the deliverable item for which the payment request is being made.

2. **Contract Section**

A Contract Section, which shall specify the proposer’s acceptance of the Terms and Conditions contained in the draft Contract Agreement enclosed as **Attachment 1** to this solicitation, as well as host several other administrative items.

Your Contract Section shall contain the following elements:

a. **Acceptance of Terms and Conditions**

The Consultant shall specifically state its acceptance of all Terms and Conditions of the draft Contract Agreement contained in **Attachment 1** of this Request for Proposals. **NOTE: NO EXCEPTIONS TO THE RFP’s DRAFT CONTRACT TERMS AND CONDITIONS WILL BE ACCEPTED.**

Offerors should complete and submit the “Consultant Information and Certifications Form,” included as **Attachment 2** to this RFP, to indicate their **acceptance of all** of the Terms and Conditions contained in the draft Contract Agreement. Altering this form without the prior expressed written approval of NYSDOT is prohibited and will lead to the proposal being deemed non-responsive and subsequently dismissed. **No exceptions to the contract Terms and Conditions will be considered.**

b. **M/WBE Participation**

The New York State Department of Transportation has established a **combined M/WBE participation goal of 20 percent** for this solicitation. This goal relates to the labor portion of the project budget. Meaningful participation by a **certified** M/WBE subconsultant(s) counts toward the M/WBE participation goal. Meaningful participation is defined as providing commercially useful functions or services. These services should:

- Result in a product or service either distinguishable from the Prime Consultant’s product or service or can be a part of the services performed by the Prime Consultant,
- Be for scope of service elements which can be and are completely performed, supervised and managed by the MBE and/or WBE consultant, and/or perform significant tasks which can be considered commercially marketable.

A prime consultant that is an M/WBE still must make a good faith effort to include M/WBE subconsultants in their proposal. Only participation by certified MBE and/or WBE subconsultants may count towards the contract participation goal. Participation by a certified MBE or WBE prime consultant does not count
towards meeting the contract goal (participation by a certified MBE or WBE prime consultant helps to meet the Department’s corporate M/WBE goal.

Interested proposers should verify their attainment of the above established M/WBE participation goal by completing **Attachment 6 M/WBE Participation Information**. Provide the legal names of all certified MBE and certified WBE consultants (prime and/or subconsultant). For participation to count towards the Department’s M/WBE goal set for this solicitation, the offered MBE and/or WBE participating firm must be currently certified by Empire State Development. If the proposal does not meet the combined 20% percent M/WBE participation goal, the firm must provide evidence of a good faith effort by completing one **Attachment 7 M/WBE Participation Solicitation Log**.

**Additionally, if the firm does not meet the specified goal,** the firm must include in its submission an **M/WBE Goal Attainment Explanation Letter** explaining why the firm was unable to meet the applicable M/WBE goal (in full or if partially), which serves to substantiate the firm’s good faith effort. The letter should include sufficient justification as to why the goal was not met or was met partially and should at a minimum address the following factors: the potential firm’s method of accomplishing the work, the subcontracting opportunities associated with the proposed approach and scope of services, and the availability of certified firms for the work to be performed by either a prime consultant or via subcontract.

The above forms and letter must be included in Part II: Cost and Contract submission. Firms are advised to refer to Section V. A. for the procedure the Department will follow in evaluating a firm’s proposed MBE and WBE participation.

c. **Modification Acknowledgement Forms**

Included with any/all future Modifications to this RFP will be Acknowledgement forms. All respondents must have an authorized representative of the firm or organization acknowledge receipt and acceptance of each of the Modifications by including a signed copy of this/these form(s) with the Part II Cost and Contract Submission.

d. **Consultant Identification Number (CIN)**

All respondents to this solicitation must reference their Consultant Identification Number (CIN) in their Part II proposal.

If an offeror does not have a CIN and they are selected for contract award, they will be required to obtain one through the following NYSDOT Web site prior to negotiation of the contract: “How to Register a New Consultant Firm with NYSDOT” at [https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions](https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-instructions)
e. Procurement Lobbying Law


**Filing the two required forms (Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b) and Offerer Disclosure of Prior Non-Responsibility Determinations) is mandatory for all consultants in order to be considered for contract award.**

Hard copies of the two required forms are included with this RFP (see Attachment __). **NOTE: Failure to submit the required PLL forms with your proposal will result in elimination from consideration for contract award.**

Use Contract Number #C030797 wherever requested in the forms. Please call or e-mail the person identified as the contact in the Administrative Specifications section (VI.E) of this RFP if you have any questions regarding how to complete this required form.

Per the Procurement/Lobbying Law of 2005, any person who wishes to contact NYSDOT regarding this project during the restricted period (i.e. from advertisement through designation), may only contact the person noted in the cover letter to this solicitation.

f. New York State Registration (conditional)

If the proposing entity is a business with a physical presence in New York State, it shall certify that it is registered with the Department of State. Provide a copy of your New York State registration certificate in Part II of your response.

V. CRITERIA FOR EVALUATION OF PROPOSALS

A. General Information including Participation in M/WBE Goal

Proposals shall be pre-screened to determine if they meet the minimum RFP responsiveness requirements (RFP Section II). Those which do shall be considered further; those which do not may be deemed non-responsive and may be removed from further consideration. Firms shall be notified in writing if their proposal fails the RFP’s pre-screening criteria.

As part of the pre-screening process, the proposed M/WBE participation and percentages offered for ESD certified MBE and/or WBE prime consultants and/or certified MBE and/or WBE subconsultants will be reviewed (Attachment 6 MBE and WBE Participation Information). To count towards the Department’s M/WBE participation goals, each proposed subconsultant firm must be currently listed in the New York State’s certified MBE/WBE Directory. If the proposed M/WBE participation is less than the
established 20% combined M/WBE goal, then the firm’s evidence of a Good Faith Effort (Attachment 7 M/WBE Participation Solicitation Logs) to achieve participation in the goals will be reviewed, along with the firm’s goal attainment letter, which explains why the proposing firm was unable to meet the goal(s). During the review process, which will include verification of a firm’s good faith effort evidence, if it is determined by the Department that the firm did not provide an acceptable good faith effort, then the proposal may be deemed non-responsive. Proposals deemed to be non-responsive may be removed from further consideration.

Proposing MWBE prime consultant must make a good faith effort to include M/WBE subconsultants in their proposal.

Proposals passing pre-screening shall then be evaluated by the Department using a Best Value Method evaluation process based on separate evaluation of a firm’s Technical and Cost proposals using the evaluation criteria described below. Technical considerations are of greater importance than cost considerations; however, cost is a significant factor in the Department’s evaluation of proposals. Technical proposals will be scored based on the information provided under Section IV. A. Part I: Technical and Management Submittal in accordance with the pre-established criteria listed in Section B. below. The cost portion of Part II: Cost and Contract Submittal will be point scored in accordance with the pre-established criteria listed in Section C. below.

The Technical and Management Proposal evaluation will be accomplished by a representative committee comprised, as appropriate, of technical, program and management subject matter experts. Committee members will independently judge each proposal’s degree of responsiveness to the RFP’s specifications, document their findings, and numerically represent their findings using a zero-to-ten scale. The committee shall then meet as a group to discuss the proposals collectively. Evaluators will be allowed to revise scores on the basis of the committee discussions. Proposers responding to this RFP may be requested to clarify issues or to provide additional insights into their proposal through written clarifications. If written clarifications are required to complete the technical evaluation of proposals, evaluators will be allowed to revise their technical scores based on this additional information.

After clarification responses are included in the technical evaluation, technical scores will be perfected and added to the perfected cost scores to obtain final best value scores.

The Department reserves the right to ask clarifying questions regarding each cost proposal (Part II). Furthermore, the Department reserves the right to request best and final offers from firms that are determined to be susceptible for contract award.

A tentative contract award shall be made to the offeror whose proposal receives the highest total best value score after considering all technical and cost/price evaluation factors.

Note: In the event two or more proposals are found to be “substantially equivalent”, the Department reserves the right to award the contract under the terms of State Finance Law §163 (10)(a)
At the conclusion of the evaluation process, an announcement of the Department’s designation(s) will be posted on the NYSDOT Web site listed below. All non-designated firms shall be notified in writing regarding the results from the solicitation, and will be offered an opportunity to hold a debriefing. Further, it is expressly understood that this Request for Proposals does not commit the Department to award a contract, pay any costs incurred in the preparation of a proposal to this request, or to procure or contract services or supplies. Further, the Department shall have no obligation or liability whatsoever to the vendor selected as a result of this solicitation unless and until a contract satisfactory to the Department is approved and executed by the vendor and all necessary State officials.


B. Pre-Screening of Proposals

Minimum proposal requirements
NYSDOT will conduct a pre-screening of each proposal to ensure all contents have been submitted in accordance with the minimum proposal requirements as specified in the RFP. RFP specifications include that it is NYSDOT’s sole discretionary determination as to whether a proposal is complete (reference “Minimum RFP Responsiveness” Section I). Proposals which do not meet the Minimum RFP Responsiveness section will be deemed non-responsive by NYSDOT and may not be considered further.

C. Technical and Management (60 points)

The offerer shall provide a detailed response that describes how they will meet each requirement in the RFP Section III. The offerer’s Technical Proposal shall include footnotes that reference the technical and management criteria addressed.

The technical and management proposal will be scored and will represent 60% (up to 60 Points) of the total best value score for a proposal. The major technical evaluation criteria are listed with their associated point values. Proposals will be evaluated and scored according to the following categories for technical and management criteria:

1. Understanding of Project Scope and Objectives, Approach (10 points)
2. Staffing, experience and performance (10 points)
3. Capacity and schedule (10 points)
4. Work activity, quality assurance (10 points)
5. Collection of digital images (5 points)
6. Retroreflectivity assessment (5 points)
7. Training (10 points)

1. Understanding of Project Scope and Objectives, Approach (up to 10 Points)
   a. Depth of understanding of and adherence to established protocols for data collection, equipment operation, data reporting, office procedures, and quality assurance procedures.
b. Quality of overall and specific approaches to performing the work, including clarity and efficiency of the strategy for routes covered and degree to which the proposed approach and scope of services meets the project’s objectives. Adequate description of potential for advantages or risks to the firm’s capacity (equipment; field and office staff).

c. Quality, organization and clarity of the Proposal including proposed scope of services, completeness of discussions, attention to detail and responsiveness to requirements.

d. Method of Maintaining Traffic Sign Retroreflectivity to be used from initial collection

2. Staffing, Experience and Performance (up to 10 Points)

a. Quality and robustness of project staffing and organization (org chart), including any sub-consultant arrangements. Extent of prior collaborative efforts with sub-consultant. Reasonableness of staff allocations by task and hour estimations for each task and total effort.

b. Quality, extent and relevance of experience, education and training of key personnel (including sub-consultants).

c. Quality, extent and relevance of the firm's current activities and prior experience in conducting similar projects. Provide list of data collection projects and identified appropriate key personnel.

3. Capacity and Schedule (up to 10 Points)

a. Size of fleet and number of operators/processing staff indicated.

b. Ability of firm to take on additional work with current workload. Level of consultant’s attention dedicated to this project.

c. Quality, capabilities and condition of fleet to be assigned to the project.

d. Potential for risk in meeting project milestones.

e. Reasonableness of resource estimate and project schedule considering availability of staff and, ongoing work.

4. Work Activity, Quality Assurance (up to 10 Points)

a. Demonstrated understanding of materials to be provided by NYSDOT.

b. Demonstrate understanding of sources for collection route information, delivery format and schedule of deliverables.

c. Efficiency of the work flow (including data and image file flow), office processing, number of steps and effort/time required.

d. Efficiency, approach, and speed of field work adequately described.

e. Thorough error discussion with a sound correction approach.

f. Thoroughness and reliability of quality assurance/quality control procedures.

g. Size and experience of technical support staff for field applications.

h. Size of fleet and number of operators.

5. Collection of Digital Images (up to 5 points)
a. Demonstrate understanding of the jpeg format, use of EXIF header data.
b. Describe how photos will be handled for storage and linked to the geodatabase.

6. Retroreflectivity assessment (up to 5 Points)
   a. Efficiency, approach, and speed of field work. Adequately described.
   b. Size and experience of technical support staff for field applications.

7. Training (10 Points)
   a. Organization, completeness and depth of topics covered.
   b. Effectiveness and customization of strategy to meet Department needs.
   c. Appropriateness of detail for the novice skill level of Department staff.
   d. Experience and skill of trainer(s).

D. Cost and Contract (40 points)

   The cost portion of the cost and contract proposal will be evaluated and point scored and will represent up to 40% (40 points) of the total best value score for a proposal. The calculation of a cost score will be determined by adding the proposed all inclusive Task 1 costs plus the cost of providing training (Task 2) per Attachment 8 to derive the total cost of services. Proposals with the lowest total cost shall receive 40 points, with all others receiving a proportionately lower perfected cost scores based upon their relative ranking.

VI. ADMINISTRATIVE SPECIFICATIONS

A. Proposal Submission

   1. The proposal shall be signed by an official authorized to bind the offeror.

   2. Proposers shall submit five (5) copies of Part I and three (3) copies of Part II.

   3. Your proposal must be received by NYSDOT by Noon on January 17, 2013. The proposal must be addressed to:
      Director, Contract Management Bureau
      NYS Department of Transportation
      50 Wolf Road, 6th Floor
      Albany, New York 12232
      Attention: Barbara Sonenberg C030797

B. State’s Rights to Proposals

   All proposals, upon submission to NYSDOT shall become its property for use as deemed appropriate. By submitting a proposal, the offeror covenants not to make any claim for or have any right to damages because of any misinterpretation or misunderstanding of the specification, or because of any misinformation or lack of information. With regard to proposals submitted NYSDOT has the following rights and prerogatives:
• To accept or reject any or all proposals
• To correct any arithmetic errors in any or all proposals
• To change the proposal’s due date upon appropriate notification to all potentially interested firms
• To eliminate any mandatory RFP specification that is found to be unmet by all offerors in the evaluation of received proposals
• To adopt any or all of a successful offeror’s proposal
• To negotiate modifications to the scope, cost and contract terms and conditions with the selected offeror prior to contract award only if such is in the best interest of the State
• To disqualify an offeror from receiving the award if such offeror, or anyone in the offeror’s employ, has previously failed to perform satisfactorily in connection with public bidding or contracts
• To revise/amend any provision of this RFP by written notification to all potentially interested firms, prior to proposal submission
• To make inquiries, by means it may choose, into the offeror’s background or statements made in the proposal to determine the truth and accuracy of all statements made therein
• To select and award the contract to the offeror whose proposal represents the best value to NYSDOT
• To begin contract negotiations with the next highest best-value offeror(s) responsive to this RFP if NYSDOT terminates the awarded contract resulting from this RFP without again requesting proposals
• To extend the terms and conditions as well as the contract’s scope and pricing terms as is of any contract entered into pursuant to contract award arising from this solicitation to any other New York state agency. However, any response to this solicitation shall be based solely on the purpose of this solicitation and shall not factor in the possibility that this contract may, in the future, be applicable to other state agencies. Please be advised that any award made pursuant to this solicitation shall be based on the specific requirements of this solicitation only.

C. Vendor Responsibility

In accordance with the NYS Finance Law, NYSDOT will only make contract award to vendors that are determined to be responsive and responsible. All selected offerors of contracts valued at $100,000 or more will be required to provide vendor responsibility information through the Office of the State Comptroller website via http://www.osc.state.ny.us/vendrep/index.htm before negotiation of a contract. Offerors must certify the accuracy of the information they provide in the questionnaire.

D. Registration with NYSDOT
Consultant firms entering into contracts with the New York State Department of Transportation (NYSDOT) as prime consultants, joint venture partners or subconsultants, are required to electronically register their firm using the Consultant Selection System web application (CSSWeb). All consultant firms entering into Non-Architectural/Non-Engineering agreements are required to create and register an account to: 1) Create and assign Consultant Identification Numbers (CINs) for each office registered by the firm; and 2) Provide general firm information including, but not limited to: legal firm name; Federal Identification Number (FEIN); ownership type; DBE, MBE and/or WBE status; firm principals; and office(s) address information. All consultant firms participating in a potential agreement (negotiations) must be registered electronically with NYSDOT prior to that agreement being forwarded to the Office of the State Comptroller for approval. Registered firms are responsible for verifying and updating their registration information for the duration of the agreement.

Consultant Firm Registration instructions are available at: https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/instructions_cssweb_firm.rtf


Questions regarding the CSSWeb application and firm registration should be directed to the CSSWeb Administrator by email at css@dot.state.ny.us or by telephone at 518-457-2600.

E. Contractor Tax Certification

Per Section 5-a of the NYS Tax Law, all vendors selected for contracts in excess of $100,000 for the sale of goods or services must complete and submit Forms ST-220-TD and ST-220-CA (Contractor Certifications) prior to negotiation of a contract with State agencies. You should make yourself familiar with these forms by visiting the following Web sites:

http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf (Form ST-220-CA)
http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf (Form ST-220-TD)

F. Inquiries and Information

All questions concerning this solicitation must be directed only to Barbara Sonenberg of Contract Management at (518) 457-2600 or by e-mail at Barbara.Sonenberg@dot.ny.gov
The last date to submit questions for this solicitation is December 14, 2012. All inquiries should be addressed to:
Director, Contract Management Bureau
NYS Department of Transportation
Responses to all questions of a substantive nature, as well as copies of the questions, will be given to all consultant contractors being solicited.

G. Protest Procedure

The New York State Department of Transportation (NYSDOT) has established a protest procedure to be utilized when an interested party challenges a Non-Engineering consultant designation by NYSDOT. The complete procedure can be accessed via: https://www.dot.ny.gov/main/business-center/consultants/consultants-repository/misrep_protest.pdf

H. Tentative Schedule of Key Events

NYSDOT will attempt to adhere to the following tentative schedule with regard to progressing this solicitation:

- RFP Release Date: November 27, 2012
- Question Submittal Deadline: December 14, 2012
- Proposals Due: January 17, 2013
- Proposal Evaluation: January-February 2013
- Recommendation & Designation: 1–2 months after proposal evaluation
- Contract Negotiations: One Month
- Contract Award: 6-8 weeks after completion of contract negotiations

VII. ATTACHMENTS

1. Draft Contract, including Appendix A
2. Consultant Information and Certification Form
3. Procurement Lobbying Law Compliance
5. Use of Former NYSDOT Employee Information
6. M/WBE Participation Information Form
7. M/WBE Participation Solicitation Log
8. Cost Proposal
9. Sign Inventory
10. Intersection Nodes
11. NYSDOT GIS Shapefiles and Map
12. List of Firms Officially Expressing Interest

On-line
ATTACHMENT 1

Draft Contract

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

F. A. NO.: ____________ P.I.N.: ____________

COMPTROLLER'S CONTRACT NO. C030797

PROJECT: SIGN INVENTORY DATA COLLECTION SERVICES FOR NYSDOT

This Agreement made this ___ day of ________________, 2012 pursuant to Section 14 of the Transportation Law, by and between THE PEOPLE OF THE STATE OF NEW YORK (hereinafter referred to as the "STATE") acting by and through the Department of Transportation (hereinafter referred to as "STATE") whose office is at 50 Wolf Road, in the County of Albany, State of New York 12232, and

CONSULTANT FIRM NAME
CONSULTANT FIRM ADDRESS

(hereinafter referred to as "CONSULTANT")

WITNESSETH:

WHEREAS, the STATE desires the CONSULTANT because of its ability and reputation, to perform the services hereinafter mentioned upon the PROJECT which is fully described in SCHEDULE A and the CONSULTANT agrees to provide these services.

NOW, THEREFORE, the parties hereto, for the consideration hereinafter named, do agree as follows:

ARTICLE 1. PERFORMANCE OF WORK.

The CONSULTANT shall perform all of the work described in SCHEDULE A and cause such work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this AGREEMENT. The CONSULTANT shall perform the work in accordance with professional standards and with the diligence and skill expected of a company with extensive experience in the performance of work of the type described in SCHEDULE A. The CONSULTANT shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the work in accordance with this AGREEMENT. It is understood and agreed that _____________ shall serve as the CONSULTANT's Project Manager and as such shall have the responsibility for the overall
supervision and conduct of the work on behalf of the CONSULTANT and that the persons described in SCHEDULE A shall serve in the capacities described therein. Any change of key project personnel by the CONSULTANT shall be subject to the prior written approval of the STATE. The STATE reserves the option to extend the terms and conditions of this AGREEMENT to any other state agency in New York subject to the approval of all necessary state officials.

The CONSULTANT will commence work no later than ten (10) days after receiving notice to proceed from the STATE.

ARTICLE 2. DOCUMENTS FORMING THE AGREEMENT.

The contract documents shall be deemed to include this AGREEMENT, the provisions required by state and federal law to be inserted in the AGREEMENT as set forth in APPENDIX A, APPENDIX A-1, APPENDIX B and APPENDIX C, SCHEDULE A (including EXHIBITS), SCHEDULE B (including EXHIBITS), the CONSULTANT’s Proposal, and the STATE’s Request for Proposals (RFP).

ARTICLE 3. INSPECTION.

The duly authorized representatives of the STATE, and on Federally aided projects, representatives of the Federal Highway Administration, shall have the right at all times to inspect the work of the CONSULTANT.

ARTICLE 4. TERM OF THE AGREEMENT.

The CONSULTANT agrees to complete all the work of this AGREEMENT as required by this AGREEMENT within an 18-month base term for this AGREEMENT, which shall commence on _____________ __, 2013 and end on _____________ __, 201_.

ARTICLE 5. PROVISION FOR PAYMENT.

Item I The STATE shall pay to the CONSULTANT and the CONSULTANT agrees to accept as full compensation for its services under this Agreement, a cost of __________ unless there is a substantial change in the scope, complexity or character of the work to be performed.

Item II The CONSULTANT specifically agrees that the AGREEMENT shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the STATE beyond the monies available for the purpose. In no event, however, will monies be deleted from this Agreement except pursuant to ARTICLE 16 hereof, entitled Termination.

Item IV The number of months of training provided under Special Provision 11 in Appendix C is _____.

ARTICLE 6. MILESTONE PAYMENTS.

The CONSULTANT shall be paid in milestone progress payments based on a payment schedule established by the Project Director and the CONSULTANT, as follows:
Six (6) equal payments, with each payment based on completion of 300 centerline miles approved by NYSDOT and a seventh payment for the remainder of the miles. There will be separate payments for the training class and materials. The first payment for Task 2 will be made after both days of training sessions have been completed and all training materials are received and accepted by NYSDOT. The second payment for Task 2 will be made after 30 days of the completion of both training classes.

The STATE will make payments to the CONSULTANT in accordance with Section 179(f) of the State Finance Law. Payments are subject to the approval of the STATE's Project Director, ________________ or their successor as identified by the STATE. Payments shall not be withheld unreasonably.

The CONSULTANT shall maintain and update once each month, if changes have taken place or are anticipated, the Project Schedule contained in SCHEDULE A hereto.

The CONSULTANT will not include any provisions in their subcontracts that would circumvent the intent of 49 CFR 26.29 to require the CONSULTANT to make partial payments to subcontractors and subconsultants within ten (10) days after receipt of payment from the STATE.

ARTICLE 7. CONTRACT PAYMENT.

The CONSULTANT shall provide complete and accurate billing invoices to the STATE in order to receive payment. Billing invoices submitted to the STATE must contain all information and supporting documentation required by the Contract, the STATE and the State Comptroller. Payment for invoices submitted by the CONSULTANT shall only be rendered electronically unless payment by paper check is expressly authorized by the New York State Department of Transportation Commissioner (hereinafter referred to as “COMMISSIONER”), in the COMMISSIONER’S sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONSULTANT shall comply with the State Comptroller’s procedures to authorize electronic payments. Authorization forms are available at the State Comptroller’s website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us, or by telephone at 518-474-4032. CONSULTANT acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the State Comptroller’s electronic payment procedures, except where the COMMISSIONER has expressly authorized payment by paper check as set forth above.

ARTICLE 8. FINAL PAYMENT.

a) Section 179 of the State Finance Law requires the STATE to make final payment within thirty (30) calendar days after receipt of an invoice which is properly prepared and submitted. The STATE in accordance with the provisions of the State Finance Law has determined that the STATE will require a 60 calendar day audit period for final payments at which time the 30 calendar day interest-free period will commence. The CONSULTANT is required to make final payment to all Sub Contractors and Sub Consultants within ten (10) calendar days of receipt of final payment from the STATE.
The CONSULTANT is required, if it is a "foreign" (Out of State) corporation or entity, to obtain and submit the required "Tax Clearance" certificate to the STATE at the time of contract signing and again before processing the final payment. It should be noted that any time taken to satisfy or furnish this Tax Clearance certificate shall extend the required payment date by an equal period of time. The Tax Clearance certificate can be obtained by mailing a request to:

New York State Department of Taxation and Finance  
Tax Status Unit  
Building 8, Room 938  
State Office Building Campus  
Albany, NY 12227
Alternatively, it may be obtained by phoning the Corporation Tax Information Center at 1-888-698-2908 and making the request there. The certificate content is public information and the certificate is free of charge.

The acceptance by the CONSULTANT of the final payment shall operate as and shall be a release to the STATE from all claims and liability to the CONSULTANT, its representatives and assigns for any and all things done, furnished for or relating to the services rendered by the CONSULTANT under or in connection with this Agreement or for any part thereof except as otherwise provided in ARTICLE 8 (b).

b) The CONSULTANT shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred and make such materials available at its office at all reasonable times during the period of this Agreement and for the period of time specified in Clause No. 10, "Records" of APPENDIX A, for inspection by the STATE, Federal Highway Administration, or any authorized representatives of the Federal Government and copies thereof shall be furnished if requested.

ARTICLE 9. EXTRA WORK.

a) If the CONSULTANT believes that any work is or may be beyond the scope of the Agreement (extra work), or that additional work is necessary, the CONSULTANT shall notify the STATE, in writing, of this fact prior to beginning any of the work. The notification shall include all information required by the Department. The STATE shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and constitutes extra work. No extra or additional work shall be started prior to written authorization from the STATE. The STATE shall be under no obligation to reimburse the CONSULTANT for any extra or additional work performed without the prescribed notification and authorization. The STATE will not allow fixed fee for any extra work undertaken without prescribed notification and authorization. In the event that the STATE determines that such work does constitute extra work, the STATE shall provide extra compensation to the CONSULTANT in a fair and equitable manner. If necessary, a Supplemental Agreement providing the compensation and describing the work authorized shall be issued by the STATE to the CONSULTANT for execution after approvals have been obtained from necessary State officials and, if required, from the Federal Highway Administration.

b) In the event of any claims being made or any actions being brought in connection with the PROJECT, the CONSULTANT agrees to render to the STATE all assistance required by the STATE. Work which the CONSULTANT is obligated to perform in accordance with Article 9 hereof shall be performed without cost to the STATE. Compensation for other work performed and costs
incurred in connection with this requirement shall be made in a fair and equitable manner. In all cases provided for in this AGREEMENT for the additional services above described, the STATE’s directions shall be exercised by the issuance of a separate Agreement, if necessary.

**ARTICLE 10. CONSULTANT LIABILITY.**

To the fullest extent permitted by law, the CONSULTANT shall indemnify and save harmless the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, from suits, claims, actions, damages and costs, of every name and description arising from the work under its contract during its prosecution and until the final acceptance thereof. The CONSULTANT and any assigns, heirs, or successors in interest shall also indemnify and save harmless, to the fullest extent permitted by law, the consultant inspecting engineer or inspector working for the State relative to the project from suits, claims, actions, damages and costs involving personal injury and property damage arising from the CONSULTANT’s work under the contract during its prosecution and until the final acceptance thereof. The State may retain such monies from the amount due the CONSULTANT as may be necessary to satisfy any claim for damages recovered against the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the work or consultant inspecting engineers or inspectors working for the State relative to the project. The CONSULTANT’s obligation under this paragraph shall not be deemed waived by the failure of the State to retain the whole or any part of such monies due the CONSULTANT, nor where such suit, action, damages and/or costs have not been resolved or determined prior to release of any monies to the CONSULTANT under the contract, nor shall such obligation be deemed limited or discharged by the enumeration or procurement of any insurance for liability for damages imposed by law upon the CONSULTANT, SubCONSULTANT or the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the work, or any consultants working for the State.

The CONSULTANT has the obligation, at its own expense, for the defense of any action or proceeding which may be brought against the parties specified in this Section. This obligation shall include the cost of attorneys’ fees, disbursements, costs and other expenses incurred in connection with such action or proceeding. Such obligation does not extend to those suits, actions, damages and costs of every name that arise out of the sole negligence of the State, any municipality in which the work is being performed, and/or any public benefit corporation, railroad or public utility whose property or facilities are affected by the contract work, or any consultants working for the State, their agents or employees, relative to the construction, alteration, or repair or maintenance of a building, highway or structure and appurtenances and appliances thereof including moving, demolition and excavating connected therewith.

**ARTICLE 11. WORKER'S COMPENSATION AND LIABILITY INSURANCE.**

The CONSULTANT shall procure, at its own sole cost and expense, and shall maintain in force at all times during the term of this contract including any extensions or renewals until Contract Final Acceptance, the policies of insurance covering all operations under the contract whether performed by it or its subconsultants as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York and that have an A.M. Best Company rating of A minus or better or approved by the
Department. The Department may, at its sole discretion, permit the placement of policies with a non-authorized carrier or carriers upon request by the CONSULTANT accompanied by the documentation required by 11 NYCRR §27.0 et seq.; provided that nothing herein shall be construed to require the Department to accept insurance placed with a non-authorized carrier under any circumstances. The CONSULTANT shall deliver to the Department evidence of such policies as the Department deems necessary to verify that the required insurance is in effect.

A. Conditions Applicable to Insurance. All policies of insurance required by this agreement must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the CONSULTANT are specified in subsection “B,” below. Insurance shall apply separately on a per-job or per-project basis.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by the Department, policies must be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy.

3. Certificates of Insurance/Notices. CONSULTANT shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commissioner, before commencing any work under this contract. Certificates or transmittal correspondence shall reference the NYSDOT Contract C Number. Certificates shall be mailed to the:

New York State Department of Transportation
Contract Management, 6th Floor
50 Wolf Rd.
Albany, NY 12232

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (i) canceled, (ii) materially changed or (iii) permitted to expire or lapse for any reason except upon thirty (30) days’ prior written notice to the Department by Certified Mail, return receipt requested at the stated address. In addition, if required by the Department, the CONSULTANT shall deliver to the Department within Forty-Five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

a. Be in the form provided by the Department (C218 or successor) unless the Department specifically approves a different form. The ACORD forms of Certificate of Insurance are not acceptable.

b. Be signed by an authorized representative of the insurance carrier or producer and be acknowledged before a notary public.

c. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the contract.
d. Specify the Additional Insureds and Named Insureds as required herein.
e. Refer to this Contract by number on the face of the certificate, and
f. Expressly reference the inclusion of all required endorsements.
g. If at any time during the term of this contract, it shall come to the attention of the
Department that required insurance is not in effect or that adequate proof of
insurance has not been provided, the Department may, at its option:
   (1) Direct the CONSULTANT to suspend work and not re-enter the premises with
no additional payment or extension of time due on account thereof, or
   (2) May withhold further contract payments in accordance with Article 8, or
   (3) Treat such failure as a breach or default of the contract.

4. **Additional Insureds.** All insurance policies required, by these specifications except
workers’ compensation and professional liability shall be endorsed to provide
coverage to “The State of New York/New York State Department of
Transportation, any municipality in which the work is being performed, any
public benefit corporation, railroad, or public utility whose property or facilities
are affected by the work, and their agents or employees” with respect to any claim
arising from the CONSULTANT’s Work under this contract or as a result of the
CONSULTANT’s activities. The endorsement shall be effected by endorsement of
the applicable policy using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07
98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a form (or
forms) that provides equivalent coverage.

5. **Primary Coverage.** All insurance policies, excepting workers’ compensation, shall
provide that the required coverage shall be primary as to any other insurance that may
be available to the Department for any claim arising from the CONSULTANT’s
Work under this contract, or as a result of the CONSULTANT’s activities.

6. **Waiver of Subrogation.** As to every type and form of insurance coverage required
from the CONSULTANT, there shall be no right of subrogation against the State of
New York/New York State Department of Transportation, its agents or
employees. To the extent that any of CONSULTANT’s policies of insurance
prohibit such a waiver of subrogation, CONSULTANT shall secure the necessary
permission to make this waiver.

7. **Policy Renewal/Expiration.** At least thirty (30) days prior to the expiration of any
policy required by this contract, evidence of renewal or replacement policies of
insurance with terms no less favorable to the Department than the expiring policies
shall be delivered to the Department in the manner required for service of notice in
subdivision (A)(3) above.

8. **Self-Insured Retention/Deductibles.** Consultants utilizing self-insurance programs
are required to provide a description of the program for Department approval.
Collateralized deductible and self-insured retention programs administered by a third
party may be approved. Except as may be specifically provided in the Contract
Documents of a particular project, CONSULTANT-administered insurance
deductible shall be limited to the amount of the bid deposit or $100,000, whichever is
less. Security is not required if it is otherwise provided to an administrator for an
approved risk management program. The Department will not accept a self-insured retention program without security being posted to assure payment of both the self-insured retention limit and the cost of adjusting claims. The CONSULTANT shall be solely responsible for all claim expense and loss payments within any permitted deductible or self-insured retention. If the CONSULTANT’s deductible in a self-administered program exceeds the amount of the bid deposit, the CONSULTANT shall furnish an irrevocable Letter of Credit as collateral to guarantee its obligations. Such Letter of Credit or other collateral as may be approved by Department must be issued by a guarantor or surety with an AM Best Company rating of “A minus” or higher. If, at any time during the term of this agreement, the Department, in its sole discretion, determines that the CONSULTANT is not paying its deductible, it may require the CONSULTANT to collateralize all or any part of the deductible or self-insured retention on any or all policies of insurance or, upon failure to promptly do so, the same may be withheld from payments due the CONSULTANT.

9. Waiver of Indemnities. The CONSULTANT waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss that is covered by a policy of insurance that is required by this contract. The CONSULTANT waives any right of action it and/or its insurance carrier might have against the Department (including its employees, officers, commissioners, or agents) for any loss, whether or not such loss is insured.

10. Subcontractor’s Liability Insurance. In the event that any portion of the work described in this contract is performed by an approved subcontractor, the insurance requirements of this Article shall be incorporated into the subcontract agreement. Subcontractor insurance requirements shall include the requirements for Workers’ Compensation, Commercial General Liability, and, if applicable, Commercial Auto and/or Professional Liability. Excess or umbrella insurance is not required for subcontractors. Contractor shall require that Certificates of Insurance, meeting the requirements of the Department are provided to the Department documenting the insurance coverage for each and every subcontractor employed by them to do work under this contract.

B. Insurance Requirements. The types of insurance and minimum policy limits shall be as follows:

1. Workers’ Compensation and Disability Insurance. As required by State Finance Law §142, CONSULTANT shall maintain in force workers’ compensation insurance upon forms required by or acceptable to the Workers Compensation Board for all of CONSULTANT’s employees. CONSULTANT shall also maintain disability insurance as required by the Disability Benefits Law of the State of New York.

2. Commercial General Liability Insurance. CONSULTANT shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related
to the premises or occasioned by reason of the operations of CONSULTANT. Such
coverage shall be written on an ISO occurrence form (ISO Form CG 00 01 12 07 or a
policy form providing equivalent coverage) in an amount of not less than
$1,000,000.00 per occurrence and not less than $2,000,000.00 aggregate. Unless
otherwise provided, the policy or policies of insurance providing the liability
coverage shall include:

(1) Coverage for liability contractually assumed by the CONSULTANT.
(2) All insurance policies required by these specifications except workers’
compensation and professional liability shall be endorsed to provide coverage to “the
State of New York/New York State Department of Transportation, any
municipality in which the work is being performed, any public benefit
corporation, railroad, or public utility whose property or facilities are affected
by the work,” using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98
when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a policy form
or forms providing equivalent coverage.

3. Commercial Automobile Insurance including liability and required coverage for
New York. In the event that automobiles are used in connection with
CONSULTANT’s business or operations with the Department, CONSULTANT shall
maintain a commercial or other automobile policy or policies insuring against liability
for bodily injury, death, or damage to property and other mandatory coverages,
relating to the use, operation, loading or unloading of any of CONSULTANT’s
automobiles (including owned, hired and non-owned vehicles) on and around the
project. This should be ISO form CA 00 01 10 01, CA 00 01 01 87 or a policy form
providing equivalent coverage along with mandatory New York endorsements.
Coverage shall be in an amount of not less than $1,000,000.00 each accident.

4. Consultant’s Risks. The CONSULTANT shall be responsible for obtaining any
insurance it deems necessary to cover its own risks, including without limitation: (a)
business interruption, such as gross earnings, extra expense, or similar coverage, (b)
personal property, and/or (c) automobile physical damage and/or theft. In no event
shall the Department be liable for any damage to, or loss of, personal property, or
damage to, or loss of, an automobile that is covered by a policy of insurance that is
required by this agreement, even if such loss is caused by the negligence of the
Department.

5. Professional Liability/ Errors and Omissions. The CONSULTANT shall maintain
at their own expense or shall require to be maintained, such insurance as is customary
to compensate Department for any claims or losses that occur because of
CONSULTANT’s errors, omissions malpractice or breach of professional
obligations. Such policy or policies may be written on a claims-made form so long as
coverage is maintained to be in effect to cover claims arising from the performance of
services under this contract. Said coverage may be subject to a deductible or self-
insured retention level of no more than $250,000 subject to approval by Department,
such approval not to be unreasonably withheld, except that it is also agreed that
Department may withhold payment for services rendered under this contract in the
event, and to the extent of any deductible in the event that a claim is asserted. Such
coverage shall be written on an ISO claims made basis (or a policy form providing equivalent coverage) in an amount of no less than $5,000,000.00 per claim and not less than $5,000,000.00 in the aggregate.

6. Special Protective and Highway Liability Policy. The CONSULTANT shall maintain, separate and apart from its umbrella policy, a policy issued to and covering the liability of the People of the State of New York, The State of New York, the Commissioner of Transportation, all employees of the Department of Transportation both officially and personally, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, or any CONSULTANT inspecting engineer or inspector working for or on the project, and their agents or employees, against damages that the insureds may be held legally liable to pay for property damage, personal injuries, or death that is caused by any occurrence that takes place within any location where work is to be or is being performed by CONSULTANT, including at the location of any of the work. This should be ISO form CG 00 14 12 or a policy form providing equivalent coverage along with mandatory New York endorsements. Coverage shall be in an amount of not less than $1,000,000.00 per occurrence and at least $2,000,000.00 for each aggregate limit.

ARTICLE 12. INTERCHANGE OF DATA.

All technical data in regard to the PROJECT existing in the office of the STATE or existing in the offices of the CONSULTANT shall be made available to the other party to this Agreement without expense to such other party.

ARTICLE 13. DISPOSITION OF DATA.

At the time of completion of the work, the CONSULTANT shall make available to the STATE all documents and data pertaining to the work or to the PROJECT which materials at all times shall be the property of the STATE. It is agreed that the CONSULTANT may maintain copies of all documents and data. Or in the event that this Agreement is terminated for any reason, then, within ten (10) days after such termination, the CONSULTANT shall make available to the STATE the aforementioned data and material.

ARTICLE 14. DAMAGES AND DELAYS.

The CONSULTANT agrees that no charges or claim for damages shall be made by them for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this AGREEMENT. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the STATE may decide, it being understood however, that the permitting of the CONSULTANT to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the STATE of any of its rights herein. Nothing in this ARTICLE will prevent the CONSULTANT from exercising its rights under ARTICLE 8 of this AGREEMENT.

ARTICLE 15. NOTICE OF BANKRUPTCY, VENUE, AUDITS.
If, prior to final audit, CONSULTANT files for relief pursuant to Title 11 of the United States Code under the Bankruptcy Laws or a successor statute, this AGREEMENT shall be treated as an executory contract under 11 USC §365 of the Bankruptcy Laws or successor statute, and be subject to assumption or rejection by the debtor within the time permitted by law.

The CONSULTANT must immediately send written notice to Contract Management of the New York State Department of Transportation at its main office in Albany and send all relevant pleading of the voluntary or involuntary filing of a Bankruptcy proceeding by the CONSULTANT, its subsidiary, its principals and officers or a related entity whether or not the CONSULTANT believes that any debt is owed to the State by final audit or otherwise.

The determination of any rights under this AGREEMENT shall be adjudicated in a State or Federal Court with jurisdiction over the matter, and venue for the determination of such rights shall be in Albany, New York.

The CONSULTANT agrees that the automatic stay under 11 USC §362 or a successor statute shall be deemed inapplicable or that this agreement shall constitute consent to the lifting of the stay with respect to the State's performance of or completion of any audit pursuant to the terms of this AGREEMENT.

ARTICLE 16. TERMINATION.

The STATE shall have the absolute right to terminate this Agreement, and such action shall in no event be deemed a breach of contract:

(a) If a termination is brought about for the convenience of the STATE and not as a result of unsatisfactory performance on the part of the CONSULTANT, final payment shall be made based on the percentage of work satisfactorily completed by the CONSULTANT, as determined by the STATE, times the Lump Sum amount.

(b) If the termination is brought about as a result of unsatisfactory performance on the part of the CONSULTANT, the value of the work performed by the CONSULTANT prior to termination shall be established by the STATE.

(c) The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONSULTANT in accordance with the requirements contained in State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONSULTANT in accordance with the written notification terms of the AGREEMENT.

ARTICLE 17. DEATH OR DISABILITY OF THE CONSULTANT.

In case of the death or disability of one or more but not all the persons herein referred to as CONSULTANT, the rights and duties of the CONSULTANT shall devolve upon the survivors of them, who shall be obligated to perform the services required under this AGREEMENT, and the STATE shall make all payments due to them.
In case of the death or disability of all the persons herein referred to as CONSULTANT, all data and records pertaining to the PROJECT shall be delivered within (60) days to the STATE or its duly authorized representative. In case of the failure of the CONSULTANT'S successors or personal representatives to make such delivery on demand, then in that event the representatives of the CONSULTANT shall be liable to the STATE for any damages it may sustain by reason thereof. Upon the delivery of all such data to the STATE, the STATE will pay to the representatives of the CONSULTANT all amounts due the CONSULTANT, including retained percentages to the date of the death of the last survivor.

ARTICLE 18. CODE OF ETHICS.

The CONSULTANT specifically agrees that this AGREEMENT may be canceled or terminated if any work under this AGREEMENT is in conflict with the provisions of Section 74 of the New York State Public Officer's Law, as amended, establishing a Code of Ethics for State officers and employees.

The CONSULTANT shall not engage, on a full or part-time or other basis any professional or technical personnel who are or have been at any time during the period of this AGREEMENT in the employ of the Federal Highway Administration or the highway organizations of any public employer, except regularly retired employees, without the consent of the public employer of such person.

ARTICLE 19. INDEPENDENT CONTRACTOR.

The CONSULTANT, in accordance with their status as an independent contractor, covenants and agrees that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the STATE by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE, including but not limited to Worker's Compensation coverage, Unemployment Insurance benefits, Social Security coverage or Retirement membership or credit.

ARTICLE 20. COVENANT AGAINST CONTINGENT FEES.

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working for the CONSULTANT, to solicit or secure this AGREEMENT, and that they have not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the STATE shall have the right to annul this AGREEMENT without liability, or, in its discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 21. TRANSFER OF AGREEMENT.

The CONSULTANT specifically agrees, as required by the State Finance Law, Section 138, that they are prohibited by law from assigning, transferring, conveying, subletting or otherwise disposing of the AGREEMENT or of their right, title or interest therein, or their power to execute such
AGREEMENT, to any other person, company or corporation, without the previous consent in writing of the STATE.

If this provision of the law be violated, the STATE shall revoke and annul the Agreement and the STATE shall be relieved from any and all liability and obligations thereunder to the person, company or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet or otherwise dispose of the Agreement, and such transferee shall forfeit and lose all moneys therefore assigned under said Agreement, except so much as may be required to pay his employees.

ARTICLE 22. PROPRIETARY RIGHTS.

The CONSULTANT agrees that if copyrights, patentable discoveries or inventions or rights in data should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the CONSULTANT. However, the CONSULTANT agrees to and does hereby grant to the United States Government and the State of New York an irrevocable, nonexclusive, nontransferable, paid-up license to reproduce, publish, make, use, and sell each subject invention throughout the world by and on behalf of the Government of the United States and States and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27, and other applicable Federal laws, rules and regulations.

ARTICLE 23. SUBCONTRACTORS/SUBCONSULTANTS.

All subcontractors and subconsultants performing work on this project shall be bound by the same required contract provisions as the prime CONSULTANT. All agreements between the prime CONSULTANT and a subcontractor or subconsultant shall include all standard required contract provisions, and such agreements shall be subject to review by the State.

ARTICLE 24. ORDER OF PRECEDENCE.

In the event of any inconsistency between or among the provisions and contents of this AGREEMENT, it is agreed that such inconsistency shall be resolved in the following descending order of precedence:

1. The provisions required by state and federal law to be inserted in the AGREEMENT as set forth in APPENDIX A, APPENDIX A-1, APPENDIX B, and APPENDIX C.

2. This AGREEMENT, including Signature Page, Notary Page and Exhibits;

3. SCHEDULE A (including Exhibits);

4. SCHEDULE B (including Exhibits);

5. The CONSULTANT’s Proposal; and

6. The STATE’s Request for Proposals.

ARTICLE 25. CERTIFICATION REQUIRED BY 49CFR, PART 29.
The signatory to this Agreement, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership):

1) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

2) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;

3) does not have a proposed debarment pending; and

4) has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

EXCEPTIONS:

ARTICLE 26. CERTIFICATION FOR FEDERAL-AID CONTRACTS.

The prospective participant certifies, by signing this Agreement to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.
ARTICLE 27. RESPONSIBILITY OF THE CONSULTANT.

(a) The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the CONSULTANT under this AGREEMENT. The CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its services. However, the STATE may in certain circumstances, provide compensation for such work.

(b) Neither the STATE’s review, approval or acceptance or, nor payment for, the services required under this AGREEMENT shall be construed to operate as a waiver of any rights under this AGREEMENT or of any cause action arising our of the performance of this AGREEMENT, and the CONSULTANT shall be and remain liable to the STATE in accordance with applicable law for all damages to the STATE caused by the CONSULTANT’s negligent performance or breach of contract of any of the services furnished under this AGREEMENT.

(c) The rights and remedies of the STATE provided for under this AGREEMENT are in addition to any other rights and remedies provided by law.

(d) If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that each has the power to bind the CONSULTANT and each of the others hereunder; and as such, each acts both as principal and agent of the CONSULTANT and of each of the others hereunder. Each further acknowledges and agrees that all such entities, partners or joint venturers associated for the purposes of undertaking this agreement shall be jointly and severally liable to third parties, including but not limited to the STATE, for the acts or omissions of the CONSULTANT or any other entity, partner or joint venturer hereunder.

(e) If the CONSULTANT is comprised of more than one legal entity or any group of partners or joint venturers associated for the purposes of undertaking this agreement, each such entity acknowledges and hereby affirmatively represents and agrees that the respective rights, duties and liabilities of each hereunder shall be governed by the laws of the State of New York, including but not limited to the New York Partnership Law.

ARTICLE 28. SECURITY AND CONFIDENTIALITY OF INFORMATION.

Information received as part of this AGREEMENT shall be considered Confidential Information. The CONSULTANT warrants that it will take the appropriate steps as to its personnel, agents, officers and any SUBCONTRACTOR/SUBCONSULTANTS regarding the obligations arising under this clause to insure such confidentiality. The CONSULTANT shall have written policies and/or business procedures in place which will protect Confidential Information from unauthorized disclosure, use, access, loss, alteration or destruction. The CONSULTANT may disclose to other parties, as authorized by the NYSDOT Project Manager, or as described in the scope of services, only the information necessary to perform services under this AGREEMENT. However, the CONSULTANT shall in no circumstance, communicate with the public or news media without prior authorization from the States designee. Neither shall the CONSULTANT disclose information deemed confidential by the State nor shall the CONSULTANT disclose any other information obtained or developed in the performance of services under this agreement.
without the written authorization of the State. This warranty shall survive termination of this AGREEMENT.

The CONSULTANT shall comply with the provisions of the New York State Information Security Breach and Notification Act, including General Business Law Section §889-aa and State Technology Law §208 as enacted by such Act or subsequently amended. In the event of an information security breach resulting in the unauthorized disclosure of personal information, CONSULTANT shall be liable for the costs associated with such breach if caused by CONSULTANT’s negligent or willful acts or omissions, or the negligent or willful acts or omissions of the CONSULTANT’s agents, officers, employees or SUBCONSULTANTS.

**ARTICLE 29. VENDOR RESPONSIBILITY.**

The Department of Transportation has undertaken an affirmative review of the proposed CONSULTANT’s responsibility in accordance with the applicable standards outlined in Comptroller’s Bulletin No. G-221, and based upon such review, reasonable assurance that the proposed contractor is responsible has been determined.

**ARTICLE 30. CONSULTANT DISCLOSURE LEGISLATION.**

In accordance with Chapter 10 of the Laws of 2006, the CONSULTANT shall complete the “State Consultant Services Contractor’s Annual Employment Report” (Form B, Attachment 5) and submit copies to the Office of the State Comptroller, the Department of Civil Service, and the Department of Transportation on or before May 15th of each year the contract is in effect. The CONSULTANT shall provide information regarding all employees providing service under this contract, whether employed by the CONSULTANT or any subconsultant or subcontractor. Form B will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1st to March 31st). Annual employment reports should be submitted to the following three agencies. It is recommended, however, that consultants check the agency websites annually to confirm the addresses.

By mail:
- NYS Office of the State Comptroller
  Bureau of Contracts
  110 State Street, 11th Floor
  Albany, N. Y. 12236
  Attn: Consultant Reporting

- NYS Department of Civil Service
  Alfred E. Smith Building
  Albany, N. Y. 12239
  Attn: Chapter 10 Counsel’s Office

- NYS Department of Transportation:
  Reports that are submitted to the NYS Department of Transportation must be submitted electronically, preferably as a Word, Excel or pdf file via email to: tameche@dot.state.ny.us or his successor.
ARTICLE 31. NOTICES.

Item 1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
(a) via certified or registered United States mail, return receipt requested;
(b) by facsimile transmission;
(c) by personal delivery;
(d) by expedited delivery service; or
(e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

New York State Department of Transportation:
Contact Person’s Name: William A. Howe, Contract #C0______
Title: Director
Address: NYSDOT Contract Management, Suite 1CM, 50 Wolf Road, Albany, NY 12232
Telephone Number: 518-457-2600
Facsimile Number: 518-457-2874
E-Mail Address: whowe@dot.state.ny.us

Consultant’s Name:
Contact Person’s Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

Item 2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

Item 3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

ARTICLE 32. TITLE VI ASSURANCE.

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:
Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 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.

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, sex, age, and disability/handicap 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 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

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, sex, age, and disability/handicap.

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 NYSDOT or the FHWA 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 NYSDOT’s Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA 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.

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 NYSDOT or the FHWA 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 NYSDOT to enter into such litigation to protect the interests of
NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 33. IRAN DIVESTMENT ACT.

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. This act may be viewed in its entirety at http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf. Pursuant to SFL § 165-a(3)(b), the Commissioner of the Office of General Services (OGS) has developed and maintains a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). The list may be found on the OGS website at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that, it will not utilize, on such Contract, any subcontractor that is identified on the prohibited entities list.

Additionally, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the New York State Department of Transportation (NYSDOT) receive information that a Bidder/Contractor (or any assignee) is in violation of the above-referenced certification, NYSDOT will offer the Bidder/Contractor (or any assignee) an opportunity to respond. If the Bidder/Contractor (or any assignee) fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then NYSDOT shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

NYSDOT reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.
IN WITNESS WHEREOF, this Contract No. C030797 has been executed by the STATE, acting by and through the Commissioner of Transportation, and the CONSULTANT has duly executed this Agreement effective the day and year first above written.

In addition to the acceptance of this Agreement, the Department also certifies that original copies of this signature page will be attached to all other exact copies of this Agreement.

RECOMMENDED BY FOR THE PEOPLE OF THE STATE OF NEW YORK

___________________________________ By: __________________________________
CONTRACT MANAGEMENT DEPARTMENT OF TRANSPORTATION
DATE: ____________________ DATE: ____________________

CONSULTANT Certifications: I certify that all the information with respect to the “Vendor Responsibility Questionnaire” submitted by (CONSULTANT FIRM NAME) on the ______ day of ________________, 2013 pursuant to the requirements set forth in OSC Bulletin G-221 is complete true and accurate. I additionally certify nothing has occurred since the date of that submission that would result in requiring a change or alteration to any of the answers provided on the “Vendor Responsibility Questionnaire” submitted that date.

I certify that all information provided to the STATE with respect to the requirements contained in State Finance Laws 139j & 139k is complete, true and accurate.

By _____________________________________ Date: ___________________________
FIRM

---SIGN INVENTORY DATA COLLECTION SERVICES FOR NYSDOT---

APPROVALS

ATTORNEY GENERAL

THOMAS P. DiNAPOLI

STATE COMPTROLLER

By

___________________________________

Date

___________________________________
Acknowledgement for Contract #C030797

For contracts signed in New York State

State of New York )

County of ) ss.:

On the _______ day of _____________ in the year 201____ before me the undersigned, personally appeared ____________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

__________________________________
NOTARY PUBLIC

My Commission Expires:

For contracts signed outside New York State

State of )

County of ) ss.:

On the _______ day of _____________ in the year 201____ before me, the undersigned, personally appeared ____________________, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in ____________________________ (insert the city or other political subdivision and the state or country or other place the acknowledgement was taken).

__________________________________
NOTARY PUBLIC

____________________________
(Signature and office of individual taking acknowledgement.)

My Commission Expires:
APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law Section 163.6-a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor...
submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convic ted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure
that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) At the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor’s obligations herein; and

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor’s Office of Minority and Women’s Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor’s actual receipt of process or upon the State’s receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.
Information on the availability of New York State subcontractors and suppliers is available from:
NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
http://www.empire.state.ny.us

A directory of certified minority and women-owned business enterprises is available from:
NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
http://www.empire.state.ny.us

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:
(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.
During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 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, sex, age, and disability/handicap 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 49 CFR, 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, sex, age, and disability/handicap.

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 NYSDOT or the FHWA 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 NYSDOT’s Office of Civil Rights or FHWA, 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, NYSDOT shall impose such contract sanctions as it or the FHWA 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) **Incorportation 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 NYSDOT or the FHWA 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 NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
APPENDIX B

REQUIREMENTS FOR FEDERALLY AIDED TRANSPORTATION PROJECTS

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, NYSDOT is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration undertakes to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT has, in cooperation with FHWA, assembled the body of Federal-aid requirements, together with information, NYSDOT procedures and practices in its “Procedures for Locally Administered Federal-Aid Projects” (available through NYSDOT’s web site at: https://www.dot.ny.gov/portal/page/portal/divisions/operating/opdm/community-assistance-delivery-bureau/locally-administered-federal-aid-projects). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration that enters Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: http://www.fhwa.dot.gov/programadmin/contracts/1273.htm).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and Department of Transportation regulations (49CFR Parts 21, 23, 25, 26 and 27) and the following:

1. **NON DISCRIMINATION.** No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.

2. **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with the execution of this Agreement, the Municipality/Sponsor's contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age.
Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. **DISADVANTAGED BUSINESS ENTERPRISES.** In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49CFR Part 26.

**FEDERAL SINGLE AUDIT REQUIREMENTS**
Non-Federal entities that expend $500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, “Audits of States, Local Governments, and Non-Profit Organizations”. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than $500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. ____. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency1 the New York State Department of Transportation, the New York State Comptroller's Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity’s fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation’s Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of federal award payments.

**THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE**
The Catalog of Federal Domestic Assistance (CFDA), is an on-line database of all Federally-aided programs available to State, and local governments (including the District of Columbia); federally -recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals. The database is accessible at [http://www.cfda.gov/](http://www.cfda.gov/).

**THE CFDA IDENTIFICATION NUMBER**
OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were

---

1 The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.
received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal-aid Highway Planning and Construction program is 20.205. Additional CFDA numbers for other transportation and non-transportation related programs are:

- 20.215, Highway Training and Education
- 20.219, Recreational Trails Program
- 20.XXX, Highway Planning and Construction - Highways for LIFE;
- 20.XXX, Surface Transportation Research and Development;
- 20.500, Federal Transit-Capital Investment Grants
- 20.505, Federal Transit-Metropolitan Planning Grants
- 20.507, Federal Transit-Formula Grants
- 20.509, Formula Grants for Other Than Urbanized Areas
- 20.600, State and Community Highway Safety
- 23.003, Appalachian Development Highway System
- 23.008, Appalachian Local Access Roads

PROMPT PAYMENT MECHANISMS

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

  (1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

  (2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

  (3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:
(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.
Specific Equal Employment Opportunity Responsibilities

1. GENERAL
   (a) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity, as required by Federal Executive Order 11246, Federal Executive Order 11375, and NYS Executive Order 45, are set forth in required Contract Provisions (Form PR-1273 or 1316, as appropriate) and those Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. Non-discrimination and affirmative action are also required by the State Labor Law, Section 220-e, as amended, and the Regulations of the NYS Department of Transportation relative to federally-assisted programs (Title 49, Code of Federal Regulations, Part 21 and Section 21.5), including employment practices when the agreement covers a program set forth in Appendix B of the Regulations. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for projects activities under this contract.
   (b) The CONSULTANT will work with the STATE and the Federal Government in carrying out equal employment opportunity obligations and in their review of their activities under this contract.
   (c) The CONSULTANT and all their sub-consultants and/or sub-contractors holding sub-contracts of $10,000 or more will comply with the following minimum specific requirements of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to contractors and sub-contractors.) The CONSULTANT will include these requirements in every sub-contract with such modification of language as is necessary to make them binding on the sub-contractor.

2. EQUAL EMPLOYMENT OPPORTUNITY POLICY
   The CONSULTANT, their sub-consultant and/or sub-contractor or any person acting on behalf of the CONSULTANT or sub-consultant and/or sub-contractor will accept as their operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, national origin, age, disability or marital status, and to promote the full realization of equal employment opportunity through a positive continuing program.
   "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, or during consideration for employment, without regard to their race, religion, sex, or color, national origin, age, disability or marital status. Such non-discriminatory action shall include, but not be limited to: employment, job assignment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."
3. **EQUAL EMPLOYMENT OPPORTUNITY OFFICER**

The CONSULTANT will designate and make known to the New York State Department of Transportation contracting officers an Equal Employment Opportunity Officer and a Minority Business Enterprise officer (hereinafter referred to as the EEO Officer and M.B.E. Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active equal employment opportunity program and who must be assigned adequate authority and responsibility to do so.

4. **DISSEMINATION OF POLICY**

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

   (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less than once every six months, at which time the CONSULTANT's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

   (2) All new supervisory (first level of supervision and above) or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the CONSULTANT's equal employment opportunity obligations within thirty days following their reporting for duty with the CONSULTANT.

   (3) All personnel who are engaged in direct recruitment for the project will be instructed in the CONSULTANT's procedures for locating and hiring minority group employees by the EEO Officer or appropriate company official. (Minority group referred to herein shall mean Black, Hispanic, Asian/Pacific Islander, American Indian/Alaskan.)

(b) In order to make the CONSULTANT's equal employment opportunity policy known to all employees, prospective employees and potential sources or employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the CONSULTANT will take the following actions:

   (1) Notices and posters setting forth the CONSULTANT'S equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

   (2) The CONSULTANT's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

   (c) In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a sub-contract, including procurements of materials or equipment, each potential sub-contractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this agreement and the Regulations relative to non-discrimination.

5. **RECRUITMENT**
(a) When advertising for employees, the CONSULTANT will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived. These advertisements shall state that all qualified applicants will be afforded equal employment opportunity without regard to race, religion, sex, color, national origin, age, disability or marital status.

(b) The CONSULTANT will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the CONSULTANT's EEO Officer will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the CONSULTANT for employment consideration. In the event the CONSULTANT has a valid bargaining agreement providing for exclusive hiring hall referrals, the CONSULTANT is expected to observe the provisions of that agreement to the extent that the system permits the CONSULTANT's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the CONSULTANT to do the same, such implementation violates Executive Order 11246.

(c) The CONSULTANT will encourage present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. PERSONNEL ACTIONS

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age, disability or marital status. The following procedures shall be followed:

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

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

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

(d) The CONSULTANT will promptly investigate all complaints of alleged discrimination made in connection with obligations under this agreement, will attempt to resolve such complaints, and will take appropriate corrective action within 15 days. All subsequent corrective actions or decisions will also be documented and forwarded to the NYS Department of Transportation Compliance Officer within 7 days after such action has taken place. If the investigation indicates that the discrimination may affect persons
other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the CONSULTANT will inform every complainant of the results and all of their avenues of appeal should the complaint be denied.

7. TRAINING AND PROMOTION
(a) The CONSULTANT will assist in locating, qualifying and increasing the skills of minority group and women employees, and applicants for employment.
(b) Consistent with the CONSULTANT's work force requirements and as permissible under the Federal and State regulations, the CONSULTANT shall make full use of training programs; i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance. In the event the Training Special Provision is provided under this contract, this subparagraph is superseded thereby.
(c) The CONSULTANT will advise employees and applicants for employment of available training programs and entrance requirements for each.
(d) The CONSULTANT will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. UNIONS
If the CONSULTANT relies in whole or in part upon unions as a source of employees, the CONSULTANT will use their best effort to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and, to effect referrals by such unions of minority and female employees. The CONSULTANT will send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice to be provided by the State Division of Human Rights, advising such labor union or representative of the CONSULTANT's compliance and with the non-discrimination clauses. Actions by the CONSULTANT, either directly or through a CONSULTANT's association acting as agent, will include the procedures set forth below:
(a) The CONSULTANT will use their best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
(b) The CONSULTANT will use their best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age, disability or marital status.
(c) The CONSULTANT is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union, and such labor union refuses to furnish such information to the CONSULTANT. The CONSULTANT shall so certify to the STATE and shall set forth what efforts have been made to obtain such information. Further, if the CONSULTANT was directed to do so by the contracting agency as part of the bid or negotiations of this contract, the CONSULTANT shall request such labor union or representative to furnish him with a written statement that such labor union or representative accepts the non-discrimination clauses and will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the
policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this contract shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the CONSULTANT shall promptly notify the State Division of Human Rights and set forth what efforts have been made to obtain such information.

(d) In the event the union is unable to provide the CONSULTANT with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the CONSULTANT will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age, disability or marital status, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the CONSULTANT has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the CONSULTANT from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such CONSULTANT shall immediately notify the New York State Department of Transportation.

9. AFFIRMATIVE ACTION IN SUBCONTRACTING

(a) The CONSULTANT will not discriminate on the grounds of race, religion, sex, color, national origin, age, disability or marital status in the selection of subcontractors, including procurements and leases of equipment.

(b) If the CONSULTANT determines to use a subcontractor as part of this agreement, affirmative action shall be taken to increase the participation of minority business firms in that work. As part of that affirmative action, the CONSULTANT will identify and contact minority business firms and solicit proposals for the work to be subcontracted. The STATE will provide a list of names of minority business firms to the CONSULTANT. Another source that should be contacted for a list of minority business firms is the Governor's Office of Minority & Women's Business Development (GOMWBD).

(c) The CONSULTANT will document the affirmative action steps taken to comply with paragraph 9b. Such documentation will be provided at the time or submittal of a formal proposal to the State's Contracts Bureau.

(d) By execution of this agreement, the CONSULTANT certifies that the affirmative action steps in 9a, 9b & 9c above were taken when soliciting proposals for the work in this agreement indicated to be subcontracted and that these steps will be taken should any work be subcontracted in the future.

(e) The CONSULTANT will insure binding subcontractor and vendor compliance with their EEO obligations. The CONSULTANT will take such actions in enforcing such provisions of such subcontract or purchase order as the contracting agency may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is threatened with litigation with a subcontractor or a vendor as a result of such direction by the contracting agency, the CONSULTANT shall promptly so notify the Attorney General, requesting him to intervene and protect the interest of the State of New York.
10. RECORDS AND REPORTS
(a) The CONSULTANT will keep such records as are necessary to determine compliance with the CONSULTANT’s equal employment opportunity obligations. The records kept by the CONSULTANT will be designed to indicate:
   (1) The number of minority and non-minority group members and women employed in each work classification on the project, where required by the NYS D.O.T Compliance Officer.
   (2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to CONSULTANTS who rely in whole or in part on unions as a source of their work force).
   (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees.
   (4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
   (5) Compliance with all other requirements in these provisions such as meetings, instructions, employment efforts, etc.
(b) The CONSULTANT will comply with Sections 291-299 of the Executive Law and Civil Rights Law and will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts other sources of information, and its facilities as may be determined by State or Federal officials to be pertinent to ascertain compliance with such Regulations, orders and instructions. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State and the Federal Highway Administration.
(c) The CONSULTANT will submit to the New York State Department of Transportation, a monthly report Form (AAP-46) for the first three months after beginning work, thereafter upon request, indicating the number of minority, women and non-minority group employees currently engaged in each work classification required by the contract work.
(d) Failure to comply with these Special EEO Provisions may be considered unsatisfactory performance and may subject the agreement to termination under the termination article of this agreement. Non-compliance may result in the CONSULTANT’s being declared ineligible for future agreements made by or on behalf of the STATE or a public authority or agency of the STATE, until he satisfies the State Commissioner of Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the State Division of Human Rights have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the State Division of Human Rights, notice thereof has been given to the CONSULTANT and an opportunity has been afforded them to be heard publicly before the State Commissioner of Human Rights or official designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided for by law. These may include, but are not limited to:
(1) withholding of payments to the CONSULTANT under the agreement until the CONSULTANT complies, and/or
(2) cancellation, termination or suspensions of the agreement in whole or in part.

11. TRAINING SPECIAL PROVISIONS
This Training Special Provision supersedes paragraph 7.b above and is in implementation of 23 CFR Subpart A, Section 230.111 & Executive Order 11246.
As part of the CONSULTANT’s equal employment opportunity affirmative action program training shall be provided as follows:
The CONSULTANT shall provide on-the-job training aimed at developing full competence in the job classification involved.
The number of months of training to be provided under these special provisions is previously stated.
In the event that the CONSULTANT subcontracts a portion of the contract work, it shall be determined how many, if any, of the trainees are to be trained by the subcontractor, provided however, that the CONSULTANT shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The CONSULTANT shall also insure that this training special provision is made applicable to such subcontract.
The number of trainees shall be distributed among the work classifications on the basis of the CONSULTANT’s needs. Along with their proposal, the CONSULTANT shall submit to the New York State Department of Transportation for approval the proposed number of trainees to be trained in each selected classification, their estimated salaries and a training schedule. The salaries to be paid trainees shall not be less than 75 percent of the average hourly rate approved in the agreement for the classification to be trained. During the period from the beginning of the project to its completion, the trainee shall receive reasonable salary increases commensurate to the abilities and effort exerted by the trainee.
The training schedule required should indicate the start of work and appropriate incremental salary steps in accord with the above.
Training and upgrading the proficiency of minorities and women is a primary objective of this Training Special Provision. Accordingly, the CONSULTANT shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The CONSULTANT will be responsible for demonstrating the steps that have been taken in pursuance thereof, prior to a determination as to whether the CONSULTANT is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.
No employee shall be employed as a trainee in any classification in which they have successfully completed a training program or in a classification in which they have been employed. The CONSULTANT should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the CONSULTANT’s records should document the findings in each case.
The minimum length and type of training for each classification will be as established in the training schedule developed by the CONSULTANT and approved by the State and Federal Highway Administration. The State and the Federal Highway Administration shall approve a program if it reasonably calculated to meet the equal employment opportunity obligations of the CONSULTANT and to assist in qualifying the average
trainee toward proficiency in the classification concerned by the end of the training period. Approval of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. Training is permissible in lower level management positions. Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training. The CONSULTANT will be reimbursed for the cost of any and all training under the payment terms of this agreement. This can include offsite training cost as discussed above. All offsite training must be defined in the training schedule. All costs claimed or calculated for training must be directly related to the work defined in the scope of this agreement and/or added by supplemental agreement. The CONSULTANT must demonstrate their best efforts and evidence good faith in hiring trainees for positions in the classification in which they have completed training. The CONSULTANT shall furnish the trainee a copy of the program they will follow in the training. The CONSULTANT shall provide each trainee with a certification showing the type and length of training satisfactorily completed. The CONSULTANT will provide for the maintenance of records and furnish periodic reports documenting their performance under this Training Special Provision.
CONSULTANT INFORMATION AND CERTIFICATIONS
(Please submit this with your Part II: Cost Proposal)

CONTRACT NUMBER:  #C030797
PROJECT TITLE:  Sign Inventory Data Collection Services For NYSDOT

I.  CONSULTANT INFORMATION

FIRM NAME: ______________________________________________________________
ADDRESS: __________________________________________________________________
CITY: ___________________________  STATE: __________
ZIP CODE: __ __ __ __ __ - __ __ __ __
TELEPHONE : (_____) _____ - __________  FAX:  (_____) _____ - __________
E-MAIL ADDRESS: _________________________________________________________
CONTACT PERSON: ________________________________________________________

Consultant’s Federal Identification Number (FIN):________________________
Consultant’s NYSDOT Consultant Identification Number (CIN): ___________________

• Please indicate below the name, title, address, and telephone/fax numbers of the
person who prepared this proposal, as well as any other individual(s) with authority to
negotiate and contractually bind the offerer and also who may be contacted during the
period of proposal evaluation:

Preparer’s Name/Title:  _____________________________________________________
Address:  ___________________________________________________________________
Telephone: (____) _____ - ________  FAX: (____) _____ - ______

Other Authorized Individual(s):

Name/Title:________________________________________________________________
Address:____________________________________________________________________
Telephone: (____) _____ - ________  FAX: (____) _____ - ______
II. PROPOSER CERTIFICATIONS

By signing below, I, _____________________________, authorized individual
(Name)
of ________________________________________ make the following
(Firm)
certifications regarding the subject proposal:

• 365-Day Offer: This proposal is a firm offer for a 365-day (or more) period from the date
of submission.
• The firm has read and will follow the procedure outlined in Attachment 5 if it proposes
the services of a former NYSDOT employee(s).
• Vendor Responsibility: If selected for contract award, the firm will complete and submit
the required Vendor Responsibility forms to NYSDOT within 10 days of notification of
designation both electronically and in hard copy per the NYSDOT Web site.
• (https://www.dot.ny.gov/main/business-center/consultants/forms-publications-and-
instructions)
• ST-220: If selected for contract award greater that $100,000, the firm will complete and
submit the required Forms ST-220-TD and 220-CA (Contractor Certifications) prior to
negotiation with NYSDOT. You should make yourself familiar with these forms by
visiting the following Web sites:
  http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf  (Form ST-220-CA)
  http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf  (Form ST-220-TD)
• The firm is in compliance with the requirements of the Omnibus Procurement Act as
described in EXHIBIT A which is found in the Draft Contract attached to this RFP.
• The firm acknowledges that it will schedule all work to be completed within the first
12 months of the contract and that the final six months allowed on the base term
functions as a contingency.
• The firm acknowledges that all drivers working on this project will maintain current
NYS commercial driver’s licenses.

Signature: _______________________________________

III. ACCEPTANCE OF CONTRACT

By signing below, I, _____________________________, authorized individual
(Name)
of ________________________________________ hereby certify that I have read and
(Firm)
accept all terms and conditions contained in the draft Contract, including
Appendix A, which is included as Attachment 1 to this Request for Proposals.

Signature: _______________________________________

(Name of Acceptor)
Attachment 3

Procurement Lobbying Law Compliance

1. **Required Forms:** The consultant shall sign and e-mail/fax the following forms. These forms are part of and due with the consultant’s proposal.
   a) “Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)"
   b) “Offerer Disclosure of Prior Non-Responsibility Determinations”.

2. **NYSDOT Guidelines and Procedures**
   Under the requirements of the State Procurement Act all communications regarding advertised projects are to be channeled through Contract Management (*Designated Contacts). Until a designation is made, communication with any other NYSDOT employee concerning this project that is determined to be an attempt to influence the procurement may result in disqualification.


3. **Summary of the policy and prohibitions regarding permissible contacts**
   a) **Contacts prior to designation:**
      Any communications involving an attempt to influence the procurement are only permitted with the following Designated Contact Persons:
      - The Contract Management Designation Contract Analyst
      - The Contract Management Designation Analyst Supervisor
      - The Contract Management Civil Rights Unit Supervisor
      - The Contract Management Assistant Directors
      - The Contract Management Director

      These are some communications exempted from this restriction:
      - Participation in a pre-proposal conference.
      - Protests, complaints of improper conduct or misrepresentation

      If any other NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee. If the Department determines an impermissible contact was made, that offerer cannot be awarded the contract. A second violation would lead to a four year bar on the award of public contracts to the offerer.

   b) **Contacts after designation**
      NYSDOT identifies its primary negotiation contacts. The designated contacts include:
      - The Contract Management Designation Contract Analyst
      - The Contract Management Designation Analyst Supervisor
      - The Contract Management Civil Rights Unit Supervisor
      - The Contract Management Assistant Directors
      - The Contract Management Director
      - The Consultant Management Bureau consultant job manager
      - The Consultant Management Bureau consultant job manager’s immediate supervisor
The law does not limit who may be contacted during the negotiation process. However, if any NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee.

c) Information Required from Offerers that contact NYSDOT staff, prior to contract approval by the Office of the State Comptroller:
The individuals contacting NYSDOT should refer and shall be prepared to provide the following information, either by e-mail or fax as directed by NYSDOT:
   Person’s name, firm person works for, address of employer, telephone number, occupation, firm they are representing, and whether owner, employee, retained by or designated by the firm to appear before or contact the NYSDOT.

d) Applicability to an executed contract:
Restrictions similar to those described above apply to approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer. The staff noted above as well as the project manager and consultant manager are considered designated contact persons. The Department may identify other contact persons for each of these processes.

4. Rules and regulations and more information on this law, please visit:
   http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html (Advisory Council FAQs)
   http://www.jcope.ny.gov/
   http://www.jcope.ny.gov/law/lob/guidelines.html (New York State Lobbying Act)

For more information, go to NYSDOT’s World Wide Web Site at http://www.dot.ny.gov
or contact:  BARBARA SONENBERG
NYSDOT Contract Management
50 Wolf Road, 6th Floor
Albany, New York 12232
E-mail: Barbara.Sonenberg@dot.ny.gov
Tele: (518) 457-2600
Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

Contract Procurement No. C030797

By: _________________________________  Date: __________________

Name: _______________________________

Title: ________________________________

Contractor Name: _______________________________________________________

Contractor Address: _____________________________________________________
______________________________________________________________________
______________________________________________________________________
**Offerer Disclosure of Prior Non-Responsibility Determinations**

Name of Individual or Entity Seeking to Enter into the Procurement Contract: 

_______________________________________________________________________________________

Address:  _______________________________________________________________________________

Name and Title of Person Submitting this Form:  _______________________________________________

Contract Procurement Number:  _______________________________

Date:________________________

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? 
   (Please circle):  No  Yes  

If yes, please answer the next three questions:
2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j
   (Please circle):  No  Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?  (Please circle):  No  Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.
   
   Governmental Entity:  ___________________________________________________________

   Date of Finding of Non-responsibility:  ______________________________________________

   Basis of Finding of Non-Responsibility:  _____________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   (Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information?  (Please circle):  No  Yes

6. If yes, please provide details below.

   Governmental Entity:  ____________________________________

   Date of Termination or Withholding of Contract:  ____________________________________

   Basis of Termination or Withholding:       ____________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   ______________________________________________________________________________

   (Add additional pages as necessary)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By:________________________  Date:________________________

Signature

Name: _______________________________________

Title: _______________________________________


FORM A

State Consultant Services – Contractor's Planned Employment
From Contract Start Date Through The End Of The Contract Term

State Agency Name: Transportation  
Contractor Name:                     
Agency Code: 3900283  
Contract Number: C030797
Contract Start Date:   /  /  
Contract End Date:     /  /

<table>
<thead>
<tr>
<th>O*Net Employment Category</th>
<th>Number of Employees</th>
<th>Number of hours to be worked</th>
<th>Amount Payable Under the Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total this page  0    0 $  0.00

Name of person who prepared this report:

Title: Phone #:

Preparer's Signature:

Date Prepared:   /  /

(Use additional pages, if necessary)
State Consultant Services
Contractor’s Annual Employment Report

Report Period: April 1, to March 31,

Contracting State Agency Name: Agency Code:
Contract Number:
Contract Term: / to /
Contractor Name:
Contractor Address:
Description of Services Being Provided:

Scope of Contract (Choose one that best fits):
- Analysis
- Evaluation
- Research
- Training
- Data Processing
- Computer Programming
- Other IT consulting
- Engineering
- Architect Services
- Surveying
- Environmental Services
- Health Services
- Mental Health Services
- Accounting
- Auditing
- Paralegal
- Legal
- Other Consulting

<table>
<thead>
<tr>
<th>O*Net Employment Category</th>
<th>Number of Employees</th>
<th>Number of Hours Worked</th>
<th>Amount Payable Under the Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total this page: 0 0 $ 0.00
Grand Total

Name of person who prepared this report:
Preparer's Signature:___________________________________________________
Title: ____________________________ Phone #: ____________________________
Date Prepared: / /
Consultant’s responsibility when proposing former NYSDOT Employees

It is the consultant’s responsibility to ensure they propose staff that is eligible to work on the proposed project. It is an individual’s responsibility to comply with the Public Officer’s Law.

The following procedure applies if either of the following criteria is met.

- It is two years or less between the date that the individual is proposed and the individual’s date of separation from the State.
- The individual proposed has worked on the project while employed by NYSDOT regardless of how long ago they left NYSDOT.

Procedure

- Before the consultant proposes an individual, the individual must obtain an opinion from the New York State Ethics Commission that approves their participation in the project as they are proposed.

- A copy of this opinion must be on file in the consultant’s office and available for review by NYSDOT if requested.

- Failure to obtain New York State Ethics approval for an individual’s participation in a project may jeopardize the firm’s designation for that project.
Please complete the following table for the prime firm and all subconsultants (consultant team composition): please identify each firm’s legal name, checking if they are an Empire State Development (ESD) certified MBE and/or an ESD certified WBE, and indicating each firm’s percentage of the total salary for the contract. Please keep in mind that only ESD certified MBE and/or certified WBE prime consultants and/or ESD certified MBE and/or certified WBE subconsultants are eligible to participate toward attainment of this state-funded procurement with separate MBE and/or WBE participation goals. If the combined percentage of total salary for all certified MWBEs proposed is less than the M/WBE participation goal set for this contract, then the proposing prime firm is required to fill out and submit the M/WBE Participation Solicitation Log (Attachment 7), and is required to submit a M/WBE Goal Attainment Explanation Letter.

<table>
<thead>
<tr>
<th>Firm Legal Name</th>
<th>NYS DED Certified MBE/WBE</th>
<th>% of Total Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MBE</td>
<td>WBE</td>
</tr>
<tr>
<td>A. Prime Consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Sub-Consultants</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Attachment 7

**MBE AND WBE PARTICIPATION SOLICITATION LOG**
*(Good Faith Effort Documentation)*

<table>
<thead>
<tr>
<th>CONTRACT NO.</th>
<th>C030797</th>
<th>PARTICIPATION GOALS</th>
<th>M/WBE %</th>
<th>PAGE NUMBER</th>
<th>OF</th>
</tr>
</thead>
</table>

**PRIME FIRM NAME/ADDRESS/ZIP CODE**

**CONTACT PERSON**

**TELEPHONE NUMBER (INCLUDE AREA CODE)**

**E-MAIL**

**SOLICITED COMPANY NAME AND CONTACT PERSON**

**TELEPHONE (WITH AREA CODE)**

**FEDERAL EMPLOYER ID #**

**WORK TYPES BEING SOLICITED**

**TYPES AND DATES OF CONTACTS**

**CONTACT RESULT(S)**

---

83
INSTRUCTIONS FOR COMPLETING
M/WBE Participation Solicitation Log
(Good Faith Effort Documentation)

To be deemed responsive to this solicitation, Consultants whose proposed MBE participation and WBE participation does not meet the established M/WBE participation goal must document and report their Good Faith Efforts to solicit participation by certified Minority Business Enterprises and/or certified Women-owned Business Enterprises in this Non-Architecture/Non-Engineering contract. The MBE and WBE Participation Solicitation Log is used for this purpose.

PLEASE NOTE: Only participation by certified MBE and/or WBE subconsultants may count towards the contract participation goal. Participation by a certified MBE or WBE prime consultant does not count towards meeting the contract goal (participation by a certified MBE or WBE prime consultant helps to meet the Department’s corporate M/WBE goal).

Guidance concerning Good Faith Efforts in meeting MBE and/or WBE participation goals in state-funded contracts is located at the end of this section.

The log is to be filled out and submitted with the proposing firm’s Cost and Contract Proposal. In order for a proposal to be determined as responsive when the M/WBE participation goal is not fully attained or is partially attained, the proposer must complete all sections of this form and submit the M/WBE Participation Solicitation Log for each goal not fully attained. In addition, the firm must also submit a MBE and WBE Goal Attainment Explanation Letter, documenting the firm’s Good Faith Effort.

*** MBE and WBE Certification is a New York State Program. ***
IT IS SEPARATE AND DISTINCT FROM THE FEDERAL DBE CERTIFICATION PROGRAM. PLEASE DO NOT CONFUSE THE TWO. FIRMS WITH QUESTIONS REGARDING THESE PROGRAMS ARE ENCOURAGED TO SUBMIT WRITTEN QUESTIONS

CONTRACT NO: Enter NY State DOT contract number (Example: C012345).

M/WBE and WBE PARTICIPATION GOALS: Enter applicable M/WBE participation goal percentages as stated in the proposal.

PAGE NO.: Enter 1 of 1; or 1 of 2 and 2 of 2; etc. Use additional forms as needed.

PRIME NAME/ADDRESS/ZIP CODE: Enter name of the Prime Consultant, its address and zip code.

CONTACT PERSON: Enter the name of the person your firm has designated as the authorized contact person for this solicitation.

CONTACT PERSON TELEPHONE AND E-MAIL: Enter area code, phone number and e-mail address for the person your firm has designated as the authorized contact person for this solicitation.

MBE and WBE CONSULTANTS SOLICITED:
SOLICITED COMPANY NAME AND CONTACT PERSON: Enter name of solicited firm and name of the individual associated with the firm to whom the solicitation inquiry was sent.

TELEPHONE (With Area Code): Enter TELEPHONE number of the solicited firm.

FEDERAL EMPLOYER ID #: Enter the Federal Employer Identification Number of the solicited firm.

WORK TYPE(S) BEING SOLICITED: Enter the work type(s) or Commercial Useful Function for which this firm has been solicited in connection with the Scope of Services for this contract. (NOTE: Work type codes are provided for every certified firm listed in NYS DED’s MBE/WBE Registry (see RFP cover letter).

TYPES AND DATES OF CONTACT: Enter dates on which your firm contacted the solicited firm, either by mail (date solicitation sent), telephone (including date and time of call) or other person-to-person contacts. Identify the type of contact by prefacing each date with ‘M” if a mail contact; “T” if a telephone call; and “D” if a direct meeting with the firm.

CONTACT RESULT(S): Enter the code(s) which indicates the result(s) of your solicitation.

*** USE ADDITIONAL PAGES AS NEEDED ***

A description of the codes to use is as follows:

**CODE DESCRIPTION:**

1. This firm is unavailable to participate in the contract for the reason(s) stated on the MBE and WBE Participation Solicitation response. (Attach explanation to the Log.)
2. This firm is no longer in business. (NOTE: If this action is checked, attach your explanation as to why the solicitation was sent to the firm and how evidence that it was no longer in business was obtained. Attach the returned envelope showing that it was undeliverable, for instance.
3. The soliciting Prime Consultant was unable to reach this firm after having a telephone conversation to follow-up on the MBE and/or WBE participation solicitation inquiry. (NOTE: Indicate in the Types and Dates of Contact column the dates and times at which follow-up was attempted.)
4. This firm did not respond to repeated telephone messages. (NOTE: Indicate in the Types and Dates of Contact column the dates and times at which messages were left).
Guidance Concerning Good Faith Efforts In Meeting M/WBE Goals  
On Solely State-Funded Contracts

The following is a list of types of actions that demonstrate good faith efforts in obtaining M/WBE participation on state-funded contracts. This list is not exclusive or exhaustive. The bidder must show that it took all necessary and reasonable steps to achieve an M/WBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient M/WBE participation, even if they were not fully successful.

- Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, utilizing the Empire State Development Corporation M/WBE Directory- [http://nylovesmwbe.ny.gov](http://nylovesmwbe.ny.gov)) the interest of all certified M/WBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the M/WBEs to respond to the solicitation. The bidder must determine with certainty if the M/WBEs are interested by taking appropriate steps to follow up initial solicitations.

- Selecting portions of the work to be performed by M/WBEs in order to increase the likelihood that the M/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate M/WBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces.

- Providing interested M/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

- Negotiating in good faith with interested M/WBEs— it is the bidder’s responsibility to make a portion of the work available to M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available M/WBE subcontractors and suppliers, so as to facilitate M/WBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of M/WBEs 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 M/WBEs to perform the work.

- A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including M/WBE subcontractors, and would take a firm’s price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding an M/WBE is not in itself sufficient reason for failure to meet the contract M/WBE goal. Also, the ability or desire to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts.

- Do not reject M/WBEs 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.

- Making efforts to assist interested M/WBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
Attachment 8A

Cost Proposal

Part II  Cost Submission Guide
(Please complete and submit with your Part II: Cost Proposal)

**Note:** All direct non-salary expenses must be incorporated into proposed lump sum costs.

**Contract #C030797 Sign Inventory Data Collection Services For NYSDOT**

Firm Name: _____________________________

<table>
<thead>
<tr>
<th>TASK</th>
<th>Proposed Cost:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TASK 1: Cost/Centerline mile $_______ X 2025 centerline miles ¹</td>
<td>$__________</td>
</tr>
<tr>
<td>(Includes all TASK 1 Activities/Deliverables)</td>
<td></td>
</tr>
<tr>
<td>TASK 2: Cost of Providing Two Day Training Class</td>
<td>$__________</td>
</tr>
<tr>
<td>(Includes Electronic Training Manual and Post-Training Support)</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL COST TASK 1 and 2**  

$__________

**Notes: ¹:** For RFP evaluation purposes, this is an assumed total amount of centerline miles. The actual number of centerline miles may be different. If it is different, the cost of the resulting contract may be adjusted accordingly.
## Attachment 8B

**Labor and Rates Chart**

**Contract #C030797 Sign Inventory Data Collection Services For NYSDOT**

Firm Name: _____________________________

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Level of Effort (hrs)</th>
<th>Labor Rate (Hourly salary)</th>
<th>Over Head (Rate) ___%</th>
<th>Fee (Rate) ____%</th>
<th>Fully Loaded Hourly Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Instructions for Completing Attachment 8B:

1. List all job titles and names for all proposed staff to be assigned to this project. If any subconsultants are proposed, include them in this table, a separate sheet for each subconsultant, and label accordingly.

2. Present a fully-loaded hourly rate for each person, listing level of effort, labor rate (hourly salary), overhead percentage and fee percentage, and total (Level of Effort x Fully Loaded Hourly Rate, wherein the Fully Loaded Hourly Rate = [Labor Rate plus (Labor Rate times OH%) plus (Labor Rate times Fee%)]. If additional titles are used but are not assigned, they must be listed. The estimate of level of effort for each person shall be expressed as number of hours per year, based on a 2000 hour year.
On-Line Attachments

Attachment 9  – Database Metadata
Attachment 10 – Sign Inventory
Attachment 11 – NYSDOT GIS Shapefiles and Map
  1) Basic ArcGIS Project Map
  2) Intersection Nodes
  3) Reference Markers
  4) Road Inventory (RIS) Centerline Miles
  5) Region 8 Towns and Cities
Attachment 12 – List of Interested Parties

May be accessed via the following link:  https://www.dot.ny.gov/business and clicking on “Consulting Services Opportunities”, then “Opportunities”.